X. MISCELLANEOUS

Issue VI-1(AA) (Information Services Traffic)

Verizon's proposed contract language regarding "information services" traffic is unnecessary, and should not be included in the interconnection agreement. As explained in WorldCom's brief, information services traffic is not allowed in Virginia, and there is no reason to address it in the Virginia interconnection agreement. See WorldCom Br. at 256. Moreover, this traffic can be treated as either local or toll for compensation purposes, and there is no need to create a separate classification for it. See id. at 256-57. In its brief, Verizon attempts to reassert its earlier argument that this provision should be included in the agreement because WorldCom did not discuss it in its Petition for Arbitration. See Verizon Br. at Misc-2 to Misc-3. In addition, Verizon claims that the interconnection agreement should contain provisions that address information services because it should not be required to bear the risk of uncollectible revenue for such traffic in the event that this agreement is adopted for use in another state or Virginia allows such traffic in the future. See id. at Misc-2 to Misc-7. Verizon's arguments are unpersuasive, and the Commission should therefore exclude this provision from the interconnection agreement.

A. Verizon's Inclusion Of An Information Services Provision In Its Proposed Template Agreement Did Not Obligate WorldCom To Raise This Issue In its Petition for Arbitration.

As explained in WorldCom's Response to Verizon's Supplemental Issues, WorldCom had no obligation to discuss in its Petition for Arbitration all of the issues presented in Verizon's proposed interconnection agreement. Verizon's contrary assertion rests on the mistaken premise that this arbitration concerns dueling templates, and

therefore directly conflicts with the Commission's clear instruction "not to include in [the parties'] statement of issues the question of whether to start with Verizon's or WorldCom's preferred document." Letter Ruling, Re: Arbitration of Interconnection Agreements Between Verizon and AT&T, Cox, and WorldCom, CC Docket Nos. 00-218, 00-249 and 00-251 (FCC Mar. 2, 2001). Instead, to the extent either WorldCom or Verizon sought inclusion of a term or condition in their interconnection agreement and could not reach agreement through negotiation, the party desiring inclusion of the term was required to designate it as being in dispute. See id.; WorldCom Response to Verizon Supplemental Statement of Unresolved Issues at 4. Consistent with this directive, WorldCom's petition presented discrete issues for arbitration, and proposed contract language addressing those issues. Because Verizon desired the inclusion of the information services traffic, WorldCom had no duty to raise that issue in its petition for arbitration, and the lack of a WorldCom-designated issue on that subject does not support the inclusion of those provisions in the interconnection agreement.

B. The Information Services Provisions That Verizon Has Proposed Should Be Excluded From the Interconnection Agreement Because They Are Unnecessary.

Although Verizon has modified its proposed contract language to eliminate the substantive concerns that WorldCom initially addressed in its testimony and its Response to Verizon's Statement of Supplemental Issues, see Verizon Br. at Misc-4 to Misc-6, the

Verizon language should be excluded because it is unnecessary.[78] As Verizon recognizes, and its proposed language makes plain, information services traffic is not allowed in Virginia, and neither party currently offers this type of information services traffic on its network platform. See Verizon Br. at Misc-2, Misc-4 , Misc-5; Tr. 10/12/01 at 1985 (Antoniou, Verizon). Therefore, there is no need to address this traffic in the interconnection agreement. Nonetheless, Verizon continues to describe this issue in terms of bearing the risk of uncollectible revenue, Verizon Br. at Misc-1, and continues to assert that WorldCom should bear the risk for Verizon's inability to collect its own revenues. Id. Verizon's position is completely lacking in merit and should be rejected by the Commission.

