DOCKET FILE COPY ORIGINAL

WILMER, CUTLER & PICKERING

2445 M STREET. N.W.
WASHINGTON. D.C 20037-1420

TELEPHONE (202) 663-6000
FACSIMILE (202) 663-6363

100 LIGHT STREET
BALTIMORE, MD 21202
TELEPHONE (410) 986-2800
FACSIMILE (410) 986-2828

4 CARLTON GARDENS
LONDON SW1Y 5AA
TELEPHONE 011 (44171) 872-1000
FACSIMILE 011 (44171) 839-3537

RUE DE LA LOI 15 WETSTRAAT
B-1040 BRUSSELS
TELEPHONE 011 (322) 285-4900
FACSIMILE 011 (322) 285-4949

FRIEDRICHSTRASSE 95
D-10117 BERLIN
TELEPHONE 011 (4930) 2022-6400
FACSIMILE 011 (4930) 2022-6500

SAMIR C. JAIN
DIRECT LINE (202) 663-6083
INTERNET S.JAIN@WILMER.COM

September 13, 2002

BY HAND

RECEIVED

SEP 13 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

RE: *WorldCom, Cox, and AT&T v. Verizon*
CC Docket Nos. 00-218, 00-249, and 00-251

Dear Ms. Dortch:

Enclosed for filing please find 4 public versions of Verizon Virginia Inc.'s ("Verizon VA") Submission of Additional Record Evidence in the above-referenced arbitration proceedings.

Verizon VA is also serving 8 copies of the non-public version of the filing, as well as 2 copies of the public version, on Commission staff.

Verizon VA is providing AT&T and WorldCom the proprietary version of the filing, which contains information proprietary to Verizon VA, pursuant to the protective order issued in this case on June 6, 2001.

Please call Scott Randolph (202-515-2530) or me if you have any questions.

Very truly yours,

Samir C. Jain
Attorney for Verizon Virginia Inc.

cc: William Maher (8 proprietary copies; 2 public copies)
Jeffrey Dygert (1 public and 1 proprietary copy)
Tamara L. Preiss (1 public and 1 proprietary copy)
Mark A. Keffer (1 public and 1 proprietary copy)
David Levy (1 public and 1 proprietary copy)
Jodie L. Kelley (1 public and 1 proprietary copy)
Allen Fiefeld (1 public and 1 proprietary copy)
J.G. Harrington (1 proprietary copy)

No. of Copies rec'd 0+3
List ABCDE

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Expedited Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration	)	CC Docket No. 00-218
In the Matter of Petition of Cox Virginia Telecom, Inc., etc.	)	CC Docket No. 00-249
In the Matter of Petition of AT&T Communications of Virginia Inc., etc.	)	CC Docket No. 00-251

VERIZON VIRGINIA INC.'S SUBMISSION OF ADDITIONAL RECORD EVIDENCE [PUBLIC VERSION]

Verizon VA submits this filing to apprise the Commission of the impact of the fundamental changes in industry structure that have occurred since the start of this proceeding on the cost of providing unbundled network elements ("UNEs"). This information was not available at the time of the hearings conducted in this proceeding or when Verizon VA submitted its post-hearing briefs. Moreover, it differs fundamentally from the many other inputs the parties previously addressed at great length because it reflects a profound shift in the underlying nature of the industry that has not been addressed or taken into account. As described below, Verizon VA's experience as a wholesale provider under section 251 of the 1996 Act demonstrates that its studies grossly underestimate — by about 1400% — the level of uncollectible charges that

Verizon VA faces, and will continue to face, in providing UNEs and resold services to competitive local exchange carriers ("CLECs"). Indeed, AT&T itself recently recognized that to the extent that Verizon is experiencing increasing difficulty in collecting payments from CLECs, it should be "free to ask state regulators to reopen its UNE prices so that the allowance for uncollectibles may be increased going forward."[1] Here, rather than wait to "reopen" UNE prices, the Commission should simply set UNE rates based on the more accurate uncollectibles rate cited herein instead of the proxy rate used in Verizon's original studies in order to prevent substantial under-recovery of UNE-related costs.

As WorldCom's bankruptcy filing dramatically demonstrates, the structure of the telecommunications industry is undergoing a fundamental change. Even as competition continues to develop, the industry is experiencing rising volatility, with a great amount of churn. This restructuring is not simply a one or two-year phenomenon; rather it represents a shift in the industry that is likely to continue.[2] The increasing number of bankruptcy filings and other financial restructurings demonstrate that, while customers may not experience any service disruption, carriers are faced with significant disruption in the payment for and collection of UNE costs. As a result, since Verizon VA filed its

---

1/ Letter from James W. Cicconi, General Counsel and Executive Vice President, Law & Government Affairs, AT&T Corp. to Honorable Michael Powell, Chairman, Attachment at p.2 (July 26, 2002).

