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Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
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**Ex Parte: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers – CC Docket No. 01-338; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 - CC Docket No. 96-98; Deployment of Wireline Services Offering Advanced Telecommunications Capability – CC Docket No. 98-147**

Dear Ms. Dortch:

In this letter, Verizon responds to a number of recent *ex parte* submissions filed in this proceeding, and addresses several questions raised by the Commission staff regarding Verizon's ability to convert a customer's line to a CLEC's switch ("hot cut"). CompTel and the PACE coalition, along with other CLECs such as Z-Tel, AT&T, and WorldCom, argue that switching cannot be de-listed as a UNE until the hot cut "problem" is resolved.<sup>1</sup>

In reality, there is no "hot cut problem." Hot cut rates average approximately \$36 across Verizon's territory, far less than the excessive rates CLECs claim they face. Rates for hot cuts must be TELRIC-based, and CLECs routinely fight to assure that these charges are set at levels acceptable to them (even where the resulting rate is far below even TELRIC). The hot cut process itself was designed in close collaboration with the CLECs before state commissions and includes steps that CLECs specifically requested, including steps that verify that the CLEC has completed its own work necessary to complete the hot cut. Even with these added steps, Verizon's hot cut performance is consistently

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<sup>1</sup> See, e.g., *Ex Parte* Letter from CompTel/PACE Coalition to Marlene Dortch, FCC, CC Docket Nos. 01-338, 96-98 and 98-147 (filed Oct. 31, 2002). Many of these CLECs, most notably Z-Tel, are not facilities based providers, do not own any of their own switches and thus have no direct hot cut experience with Verizon.

exceptional and its on-time performance has remained exceptional even as hot cut volumes have increased.<sup>2</sup>

In short, the facts show that Verizon's hot cut process works and will continue to work even if hot cut volumes substantially increase. If UNE-P is eliminated, Verizon can successfully convert mass market arrangements on a negotiated, project-managed basis, just as it has done for business customers of carriers like Broadview and AT&T.

CLEC rhetoric aside, the facts demonstrate conclusively that neither the rates Verizon charges nor its hot cut performance are an "impairment" to a CLEC's ability to serve customers with its own facilities. The following is Verizon's response to the CLEC's specific claims of "impairment" as outlined in the CompTel/Pace letter and other *ex parte* filings.

**Price:** Although rates and rate structures vary from state to state,<sup>3</sup> the weighted average of hot cut rates across Verizon's territory is approximately \$36.<sup>4</sup> In states with the highest UNE-P volumes, hot cut rates are even lower. Approximately 80% of all UNE-P arrangements exist in states where the current hot cut rate is \$35 (a rate substantially less than Verizon's costs). These rates are far below the rates (up to \$200) some CLECs assert are the norm.<sup>5</sup>

CLECs' relentless focus on hot cut prices also overlooks a key marketplace fact. The availability of hot cuts permits CLECs to avoid the fixed, up-front costs associated with building out a loop (for example, approximately \$1,000 per loop in New York).<sup>6</sup> A CLEC with a new customer is not required to pay for the loop up front, but instead pays the much lower hot cut rate to connect the customer to the CLEC's switch. Local-facilities based telephone companies, including both ILECs and cable companies, are not spared such an expense. (For example, Cablevision has recently said that fixed costs for new telephony services will run \$150 per customer.) Nor are ILECs like Verizon spared costs when a CLEC customer switches from the CLEC back to Verizon. In these cases, ILECs must absorb the cost of transferring the customer's loop to Verizon's switch. Far from suffering an impairment, under these

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<sup>2</sup> In recent workshops sponsored by the NYPSC, no significant technical or operational issues in the hot cut process were identified. Although the NYPSC has instituted a proceeding to investigate any potential cost savings associated with a more streamlined bulk based hot cut process, its Order finds that the current hot cut process is working and no further examination is required. *See Proceeding to Examine the Process, and Related Costs of Performing Loop Migrations on a More Streamlined (e.g., Bulk) Basis*, Order Instituting Proceeding, Case 02-C-1425, (NYPSC Nov. 22, 2002).

<sup>3</sup> In some states, specific hot cut non-recurring charges have been established that apply to each line that is converted. In many others, only a service order charge is applied, which may not be reflective of the physical work associated with the process itself.

<sup>4</sup> \$36 is the average of hot cut rates in effect through November 2002 across Verizon's territory (East and West), weighted according to the number of hot cut conversions performed in each state.

<sup>5</sup> Although CLECs frequently claim that hot cut rates can approach \$200, in recent *ex partes*, AT&T has explicitly assumed a "median" hot cut rate of \$35 in its analyses of ILEC versus CLEC costs. *See, e.g., Ex Parte Letter from Joan Marsh, AT&T, to Marlene Dortch, FCC, CC Docket Nos. 01-338, 96-98 and 98-147* (filed Dec. 6, 2002).

