

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

In the Matter of	)	
	)	
Review of the Section 251 Unbundling	)	
Obligations of Incumbent Local Exchange	)	CC Docket No. 01-338
Carriers	)	
	)	
Implementation of the Local Competition	)	
Provisions of the Telecommunications Act of	)	CC Docket No. 96-98
1996	)	
	)	
Deployment of Wireline Services Offering	)	CC Docket No. 98-147
Advanced Telecommunications Capability	)	

**EX PARTE  
REMI RETAIL COMMUNICATIONS, LLC**

Remi Retail Communications, LLC (“Remi”), by its undersigned counsel, hereby submits this written ex parte in the above-referenced proceedings.

**I. INTRODUCTION AND SUMMARY**

Remi is a Greensburg, Pennsylvania-based competitive local exchange carrier (“CLEC”) that provides bundled local, long distance, and enhanced services to small, medium, and large-sized businesses in the Commonwealth of Pennsylvania. Remi is compelled to file this ex parte to communicate one simple message to the Commission: CLECs are materially impaired without unrestricted access to both analog and digital switching as an unbundled network element (“UNE”).

In this pleading, Remi first describes the value-added products and services that it provides to businesses in Pennsylvania. Next, Remi describes the material impairment that exists without unrestricted access to unbundled switching for all services, including digital services. Finally, Remi notes that the Commission should do nothing to disturb the PAPUC’s

existing authority to establish unbundling regulations pursuant to either the Communications Act or under state law.

## **II. REMI PROVIDES UNIQUE, VALUE-ADDED TELECOMMUNICATIONS SERVICES TO BUSINESS CUSTOMERS**

Remi is a "smart communications" company that combines the best local, long-distance, toll free, and unified messaging solutions in simple yet cost-efficient bundles by leveraging the UNE Platform, or UNE-P. Remi supplements the UNE's leased from Verizon with proprietary technology that enables Remi uniquely to configure and optimize the integration of telecommunications services, ensuring both least cost status as compared to other competitive local providers and product delivery innovations unachievable by other local telecommunications providers.

Remi's fundamental goal is to be the simplified, low cost, low risk alternative provider that was the vision and promise of the Telecommunications Act of 1996. Remi's flagship product is the "RemiPack," which is a voice service offering that comes in 3, 5, and 24 line packages. RemiPack includes digital telephone lines, thousands of local and long-distance minutes, and a variety of optional services. RemiPack 3 and 5 are designed for small business and can be expanded with incremental lines, and RemiPack 24 is designed for businesses that must sustain unexpected surges in call volumes, allowing a peak capacity of a full 24 lines of digital service.

Remi's Intelligent Bundle and the *ALERT (Allow Least Expensive RaTe)* billing method **automatically** provide businesses with cost-optimized local and long distance calling minutes. Remi's Intelligent Bundle optimizes the local and long distance minutes used by a business with multiple locations as it pools total plan minutes across all customer locations,

including home offices. With the Intelligent Bundle, even if the calling patterns of a business' locations change dramatically from month to month, the business is still assured of the most efficient use of its plan minutes, thereby maximizing the value of communications dollars spent. In short, Remi's proprietary software ensures that businesses are billed the lowest possible rate for service, based on how the consumer uses telephone service, rather than based on the plan a consumer happens to enroll in. By guaranteeing least-cost billing, businesses no longer need to administer or analyze a confusing array of bills. This type of consumer-friendly functionality simply is not offered by incumbents, such as Verizon.

Remi also offers its customers a variety of enhanced messaging services, including voicemail and faxmail. RemiMessenger can deliver voicemails to standard voicemail boxes, convert the message to ".wav" format and simultaneously email the message to the subscriber. RemiMessenger also can receive faxes, convert them into ".pdf" files, and automatically email them to a designated address. Moreover, RemiMessenger produces a true ".pdf" electronic file format that can be attached to any customer record, and added to any of the currently available database programs.