2/ *See, e.g.*, Sandra Ward, *Stunted Growth: A Team of Tech-Telecom Specialists Sees More Static Ahead For Investors*, Barron's Online (Feb. 25, 2002) ("What concerns us is that this could be a dynamic where overcapacity continues to exist. It could be like the steel industry, where companies go into bankruptcy, restructure, come back and lower prices, and still find themselves not making it." (quoting industry analyst Scott Cleland)); Roger Crockett, *End of Telecom Turmoil?*, Business Week Online (Aug. 22, 2002) ("Analyst Glenn A. Waldorf of UBS Warburg thinks that every telecom upstart [i.e., CLEC], except Time Warner Telecom, will have to restructure its debt, in most cases by going the Chapter 11 route.").

studies more than a year ago, the financial risks it faces in providing UNEs have increased substantially. And, as this Commission has explained to the Supreme Court, UNE costs are closely linked to the risks inherent in the competitive and regulatory environments in which a carrier operates.[3]

In Verizon's experience, one consequence of the changing competitive and market conditions has been a substantial increase in the magnitude of "uncollectible" CLEC payments for UNEs and wholesale services. As Verizon witness Louis Minion explains in the attached declaration, Verizon has now been able to calculate its actual CLEC- and resale-related uncollectibles for calendar year 2001 by dividing total CLEC- and resale-related uncollectibles by total revenues received from CLECs and resellers for the provision of UNEs and resale. (Minion Decl. ¶¶ 5-10.) Verizon's analyses demonstrate that the uncollectible rate in 2001 for the Verizon-East footprint (i.e., the former Bell Atlantic territory) was 8.34%. (*Id.* ¶ 10.) Put another way, for every dollar Verizon billed to a CLEC, more than eight cents went uncollected.

Verizon VA's cost studies in this proceeding account for uncollectibles (as well as certain other costs such as federal and state regulatory assessments) through the application of a "Gross Revenue Loading" factor. (*See* VZ-VA Ex. 107 at 49.) During the base year (1999) that Verizon used in performing its cost studies for Virginia, Verizon's experience obtaining payment from CLECs in Virginia was still relatively limited, as was the data needed to calculate CLEC-only uncollectibles. (Minion Decl. ¶ 3.) It therefore used as a proxy for this figure a value based on the uncollectible rate for

---

[3] *See, e.g.*, Reply Brief for Petitioners Federal Communications Commission and the United States, *Verizon Communications, Inc., et al. v. Federal Communications*

intrastate *access charge and reseller* payments from IXCs such as AT&T and WorldCom on the theory that many of the same carriers that purchase access services would also lease UNEs and be just as reliable in making payments. (*Id.* ¶ 4.) This resulted in an uncollectible rate of 0.56%. (*Id.*)

But, as noted above, Verizon's experience has since demonstrated that its UNE uncollectible rate is actually far higher than the access charge uncollectibles rate used as a proxy in its cost studies.[4/] In particular, Verizon's actual uncollectible rate for the provision of UNEs and resold services in 2001 in its East footprint was 8.34% — almost fourteen times higher than the proxy rate used in Verizon VA's cost studies.[5/] (Minion Decl. ¶ 10.) Put differently, while Verizon VA's studies assumed that for every dollar owed by CLECs, the company would be able to collect all but about one half of one cent, in fact, Verizon has been unable to collect over eight cents. This uncollectible rate represents a broad snapshot covering Verizon's experience with a large number of CLECs and UNE and resale payments totaling more than **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]**. (Minion Decl. ¶ 5.) Thus, it is a representative rate that is not skewed by any individual instance of non-

---

Commission, et al. at 12 n. 8 (July 2001).

4/ As a result, if the Commission were not to consider these updated facts in its initial decision, they would be a valid basis for reconsideration: this evidence "relate[s] to events which have occurred or circumstances which have changed since the last opportunity to present such matters." 47 C.F.R. § 1.106(b)(2) & 1.106(c).

5/ In particular, Verizon-East experienced approximately **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** in CLEC uncollectibles in 2001 and had approximately **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** in revenue from CLECs. (Minion Decl. ¶¶ 5, 10.)

payment. Moreover, Verizon's experience with overdue amounts thus far in calendar year 2002 (even leaving aside the WorldCom bankruptcy filing) suggests that its uncollectibles rate this year will be *significantly* higher than the 2001 rate. (*Id.* ¶ 11.) If anything, that increase is likely to continue.[6]

This trend of increased uncollectibles is evident throughout the telecommunications industry. For example, the uncollectibles for carriers reporting on ARMIS 43-01 (mainly mid-and larger-size ILECs) rose to more than $2.63 billion in 2001 — an increase of more than 51% over the prior year alone. The local telecommunications market in particular is only becoming more volatile, and, as new entrants to the local service market, CLECs — particularly those that rely on UNEs rather than making long term investments in their own facilities — inevitably will have a higher rate of default than established firms in a more stable market. Thus, Verizon's uncollectible rate for 2001 is a conservative representation of its forward-looking uncollectible rate.

