

KELLOGG, HUBER, HANSEN, TODD & EVANS, P.L.L.C.

SUMNER SQUARE  
1615 M STREET, N.W.  
SUITE 400  
WASHINGTON, D.C. 20036-3209

(202) 326-7900

FACSIMILE:  
(202) 326-7999

RECEIVED

JAN 31 2003

January 31, 2003

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Marlene H. Dortch  
Secretary  
Office of the Secretary  
Federal Communications Commission  
Room TW-B-204  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

**REDACTED -  
For Public Inspection**

Re: Application by Verizon Maryland Inc., Verizon Washington, D.C. Inc., Verizon West Virginia Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Maryland, Washington, D.C., and West Virginia, WC Docket 02-384

Dear Ms. Dortch:

This is the cover letter for the Reply Comments for the Application by Verizon Maryland Inc., Verizon Washington, D.C. Inc., Verizon West Virginia Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Maryland, Washington, D.C., and West Virginia ("Reply Comments").

These Reply Comments contain confidential information. We are filing confidential and redacted versions of the Reply Comments.

1. The Reply Comments consist of (a) a stand-alone document entitled "Reply Comments of Verizon Maryland, Verizon Washington, D.C., and Verizon West Virginia," and (b) two Reply Appendices containing supporting material.

2. Specifically, we are herewith submitting for filing:

- a. *One original of only the portions of the Reply Comments that contain confidential information (including selected portions on CD-ROM);*
- b. One original of the redacted Reply Comments;
- c. Four copies of the redacted Reply Comments; and
- d. Five copies the redacted Reply Comments on CD-ROM.

3. We are also tendering to you certain copies of this letter and of portions of the Reply Comments for date-stamping purposes. Please date-stamp and return these materials.

4. Under separate cover, we are submitting copies (redacted as appropriate) of the Reply Comments to Ms. Janice Myles, Policy and Program Planning Division, Wireline Competition Bureau, Federal Communications Commission, Room 5-C-327, 455 12th Street, S.W., Washington, D.C. 20544. We are also submitting copies (redacted as appropriate) to the Department of Justice, to the Public Service Commission of Maryland, the Public Service Commission of the District of Columbia, the Public Service Commission of West Virginia, and to Qualex (the Commission's copy contractor).

Thank you for your assistance in this matter. If you have any questions, please call me at 202-326-7930 or Steven McPherson at 703-351-3083.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Evan T. Leo', with a stylized flourish extending to the right.

Evan T. Leo

Encs.

RECEIVED

JAN 31 2003

Before the  
Federal Communications Commission  
Washington, D.C. 20554

Federal Communications Commission  
Office of Secretary

In the Matter of )  
)  
Application by Verizon Maryland Inc., )  
Verizon Washington, D.C. Inc., Verizon )  
West Virginia Inc., Bell Atlantic ) WC Docket No. 02-384  
Communications, Inc. (d/b/a Verizon )  
Long Distance), NYNEX Long )  
Distance Company (d/b/a Verizon )  
Enterprise Solutions), Verizon Global )  
Networks Inc., and Verizon Select )  
Services Inc., for Authorization To )  
Provide In-Region, InterLATA Services )  
in Maryland, Washington, D.C., and )  
West Virginia )

REPLY COMMENTS OF VERIZON MARYLAND, VERIZON WASHINGTON, D.C.,  
AND VERIZON WEST VIRGINIA

Evan T. Leo  
Scott H. Angstreich  
Kellogg, Huber, Hansen, Todd &  
Evans, P.L.L.C.  
1615 M Street, N.W., Suite 400  
Washington, D.C. 20036  
(202) 326-7900

James G. Pachulski  
TechNet Law Group, P.C.  
1100 New York Avenue, N.W., Suite 365  
Washington, D.C. 20005  
(202) 589-0120

Samir C. Jain  
Lynn R. Charytan  
Wilmer, Cutler & Pickering  
2445 M Street, N.W.  
Washington, D.C. 20037  
(202) 663-6380

Michael E. Glover  
Karen Zacharia  
Leslie V. Owsley  
Donna M. Epps  
Joseph DiBella  
Verizon  
1515 North Court House Road, Suite 500  
Arlington, Virginia 22201  
(703) 351-3860

David A. Hill  
Verizon Maryland Inc.  
1 East Pratt Street, 8E  
Baltimore, Maryland 21202  
(410) 393-7725

Lydia R. Pulley  
Verizon West Virginia Inc.  
1500 MacCorkle Avenue, S.E.  
Charleston, West Virginia 25314  
(804) 772-1547

David A. Hill  
Verizon Washington, D.C. Inc.  
1710 H Street, N.W., 11th Floor  
Washington, D.C. 20006  
(202) 392-5296

January 31, 2003

## TABLE OF CONTENTS

INTRODUCTION AND SUMMARY .....	1
ARGUMENT .....	3
I. VERIZON SATISFIES THE REQUIREMENTS OF SECTION 271(c)(1)(A). .....	5
II. VERIZON SATISFIES THE REQUIREMENTS OF THE COMPETITIVE CHECKLIST.....	5
A. Pricing Issues. ....	6
B. Non-Pricing Issues. ....	21
1. White Pages Directory Listings. ....	21
2. Interconnection. ....	25
3. Unbundled Network Elements. ....	31
4. Signaling. ....	37
5. Number Portability.....	38
6. Local Dialing Parity.....	39
7. Reciprocal Compensation. ....	41
8. Resale.....	43
9. Operations Support Systems. ....	46
III. VERIZON SATISFIES THE PUBLIC-INTEREST TEST.....	51
CONCLUSION.....	55

### *Glossary of 271 Orders*

## APPENDICES

### Reply Appendix A: Reply Declarations

Tab A — Reply Declaration of Paul A. Lacouture and Virginia P. Ruesterholz  
(Competitive Checklist — Maryland, Washington, D.C., and West Virginia)

Tab B — Joint Reply Declaration of Kathleen McLean and Catherine T. Webster  
(Operations Support Systems — Maryland, Washington, D.C., and West Virginia)

Tab C — Joint Reply Declaration of William R. Roberts, Marie C. Johns,  
Gale Y. Given, Patrick A. Garzillo, Marsha S. Prosini, and Gary E. Sanford  
("Pricing Reply Declaration")  
(Pricing — Maryland, Washington, D.C., and West Virginia)

Reply Appendix B: Additional Supporting Material (including Carrier-to-Carrier Reports,  
Trend Reports, and Summary Measurement Reports)

## INTRODUCTION AND SUMMARY

This Application presents a clear-cut case for long distance approval. In Maryland, Washington, D.C., and West Virginia, Verizon has taken the same extensive steps to open its local markets as it has taken in eleven other Verizon states — which contain nearly 90 percent of Verizon's access lines — where the Commission has found that Verizon satisfies all the requirements of the 1996 Act. Indeed, the processes, procedures, and systems used in Maryland, the District, and West Virginia are in virtually all respects identical to those used in Virginia, where just three months ago the Commission found that Verizon satisfied the Act. And Verizon's performance in providing access to the checklist items in each of those jurisdictions has been, and continues to be, excellent across the board.

The comments in this proceeding do not seriously dispute any aspect of this showing. In fact, they raise only two issues of any significance. First, some commenters complain that, at the time Verizon filed its Application, the District of Columbia PSC had not yet approved the rates that Verizon had proposed to offer in the interim while a stay of the PSC's recent UNE decision is in effect. As these comments fail to mention, however, Verizon made these new rates available to CLECs before it filed its Application, the rates were included with and explained in the Application itself, and the circumstances under which these rates would apply also were described in the Application. In any event, the District of Columbia PSC has now approved an interconnection agreement containing Verizon's proposed rates, and those rates are available to all CLECs in the District that request them. Consistent with the Commission's past precedent, therefore, it is fully appropriate to consider these rates in this proceeding. Moreover, because these rates unquestionably benchmark to the rates recently adopted in New York, there can be no question that they are TELRIC-compliant.

Second, based solely on a patently false allegation by AT&T, the DOJ expresses concern that Verizon has somehow changed its processes for reviewing directory listings since the time of the Virginia section 271 proceeding and that the DOJ has been “unable at this point to gauge the effectiveness of recent changes.” DOJ Eval. at 11. But there have been no “recent changes” to the directory listings processes; all of the processes that were in place at the time of the Virginia application remain in place both in Virginia and in the three jurisdictions at issue here. Moreover, as was the case at the time of the Virginia proceeding, the number of errors identified by CLECs in their directory listings prior to publication is small, demonstrating that Verizon’s processes and procedures are effective in producing accurate directories.

