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KELLEY DRYE & WARREN LLP EX PARTE OR LATE FILED

A LIMITED LIABILITY PARTNERSHIP

TYSONS CORNER

8000 TOWERS CRESCENT DRIVE

SUITE 1200

VIENNA, VIRGINIA 22182

(703) 918-2300

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FACSIMILE
(703) 918-2450
www.kelleydrye.com

DIRECT LINE (703) 918-2316
E-MAIL: mhazzard@kelleydrye.com

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March 7, 2002

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MAR - 8 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

William Caton, Acting Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation by Z-Tel Communications, Inc., CC Docket Nos. 01-338 and 02-233

Mr. Caton:

Pursuant to Section 1.1206(b)(1) of the Commission's Rules, Z-Tel Communications, Inc. ("Z-Tel"), by its attorney, submits an original and two copies of this notice of an oral *ex parte* presentation made in the above-captioned proceedings on March 6, 2002. The *ex parte* presentation was made during a meeting between Mathew Brill, Lori Kalani, and Kristy Thompkins of the Office of Commissioner Abernathy and Thomas M. Koutsky of Z-Tel and Michael B. Hazzard of Kelley Drye & Warren LLP. During the meeting, the attached materials were distributed and Z-Tel discussed, among other things, recent developments in the State of New York regarding the availability of the Unbundled Network Element Platform. Please date stamp and return in the envelope provided the duplicate copy of this letter and attachments. If you have any questions or need additional information, please contact me at (703) 918-2316.

Respectfully submitted,

Michael B. Hazzard

Attachments

cc: Mathew Brill, Lori Kalnai, and Kristy Thompkins (without attachments)
Qualex International

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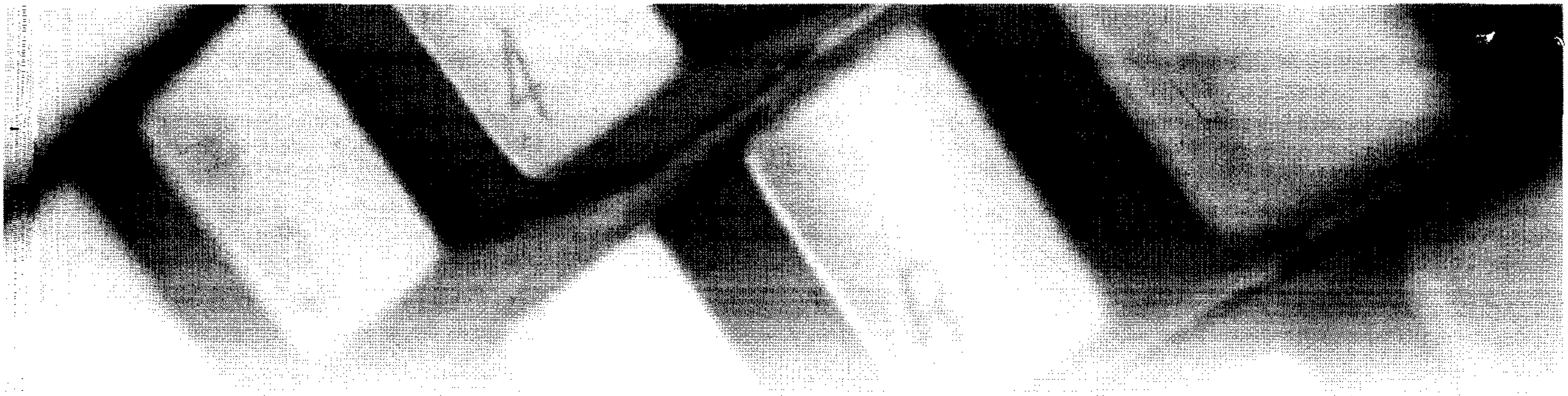

Unbundled Local Switching Developments

Thomas M. Koutsky
Michael Hazzard

March 6, 2002
CC Dockets Nos. 01-338, 02-33

Focus on the Consumer

- 1996 Act was about consumer choice in telecom services

- In the end, if we do *not* see increased consumer choice = the 1996 Act will have failed

- Six years after the Act, mass market consumers are finally seeing that choice in new, innovative telecom services and packages – because of UNE-P

Agenda

- New York Settlement: Verizon agrees to provide unbundled local switching/UNE-Platform to small business customers up to 18 lines
- Z-Tel Public Policy Paper No. 4: UNE-P and CLEC facilities/switch deployment
- Impact of "broadband wireline Internet access" definition on UNE-P/UNE-L migration strategies

The New York Plan (Case No. 98-1357)

- New York Commission reasserts leadership role
- Verizon agrees to provide unbundled local switching up to 18 lines during course of the plan
- Establishes "Bottleneck Task Force"
- Relationship between *competition* and *retail price deregulation*
  - Verizon opted for retail price flexibility = and was willing to assure UNE-P availability to do it
  - Without UNE-P availability to res/SMB, would NYPSC moved forward on AltReg plan?
- UNE-P plays crucial role in mass market competition for residential and small business consumers

In the end…UNE-P is Deregulatory!

