VII. GENERAL PRICING TERMS AND CONDITIONS

Verizon's proposed "waterfall" pricing attachment, which implicates Issues IV-30, IV-32, IV-35 and IV-36, is deficient in many respects. It fails to provide adequate clarity regarding the effective term of the rates, and does not establish an appropriate procedure by which subsequently approved rates will take effect. See WorldCom Br. at 172-73 (Issue IV-30). Moreover, it fails to make clear that the rates set forth in the interconnection agreement's pricing table are the exclusive rates unless the parties agree otherwise, and does not require Verizon to bear its own development costs. See WorldCom Br. at 174-76 (Issue IV-32). Finally, it fails to address the parties' obligation to provide reciprocal compensation of non-internet-service-provider bound local traffic. See WorldCom Br. at 177 (Issue IV-35). Thus, instead of providing a clear "roadmap" for the amount and priority of applicable rates, Verizon Br. at PTC-21, it leaves many aspects of the agreement's general pricing terms and conditions unclear. The Commission should therefore reject the Verizon "waterfall" pricing provision, and should instead adopt the relevant WorldCom provisions.

Issue IV-30 (Duration and Changing of Rates)

The Commission should adopt WorldCom's proposed Attachment I, Section 1.1, which sets forth general principles regarding the interconnection agreement's pricing schedule, and makes clear that: the rates and discounts will be effective for the length of the interconnection agreement unless modified by law or otherwise provided; the rates that reference existing tariffs are subject to those tariffs; the rates or discounts in Table I will be replaced on a prospective basis by FCC or state commission approved rates or discounts; and such approved rates will take effect consistent with a procedure established in the interconnection agreement. See WorldCom Br. at 172-73. Verizon's proposed language fails to define the effective term of rates, and therefore lacks the clarity that is needed to prevent disputes and/or litigation concerning this aspect of the applicability of the agreement's rates. See id. at 173; WorldCom Exh. 8, Direct Test. of M. Argenbright at 19. As explained below, WorldCom's proposals provide this clarity and should be adopted.

The WorldCom provisions are reasonable, and preferable to Verizon's. Amending the pricing table to correspond to tariff changes simply ensures that the agreement's pricing provisions remain up to date. See WorldCom Exh. 8, Direct Test. of M. Argenbright at 19. The procedure that WorldCom has proposed regarding how and when subsequently approved rates will be incorporated into the agreement and made effective adds clarity and detail to the agreement, see id. at 19-20, and is not an "unnecessary administrative burden." Verizon Br. at PTC-23. Specifically, the WorldCom proposal provides that "such new rates or discounts shall be effective immediately upon the legal effectiveness of the court, FCC, or Commission order requiring such new rates or discounts." In contrast, the Verizon proposal is relatively ambiguous regarding the point at which changes in rates will become effective, and simply states that charges will be superseded by new charges "when such new Charge(s) are required by any order of the Commission or the FCC. . . ." Finally, Verizon's proposal fails to establish a time line for amending the pricing table to reflect the amended rates. See WorldCom Br. at 173. The clarity afforded by WorldCom's proposed language will help to prevent unnecessary disputes regarding the applicability of tariffs to the interconnection agreement rates that reference tariffs, and the Commission should therefore order the inclusion of WorldCom's proposed section 1.1.

Issue IV-32 (Exclusivity of Rates and Pricing Table Updates)

The Commission should adopt WorldCom's proposed Attachment I, Sections 1.3 through 1.4, which make clear that the rates set forth in the pricing table of the interconnection agreement are the exclusive pricing schedule unless the parties agree otherwise, that Verizon should bear its own development costs, and which establish a process pursuant to which the pricing table may be amended. WorldCom's proposed language prevents hidden charges and provides necessary clarity regarding the parties' rights and obligations. See WorldCom Exh. 8, Direct Test. of M. Argenbright at 23-24. In its brief, Verizon has objected to WorldCom's language on several grounds, asserting that: the Commission should adopt the "order of priority" of rates set forth in its waterfall provision; Verizon should be able to force other parties to cover its development costs; Verizon should be able to recover costs beyond those reflected in the interconnection agreement's rates; and that providing electronic copies of the pricing table would be unduly burdensome. See Verizon Br. at PTC-23 - PTC-24. As explained in WorldCom's opening brief and its witnesses' testimony, these arguments are meritless, and the WorldCom language should be adopted.

