

### **Issues IV-18 (Multiplexing) and IV-21 (Dedicated Transport)**

As a preliminary matter, much of WorldCom's proposed contract language regarding dedicated transport was accepted by Verizon during the mediation phase of this proceeding,<sup>44</sup> but Verizon has proposed different language in its brief and has inserted different language in the recently filed DPL. Verizon should not be permitted to walk away from agreements it made during the Commission-supervised mediation of this proceeding, and the Commission should adopt the language agreed to during the mediation, which is clearly marked in WorldCom's contribution to the DPL. Further, the language proposed by Verizon in its brief and the November DPL should also be rejected because it is not properly in the record,<sup>45</sup> it says virtually nothing about the attributes of the unbundled network elements to be provided, includes no detail or description of the unbundled network elements, and is little more than a list of limitations that Verizon proposes on its obligation to provide unbundled network elements.

The contested dedicated transport issues concern multiplexing, digital cross connect systems, and purchase of redundant transport capabilities. WorldCom has proposed that it be allowed to order multiplexing and digital cross connects ("DCS") as a feature or function of dedicated transport, and not as a stand-alone UNE. In addition, WorldCom seeks the ability to use dedicated transport in conjunction with facilities purchased out of special construction priced tariffs to provide physical redundancy. As explained more fully below, Verizon has conceded that multiplexing and the digital cross

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<sup>44</sup> WorldCom Exh. 12, Direct Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 13.

<sup>45</sup> See WorldCom Motion to Strike.

connect system are functionalities of dedicated transport, see Verizon Br. at UNE-74 - UNE-75, and that concession is dispositive because when Verizon provides an unbundled network element, it is legally obligated to provide all of the element's features, functions, and capabilities. 47 C.F.R. § 51.307(c). Contrary to Verizon's oft-repeated assertion, WorldCom does not claim that multiplexing or the DCS are stand-alone UNEs, but only seeks the multiplexing functionality and access to DCS as functionalities of dedicated transport.<sup>46</sup> Each of the contract provisions specifically opposed by Verizon, sections 10.2.2, 10.2.4, and 10.3 et. seq., are included in the currently effective ICA between Bell Atlantic-Virginia and MCI which has been approved by the Virginia SCC.

**A. Verizon Has Failed To Provide any Reasonable Grounds For Denying WorldCom the Right to Order Multiplexing as a Feature or Function of Dedicated Transport.**

Although Verizon concedes that multiplexing is one of the technically feasible features, functions, and capabilities of the unbundled loop and transport elements, see Verizon Exh. 23, Additional Direct Test. Unbundled Network Elements at 5, it refuses to provide WorldCom with the multiplexing functionality that WorldCom needs to configure channels within a loop or transport facility. Instead Verizon asserts that it is only required to provide multiplexing that exists "in the middle" of a transport circuit, see Verizon Br. at UNE-75, and refuses to provide multiplexing equipment to CLECs at

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<sup>46</sup> Verizon has not specifically criticized WorldCom's proposed definition of the concentrator/multiplexer functionality, and has simply noted that Verizon does not currently deploy concentration equipment. WorldCom's proposed language is appropriate because it also addresses multiplexing; Verizon may deploy concentration equipment during the life of this contract; the language is intended to provide access to concentration equipment only to the extent the equipment is deployed; and Verizon has not otherwise pointed out any deficiencies in the language. As an alternative to section 4.6, WorldCom has proposed section 4.18, which was agreed to by BellSouth and WorldCom.

UNE rates. See id. at UNE-76. Verizon also attempts to portray WorldCom's language as requesting something other than multiplexing. See id. All of these claims are baseless.

The distinction that Verizon draws between "multiplexing in the middle" and multiplexing at the end of a dedicated transport circuit has no basis in the Commission's regulations and is nonsensical. See WorldCom Exh. 12, Direct Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 10. For example, Verizon's proposal would allow it to refuse to provide multiplexing between transport segments of different speed, because that would be multiplexing that occurs "in the middle." Unsurprisingly, Verizon has not cited any Commission rule or order that limit Verizon's obligation to provide multiplexing to situations in which multiplexing exists "in the middle" of a transport circuit.