- Only UNE-P statewide availability up to 18 lines gave NYPSC comfort level for providing Verizon retail price flexibility
- If UNE-P not available = **a major tool for retail deregulation would be missing.**

NYPSC Materials

- Joint Proposal between Verizon and NYPSC Staff
- NYPSC Staff Testimony
- Verizon letter re UNE-P availability
- NYPSC Hearing transcript

NY and "Bottlenecks"

- NYPSC Bottleneck Task Force: will identify barriers to mass UNE-P-to-Facilities conversions
- Manual, hot-cut process cannot bring mass market competition
- Example:
  - VZ: 10.36 million analog lines in NY (ARMIS 43-08)
  - Mass Market: assume 4% annual churn
  - Cost-based hot-cut rate in NY: $186
  - For CLECs to have 50% of mass market lines = need over 250,000 hot cuts per month
  - If can only do 15,000 hot cuts/mth, CLEC share in NY capped at 3.75%
- Manual provisioning process for UNE-Loop insufficient to support mass market competition; UNE-P needed to bridge the gap

Without UNE-P, What's Left?

Availability of UNE-P Sets "Competitive" States Apart from the Rest

	UNE-P	UNE-L	Resale	Total
New York	14.5%	2.2%	3.0%	19.7%
Texas	13.3%	1.1%	3.3%	17.7%
Georgia	3.1%	1.5%	2.7%	7.3%
Rest of BellSouth	1.3%	1.1%	2.8%	5.2%

Percent Total Access Lines. Source: Shiman/Rosenworcel (2001)

Latest Z-Tel Research: UNE-P and Facilities Deployment

- ***UNE-P lets companies enter the market***
  - More CLEC residential/small business entry where unbundled switching unrestricted (Z-Tel Policy Paper No. 3)
  - Allows entrant to build subscriber penetration before making substantial sunk and fixed cost investment
  - Having "customers first" lower sunk/fixed costs of entry
  - Once substantial customer base established, UNE-P entrant no longer ultimately dependent upon ILEC facilities
- ***UNE-P promotes facilities investment***
  - There are more CLEC Switches where unbundled switching is unrestricted (Z-Tel Policy Paper No. 4)
  - Why? Because…
    - UNE-P CLECs buy network facilities!
    - UNE-P lowers entry barriers to retail competition – which leads to wholesale network deployment
    - "Rising Tide Raises All Boats" – during transition from monopoly, *all* entrants benefit from more-competitive market for *all* services

Impact of Regulatory Process on Facilities Deployment

Deploying facilities or migrating customers to facilities requires ongoing faith in regulatory process. In particular…

- What will price of hot cuts be? What is risk that other states will decide that cost is over $180 each?
- Will I will be able to collocate and offer next-generation services? *See* Paragraph 61 in *Wireline Broadband Classification Notice*, FCC 02-42.
- Will this network architecture really make me *less* dependent on the ILEC? Or will I be just as dependent on ILEC, but in different ways? Will I put myself at *even more* risk of ILEC strategic conduct?

Conclusions

- If no mass market telecom competition, the Act is a failure
- Only UNE-P…
  - supports mass market competition,
  - provides new and innovative services not otherwise available,
  - and ultimately promotes facilities-based deployment
- Without UNE-P…mass market consumers will have to wait for choices – possibly forever
- There are costs of uncertainty
- The NY Plan recognizes the above and adopts this framework

Verizon New York Inc.
1095 Avenue of the Americas
Room 3745
New York, NY 10036
Tel 212 395-6515
Fax 212 768-7568

Sandra Dilorio Thorn
Vice President & General Counsel, NY & CT

February 8, 2002

BY HAND

Honorable Janet Hand Deixler
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: Case 00-C-1945

Dear Secretary Deixler:

Enclosed please find the Joint Proposal Concerning Verizon Incentive Plan for New York.