Apart from these two issues, the comments generally rehash arguments that both this Commission and the public service commissions in Maryland, the District, and West Virginia have already rejected. For the most part, the CLECs either seek to modify Verizon’s checklist offerings in ways that go beyond the requirements of the Act or raise issues that the Commission repeatedly has held should be addressed in other proceedings.

Moreover, no commenter disputes that Verizon’s entry into the long distance business in its 271-approved states has produced significant benefits for consumers through increased local and long distance competition. Consumers in Maryland, the District, and West Virginia are now entitled to the same benefits.

For all these reasons, the Commission should grant this Application.

## ARGUMENT

Verizon demonstrated in its Application that, in Maryland, the District, and West Virginia, it is providing access to each of the 14 checklist items in substantially the same manner, and using the same systems and processes, as in other states where the Commission has found that Verizon satisfies the 1996 Act in all respects. Verizon also demonstrated that its performance in all three jurisdictions is excellent across the board. As explained below, this continues to be true in the two most recent months for which data are available (November and December 2002).

The public service commissions in Maryland, the District, and West Virginia have confirmed that Verizon satisfies the checklist following their own exhaustive reviews, and those determinations are entitled to deference under this Commission's well-settled precedent. See, e.g., New York Order ¶ 51; Texas Order ¶ 4.

The Maryland PSC, as Verizon explained in its Application, has previously concluded "that Verizon Maryland Inc. ("Verizon") is technically in compliance with the §271 checklist." See Letter from Felecia L. Greer, Maryland PSC, to William R. Roberts, Verizon, at 1 (Dec. 17, 2002) ("Maryland PSC December 17th Letter") (App. Q-MD, Tab 30). That determination was based on lengthy proceedings that included extensive written testimony, numerous data requests, and many days of evidentiary hearings. See Application, App. B-MD & App. C-MD.

The District of Columbia PSC has "undertaken a thorough and comprehensive examination of Verizon DC's compliance with the requirements under Section 271," which "included an opportunity for all interested parties to participate, to file comments and testimony, to cross-examine all witnesses, and to file post-hearing briefs." DC PSC Report at 2. Based on this review, the PSC has filed an extensive 93-page consultative report with this Commission in

which it “finds that Verizon DC generally has met the checklist conditions set forth in Section 271(c)(2)(B).” Id.

The West Virginia PSC has likewise conducted exhaustive proceedings to evaluate Verizon’s compliance with section 271, which followed “all of the steps that the FCC requires in order for the FCC to accord [it] ‘substantial weight,’” including “a series of workshops and evidentiary hearings, and deliberating upon the evidence produced.” WV PSC Report at 1, 3. Based on this investigation, the PSC has filed an extensive 140-page consultative report with this Commission in which it concludes that it “will recommend to the FCC that Verizon WV has complied with the provisions of Section 271(c).” Id. at 105.

Finally, the DOJ also concludes that “Verizon has generally succeeded in opening its local markets in Maryland, Washington, D.C., and West Virginia” to competition. DOJ Eval. at 2. The DOJ finds that “the systems and processes serving competitors in Maryland, Washington, D.C., and West Virginia are largely the same as those at issue and approved in the Virginia proceedings,” and that they are “sufficient to support competitive entry.” Id. at 8. Accordingly, “subject to the FCC’s satisfying itself” as to a single pricing issue regarding the rates in the District and two narrow non-pricing issues on which the DOJ expresses no opinion, the DOJ “recommends approval of Verizon’s application for Section 271 authority in these three jurisdictions.” Id. at 12.<sup>1</sup>

As demonstrated below, the conclusions of the Maryland PSC, the District of Columbia PSC, the West Virginia PSC, and the DOJ are correct, and Verizon’s Application should be granted.

---

<sup>1</sup> The DOJ explains that, “[a]s it has previously, the Department defers to the Commission’s ultimate determination of whether the UNE rates in effect in the District of Columbia are appropriately cost-based.” DOJ Eval. at 11.

**I. VERIZON SATISFIES THE REQUIREMENTS OF SECTION 271(c)(1)(A).**

Verizon demonstrated in its Application that, both individually and collectively, competitors in Maryland, the District, and West Virginia are providing service predominantly over their own facilities to both business and residential subscribers, and that Track A is therefore met in all three jurisdictions. See Application at 5-9. No party takes issue with any of these facts.<sup>2</sup>

Z-Tel nonetheless argues (at 1-3) that Verizon's Application for West Virginia should be rejected because Verizon has included in its Track A showing for that state evidence of competitors providing service using unbundled network platforms, even though that entry vehicle is currently under review in the Triennial Review proceeding. Z-Tel neglects to mention, however, that Verizon's Track A showing for West Virginia included at least one carrier (StratusWave) that individually satisfies Track A and that does *not* provide service using the UNE platform. See Application at 9. Thus, regardless of the determination that the Commission makes regarding the fate of the UNE platform in the Triennial Review proceeding, that decision will not undermine Verizon's showing that it satisfies Track A in West Virginia (or in any other state).

**II. VERIZON SATISFIES THE REQUIREMENTS OF THE COMPETITIVE CHECKLIST.**

Verizon demonstrated in its Application that its checklist offerings in Maryland, the District, and West Virginia, as well as the processes and procedures used to provide them, are the same as those in other Verizon states that this Commission previously has found satisfy the requirements of the 1996 Act in all respects. See Application at 12; Lacouture/Ruesterholz MD

---

<sup>2</sup> Both the District of Columbia PSC and the West Virginia PSC have concluded that Verizon satisfies Track A in their respective jurisdictions, see DC PSC Report at 9; WV PSC Report at 104, but the Maryland PSC has not reached any conclusions regarding this issue.

Decl. ¶¶ 12, 38, 151, 186, 203, 254, 341; Lacouture/Ruesterholz DC Decl. ¶¶ 12, 35, 78, 144, 177, 194, 243, 330; Lacouture/Ruesterholz WV Decl. ¶¶ 12, 36, 79, 142, 174, 190, 239, 330; McLean/ Webster Decl. ¶ 13. Similarly, the access that Verizon provides to its operations support systems in all three jurisdictions, and the underlying systems themselves, are identical to those in Virginia that this Commission approved just three months ago. See McLean/Webster Decl. ¶ 8.

Verizon also demonstrated in its Application that its performance in all three jurisdictions is excellent across the board, and this continues to be the case. For example, in November and December 2002 — the two most recent months for which data are available — Verizon provided on time for competing carriers in all three jurisdictions nearly 100 percent of their interconnection trunks and collocation arrangements, approximately 98 percent or more of their stand-alone voice-grade loop orders, and approximately 97 percent or more of their hot-cut loop orders. See Lacouture/Ruesterholz Reply Decl. ¶¶ 4-6, 23-25, 134-136, 146-148.

A few commenters nonetheless take issue with certain aspects of Verizon's checklist compliance. These comments, however, generally rehash claims made and rejected during the state proceedings or in previous section 271 proceedings before this Commission. Both the public service commissions in Maryland, the District, and West Virginia and this Commission have previously held that these arguments do not affect Verizon's compliance with the checklist, and the comments fail to provide any sound reason for taking a different approach here.

**A. Pricing Issues.**

Verizon demonstrated in its Application that it is charging UNE rates in Maryland, the District, and West Virginia that comply with the Act and this Commission's prior orders. The comments in this proceeding fail to prove otherwise.