Given that Verizon's experienced uncollectibles rate is about *1400%* the proxy uncollectible rate used in its cost studies, prices based on that proxy rate would necessarily result in significant under-recovery of the costs Verizon VA incurs to provision UNEs, and would thus violate TELRIC. The Commission should prevent such gross under-recovery by substituting the proxy uncollectible rate used in the calculation

---

[6] Indeed, that continuing trend is reflected in the current level of past due receivables. Between December 2000 and July 2002, Verizon's wholesale receivables more than 90 days past due grew by more than 150 percent, and, as of July 2002, some 28 percent of wholesale receivables were 90 days or more past due (compared to approximately 7 percent of retail receivables 90 days or more past due during the same time frame).

of Verizon VA's gross revenue loading factor with the more realistic rate experienced by Verizon in calendar year 2001[7/] — a rate which, given the state of the market and the actual uncollectible rate in other states, is itself likely to be far too modest.

[7/] In order to avoid any delay in the release of the Order, the Commission could determine the appropriate gross revenue loading factor on a separate track than the remainder of its pricing decision. Because the gross revenue loading factor represents a ratio of costs to gross revenues, it is applied only after the relevant gross revenue figure has been determined. In the case of a UNE cost study, that gross revenue figure is the TELRIC cost that Verizon must recover through UNE charges. Thus, application of the gross revenue loading factor is essentially the last calculation that is needed to determine the UNE rates and is independent of the other inputs and assumptions in the study. (Minion Decl. ¶ 2.) Verizon VA could perform the required calculation as part of its compliance filing.

Respectfully submitted,

Karen Zacharia
David Hall
1515 North Court House Road
Fifth Floor
Arlington, Virginia 22201
(703) 351-3100

Lydia R. Pulley
600 E. Main St., 11th Floor
Richmond, VA 23233
(804) 772-1547

Catherine Kane Ronis
Lynn R. Charytan
Samir C. Jain
Wilmer, Cutler & Pickering
2445 M Street, NW
Washington, DC 20037-1420
(202) 663-6000

Attorneys for Verizon VA

Of Counsel:
Michael E. Glover

Richard D. Gary
Kelly L. Faglioni
Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074
(804) 788-8200

Dated: September 13, 2002

CERTIFICATE OF SERVICE

I do hereby certify that true and accurate copies of the foregoing Verizon Virginia Inc.'s Submission of Additional Record Evidence were served electronically and by overnight mail this 13th day of September, 2002, to:

William Maher, Chief
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20544*

Tamara L. Preiss
Division Chief
Pricing Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20544*

Jeffrey Dygert
Deputy Division Chief
Pricing Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20544*

Mark A. Keffer
Dan W. Long
Stephanie Baldanzi
AT&T
3033 Chain Bridge Road
Oakton, Virginia 22185
David Levy
Sidley, Austin, Brown & Wood
1501 K Street, N.W.
Washington, D.C. 20005

Jodie L. Kelley
Jenner & Block LLC
601 Thirteenth Street, N.W.
Washington, D.C. 20005

Allen Feifeld, Esq. (not served electronically)
Kimberly Wild
WorldCom, Inc.
1133 19th Street, N.W.
Washington, D.C. 20036

And

J.G. Harrington
Dow, Lohnes & Albertson
Suite No. 800
1200 New Hampshire Avenue, N.W.
Washington, D.C. 20036

Bonnie L. Bell

* Served by hand delivery rather than overnight mail.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Expedited Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration	)	CC Docket No. 00-218
In the Matter of Petition of Cox Virginia Telecom, Inc., etc.	)	CC Docket No. 00-249
In the Matter of Petition of AT&T Communications of Virginia Inc., etc.	)	CC Docket No. 00-251

DECLARATION OF LOUIS D. MINION [PUBLIC VERSION]

1. My name is Louis D. Minion. I am a Director – Financial Planning and Analysis. I submitted written testimony on behalf of Verizon VA in this proceeding and also served as a witness for Verizon VA during the hearings.

