

## Introduction

Verizon's discussion of advanced services issues demonstrates that it doesn't read what AT&T writes and it doesn't listen to what AT&T has said. At the evidentiary hearing, Verizon's witnesses (1) stated that they were not familiar with the details of AT&T's contract proposals (and were not authorized to negotiate contract language) but (2) objected generally to AT&T's contract language, especially its language on line splitting, because it was too loaded with operational detail. They argued instead that operational detail regarding advanced services should be the subject of more detailed documentation that is developed in New York.

At the hearing, AT&T's witness *agreed* with Verizon that operational details regarding advanced services should ideally reflect the activities of the parties in other fora, particularly those in New York. And critically, AT&T *proposed* revised contract language to Verizon that reflects those principles. Indeed, AT&T's revised language contains significantly *less* operational detail than either AT&T's earlier draft language or Verizon's own proposed language. Instead of focusing on *operational* issues, it focuses creating of a contractual *process* that ensures the operational details agreed to (or ordered) in New York will in fact be implemented in Virginia.

But rather than recognize AT&T's very significant movement towards its own proposals – and indeed without any citation to the record of the evidentiary hearing -- Verizon's brief essentially ignores AT&T's spoken and written words and simply demands that AT&T should be required to accept Verizon's contract proposals *in toto*. Moreover, Verizon goes to the extreme length of claiming – incorrectly -- that the

Commission's decisions in 271 cases effectively supersede a CLEC's ability to arbitrate specific contractual provisions.

Verizon cannot have it all ways. It cannot object to detailed contract language for line splitting and in the same breath demand that AT&T must accept detailed language for line sharing. Nor can it reasonably object to detailed *procedural* contract provisions whose sole purpose is to ensure that the operational results of the New York DSL Process are fully transported to Virginia. And, especially in light of its own witness' testimony, Verizon cannot reasonably insist that the insertion of the vague term "pursuant to applicable law" reasonably assures that the instant Agreement will cut off disputes regarding the interpretation of Verizon's obligations under Commission orders. Finally, Verizon cannot legitimately contend that the Commission's cursory review of contract language in a 271 proceeding cuts off a carrier's right to request and arbitrate for the inclusion of *lawful* contract provisions in its interconnection agreement. In sum, Verizon's proposed language should not be adopted, and the Commission should instead adopt AT&T's revised contract language.

#### **Argument**

AT&T's revised contract language – which Verizon has virtually ignored -- pares the contract language on advanced services down to the bone. First, it eliminates virtually all operational detail. Second, it establishes a clear but necessary process that ensures that all the operational details that have been – and will be – implemented in New York will be available in Virginia. Third, especially in light of Verizon's testimony that the term "pursuant to applicable law" means only "pursuant to *Verizon's interpretation of*

applicable law,”<sup>291</sup> AT&T’s revised contract language incorporates the essence of Commission orders regarding incumbent LECs’ duties under its decisions. Finally, given the extreme complexity and impracticality of Verizon’s proposed language on remote collocation and access to mixed fiber/copper loops, AT&T requests that any such terms be omitted from its agreement until the Commission addresses NGDLC issues, which have been deferred to a later date.

As demonstrated in AT&T’s initial brief, every provision in AT&T’s revised contract language is entirely lawful and reasonable and should be adopted. The reply below focuses on specific points raised in Verizon’s Brief that require a response.

1. *Line Sharing/Line Splitting over Copper* Verizon’s arguments here miss the point entirely.<sup>292</sup> AT&T’s proposed contract language adopts *all* “outputs” of the New York DSL Process, regardless of how they are implemented, *i.e.*, as published operating procedures, agreements (both industry-wide and between AT&T and Verizon), tariffs or orders of the New York Public Service Commission.<sup>293</sup> Thus, to the extent that the line sharing options and the line splitting terms and conditions referenced in Verizon’s proposed contract language are now implemented in New York – or in any *future* agreement, operating procedure, tariff or New York PSC order – they will apply equally to Virginia. This clearly does *not*, as Verizon asserts,<sup>294</sup> “circumvent” the New

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<sup>291</sup> AT&T Initial Brief at 157-58.

