107. As in the case of the timeliness of BCNs, VNJ has also failed to meet the applicable standard for Performance Measurement OR-4-06, which measures the average time from work completion in the SOP to bill completion. For every month since June 2001, such average times have been consistently longer for CLECs than for VNJ – and have violated the standard of parity established by the BPU for this measurement. In fact, the disparity in average times in November was the largest reported in the last five months (12.10 hours for VNJ compared to 17.06 hours for the CLECs).

D. Billing Accuracy

108. VNJ has also frequently failed to provide nondiscriminatory performance under the performance measurements (BI-3-01- and BI-3-03) which measure the charges on the CRIS and CABS paper carrier bills that are adjusted for errors (as a percentage of dollars billed) and the number of adjustments resulting from billing errors.[43] For three of the past five months in which VNJ has reported data (July, September, and October 2001), the percentage of errors on CLEC paper bills has exceeded that on VNJ's retail bills. January 2 *ex parte* letter at 19 (Trend Report for BI-3). In September, the percentage of adjustments on CLEC bills was approximately

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(...continued from previous page)
New York. In October 2001, when VNJ's on-time percentage was only 75.91 percent (based on 9,474 observations), Verizon's on-time percentage in New York was 99.63 percent (based on 258,240 observations).

[43] *See* Guerard/Canny/DeVito Decl., ¶ 121; McLean/Wierzbicki/Webster Decl., ¶ 127 (stating that C2C measures "include 'paper' wholesale bills only"). BI-3-03, which excludes charges adjusted due to billing errors resulting from subsequent order activity and lead to post completion discrepancies, has a standard of parity with retail. BI-3-01, which includes such adjustments, is diagnostic only. *See* Guerard/Canny Decl., ¶ 121. However, the error rate for CLECs was higher than the error rate for VNJ retail for both BI-3-01 and BI-3-03 in July, September and October. VNJ failed to meet the BPU's parity standard for BI-3-03 in all three months.

13.8 percent, as opposed to the rate of approximately 1.6 percent for VNJ's retail bills. *Id.*; Guerard/Canny/DeVito Decl., Att. 1.

109. Both in its Application and in the 271 proceedings before the BPU, VNJ has attempted to attribute its poor performance to unusual events, such as an adjustment that VNJ made in September "to correct an over-billing covering several months to a single CLEC." McLean/Wierzbicki/Webster Decl., ¶ 126. VNJ has previously also attributed its July performance to unusual events.[44] These various explanations, however, ring hollow in view of VNJ's failure to meet the parity requirement even in October. Moreover, VNJ's attribution of the plainly discriminatory September error rate for CLEC bills (which was more than 13 percentage points higher than the August rate) to a problem involving a single CLEC is highly suspect, since this error rate is measured against the base of the entire CLEC industry.

110. Accurate wholesale billing is essential to a CLEC's ability to compete. Inaccurate bills not only affect a CLEC's wholesale costs, retail revenues, and profitability, but also can result in inaccurate billing to CLEC customers. VNJ, however, has not provided bills to CLECs with the same degree of accuracy that it provides in its own retail operations. This clearly a denial of parity.

111. Indeed, recent statements by VNJ cast further doubt on its ability to provide accurate and complete wholesale bills. On January 9, 2001, the BPU advised VNJ that it had made a finding that VNJ complied with item 2 of the competition checklist, "conditioned on Verizon charging no more than the new UNE rates to all CLECs in New Jersey effective

[44] *See also* Supplemental Declaration of VNJ in BPU Docket No. TO01090541, ¶ 103 (Application, Appendix B, Tab 4) (attributing July rate to a "clean-up associated with the billing correction that removed Directory Advertising charges from wholesale accounts").

December 17, 2001."[45] In a response to the BPU dated January 10, 2001, VNJ stated that "Broad changes to the billing rate structure require extensive software reprogramming," "despite our best efforts, errors or omissions in the updating process are possible," and "certain discrete categories of charge changes ... may be especially difficult to capture in the updating process."[46] Moreover, VNJ stated that certain rate changes "will not likely be reflected until the first or second bill after the software implementation is completed." Attachment 7 hereto, at 1. In light of VNJ's statements, there is no basis for concluding that VNJ's systems will generate wholesale bills that accurately reflect the newly-prescribed UNE rates.[47]

E. Loop Provisioning

112. VNJ has rendered poor performance in other areas. For example, although VNJ asserts that its performance in provisioning loops in New Jersey has been "excellent across the board" (Application at 26), its reported data contradict its claim. In its performance reports from August through November 2001, VNJ has frequently missed a number of provisioning metrics or submetrics for loops.