2. One of the annual cost factors (ACFs) used in Verizon VA's cost studies is the Gross Revenue Loading Factor. This factor accounts for certain costs experienced by Verizon VA in providing UNEs, including federal and state regulatory assessments and "uncollectible" revenues from CLECs. Because the gross revenue loading factor represents a ratio of costs to gross revenues, it is applied only once the relevant gross revenue figure has been determined. In the case of a UNE cost study, that gross revenue figure is the TELRIC cost that Verizon must recover through UNE charges. Thus, application of the gross revenue loading factor is essentially the last calculation that is

needed to determine the UNE rates and is independent of the other inputs and assumptions in the study.

3. The ACF data Verizon VA used in the cost studies it originally filed in this proceeding was based on 1999 data, and in 1999, active CLEC competition in Virginia was still relatively nascent. As a result, Verizon's experience obtaining payment from CLECs in Virginia was still relatively limited, as was the data needed to calculate CLEC-only uncollectibles.

4. As a result, Verizon VA's cost studies used the figure 0.56% as a proxy for the percentage of uncollectible CLEC revenue. This figure was based on the percentage of total intrastate uncollectibles Verizon had experienced with respect to intrastate *access charge and reseller* payments from IXCs for the four jurisdictions where such data was being explicitly tracked at the time Verizon VA filed its studies. Verizon then multiplied this intrastate access charge and reseller percentage by the total amount of Virginia-specific uncollectible amounts to arrive at the total amount of IXC-uncollectibles. Dividing that amount by the total revenue from IXCs in Virginia yielded the 0.56% rate for 1999. Verizon relied on IXC uncollectible data as a proxy because many of those same carriers were expected to also lease UNEs, and Verizon VA assumed that the UNE purchasers would be just as reliable as the interexchange carriers in making payments.

5. Verizon-East ("Verizon") has subsequently calculated its actual uncollectible rate for the provision of UNEs and resale for calendar year 2001 by dividing total CLEC- and resale-related uncollectibles by total revenues received from CLECs and resellers. Based on its accounting records, Verizon has determined that it received **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** in revenue from

CLECs and resellers in 2001. Determining the actual uncollectibles was a little more complex.

6. In 2001, Verizon accrued an amount as uncollectible when it determined that an event (such as a CLEC bankruptcy) made it unlikely that Verizon would collect an outstanding receivable. For example, if a CLEC filed for bankruptcy, Verizon would estimate the amount of outstanding revenue it no longer expected to collect from that carrier and accrue that amount as uncollectible. Once the bankruptcy proceeding was complete, Verizon would then accrue the appropriate amount to "true up" the uncollectibles. In other words, if Verizon ultimately collected even less than it originally estimated, that additional amount would be accrued as an uncollectible. If, on the other hand, Verizon collected more than it initially estimated, the uncollectibles would be reduced by that additional amount.

7. Verizon tracks uncollectibles in its accounting system at two levels. For certain types of events that affect the entire corporation, Verizon tracks the resulting uncollectibles at the corporate finance level. For other events that result in uncollectibles in only parts of the business, Verizon tracks uncollectibles at the line of business level.

8. For calendar year 2001, Verizon's accounting records establish that, at the line of business level, Verizon accrued **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** in uncollectible revenues from CLECs for the provision of UNEs and resale.

9. For calendar year 2001, Verizon's accounting records establish that, at the corporate finance level, Verizon accrued **[BEGIN VERIZON PROPRIETARY]** **[END VERIZON PROPRIETARY]** in uncollectible wholesale revenues. Because this

figure also includes uncollectible access charges, and Verizon's accounting system does not separate out that amount for uncollectibles at the corporate finance level, Verizon reviewed the individual entries for wholesale uncollectibles for April 2002 and determined that **[BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY]** of those uncollectibles were attributable to the provision of UNEs and resale to CLECs. Accordingly, Verizon applied that **[BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY]** figure to the total **[BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY]** uncollectible wholesale revenue and determined that, at the corporate finance level, it suffered approximately **[BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY]** in uncollectible revenues from CLECs for the provision of UNEs and resale.

10. Thus, combining the figures in paragraphs 8 and 9, Verizon experienced approximately **[BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY]** in CLEC uncollectibles in 2001. When divided by the **[BEGIN VERIZON PROPRIETARY] [END VERIZON PROPRIETARY]** in revenue from CLECs in 2001, Verizon is left with an uncollectibles rate of approximately 8.34% in Verizon East. This exceeds the .56% proxy figure Verizon VA originally used in this proceeding by about 1400%, a substantial difference that is significantly more dramatic than any change Verizon has observed, positive or negative, in evaluating more updated data with respect to other ACF inputs.

11. I further understand that, based on Verizon's experience with overdue amounts thus far in calendar year 2002, its uncollectibles rate this year is likely to be significantly higher than the 2001 rate.

Declaration of Louis D. Minion

I declare under penalty of perjury that the foregoing is true and correct. Executed this 13 day of September, 2002.

Louis D. Minion