<sup>292</sup> Verizon Initial Brief at ASP-2-5, 24-25.

<sup>293</sup> AT&T proposed Section 1.5.1.

<sup>294</sup> Verizon Initial Brief at ASP-4.

York DSL Collaborative process.<sup>295</sup> Rather, it fully embraces the results of that process. Indeed, it creates flexibility in the Agreement that enable it to reflect *any* changes to *any* advanced services arrangement that may be adopted in New York. This is fully consistent with Verizon’s own recommendation that the ICA should “reflect any modifications to the methods and procedures that flow from actual market experience over time,” and would be applicable to *both* line splitting and line sharing.<sup>296</sup> Verizon could hardly ask for more in this regard.

The fact that similar contractual provisions to the ones that Verizon proposes here were in effect in other states at the time the Commission approved a 271 application in those *other* states (*i.e.*, not Virginia)<sup>297</sup> is clearly not dispositive in this arbitration proceeding. First, the Commission’s cursory review of such provisions in a 271 proceeding is solely for the purpose of determining whether a BOC applicant has met *minimum* requirements of lawfulness. It does not, and cannot, cut off a requesting carrier’s right under Section 252(b) to *arbitrate* proposed contractual provisions before a *state* commission (or, as here, the Commission acting in lieu of a state commission). Indeed, adoption of Verizon’s position would effectively neuter state commissions’ ability to arbitrate *any* proposed contract language that differed from the language that was in effect when a 271 application was granted. And it is especially inappropriate in cases where the parties are negotiating a *replacement* agreement for one that is expiring,

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<sup>295</sup> See also Verizon Initial Brief at ASP-24 (incorrectly asserting that AT&T seeks to “short circuit” the collaborative.

<sup>296</sup> Verizon Initial Brief at ASP-5.

<sup>297</sup> See Verizon Initial Brief at ASP-2. Verizon repeatedly raises this argument throughout its brief (*e.g.*, ASP-6, 17-18, 24, 25). AT&T addresses it here only once, because the principle is applicable in all situations.

because Verizon's position would effectively prevent a state from adopting new provisions that take account of changes in circumstance since the original agreement was adopted.

Second, the Commission's own orders fully recognize the obvious fact that there is more than one set of words that can be used to reflect the terms and conditions of an interconnection agreement. In particular, the Commission's rules provide great flexibility in conducting arbitrations, including the right to adopt contract language that is different from the original or new language submitted by any of the parties.<sup>298</sup> This does not leave the Commission hide-bound to accept language proposed by any individual party, much less language adopted in a different arbitration conducted by a different state commission at a different time.

2. *Access to Mixed Copper-Fiber Loops*<sup>299</sup> – AT&T's brief, relying on Verizon's own proposed contract language and testimony, demonstrates that Verizon's "TOPIC" and related proposals are onerous, cost-prohibitive and of no practical use to AT&T or to any other CLEC.<sup>300</sup> Therefore, AT&T requests that these effectively provisions *not* be included in its agreement at this time. Rather, AT&T requests that review of these issues should be deferred until after the Commission addresses NGDLC issues. Since AT&T wishes to exclude such arrangements from its interconnection agreement at this time, Verizon should not be permitted to force them upon AT&T.

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<sup>298</sup> *Procedures for Arbitrations Conducted Pursuant to Section 252(e)(5) of the Communications Act of 1934, as amended*, FCC 01-21, released January 19, 2001, ¶ 5.

<sup>299</sup> Verizon Initial Brief at ASP-5-6.

<sup>300</sup> AT&T Initial Brief at 175-79.

