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May 22, 2003

Via Electronic Comment Filing System

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

***Re: CC Docket No. 01-321, Performance Measurements and Standards for
Interstate Special Access Services***

Dear Secretary Dortch:

On January 22, 2002, Cablevision Lightpath, Inc. (“Lightpath”) submitted a letter in lieu of comments and on February 12, 2002, a second letter in lieu of reply comments, urging the Commission to adopt performance standards, measures, and financial remedies to govern the provision of interstate special access services by incumbent local exchange carriers (“incumbent LECs”). Lightpath’s letters demonstrate that facilities-based competitive local exchange carriers (“CLECs”) rely on special access services provided by incumbent LECs to offer high bandwidth services to residential and business customers. The letters provide specific examples of discriminatory provisioning of special access services by Verizon, buttressing the need for stringent performance standards and measures. The letters also provide substantial support for adoption of the proposal and recommendation by the Joint Competitive Industry Group (“JCIG”) that the Commission implement meaningful, escalating, CLEC-specific remedies.

Lightpath is a facilities-based CLEC providing integrated voice, data and Internet services in the New York Metro area, southern Connecticut, and northern New Jersey. Although Lightpath is a facilities-based competitive provider, it relies on special access lines from incumbent LECs, namely Verizon, to supplement its service footprint and provide service to its existing and potential customers. Lightpath filed letters in this proceeding in an effort to identify the type of discriminatory provisioning of special access facilities to which CLECs like Lightpath are subject and to demonstrate the importance of adopting performance measures and standards to ensure nondiscriminatory access to the incumbent LECs’ special access facilities.

Interstate special access services are used extensively by many business customers who rely on these services for access to their corporate data networks and the Internet. Verizon's failure to provision and maintain special access facilities in a timely and reliable manner continues to harm Lightpath's relationship with its business customers. Further, Lightpath's customer base includes numerous healthcare and financial services entities requiring 24-hour service, 7 days a week. Reliable, timely provisioning of service is critical for these customers' internal and external communication capabilities.

In its January 22, 2002 letter, Lightpath highlighted three key problem areas faced on a regular basis when purchasing special access facilities from Verizon: (1) Verizon's failure to reserve circuits before providing Lightpath with Firm Order Commitments ("FOCs") that set dates for circuit delivery; (2) Verizon's inability to meet installation deadlines; and (3) Verizon's failure to provide timely maintenance and repair of faulty circuits. Lightpath further provided several examples of Verizon's poor service that it experienced in all three areas from early 2000 through early 2002. Unfortunately, Lightpath continues to experience the exact same quality of service issues with Verizon, and this experience further strengthens Lightpath's belief that the tide will not turn until the Commission adopts meaningful performance standards and measures, as well as reporting requirements and significant financial remedies for interstate special access in this docket.

The FCC can discern the level of performance that is reasonable and attainable in part by looking at what competitive providers are able to achieve today. Lightpath's experience, as detailed below, demonstrates that, until stringent performance standards, reporting requirements, and meaningful remedies for interstate special access service are adopted, incumbent LECs like Verizon have no incentive to provide quality, timely service. In fact, the incumbent LECs' incentive and ability to discriminate against their CLEC customers increase as they obtain authority under section 271 to provide in-region, interLATA telecommunications services.

Lightpath continues to face the following key problems with Verizon on a regular basis:

First, Verizon has yet to implement appropriate mechanisms to ensure that Lightpath and other competitive providers have certainty about the availability and condition of circuits and when those circuits will be delivered. When Verizon conducts facilities checks, Verizon consistently fails to reserve circuits before providing Lightpath with FOCs that set dates for circuit delivery. As a result, Lightpath is never certain whether facilities are truly available, and if so, whether those circuits are in good condition when ordered. Thus, Verizon's FOCs are not meaningful dates that Lightpath can use to accurately predict for its customers when they will receive service. Once Lightpath submits its Access Service Request to Verizon, Verizon should be required to conduct a facilities check, reserve the requested facilities, and provide a reliable FOC date to Lightpath. Failure to provide service or to provide timely service, undermines customer confidence in Lightpath and results in lower customer acquisition rates overall.