Although Verizon attempts to mischaracterize WorldCom's language as requiring something other than multiplexing as a functionality of dedicated transport, it is apparent that what WorldCom has proposed, and Verizon objects to, is nothing more than what the law requires: the provision of multiplexing. See Verizon Br. at UNE-76. WorldCom seeks multiplexing as a functionality of dedicated transport so that, for example, traffic carried on a dedicated UNE transport facility may be aggregated from that dedicated transport facility onto a higher bandwidth UNE transport facility. Aggregating lower bandwidth signals onto a higher bandwidth circuit to take advantage of the efficiencies of that arrangement is the essence of multiplexing. See Tr. 10/4/01 at 496 (Gansert, Verizon). Therefore, Verizon's assertion that it "is not required to terminate WorldCom's unbundled dedicated transport into a multiplexer for the purpose of aggregating the existing signals onto a higher bandwidth facility and disaggregating the

signal into lower bandwidth (demultiplexing),” Verizon Br. at UNE-76, cannot be squared with Verizon’s legal obligation to provide multiplexing.<sup>47</sup>

Verizon’s attempt to deny WorldCom the ability to specify a multiplexing configuration also has no basis in this Commission’s rules. If multiplexing is one of the features, functions, or capabilities of the loop or transport element when multiplexing is used by Verizon to provision the UNE, then multiplexing is also a feature, function, or capability of the loop or transport element when a particular multiplexing configuration is specified by the requesting carrier. Indeed, the ability to specify a multiplexing configuration is essential to giving requesting carriers all of the features, functions, and capabilities of the loop and transport elements, as the Commission’s rules require. One of the capabilities of both the loop and transport elements is that these elements may be “channelized,” i.e., a DS-3 may carry multiple DS-1s and DS-0s. Consequently, in order to comply with its duty to provide requesting carriers with all of the features, functions, and capabilities of the loop or transport elements, Verizon must provide requesting carriers with the multiplexing functionality needed to configure channels within a loop or transport facility. For example, Verizon must allow a CLEC that has ordered DS-3 transport to specify the multiplexing necessary to configure DS-1 and DS-0 channels within that DS-3. Such multiplexing would allow the CLEC to establish an efficient transport network by purchasing a single DS-3 instead of multiple DS-1s or, for example, aggregating multiple DS-1 unbundled transport circuits at a “hub” office for transport

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<sup>47</sup> In addition, this assertion is inconsistent with Verizon’s witness’s acknowledgement that Verizon must provide multiplexing as a transport functionality when a CLEC orders DS-3 transport, and Verizon multiplexes the traffic to an optical level, and then demultiplexes it back to a DS-3. Tr. 10/4/01 at 09-10 (Gansert, Fox, Verizon).

over an unbundled DS-3 circuit to a WorldCom site. See WorldCom Exh. 37, Rebuttal Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 2-3.

Because WorldCom currently relies upon Verizon to provide most of its multiplexing functionality, the limitation Verizon seeks to impose would prevent WorldCom from providing efficient local service in at least two ways. First, where loop transport combinations are permitted by the Clarification Order, the ability to order multiplexing allows low-capacity loops such as DS1s to be concentrated onto higher capacity transport facilities, such as DS3s. This allows more efficient transport. Second, even where WorldCom is obtaining only loops, the ability to purchase multiplexing from Verizon is important because it allows more efficient use of cross-connects. Without multiplexing, WorldCom must order and pay for one DS1 or DS-0 cross connect for each loop. With multiplexing, WorldCom can use a single DS3-level cross connect and then use the multiplexing to derive the DS1 and DS0 circuits. See WorldCom Exh. 12, Direct Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 10.