The interconnection agreement's rates should be the exclusive means of assessing charges for the services covered in the interconnection agreement, absent agreement otherwise. See WorldCom Br. at 174. Verizon's proposed pricing attachment violates this principle, and instead appears to provide that the rates established in Verizon's interconnection agreement or a Verizon tariff should govern charges for services provided under the interconnection agreement, whereas WorldCom's language does not reference tariffs. See WorldCom Exh. 8, Direct Test. of M. Argenbright at 27. Further, Verizon's proposed language does not provide sufficient clarity regarding which rate will apply. See id. WorldCom's position regarding the applicability of tariffs or the rates set forth in the interconnection agreement is discussed under Issues III-18 and IV-85, and provides an additional reason to reject the Verizon language.

Verizon should not be allowed to force other parties to bear its development costs. As explained by WorldCom's witness, "Verizon is legally obligated to provide these services, and the development of additional systems or infrastructure is simply the cost of doing business in a competitive environment." WorldCom Exh. 9, Direct Test. of M. Argenbright at 25. WorldCom's proposed language allows Verizon to recover those costs through the rates in the pricing table, see WorldCom Proposed ICA Attachment I § 1.3, and thus has not "effectively foreclose[d]" Verizon's ability to recover such costs. Verizon Br. at PTC-24. WorldCom's language simply ensures that Verizon does not levy additional charges in an attempt to recover more than the Commission has deemed appropriate.

Similarly, limiting Verizon's cost recovery to the rates established in the interconnection agreement's pricing schedule protects against the imposition of hidden charges. See WorldCom Exh. 8, Direct Test. of M. Argenbright at 25-26. As a general matter, it is improper for Verizon to demand or receive compensation for any service provided under the interconnection agreement at levels that exceed or go beyond the rates contained in the interconnection agreement. See id. In the absence of WorldCom's proposed language, Verizon might be able to tack on an additional 'development' charge when it provides UNEs, or otherwise attempt to pass its development costs along to WorldCom for services that Verizon is required to provide. This would allow Verizon to extort additional and perhaps exceptional costs from its would-be competitors. See id. If a commission orders that Verizon be allowed to recover additional charges, that change can be accommodated through WorldCom's proposed language regarding amendments to the pricing table.

Finally, WorldCom's proposal that Verizon provide WorldCom with updated electronic copies of the pricing schedule is not an effort to "shift additional administrative burdens to Verizon VA," Verizon Br. at PTC-24, but instead promotes efficiency and facilitates auditing of bills. See WorldCom Br. at 175. Given the complexity of the bills, the electronic format is superior to a paper schedule. See id. at 175-76; WorldCom Exh. 23, Rebuttal Test. of M. Argenbright at 21. Further, because an electronic pricing schedule facilitates speedy and efficient auditing, it will lead to fewer disputes and provide a higher level of accuracy. See WorldCom Exh. 8, Direct Test. of M. Argenbright at 26. In sum, WorldCom's proposed Sections 1.3 and 1.4 address important aspects of the interconnection agreement's pricing terms and conditions, and should be approved by the Commission.