District of Columbia UNE Rates. At the time Verizon filed its Application, the District of Columbia PSC had just recently issued an order establishing PSC-set UNE rates for the first time. See Johns/Garzillo/Prosini Decl. ¶ 25; Opinion and Order, Order No. 12610, Formal Case No. 962, Implementation of the District of Columbia Telecommunications Act of 1996 and Implementation of the Telecommunications Act of 1996 (DC PSC Dec. 6, 2002) (“DC UNE Order”) (Application App. C-DC, Tab 83). As Verizon has explained, the PSC’s order misconstrued this Commission’s pricing methodology in a number of critical respects, and, as a result, the rates that it adopted were substantially below the range that any reasonable application of TELRIC principles would produce. See Johns/Garzillo/Prosini Decl. ¶¶ 25-26. Verizon also explained in its Application that it was going to petition the PSC to reconsider its decision, and that the petition would trigger a stay of the PSC’s new rates. See id. ¶ 27; Verizon Washington, DC Inc.’s Application for Partial Reconsideration and Clarification of Order No. 12610, Implementation of the District of Columbia Telecommunications Competition Act of 1996 and Implementation of the Telecommunications Act of 1996, Formal Case No. 962 (DC PSC filed Jan. 3, 2003), attached to Ex Parte Letter from Ann Berkowitz, Verizon, to Marlene Dortch, FCC, WC Docket No. 02-384 (FCC filed Jan. 7, 2003). Pursuant to District of Columbia law, that stay is now in effect and will remain in effect until the PSC issues a final decision on Verizon’s petition. See Johns/Garzillo/Prosini Decl. ¶ 27; D.C. Code Ann. § 34-604(b) (2001); DC PSC Report at 27.

Under District of Columbia law, once the stay of its new UNE decision took effect, the rates that would ordinarily apply are the initial rates that the District of Columbia PSC established in 1996 based on the proxy rates that this Commission established. See Johns/Garzillo/Prosini Decl. ¶ 27. Even though those proxy rates were “designed to

approximate” TELRIC rates, Verizon explained in its Application that it would offer CLECs new rates that were, in many cases, lower than the proxy rates. See id.; Application at 57. In particular, Verizon proposed to provide unbundled network elements in the District at rates that were the lower of (1) the proxy rate in effect in the District prior to the release of the DC UNE Order, or (2) the New York equivalent rate, adjusted where possible to reflect relative costs in New York and the District, as predicted by the Commission’s USF Cost Model. See Johns/Garzillo/Prosini Decl. ¶ 27. Verizon made this commitment to CLECs in an industry letter, which this Commission has previously held is sufficient to demonstrate a legally binding commitment. See, e.g., Virginia Order ¶¶ 15-16; Massachusetts Order ¶¶ 175-181. Verizon also included those rates in its Application where it explained them thoroughly, including demonstrating that they passed the Commission’s benchmark test when compared to the New York rates. See Johns/Garzillo/Prosini Decl. ¶¶ 30-47; Application at 55-57.

The District of Columbia PSC subsequently issued an order requiring Verizon to submit any rate reductions to the PSC for approval and to include those reductions in the form of an amendment to interconnection agreements. See Order, Order No. 12626, Formal Case No. 962 (D.C. PSC Jan. 6, 2003), attached to Ex Parte Letter from Ann Berkowitz, Verizon, to Marlene Dortch, FCC, WC Docket No. 02-384 (FCC filed Jan. 8, 2003). On January 9, 2003, Verizon filed with the District of Columbia PSC an amendment to the interconnection agreement of one CLEC in the District (PaeTec) that contained the New York equivalent rates. See Letter from Natalie Ludaway, Leftwich & Douglas, to Sanford Speight, District of Columbia PSC, Formal Case No. TIA 99-10 (D.C. PSC filed Jan. 9, 2003) (attaching amendment to Verizon-PaeTec interconnection agreement), attached to Ex Parte Letter from Ann Berkowitz, Verizon, to Marlene Dortch, FCC, WC Docket No. 02-384 (FCC filed Jan. 10, 2003); Pricing Reply Decl.

¶ 51. On January 24, 2003, the District of Columbia PSC approved the amendment to the Verizon-PaeTec interconnection agreement. See Order Approving Amended Interconnection Agreement, Order No. 12641, Formal Case No. TIA 99-10 (D.C. PSC Jan. 24, 2003), attached to Ex Parte Letter from Ann Berkowitz, Verizon, to Marlene Dortch, FCC, WC Docket No. 02-384 (FCC filed Jan. 24, 2003). Verizon also is offering the same terms included in that approved amendment to all CLECs operating in the District of Columbia. See Pricing Reply Decl. ¶ 52 & Att. 7.<sup>3</sup> As a result, there is a full suite of UNE rates in effect in the District that benchmark to the rates recently adopted in New York and that accordingly satisfy the requirements of the Act pursuant to this Commission's well-settled precedent.<sup>4</sup> These rates are available to all CLECs in the District effective as of December 6, 2002, which is before the time that Verizon filed its Application. See Pricing Reply Decl. ¶ 52 & Att. 7.

As Verizon has recently explained in detail, there is no complete-as-filed issue here. See Ex Parte Letter from Ann Berkowitz, Verizon, to Marlene Dortch, FCC, WC Docket No. 02-384

---

<sup>3</sup> AT&T and WorldCom rejected Verizon's offer of the New York equivalent rates, despite the fact that they use those same rates to compete in a number of Verizon states and have repeatedly argued that New York should be the gold standard for other states to follow. See Ex Parte Letter from Ann Berkowitz, Verizon, to Marlene Dortch, FCC, WC Docket No. 02-384 (FCC filed Jan. 23, 2003), attaching Letter from Chana Wilkerson, WorldCom, to Sanford Speight, District of Columbia PSC (D.C. PSC filed Jan. 14, 2003) (rejecting Verizon's offer) and Letter from Mark Keffer, AT&T, to John Peterson, Verizon (Jan. 13, 2003) (same). The fact that these carriers have rejected Verizon's offer is, of course, irrelevant to whether Verizon satisfies the Act, which requires only that Verizon offer TELRIC-compliant rates to all CLECs, not that CLECs actually avail themselves of those rates. See, e.g., Virginia Order ¶ 173 (holding that Verizon satisfies the Act where it offers checklist-compliant terms in at least one approved interconnection agreement, so long as the same terms are available to all CLECs, regardless of whether all CLECs avail themselves of the offer).

<sup>4</sup> See Virginia Order ¶ 92 (holding that, in determining whether rates comply with TELRIC, it is appropriate to consider rates that have previously been found to be based on TELRIC principles, and that it is appropriate in this context to use the rates recently adopted in New York as a benchmark for Verizon states); New Hampshire/Delaware Order ¶¶ 34, 79 (same); Rhode Island Order ¶ 53 (same); Maine Order ¶ 32 (same); New Jersey Order ¶ 50 (same); Pricing Reply Decl. ¶ 53.

(FCC filed Jan. 28, 2003) ("Complete-as-Filed Ex Parte"). As noted above, at the time Verizon filed its Application, it had already sent an industry letter to CLECs making an offer to amend their existing interconnection agreements to include the New York equivalent rates during the period while a stay of the District of Columbia PSC's recent UNE order is in effect. See Johns/Garzillo/Prosini Decl. ¶ 27; Pricing Reply Decl. ¶ 52. Those rates were included with and explained thoroughly in Verizon's Application. See Johns/Garzillo/Prosini Decl. ¶¶ 30-47; Application at 55-57. Thus, Verizon included in its Application "as originally filed . . . all of the factual evidence on which the applicant would have the Commission rely in making its findings thereon." Procedures for Bell Operating Company Applications Under New Section 271 of the Communications Act, Public Notice, 11 FCC Rcd 19708, 19709 (1996); see also Michigan Order ¶ 49; New Hampshire/Delaware Order ¶ 11.

The facts here, therefore, are plainly distinguishable from the facts at issue in each of the previous instances in which the Commission found that the complete-as-filed doctrine was implicated. See Complete-as-Filed Ex Parte at 4. Each of those previous cases involved the introduction of new rates for the first time *after* the section 271 application was filed. See, e.g., New Hampshire/Delaware Order ¶¶ 11-16 (considering switching rate reduction effected on day 64 of the application process and feature change rate reduction effected on day 46); Rhode Island Order ¶¶ 8-17 (considering rate reductions submitted on day 80 of the application); Kansas/Oklahoma Order ¶¶ 22-24 (considering rate reductions made by SWBT on day 63 of its application). Here, by contrast, the rates that Verizon has offered and the PSC has approved were made available and known to all interested parties at the time Verizon filed its Application. See Johns/Garzillo/Prosini Decl. ¶ 27 & Att. 1; Complete-as-Filed Ex Parte at 4.<sup>5</sup>

---

<sup>5</sup> See also Virginia Order ¶¶ 15-16 (holding that where, at the time of Verizon's section

Even if the Commission determines that the complete-as-filed doctrine did apply, however, the circumstances present here are precisely the type of “special circumstances” where the Commission has held that it should be waived. Rhode Island Order ¶ 7; Kansas/Oklahoma Order ¶ 22; see also Complete-as-Filed Ex Parte at 5-7. *First*, the Commission has made clear that its “primary concern” with respect to whether to consider “new” UNE rate information “has been to ensure that ‘this is not a situation where a BOC has attempted to maintain high rates only to lower them voluntarily at the eleventh hour.’” Qwest Nine-State Order ¶ 178 (quoting Rhode Island Order ¶ 9). Far from engaging in “this type of gamesmanship,” *id.*, Verizon explained at length in its Application that it was offering all CLECs lower rates during the stay of the PSC’s UNE order and that those new rates would be effective prior to the date Verizon filed its Application.