It is a complete waste of the Commission's resources to pursue an issue that has no legal or practical significance, and it is quite astonishing that Verizon continues to litigate this issue at all, and that it has devoted seven pages of its brief to a discussion of its position. Verizon admits that this traffic is not allowed in Virginia. See Tr. 10/12/01 at 1983-1984 (P. Richardson, Verizon). Verizon also admits that the language is not needed for a change-of-law provision. Tr. 10/12/01 at 1985 (C. Antoniou, Verizon). Finally, Verizon admits that the language would not be portable to another state if it were ordered into the agreement. Id. at 1986. Thus, the language requested by Verizon will have, by Verizon's own admission, no use in this, or any other, agreement. Yet, Verizon

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[78] As noted in WorldCom's initial brief, WorldCom continues to object to Verizon's introduction of new contract lanuage after the parties' testimony had been filed. See WorldCom Br. at 256 & n.119; WorldCom Motion to Strike. WorldCom's substantive objections to the initially proposed language are discussed in WorldCom's testimony. WorldCom's broader argument, that the language is unnecessary, applies to both the recently filed and initial Verizon proposal.

continues to waste the Commission's and the parties' time by pursuing this meaningless language. Verizon concludes its discussion of this issue by saying, "WorldCom offers no alternative language, proposing only to delete Verizon VA's proposed language." Of course. Why would WorldCom propose alternative language to a moot issue? This issue should be stricken and Verizon's proposed language should be rejected.

XI. RIGHTS OF WAY

As Verizon has acknowledged, WorldCom and Verizon have reached agreement regarding several of the terms and conditions governing access to Verizon's poles, conduits, and rights of way, and the two rights-of-way issues that remain in dispute concern whether those terms should be included in the interconnection agreement (Issue III-13) and whether the agreement should contain detailed terms regarding make-ready work that ensure that this work is completed in a timely fashion (Issue III-13(h)). Verizon's proposal to exclude rights-of-way terms from the interconnection agreement is inconsistent with the Act and impractical, and unreasonably strips the interconnection agreement of necessary detail. Verizon also attempts to avoid providing adequate detail regarding make-ready work, and has objected to WorldCom's desire to minimize delays in make-ready work by allowing WorldCom to propose the use of contractors that can perform the work at substantially lower cost and/or in a materially shorter time period. Neither of these positions has any merit, and the Commission should resolve the rights-of-way issues in WorldCom's favor.

Issue III-13 (Rights-of-Way Terms)

The terms and conditions associated with poles, ducts, conduits and rights-of-way should be included in the interconnection agreement, and WorldCom should not be required to use a separate license agreement to memorialize those terms. As Verizon has admitted, the 1997 WorldCom-Verizon interconnection agreement contains rights-of-way terms, and there is no reason to deviate from that practice in the current interconnection agreement. See Verizon Br. at ROW-2. Placing rights-of-way terms in a separate document is inconsistent with the Act, is logistically difficult, and is contrary to industry practice. See WorldCom Br. at 260-61. In its brief, Verizon attempts to defend its position by asserting: that the Act allows the rights-of-way terms to be placed in separate agreements, Verizon Br. at ROW-2 to ROW-3; that including interconnection terms in separate agreements is "common practice," and that this is particularly appropriate for rights-of-way terms because they have state-specific operating procedures, id. at ROW-3 to ROW-4; and that including the terms in interconnection agreements is administratively burdensome, id. at ROW-4 to ROW-5. None of these arguments is persuasive, and the Commission should therefore order the inclusion of rights-of-way terms in the interconnection agreement.

As explained in WorldCom's brief, the Act mandates inclusion of the rights-of-way terms and conditions in the Interconnection agreement, and simply noting that the terms are defined in separate license agreements does not satisfy this obligation. The Act requires that interconnection terms be localized in one place – the interconnection agreement, and does not contemplate that the parties' agreement will be composed of an assortment of stand-alone agreements. See WorldCom Br. at 259. Indeed, the Act

expressly refers to "access to rights-of-way" when it describes the terms and conditions that must be negotiated under section 251 of the Act. See id. at 259-60; 47 U.S.C. § 251(b)(4). Therefore Verizon's proposal to exclude these terms from the agreement or note in the interconnection agreement that they will be defined in a separate license agreement does not satisfy Verizon's obligations under the Act.

Although Verizon asserts otherwise, including rights-of-way terms in the interconnection agreement is common practice. As WorldCom's witness explained, "ILECs typically include rights-of-way terms and conditions within their interconnection agreements." See WorldCom Exh. 11, Direct Test. of L. Carson at 2-3. Verizon has conceded that WorldCom's current Virginia interconnection agreement with Verizon contains such language, see Verizon Br. at ROW-2, and WorldCom has also had such language in its interconnection agreements with Southwestern Bell and Brooks in several states. See id. That Verizon has refused to comply with this practice in other jurisdictions does not diminish the fact that it is common practice for other ILECs. Nor does the fact that rights-of-way terms may be state-specific argue against including them in the carriers' interconnection agreement; to the extent that Verizon has developed a certain procedure because of the unique circumstances in a given state, it could simply include a clause in the relevant interconnection agreement that makes that plain and notes that the conditions in another state may require different procedures.