Respectfully submitted,

Sandra DiIorio Thorn

cc: Honorable Jaclyn A. Brilling (By E-mail and Hand)
Honorable Joel A. Linsider (By E-mail and Hand)
Honorable Eleanor Stein (By E-mail and Hand)
All Active Parties (By E-mail and Overnight Delivery)

CASE 00-C-1945

JOINT PROPOSAL CONCERNING VERIZON INCENTIVE PLAN

The undersigned parties jointly propose that the Public Service Commission approve the following Verizon Incentive Plan (the "Plan"). This Plan will supersede Verizon's Performance Regulation Plan which has been in effect since September 1, 1995 extinguishing all continuing rights and obligations under the Performance Regulation Plan.

The terms, conditions and underlying premises of the Plan are as described herein.

I. Premises: Verizon New York Inc.'s ("Verizon's") service performance under section 603 of the Commission's Rules is generally satisfactory and a service quality plan is in place to prevent backsliding to unacceptable performance levels. Active competition will exist across all market segments, UNE Rates will be as established by the Commission, UNE-P will remain available consistent with the Pre-Filing Statement of Bell Atlantic-New York, dated April 6, 1998 (the "PFS") as modified herein, and facilities-based competition will continue to develop.

II. Term of the Plan: The Plan is a two-year plan, beginning on March 1, 2002, with the Service Quality Plan extending one year beyond the Plan, through February 28, 2005.

III. Competitive Provisions

A. UNE Rates:

Rates for unbundled network elements and for the unbundled network element platform ("UNE" and "UNE-P") are as established by the Commission in its order in Case 98-C-1357, issued and effective January 28, 2002. The specific rates for the main elements and the platform are attached as Appendix A. As part of the proposed resolution, as described in C below, of the issues related to refunds described in the Commission's Order on Unbundled Network Elements

Rates,[1] the non-recurring charge for 2-wire and 4-wire hot cuts is $35.00, with no additional service order related charges.

B. UNE Availability:

For the term of this plan, notwithstanding any change in its obligations under Federal law, Verizon commits to modify its PFS commitments such that it will offer UNE-P to Competitive Local Exchange Carriers ("CLECs") serving small business customers (defined as business customers with 18 lines or less), on the same pricing and duration terms as its offering to CLECs for serving residential customers.

C. Relief Related to Temporary Switching Rate:

The issue of switching rate refunds is resolved as follows:

- For the term of the Plan, Verizon, in order to reach a settlement, agrees to a negotiated non-recurring charge for 2-wire and 4-wire loop hot cuts of $35.00 per loop, with no additional associated service order charges. This shall be accomplished by a credit provided by Verizon to the carrier sufficient to offset the difference between the cost-based rates established in the Commission's UNE Rate Order for these procedures and the $35.00 charge proposed herein.
- Verizon agrees to relinquish any right it may have to recovery of reciprocal compensation overpayments related to recalculation of switching costs or rates in the UNE Rate Order.
- Verizon agrees to provide $15 million (the "Forward Fund") to resolve the issues related to potential refunds to eligible competitive carriers. This Forward Fund payment will satisfy any potential liability for refunds arising out of the Commission's establishment of temporary rates for the switching element, net of any reciprocal compensation payments due and owing to Verizon.
- Eligibility for payment from the Forward Fund will be premised on the carrier's pre-existing right to seek retroactive relief based on having paid the temporary switching rate established in Verizon's tariff; no carrier shall be

[1] Case 98-C-1357-New York Telephone Company, Order on Unbundled Network Element Rates, issued

eligible for payment from the Forward Fund if it has obtained more than 5,000 hot cut lines in 2001 among all affiliates of such carrier. Only a carrier currently serving customers in the State of New York that relinquishes any claim it may have against Verizon related to switching rates for retroactive payments under interconnection agreements or otherwise will be eligible for payment from the Forward Fund.

- The Department of Public Service will conduct an expedited process in order to allocate the Forward Fund among eligible carriers. Any payments due to carriers from the Fund, net of reciprocal compensation paid to a carrier and its affiliates shall be made 50% in the form of an immediate bill credit and 50% in the form of bill credits over a 6-month period.