3. *Loop Qualification*<sup>301</sup> – Loop qualification is an area in which the parties have had serious unresolved disagreement.<sup>302</sup> But again Verizon’s brief misses the point. AT&T does not dispute that Verizon provides various means for accessing loop qualification information that have been (and will be) worked out through the New York DSL Process, and it agrees that those methods should be available to AT&T in Virginia as they are in New York. Indeed, if AT&T’s proposed contract language is adopted, there would be no need, for example, to address the new process for accessing LFACS data through an amendment to the Virginia agreement.<sup>303</sup> Rather, it would be subject to the agreement through the application of AT&T’s proposed Sections 1.3.1 and 1.5.

The parties’ essential disagreement revolves around whether AT&T *must* use Verizon’s loop qualification tools whenever it orders a loop for use with a DSL service. Contrary to Verizon’s claims, AT&T’s Brief<sup>304</sup> shows that AT&T’s use of its own loop qualification tool for line splitting (1) will not affect the provisioning of any Verizon retail service; (2) is based on actual testing of the customer’s specific loop, not a sampling of loops in the customer’s general area; (3) does not require Verizon to incur *any* costs or delay, because it need not alter any of its systems or processes;<sup>305</sup> and (4) has already been successfully used. Moreover, under AT&T’s proposed contract language, if AT&T does *not* use one of Verizon’s loop qualification tools, AT&T will not hold

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<sup>301</sup> Verizon Initial Brief at ASP-6-8, 16-17, 25-29.

<sup>302</sup> See AT&T Br. at 168-171.

<sup>303</sup> See Verizon Br. at ASP-8.

<sup>304</sup> AT&T’s Initial Brief at 169-70.

<sup>305</sup> This clearly rebuts Verizon’s assertion that it would have to “expend more resources to accommodate just one CLEC in an idiosyncratic manner.” Verizon Initial Brief at ASP-26.

Verizon responsible for the performance of a loop unless and until it has been qualified using one of Verizon's tools. This is fully consistent with the terms of the very New York Public Service Commission ruling that Verizon itself relies upon.<sup>306</sup> Accordingly, AT&T's proposed contract language should be adopted.<sup>307</sup>

3. *Nondiscrimination Between Line Sharing and Line Splitting*<sup>308</sup> Contrary to Verizon's claim, AT&T's proposed contract language does not indiscriminately blend line sharing and line splitting together. Rather, AT&T's Section 1.3.5 only provides that Verizon's support for line sharing and line splitting must be nondiscriminatory for "comparable DSL-based services . . . when the physical arrangements supporting such offerings are comparable" (emphasis added). Critically, Verizon in fact admits that when it does the same work in line splitting that it does on line sharing that such work will be done in a nondiscriminatory manner.<sup>309</sup> Thus, it is completely consistent to include AT&T's proposed language in the Agreement.

In fact, the only appreciable difference that Verizon actually identified between line sharing and line splitting is in the area of billing. In such cases, since the bills related to line sharing and line splitting are rendered to different entities, they are not "comparable" and need not be exactly the same for each. Moreover, contrary to

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<sup>306</sup> Verizon Initial Brief at ASP-26. *See also* Verizon's Rebuttal Testimony, Verizon Exhibit 2 at 51.

<sup>307</sup> AT&T's Section 1.3.3 reflects an exception to the loop qualification that Verizon itself proposed and should therefore be adopted. *See* AT&T Initial Brief at 171.

<sup>308</sup> Verizon Initial Brief at ASP-9-10.

<sup>309</sup> AT&T Initial Brief at 172. *See also* Verizon Initial Brief at ASP-15 (Verizon provides the same underlying support for line sharing as for line splitting).

Verizon's claim,<sup>310</sup> AT&T's revised contract language would adopt all differences between line sharing and line splitting that have been implemented in New York. Thus, AT&T's proposed language is reasonable and should be adopted.

4. *Collocation Issues*<sup>311</sup> – Verizon's claim that collocation issues should not be resolved here and now, or that they are unnecessary, is nonsense. As with the other issues covered by AT&T's revised language, there is virtually no operational detail in AT&T's proposed provisions relating to collocation. Section 1.3.4 merely implements the parties' *agreement* that collocation augments to implement advanced services will be completed within 45 business days.<sup>312</sup> Sections 1.4.2 and 1.4.3, in contrast, are based directly on the requirements laid out in the Commission's *Collocation Remand Order*.<sup>313</sup> These terms provide a much clearer and more straightforward interpretation of Verizon's obligations than a vague recitation that Verizon will comply with "applicable law" and are perfectly appropriate.<sup>314</sup> There is no ground for dispute or disagreement as to these

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<sup>310</sup> Verizon Initial Brief at ASP-10.