Issue IV-35 (Reciprocal Compensation For Non ISP-Bound Local Traffic)

The interconnection agreement should address the reciprocal compensation of non-internet-service-provider ("ISP") bound traffic to information service providers. That traffic (which would include calls to telephone time and temperature information providers) has historically been defined as jurisdictionally local and hence subject to reciprocal compensation. See WorldCom Br. at 177-78; WorldCom Exh. 8, Direct Test. of M. Argenbright at 31-32. Rather than engaging the substantive issue of whether reciprocal compensation should apply to such calls, Verizon focuses on WorldCom's use of the word "local" when defining this traffic,[67] and asserts that under the ISP Remand Order the appropriate question is whether traffic is included in the carve-out articulated in section 251(g) of the Act, and whether it originates on the network of one carrier and terminates on that of the other. Verizon Br. at IC-29 to IC-30. As explained in WorldCom's opening brief, the Commission did not hold that non-ISP-bound information services traffic is excluded from reciprocal compensation by Section 251(g), and applying reciprocal compensation to that traffic is consistent with the Act and this Commission's implementing orders. See WorldCom Br. at 177. Moreover, because this traffic is not subject to the special interim rates that the Commission has adopted for ISP-bound traffic, it is critical that the interconnection agreement establish a mechanism for the carriers to be compensated for the flow of such traffic. See id. at 177-78. The

[67] Although Verizon criticizes WorldCom's reference to "local traffic" in this context, it uses the same term when defining reciprocal compensation in its proposed definitions section. See Joint Proposed Definitions at 21 (filed Nov. 20, 2001).

Commission should adhere to the historical treatment of this traffic, and should adopt language that expressly subjects it to reciprocal compensation.[68]

[68] As noted in Issue I-5, supra, the new language that appears in Verizon's November DPL should be rejected because the language has not properly been placed on the record.

<u>Issue IV-36 (Inclusion of a Schedule of Rates)</u>

As explained in WorldCom's opening brief and in its testimony, WorldCom raised this issue to ensure that the interconnection agreement will contain a detailed schedule of itemized charges for the services provided under the interconnection agreement. <u>See</u> WorldCom Br. at 179; WorldCom Exh. 8, Direct Test. of M. Argenbright at 32-33; WorldCom Exh. 23, Rebuttal Test. of M. Argenbright at 23. Verizon has not objected to this principle in its brief, and the Commission should therefore accept WorldCom's proposal.

VIII. GENERAL TERMS AND CONDITIONS

Issue I-11

A. Verizon Should Not Be Given The Right To Terminate WorldCom's Access To OSS.

The Commission should reject Verizon's proposal that it be allowed to summarily and unilaterally terminate WorldCom's access to the operations support system ("OSS") UNE if it determines that certain abuses have occurred and the CLEC has not cured the abuse within ten days. As explained in WorldCom's opening brief and its witnesses' testimony, Verizon's proposal is objectionable for several reasons. First, it cannot be reconciled with the Act and this Commission's regulations and orders which require Verizon to provide competing carriers access to OSS. See WorldCom Br. at 180. Second, it unreasonably grants Verizon the ability to force WorldCom out of business. See id. at 181. Finally, termination of access to OSS is a draconian measure that should be rejected in favor of more reasonable or moderate methods of protecting OSS against CLEC abuse. See id. at 182-83.

Verizon's attempt to portray the termination right as a necessary remedy for extreme situations, see Verizon Br. at BP-7 - BP-8, is unpersuasive. Verizon's proposed contract language does not limit Verizon's right to terminate access to OSS to unusual situations in which a CLEC has seriously interfered with the OSS and/or impaired the back-end systems. See WorldCom Br. at 181; Tr. 10/18/01 at 2540 (Langstine, Verizon) (admitting that Verizon alone would determine when abuse has occurred). Accordingly, Verizon's assertion that it would only employ the termination remedy in such situations provides WorldCom with little comfort. See WorldCom Br. at 181-82. Moreover, Verizon's admission that this remedy would only rarely be warranted, and its suggestion that it has not had experiences in which CLECs have committed the types of offenses that would warrant the termination remedy, demonstrates that its proposed language is unnecessary. See WorldCom Br. at 182. The Commission should therefore reject section 8.6.1 of Verizon's proposed Additional Services Attachment.

B. The Commission Should Reject the Extraneous Language That Verizon Included In the DPL on this Issue Because the Majority Of That Language Is Not Related To This Issue And Many of the Verizon Provisions Are Inappropriate.