Verizon's suggestion that WorldCom must provide the multiplexing in a collocation space whenever WorldCom seeks to use a Verizon tandem as a hub for aggregating smaller bandwidth channels is not viable. First, WorldCom is not collocated in the vast majority of Verizon offices. See Tr. 10/4/01 at 498 (Buzacott, WorldCom). Moreover, imposition of this expensive requirement on WorldCom is unnecessary because collocation is not required to access a UNE and multiplexing is a functionality of transport which Verizon is required to provide.

Finally, Verizon's assertion that "neither the Act nor the Commission's Rules, however, require Verizon to provide multiplexing equipment to CLECs at UNE rates,"

Verizon Br. at UNE-76, is inconsistent with Verizon's past practice. Verizon included multiplexing equipment costs in its UNE cost filing in this proceeding. Moreover, Verizon has proposed UNE rates for multiplexing in recent cost proceedings in New York and Massachusetts. See AT&T/WorldCom Exh. 12 at 136.<sup>48</sup>

In sum, Verizon has failed to present any persuasive arguments to support its opposition to WorldCom's proposed multiplexing language, and the WorldCom provisions should be included in the interconnection agreement.

**B. Verizon's Legal Obligation To Provide Digital Cross Connects Requires It To Give WorldCom Access To Its Intellimux Service.**

This Commission's regulations require an ILEC to permit requesting carriers to obtain the functionality provided by the ILEC's digital cross-connect systems in the same manner that the ILEC provides such functionality to interexchange carriers. 47 C.F.R. § 51.319(d)(2)(iv). Accordingly, WorldCom has proposed that Verizon provide access to its Intellimux system in the same manner that Verizon provides that access to IXCs in its tariff. See Tr. 10/4/01 at 506 (Buzacott, WorldCom). Verizon objects to this provision, and claims that its Intellimux service is not equivalent to the functionality of DCS provided to IXCs. That characterization of Intellimux is inaccurate.

Verizon's Tariff FCC No. 1 states that IXCs may use Verizon's IntelliMux service to communicate instructions "to the digital cross-connect system(s) (DCSs) associated with the customer's services to effect the reconfiguration." Verizon Tariff FCC No. 1, Section 7.2.12 (B). As explained by WorldCom's witness, the "whole purpose of the Intellimux system" is to "give interexchange carriers access to cross-

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<sup>48</sup> Verizon has also included the cost of DCS in its prices for interoffice transport. AT&T/WorldCom Exh. 12 at 133.

connect systems.” Tr. 10/4/01 (Buzacott, WorldCom). Obviously, if Verizon’s IntelliMux service gives interexchange carriers the ability to control digital cross-connects, then Verizon’s provisioning of cross-connect functionality to IXC’s is not limited to DCS functionality “inherent” in the offering of transport. Further, the AT&T ex parte letter cited in the Local Competition Order’s discussion of DCSs identifies Bell Atlantic’s IntelliMux service as an example of the DCS capabilities available to IXC’s. Local Competition Order ¶ 444 n.990 (citing letter from Bruce K. Cox, AT&T to William F. Caton, Acting Secretary FCC, July 18, 1996).

Verizon’s refusal to honor the FCC’s rules regarding access to DCS functionality places WorldCom in a Catch 22 situation. Specifically, if Verizon’s proposal were accepted WorldCom could not obtain the DCS functionality as part of a transport UNE, but Verizon’s skewed interpretation of “commingling” would also prevent WorldCom from obtaining the DCS functionality through the special access tariff and then combining it with UNEs. Therefore, WorldCom could only utilize the DCS functionality by purchasing both the DCS and the transport from the Verizon special access tariff. See WorldCom Exh. 12, Direct Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 16. This is not an acceptable solution because the Commission’s rules require Verizon to provide both transport and DCS functionality as UNEs. In sum, consistent with the current agreement and this Commission’s clear regulations, Verizon must be required to continue to provide WorldCom with DCS functionality as part of the transport UNE.