Finally, Remi offers its customers a smooth operating environment for mixed technologies, supporting newer customer premise equipment based upon voice-over-packet technology with an intelligent interface to the legacy public switched network through High-Capacity Primary Rate Interface ("PRI") interconnections. Businesses making telephone system buying decisions increasingly are considering the formidable benefits of purchasing Internet Protocol-based PBX systems because of their efficiency in using IP transport, where available, and conventional transport for interaction with subscribers on the Public Switched Telephone Network ("PSTN").

As one example, Remi has attached hereto as Exhibit A a product specification sheet from Inter-Tel, a manufacturer of advanced IP customer premises equipment. Deploying the functionality made possible by Inter-Tel is critically dependent on the ability of CLECs, such as Remi, to obtain digital UNE switching ports from the incumbents. These systems need intelligent signaling access to the PSTN in order to extend the features and functions of the system to those remote extensions resident on legacy networks. The most cost effective and feature-robust method of interconnection supported by such systems is achieved through the use of the PRI interface. Using the D or "Data" channel of our PRI interface enables Remi to provide Dialed Number Identification service ("DNIS"), Direct Inward Dialing service ("DID"), Off-Premise Extension ("OPX"), and a host of routing and addressing options to Remi customers using IP-based telephone systems. Far from being "systems of the future" these telephone systems are rapidly becoming "mainstream" among even the smallest business customer.

Although it is certainly possible for the incumbents to support these advanced systems, they have no incentive to do so for fear of "cannibalizing" existing high-cost enterprise services. Of course, these very incumbent-provided retail services are beyond the reach of many small businesses, and Remi's ability to obtain unbundled local switching PRI ports is vital to Remi's ability to bring innovative services to small and medium-sized businesses that would otherwise be unable to obtain these advanced communications functionalities.

### **III. COMPETITORS ARE IMPAIRED WITHOUT ACCESS TO UNBUNDLED LOCAL SWITCHING AND UNE-P COMBINATIONS FOR ANALOG AND DIGITAL SERVICES**

Fortunately for Remi, it operates at present exclusively in Pennsylvania, where the Pennsylvania Public Utility Commission ("PAPUC") has made both analog and digital UNE-P broadly available under its state statutory authority, as discussed further below. Nevertheless,

through CLEC to CLEC migrations, Remi has gained significant “hot cut” experience, and there can be no doubt that the existing manual processes associated with hot cuts create material impairment. Until such time as this material impairment is resolved, through an Electronic Loop Provisioning (“ELP”) process, the Commission simply must mandate the availability of unrestricted access to both analog and digital switching as a UNE, along with the other elements that make up the UNE-P.

**A. The Hot Cut Process Materially Impairs CLECs Seeking To Serve Business Customers**

The record in this proceeding demonstrates without question that CLECs are materially impaired without access to switching as a network element. As the Commission has noted above, key factors for any “impairment” analysis include the cost, timeliness, quality, ubiquity, and impact on network operations. For switching, this analysis involves comparing two alternatives: (1) leasing incumbent switching as a UNE and (2) utilizing non-incumbent switching sources, either through self-provisioning or leasing from a third party. The record demonstrates that CLECs are materially impaired without access to UNE switching under each of the impairment factors. As such, the Commission should require unrestricted access to unbundled switching for digital as well as analog services.

The incumbent’s local switch enjoys a number of legacy advantages due to its integration into the exchange network. These advantages include the ability to migrate customers between different providers through automated provisioning systems. In contrast, external switches (whether self-provisioned or obtained from a third party) require manual handcrafting of every connection – through both the collocation and hot cut processes. This

manual handcrafting that materially impairs CLECs providing digital and analog services in terms of (1) expense, (2) unreliability, and (3) inherent capacity constraints.