Finally, the Commission should reject the portions of Verizon's Additional Services Attachment that are listed in the November DPL, but are not relevant to this issue. Although Verizon's proposed termination right is only addressed in section 8.6.1, Verizon has listed several additional OSS provisions in the DPL, and invokes sections 8.4 through 8.7 in its brief. See Verizon Br. at BP-8; WorldCom-Verizon DPL-General Terms and Conditions. As noted in WorldCom's Motion to Strike, the majority of these provisions were not included in the Verizon Answer, testimony, or earlier DPLs, and Verizon's attempt to slip them into the record through the DPL is improper. In addition, sections 8.2, 8.3, 8.7, 8.8, 8.9, 8.10 and 8.11 have nothing to do with the termination of OSS, and are not even referenced in section 8.6.1. These sections are therefore entirely irrelevant, and should be rejected. Sections 8.1, 8.4, and 8.5 are only indirectly relevant (because they are referenced in section 8.6.1), but were not addressed in Verizon's testimony and should also be rejected for the reasons set forth below.

In addition to being irrelevant, several of the provisions that appear in Verizon's proposed Section 8 are substantively deficient. Verizon has failed to present evidence to support these provisions, and has instead focused on the only issue that was properly raised – whether Verizon should be allowed to terminate access to OSS due to perceived

CLEC abuse. Verizon should not be allowed to simply slip this language in through the DPL, and Verizon's failure to defend or discuss these provisions in its testimony prevented WorldCom's witnesses from responding to the substantive proposals. Because the Verizon provisions are flawed in the manner described below, and because the record contains no support for these provisions, the Verizon language should not be included in the interconnection agreement.

Verizon's proposed sections 8.2 through 8.5 are flawed in several respects. Verizon's proposed section 8.2.2 improperly grants Verizon sole discretion to determine how OSS access is offered, which is inconsistent with the traditional practice of using cooperative and collaborative efforts to determine how it will be offered. Verizon's proposal that it be granted the unilateral right to change OSS without CLEC consent ignores the change management process that Verizon has agreed to in the regulatory environment and in this arbitration under Issue IV-47; although Verizon may not need WorldCom's consent to change OSS functions, Verizon cannot do so without adhering to the requirements of the change management process. Verizon's proposed section 8.3.3, which gives Verizon sole discretion to determine how, and how frequently, CLEC usage information will be provided to a CLEC, is inconsistent with WorldCom and Verizon's resolution of Issue IV-77. How usage information is determined in the future should be determined under the change management process because, when resolving Issue IV-77, WorldCom agreed to remove its usage data language as long as Verizon agreed to insert a provision requiring compliance with the change management process under Issue IV-47. Verizon's proposed section 8.4.1, which only allows CLEC access to OSS facilities when it is "necessary," is overly restrictive, particularly in light of the narrow judicial interpretation afforded the word "necessary." Instead, CLEC access should be limited to where it is "permitted" by the interconnection agreement. Similarly, Verizon's proposed section 8.5.2.5 should allow use and disclosure of OSS to the extent "permitted" by the agreement, as opposed to when it is "necessary." Verizon's proposed Section 8.4.3, which restricts CLEC access to OSS to the CLEC itself improperly prevents CLECs' subsidiaries and affiliates from having such access; the same is true of Verizon's proposed Section 8.5.2.4.

Verizon's proposed remedy provision, section 8.6.2, improperly assigns liability in the event of a breach. Although Verizon assumes that it would be "irreparably injured" by a breach, neither party can know in advance whether all breaches are in fact irreparable, and whether damages would be an appropriate remedy. Indeed, Verizon made the same arguments in connection with Issue IV-119. Accordingly, as WorldCom agreed in connection with Issue IV-119, Verizon should be able to seek the remedies appropriate to the breach, but should not be allowed to request an advance commitment that specific performance is appropriate, or that an injury is irreparable.