*Second*, “there is no uncertainty” regarding the terms of the interconnection agreements because the rates at issue were already made known at the time Verizon filed its application and are equivalent to rates that are now in effect in New York and a handful of other Verizon states, Kansas/Oklahoma Order ¶ 23 & n.63; therefore, there is “a limited additional analytical burden on the Commission staff and commenting parties,” Rhode Island Order ¶ 10. *Third*, there is no need for the Commission to approve “a ‘promise[] of future performance.’” *Id.* (quoting Michigan Order ¶ 55). Verizon offered the new rates to CLECs in an industry letter, and the PSC has now approved a binding interconnection agreement containing those rates. See Virginia Order ¶¶ 15-16; Massachusetts Order ¶¶ 175-181. *Fourth*, timing considerations support a

---

271 filing, Verizon had notified CLECs of new offerings through an industry letter that were not yet incorporated into approved interconnection agreements, but where agreements containing those offerings were subsequently approved, “arguments alleging that Verizon did not have interconnection agreements in Virginia that fully comply with the Act and that Verizon’s section 271 application was premature” were “moot.”).

waiver. Verizon's rates, as well as its commitment to rely on them, were made clear in the Application itself, and the PSC's order approving those rates was issued on day 36 of this Application, which is much earlier than in previous cases where the Commission has found that a waiver was appropriate. See New Hampshire/Delaware Order ¶¶ 11-16 (days 46 and 64); Rhode Island Order ¶¶ 8-17 (day 80); Kansas/Oklahoma Order ¶¶ 22-24 (day 63). *Fifth*, because the rates are lower than those that would otherwise be in effect, and are at the same level as the New York rates that CLECs are using to serve millions of customers, this is an example of a "positive action that will foster the development of competition." Rhode Island Order ¶ 12; see Kansas/Oklahoma Order ¶ 24. *Finally*, "this application is otherwise persuasive and demonstrates a commitment to opening local markets," Rhode Island Order ¶ 12; as a result, "grant of this waiver will serve the public interest," id. ¶ 13; Kansas/Oklahoma Order ¶ 25.

West Virginia Loop Rates. Verizon demonstrated in its Application that, although the West Virginia loop rates were set by the PSC in a manner that is fully consistent with TELRIC, during the course of the section 271 proceeding in West Virginia, Verizon entered into a Joint Stipulation with the Staff of the West Virginia PSC as well as the Consumer Advocate Division to reallocate West Virginia wire centers among density zones in a manner that effectively reduced the statewide average loop rate. See Application at 61; Given/Garzillo/Sanford Decl. ¶ 42. Verizon also demonstrated that, although the prior loop rates already passed the benchmark test — which provides a separate and independent reason to find rates TELRIC-compliant — with the additional reduction the statewide average loop rates in West Virginia satisfy the benchmark by an even wider margin. See Given/Garzillo/Sanford Decl. ¶ 42; see also WV PSC Report at 54. No party disputes any aspect of this showing. See WV PSC Report at 55.

very argument in Verizon's two previous section 271 applications, neither of which AT&T or any other CLEC has appealed on this or any other issue.<sup>8</sup> AT&T presents no new arguments or facts to justify a different result here, but instead merely argues (at 55-57) that the Commission's prior holdings either "miss[] the point" or are "unfounded," "irrelevant," or "illogical." But, as Verizon has previously explained, and the Commission has found, the Commission's well-established practice of benchmarking non-loop rates in the aggregate is entirely consistent with the Act and its underlying policies, and AT&T's approach — which would require a de novo review of rates and a complete "re-examination of the Synthesis Model" that this Commission has for years used to compare costs among the states — is well beyond the scope of a 90-day section 271 proceeding. Virginia Order ¶ 105. AT&T's claims to the contrary are wide of the mark and do not come close to providing a basis on which the Commission could possibly justify the extraordinary step of reversing its "well-established precedent" here. New Hampshire/Delaware Order ¶ 54; see Pricing Reply Decl. ¶ 32.<sup>9</sup>

---

<sup>8</sup> AT&T also argues (at 48) that the switching usage rates established by the West Virginia PSC permit Verizon a double recovery of its vertical feature costs and therefore violate TELRIC. AT&T's argument is irrelevant, however, because the switching rates established by the PSC are not the rates in effect in West Virginia and on which Verizon is relying in its Application. See Pricing Reply Decl. ¶ 30; Virginia Order ¶ 98 (holding that "we need not address the merits" of AT&T's arguments that the switching rates established by the Virginia commission violated TELRIC where Verizon was not relying on those rates and was, in any event, demonstrating TELRIC-compliance through a benchmark comparison).

<sup>9</sup> See Serono Labs., Inc. v. Shalala, 158 F.3d 1313, 1323 (D.C. Cir. 1998) (application process would become "Sisyphean if the rules of the game changed each time the application neared the finish line"); Salzer v. FCC, 778 F.2d 869, 871-72 (D.C. Cir. 1985) (vacating FCC dismissal of an application where lack of sufficient notice permitted applicant reasonably to believe its conduct complied with the application rules); Bamford v. FCC, 535 F.2d 78, 82 (D.C. Cir. 1976) ("[E]lementary fairness requires clarity of standards sufficient to apprise an applicant of what is expected."); see also AT&T v. FCC, 220 F.3d at 628-31 (where ILEC has complied with preexisting Commission order, that compliance cannot be found to be basis for challenge to section 271 application).

First, the Commission was clearly correct in its conclusion that “conducting a benchmark analysis of non-loop elements together, as the Commission has done in all prior section 271 orders relying on a benchmark comparison, is consistent with our obligations under the Act.” Virginia Order ¶ 106; New Hampshire/Delaware Order ¶ 53. As the Commission found, its role in a section 271 proceeding “is not, and cannot be, a de novo review of state-rate setting proceedings,” but rather is to perform “a general assessment of compliance with TELRIC principles.” Virginia Order ¶¶ 106, 107; New Hampshire/Delaware Order ¶¶ 50-51. This is consistent with the language of section 271(c)(2)(B)(ii) — the provision that “defines [the Commission’s] role in this proceeding” — which provides that the Commission shall determine “whether a BOC provides access to network elements ‘in accordance with the requirements of sections 251(c)(3) and 252(d)(1).’” Virginia Order ¶ 107; New Hampshire/Delaware Order ¶ 51.<sup>10</sup> It also is consistent with the fact that “the Commission could not, as a practical matter, evaluate every single individual UNE rate relied upon in a section 271 proceeding within the 90-day timeframe.” Virginia Order ¶ 106; New Hampshire/Delaware Order ¶ 50. The Commission’s approach also is “useful to help account for rate structure differences between states.” Virginia Order ¶ 112; New Hampshire/Delaware Order ¶ 54. And, perhaps most significantly, this approach “reflects the practicalities of how UNEs are purchased and used.” Virginia Order ¶ 110; see also id. ¶ 111 (“combining unbundled switching and unbundled transport for benchmarking purposes makes sense because competing LECs throughout

---

<sup>10</sup> AT&T repeats (at 50) its rejected view of the statute, which “cites to section 252(d)(1) and to section 271(c)(2)(B)” to support the claim that the Commission is “required to evaluate individually every UNE rate.” Virginia Order ¶¶ 106, 107. But, as the Commission has held, it is “only section 271(c)(2)(B)(ii) [that] defines [the Commission’s] role,” and AT&T’s approach is not feasible “[g]iven the large number of rates at issue in a section 271 proceeding and the 90-day timeframe.” Id. Moreover, as the Commission has found, AT&T’s argument is particularly disingenuous given that in prior 271 proceedings it has analyzed the cost of non-loop elements in aggregate. See id. ¶¶ 109, 112; New Hampshire/Delaware ¶ 54.