Second, the provisioning process is fraught with repeated, substantial, and crippling installation delays. For the period of January 2002-February 2003, Verizon's New York

Provisioning On-Time Performance was an average of 52.9%.^{1/} This problem continues to date. For example:

- For April 2002-February 2003, Verizon's average provisioning interval in Long Island, New York was 31.27 days.^{2/}
- For April 2002-February 2003, Verizon's average provisioning interval in New York City was 29.81 days.^{3/}
- For April 2002-February 2003, Verizon's average provisioning interval in Westchester, New York was 34.82 days.^{4/}

In the New York area served by Lightpath via special access circuits purchased from Verizon, Verizon's average provisioning interval for the period of April 2002-February 2003 was 31.96 days.^{5/} The performance data demonstrates that Verizon, in particular, has missed installation deadlines by weeks, and in some cases, well over a month.

Third, there is substantial evidence of Verizon's continuous failure to provide timely maintenance and repair service. For the period of January 2002-February 2003, Verizon's average time to repair for New York was 14.02 hours.^{6/} In June 2002, Verizon took approximately 28 hours to repair a circuit.^{7/} Verizon's failure to restore circuits in a timely fashion denies customers service for unreasonable amounts of time and threatens Lightpath's reputation and competitive viability. Collectively, these failures by Verizon impede Lightpath's ability to provide its customers with accurate information on installation or with timely service and restoration.

In light of the continuous failure by Verizon to provide good service, Lightpath submits that standard Service Level Agreements ("SLAs") should apply to all special access customers, regardless of a customer's individual purchasing plan with the incumbent LEC. For example, Lightpath should not be held accountable for the terms of its current purchasing plan with Verizon (e.g., Commitment Discount Plan) if it consistently receives substandard service from Verizon. Verizon should adjust the circuit commitment levels of the agreement to account for any circuits lost due to its inferior service. Standard SLAs would ensure nondiscriminatory treatment by Verizon towards all of its special access customers.

While the above data provides only a snapshot of Verizon's performance, this data reflects the type of poor performance that Lightpath has experienced since early 2000 and that continues today. **More than three years of poor performance** certainly demonstrates a

^{1/} See Appendix A, attached.

^{2/} See Appendix B, attached.

^{3/} *Id.*

^{4/} *Id.*

^{5/} *Id.*

^{6/} See Appendix C, attached.

^{7/} *Id.*; see also Appendix D for Verizon's time to restore intervals concerning Lightpath customer troubles in New York for the period of September 2002 through February 2003.

pressing need for this Commission to adopt stringent performance measures and standards for special access provisioning by the incumbent LECs. Poor special access provisioning is more than just a violation of competitive policy principles; it has a real market effect on competitors' abilities to attract and retain customers as viable market participants.

Performance standards and remedies can be effective tools to remedy poor performance in the delivery of special access circuits. Incumbent LECs that provision inferior special access service should be required to compensate competitive providers directly for the competitive harm inflicted upon them and face the real consequence that these financial remedies will be used by providers to restore their competitive position against the incumbent LECs. Thus, significant financial remedies consistent with the JCIG Proposal are critical to ensuring the effectiveness of any performance standards.

Lightpath's long history of continuing poor performance from Verizon in its provisioning of special access service leaves little doubt that there is an immediate need for standards, measures and financial remedies governing incumbent LEC provisioning of these services. Such Commission regulation is necessary to ensure the ability of competitors to compete in the special access and local markets. For these reasons, Lightpath respectfully urges the Commission to adopt performance standards and measures, as well as meaningful financial remedies consistent with the JCIG Proposal.

Respectfully submitted,

CABLEVISION LIGHTPATH, INC.

