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September 10, 2004

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

Re: 1993 Annual Access Tariffs, CC Docket No. 93-193; 1994 Annual Access Tariffs, CC Docket No. 94-65

Dear Ms. Dortch:

Attached are errata to Verizon's August 30, 2004 Refund Plan to correct certain data in Exhibit 4 1994 Backup, Verizon Headroom Detail (BATR). In that workpaper, the effective date for Letter of 2/14/95 is corrected to 3/01/95 from 2/14/95. This changes the effective period for this filing to 16 days from 32 days, and it also changes the effective period for the previous filing to 18 days from 2 days. The headroom calculations for these filings are revised to reflect the changes in the effective dates. Also, the date for TM 690 is corrected to 12/31/04 to 12/31/95. This change has no effect on the headroom calculations. Also attached is a revised Exhibit 4 East, Addback Summary Verizon East, to reflect the changed headroom from Exhibit 4 1994 Backup. Finally, attached are revised pages 1, 2, 4, 8 and 9 from Verizon Refund Plan resulting from these corrections and from corrections to the dates for calculating interest in footnote 7. The changes are noted in boldface.

The revised data do not change the fact that the total amount of headroom that was available in the former Bell Atlantic tariffs during the two-year period under investigation was well in excess of the increase in Bell Atlantic's sharing obligation due to add-back. Add-back increased the sharing obligation by $6.3 million in 1993 and $6.9 million in 1994, but Bell Atlantic had almost $52 million in headroom during this two-year period. The headroom in 1993 alone was well in excess of the add-back impact, and the headroom in 1994 alone covered all but $2.5 million on a total interstate basis, and all but $3.5 million if headroom is applied separately to each price cap basket in 1994. However, for the reasons stated in Verizon's Refund Plan, it would not be reasonable to look at each year in isolation, because Bell Atlantic would not have left that much headroom in the first part of the two-year period if the Commission had made it clear that add-back was required under price caps. Ordering refunds for 1994 without recognizing the benefits that the interexchange carriers gained from Bell Atlantic's voluntary decision to keep its rates so far below cap in 1993 would not put the parties in the same position that they would have been if the Commission had adopted the add-back rule prior to 1995.

Sincerely,

Joseph DiBella

cc: T. Preiss
D. Shetler
J. Nitsche
J. Atkinson

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	
1993 Annual Access Tariff Filings	CC Docket No. 93-193
1994 Annual Access Tariff Filings	CC Docket No. 94-65

VERIZON REFUND PLAN
ERRATA

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Dated: September 10, 2004

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	
1993 Annual Access Tariff Filings	CC Docket No. 93-193
1994 Annual Access Tariff Filings	CC Docket No. 94-65

VERIZON[1] REFUND PLAN

Verizon hereby submits its refund plan in response to the Commission's July 30, 2004 *Order* in the above-referenced investigations.[2]

I. Introduction and Summary.

The data in the attached exhibits demonstrate that the Commission should not order Verizon to make any refunds as a result of applying add-back to its 1993 and 1994 annual access tariff filings. Although add-back increased the sharing obligations of the former Bell Atlantic companies by $6.3 million in 1993 and $6.9 million in 1994, the Commission should not order any refunds for these companies, because they had **almost $52** million of headroom during the two-year period. Even if the Commission looked at Bell Atlantic's headroom amounts separately for each year, **only $2.5** million of the increase in sharing increase due to add-back would not

[1] The Verizon telephone companies ("Verizon") are the affiliated local telephone companies of Verizon Communications Inc. These companies are listed in Attachment A.

[2] *1993 Annual Access Tariff Filings, 1994 Annual Access Tariff Filings*, CC Docket Nos. 93-193, 94-65, Order, FCC 04-151 (rel. July 30, 2004) ("Order").

have been covered by the total amount of headroom in each year, and less than **$3.5** million would not be covered by the amount of headroom each year if it were applied separately by basket. However, refunds based on the impact of add-back on separate tariff years or particular price cap baskets would not be justified, because access customers generally purchased services in both years and in all access categories and therefore benefited from Verizon's decision to keep rates well below the maximum allowed by price caps. For the former GTE companies, add-back actually would have *reduced* its net sharing obligation by approximately $3.8 million, because add-back would have increased GTE's lower formula adjustments more than it increased the sharing amounts. In addition, the GTE companies had over $690 million in headroom for this period, which far exceeded the impact of add-back on sharing alone. Either way, no refunds would be warranted for these companies.