<sup>311</sup> Verizon Initial Brief at ASP-10-13, 19-20, 29-30.

<sup>312</sup> See Tr. at 736. AT&T did *not*, however, agree to all of the terms and conditions of the *Massachusetts* order referenced by Verizon (at ASP-20-22). Indeed the New York Public Service Commission has established a 45 business day period for *all* collocation augments, stating, "a 45 business day interval is appropriate for all augments--cable and splitter--for line sharing and line splitting. Verizon's work force management argument is not compelling, as it has not demonstrated that more efficient scheduling and operation is overly burdensome. Verizon will have to alter the way such work is scheduled to meet this new interval." *Proceeding on Motion of the Commission to Examine Issues Concerning the Provision of Digital Subscriber Line Services*, Case 00-C-0127, Opinion No. 00-12, issued October 31, 2000 at 9. This is a clear example of a case in which Verizon should be required to implement the order of the *New York* PSC.

<sup>313</sup> AT&T Initial Brief at 174-75.

<sup>314</sup> Verizon (at ASP-29-30) is wrong that AT&T's proposed Section 1.4.3 gives AT&T an "unrestricted" right to collocate equipment that performs packet switching, subject only to safety and engineering standards. AT&T's proposed Section 1.4.3.1, consistent with FCC Rule 51.323(c), recognizes that *Verizon* has the burden of proof with respect to any claim that specific equipment does not comply with the Commission's collocation rules. (See also *Collocation Remand Order* ¶¶ 46-48 (finding that routing and switching equipment (other than traditional circuit switches) are necessary for accessing all of the features, functions and capabilities of

obligations, and thus nothing to be resolved by any future proceeding before the Virginia Commission regarding specific rates, terms or conditions associated with collocation. Nor is any issue of comity involved,<sup>315</sup> because the obligations referenced in AT&T's proposed language reflect the specific generic requirements of the Commission's order issued under federal law.<sup>316</sup>

5. *Relationship of the ICA to the New York DSL Process* – Verizon makes repeated reference to its proposed Section 11.2.18.1, asserting, either expressly or impliedly, that its proposed language is sufficient to assure that it will timely implement in Virginia all of the DSL activities in New York. AT&T's Brief demonstrates that it clearly is not.<sup>317</sup>

Indeed, even Verizon's Brief acknowledges that it only proposes to use "a good faith effort to implement the results of the New York DSL Collaborative in Virginia at the same time as in New York, and no later than the effective date of the Agreement."<sup>318</sup> Although Verizon asserts that the Commission should not set a more specific timeframe than that,<sup>319</sup> AT&T cannot be expected to trust only to Verizon's "good faith" if AT&T is

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unbundled loops). AT&T's proposed language merely inserts an escalation procedure before the filing of a complaint and precludes Verizon from shutting its doors to AT&T until it has met its burden of proof. Otherwise, Verizon could indefinitely prevent AT&T from collocating equipment that in fact complies with the Commission's rules.

<sup>315</sup> See Verizon Initial Brief at ASP-12.

<sup>316</sup> Verizon's additional assertions (at ASP-19-20) that contract language relating to the *Collocation Remand Order* is unnecessary simply because it has filed tariff language that Verizon claims complies with that order must be rejected. Unlike tariffs, which can be modified by the filing carrier at any time, an ICA cannot be modified without AT&T's consent unless there is a change of law. AT&T is entitled to have contract language that accurately reflects the law as interpreted by this Commission.

<sup>317</sup> AT&T Initial Brief at 161-66.

<sup>318</sup> Verizon Initial Brief at ASP-16.