Verizon's territory invariably purchase them together"); New Hampshire/Delaware Order ¶¶ 53-54. Indeed, as of January 21, 2003, no CLEC in West Virginia or in any of Verizon's territories has purchased unbundled switching separately from unbundled transport. See Pricing Reply Decl. ¶ 32.<sup>11</sup>

*Second*, the Commission was correct that AT&T's "alleged flaws in the Synthesis Model [do not] require Verizon to satisfy a switching-only benchmark analysis." Virginia Order ¶ 102; see New Hampshire/Delaware Order ¶ 47. Once again, AT&T's only purportedly factual basis for arguing that a benchmark comparison of non-loop rates in the aggregate is inappropriate is its allegation (at 52) that the Commission's Synthesis Model "tends to overstate transport costs, and overstate transport costs disproportionately as line density declines." As the Commission recognized in both the Virginia and the New Hampshire/Delaware proceedings, however, AT&T's factual support for that allegation — which is identical here to the factual showing that AT&T has produced in the past, see AT&T at 52 & Lieberman Decl. Ex.2 — simply does not hold up to scrutiny. As the Commission explained, "AT&T charts how the ratio of transport costs to state-approved transport rates varies with line density, but we are not convinced that this variation demonstrates any bias in the Synthesis Model." Virginia Order ¶ 102. The Commission previously found AT&T's analysis unreliable because "[t]he state-approved unbundled transport rates used in AT&T's analysis could fall anywhere within the range of rates that a reasonable application of TELRIC principles would produce; consequently, the ratio of transport costs derived from the Synthesis Model to state-approved transport rates may vary due

---

<sup>11</sup> AT&T again "fail[s] to provide any evidence that it, or any other competitive LEC, orders switching separate from transport in any state with TELRIC-compliant UNE rates," and therefore provides no basis for concluding "that the relief sought by AT&T would effectuate a change in the way competitors purchase non-loop elements." Virginia Order ¶ 112; New Hampshire/Delaware Order ¶ 54.

to this range of rates.” Id. Moreover, the Commission found that “AT&T confines its analysis to eight of the 13 Verizon study areas . . . and excludes completely other BOC study areas,” and that “[a] sample of so few study areas may not produce a reliable measure of the relationship between the ratio of transport costs developed from the Synthesis Model to state-approved transport prices, on the one hand, and line density, on the other.” Id. The Commission accordingly found that AT&T’s analysis did not provide “a ‘clear qualitative demonstration’ of the inverse relationship between line density and overstatement of transport costs, as AT&T alleges.” Id. And, because AT&T’s analysis here is exactly the same as the analyses it has presented in the past and does not cure (or even acknowledge) the fatal defects identified by the Commission, the Commission must once again reject AT&T’s claim.<sup>12</sup>

*Finally*, the Commission was right in concluding that, even if AT&T was correct that the Synthesis Model did overstate costs with respect to transport, that does not provide a basis for abandoning the well-established practice of benchmarking non-loop rates in the aggregate. As the Commission explained, while the Synthesis Model “may not be perfect,” it is “the best tool we have for evaluating cost differences between states.” Virginia Order ¶ 104; New Hampshire/Delaware Order ¶ 47. “A re-examination of the Synthesis Model is an immensely complicated inquiry not suited to the section 271 process.” Virginia Order ¶ 105; New Hampshire/Delaware Order ¶ 49. Such re-examination “would have industry-wide significance, both with respect to local competition and universal service,” which “is simply not feasible

---

<sup>12</sup> In addition to the defects in AT&T’s analysis identified by the Commission, AT&T’s analysis also relies on the premise that that the Synthesis Model “overbuilds” the transport network “where the population density is low, such as West Virginia,” by assuming the use of OC-48 transport rings for those low-density states, which AT&T suggests are only appropriate for high-density states like New York. AT&T Lieberman Decl. ¶¶ 8-9. Contrary to AT&T’s unfounded claim, the reality is that Verizon typically uses OC-48 rings in West Virginia and plans to continue to do so given the efficiency and flexibility that they provide. See Pricing Reply Decl. ¶ 34.

within the 90-day review period required by Congress.” Virginia Order ¶ 105; New Hampshire/Delaware Order ¶ 49. Moreover, the Commission “could not consider AT&T’s argument” regarding transport costs “in isolation as we would have to consider other arguments concerning the accuracy of the Synthesis Model, including those raised by Verizon that the Synthesis Model understates switching costs in rural states.” Virginia Order ¶ 105; New Hampshire/Delaware Order ¶ 49; see Pricing Reply Decl. ¶ 36. Although AT&T takes issue with these findings, it does nothing more than repeat the exact same arguments that it raised in Virginia, and which this Commission has already rejected.<sup>13</sup>

In summary, the Commission’s well-settled precedent of benchmarking non-loop rates in the aggregate is entirely consistent with the requirements of the Act, and AT&T fails to provide any legal or factual basis for the Commission to take the extraordinary step of abandoning that precedent here. And applying that approach here demonstrates that the non-loop rates in West Virginia are TELRIC-compliant. See Pricing Reply Decl. ¶¶ 30-38.

Pricing Issues Common to All Three Jurisdictions. As noted above, the commenters raise a few minor pricing issues that are common to Maryland, the District, and West Virginia. As demonstrated below, these claims fail.

---

<sup>13</sup> Compare AT&T at 55 (arguing that the Synthesis Model “is clearly *not* the best available tool”) with Virginia Order ¶ 104 n.362 (AT&T “argues, in that same paragraph, that the Commission should use the Synthesis Model to compare switching-only costs,” and Commission “need not choose the ‘optimal’ benchmark, only a reasonable one”) (quoting WorldCom v. FCC, 308 F.3d at 7); AT&T at 54 (arguing that the extensive record supporting the Synthesis Model provides no justification for using it for purposes for which it is ill-suited) with Virginia Order ¶ 104 n.359 (finding AT&T has simply failed to show that the model is so-ill suited); AT&T at 57 (arguing that the relief it seeks would not compromise the ability of the Commission to rely on the Synthesis Model in other contexts) with Virginia Order ¶ 105 n.369 (“we are not persuaded by AT&T’s attempt to downplay the potential implications of the conclusion inherent in the relief sought”).

First, AT&T repeats (at 44-48) its rejected argument that Verizon's loop provisioning policy in Maryland, the District, and West Virginia somehow precludes the Commission from finding that Verizon's loop rates in those jurisdictions are TELRIC-compliant based on a benchmark comparison to the loop rates in New York. According to AT&T, the loop rates in the three jurisdictions at issue here are based on different assumptions regarding the availability of loops than the loop rates in New York. In particular, AT&T alleges that, while the loop rates in the three jurisdictions here reflect Verizon's current facilities-build policy with respect to high-capacity loops, the loop rates in New York were established without knowledge of that policy. AT&T's argument is therefore premised on the claim that the New York PSC and this Commission were not aware of Verizon's facilities-build policy when they approved the loop rates in New York. AT&T's sole support for this claim is its assertion (at 46) that Verizon's policy was not publicly known until July 24, 2001, whereas the recommended decision in the New York UNE case was issued two months earlier on May 16, 2001. AT&T also claims (at 47) that there is "nothing in the record" of the New York rate proceeding demonstrating that the New York PSC was aware of Verizon's policy any time before January 28, 2002, when it issued its final decision in the UNE rate proceeding.

