

**ORIGINAL**



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July 23, 2003

**RECEIVED**

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

RE: WC Docket No. 03-157  
In the Matter of Petition for Forbearance From the Current  
Pricing Rules for the Unbundled Network Element Platform

Dear Ms. Dortch:

Enclosed for filing please find an original and four copies of a corrected version of page 17 of Verizon's Petition for Expedited Forbearance filed on July 1, 2003 in the above-referenced docketed proceeding.

Please do not hesitate to contact me at (703) 351-3193 should you have any questions.

Sincerely,

  
Karen Zacharia

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Third, because neither the UNE platform nor the TELRIC methodology is sacrosanct, to the extent that UNE-P continues to be available at TELRIC rates while the Commission completes its proceeding to reform its pricing rules generally, it is well within the scope of the Commission's power to condition that discretionary availability on the incumbent's receiving payment of per-minute access charges for any traffic originated or terminated on the line at issue.<sup>35/</sup> The Commission, of course, routinely conditions the availability or approval of a particular benefit on the fulfillment of particular conditions.<sup>36/</sup>

Fourth, as the Commission itself concluded in the *Local Competition Order*, nothing in the statute precludes it from determining, at least on an interim basis until it reforms its TELRIC rules, that in order to promote an important statutory goal, the incumbent should collect per-minute access charges for the origination or termination of traffic.<sup>37/</sup> Though the

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<sup>35/</sup> See, e.g., *United States v. Chesapeake & Ohio R.R.*, 426 U.S. 500, 514-15 (1976) (upholding as "a legitimate, reasonable, and direct adjunct to the Commission's explicit statutory [suspension] power" the ICC's authority agency to withhold suspension of a tariff that would increase railroad rates subject to the condition that the railroad use the resulting proceeds for capital improvements and deferred maintenance); *Trans Alaska Pipeline Rate Cases*, 436 U.S. 631, 655-56 (1978) (upholding ICC order suspending oil pipeline's initial rate tariff but permitting pipeline to file revised tariff, at specified interim rates, to take effect on one-day's notice, subject to the condition that the pipeline agree to refund the difference between any amounts collected during and after the suspension period and the amounts ultimately held to be reasonable).

<sup>36/</sup> See, e.g., Seventh Report and Order and Further Notice of Proposed Rulemaking, *Access Charge Reform*, 16 FCC Rcd 9923 ¶¶ 3-4 (2001) (conditioning the ability of CLECs to continue temporarily to charge above-market rates for terminating access in exchange for a mechanism under which those rates would be required to benchmark to ILEC rates over time); Order on Remand and Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, 16 FCC Rcd 9151 ¶ 89 (2001) (conditioning the ability of ILECs to take advantage of the new intercarrier compensation regime on their willingness to offer "to exchange all traffic subject to section 251(b)(5) at the same rate").

<sup>37/</sup> See *Local Competition Order* ¶¶ 726-27. The Commission's decision on this score was upheld by the Eighth Circuit in *Competitive Telecommunications Ass'n v. FCC*, 117 F.3d 1068