<sup>319</sup> *Id.*

giving up the right to include specific operational details in the Agreement. AT&T's Section 1.5.6 establishes a specific process that provides reasonable assurances that the New York processes will be implemented in Virginia promptly (and usually within 30 days) after implementation in New York. Thus, contrary to Verizon's assertion that Issue III.B.10.3 is resolved,<sup>320</sup> from AT&T's perspective, that is only true if AT&T's proposed contract language is adopted.<sup>321</sup>

Further, it is necessary to have a process established in the Agreement that assures *all* of the DSL-related work in New York is (and will be) available in Virginia, regardless of how it is developed, including industry-wide agreements and/or published procedures resulting from the New York DSL Collaborative, bilateral agreements between AT&T and Verizon, tariff filings following DSL Collaborative agreements and/or orders of the New York Public Service Commission or other orders of that commission. Verizon's testimony demonstrated that it was not willing to do all of this, and would only implement "consensus decisions" that are implemented by the New York Commission.<sup>322</sup> This is clearly insufficient. If AT&T is to forego specific operational detail in the instant agreement in light of the operational arrangements implemented in New York, it must be entitled to have access to all of the outputs of the New York DSL Process, not just the ones to which Verizon agrees.

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<sup>320</sup> Verizon Initial Brief at ASP-16.

<sup>321</sup> Verizon acknowledges that the work of the New York DSL Collaborative is not complete. Verizon Initial Brief at ASP-24. Thus, it is clear that there must be a reasonable *contractual process* for assuring that all of the *operational details* adopted in New York are timely implemented in Virginia.

<sup>322</sup> AT&T Initial Brief at 162.

Moreover, there must be some way to assure that all of the work AT&T believes is complete in New York is available in Virginia. Accordingly, AT&T's Section 1.5.3 lays out a process for doing so and resolving any related disagreements. This is critically important in light of Verizon's assertion that it provided in discovery "all methods and procedures developed in the NY DSL Collaborative."<sup>323</sup> If that is the case, however, then AT&T is concerned that Verizon is taking too narrow a view of the applicable documentation. Adoption of AT&T's proposed language would provide a process to work out all such concerns.

**Issue V.9. DSL/Line Splitting/Line Sharing Under what terms and conditions must Verizon and its data affiliate or their successors or assigns allow AT&T to purchase advanced services for resale?**

Verizon's assertion that the Agreement need not contain *any* obligation to offer resold DSL services because of its oft-repeated "applicable law" refrain and that it *will* file an amendment to its tariff<sup>324</sup> regarding DSL Over Resold Lines demonstrates exactly why the agreement should at least contain a straightforward requirement that Verizon provide such services at resale. Interconnection agreements are needed to implement the "applicable law" and such agreements are simply more difficult to modify than tariffs. AT&T is reasonably entitled to a *contractual* commitment that resold DSL services will be available to it. Indeed, one of the supporting reasons for the Commission's decision to permit Verizon to accelerate the re-integration of VADI is that the issue of resold DSL

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<sup>323</sup> Verizon Initial Brief at ASP-16.

<sup>324</sup> Verizon Initial Brief at Resale-2-3.

services could be consolidated into a single interconnection agreement.<sup>325</sup> This, of course, *presumes* that such services would be covered in interconnection agreements.

As to Verizon's comments regarding the obligation to provide resold DSL services when AT&T uses UNE-P or a UNE-Loop architecture, AT&T's initial brief explains why such proposals are reasonable and proper.<sup>326</sup> The mere fact that the Commission declined to require such arrangements as *a precondition for a BOCs' 271 entry* does not mean that such requirements cannot be ordered in an arbitration proceeding.<sup>327</sup> Further, the fact that the New York DSL Collaborative has not yet focused on this issue<sup>328</sup> should not preclude AT&T from having contract provisions relating to the issue, because the instant agreement will be in effect for many years into the future.<sup>329</sup> In all events, to the extent the Commission declines to address these proposed requirements at this time because there is no federal order in place mandating them, AT&T requests that these issues be deferred for consideration at a future date, as it has done with respect to other advanced services issues.