**C. WorldCom Should Be Allowed To Use Dedicated Transport in Conjunction With Facilities Purchased Out of Tariffs To Provide Physical Redundancy.**

The interconnection agreement should allow WorldCom to use dedicated transport in conjunction with facilities purchased out of tariffs to provide physical redundancy. The arrangement that WorldCom requests is technically feasible, and Verizon would provide the same physical facilities to its own retail customers upon request. See WorldCom Br. at 137-38. Verizon's refusal to do the same for WorldCom is discriminatory, and must be rejected by the Commission.

Verizon's assertion that WorldCom's proposed Section 10.2.2, which addresses the use of dedicated transport in conjunction with facilities purchased out of tariffs to provide physical redundancy, requires Verizon to build a "superior network" for WorldCom rests on a misunderstanding of the WorldCom language.<sup>49</sup> As WorldCom has repeatedly explained, the phrase "special construction" used in section 10.2.2 refers to services offered pursuant to the special construction provisions of Verizon's interstate and intrastate tariffs. Specifically, WorldCom's proposed language simply reaffirms that, in those instances where physical diversity is not reasonably available, Verizon's interstate and intrastate tariffs entitle WorldCom to order such diversity by submitting a request for special construction. See WorldCom Br. at 138 (citing Verizon Telephone Companies Tariff FCC No. 6). Neither the 8th Circuit decision in Iowa Utilities Board v. FCC, 120 F.3d 753 (8th Cir. 1997), nor the UNE Remand Order bar a request for special

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<sup>49</sup> Verizon acknowledges that it is possible to create diversity by ordering unbundled transport and the special construction provisions of its tariff. Tr. 10/4/01 at 515-516 (Fox, Verizon).

construction out of the access tariffs, and Verizon's reliance on those decisions is misplaced.

Verizon's suggestion that it should be allowed to deny a special construction request that is submitted by a CLEC pursuant to a filed and approved Verizon tariff is discriminatory. Verizon plainly intends to discriminate against a CLEC that orders a tariff service on the sole basis that the CLEC also purchases UNEs, and such a policy violates the fundamental principle that services in a tariff are available to all takers on a non-discriminatory basis. Verizon's proposal is also discriminatory because Verizon would provide its retail customers the same facilities upon demand.

Although Verizon acknowledges that WorldCom could create a diverse facility through use of the special construction provisions, see Tr. 10/4/01 at 514-15 (Fox, Verizon), it asserts that the UNE cannot be commingled with a special access circuit. Verizon has not offered any support for this assertion, nor could it. The Commission has never suggested that an ILEC may refuse to allow CLECs to make use of both UNEs and tariffed services together. To the extent Verizon purports to rely on the "commingling" ban the Commission has put in place in the Clarification Order concerning EELs, that restriction, and the rationale given for that restriction, has absolutely no relevance to the issue presented here. WorldCom's proposed contract language does not address the provision of access services over UNEs and physical diversity is not, and could not become, a method of providing access services over UNEs.

In sum, WorldCom's proposal is technically feasible, and Verizon has failed to provide any persuasive grounds to deny WorldCom the ability to use dedicated transport in conjunction with facilities purchased out of tariffs to provide physical redundancy.

### **Issue IV-19 (Network Interface Device)**

WorldCom's proposed terms specifying the means of access to, and technical and interface requirements for, the network interface device ("NID") are consistent with the Commission's requirement that "an incumbent LEC must permit a requesting carrier to connect its own loop facilities to the inside wire of the premises through the incumbent LEC's network interface device, or at any other technically feasible point, to access the inside wire subloop element." UNE Remand Order ¶ 237.<sup>50</sup> In addition, WorldCom's proposed language was negotiated and agreed to by Verizon and WorldCom, and included in the current Virginia interconnection agreement. As explained below, Verizon's objections to WorldCom's proposed language are meritless, and the Commission should therefore adopt WorldCom's proposed language.