### 1. Expense

In terms of expense, in order to offer service to business customers without UNE switching, a CLEC would have to establish a collocation network with associated backhaul transport to a CLEC's switch. In addition to collocation/backhaul costs, the non-recurring charges associated with transferring a loop from the incumbent's main distribution frame to the CLEC collocation arrangement -- a hot cut -- is cost prohibitive. Indeed, the Commission on several occasions in 271 proceedings has seen the incumbent **voluntarily reduce** state-approved hot cut rates substantially **below** TELRIC. The reason the BOCs agree to such below-cost hot cut pricing is simple: the BOCs fully understand that the hot cut process is inherently flawed, and designed to fail.

### 2. Unreliability

The manual provisioning associated with a hot cut also often results in customer outages, service transfer delays, and other manual processing errors, which obviously are avoided in the UNE-P environment, or if the end user stays with the incumbent. The incumbents make no effort to rebut the plain fact that the hot cut process injects material unreliability into the provisioning process that in many cases continues to adversely affect the quality of the consumer's service long after the hot cut is complete.

Business consumers rightfully expect that changing local carriers will be as disruption free as changing long distance carriers. Through electronic provisioning available in the UNE-P environment, this is substantially the case. Through the hot cut process, consumer

disruption is the rule, not the exception. Consumers will not and should not stand for such disruption.

The unreliability of the hot cut process is well established, and in Remi's experience, migrating a multi-line business often takes over 30 days, which is simply unacceptable to consumers. Descriptions of two typical hot cut migrations are attached hereto as Tab A. At bottom, these descriptions demonstrate, in real terms, that the manual work associated with migrating customers from one carrier to another results in material impairment that will only be relieved when an automated, electronic migration process is implemented to move customers among carriers, similar to the PIC change process.

With the existing PIC change process, customers of virtually any size and service complexity can migrate from one long distance provider to another in an essentially seamless fashion. In contrast to the nearly seamless PIC change process, Remi has attached hereto as Tabs B and C a flow chart of the existing hot cut process and Verizon's "draft" procedures for hot cut migrations among carriers. Six years of hot cut experience has demonstrated this manual make-work is overly complex and destined to fail, and the attached "business rules" for carrying out these procedures further confirm the material impairment that is inherent in the existing manual processes.

### **3. Inherent Capacity Constraints**

The manual handcrafting approach that hot cuts require taxes for no good reasons numerous inherently-constrained resources. On the topside, there can be no doubt that the incumbents could not have hot cut the existing number of UNE-P lines presently in service. To do so, the incumbents would have had to increase their technician resources to provision hot cuts by approximately a factor of 10 times or more. Second, the incumbents would have had to

provision literally thousands of additional collocation arrangements throughout the country. The ILECs' questionable collocation provisioning performance aside, central office space is a scarce resource, and the ILECs have routinely experienced collocation "space exhaust."

Given the inherent operational expense, operational headaches, and customer disruption that the ILECs concede results from taking a customer and "disconnecting their presence from the switch" -- *i.e.*, the hot cut process -- one has to question the ILECs' motive for arguing in favor of such a Byzantine process.

**B. There Is No Adequate Substitute for Incumbent Local Switching**

As an alternative to switching as a UNE, the ILECs state that competitors should be required to self provision switches. However, as Z-Tel and other commenters have demonstrated, *even if the switch, start-up, collocation, and maintenance were free*, it would never be profitable to deploy a switch at the "true" hot cut cost of over \$185 found by the New York Commission, or even at the "discounted" rate of \$35 offered by Verizon as the result of a settlement with the New York Commission

In their comments, the ILECs do not meaningfully address the problems competitors would face as a result of the hot cut bottleneck in the absence of unbundled switching. Actually, the ILECs scarcely address hot cuts at all. Verizon's comments include just one paragraph on hot cuts.<sup>1</sup> BellSouth's comments less than a paragraph on hot cuts.<sup>2</sup> The fact remains that without access to ILEC switching, CLECs would be (and are) forced to engage in ridiculous, manual make work in order to access the local loop. Until the bottleneck between the

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<sup>1</sup> See Verizon Comments at 101-102.