Finally, Verizon's claim that including these terms in the interconnection agreement would be "administratively burdensome" is unpersuasive. Verizon's assertion that placing these terms in an interconnection agreement would be more burdensome than leaving them in separate licensing agreements is illogical; it claims that it already

manages over 180 separate agreements, Verizon Br. at ROW-4, and managing that number of relationships in 180 interconnection agreements as opposed to 180 licensing agreements would not appear to make a substantial difference administratively. Further, even if there were some difference between maintaining 180 interconnection agreements and maintaining 180 licensing agreements, WorldCom has not proposed that Verizon place these terms into interconnection agreements with every party with whom it has a relationship, but instead that the WorldCom-Verizon agreement contain those provisions. Verizon has failed to explain how a single interconnection agreement would create a burden. In contrast, requiring WorldCom to consult a separate document for its interconnection terms would be logistically burdensome. See WorldCom Br. at 260. Those terms should therefore be memorialized in the carriers' interconnection agreement.

Issue III-13(h) (Make-Ready Work)

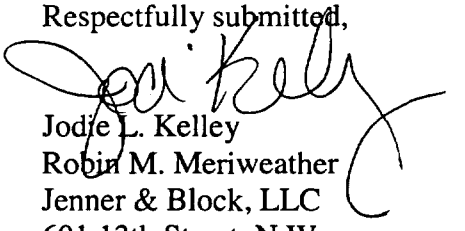
The interconnection agreement should contain detailed provisions regarding make-ready work, and should establish terms that would allow WorldCom to determine what make-ready charges have been assessed and to ensure that make-ready work is performed in a timely manner. See WorldCom Br. at 263-64. WorldCom has proposed that the interconnection agreement provide it with more detail regarding make-ready work than it currently receives, for example, by providing itemized bills. See WorldCom Br. at 263; Tr. 10/12/01 at 2150 (Carson, WorldCom). In addition, WorldCom has proposed that WorldCom be able to work with Verizon to expedite make-ready work when Verizon cannot complete the work in a timely fashion, and that WorldCom be allowed to propose the use of contractors that can perform the make-ready work at a cost and/or time that is materially less than that estimated by Verizon. See WorldCom Br. at 264. Verizon has agreed to provide more detail, but appears to object to memorializing that obligation in the interconnection agreement. See Verizon Br. at ROW-6. In addition, Verizon claims that WorldCom's proposal regarding the substitution of contractors would not allow Verizon to supervise make-ready work. Both of these arguments are unpersuasive, and the Commission should order the inclusion of WorldCom's proposed contract language.

WorldCom's proposal that the agreement contain language requiring Verizon to provide more detail regarding make-ready work is reasonable. As explained in WorldCom's opening brief and its testimony, the amount of information that WorldCom currently receives is insufficient, and does not allow WorldCom to determine exactly what it is paying for. See WorldCom Br. at 263; Tr. 10/12/01 at 2150 (Carson,

WorldCom). If Verizon is willing, and intends, to provide that information, there is no logical reason that it should object to memorializing that duty in the interconnection agreement. As discussed elsewhere in this brief, it is important that the agreement clearly spell out Verizon's duties, and providing clarity and detail minimizes the likelihood of future disputes.

Finally, WorldCom's proposal does not deprive Verizon of the ability to supervise make-ready work. WorldCom has simply proposed that it be allowed to locate a contractor "who meets VZ's training and safety requirements and is otherwise in good standing with VZ," and could perform the make-ready work "at a cost and/or time that is materially less than that estimated by VZ." The contractor would be approved by Verizon working for Verizon, and subject to Verizon's supervision. Tr. 10/12/01 at 2152-53 (Carson, WorldCom). The Commission should therefore order the inclusion of WorldCom's proposed language regarding make-ready work.

Respectfully submitted,



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