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<sup>325</sup> Order, *In re: Application of GTE Corp. & Bell Atlantic Corp for Consent to Transfer Control of Domestic & Int'l Section 214 and 310 Authorizations and Applications to Transfer Control of a Submarine Cable Landing License*, CC Docket No. 98-184, DA 01-2203, at para. 10.

<sup>326</sup> AT&T Initial Brief at 179.

<sup>327</sup> See Verizon Initial Brief at Resale-3.

<sup>328</sup> *Id.* at Resale-4.

<sup>329</sup> Notably, AT&T's proposed contract does not seek to impose any *operational requirements* on Verizon, and AT&T would be willing to agree that the actual implementation of resold DSL may be governed by the terms of AT&T's proposed Section 1.5 of its Schedule 11.2.17, relating to the development of operational requirements for advanced services.

**Issue VII-10 Should Verizon be permitted sufficient time to provision to AT&T loops provided via Integrated Digital Loop Carrier?**

Verizon continues to demand that AT&T resort to the Network Element Bona Fide Request (“BFR”) process to obtain a loop that is served using Integrated Digital Loop Carrier (“IDLC”) and for which no spare copper facilities are available. It refuses to acknowledge that the BFR process is slow, cumbersome and expensive, and most importantly, is not needed in these circumstances. The BFR process is designed for circumstances where one-of-a-kind work is involved, which is not the case in the provisioning of loops using IDLC. Verizon has not claimed that it is technically infeasible to provide the provisioning information that AT&T seeks within a reasonable timeframe, such as the FOC date. Indeed, it concedes that its loop qualifications systems are capable of identifying IDLC loops.<sup>330</sup> Rather, it appears simply that Verizon does not want to take the trouble. At best, Verizon’s position is truly the triumph of bureaucracy over good sense. At worst, it is another example of the lengths to which an incumbent carrier will go to frustrate competition.

The legal standard under the Act is parity, and AT&T asks for nothing more. AT&T simply asks that the response time for its orders be no less than the response times that Verizon enjoys for its customers. Verizon should not be allowed to leverage its substantial competitive advantage that enables it to provision its customers within seconds, while an AT&T customer must wait days, or perhaps weeks or months, just to know whether the customer can be provisioned.

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<sup>330</sup> Tr. at 282-4.

## RESALE

<b>Issue V-10 – Resale of Vertical Features – Must Verizon offer vertical features for resale on a stand-alone basis?</b>
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There is very little that need be said on this issue. AT&T convincingly demonstrated in its initial brief that there is no basis for Verizon’s refusal to provide the vertical features that it offers at retail for resale pursuant to the Act’s Section 251(c)(4) resale obligations.<sup>331</sup> In its brief, Verizon again acknowledges that a “vertical feature is a telecommunications service that Verizon VA provides in conjunction with the basic dial tone service”<sup>332</sup> and again acknowledges that there is no question of the technical feasibility of providing vertical features independent of the underlying dial tone line.<sup>333</sup> It is thus reduced to arguing that permitting the discounted resale of vertical features would somehow be “unfair and inconsistent with the avoided cost analysis used to calculate the § 252(d)(3) wholesale discount”<sup>334</sup> which it contends “is intended to reflect the costs that Verizon VA would avoid if it were not providing *any* services at retail.”<sup>335</sup> But that approach is squarely at odds with Verizon’s own avoided cost study in this proceeding<sup>336</sup> and in any event provides no justification for the restriction on its resale obligations that Verizon proposes. Accordingly, the Commission should reject Verizon’s limitations on the resale of vertical features and direct that they be provided in accordance with the Act’s resale obligations.

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<sup>331</sup> See AT&T Initial Brief at 186-89.

<sup>332</sup> Verizon Initial Brief at Resale-6.

<sup>333</sup> *Id.*; see also *id.* at Resale-8.

<sup>334</sup> *Id.* at Resale-9.