<sup>2</sup> See BellSouth Comments at 83-84.

loop and the switch can be broken, CLECs simply must have unrestricted access to UNE switching.

#### **IV. ELECTRONIC LOOP PROVISIONING IS A NECESSARY PREREQUISITE TO ANY DISCUSSION OF ELIMINATING UNBUNDLED SWITCHING AS A UNE**

If the ILECs were to break the bottleneck between the loop and the switch using a fully mechanized, software-controlled process (“electronic loop provisioning” or “ELP”) -- similar to the PIC change process, then a CLEC would have the ability to self provision a switch in a way that more closely resembles the procedures used by the ILECs in provisioning their own customers and avoids the material impairment associated with the manual hot cut process.<sup>3</sup> By eliminating the service disruption and make work facets of the hot cut process, ELP would eliminate this insurmountable barrier of the current hot cut process for a CLEC attempting to deploy its own switch and purchase unbundled loops from the ILECs. Once an incumbent makes ELP available in a central office, then the relevant state commission could conduct an appropriately granular impairment analysis of whether a CLEC faces impairment without ongoing access to UNE switching.

For the moment, however, ELP is not available anywhere, and the hot cut problems described in detail in a number of filings in this proceeding is pervasive. Until this material and pervasive impairment is removed, the Commission cannot begin to consider a policy that would relieve the requirement for ILECs to provide unrestricted switching as a UNE.

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<sup>3</sup> See, e.g., Declaration of Irwin Gerzberg, Attachment C to the AT&T Comments.

## V. THE COMMISSION SHOULD DO NOTHING TO DISTURB EXISTING STATE UNBUNDLING DETERMINATIONS

Regardless of the national rules the Commission sets, the Commission should do nothing to disturb or disrupt the ability of a state commission to require unbundling under the Communications Act or under its organic state statute. This Commission simply lacks the tools needed to perform any fact-based granular analysis of market conditions existing within any state. Although the ILECs would prefer to have more granular analysis done by a more remote regulator, there can be no doubt whatsoever that state commissions are the best finders of fact for such determinations.

Specific to Remi's business, the PAPUC has determined that switching and the other elements that form the UNE Platform should be made available for all but the largest customers in the densest areas of the Commonwealth until December 31, 2003, at a minimum.<sup>4</sup> The PAPUC promulgated these rules under its "Chapter 30" alternative regulation authority, and the rules related to the UNE-P are closely associated with other PAPUC intrastate telecommunications policies, including such things as intrastate access charges, rate rebalancing, universal service, and broadband deployment. Other state commissions have promulgated similar rules under their state statutes, and this Commission should be very cautious of inadvertently disrupting complex state regulatory schemes related to the provision of intrastate telecommunications services.

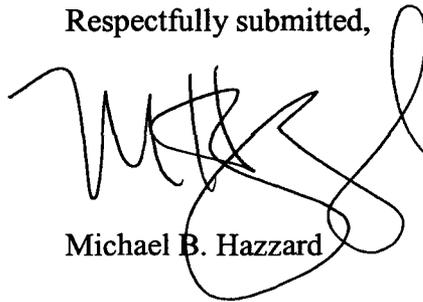
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<sup>4</sup> *Opinion and Order*, Docket Nos. P-00991648 and P-00991649, Pennsylvania Public Utility Commission, August 26, 1999, page 85. "Small business" is defined as any business with total billed revenues from local and intraLATA toll services at or below \$80,000.00 annually. The revenue restriction for UNE-P applies only to central offices in Density Zone 1.

## **VI. CONCLUSION**

Consistent with the foregoing, the Commission should require the ILECs to provide unrestricted switching as a UNE until such time as the hot cut bottleneck between the local loop and ILEC switch is eliminated through an electronic provisioning option such as ELP and an associated state commission impairment analysis is conducted. At a minimum, the Commission should take no action that could disrupt existing or future state commission unbundling regulations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael B. Hazzard", written over a printed name.