D. Other Competitive Enhancements:

1. New Products and Procedures:

The undersigned agree that they can and should share best industry practices in a number of areas to encourage competition and enhance cooperation between and among industry participants. While Verizon cannot commit to any specific outcome, it agrees to cooperate in a New Products and Services Task Force that will address a number of these issues, including best practices for billing and collection, building access and efficient provisioning for services where no facilities are available. The goal of the Task Force will be to attempt to establish processes and procedures that will standardize efficient wholesale transactions. No later than three months from the date of a Commission Order approving the Plan the Task Force will forward to the Commission a report detailing its findings, agreements and recommendations for industry best practices. The Task Force will focus specifically on the following:

a) Billing and Collection

- How to establish for all carriers a reasonable period of time for back billing, including the conditions under which exceptions would exist;
- How to develop billing verification tools for all carriers;

and effective January 28, 2002 (the "UNE Rate Order").

- Whether reasonable procedures can be developed for initiating and responding to billing disputes for all carriers;
- Whether procedures/methods applicable to all carriers can be developed to minimize overbilling.

b) EELs/UNEs

- To facilitate the provisioning of service when a UNE order is rejected due to "lack of facilities", the Task Force will attempt to establish applicable pricing and provisioning protocols so that facilities can be provisioned in a reasonable time frame and at a reasonable price that is consistent with Verizon's retail offerings.

c) Virtual Building Connection Product

- Without any relinquishment of rights parties to the Task Force may otherwise have, and where legally and technically feasible, the Task Force will attempt to develop a product(s) to enhance carriers' ability to gain access to buildings.

2. **Elimination of Bottlenecks to Migrating Customers from UNE-P to CLEC facilities**:

Verizon will establish a Bottleneck Elimination Task Force to work with CLECs and staff to solve urgent facilities, hot cuts and other bottleneck problems. The Task Force will report back to the Commission on the status of these issues within 6 months.

IV. Service Quality Provisions

A. Retail Service Quality Plan: The following plan (the "Service Quality Plan") ensures the continued provision of quality telephone service for Verizon. The conditions of the Service Quality Plan are as follows:

Service Quality Term: The term of the overall Verizon Incentive Plan plus one year.

Definitions:

- Market Area: Verizon's operating area in the State of New York.

- Measurement Period: Twelve-month period. The first measurement period ends February 28, 2003.
- Redundancy Failure: A failure that occurs as a result of Verizon having an actual level of diversity less than the level Verizon certifies annually as existing in the Signaling System 7 ("SS7") and Enhanced 911 ("E911") networks where the appropriate level of diversity is determined in accordance with NYCRR 603.5(b)(3). Verizon's annual certification due July 1st each year over the Service Quality Term will detail the actual level of diversity in the SS7 and E911 networks overall as of the prior Calendar Quarter.
- Review Period: Annual period ending with the close of each Plan Quarter; the first review period ends February 28, 2003.
- All other terms are as defined in the Commission's Telephone Service Standards, Special Service Guidelines, and the Department's Emergency Plan.

Performance Objectives: The following objectives are the foundation of the Service Quality Plan and apply in the market area for each Measurement and Review Period.

- **Troubles:** Customer Trouble Report Rate ("CTRR") equal to or less than 3.3 per hundred access lines.
- **Out-of-Service:** Average percent out-of-service over 24 hours equal to or less than 20%.
- **Installation:** Average percent of initial basic service installed within 5 days or less greater than or equal to 80%.
- **Complaints:** A rate of less than 5.5 complaints per 10,000 lines.[2]
- **Outliers:**[3] No more than 175 Service Inquiry Reports filed in the initial Measurement Period, and 125 in any subsequent period where the number of service inquiry reports are determined in accordance with Appendix B.[4]

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[2] The Complaints target in this Plan presumes existing Public Service Commission complaint handling procedures. If, as a result of changes to either the complaint handling procedure or the types of complaints that are counted against Verizon, the degree of effort needed to meet this target is materially modified, Verizon and staff agree to adjust the Complaints target to reflect the impact of the reviewed procedures on Verizon's expected performance.

[3] The Outliers targets were determined by considering only certain service inquiry reports (i.e., based on trunks that originate and terminate at Verizon facilities only). Verizon agrees that it will also measure

Enforcement: Service related data will be provided to the Commission. Additional information staff deems appropriate will be provided upon request to the extent required by the Public Service Law.