<sup>6</sup> This figure represents the aggregate of the current value of each loop component, divided by the total number of access lines in New York, as of December 31, 1999. *See Verizon Exhibit 323, PART A-1, Section 5, Page 1 of 1, Proceeding on Motion of the Commission to Examine New York Telephone Company's Rates for Unbundled Network Elements, Case No. 98-C-1357* (NYPSC filed Nov. 30, 2000).

circumstances a CLEC actually enjoys a competitive advantage over a facilities-based provider like Verizon who must invest to build out these facilities to serve a new customer.

CLECs also argue that hot cut rates are an "impairment" because CLECs cannot pass along these costs to consumers. But the CLECs never explain why CLECs cannot, like Verizon, recover these costs from customers. Verizon typically charges its new local service customers non-recurring service activation fees to recover costs incurred to initiate services on existing loops. While CLECs may choose not to pass this cost through to customers by charging separate fees, there are no competitive reasons why it cannot do so, particularly when CLECs may amortize these costs over longer periods, just as Verizon does.

Verizon's rates are TELRIC-based, have been set by state commissions in proceedings where CLECs have been active and vocal participants, and have been repeatedly affirmed by the Commission in its section 271 proceedings, particularly in those states that contain the bulk of UNE-P demand. Hot cut rates do not amount to an impairment.

**Reliability:** Verizon is well equipped to handle the hot cut volumes CLECs allege they will offer in the future. As Verizon has repeatedly shown in this proceeding, Verizon's hot cut performance is exceptional and has remained exceptional even as the number of hot cuts has increased in key states in Verizon's territory. For example, between 2000 and 2001 hot cut volumes increased by 50 percent in Massachusetts (14,114 to 21,089), 40 percent in Pennsylvania (22,184 to 31,592), and more than 200 percent in New Jersey (3,918 to 11,845). In 2001, Verizon's on-time performance in those states was 98.41%, 97.56%, and 95.91%, respectively.<sup>7</sup>

Verizon's excellent hot cut performance is also reinforced by a variety of performance, maintenance and billing standards related to hot cuts established by state commissions. In states that have not adopted such measures, Verizon is subject to similar hot cut performance standards under the terms of the GTE/Bell Atlantic merger. For example, the following metrics generally apply to hot cut orders:

Ordering:	Timeliness of Order Confirmation (or Rejection)*# Timeliness of Completion Notification # Percent Flow Through # Percent Rejects # Order Accuracy # Timeliness of Order Acknowledgement (EDI) # Timeliness of OSS Trouble Resolution #
Provisioning:	Percent Completed Within 5 Days* Percent Facility Misses # Delay Days # Installation Quality (Percent Troubles within 7 days) On Time Performance Average Duration for Outages for Installation Troubles
Maintenance:	Network Trouble Report Rate ## Missed Appointments ## Mean Time to Repair ## Out of Service > 24 Hours ## Repeat Reports ##

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<sup>7</sup> Carrier-to-Carrier Guidelines, Performance Standards and Reports, Massachusetts, Pennsylvania, and New Jersey.

\* Would appropriately not apply on project-managed orders.  
# Hot cuts included with other services in performance measures.  
## Maintenance measures include all loops installed over many years, not specific to hot cut activity.

In a recent *ex parte*, Broadview incorrectly claimed that performance measures do not apply to hot cuts performed on a negotiated, project managed basis.<sup>8</sup> When a CLEC requests a bulk cut-over, Verizon negotiates and coordinates specific order submission dates and completion intervals with the CLEC. Since these aspects are negotiated in advance, some performance measures (such as order confirmation timeliness or the typical five-day interval) logically do not apply. But all other critical performance measures, such as installation measures, on-time performance, and all maintenance metrics, do apply. Thus, if Verizon agrees to convert a bulk amount of CLEC lines by a certain date, any lines that are missed are reported and used to derive penalties, as appropriate.

CLECs have criticized Verizon's hot cut performance by making vague, unsubstantiated claims of customer outages, service delays and other provisioning errors without providing any specific evidence that such problems exist. More fundamentally, the CLECs ignore the impact of their own performance on the hot cut process. Often the "errors" CLECs attribute to Verizon are in fact caused by CLECs' own poor performance. For example, one reason for delays in completing service orders are that CLECs often fail to initiate dial tone at the collocation arrangement.