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[45] *See* letter from Henry Ogden (Acting Secretary, BPU) to Bruce D. Cohen (VNJ), dated January 9, 2002 (Attachment 6 hereto).

[46] *See* letter from Bruce D. Cohen (VNJ) to Henry Ogden (Acting Secretary, BPU), dated January 10, 2002, at 2 (Attachment 7 hereto).

[47] VNJ's January 10th letter promises that, given the possibility of errors or omissions in its updating process, it will "work cooperatively" with CLECs and "effect remedies" to correct any errors on bills. *See* Attachment 7 hereto, at 2. VNJ's promises of future compliance with its OSS obligations, however, are irrelevant to the time of its current compliance. Moreover, even if VNJ subsequently adjusts bills due to errors or omissions in the updating process, VNJ will still assess a late payment fee against any CLEC who disputed the overcharge and did not pay it by the deadline imposed in the original bill.

113. VNJ's discriminatory performance has included its failure, throughout 2001, to provide parity of service with respect to the average interval offered to CLECs for installation of "hot cut loops" where no dispatch is required, (the vast majority). In both instances, VNJ's performance for CLECs was substantially short of the required parity benchmark. *See* January 2 *ex parte* at 145, 147 (Trend Reports for PR-1-01 and PR-2-01). In addition, the rate of missed appointments for facilities-based orders has consistently been higher for loop orders than for VNJ's analogous retail orders, despite the parity requirement established by the BPU for such performance. *Id.* at 156 (C2C Trend Report for PR-5-01).

114. VNJ also has rendered discriminatory performance in the provision of 2-wire xDSL loops. For example, from April through November 2001, the average offered intervals and average completed intervals for such loops where no dispatch is required have consistently been much longer for CLECs than for VNJ's own retail operations. *Id.* at 170 Trend Report for PR-1-01 and PR-2-01).[48]

115. VNJ's discriminatory performance with respect to loop provisioning has a significant anticompetitive impact on CLECs. Such discrimination precludes CLECs from offering and providing service to customers as quickly and reliably as VNJ can in its retail operations. This discrimination directly affects end-user customers, who will be reluctant to wait

[48] VNJ's performance has also been discriminatory in the provisioning of 2-wire digital services. For example, since April 2001, VNJ has failed to meet the BPU's parity requirement (as defined by the BPU) for all but one month with respect to the percentage of missed appointments (facilities). January 2 *ex parte* at 166 (Trend Report for PR-5-01). In each month of 2001, the percentage of missed appointments was higher for CLECs than for VNJ retail. *Id.* Similarly, VNJ failed to provide parity with respect to the percentage of installation troubles reported within 30 days from April through October 2001. *Id.* at 167 (Trend Report for PR-6-01).

for CLECs to provide service when they need not endure the same delay to receive service from VNJ itself.

CONCLUSION

116. VNJ has not shown that it providing the nondiscriminatory access to its OSS that the 1996 Act requires. KPMG's testing does not show, and does not provide "persuasive evidence," that VNJ complies with its OSS obligations, since KPMG's test did not include volume testing on the OSS on an end-to-end basis. This shortcoming in the KPMG test is especially egregious in view of the fact that VNJ's OSS uses a Service Order Processor that is unique to New Jersey.

117. Even the limited commercial data reported by VNJ shows that, contrary to the "clean bill of health" issued by KPMG, VNJ's OSS suffer from serious deficiencies that deny parity of access to CLECs. The data show, for example, that VNJ's systems reject almost 50 percent of UNE orders; that more than 50 percent of non-rejected UNE orders fall out for manual processing; that VNJ fails to provide billing completion notices in an a timely manner; that VNJ's bills to CLECs are less accurate than its bills to its own retail customers; and that VNJ's provisioning of loops is discriminatory. In view of these facts, parity of access simply cannot be said to exist.