Service Measurement Accuracy

1. Verizon's Quality Assurance Team ("QAT") shall ensure the internal controls are reasonably sufficient to assure net error rates of 5% or less in each measurement entity (*i.e.*, the percent of under-reporting errors minus the percent of over-reporting errors must be 5% or less) by the following:

    a) Monthly sampling reviews will be performed at the IMC level to assure accurate results. Any IMC that exceeds a (+/-) 1% Net Error rate will be subject to an adjustment of results based on a twelve-month rolling average of the monthly adjustment factors to be developed as the Plan progresses;
    b) The QAT will communicate the outcome of the sampling process with field directors who will take corrective actions to improve measurement accuracy. Staff shall be advised of any corrected results and remedial actions;
    c) Adjustments will be performed for Customer Trouble Report Rate (CTRR), Out of Service >24 Hours, and Service Affecting > 48 Hours measurements;
    d) If any measurement entity exceeds a (+/-) 5% Net Error rate, the Director will be required to prepare a written report indicating the analysis and corrective actions to be taken to insure accurate results. The QAT will monitor and insure compliance with this requirement;

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performance in a way that includes not only trunks that originate and terminate at Verizon owned facilities but trunks that terminate at facilities owned by other carriers (such as competitive local exchange carriers, interexchange carriers, and wireless carriers); however the latter will not be included for the purposes of the Service Quality Plan. Verizon also agrees that it will work closely with other carriers and Staff to limit the number of trunk blockages that occur.

[4] For the Outliers component of this Plan, the Maintenance and Installation service standards are measured on a Central Office and Installation Maintenance Center ("IMC") basis, except, however, that those

e) The QAT will implement the Manager Sampling Plan and the procedures for handling allegations of mis-reporting from the CWA "Hot-Line" (the "CWA Hot-Line Process") that are developed in compliance with the requirements of the Commission's "Order Adopting Report," issued May 17, 2001 in Case 01-C-0440 (the "May 2000 Order");

f) Each year the President of Verizon New York will attest to the fact that Verizon has implemented the above service measurement accuracy activities to be performed by the QAT.

2. Outside Review

a) Each year that the Service Quality Plan is operative Verizon shall hire an independent external auditor (hereafter Auditor) to review the procedures employed by the QAT (including the QAT process to sample and adjust results), the Manager Sampling Plan, the CWA Hot-Line Process, and other QAT oversight activities (e.g., answer time, installation and network blockage service quality measurements). As part of this review, the Auditor will perform a sampling of the QAT sample for comparison with the results obtained by the QAT. The Auditor will issue a report setting forth its findings based on its review of the QAT process;

b) If the Auditor finds any entity with a total gross error rate over 30%, a substantive audit of that entity by the Auditor shall be required. (This is not intended to limit the Auditor from recommending specific actions, such as a substantive audit, if an entity has a gross error rate less than 30%, but to serve as an out-of bounds requirement for specific action.) The total gross error rate is the sum of under-reporting errors plus the over-reporting errors;

c) The Request for Proposal ("RFP") for hiring the Auditor shall be reviewed by staff and interested parties prior to issuance.

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standards that are measured on an IMC basis can be changed to a Dispatch Resource Center basis or another, more highly aggregated basis, upon approval of Staff.

d) If the Auditor determines that Verizon has complied with the procedures to reasonably ensure accurate results as required herein, a detailed audit shall not be required. If the external auditor determines there were major deficiencies in Verizon's compliance, a detailed audit of the results for the year in question shall be conducted by the Auditor. The Auditor shall review compliance with the 5% net error process for each entity that exceeds a 5% net error rate to ensure that corrective actions are being taken; and

e) The Auditor shall make an annual report to Verizon of its findings and recommendations and this report shall be submitted to the Commission and provided to interested parties.

3. Verification of Penalty Payments – Verizon agrees to ensure that all penalties are issued accurately. This shall be accomplished by utilizing the existing Performance Regulation Plan rebate process currently employed by the QAT. When a credit is given, Verizon shall use the QAT to verify that customers received the appropriate credit. Verizon's internal auditors shall verify this on an annual basis. Credits will be paid in 90 days from the date the service quality results measured under this plan are finalized. Verizon will provide Staff with a report detailing the credit payments made.

Service Quality Link to Pricing Flexibility: If Verizon fails two Performance Objectives at the end of any Review Period, the following applies:

- Prospective pricing flexibility as provided in the Plan is suspended;
- Pricing flexibility is not restored until Verizon passes each performance objective for three consecutive months based on a rolling twelve-month average.[5]

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[5] Should Verizon experience a company-wide work stoppage during the course of this Plan that causes Verizon to miss performance objectives set forth herein, Verizon can petition the Commission for an adjustment to and normalization of its performance results and can proceed to exercise its pricing flexibility pending the Commission's decision on that petition. Normalization of results will be performed in accordance with the service quality normalization process set forth in the March 13, 2001 memorandum from the Office of Communications to the Commission attached to the Commission's "Order Granting In Part and Denying In Part Requests for Waivers of Service Quality Targets," issued June 7, 2001 in Case 92-C-0665.