Finally, it is disingenuous for the CLECs to claim that Verizon's hot cut process is flawed when CLECs themselves cooperated in developing it. The hot cut process was designed through collaborative proceedings with CLECs conducted under the auspices of state commissions. In fact, many of the steps in the hot cut process were specifically requested by CLECs, and are designed to ensure that the CLECs have properly completed the tasks that they must perform themselves to complete a hot cut successfully and are ready to proceed with the hot cut.<sup>9</sup>

**Timing:** Verizon's on-time performance has been well documented before this Commission and the states. Verizon is subject to a five-day provisioning interval in many states and consistently delivers on-time service. In 2002 to date, in New York, Massachusetts, Pennsylvania, and New Jersey, Verizon's on-time performance is 98.69%, 99.43%, 98.68%, and 97.96%, respectively.<sup>10</sup>

As Verizon explained in its October 28, 2002 *ex parte*, Verizon has also significantly improved its already effective hot cut procedures. For example, Verizon has implemented a Wholesale Provisioning Tracking System ("WPTS"), which allows CLECs to manage their hot cut workload without the need to directly call Verizon's Provisioning Centers. WPTS is a web-based system that provides the CLEC with

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<sup>8</sup> *Ex Parte* Letter from Broadview Networks to Marlene Dortch, FCC, CC Docket Nos. 01-338, 98-98 and 98-147 at 6 (filed Oct. 16, 2002).

<sup>9</sup> As Verizon noted in its Reply Comments (at 111), many of the steps the CLECs insisted on in the collaboratives increase the complication (and thereby the cost) of hot cuts unnecessarily: "The level of our performance is particularly telling because the procedures governing coordinated hot cuts are more complex than necessary, typically at the insistence of the long distance carriers in the collaborative proceedings in which those procedures were designed. Specifically, the coordinated hot cut process requires a cutover within a narrow window and includes various check points during the process to provide verification of activities. There is no reason that loop cutovers could not be handled in a less intrusive manner."

<sup>10</sup> Carrier-to-Carrier Guidelines, Performance Standards and Reports, New York, Massachusetts, Pennsylvania, and New Jersey.

the ability to check the current status of service orders, allows easy identification/resolution of problem orders, and allows web-based communications between the CLEC, provisioning centers and central office technicians. In 2002, a significant number of all potential hot cut orders could have been handled via this system if CLECs had selected this method.

CompTel/PACE have suggested that the Commission establish a national interval of 2-3 days, without providing any support as to why such a timetable is necessary or workable. Verizon's standard 5-day interval was developed in conjunction with the CLECs in the New York collaborative and has been applied throughout Verizon's territories. Furthermore, shortening this period from 5 to 2-3 days would require CLECs to adjust their own provisioning processes to meet this schedule – a feat that no CLEC has demonstrated it can achieve.

CLECs' attempts to blame Verizon for service delays (up to 25 days according to CompTel/PACE) are without merit and should be rejected out of hand. If CLECs are indeed experiencing long delays, Verizon is not responsible for them.

**Scalability:** Verizon has also demonstrated repeatedly that it can successfully cut over the embedded base of UNE-P served customers on a project-managed basis. Verizon routinely handles large volumes of cut-overs in this manner, using a team of dedicated technicians performing bulk cut-overs by wire center. Under this approach, Verizon and the CLEC negotiate the specifics of the cut-overs, including provisioning specifics and intervals. Verizon works with the CLEC in advance of the order submission to determine a period of time in which the hot cuts can be performed. Typically, the CLEC notifies Verizon 17 days in advance to negotiate details of the project and submits its actual orders 15 business days prior to the actual cut date. Order details are processed and sent to the central office frame personnel seven days before the completion date. Dial tone checks are made two days prior to the cut-over and CLECs are notified of any discrepancies that may exist and the opportunity to address them. Scheduled hot cuts are then completed before the due date.<sup>11</sup>

CLECs have acknowledged that Verizon can convert large volumes of lines effectively under such an approach. Broadview has cited Verizon's process as an example of how large numbers of CLEC lines can be successfully managed on a project basis. AT&T has also acknowledged that in the business context, "the project-managed migrations that occurred after acquiring an appropriate volume of customers via UNE-P have not resulted in significant service outages and other delays."<sup>12</sup> Although AT&T claims – utterly without support – that this same process will not work for residential customers, it is incorrect.<sup>13</sup> The project-managed conversion process is identical for business and residential customers and will be just as effective for the mass market as for business customers. Indeed, AT&T's own expert has extolled the virtues of Verizon's performance in New York:

"AT&T's ability to gain and keep small business customers made a significant turnaround in 2001. Recent results indicate that AT&T was able to provision more than five times the lines with a customer service interruption rate that was an order of magnitude less. Most important, AT&T was able to provision its service at a level that approaches the higher level of consistency customers have demanded. For example, in New York, AT&T, through its contractor, migrated an appreciable number of lines from the ILEC's switch to UNE-L on a bulk conversion basis. This

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<sup>11</sup> Similar dedicated team approaches have been effective during entire switch replacements, which require the cut-over of tens of thousands of customers.