II. Description of the Refund Plan

In the *Order*, the Commission found the 1993 and 1994 annual access tariffs of price cap local exchange carriers who had sharing or lower formula adjustments to be unreasonable to the extent that the carriers did not apply "add-back" in computing their 1992 and 1993 earnings and their resulting price cap indexes.[3] It required price cap local exchange carriers that implemented a sharing or lower formula adjustment and failed to apply add-back to (1) recalculate their 1992 and 1993 earnings and rates of return making the add-back adjustment; (2) determine the appropriate sharing or lower formula adjustments to their price cap indexes ("PCIs") for the

[3] *See Order*, ¶¶ 12, 28. "Add-back" refers to the process that eliminates the effects on the current year's earnings of sharing or lower formula adjustments that were required by the prior year's earnings. It requires the carrier to add the sharing amount to, or subtract the lower formula adjustment amount from, the current year's earnings in calculating the rate of return and the sharing or lower formula adjustment for the next year. *See id.*, ¶ 9.

headroom that actually existed in each price cap basket and in the access categories as a whole and provides the amount of any resulting rate decrease.[6]

If the Commission determined that Verizon had a refund liability, Verizon would make refunds in the following manner. First, Verizon would calculate the total refund liability by adding interest at the Internal Revenue Service ("IRS") large corporate overpayment interest rate, compounded daily, from the mid-point of each tariff year.[7] Verizon would use revenues billed by access customer name abbreviation ("ACNA") in each year to determine each carrier's share of the refund amount associated with access charges. Verizon would determine the proportion of switched and special access revenues paid by each carrier and use that proportion to determine

[6] These headroom calculations differ from those submitted previously, because Verizon has included mid-year tariff filings that had a significant impact on the price cap indexes and averaged the headroom over the tariff year. The previous filings only included the PCI and API changes in the annual access tariff filings due to the difficulty of reconstructing data from filings from ten years ago. With the additional time, Verizon has been able to develop data on the headroom changes that took place during each tariff year. The summary data show the total amount of headroom based on the amount of time that each mid-year filing was in effect. This is reasonable, because if Verizon had applied add-back at the time, it could have used this headroom to offset the add-back effect. Also, the calculations in Exhibit 4 do not reflect the effect of a filing Bell Atlantic made in 1997 to correct the "g" factor that Bell Atlantic had used in the 1993 annual tariff filing for the common line price cap formula. *See* Letter from Joseph J. Mulieri, Verizon, to William F. Caton, Secretary, FCC, Transmittal No. 977 (filed June 30, 1997). This correction eliminated $1 million of the common line headroom for the 1993 annual filing. *See* Letter from Joseph Mulieri, Verizon, to Marlene H. Dortch, Secretary, FCC, at p. 10 (filed Mar. 1, 2004). However, as is shown in Exhibit 4, Bell Atlantic had $19 million of headroom in the common line basket in 1993. Therefore, removal of $1 million still leaves far more headroom than the impact of add-back in the common line basket.

[7] Because the refund amount represents the annual refund for the tariff year, interest for the 1993-94 tariff year would be calculated from January 1, **1994**, and interest for the 1994-95 tariff year would be calculated from January 1, **1995**. As a result, if refunds were made today, Verizon would apply an interest factor of 1.7483 times the 1993 refund amount, and a factor of 1.6341 times the 1994 refund amount.

Commission had clearly informed the price cap carriers that add-back was required before they filed their tariffs. It is clear from the data that Verizon's rates were not unreasonable when viewed in this context. Accordingly, the Commission should apply the headroom analysis on an overall basis, rather than on a granular basis by basket or time period.

B. The Commission Should Not Order Refunds For The Bell Atlantic Companies, Which Had Far More Headroom Than The Impact Of Add-Back On Sharing.

There is no basis for ordering refunds for the former Bell Atlantic companies. Although add-back would have increased Bell Atlantic's sharing obligations by \$6.3 million in 1993 and \$6.9 million in 1994 (*see* Exhibit 1) these companies had **almost \$52** million of cumulative headroom for the 1993 and 1994 tariff periods. *See* Exhibit 4 East **Revised**. Ratepayers were not harmed by Bell Atlantic's decision not to apply add-back, because Bell Atlantic's rates were well below the maximum it could have charged during this two-year period even if it had applied add-back. While most of the headroom was front-loaded (\$47 million was in the 1993 tariff year alone), the Commission should look at the overall savings that ratepayers enjoyed during this period net of add-back and decline to order any refunds.