<sup>335</sup> *Id.* (emphasis in original).

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*See* Testimony of Donald Albert, et al., Verizon Virginia Inc. Panel Testimony on Unbundled Network Elements and Interconnection Costs, July 31, 2001, at 338.

## PRICING TERMS & CONDITIONS

### **Issue I-9, I-2 - Price Caps on CLEC Services - Can Verizon limit or control rates and charges that AT&T may assess for its services, facilities and arrangements?**

Apparently oblivious both to the irony of an incumbent monopolist protesting its status as a captive customer of new entrants and to the inconsistency of complaining that it has no options except to purchase from those new entrants while acknowledging the existence of such options,<sup>337</sup> Verizon repeats its plea for a cap on the rates that AT&T may charge it. Verizon does not dispute, for it cannot, that there is nothing in the Act to support this limitation or control of CLEC rates. Instead, it simply argues the unremarkable proposition that CLEC rates must be just and reasonable, and cites distinguishable cases about retail rates or access charges.<sup>338</sup> This issue is little more than Verizon's attempt to impose upon AT&T, through pricing terms and conditions, the same type of additional costs and burdens that its VGRIP network architecture proposal would impose, and Verizon concedes as much.<sup>339</sup> That attempt should be rejected and Verizon should be precluded from imposing price caps on AT&T or otherwise controlling AT&T's rates for services and facilities.

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<sup>337</sup> Tr. at 2117-18; Verizon's Initial Brief at PTC-4.

<sup>338</sup> *Id.* at PTC-5 through PTC-7.

<sup>339</sup> *Id.* at PTC-4, n. 1.

**Issue III.18 - *Tariffs v. Interconnection Agreements* - Should tariffs supercede interconnection agreement rates, terms and conditions?**

With respect to this issue, Verizon spends considerable time erecting a strawman description of AT&T's position that more accurately reflects Verizon's strategy of impugning CLECs' motives than it does portray what AT&T actually contends. AT&T does not "seek to freeze Verizon VA's contract rates" so that it can be "free to choose the lower of those frozen rates or any future tariff."<sup>340</sup> To the contrary, AT&T has acknowledged that "if the Commission establishes new rates in a future proceeding, the outcome would determine the appropriate rates for the interconnection agreement."<sup>341</sup> What AT&T opposes is Verizon's unfettered exercise or manipulation of its right and obligation to file tariffs in a manner that could circumvent the section 251 and 252 processes, something that this Commission found "cannot be allowed."<sup>342</sup> The Commission should reaffirm and reinforce that holding by directing that no rates, terms or conditions of the Interconnection Agreement may be amended by tariff filing unless Verizon can demonstrate that AT&T had actual, direct and meaningful notice of the filing that accorded AT&T an opportunity to protect its interests.

**Issue VII-12 - Should the Parties' interconnection agreement be burdened with detailed industry billing information when the Parties can instead refer to the appropriate industry billing forum?**

As a general proposition, AT&T and Verizon agree that the guidelines of an industry-wide forum, the Ordering and Billing Forum (OBF), are an appropriate vehicle

<sup>340</sup> Verizon Initial Brief at PTC-1.

<sup>341</sup> AT&T's Initial Brief at 190-91.

<sup>342</sup> *In the Matter of Bell Atlantic-Delaware, Inc., v. Global Naps, Inc.*, File No. E-99-22, FCC 99-381, 15 FCC Rcd. 12,946, *aff'd*, 15 FCC Rcd. 5997

for resolving issues that affect the ability of carriers to process, exchange and interpret billing records and call detail information. Further, beyond this general proposition, the parties agree that the interconnection agreement can and should appropriately memorialize certain obligations that the parties have undertaken with respect to the exchange of bills and billing records. See Schedule 5.6. The point of departure concerns one aspect of call detail records, Carrier Information Codes (CICs), which are exchanged as part of interconnection billing requirements. AT&T proposes contractual obligations concerning the exchange of CICs; Verizon acknowledges that it “may not currently oppose a particular detail [such as] the exchange of CICs,”<sup>343</sup> but it retreats to the agreed-upon general proposition that OBF guidelines are sufficient in this area.