AT&T's claims are remarkably at odds with the facts, and with AT&T's own prior statements on this issue. In the Virginia 271 proceeding, AT&T acknowledged that Verizon "has enforced its 'no facilities' policy since May 2001, which is prior to the time the New York Public Service Commission adopted its current UNE rates" — and prior to the time of the recommended decision as well. Virginia Order ¶ 95 (citing Ex Parte Letter from David Levy, Sidley Austin Brown & Wood, to Marlene Dortch, FCC, at 1, WC Docket No. 02-214 (FCC filed Oct. 22, 2002)). AT&T fails to provide any explanation for this discrepancy in its story or

even to acknowledge it. Moreover, as the Commission found, “at no point in time has Verizon’s facilities policy in New York been different from its policy in Virginia,” *id.*, and the same is therefore true of the three jurisdictions at issue here in which the policies have been the same as those in Virginia, see Pricing Reply Decl. ¶ 11.<sup>14</sup> In the three jurisdictions at issue here, as in New York, Verizon will honor CLEC requests for additional loop facilities on the same terms and conditions as it provided the initial loop, so long as the facilities are available in Verizon’s existing network to satisfy the CLEC’s request. See Pricing Reply Decl. ¶ 12. Thus, there is simply no basis to conclude that Verizon’s policy “preclude[s] a meaningful benchmark comparison of Verizon’s” loop rates in the three jurisdictions at issue here to its New York loop rates. Virginia Order ¶ 95.<sup>15</sup>

*Second*, AT&T claims (at 38) that the process of using the Directory Listing Inquiry transaction to verify listings is excessively costly. But Verizon has not levied this charge in the past, and both the Maryland and the West Virginia state commissions have explicitly required Verizon to seek their approval before Verizon attempts to impose such a charge. See Pricing Reply Decl. ¶ 9. And, while AT&T argues that Verizon should be required to make the same commitment in the District, and that Verizon should commit not to attempt to recover its costs

---

<sup>14</sup> AT&T concedes that this is “perhaps true,” but claims that it is “beside the point” because — it contends — neither the New York PSC nor this Commission was “aware of the new policy” when “the New York PSC set Verizon’s loop rates in New York, and the FCC uphold [sic] those rates as TELRIC-compliant in the New York 271 case.” AT&T at 45-46. But the rates that AT&T is referring to here are the old New York rates, which obviously are irrelevant here. See Virginia Order ¶ 94.

<sup>15</sup> Moreover, as Verizon has previously explained, the underlying rationale for AT&T’s claim — that charging CLECs for spare capacity is somehow a TELRIC violation — is fundamentally mistaken. This argument turns on AT&T’s erroneous assumption that the spare capacity accounted for in Verizon’s UNE rates is designed primarily for new growth facilities. As Verizon has explained, however, a large amount of outside plant spare capacity is needed not for growth, but to ensure proper operation and support of loops that are in service, including those provided to CLECs. See Pricing Reply Decl. ¶ 17.

for Directory Listings Inquiries in some other form such as on a per-line basis, Verizon is clearly permitted to recover its costs for these transactions. See DC PSC Report at 51 (“Verizon DC has correctly observed that there is a need to consider the inclusion of the costs of such queries in other price elements if it is not to be recovered on a per-use basis.”). In any event, the appropriateness of such a charge if and when Verizon seeks to impose one is an issue in the UNE rate proceeding that is still pending in Maryland, and in the proceeding to consider Verizon’s petition for reconsideration of the District of Columbia PSC’s recent UNE order. See Pricing Reply Decl. ¶¶ 9-10. Moreover, the West Virginia PSC has already stated that it would conduct further proceedings to consider the appropriateness of such a charge if and when Verizon seeks to impose one. See WV PSC Report at 86. There is accordingly no need for the Commission to address this issue here. See Qwest Nine-State Order ¶ 292 (holding that, because certain disputed non-recurring charges “are not yet being imposed by Qwest and will not be imposed until they are approved by the state commissions, we believe it is unnecessary for the Commission to address this issue here”).<sup>16</sup>

**B. Non-Pricing Issues.**

**1. White Pages Directory Listings.**

Verizon demonstrated in its Application that it provides access to its white pages directory listings in Virginia in the same manner as it does in its 271-approved states. See Application at 69; Lacouture/Ruesterholz MD Decl. ¶ 289; Lacouture/Ruesterholz DC Decl. ¶ 278; Lacouture/Ruesterholz WV Decl. ¶ 274; McLean/Webster Decl. ¶ 91; Virginia Order

---

<sup>16</sup> Starpower speculates (at 24-25) that Verizon “may” alter its rate structure for dedicated transport in Virginia as Starpower claims Verizon has recently done in New York. But the Commission rejected this same claim in the Virginia Order, and Starpower provides no basis for the Commission to reach a different result here. See Virginia Order ¶¶ 132-133.

¶ 153; Pennsylvania Order ¶¶ 114-117; New Hampshire/Delaware Order ¶ 135; New Jersey Order ¶ 156; Massachusetts Order ¶ 222; Rhode Island Order ¶ 97; Vermont Order ¶ 59; Maine Order ¶ 52. Verizon also demonstrated that its performance has been strong under measurements designed to measure the accuracy with which Verizon processes CLEC orders for directory listings, see Application at 72; McLean/Webster Decl. ¶ 102, and that continues to be the case. In November and December 2002, for example, Verizon's reported accuracy under these measurements ranged from more than 96 percent to more than 99 percent in Maryland, the District, and Virginia (and Verizon will begin reporting under these measurements in West Virginia as of the January 2003 reporting month). See McLean/Webster Reply Decl. ¶ 48.<sup>17</sup> No party takes issue with any aspect of this showing. Moreover, the public service commissions in Maryland, the District, and West Virginia have all found that Verizon's provision of directory listings satisfies the Act. See Maryland PSC December 17th Letter at 1; DC PSC Report at 51; WV PSC Report at 86.

AT&T argues that the Commission should not rely on its findings in the Virginia Order due to a subsequent change that Verizon has made in the advice it gives to CLECs to review their listing information. See AT&T at 37-38; see also DOJ Eval. at 10. This is nonsense; all of the processes and procedures that were in place at the time of the Virginia application, remain in

---

<sup>17</sup> FiberNet complains (at 55-56) that these metrics do "not go far enough" in measuring "all aspects of the directory listing process" and that they fail to provide "compensation to CLECs in cases where customer listings" contain errors. Verizon has, however, updated the special study that it provided in the Virginia proceeding to examine the "latter half of the directory listing submission process that compare[s] the accuracy between the service order information and the data contained in" the directory listings database, and this study "confirms that the information contained in the . . . database matches the information on the service order." Virginia Order ¶ 161; see Application at 72-73; McLean/Webster Decl. ¶¶ 103-104. And as for FiberNet's claim about compensation, the Commission has held that the issue of liability for directory listings errors is "best handled through interconnection negotiations and associated dispute resolution processes," and that, "[a]s such, this issue does not result in a finding of checklist non-compliance." Virginia Order ¶ 171.

place both in Virginia and in the three jurisdictions at issue here. See McLean/Webster Reply Decl. ¶¶ 52-53. As Verizon explained in its Application, in the process of investigating errors in CLECs' directory listings, it discovered that a number of errors appeared to have been caused by CLECs reviewing and modifying their listings simultaneously with Verizon's own quality-review process at the time of order confirmation. See Application at 71 n.58; McLean/Webster Decl. ¶ 112. Verizon accordingly advised CLECs that it would be more efficient for them to review their listings at a later stage in the provisioning process — after they receive a billing completion notice — to avoid the potential for Verizon and CLECs to make conflicting changes. See Application at 71 n.58; McLean/Webster Decl. ¶ 112; McLean/Webster Reply Decl. ¶ 53. Verizon suggested to CLECs that, at this stage, they could use the Directory Listing Inquiry (“DLI”) transaction to verify their listing. See McLean/Webster Decl. ¶ 112. Contrary to AT&T's claims, however, this change in the advice does not represent a change to the actual processes that are available to CLECs to verify their listings.<sup>18</sup> In Virginia, as in the jurisdictions at issue here, CLECs may continue to verify their listings at the confirmation stage (despite Verizon's contrary advice), may use a DLI transaction at the completion stage, and/or may use the LVR. See McLean/Webster Reply Decl. ¶ 55.

FiberNet claims (at 51) that, in 2002, there were errors in 27 percent of the directory listings included in the listings verification report (“LVR”) that Verizon provides to CLECs. As FiberNet acknowledges, however, the whole point of providing CLECs with the LVR is so that

---

<sup>18</sup> Moreover, there is no merit to AT&T's claim (at 38 n.45) that Verizon requires CLECs to review their directory listings twice, once using a DLI and second through the LVR process. In fact, Verizon does not require CLECs to use either method. See McLean/Webster Reply Decl. ¶ 55. For example, only five CLECs in Maryland, four in West Virginia, and none in the District have used the LVR process to inform Verizon of potential listings discrepancies in 2001 and 2002. See id. And, while Verizon provides the LVR to AT&T, Verizon has not received any reports of LVR discrepancies from AT&T in those two years. See id.

they may verify their listings prior to publication. See FiberNet at 50; Virginia Order ¶ 154.