Verizon's professed concerns for the integrity and security of its network if CLEC employees are granted access to the network side of the NID, see Verizon Br. at UNE-42, UNE-53, do not provide a basis for rejecting the WorldCom contract language. The Commission allowed the states to determine the technical feasibility of permitting CLECs to make their own connections to Verizon's NID, citing only the concern that the disconnected loop not be left without overvoltage protection. Local Competition Order ¶ 395. WorldCom's proposed language clearly states that WorldCom will not disconnect ground wires from Verizon's NIDs, enclosures, or protectors, and thereby satisfies the Commission's only stated concern regarding direct connection to an ILEC NID. The burden of proving that WorldCom's proposed arrangement would cause some other

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<sup>50</sup> Although Verizon asserts that its proposal is consistent with the UNE Remand Order, WorldCom's language plainly tracks the requirements of this paragraph.

problems of network reliability, and is therefore technically infeasible, lies with Verizon, which has not met this burden. See WorldCom Exh. 37, Rebuttal Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 10.

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Verizon's proposal to require WorldCom to access the NID via a Verizon-supplied cross connect to a WorldCom NID is inconsistent with WorldCom's legal right to use Verizon's NID as a stand-alone UNE, see UNE Remand Order ¶ 237, and should be rejected. Indeed, the existing interconnection agreement between MCI and Bell Atlantic, approved by the Virginia SCC, contains a provision allowing MCI to connect directly to Bell Atlantic's NID. Further, Verizon's approach will add unnecessary expense and equipment to the network. For example, if an entrance module is not available, Verizon's proposal requires WorldCom to establish its own NID and utilize a cross connect. See Verizon Br. at UNE-53. This forces WorldCom to incur expenses which would not be necessary if WorldCom were permitted to 1) either connect its loop to the customer using Verizon's NID, or 2) disconnect the customer from Verizon's NID and connect them to WorldCom's NID. See WorldCom Exh. 37, Rebuttal Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 8. In sum, WorldCom's proposed language is consistent with WorldCom's legal right to use Verizon's NID as a stand-alone UNE, and Verizon's proposal interferes with that right; the Commission should therefore order the inclusion of the WorldCom language.

**Issue IV-23 (Call-Related Databases-LIDB)**

WorldCom has the right under the Act and federal regulations to purchase LIDB dips at UNE rates for all telecommunications services. 47 C.F.R. § 51.309 (a), (b). Indeed all requesting carriers, CLECs and IXC's alike, have the right to do so. See id. Verizon's assertion that "Verizon VA's obligation to provide access to its LIDB at UNE rates is limited to the local exchange service" and that "WorldCom's LIDB dips for interexchange access traffic should continue to be governed by Verizon VA's filed access tariff," Verizon Br. at UNE-73, is inconsistent with the Act and the Commission's rules. Moreover, as a practical matter, Verizon's proposed use restriction would prevent WorldCom from using the LIDB UNE altogether because LIDB is used almost exclusively in connection with toll calls.<sup>51</sup> See WorldCom Exh. 25, Rebuttal Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 22. Because the limitations that Verizon seeks to impose on WorldCom's right to use LIDB are unlawful, Verizon's proposed contract language should be rejected.

**A. Verizon's Proposal That WorldCom's Use of the LIDB UNE Be Restricted To Local Calls, and That WorldCom Be Required To Purchase LIDB From the Verizon Access Tariffs, Is Unlawful.**

Verizon's proposal to restrict WorldCom's use of the LIDB UNE to local calls is completely at odds with the Act and the Commission's Rules. Section 251(c)(3) of the Act provides that a requesting carrier can use unbundled network elements for the provision of any telecommunications service. 47 U.S.C. § 251(c)(3). In the Local

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<sup>51</sup> Verizon indicated that 30% of its intraLATA use of LIDB is local. However, Verizon excluded all interLATA use from this calculation. Tr. 10/4/01 at 598 (Woodbury, Verizon). The percentage of use associated with local calling would be much lower if all uses of LIDB were included in Verizon's calculation.