Michael B. Hazzard

Counsel to Remi Retail Communications, LLC

**TABA**

## **[XXXXXXXXXXXXXXXXXX]– LNP Migration from [XXXXXX] to Remi UNE-P**

Order to migrate 3 lines from [XXXXXX] (a facilities based CLEC) to Remi Communications (a Verizon UNE-P provider). Total of 3 lines with 2 in hunt.

724-836-[xxxx] TN and first line in hunt  
724-850-[xxxx] Second line in hunt  
724-836-[xxxx] Single line for fax machine

8-1-02 Received CSR from [XXXXXX] via fax  
8-14-02 Submitted LSR to [XXXXXX] via fax  
8-22-02 Submitted LSR (PON 724-850-[xxxx]-001 to Verizon via LSI  
8-23-02 LSR rejected – 724-850-[xxxx] billed under a different BTN

Several calls to [XXXXXX] to get correct TXNU and BTN numbers.

8-28-02 Resubmitted PON 724-850-[xxxx]-002 for TNs 724-836-[xxxx] and 724-836-[xxxx]. Also submitted RPON 724-850-[xxxx]-001 for TN 724-850-[xxxx]. Since the hunt group numbers are under 2 different BTNs, the hunting will have to be ordered later.

8-29-02 Received Local Service Confirmation from Verizon via LSI – due date of 9-4-02

9-4-02 Migration takes place. Verizon calls to say work is complete. Test call give ring-no-answer. Customer's place of business is closed.

9-5-02 Call from customer that they cannot receive any calls. They do have dial tone, but can call out. Opened trouble ticket # 0190037 with Verizon.

9-5-02 Received Provisioning Completion Notification from Verizon via LSI

9-6-02 Received Billing Completion Notification from Verizon via LSI

9-6-02 Tech dispatched to site. Determined to be a cable problem. Cable repair dispatched to site. Ticket closed at 1:53 PM as wrong assignments. Called RCMC and escalated problem to [XXXXXX]. Opened 3 new tickets:  
0217193 for 724-836-[xxxx]  
0218286 for 724-836-[xxxx]  
0217379 for 724-850-[xxxx]  
Determined that 724-850-[xxxx] was working like it should. [XXXX] left for the day and the ticket was given to [XXXX]. Now evening. [XXXX] kept trying to call the frame. Nobody answering phone. At 8:10 PM escalated to [XXXX] (804-340-[xxxx]) at RCMC. Determined that everyone had left the Greensburg CO and there were no rovers available (per [XXXX] at DI center). Had [XXXX] forward 724-836-[xxxx] to 724-850-[xxxx]. Customer can now receive calls.

- 9-7-02 Spoke to Joe at 8:30 AM. Tech #699 being dispatched to site. Group ticket #G07194 opened. Cables thrown, but did not resolve the problem. [XXXX] (tech) calls from site to inform us that 724-836-[xxxx] is fixed – wired to wrong binding post. Lunch time. Tech goes back to site and works with frame. Second (724-836-[xxxx]) line fixed about 4:00 PM – wrong cable pair in frame. Call forwarding removed. Tested with customer. All lines are working, but with no hunting.
- 9-10-02 Submitted LSR to Verizon via LSI to add hunting on PON 724-850-[xxxx]0-005 for TN 724-850-[xxxx] and RPON 724-850-[xxxx]-006 for TN 724-836-[xxxx].
- 9-11-02 Received Local Service Confirmation from Verizon via LSI – due date of 9-12-02
- 9-12-02 Received Provisioning Completion Notification from Verizon via LSI
- 9-13-02 Received Billing Completion Notification from Verizon via LSI
- LNP migration complete and working like it was prior to migration.