FiberNet does not provide any specific evidence (or even allege) that Verizon failed to correct these errors prior to publication.<sup>19</sup> In fact, it acknowledges (at 52-53) that Verizon took steps to address the concerns it raised, including holding up publication of several upcoming books until it was able to investigate FiberNet's claims. See Application at 71 n.58; McLean/Webster Decl. ¶¶ 110-112. FiberNet's claim accordingly boils down to the argument that it should not be responsible for verifying the accuracy of its own listings prior to publication. See FiberNet at 50 ("The problem inherent in [the LVR review] process is that it becomes FiberNet rather than Verizon-WV's responsibility to verify the accuracy of its customer information."); see also AT&T at 38 & n.45.<sup>20</sup> But, as the Commission has responded with respect to identical claims in the past, "Verizon's use of the LVR is reasonable in this context." Virginia Order ¶ 168.<sup>21</sup>

---

<sup>19</sup> FiberNet's claim (at 51-52) that it "recently started seeing instances in which the customer's white page directory listing is transposed" should be rejected because it provides no specific evidence of this. See, e.g., Massachusetts Order ¶ 76 (rejecting claims that are "not supported . . . by any specific evidence"); Texas Order ¶ 50; New Jersey Order ¶ 126. Verizon made software changes in late September and early October 2002 to address the transposition of first and last names on business accounts. See McLean/Webster Reply Decl. ¶ 56.

<sup>20</sup> In light of its complaints regarding the efforts needed to verify the LVR, it is particularly ironic that FiberNet also complains (at 50) that Verizon has refused to provide it with "page proofs" for verification of listings prior to publication, which require an even greater degree of manual review. In any event, the Commission has found that, even without providing page proofs, "Verizon provides sufficient tools and training for competitive LECs to review and correct errors in their directory listings prior to publication." Virginia Order ¶ 165.

<sup>21</sup> The Commission based this conclusion on several factors that apply with equal force here: "Verizon has taken a number of steps to improve its own internal accuracy and reliability issues"; "directory listings, especially those involving business customers, potentially introduce additional layers of complexity to the process that can impact accuracy and reliability"; "[t]he LVR is only one additional tool that Verizon makes available as an option to competing carriers" and "has not been Verizon's only response to the problem"; and it is necessary to consider Verizon's performance "based on the totality of the circumstances" rather than "by examining individual aspects of a BOC's showing in isolation." Virginia Order ¶ 168.

## 2. Interconnection.

The public service commissions in Maryland, the District, and West Virginia have all found that Verizon's provision of interconnection satisfies the checklist. See Maryland PSC December 17th Letter at 1; DC PSC Report at 19; WV PSC Report at 19. No party takes issue with any part of Verizon's performance in providing interconnection trunks or collocation to CLECs, which continues to be excellent. For example, in November and December 2002, Verizon met the installation appointments for providing interconnection trunks, physical collocation arrangements, and collocation augments more than 99 percent of the time in all three jurisdictions (and 100 percent of the time in most cases). See Lacouture/Ruesterholz Reply Decl. ¶¶ 134-136, 146-148.

GRIPs. A few CLECs nonetheless repeat arguments from prior Verizon section 271 applications regarding the language in some of Verizon's interconnection agreements addressing so-called Geographically Relevant Interconnection Points ("GRIPs"). See FiberNet at 6-11; AT&T at 9-11; Starpower/US LEC at 5-11. As in prior applications, Verizon "has entered into at least one interconnection agreement . . . that does not follow the GRIPS policy," so "GRIPs is not the only form of network interconnection available" in the three jurisdictions at issue here. Virginia Order ¶ 173; see Lacouture/Ruesterholz MD Decl. ¶ 33; Lacouture/Ruesterholz DC Decl. ¶ 33; Lacouture/Ruesterholz WV Decl. ¶ 33; Lacouture/Ruesterholz Reply Decl. ¶ 137.<sup>22</sup>

---

<sup>22</sup> See also DC PSC Report at 24 ("There was no evidence . . . that any CLEC is operating under these [GRIPs] provisions at the present time; AT&T did not allege or present testimony that its own interconnection agreement with Verizon DC includes such a requirement or that Verizon DC has urged it to accept one in any negotiations that have taken place."); WV PSC Report at 14 ("Many agreements in West Virginia do not have negotiated GRIPs provisions, including FiberNet's and AT&T's current agreements."); id. at 15 ("Because there are agreements in West Virginia that do not contain the GRIPS language, the fact that some agreements include this language is, as the FCC has repeatedly found, irrelevant to the question whether Verizon WV complies with this Checklist Item.").

As the Commission has found, that is sufficient to satisfy the checklist. See Virginia Order ¶ 173.<sup>23</sup>

Verizon also demonstrated in its Application that it has modified its Model Interconnection Agreement — which a number of CLECs in Maryland and West Virginia have already signed — to provide for a single point of interconnection per LATA. See Lacouture/Ruesterholz MD Decl. ¶ 33; Lacouture/Ruesterholz DC Decl. ¶ 33; Lacouture/Ruesterholz WV Decl. ¶ 33; Lacouture/Ruesterholz Reply Decl. ¶ 138. Several CLECs contend that this new language is indistinguishable from the language at issue in the Virginia Arbitration Order. As an initial matter, this is irrelevant because Verizon has entered into agreements in all three jurisdictions that do not contain the GRIPs language, and that is sufficient to satisfy the checklist.<sup>24</sup> But it also is wrong. For example, while AT&T claims (at 10) that Section 2.2.4 of Verizon’s Model Interconnection Agreement requires a CLEC to interconnect at each Verizon tandem within a LATA, that is simply not true. That section simply requires CLECs to hand off traffic to separate Verizon trunk groups at the single point of interconnection for each tandem in the LATA so that Verizon can transport the CLEC’s traffic

---

<sup>23</sup> There is no merit to AT&T’s unsupported claim (at 9) that it is somehow discriminatory to negotiate interconnection agreements with some CLECs that contain the GRIPs language, while other agreements do not contain such language. It is fully consistent with the 1996 Act for parties to negotiate different provisions in their agreements, as the Commission has repeatedly held. See, e.g., Virginia Order ¶ 173; see also Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration, Memorandum Opinion and Order, CC Docket Nos. 00-218, et al., DA 02-1731, ¶ 34 (Wireline Comp. Bur. rel. July 17, 2002) (“Virginia Arbitration Order”) (parties to an interconnection agreement “may agree to terms that are not compelled by, or are even inconsistent with, sections 251(b) and (c) of the Act”).

<sup>24</sup> Contrary to AT&T’s claim (at 11), therefore, it is irrelevant that Verizon has made a commitment to the Maryland PSC not to include GRIPs in its Model Interconnection Agreement, but has not made the same commitment in the District or West Virginia. In any event, Verizon has in fact made the same modifications to its Model Interconnection Agreement in all three jurisdictions. See Lacouture/Ruesterholz Reply Decl. ¶ 138.

from the single point of interconnection to the appropriate Verizon tandem. And, contrary to AT&T's claims, it is Verizon that bears the financial responsibility under the Model Interconnection Agreement to carry a CLEC's traffic from the single point of interconnection to each Verizon tandem in the LATA.

There also is no merit to AT&T's claim (at 11) that Verizon's Model Interconnection Agreement improperly limits the single point of interconnection to a point on Verizon's network. The Commission's own rules require that the point of interconnection be on Verizon's network. See 47 C.F.R. § 51.305(a)(2) (requiring that an interconnection point for exchange of traffic between the carriers be "[a]t any technically feasible point within the incumbent LEC's network," and not at the CLEC's switch). In any event, this issue is currently being addressed in the proceeding to consider Verizon's petition for reconsideration of the Virginia Arbitration Order, and that proceeding, not this one, is the appropriate forum in which to resolve it.