Competition Order this Commission ruled that “section 251(c)(3) provides that requesting telecommunications carriers may seek access to unbundled elements to provide a ‘telecommunications service,’ and exchange access and interexchange services are telecommunications services.” Local Competition Order ¶ 356. Indeed, Verizon’s own witness admitted that the UNE Remand Order did not place restrictions on the use of the LIDB UNE. See Tr. 10/4/01 at 598 (Woodbury, Verizon). In sum, the law plainly entitles WorldCom to access the LIDB database as an unbundled network element for use in the provision of all telecommunications services, and Verizon cannot impose limitations or restrictions on WorldCom’s use of the LIDB UNE to offer a telecommunications service. See 47 C.F.R. § 51.309(a), (b).

Verizon’s assertion that WorldCom’s use of the LIDB UNE for exchange access would nullify the LIDB access tariffs and eliminate all revenue for such access is not new, and has been rejected by this Commission. This Commission expressly acknowledged that in the aftermath of the 1996 Act, carriers might purchase more unbundled network elements and fewer access services, and that access revenues might therefore decline. See Local Competition Order ¶ 358. Accordingly, WorldCom’s purchase of LIDB at UNE rates instead of access rates is not unlawful or a subterfuge; it is the result the Commission expected. The Commission has also rejected Verizon’s assertion that § 251(g) of the Act requires CLECs to continue to purchase from above-cost access tariffs. The Commission expressly “disagree[d] with the incumbent LECs which argue that section 251(g) requires requesting carriers using unbundled elements to continue to pay federal and state access charges indefinitely,” and concluded that that provision “does not apply to the exchange access services requesting carriers may

provide themselves or others after purchasing unbundled elements ... [but was instead intended] to preserve the right of interexchange carriers to order and receive exchange access services if such carriers elect not to obtain exchange access through their own facilities or by means of unbundled elements purchased from an incumbent.” Local Competition Order ¶ 362. In sum, § 251(g) requires Verizon to continue providing services via its access tariff, but does not require requesting carriers to continue to purchase them. Thus, § 251(g) is not a sword that Verizon can wield to bind requesting carriers to access rates, but is instead a shield for IXC’s to ensure that incumbents like Verizon continue providing services to IXC’s in the non-discriminatory manner in which they were provided prior to enactment of the 1996 Act.

Verizon’s assertion that WorldCom must purchase LIDB out of its access tariffs because those tariffs “have not been explicitly superceded by regulations prescribed by the Commission” is also incorrect. As discussed above, the fact that Verizon’s access tariffs have not been explicitly superceded simply means that Verizon remains obligated under § 251(g) to provide access services to IXC’s in accordance with the equal access and nondiscriminatory interconnection restrictions and obligations that applied to Verizon prior to the 1996 Act. Thus, those carriers who so desire may purchase out of Verizon’s access tariffs, but Verizon cannot require carriers to choose to use the access regime instead of purchasing the elements as a UNE. See Local Competition Order ¶¶ 356, 358, 362.

Verizon’s claim that “WorldCom unlawfully masks the true nature of a substantial number of LIDB dips by misreporting its affiliated interexchange company’s exchange access LIDB dips by using WorldCom’s CLEC point code,” Verizon Br. at

UNE-82, is a red herring. Whether queries are for local calls or exchange access calls, the Act requires that access to the LIDB UNE be provided at UNE rates. Verizon's true objection is to its inability to charge above-cost access rates for LIDB when it is used to offer exchange access service. The Act, however, does not allow Verizon to do so, but instead mandates that WorldCom is allowed to use the LIDB UNE to provide both telephone exchange service and exchange access service. See WorldCom Exh. 25, Rebuttal Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 23-24.

**B. None of The Commission Orders that Verizon Has Cited Supports Its Proposal To Restrict WorldCom's Use of the LIDB UNE.**

Verizon's attempt to invoke the Clarification Order as support for its proposed restriction on the use of the LIDB UNE is unpersuasive, and Verizon's reliance on that order is misplaced. In the Supplemental Order and Clarification Order, the Commission imposed a temporary use restriction only on certain loop transport combinations in order to consider the ramifications on universal service of bulk conversions of access services to such loop transport combinations, and in particular to consider whether CLECs would be impaired without access to such loop-transport combinations used in this manner. But it in no way retracted its previous holding that unbundled elements can generally be used for any telecommunications purpose. Nor did the Clarification Order address the use of LIDB. Thus, Verizon's attempt to restrict WorldCom's use of the LIDB database imposes a restriction on WorldCom that is contrary to the Act and the Commission's regulations.