<sup>12</sup> Comments of AT&T at 208, 221 (filed Apr. 5, 2002) (acknowledging that non-DLC, UNE-P loops can be cut over on a project-managed basis with an outage rate of less than one percent).

<sup>13</sup> *Ex Parte* Letter from Leonard J. Cali, AT&T, to Marlene Dortch, FCC, CC Docket Nos. 96-98, 98-147, 01-321, 01-318 (filed Apr. 19, 2002).

process, which used prescreening to identify impaired loops and prevent them from being included in a bulk cutover, generated an on-time delivery of loops in excess of 99%. And even more critically, substantially less than 1% of the conversions experienced loss of dial tone.”<sup>14</sup>

Some parties have asserted that Verizon would never be able to handle potential hot cut volumes that would result from elimination of the UNE-P, either the embedded base or new orders for UNE loops. For example, the New York Commission claims that in order to convert the entire base of UNE-P lines in New York to UNE loops Verizon would have to improve its hot cut efficiency by 4400 percent and would take eleven years to complete.<sup>15</sup> It is not clear how the NYPSC came up with this 4400 percent figure or what parameters it used to assume volume and time frames for the transition. But it appears that the NYPSC, and others that have made similar claims, have ignored this bulk cut process and assume that all of the embedded base of UNE-P lines would convert to UNE loops using the current individual line hot cut process.

The Commission should reject these speculative arguments. If the Commission eliminates the UNE-P, Verizon can efficiently manage the conversion of the anticipated hot cut volumes associated with the embedded base with a negotiated, project-managed cutover schedule. Verizon has proposed a transition plan for residential UNE-P lines in which the current rates for UNE-P would gradually rise to the level of resale rates over a one-year period. See Letter from William P. Barr to Chairman Powell dated October 16, 2002. Assuming that not all lines would convert to UNE loop arrangements, Verizon will work with the CLECs to convert their lines during this transition period on a project-managed basis, just as it has done successfully with carriers such as Broadview and AT&T. To the extent that conversion of a portion of a CLEC's UNE-P base takes some time, such as the full year, CLECs would not be harmed because Verizon would continue to charge the lower UNE-P rate until the conversion is completed.

Verizon can also manage future increases in UNE loop volumes that may result from the elimination of UNE-P. Verizon has continued to maintain high performance levels in several states in which hot cut volumes rose dramatically. If CLEC demand increases substantially, Verizon will continue to do so. Indeed, Verizon has every incentive to improve its already strong performance because it will still be subject to the current set of performance metrics and will face possible financial penalties if it fails to satisfy those measures.

And, to the extent that CLEC hot cut volumes increase overall, Verizon will adjust its daily objectives accordingly. In its October 16, 2002 *ex parte*, Broadview claimed (at 6) that Verizon is able to perform only 125 hot cuts per day per central office. Its claims are misplaced. Verizon currently has an internal operational guideline that governs the number of hot cuts it will generally perform per central office. That guideline is presently 150 hot cuts per central office. That guideline was calibrated at current demand levels, and generally is more than adequate to accommodate customers' requirements. However, Verizon applies this guideline flexibly and has converted more than 150 hot cuts where necessary. (Verizon has converted more than 150 lines for Broadview on some occasions.) And, because the guideline was calibrated to meet current demand levels, it can be revisited if demand increases.

The evidence in this proceeding demonstrates without question that the hot cut process works and can continue to work regardless of how hot cut volumes may increase. The hot cut process does not impair CLECs and does not provide a justification for retaining unbundled circuit switching and the UNE-P.

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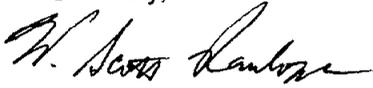
<sup>14</sup> Declaration of John Sczepanski, ¶ 14, Comments of AT&T, CC Docket Nos. 01-318, 98-56, 98-147 (filed Jan. 22, 2002).

<sup>15</sup> Comments of the New York State Department of Public Service, Review of the Section 251 Unbundling Obligations of ILECS, CC Docket Nos. 01-331, 98-56, 98-147 at 4, n.18 (filed Apr. 4, 2002).

Ms. Marlene H. Dortch  
December 23, 2002  
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Please associate this notification with the record in the proceedings indicated above. If you have any questions regarding this matter, please call me at (202) 515-2530.

Sincerely,

A handwritten signature in cursive script, appearing to read "W. Scott Randolph".

W. Scott Randolph

cc: William Maher  
Michelle Carey  
Tom Navin  
Rob Tanner  
Jeremy Miller  
Claudia Pabo  
Jon Reel  
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