If Verizon fails a performance objective in a Measurement Period, a rate adjustment, as described below, applies.

Performance Rate Adjustments: Verizon will credit customer rates in the Market Area if a performance objective is not met in a Measurement Period as follows:

- Following are the total credit amounts available in a Measurement Period if Verizon misses one or more performance objectives. These total credit amounts will be divided by the number of performance objective(s) that were missed in that period to determine the credit amount payable on each missed performance objective:
    - ♦ If a single objective is not met, the total credit amount available is $15 Million.
    - ♦ If two objectives are not met, the total credit amount available is $40 Million.
    - ♦ If three or more objectives are not met, the total credit amount available is $100 Million, plus an additional $35 Million for each objective above three that is not met.
- In any case where Verizon misses the PSC Complaint or the Outliers performance objective in a Measurement Period, the total credit amount available for that performance objective will be distributed on an equal per access line basis in the Market Area;
- In any case where Verizon misses the Troubles (CTRR), Out-of-Service, or Installation performance objective in a Measurement Period, the total credit amount available on that performance objective will be distributed on a per occurrence basis to each affected customer who experiences a service problem that is measured in the performance objective(s) that was missed in the Measurement Period;[6]

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[6] Affected customers is defined as follows:

- Troubles – all lines with a measured trouble during the measurement period
- OOS – all lines out-of-service longer than 24 hours in the measurement period
- Installation – all basic line installations taking longer than 5 days in the measurement period

- In no instance will a credit to any one affected customer exceed $50 per occurrence in a Measurement Period. If as a result of this restriction a portion of the total credit amount available remains unpaid, the unpaid amount will be distributed on an equal per access line basis in the Market Area.

Major Service Interruption: Verizon agrees that no major service interruptions will occur as a result of a Redundancy Failure in its Signaling System 7 or E911 network after July 1, 2002. Upon a finding by the Commission that a failure did occur after that date, Verizon agrees to make a payment of $100,000 into the State's General Fund.

Special Services Service Quality

Verizon has agreed to implement the special services process improvement program with related improvement milestones and customer credits, as more fully described in a letter to the Department of Public Service dated February 8, 2002.

V. Pricing Flexibility Provisions

Verizon will be allowed pricing flexibility beginning March 1, 2002 in accordance with the conditions listed below.

Conditions:

Upward flexibility is allowed on all services and products consistent with the Service Quality Plan, with the following exceptions:

- UNE prices
- Wholesale discounts for services offered for resale
- Interconnection and reciprocal compensation prices
- Lifeline services
- Maintenance and access to the ALI database
- Directory Assistance and other database inquiries for competitive providers
- Non-recurring service connection charges for residential and small business customers
- Certain services previously ordered to be provided at no charge, for example, call blocking or PIC freezes

There is no cap for increases in the rates for individual services except for 1FR service[7] in Rate Group 1, 3 and 5[8], except that any increase in the charges for First Line Basic Service shall not exceed $1.85 per line in the first year and $0.65 per line in the second year.[9] Downward pricing flexibility is limited only to a rate equal to Verizon's incremental cost and usage offerings must pass an imputation standard. Rates for Carrier Access Services may not increase.

Overall revenue increases associated with pricing flexibility are capped at 3% on an annualized basis each Plan year, using units in service for all services for the prior year over any annual period.[10]

Under no conditions is flexibility is allowed:

- If pricing flexibility is suspended under the terms of the Service Quality Plan.
- Unless Verizon agrees to take full responsibility to explain the need or rationale for any flexible price increase to its customers and that all communications with customers will explain that the basis for any flexible price increase is solely its business decision.

VI. Financial Consistency and Additional Regulatory Protections

Verizon shall conform amounts reported on its New York State regulatory financial reports with the amounts it reports in its filings with the Securities and Exchange Commission (e.g., 10K). This transformation shall occur over a three-year period beginning on the first day of the Verizon Incentive Plan.