Verizon argues that AT&T’s proposal somehow conflicts with the general proposition, even though OBF guidelines support the exchange of CICs. It also argues that it makes no sense for the interconnection agreement to “duplicate . . . the efforts and purposes of the OBF,”<sup>344</sup> even though it concedes the propriety of including certain minimal billing obligations in the agreement. Finally, it argues that a currently valid contractual obligation regarding CICs could become “outdated and obsolete if the industry guidelines move away from the use of CICs,”<sup>345</sup> even though there is nothing to prohibit – and, given the parties’ agreement to support the OBF guidelines, everything to support – the amendment of the contract should such an evolution occur. Accordingly, AT&T urges that the contract contain its proposal to commit the parties to the exchange of CICs.

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<sup>343</sup> Verizon Initial Brief at PTC-13.

<sup>344</sup> *Id.* at PTC-14.

<sup>345</sup> *Id.* at PTC-13.

## GENERAL TERMS & CONDITIONS

<b>Issue I-II - OSS Access - May Verizon summarily terminate AT&amp;T's access to OSS for AT&amp;T's alleged failure to cure its breach of obligations concerning access to OSS per Schedule 11.6</b>
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For Verizon, this is almost an orphan issue: no direct testimony was filed<sup>346</sup> and witness Langstine was not even aware at the hearing that she had adopted the brief piece of rebuttal testimony that had been filed.<sup>347</sup> Now in its brief, rather than demonstrate the propriety its extreme remedy proposal – the right to summarily terminate AT&T's access to OSS – Verizon implicitly asserts that this right is necessary for it to be able to ensure satisfaction of its obligations to all users of OSS.<sup>348</sup> Verizon does not deny that the exercise of this right, as it envisions it, would enable it to deny access to all systems comprising Verizon's OSS even if the breach allegedly committed by AT&T concerned only one such system.<sup>349</sup> Verizon concedes it has never had to invoke this right.<sup>350</sup>

AT&T has shown that it already has sufficient incentive to protect Verizon's OSS without the threat of being unable to conduct business altogether.<sup>351</sup> Verizon has other less punitive remedies available with which it can satisfy its obligations to users of OSS. It does not also need this unlimited and unilaterally exercisable right.

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<sup>346</sup> See Verizon Exhibit 22 at p. 4.

<sup>347</sup> Tr. at 2565, 2571-72.

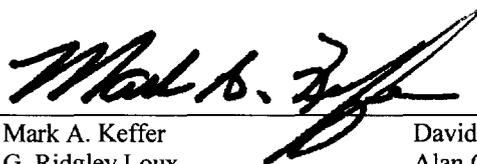
<sup>348</sup> Verizon Initial Brief at BP-7.

<sup>349</sup> Tr. at 2566.

<sup>350</sup> Tr. at 2586, 2590; *see also* Verizon Initial Brief at BP-7, n.5.

<sup>351</sup> See AT&T Exhibit 4 at p. 6-7.

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December 12, 2001

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
Petition of AT&T Communications )  
of Virginia, Inc., Pursuant )  
to Section 252(e)(5) of the )  
Communications Act, for Preemption )  
of the Jurisdiction of the Virginia )  
State Corporation Commission )  
Regarding Interconnection Disputes )  
with Verizon-Virginia, Inc. )  
)

CC Docket No. 00-251

CERTIFICATE OF SERVICE

I hereby certify that on this 11<sup>th</sup> day of December, 2001, a copy of AT&T's Reply Brief on Non-Cost Issues was filed on behalf of AT&T Communications of Virginia, Inc. and its affiliates listed above and was sent via hand delivery, Federal Express and/or by email to:

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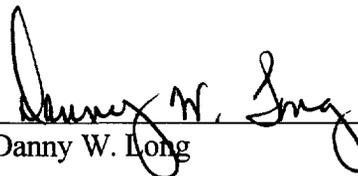
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