As is explained above, there is no question that any potential refund amount must be reduced by the amount of headroom that was available during the tariff periods under investigation. Given that the amount of headroom available must be taken into account, the remaining question is how that headroom should be applied. In this case, the Commission should apply the total amount of headroom in the 1993 and 1994 tariffs to the total increase in sharing due to add-back, rather than do a more granular analysis that looks at individual tariff filings and individual price cap baskets within those filings.

Exhibit 4 shows that there was sufficient headroom in the 1993 access tariff filings to cover all of the increases in sharing due to add back.[11] It also shows that there was sufficient headroom in the 1994 access tariff filings across all baskets to cover all but about $2.5 million of add-back adjustments.[12] Moreover, there was enough headroom in each price cap basket in each tariff year to cover all add-back adjustments except for $3.5 million in 1994. *See id.* However, Exhibit 4 shows that the total amount of headroom in the two-year period far exceeds the total amount of increase in sharing by several-fold. The interexchange carriers generally obtained access services throughout Verizon's service area in both years and in all price cap baskets. They would be unjustly enriched if they were to receive refunds based on calculations that were limited to certain access categories while enjoying the benefit of rates that were below the price cap limits in other categories.

If the Commission applied headroom by basket or tariff year, it would not put the parties in the same position that they would have been if an add-back rule had existed at the time the tariffs were filed. As the Commission noted, it had not given the price cap carriers notice that add-back would be required prior to the 1995 rule change. *See Order*, ¶ 16 ("our price cap rules

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[11] These exhibits compare the original headroom in the annual access tariff filings and in each of the mid-year tariff filings to the total change in sharing due to add-back for each price cap basket and for all baskets, because it was not possible in the time available to calculate an adjusted PCI for add-back for each of the mid-year filings. However, the headroom analysis provides comparable data by showing the extent to which the headroom in the tariffs as filed, comparing the PCIs to the APIs, exceeds the increase in sharing due to add-back.

[12] *See id.* In Exhibit 4, Verizon has included mid-year tariff filings that created additional headroom. For instance, on February 14, 1995, Verizon revised its PCIs to recognize exogenous increases for OPEB costs. *See* Exhibit 4 1994 Backup (BATR). To take these filings into account, Verizon calculated the amount of headroom created by the filing for the time that it was in effect and included it as part of the total headroom against which the adjustment for add-back should be compared.

ADDBACK SUMMARY VERIZON EAST

EXHIBIT 4 East Revised

1993				
BATR	**Sharing**	**LFA**	**HEADROOM**	**Headroom net of Sharing or LFA**
Common Line	(2,727,852)	0	19,029,979	16,302,127
Traffic Sensitive	(2,302,457)	0	22,064,780	19,762,323
Special Access/Trunking	(894,623)	0	4,596,862	3,702,239
IX	(326,068)	0	1,805,011	1,478,943
Total	(6,251,000)	0	47,496,632	41,245,632

1994				
BATR	**Sharing**	**LFA**	**HEADROOM**	**Headroom net of Sharing or LFA**
Common Line	(3,258,231)	0	**715,900**	**(2,542,331)**
Traffic Sensitive	(1,184,919)	0	**328,220**	**(856,699)**
Special Access/Trunking	(2,083,014)	0	**2,025,110**	**(57,904)**
IX	(346,836)	0	**1,265,518**	**918,682**
Total	(6,873,000)	0	**4,334,748**	**(2,538,252)**

Verizon Headroom Detail (BATR)