Depreciation expense recorded during the term of the Verizon Incentive Plan shall be equal to the sum of the depreciation recorded on the SEC books plus a three-year

[7] 1FR service is a residential service consisting of the basic line charge and flat rate local usage.
[8] The total increase to the price of 1FR service in rate group 1 shall not exceed $2.00 in the first year of the Plan and $2.00 in the second year. The total increase to the price of 1FR service in rate groups 3 and 5 shall not exceed $2.00 in the first year of the Plan and $3.00 in the second year.
[9] Under this Plan, First Line Basic Service is defined as the first line for a particular customer at a particular location for basic service access, basic message rate, individual message business lines and analog PBX trunks.
[10] Staff will be provided with the units-in-service for all services and the price changes put into effect each Calendar Quarter over the term of the Plan to assure this condition is met.

amortization of the difference between the depreciation reserve recorded on the SEC books and the depreciation reserve recorded on the state regulatory books as of the first day of the plan. At the end of the three-year amortization period, the depreciation reserve used for state regulatory purposes will thus be equal to the SEC depreciation reserve.

During the term of the Verizon Incentive Plan, neither regulatory assets nor regulatory liabilities shall be created, with the exception of Commission approved net costs associated with the restoration of the World Trade Center aftermath. All existing regulatory assets and liabilities shall be fully extinguished by the end of this plan in accordance with the first paragraph above. Any changes to GAAP as promulgated by the accounting profession will be implemented for both the SEC books and the state regulatory books.

Verizon shall be allowed to account for pension and other post employment benefit obligations ("OPEB") consistent with SFAS #87 and SFAS #106. This includes allowing Verizon to retain the benefit/detriment of financial accounting gains/losses during the term of the Verizon Incentive Plan. In no event will Verizon be allowed to withdraw plan assets other than to pay benefits, including administrative expenses, or settle benefit obligations associated with its pension and OPEB plans. Verizon commits to obtain New York State Public Service Commission approval prior to annuitizing, curtailing, or otherwise settling all or substantially all of Verizon's pension plan/OPEB obligations for employees of regulated entities in New York state. The Commission will be notified if there are any major changes in these plans, if "assumptions" change materially, and if plan assets are used for purposes other than directly paying benefits and related administrative expenses.

VII. <u>Infrastructure</u>

To assure investments commensurate with good service quality, Verizon agrees to:

- File annual construction budgets that identify service-related investments
- Meet with staff on an annual basis to provide an overview of its construction budget with an emphasis on:
  1. Service quality improvements
  2. Increased network reliability

3. Deployment of new technology, including a demonstration that the introduction of new services and technologies is non-discriminatory
4. Deployment of advanced services

- Provide with each annual construction budget filing an overview of Verizon's plans and progress toward introducing new technology and advanced services and to identify new services to be provided

To assure reliability consistent with post-9/11 best practices

- As changes to the Network Reliability and Interoperability Council's "best practices" and industry standards reflecting lessons learned from incidents such as the events of September 11, 2001 are developed, Verizon, will, by July 1st of each year over the term of the Verizon Incentive Plan, inform the PSC Staff of its intention to implement the practice or standard. Verizon will also report to the Staff, on an annual basis, the progress it is making toward the implementation.
- Participate in industry/governmental forums concerning network reliability.
- Cooperate in the development of data to be used by the staff in its Geographic Information System designed to provide service outage information to the Commission and the State of New York.

VIII. Miscellaneous:

A. Exogenous Costs and Merger Savings

With respect to the matters under consideration in Case 00-C-1945 with respect to outstanding exogenous cost filings and merger savings (the so-called "White Paper" issues), the parties propose that the Commission find that available merger savings fully offset otherwise allowable cost onsets and exogenous costs, and that Ordering Clauses 5 and 6 in the Order Approving the Bell Atlantic/NYNEX Merger, issued and effective March 21, 1997, and the Order Approving the Bell Atlantic/GTE Merger, issued and effective August 12, 1999, have been satisfied in a way that Verizon relinquishes its claim to rate increases as a result of exogenous costs, and such merger saving shall not be used to require rate reductions as contemplated in those Order Clauses.

Verizon agrees to withdraw its revisions to Tariff P.S.C. No. 10 -Communications filed May 29, 2001,as well as those rates proposed in its supplemental filings in Case 00-

C-0127, relating to recovery of OSS costs for Line Sharing, Line Splitting, Unbundled Sub-Loop Arrangements, Feeder Sub-Loops, and other DSL-related items.

B. Reservation of Authority:

The parties recognize that the Commission reserves the authority to act on the level of Verizon's rates and service pursuant to the Public Service Law should it determine that intervening circumstances have such a substantial impact as to render Verizon's rates unjust or unreasonable or render this Plan unreasonable, unnecessary or insufficient for the continued provision of safe and adequate service by Verizon-New York. Should the Commission exercise this authority, Verizon has the right to withdraw from this Plan.