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on January 14, 2002

Robert J. Kirchberger

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Dated: January 14, 2002

E. Christopher Nurse

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on January 14, 2002

Mohammed K. Kamal

Attachment 1

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES
NEWARK, NEW JERSEY THURSDAY, NOVEMBER 8, 2001

VOLUME 3

IN THE MATTER OF THE CONSULTATIVE REPORT OF THE APPLICATION OF VERIZON-NEW JERSEY, INC. FOR FCC AUTHORIZATION TO PROVIDE IN-REGION, INTER-LATA SERVICES IN NEW JERSEY.	:	BPU DOCKET NO. TO-001090541

B E F O R E: PRESIDENT CONNIE O. HUGHES
COMMISSIONER CAROL MURPHY
COMMISSIONER FREDERICK F. BUTLER

A P P E A R A N C E S:

On behalf of Verizon-New Jersey, appear:

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On behalf of the Staff of the Board of Public Utilities, appears:

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Deputy Attorney General
124 Halsey Street
Newark, New Jersey 07102

On behalf of the Division of the Ratepayer Advocate, appear:

LAWANDA GILBERT, ESQ.
Deputy Ratepayer Advocate
31 Clinton Street
Newark, New Jersey 07102

afternoon, President Hughes.

PRESIDENT HUGHES: Mr. Cohen?

MR. COHEN: President Hughes, we scheduled witnesses from Price Waterhouse Cooper who are here and I would ask have the witnesses been sworn? I would next ask that the witnesses ---

S H A W N G A L L A G H E R,

S A M M Y K U M A R,

W I L L I A M C O B O U R N, J R., having been first duly sworn, take the stand and testify as follows:

DIRECT EXAMINATION

BY MR. COHEN:

Q Mr. Gallagher, Mr. Kumar and Mr. Cobourn, do you have before you what has been marked as Verizon-New Jersey Exhibit 6, the declaration in this proceeding?

(Whereupon, Declaration is received and marked Exhibit VNJ-6 for identification.)

A Kumar: We do.

A Cobourn: Yes, we do.

Q Is this declaration a document

selected 35 of those bills in Test 6.1? The next paragraph, Paragraph 51?

A Gallagher: That is correct.

Q And you already indicated that out of those 35 it may or may not have included 18 samples that were used from the Assertion 1 through 4, correct?

A Cobourn: Yes.

A Kumar: Yes, that is correct.

Q And ---

A Cobourn: There's just a note on that, come back to that a couple of times. I do note that we document the internal control system and structure that those 18 we tested were in that same environment subject to the same controls that of the --- of the process that processed the BDTs that we later tested separately.

We took a separate sample for that as indicated, but from our understanding of the environment and our observation of the environment, all of the 18 were subject to that same processing environment to produce and send the BDTs out to the CLECs.

Q And just one final question on going back to Paragraph 39, actually the Test 5.3 at the end of that paragraph. And in response to a question about whether you actually looked at the ratables when it was -- when the rate was not included on the BDT, you did indicate that you did not go back and look at the rate table to verify the accuracy of the rate, correct?

A Cobourn: That is correct. Accuracy was not in the scope of and was not part of the scope of the engagement.

Q So to the extent the test was to determine whether either there was a rate included on the BDT or there was a reference to a rate table?

1 A Kumar: That's correct. The test
2 was to ensure that the detail existed on the
3 actual BDT.
4 MS. GILBERT: Thank you. I have
5 no further questions, President Hughes.
6 MR. COHEN: President Hughes,
7 very briefly redirect, if I may, a follow
8 up on a question of Mr. Laskey, that Mr.
9 Laskey asked, I believe he asked of Mr.
10 Cobourn and I would ask ---
11 PRESIDENT HUGHES: Could you speak
12 up, please.
13 MR. COHEN: I'm going to speak up
14 good and loud. Following up on a question
15 from Mr. Laskey, I will first ask Mr.
16 Cobourn, then I will address similar
17 questions to Mr. Gallagher and to Mr.
18 Kumar.
19 REDIRECT EXAMINATION
20 BY MR. COHEN:
21 Q Mr. Cobourn, would you identify
22 for the record your academic degrees?
23 A Cobourn: Sure. I have a Bachelor
24 of Science in Accounting from the University of
25

Attachment 2

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2 STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES
3 TRENTON, NEW JERSEY FRIDAY, NOVERMBER 9, 2001
BPU DOCKET NO.
4 TO-001090541
VOLUME 4
5

6 IN THE MATTER OF THE
CONSULTATIVE REPORT OF
7 THE APPLICATION OF
VERIZON-NEW JERSEY, INC.,
8 FOR FCC AUTHORIZATION TO
PROVIDE IN-REGION, INTER-
9 LATA SERVICES IN NEW JERSEY
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COMMISSIONER FREDERICK F. BUTLER
11 A P P E A R A N C E S:
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Verizon Services Corporation
15 By: DEBORAH HARALDSON, ESQ.
WILLIAM D. SMITH, ESQ.
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24

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Deputy Ratepayer Advocates
31 Clinton Street
Newark, New Jersey 07102

On behalf of Mettel, appears:
ANNA SOKOLIN-MAIMON, ESQ.