**[XXXXXXXXXX] BTN 412-856-[XXXX]**  
**33 Lines Migration LNP from Facilities Based CLEC to Platform**

<b>Date</b>	<b>Description</b>
8/07/02	First contact with [XXXXXXX] requesting CSR information
8/12/02	Received incomplete information from [XXXXXXX] after making several calls to them
8/13/02	Second request to [XXXXXXX] requesting complete CSR information including all circuit and listing information.
8/14/02	Sent LNP request to [XXXXXXX] for hotcut on 8/29/02
8/16/02	Received circuit numbers from [XXXXXXX]
8/22/02	Received confirmation from [XXXXXXX] for date due 8/29/02
8/22/02	Request submitted to Verizon was returned in query.
8/22/02-8/27/02	Numerous calls made to NMC regarding incorrect circuit id's given to us by [XXXXXXX]. This caused us many calls to [XXXXXXX] that were unanswered. Since [XXXXXXX] was not readily available to provide the correct information our date due of 8/29/02 was not going to be met by the NMC.
8/27/02-9/05/02	Multiple conversations with [XXXXXXX] and the NMC.
9/05/02	Confirmation received from NMC with a date due of 9/18/02 for 7:00 a.m.
9/10/02	Sent reminder email to [XXXXXXX] advising them of new date due from Verizon for 9/18/02.
9/11/02	[XXXXXXX] lost ability to receive calls. This was due to [XXXXXXX] completing information in their switches as if the end user was no longer with them. [XXXXXXX] had acted upon the first due date. The account was closed out on their end which caused this problem. It took multiple emails and many phone calls to get [XXXXXXX] back into service. If we had an escalation number for [XXXXXXX] this would have been easier to resolve. Many factors came into play on this migration. [XXXXXXX] requested sup be sent to advise on new date due. This was done.
9/17/02	Sent reminder email for date due 9/18/02 to [XXXXXXX].
9/17/02	Coordinated information with Verizon RCCC re: hotcut
9/18/02	RCCC advised cut was completed by 9:00 a.m. Test calls were made to all 33 numbers with some getting ring no aswer. This prompted additional calls to RCMC (repair) to have the lines tested. We were advised that [XXXXXXX] did not release all of the numbers from NPAC. We contacted [XXXXXXX] to confirm all had been released and were advised that this was completed.
9/19/02	Enduser still had problems with several lines. Contacted [XXXXXXX] to have all 33 numbers removed from translations.

9/19/02 Opened trouble ticket with RCMC. Techs closed out and said it was a [XXXXXX] issue.

9/20/02 Was on the phone with RCMC for 2 ½ hrs explaining all that had happened in the hotcut. Rep reluctant to listen at first then convinced her the information was complete and the techs that closed out on the job from Thursday, 9/19/02 did not fix the problem. Had a supervisor place temporary call forward to another line at [XXXXXX]. Rep was in touch with Frame and they found discrepancies in the assignments. Since we are unable to contact any internal departments everything has to be done through the RCMC. We put a high priority for one line and the remaining 8 lines will be dealt with after this is closed out. The tech called and together with RCMC, Frame and Assignments the line was up and working . We performed a test call and it went well. This all took about 4 ½ hrs. The tech suggested that the remaining 8 lines be placed on a group ticket so only one tech would receive all of them.