/s/ Chérie R. Kiser

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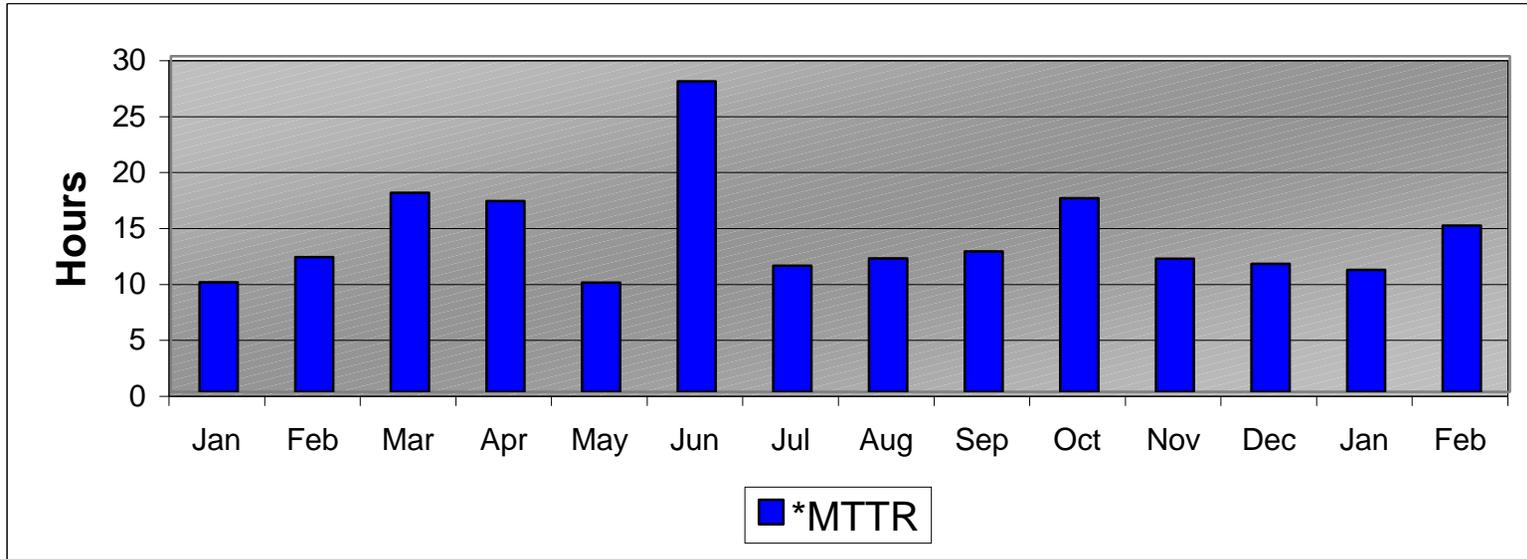
Bethpage, NY 11714