Verizon's proposed sections 8.7 through 8.9 are also unreasonable in many respects. Verizon's proposed section 8.7, which indicates that this section does not waive Verizon's rights to protect the confidentiality of Verizon's customers' information, should also make clear that nothing in the section is intended to be a derogation or limitation on <u>WorldCom's</u> rights to access Verizon's OSS. Verizon's proposed section 8.8.1 imposes the remarkable requirement that WorldCom give Verizon its business plan a month in advance; nothing in the Act requires WorldCom to give Verizon this information, and Verizon has failed to explain why it should be allowed to impose such a requirement. Verizon's proposed section 8.8.4, which addresses cooperative testing, is overly broad. Although WorldCom is willing to participate in this testing if it plans to use the OSS being tested, it should not be required to participate (and bear the cost of such participation) if it does not intend to use the relevant OSS. Verizon's proposed section 8.9.2, which obligates CLECs to negotiate and enter contracts to give Verizon access to the CLECs' OSS goes well beyond the requirements of the Act; although Verizon must provide CLECs access to UNEs, CLECs have no corresponding duty, and should not be required to agree to assume such a responsibility.

Finally, Verizon's proposed "pre-OSS" language is also unacceptable. Section 8.10.2 improperly gives Verizon sole discretion to determine how OSS access is offered. In the past, such policies have been developed through cooperative and collaborative efforts, and there is no reason to reverse course and allow Verizon to make such decisions unilaterally. Further, the Verizon proposal ignores the existence of the change management process, which Verizon has agreed to use in the regulatory environment and in this arbitration under Issue IV-47; labeling something "pre-OSS" does not mean that change management should not apply. As explained above, although Verizon may not need WorldCom's consent to change OSS functions, it cannot unilaterally change OSS access and facilities without complying with the agreed-to change management process. Verizon's proposed section 8.10.3 is inconsistent with the Act because it improperly allows Verizon to charge above-cost, non-TELRIC rates for OSS services; whether a service is "pre-OSS" or real OSS, Verizon must comply with the Commission's rules, and Verizon's failure to establish and offer the OSS UNE as required by the law should not be used as an excuse to allow Verizon to implement stopgap measures and then charge unlawful rates for them. Finally, to the extent that Verizon's proposed Section 8.10.4 incorporates Sections 8.4 through 8.8, it suffers the same deficiencies discussed above in connection with those provisions.

Issue IV-45 (Fraud Prevention)

The Commission should order the inclusion of language that ensures that, in the event WorldCom purchases network facilities from Verizon or is interconnected with Verizon, WorldCom will not be required to shoulder the liabilities and costs arising from the malfeasance of third parties that perpetrate fraud against WorldCom or its customers by unlawfully using Verizon's unsecured service, facilities or network. See WorldCom Br. at 184-86. The burden of bearing the costs of such fraud should not turn on the identity of the customer – it should turn on the identity of the carrier in the best position to deter the fraud. As explained in WorldCom's testimony and opening brief, Verizon is the only party that is capable of monitoring and protecting against fraud on its network, and is therefore the appropriate party to bear the costs of clip-on fraud. See WorldCom Br. at 185; WorldCom Exh. 22, Direct Test. of R. Zimmermann at 4-5; WorldCom Exh. 36, Rebuttal Test. of R. Zimmermann at 3. WorldCom's proposal is consistent with the current interconnection agreement and with Verizon's practices regarding fraudulent long-distance calls placed on the WorldCom network, see WorldCom Br. at 185, and should be included in the current interconnection agreement.

Verizon's assertion that it would be difficult for it to discover and police against clip-on fraud does not justify shifting the costs of the fraud on Verizon's network to WorldCom. Whether the fraud is easy or difficult to detect, the fact remains that the fraud occurs on Verizon's network, and Verizon is therefore in a better position to protect against that fraud than WorldCom. Indeed, if Verizon can only monitor and protect against clip-on fraud by "sheer luck," Verizon Br. at GTC-8, there is no reason to believe that WorldCom could perform that task at all.