Verizon's assertion that the "impair" standard of § 251(d)(2) must be considered, and its suggestion that WorldCom is not impaired in the exchange access market because Verizon's tariffed LIDB service is available as an alternative to the LIDB UNE, are

equally unpersuasive. At the outset, the Commission has already concluded that a requesting carrier's ability to provide the services it seeks to offer is impaired without unbundled access to the incumbent LECs call related databases. UNE Remand Order ¶ 402. As the Commission recognized, "there are no alternatives of comparable quality and ubiquity available to requesting carriers as a practical, economic and operational matter, for the incumbent LECs' call-related databases." Id. ¶ 410. The Commission's finding that requesting carriers are impaired without unbundled access applies equally to both the exchange access market and the local market. The exchange access market contains no alternatives beyond those available in the local market, and the record in this proceeding discloses no additional alternatives to Verizon's call-related databases, including LIDB. Further, in the UNE Remand Order, the Commission expressly rejected Verizon's implicit argument that WorldCom is not impaired in the exchange access market because Verizon's tariffed service is available as an alternative to the LIDB UNE. There, the Commission held that if the use of the special access tariff qualified as access to ubiquitous transport, "the incumbents could effectively avoid all of the 1996 Act's unbundling and pricing requirements by offering tariffed services that, according to the incumbents, would qualify as alternatives to unbundled network elements," UNE Remand Order ¶ 354, and would thereby "effectively eliminate the unbundled network element option for requesting carriers." Id.

**C. Verizon's Proposed Language Should Also Be Rejected Because It Is Not Properly Before This Commission.**

Finally, Verizon proposes contract language in its Brief which differs from the language that parties agreed to during mediation. During the mediation phase of this proceeding, Verizon accepted the majority of the contract language proposed by

WorldCom concerning call related databases (including LIDB), but proposed imposition of the use restriction on the LIDB UNE discussed above. See WorldCom Exh. 25, Rebuttal Test. of C. Goldfarb, A. Buzacott, and R. Lathrop at 15. The agreed-to language is set forth at pages 16-20 of WorldCom Exh. 25, and in WorldCom's portion of the DPL. Verizon should not be permitted to ignore the results of the supervised mediation, and the Commission should order adoption of the language to which the parties agreed. The agreed-to language provides needed detail regarding the LIDB, Toll Free Number Database, and AIN access, and allowing Verizon to disavow that language would defeat the purpose of having conducted the mediation phase of this proceeding. In addition, by including the new language in the November DPL, as opposed to presenting it earlier, Verizon deprived the WorldCom witnesses of the opportunity to respond to the Verizon proposal.

### **Issue IV-24 (Directory Assistance Database)**

The directory assistance (“DA”) database is an unbundled network element, see UNE Remand Order ¶¶ 15-16, and the interconnection agreement should contain terms addressing the provision of the DA database because the 1996 Act requires that the terms and conditions under which an ILEC fulfills its duties under the Act, including its duty to provide access to UNEs, be reflected in an interconnection agreement. See 47 U.S.C. § 251(c)(1) (requiring ILECs to negotiate the particular terms and conditions of agreements to fulfill the duties described in subsections (b) and (c) of section 251). Specifically, WorldCom has proposed that the new ICA include the same sentence that appears in the existing ICA, which incorporates the Directory Assistance License Agreement (“DAL Agreement”) into the interconnection agreement by reference.<sup>52</sup> Verizon asserts that the directory assistance database is not a UNE, and that the interconnection agreement should merely note that the parties shall enter into a mutually acceptable written agreement for access to the database upon request. See Verizon Br. at UNE-93 - UNE-95. Verizon’s position is incorrect, and rests on a misreading of this Commission’s orders, and the Commission should therefore order the inclusion of WorldCom’s proposed language.