Enclosures

cc: Michael E. Olsen

Verizon–New York Maintenance Time To Repair (MTTR) Jan'02 – Mar'03

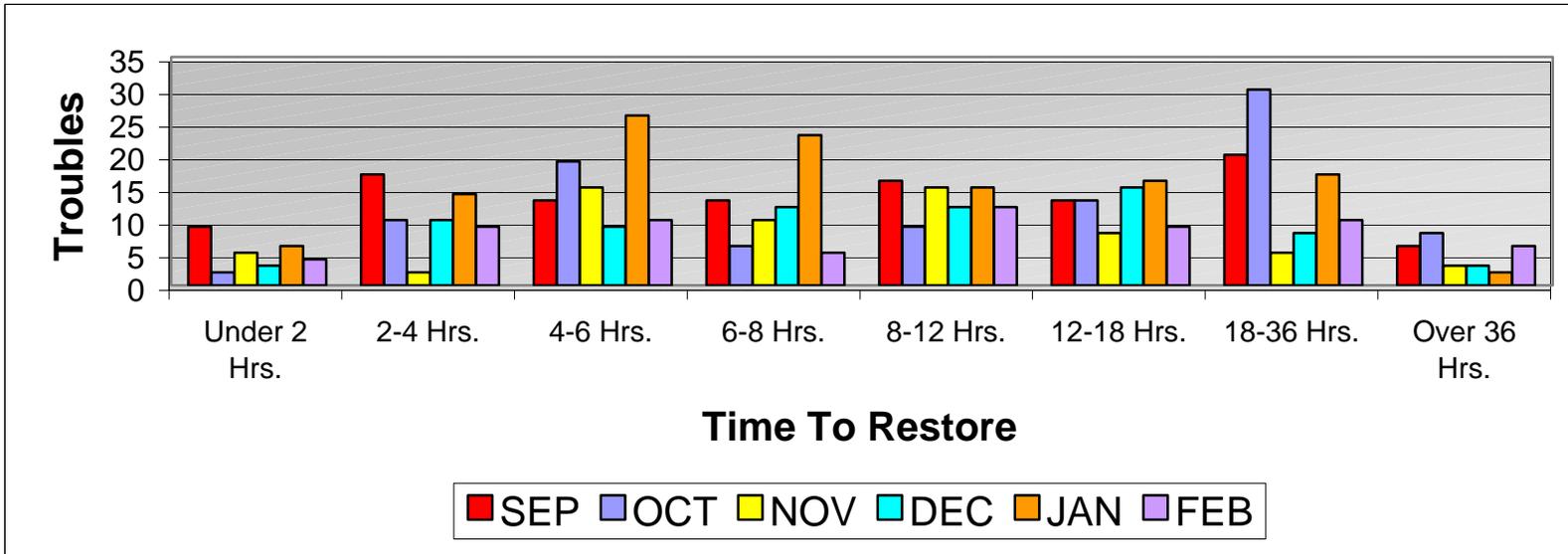
Appendix C



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
*MTTR	9.78	12.03	17.78	17.06	9.75	27.75	11.28	11.92	12.55	17.3	11.91	11.45	10.9	14.86

Verizon – New York Trouble Time to Restore Intervals Sep '02 - Feb '03

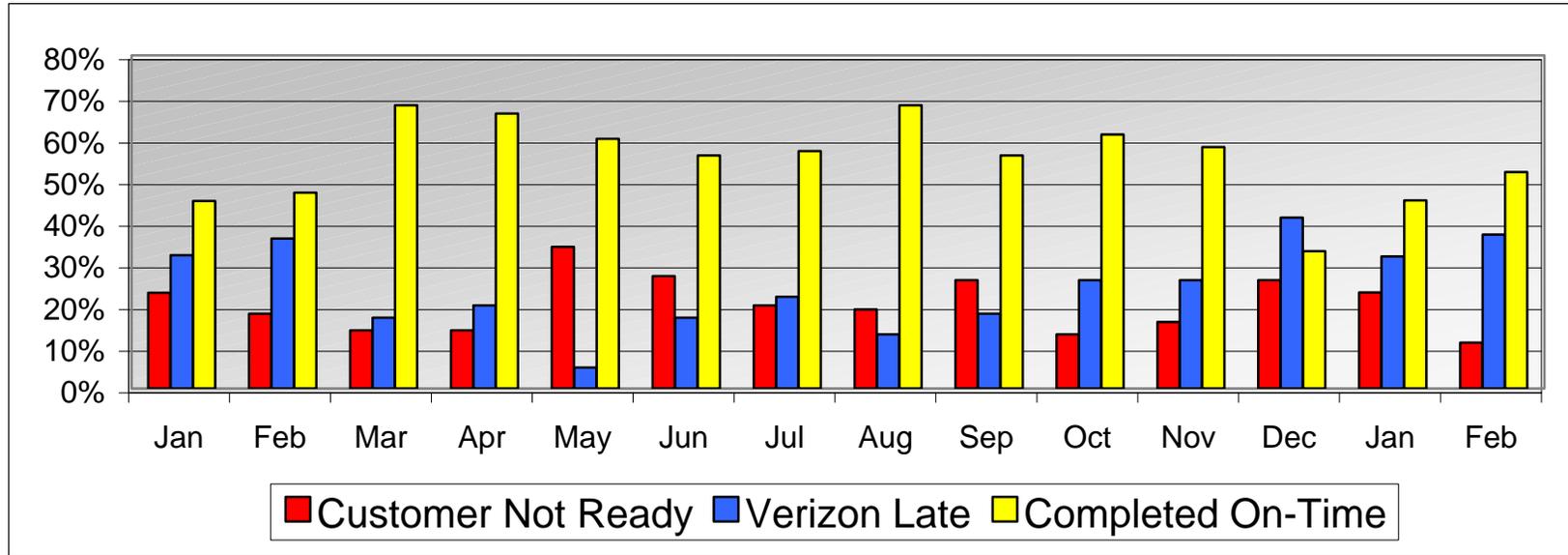
Appendix D



MTRR	SEP	OCT	NOV	DEC	JAN	FEB	SUMMARY
Under 2 Hrs.	9	2	5	3	6	4	29
2-4 Hrs.	17	10	2	10	14	9	62
4-6 Hrs.	13	19	15	9	26	10	92
6-8 Hrs.	13	6	10	12	23	5	69
8-12 Hrs.	16	9	15	12	15	12	79
12-18 Hrs.	13	13	8	15	16	9	74
18-36 Hrs.	20	30	5	8	17	10	90
Over 36 Hrs.	6	8	3	3	2	6	28
Total	107	97	63	72	119	65	523