Verizon's claim that WorldCom's proposal would place WorldCom "in a protective bubble" in the marketplace is specious given that WorldCom's proposal allocates the cost of fraud on the network in the same manner that Verizon allocates costs in the long distance context. As explained in WorldCom's testimony, Verizon requires WorldCom to absorb the costs of fraud committed against Verizon customers when the fraud takes place over WorldCom's long distance network. See WorldCom Exh. 36, Rebuttal Test. of R. Zimmermann at 4. For example, if a Verizon calling card number is stolen and used to place long-distance calls on WorldCom's network, although WorldCom verifies the validity of the number before placing the call, if it is later determined that the call was fraudulent, Verizon recourses that amount against WorldCom when settling the parties' accounts. See id. Verizon does so notwithstanding the fact that the end-user customer is a Verizon customer, simply because the fraud was perpetrated on WorldCom's network. See id. WorldCom's proposal that the same framework be used to allocate costs of fraud in the local context is equally legitimate, and can hardly be described as "free insurance" against criminal acts.

Finally, both the Advanced Services Order II (1999) and the Local Competition Order paragraphs that Verizon has cited are inapposite. Both of those orders concern the security arrangements involved when, for example, a new entrant collocates in an incumbent's facilities. See Advanced Services Order II (1999) ¶ 47 (discussing whether "LECs may impose security arrangements that are as stringent as the security arrangements that incumbent LECs maintain at their own premises"); Local Competition Order ¶ 598 (addressing whether the Commission would "permit LECs to require reasonable security arrangements to separate an entrant's collocation space from the incumbent LEC's facilities."). The question presented in this case is plainly different. Here, WorldCom asks the Commission to consider whether it should assume responsibility for fraud that is committed on Verizon's network when WorldCom does not have control over access to Verizon's network or equipment, and cannot investigate malfeasance committed on Verizon's network or equipment.

In conclusion, because Verizon has control over the relevant facilities and networks, Verizon should bear the risk of a third party's misuse of those facilities. The Commission should therefore order the inclusion of WorldCom's proposed Attachment IX, Sections 3.1-3.3.

Issue IV-84 (Multiple Modes of Entry per Customer Arrangement; Offering of DSL Services for Resale Over Local Loops Leased By Competitors)

The Commission should order the inclusion of WorldCom's proposed Part A Section 1.2, which prevents Verizon from limiting WorldCom to a single form of market entry, and implements Verizon's statutory duty to provide DSL service for resale at wholesale rates. See WorldCom Br. at 187-93. As explained in more detail below, Verizon has failed to provide reasonable grounds for excluding WorldCom's language, and its position should be rejected. Specifically, Verizon's objections to the three sentences used in Part A Section 1.2 rest on a flawed reading of the WorldCom contract language, and Verizon's position regarding DSL resale services is meritless.

A. Verizon's Objections to WorldCom's Proposed Part A Section 1.2 Reflect a Misunderstanding of The WorldCom Language And Are Meritless.

Verizon's assertion that the first sentence of WorldCom's Proposed Part A Section 1.2 addresses combinations, which should be discussed in the UNE attachment, rests on a misinterpretation of WorldCom's proposed contract language. The disputed language simply ensures that WorldCom may provision services to an individual customer through a mixture of the three available forms of market entry, see WorldCom Br. at 187, and this issue has nothing to do with UNE combinations. See WorldCom Exh. 24, Rebuttal Test. of M. Argenbright at 26. Indeed, given WorldCom's repeated explanation and clarification of this distinction in mediation, negotiations, and its testimony, Verizon's apparent confusion about the purpose of WorldCom's language makes little sense.

The Commission should also reject Verizon's proposal to delete the remainder of the WorldCom language. Although the second sentence of section 1.2, which provides that "[n]either Party shall discontinue or refuse to provide any service provided or required hereunder, except in accordance with the terms hereof, without the other Party's written consent," addresses a concept that is similar to WorldCom's position on Issues VI-1(E) and IV-113, there is no reason to exclude a specific reference to that principle in this portion of the interconnection agreement. The same principle applies to the third sentence, which implements Verizon's statutory obligation to notify WorldCom of any network alterations that "would affect the interoperability of [its] facilities and networks." 47 U.S.C. § 251(c)(5).