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2
3
4 PRESIDENT HUGHES: Since we are guests at
5 the Department of Labor it would be appropriate
6 for us to thank the Commissioner of Labor,
7 Marc Boyd.
8 This is one of eight Verizon hearings.
9 COMMISSONER BOYD: Good luck.
10 PRESIENT HUGHES: I have been informed that
11 the Ratepayer Advocate has some questions.
12 Ms. Gilbert?
13 JOHN WHITE, ROSE CLAYTON, RICHARD ROUSEY, CLAIRE
14 BETH NOGEN, MAUREEN DAVIS, JULIE CANNY, MARILYN
15 DEVITO, NANCY GILLIGAN, KATHLEEN MCCLEAN,
16 having previously
17 been sworn or affirmed
18 resumed and testified
19 as a panel as follows:
20 QUESTIONS BY MS. GILBERT:
21 Q I would ask you to turn to page 53 of the
22 initial declaration.
23 Referring to paragraph--
24 First maybe I should start out with who on
25 the panel is responsible for that paragraph?

1 Questions by Mr. Pappalardo
2 the question but I will attempt to answer the
3 questions.
4 Q The E-mails are redacted as to who they
5 are to and from, but if you look at the first page
6 of the E-mail, the attachment, the response,
7 basically this indicates what there is notice
8 going out to unspecified individuals?
9 MS. MCLEAN: Correct.
10 Q In the second paragraph, one of the things
11 that KPMG is looking at is the level of parity
12 measures, right?
13 MS. MCCLEAN: Right.
14 Q So whoever was talking to KPMG had notice
15 of the purpose of the test and when it was going
16 to occur, right?
17 MS. MCCLEAN: Yes.
18 Q And whoever was involved with the test was
19 also told when the transaction was most likely to
20 take place; do you see that in the third
21 paragraph?
22 MS. MCLEAN: Yes. Verizon worked with KPMG
23 to establish a schedule during which the tests
24 would be conducted. The people in the operational
25 group that would be interviewed by KPMG were given

1 Questions by Mr. Pappalardo
2 a period of time in which to interview.
3 Q And can you explain briefly what the
4 transaction test is?
5 MS. NOGAY: KPMG submits real transactions
6 to Verizon as to CLECs and the period of time in
7 which they do what we call the transaction test.
8 Q If someone had knowledge of the various
9 codings they would know if an order came from AT&T
10 or another CLEC, right?
11 MS. NOGAY: Yes.
12 Q Would that be true for each company
13 submitting an order?
14 MS. NOGAY: Yes.
15 Q Is there notice of the fact that
16 interviews were going to be occurring?
17 MS. NOGAY: Notification of the test period
18 during which the transaction testing will be
19 occurring, yes.
20 Q There was notice of when the hot test
21 process would be occurring, right? That's in the
22 last sentence of the second paragraph.
23 MS. NOGAY: It is an indication of when
24 KPMG would be observing hot test processes.
25 Q Could you briefly describe what a hot test

Attachment 3

COMBINED FLOW THROUGH PERFORMANCE
Comparison of New York, Massachusetts, Pennsylvania and New Jersey[1]

	New York	Massachusetts	Pennsylvania	New Jersey
	October 1999[2]	**February 2001[3]**	**July 2001[4]**	**October 2001**
Resale %	42.82%	45.94%	55.03%	66.72%
Resale Volume	15265	11364	6680	23271
UNE %	60.32%	63.85%	72.04%	44.86%
UNE Volume	80588	34638	87218	9764
Combined %	57.53%	59.43%	70.83%	60.26%
Resale/UNE Volume	95853	46002	93898	33035

[1] Based on reported Carrier-to-Carrier results.

[2] The latest performance data available to the FCC when the New York application was approved.

[3] The latest performance data available to the FCC when the Massachusetts application was approved.

[4] The latest performance data available to the FCC when the Pennsylvania application was approved.

Attachment 4