Interconnection Trunk Provisioning. Only one CLEC — Core Communications — takes issue with Verizon's policy with respect to provisioning interconnection trunks, repeating claims that it raised in the Maryland state proceeding. Core claims (at 2-3) that Verizon improperly refuses to provision the transport for interconnection trunks using existing loop facilities and thereby delays interconnection. But the reality is that Verizon has no policy against that practice. See Lacouture/Ruesterholz Reply Decl. ¶ 141. In fact, Verizon has used loop facilities in approximately 10 percent of the interconnection arrangements that it has provisioned throughout the former Bell Atlantic service areas where the transport for those trunks between the CLEC's central office and Verizon's serving office was provided by Verizon. See Lacouture/Ruesterholz MD Decl. ¶ 35; Lacouture/Ruesterholz Reply Decl. ¶ 141.<sup>25</sup> In any event, Core acknowledges

---

<sup>25</sup> Although Verizon is willing to use existing loop facilities to provide the transport for

that it has filed complaints about this issue with both the Maryland PSC and this Commission, and as a result there are now two ongoing proceedings to address this issue. See Lacouture/Ruesterholz MD Decl. ¶ 35; Lacouture/Ruesterholz Reply Decl. ¶ 140. Those forums, not this one, are clearly the appropriate place to address this claim.<sup>26</sup>

Core also claims (at 16-18) that Verizon improperly refuses to pass Automatic Number Identification (“ANI”) information over Multi-Frequency (“MF”) trunks for local calls delivered to a CLEC’s switch. But Verizon’s practices in the three jurisdictions at issue here are identical to those in its 271-approved states, which the Commission has repeatedly held comply with the checklist. See Lacouture/Ruesterholz MD Decl. ¶ 254; Lacouture/Ruesterholz DC Decl. ¶ 243; Lacouture/Ruesterholz WV Decl. ¶ 239; Lacouture/Ruesterholz Reply Decl. ¶ 143. In all of these jurisdictions, Verizon is unable to pass ANI information over MF trunks for local calls because Verizon’s switches are incapable of doing so as a technical matter; Verizon’s switches are configured to pass ANI information only on interexchange calls. See Lacouture/Ruesterholz Reply Decl. ¶ 143. And, while Core argues (at 18) that Verizon should be required to develop the capability to “enable a feature set (ANI) on trunk groups that deliver local traffic to CLECs,” there is no requirement that Verizon do so. Nor would it be an efficient use of resources: no other CLECs in Maryland use MF trunks, but instead use Signaling System 7 (“SS7”)

---

CLECs’ interconnection trunks, it would be inappropriate to evaluate Verizon’s performance in providing those facilities using the standard performance measurements. Those measurements compare Verizon’s performance in providing interoffice facility trunks to CLECs to its performance in providing exchange access trunks to interexchange carriers, but both of those kinds of facilities are generally designed and maintained to a different grade of service than loops. See Lacouture/Ruesterholz Reply Decl. ¶ 141.

<sup>26</sup> Moreover, in accordance with the Maryland PSC’s requirements, Verizon is allowing CLECs to obtain interconnection over existing loop facilities that are shared with Verizon’s retail customers when capacity exists and has prepared a Model Interconnection Agreement amendment that includes terms for interconnection over such facilities. See Lacouture/Ruesterholz MD Decl. ¶ 35; Lacouture/Ruesterholz Reply Decl. ¶ 142.

technology that enables carriers to pass and receive Calling Party Number (“CPN”) information on both local and long distance calls. See id. ¶¶ 143-144. If Core upgraded its switches to SS7 technology, it would be able to receive from Verizon CPN information that is comparable to ANI information and that would enable Core to provide services like caller ID. See id. ¶ 144.

Returned Collocation Space. AT&T alone argues (at 12-16) that Verizon should be required to adopt new policies for addressing collocation space that CLECs return. As Verizon demonstrated in its Application, however, while this issue is already being addressed in a proceeding in Maryland, Verizon is already taking steps to address AT&T concerns. See Application at 22-23 n.26; Lacouture/Ruesterholz MD Decl. ¶ 77; Lacouture/Ruesterholz DC Decl. ¶ 72; Lacouture/Ruesterholz Reply Decl. ¶ 149.<sup>27</sup> For example, Verizon has begun to issue credits — including to AT&T — for a number of collocation arrangements that were vacated and that have recently been re-occupied. See Lacouture/Ruesterholz MD Decl. ¶ 77; Lacouture/Ruesterholz DC Decl. ¶ 72; Lacouture/Ruesterholz WV Decl. ¶ 72; Lacouture/Ruesterholz Reply Decl. ¶ 153.

AT&T complains (at 15-16) that Verizon is somehow not doing enough to help the CLECs “by marketing the space that has been returned, or by at least doing enough to make other CLECs aware of the existence of such space.” DC PSC Report at 21. But Verizon clearly has no legal obligation to take such steps. See Lacouture/Ruesterholz Reply Decl. ¶ 155. Moreover, as the District of Columbia PSC notes, “no competitive harm arises from Verizon DC’s failure to serve in a marketing or advertising role for CLECs who have returned space,” given that Verizon “does respond to specific CLEC inquiries about returned space, when a

---

<sup>27</sup> Pursuant to the requirements of the West Virginia PSC, Verizon also will post on its wholesale website a list of the central offices that have returned collocation arrangements. See Lacouture/Ruesterholz Reply Decl. ¶ 155; WV PSC Report at 18-19.

CLEC initiates them,” and that “CLECs know as well as Verizon DC does that substantial space is likely to have been returned by others” and have “an effective basis for determining the status of their returned space, from billing information routinely provided to them.” DC PSC Report at 21. This is all the more true because virtually all of Verizon’s central offices that have ever had collocation arrangements at one time now have returned space, which means that CLECs can confidently presume that such space will be available. See Lacouture/Ruesterholz Reply Decl. ¶ 157.<sup>28</sup>

AT&T also complains (at 14-15 & n.15) that Verizon has improperly calculated the level of credits for returned space by using a 12-year amortization period rather than a 30-year period. But Verizon is calculating credits for returned collocation arrangements in the manner prescribed by this Commission. See Lacouture/Ruesterholz Reply Decl. ¶¶ 151-152. The Commission has held that, “[f]or purposes of calculating prorated refunds to interconnectors, LECs should base the life of the equipment and interconnector-specific construction on the economic life of the equipment and the cage.” Local Exchange Carriers’ Rates, Terms, and Conditions for Expanded Interconnection Through Physical Collocation for Special Access and Switched Transport, Second Report and Order, 12 FCC Rcd 18730, ¶ 55 (1997). In accordance with this rule, Verizon computes credits for reused collocation arrangements by using a 12-year economic life for collocation assets — in this case, digital circuit equipment — which is consistent with the depreciation lives prescribed by the Commission for this equipment. See Simplification of the Depreciation Prescription Process, Third Report and Order, 10 FCC Rcd 8442 (1995) (Appendix B: Circuit Equipment — Digital, 11-13 years); 1998 Biennial Regulatory Review — Review of

---

<sup>28</sup> AT&T also questions (at 12-14) why only a few collocation arrangements are being reused by other CLECs, but the simple fact is that demand for such arrangements has declined significantly. See Lacouture/Ruesterholz Reply Decl. ¶ 156.

Depreciation Requirements for Incumbent Local Exchange Carriers, Report and Order in CC Docket No. 98-137, Memorandum Opinion and Order in ASD 98-91, 15 FCC Rcd 242 (1999) (Appendix B: Circuit Equipment — Digital, 11-13 years); Lacouture/Ruesterholz Reply Decl. ¶ 152. Moreover, the Maryland PSC is addressing the reuse of collocation space, including the appropriate amortization period for credits, in a formal proceeding that is now underway (Case No. 8913). See Lacouture/Ruesterholz Reply Decl. ¶ 154; see also DC PSC Report at 21-22 (“AT&T has failed to address the reason for extending the amortization period or to explain why that issue is not more properly a function of the collocation proceeding just completed in Formal Case No. 962.”).

### **3. Unbundled Network Elements.**

The public service commissions in Maryland, the District, and West Virginia have all found that Verizon’s provision of unbundled network elements satisfies the requirements of the 1996 Act and the Commission’s rules. See Maryland PSC December 17th Letter at 1; DC PSC Report at 25; WV PSC Report at 48, 58, 72, 73, 75. While CLECs take issue with certain limited aspects of these findings, their claims are without merit.

High-Capacity Loops. Verizon demonstrated in its Application that, although high-capacity loops make up a very small percentage of all unbundled loops provided to competitors in Maryland (less than 1 percent), the District (less than 2 percent), and West Virginia (less than 2 percent), its performance in providing such loops has been excellent. See Application at 36-37; Lacouture/Ruesterholz MD Decl. ¶¶ 109, 111, 113; Lacouture/Ruesterholz DC Decl. ¶¶ 104, 106-107, 114; Lacouture/Ruesterholz WV Decl. ¶¶ 102, 105-106, 111. That continues to be the case. For example, in November and December 2002, Verizon met approximately 99 percent or more of its installation appointments for CLEC high-capacity loop orders in all three jurisdictions, and its performance during that period was consistently better than for the retail