B. Verizon's Position Regarding Resold DSL Is Equally Incorrect.

In our opening brief, WorldCom demonstrated that Verizon has an obligation to offer DSL services for resale over local loops leased by competitive carriers. Verizon has the obligation to offer any telecommunications service it provides at retail to end-user customers, 47 U.S.C. § 251 (c)(4), and Verizon does not dispute that DSL service is a telecommunications service.

Instead, Verizon asserts first that this issue is essentially moot, because it has tariffed a service known as "DSL Over Resold Lines." Verizon Br. at Resale-2 –3. But this service is only available to resellers, not to carriers that lease ILEC facilities. Because WorldCom's entry strategy involves primarily the use of UNE-P, not resale, this service is of no value to us. Accordingly, this issue is certainly not moot.

Verizon also asserts that incumbents have no obligation to make DSL available for resale over UNE-P, relying on the Line Sharing Reconsideration Order. See Verizon Br. at Resale-3. Verizon, however, misstates the Commission's holding in that order. Indeed, Paragraph 26 of the Order – on which Verizon relies – has nothing to do with the resale of DSL at all. The Commission has reaffirmed its conclusion that ILECs do not have to unbundle DSL equipment in most circumstances, but that conclusion is irrelevant to the question whether incumbent LECs have an obligation to resell their own DSL service. The Line Sharing Reconsideration Order is simply not on point.

Verizon also asserts that the Commission has already addressed, and rejected, a similar request made by AT&T in the Connecticut 271 Order. Verizon Br. at Resale-3 & n.3. Again, this is simply wrong. As explained in WorldCom's opening brief, in that order the Commission expressly left open the issue whether the incumbent must resell DSL to carriers that provide voice over a local loop that is leased from an incumbent LEC. All that the Commission held was that Verizon's current offering did not bar long-distance entry. Thus, far from resolving this issue, the Connecticut 271 Order expressly does not address it. See WorldCom Br. at 189.

Verizon also complains generally that there are "complications" associated with providing resold DSL service over UNE-P. See Verizon Br. at Resale-4. To the extent Verizon is asserting that this arrangement would not be technically feasible, that assertion is belied by Verizon's own testimony in this proceeding, in which Verizon testified that its resold DSL offering is configured in the same manner as is its retail DSL offering. See Tr. 10/5/01 at 925-26 (Clayton, Verizon). That such an arrangement is technically feasible is merely confirmed by the fact that SBC has provided resold DSL in conjunction with UNE-P, albeit inadvertently. See WorldCom Br. at 190-91.

In short, Verizon has provided no basis to reject WorldCom's proposal. The Commission should thus order that Verizon provide resold DSL service to carriers providing voice service over UNE-P.

Issue IV-91 (Branding)

This issue has been resolved.

<u>Issue IV-95 (Costs of Compliance)</u>

The Commission should order the inclusion of WorldCom's proposed Part A, § 8.2, which makes clear that each party is responsible for costs and expenses incurred in complying with its obligations under the interconnection agreement, and requires each party to undertake the technological measures necessary for such compliance. Verizon has offered two arguments in support of its counterproposal that the agreement contain the phrase "except as otherwise provided for under applicable law," neither of which has any merit: it asserts that WorldCom's language is inconsistent with applicable law, and that WorldCom's proposed language would prevent Verizon from receiving compensation even if the Commission were to determine that compensation were due. <u>See</u> Verizon Br. at GTC-14. Verizon's assertion that WorldCom's proposed language is inconsistent with applicable law, <u>see</u> Verizon Br. at GTC-14, is baseless; Verizon has failed to identify any legal provisions that currently prevent (or could be amended to prevent) the cost allocation outlined in WorldCom's proposed contract language and WorldCom is aware of no such provisions. <u>See</u> WorldCom Br. at 197; WorldCom Exh. 32, Rebuttal Test. of M. Harthun, J. Trofimuk, and L. Roscoe at 22. Moreover, the breadth of Verizon's proposed contract language creates a risk that <u>Verizon</u> will seek to impose charges that are inconsistent with applicable law. <u>See</u> <u>id.</u> Verizon's assertion that WorldCom's language would prevent Verizon from complying with a Commission order is also incorrect; as WorldCom explained in its testimony and the opening brief, Verizon is free to seek a Commission order imposing higher costs, and nothing in WorldCom's language would prevent enforcement of such an order. <u>See</u> <u>id.</u> The Commission should therefore adopt WorldCom's Proposed Part A § 8.2.