**A. WorldCom’s Proposed Language Is Not an Attempt To Change the Terms Of the DAL Agreement.**

Verizon’s primary objection to the WorldCom DA database language appears to be that, in Verizon’s view, the language is an attempt to renegotiate and alter the terms of the DAL Agreement that currently governs the parties’ relations. See Verizon Br. at

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<sup>52</sup> The DAL Agreement contains detailed terms regarding provision of the database.

UNE-91 - UNE-93. Verizon's interpretation of the WorldCom language is mistaken. WorldCom has not attempted to alter or modify the terms of that agreement, but has simply proposed that the interconnection agreement incorporate that agreement by reference. An identical provision appears in the current interconnection agreement, and its inclusion does not change any of the terms under which the DA database is provided, or require arbitration of those terms. WorldCom merely seeks a means of ensuring that it will continue to receive the DA database UNE after the DAL Agreement expires, which may be several months prior to expiration of the new ICA. The inclusion of such a provision is therefore fully consistent with the provisions of the existing DAL Agreement.

**B. The DA Database Is Plainly a UNE.**

As explained in WorldCom's brief and its testimony, the DA database is a UNE that Verizon is required to provide under § 251(c)(3) of the Act. In the UNE Remand Order, the Commission explicitly listed the OS/DA database as a call-related database that must be provided as a UNE. UNE Remand Order ¶¶ 15-16. The Commission has not disavowed that statement, and has never held that the directory assistance database is not a UNE. In light of this Commission's precedent, Verizon's assertion that the database is not a UNE rests on a misreading of Commission precedent and requires several logical leaps.

Although Verizon asserts otherwise, the UNE Remand Order does not support Verizon's claim that the DA database is not a UNE. In paragraph 14, which Verizon

cites,<sup>53</sup> the Commission declared that the OS/DA service would no longer be provided as a UNE, but said nothing about the database. OS/DA services and the OS/DA database are obviously two different things, and Verizon itself has admitted that there is a difference between the two. Tr. 10/4/01 at 603 (Woodbury, Verizon) (acknowledging that operator services and directory assistance services are different from the DA database). The Commission's note at the end of that paragraph that ILECs are obligated to provide branded OS/DA services and directory assistance listing updates in daily electronic batch files under the dialing parity provisions of section 251(b)(3) simply reiterates the obligations that exist under the dialing parity provisions, and does not eliminate the obligation to provide the DA database as a UNE under section 251(c)(3). Similarly, paragraph 457 of the UNE Remand Order, which Verizon also cites, does not eliminate Verizon's obligation to provide the DA database as a UNE, but instead simply explains that the Commission removed OS/DA services from the UNE list because various carriers were offering competing OS/DA services. When the Commission intended to remove an element from the list of UNEs it used very clear, explicit language, and the absence of any such language regarding the DA database is dispositive.

Verizon's companion argument that the obligation to provide access to its DA database arises under section 251(b)(3) and not under section 251(c)(3), and that UNE pricing is not required for that database is also incorrect.<sup>54</sup> It requires a significant logical

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<sup>53</sup> Verizon's citation of paragraph 14 in its Brief appears to be a mis-cite; WorldCom has assumed that Verizon intended to cite the Executive Summary which appears at paragraphs 15 and 16.

<sup>54</sup> Verizon cites Provision of Directory Listing Information Under the Directory Listings.

leap to conclude that the Commission's discussion of obligations under one section of the Act demonstrates an intent to remove obligations to provide those services under another section of the Act. Moreover, in that Order the Commission again noted that the OS/DA service is no longer a UNE, which as discussed above, does not mean that the DA database is not a UNE. See Directory Listings ¶ 33. In sum, WorldCom's proposal that the interconnection agreement reference the DAL Agreement implements Verizon's obligation to provide the DA database as a UNE and should be adopted by the Commission.