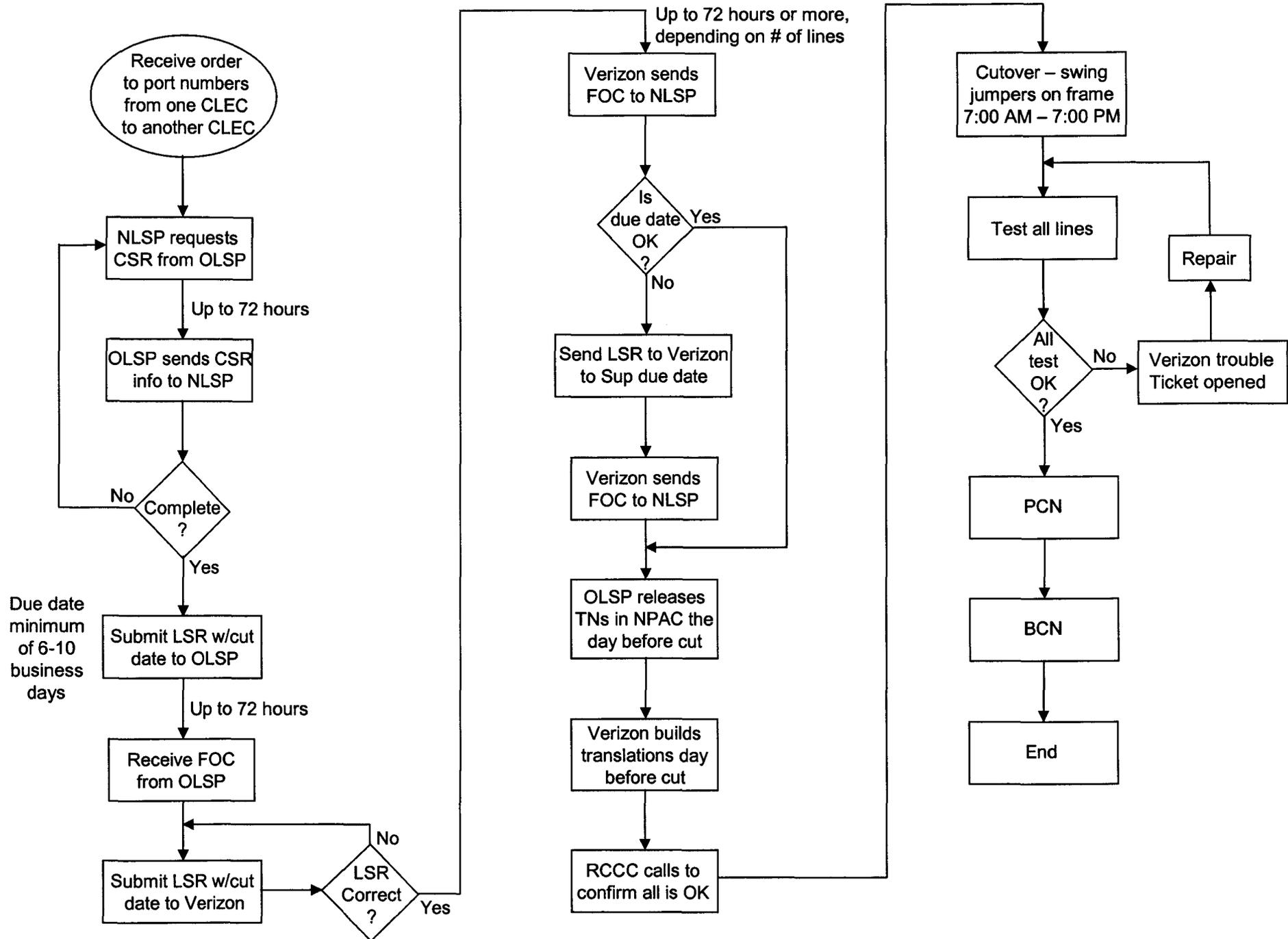
9/20/02 RCMC advised 8 individual tickets should be entered so the tech will have to sign off on each one. I requested the same tech be dispatched since he was familiar with the problem. Work should be completed by 6:00 pm tomorrow.

9/21/02 Called RCMC and was advised same tech dispatched and he will close out with Remi when all completed. Tech never called in but was advised by RCMC work completed. Left message at enduser that all should be okay now (4:00 p.m.).

9/23/02 Opened another trouble ticket on one line to make sure there was dialtone at the NID. 2 techs called me back. The original one from Saturday to explain all that he had done. He was also in contact with the new tech who said there was dialtone and it was an inside wiring issue. Enduser has been kept informed throughout this whole project and has been advised to have his phone vendor complete a review of his telephone system.

9/26/02 We are still waiting for the BCN from Verizon. This too, has taken multiple phone calls and has been referred to the NMC rep who issued the Verizon orders to send us the BCN.

**TAB B.**



**TABC**