Issue IV-101 (Alternative Dispute Resolution)

The interconnection agreement should contain binding arbitration provisions that make clear that the arbitrator's award is final and binding on the parties, and that preserve WorldCom's right to use the alternative dispute resolution process required of Verizon under Verizon's GTE/Bell Atlantic merger conditions. See WorldCom Br. at 199, 201-02. Accordingly, WorldCom has proposed that Verizon's alternative dispute resolution language be modified to reflect these principles. Verizon objects to these modifications, asserting that the arbitrator's award should not be enforceable upon issuance, and that WorldCom should be required to waive its right to the merger conditions' dispute resolution process. In addition, Verizon claims that this Commission lacks the authority to impose dispute resolution language to which Verizon has not agreed. As explained in WorldCom's opening brief and below, these arguments are unpersuasive and the WorldCom modifications should be accepted.

The Commission plainly possesses the authority to resolve this issue in WorldCom's favor. The Act does not limit the scope of a commission's review to certain enumerated terms, but instead gives it the authority to "resolve each issue set forth in the petition." 47 U.S.C. § 252(b)(4)(C). Accordingly, Verizon's assertion that the Act does not require parties to include arbitration clauses in their interconnection agreements is inapposite. Similarly, Verizon's reliance on cases that indicate that arbitration clauses must be mutually agreed to, see Verizon Br. at GTC-18, is misplaced, because the context of this case is markedly different from an ordinary commercial contract. See WorldCom Br. at 199-200. Interconnection agreements frequently contain terms that could not be included in an ordinary contract, and/or that ordinary contracting parties could not be compelled to accept. See WorldCom Br. at 200 (citing U S West v. MFS Intelenet, 193 F.3d 1112, 1125 & n.17 (9th Cir. 1999)). Indeed, the New York PSC decision on which Verizon relies directly refutes Verizon's claim. See NY PSC Decision at 10 (holding that the Commission had the authority to require inclusion of ADR provisions in interconnection agreements and noting that such provisions "are a typical feature in the interconnection agreements the Commission has approved in the past"). Therefore, the Commission may require the inclusion of ADR provisions to which Verizon has not agreed.[69]

Verizon's substantive objections to the WorldCom modifications are also unpersuasive. The purpose of alternative dispute resolution is to secure expedited and efficient resolution of the parties' dispute, see WorldCom Exh. 21, Direct Test. of M. Harthun, J. Trofimuk, and L. Roscoe at 49, and Verizon's proposal that commissions conduct substantive review of the orders and that the finality of the arbitrator's order be delayed for 60 days is inconsistent with this goal. Arbitration awards should therefore be final when issued. See WorldCom Br. at 201. In addition, the Commission should reject Verizon's attempt to evade the dispute resolution requirements of the Bell Atlantic/GTE merger conditions because forcing WorldCom to waive its rights under the BA/GTE Merger Order would frustrate that Order's pro-competitive goals. See WorldCom Br. at 202. The New York PSC decision on which Verizon relies is inapposite because it did not address a conflict between merger order conditions and dispute resolution procedures. See NY PSC Decision at 11; see also id. at 12-13 (expressly declining to determine

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[69] If Verizon were correct, then the Commission would be compelled to reject Verizon's proposed sections 14.1 and 14.2, to which WorldCom has not agreed.

whether merger conditions or interconnection agreement terms will prevail if there is a conflict between the two). The Commission should therefore accept WorldCom's proposed modifications to Verizon's contract language.

Issue IV-110 (Migration of Service)

This issue has been resolved.