C. Reconsideration and Judicial Review

During the term of this Plan, Verizon agrees that the rates prescribed by the Commission's UNE Rate Order will remain in effect and that it will not challenge those rates before the Commission or in court. For purposes other than challenging the rates prescribed in the Commission's UNE Rate Order, Verizon does not relinquish any legal or equitable rights it may have with respect to the underlying theory of the case, including, but not limited to, the cost recovery theory known as TELRIC. This commitment should not be interpreted as a voluntary agreement for purposes of the Bell Atlantic/GTE FCC merger conditions as to the level of rates, the rate design or the theory of the case. If the aforementioned decision is appealed or otherwise challenged by any person or entity, Verizon, in supporting the Commission's decision in Case 00-C-1945 reserves all legal and equitable arguments it would otherwise have had.

The parties propose a modification of the PSC determination that rates for the loop/switch interface be reviewed in May 2002 to reflect IDLC connections, where appropriate.[11] The modification consists of postponing that review until the termination of the Plan.

D. Lifeline

- Reduction in the present connection charge from $10 to $5.
- Maintain an outreach and education program for Lifeline

[11] UNE Rate Order, pp.93-95.

E. <u>Consumer Outreach and Education</u>:

Verizon will design and implement, within existing consumer education budgets, an outreach and education program to inform customers about their rights and responsibilities and special programs, such as Lifeline and the Relay Service.

Unbundled Network Element Rates

Verizon's major unbundled network element ("UNE") rates per UNE Rate Order.

UNE	Old Rate	New Rate
2-Wire Analog Loop Rate[1]		
Manhattan	$11.83	$7.70
Major cities	$12.49	$11.31
Rest of State	$19.24	$15.51
Line Port	$2.50	$2.57
Local Switching		
Originating	$0.003150	$0.001147
Terminating	$0.003150	$0.001111
End Office Trunk Port	$0.000656	$0.000371
Common Transport	$0.000783	$0.000203
Tandem Switching	$0.001017	$0.000481
Tandem Trunk Port	$0.001464	$0.000570

Note – The old rates for local switching were not deaveraged between originating and terminating. The old rates for all usage based rates were time of day sensitive (day, evening & night). The amounts shown are a weighted-average based on actual usage by CLECs leasing Verizon's UNE-P in the first months of 2001.

Utilizing the methodology employed by Verizon in its supplemental response to Staff interrogatory PSC-VZ-18 in Case 00-C-1945, these rates will impact the average monthly cost of Verizon's UNE-P as follows.

UNE	OLD	NEW
Loop	$14.05	$11.49
Port	2.50	2.57
Average Usage per Line	10.61	5.08
Revenue Per Line	$27.17	$19.14

[1] These are melded integrated digital loop carrier (DLC)/ universal DLC rates as only one rate is to be charged for all loops leased.

Service Inquiry Reports for the purposes of measuring Outliers under the Service Quality Plan are the sum of the following in any Measurement Period:

Service Inquiry Reports = Unadjusted Service Inquiry Reports $_{\text{Current Year}}$ + (Total Credits $_{\text{Prior Year}}$ + 50% of Total Credits $_{\text{Prior Year}-1}$)

TOTAL CREDITS COMPUTED AS FOLLOWS

Formula	Credits
One Unadjusted SIR for any single Measure[1]	5 per measure
No Unadjusted SIR for any single Measure	10 per measure
More than 50 Unadjusted SIRs for any measure	Minus 2 credits for each measure
More than 2 consecutive Unadjusted SIRs for any entity	Minus $^1/_{10}$ credit times the number of SIRs in excess of 2 for each such entity
Total Credits	Sum of the above

Total Credits for any year may be zero, but not negative.

[1] There are ten measures defined in NYCRR 603.4(d)(1); however, Answer Time Performance Results (for Business Office, Repair Office, and Operator Assistance) are consolidated and considered a single measure for the purpose of determining credits. Thus, there are eight measures for the purpose of determining service inquiry report credits under the Service Quality Plan.

Case 00-C- 1945

IN WITNESS WHEREOF, the parties have duly executed this agreement, as of February 8, 2002.

VERIZON NEW YORK INC.

BY: Sandra DiIorio Thorn

NAME: Sandra DiIorio Thorn

TITLE: VP & General Counsel, NY & CT

Case 00-C-1945

IN WITNESS WHEREOF, the parties have duly executed this agreement, as of February 8, 2002.

DEPARTMENT OF PUBLIC SERVICE STAFF

BY: Peter M. McGowan

NAME: Peter M. McGowan

TITLE: Staff Counsel