Verizon Type II – New York Provisioning On-Time Performance 2002 - 2003

Appendix A

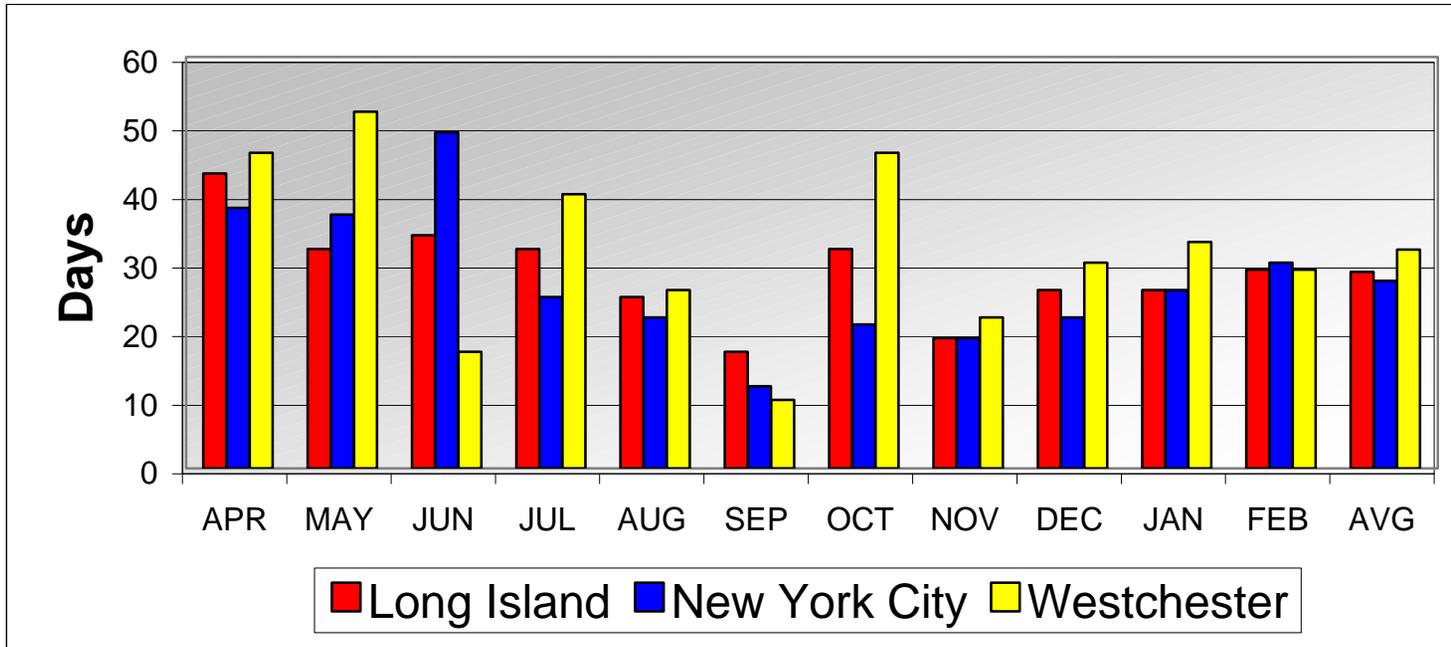


	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
Customer Not Ready	23%	18%	14%	14%	34%	27%	20%	19%	26%	13%	16%	26%	23%	11%
Verizon Late	32%	36%	17%	20%	5%	17%	22%	13%	18%	26%	26%	41%	32%	37%
Completed On-Time	45%	47%	68%	66%	60%	56%	57%	68%	56%	61%	58%	33%	45%	52%

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb
Completed On-Time	47	34	52	37	35	35	28	32	45	73	49	36	43	33
Verizon Late	33	26	13	11	3	11	11	6	21	31	22	45	40	23
Customer Not Ready	24	13	11	8	20	17	10	9	15	15	14	29	26	7
Total Orders	104	73	76	56	58	63	49	47	81	119	85	110	109	63

Type II Average Provisioning Interval Apr'02 – Feb'03 by Area

Appendix B



	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	AVG
Long Island	43	32	34	32	25	17	32	19	26	26	29	29
New York City	38	37	49	25	22	12	21	19	22	26	30	27
Westchester	46	52	17	40	26	10	46	22	30	33	29	32