Exhibit 4 1994 Backup Revised

Headroom

Transmittal Number / Date of Letter	**TM 673**	**TM 690**	**TM 704**	**Letter of 2/14/95**	**TM 747**	**TM 768**	**TM 775**	
Effective Date	07/01/94	**12/31/94**	02/11/95	**03/01/95**	03/17/95	05/01/95	06/01/95	
Filing Description	1994 Annual Compliance	OPEB 106 Exogenous Cost Filing	SFAS 112 Exogenous Cost	OPEB 106/ SFAS 112 Adjustment	Rate Change (associated with ltr filing of 2/14/95)	Corridor Rate Change	SMDS NRC Rate Change	
Baskets	All Baskets	All Baskets	All Baskets	All Baskets	TS, TRK and CL Baskets	Interexchange Basket	Trunking Basket	
Common Line								
Demand								
Terminating CCL Prem.	25,803,503,753	25,803,503,753	25,803,503,753	25,803,503,753	25,803,503,753	25,803,503,753	25,803,503,753	
Terminating CCL Non-Prem.	7,938,126	7,938,126	7,938,126	7,938,126	7,938,126	7,938,126	7,938,126	
Originating CCL Prem.	28,270,182,507	28,270,182,507	28,270,182,507	28,270,182,507	28,270,182,507	28,270,182,507	28,270,182,507	
Originating CCL Non-Prem	1,030,804	1,030,804	1,030,804	1,030,804	1,030,804	1,030,804	1,030,804	
Capped Rates and Revenues								
Terminating CCL Prem.	0.007520	0.007570	0.007996	0.008298	0.008298	0.008298	0.008298	
Terminating CCL Non-Prem.	0.003384	0.003407	0.003598	0.003734	0.003734	0.003734	0.003734	
Originating CCL Prem.	0.007520	0.007570	0.007996	0.008298	0.008298	0.008298	0.008298	
Originating CCL Non-Prem.	0.003384	0.003407	0.003598	0.003734	0.003734	0.003734	0.003734	
Revenues								
Terminating CCL Prem.	194,042,348	195,332,523	206,324,816	214,117,474	214,117,474	214,117,474	214,117,474	
Terminating CCL Non-Prem.	26,863	27,045	28,561	29,641	29,641	29,641	29,641	
Originating CCL Prem.	212,591,772	214,005,282	226,048,379	234,585,974	234,585,974	234,585,974	234,585,974	
Originating CCL Non-Prem.	3,488	3,512	3,709	3,849	3,849	3,849	3,849	
Actual Proposed Rates and Revenues								
Terminating CCL Prem.	0.007520	0.007570	0.007996	0.007996	0.008298	0.008298	0.008298	
Terminating CCL Non-Prem.	0.003384	0.003407	0.003598	0.003598	0.003734	0.003734	0.003734	
Originating CCL Prem.	0.007520	0.007570	0.007996	0.007996	0.008298	0.008298	0.008298	
Originating CCL Non-Prem.	0.003384	0.003407	0.003598	0.003598	0.003734	0.003734	0.003734	
Revenues								
Terminating CCL Prem.	194,042,348	195,332,523	206,324,816	206,324,816	214,117,474	214,117,474	214,117,474	
Terminating CCL Non-Prem.	26,863	27,045	28,561	28,561	29,641	29,641	29,641	
Originating CCL Prem.	212,591,772	214,005,282	226,048,379	226,048,379	234,585,974	234,585,974	234,585,974	
Originating CCL Non-Prem.	3,488	3,512	3,709	3,709	3,849	3,849	3,849	
Annual Headroom	0	0	0	16,331,473	0	0	0	
Traffic Sensitive								
Proposed PCI	84.1617	84.3909	86.1155	87.3502	87.3502	87.3502	87.3502	
Proposed API	84.1552	84.3893	86.1074	86.1074	87.3499	87.3499	87.3499	
Proposed Revenues	472,900,822	474,216,103	483,871,024	483,871,024	490,853,194	490,853,194	490,853,194	
Annual Headroom	36,526	8,991	45,517	6,983,777	1,686	1,686	1,686	
Special Access/Trunking								
Proposed PCI	85.1775	85.4235	87.1834	88.4536	88.4536	88.4536	88.4536	
Proposed API	85.1770	85.4234	87.1746	87.1746	87.9258	87.9258	87.9258	
Proposed Revenues	821,234,492	823,610,236	840,494,472	840,494,472	847,736,918	847,736,918	847,736,918	
Annual Headroom	4,821	964	84,845	12,331,487	5,088,786	5,088,786	5,088,786	
TS and SA / Trunking Basket Headroom Total								
Interexchange								
Proposed PCI	93.2039	93.3717	94.887	95.4269	95.4269	95.4269	95.4269	
Proposed API	92.4509	92.4509	94.7811	94.7811	94.7811	93.7966	93.7966	
Proposed Revenues	134,892,160	134,892,160	138,292,127	136,048,135	136,048,135	136,855,591	136,855,591	
Annual Headroom	1,098,678	1,343,510	154,515	926,977	926,977	2,378,718	2,378,718	
DAYS FROM EFFECTIVE DATE TO NEXT FILING SHOWN	183	42	**18**	**16**	45	31	30	365
CL	0	0	**0**	**715,900**	0	0	0	**715,900**
TS	18,313	1,035	**2,245**	**306,138**	208	143	139	**328,220**
Special Access/Trunking	2,417	111	**4,184**	**540,558**	627,385	432,198	418,256	**2,025,110**
Interexchange	550,844	154,596	**7,620**	**40,635**	114,285	202,028	195,511	**1,265,518**
TOTAL HEADROOM BY PERIOD	571,574	155,741	**14,049**	**1,603,231**	741,877	634,370	613,906	**4,334,748**