Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	
Unbundled Access to Network Elements	WC Docket No. 04-313
Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers	CC Docket No. 01-338

DECLARATION OF LYNN W. WALKER

1. My name is Lynn W. Walker. My business address is 1717 Arch Street, Philadelphia, Pennsylvania, 19103. I am an Executive Director, State Public Policy and Business Integration, and have worked for Verizon, or its predecessor companies, for 30 years. My current responsibilities include overseeing major regulatory dockets throughout the Verizon footprint, including the state *Triennial Review Order* ("*TRO*") proceedings.

I. DATA PROVIDED IN THE STATE *TRO* PROCEEDINGS

2. In this section of my declaration I explain that the data presented in the state *TRO* proceedings regarding competitors' use of fiber networks to provide dedicated transport and high capacity loops was incomplete. As explained in the paragraphs that follow, this was true for a number of reasons. First, typically only those competitive local exchange carriers ("CLECs") that relied heavily on unbundled network elements ("UNEs") participated in those proceedings, so the CLECs that rely primarily on their own facilities or Verizon's special access, and the non-CLEC companies that offer their facilities at wholesale, did not present data about their own networks or customers unless they were compelled to do so. Second, in most instances the

parties' evidentiary presentations focused on the specific *TRO* "triggers" then in effect, and were necessarily limited as a result of the short time frame set forth in those proceedings. Third, many of the CLECs that participated in the proceedings avoided providing information on some or all of their fiber networks. Finally, most state *TRO* proceedings were terminated before they concluded, due to the District of Columbia Circuit Court's vacating of the *TRO* in *United States Telecom Association v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) ("*USTA II*"), *cert. denied*, 2004 U.S. LEXIS 6710, 6711, 6712 (Oct. 12, 2004).

3. First, because the state *TRO* proceedings concerned the availability of UNEs, CLECs that provide services using all or most of their own facilities, or that compete primarily using special access, frequently did not participate in those proceedings. For example, in Florida, Amer Fiber Systems, Knology, TECO, and Telseon were not involved in the state *TRO* proceeding, and did not provide data regarding their networks. In New York, Looking Glass, Global Crossing, Neon and Level 3, among others, were not parties to the New York proceeding and did not participate in responding to New York staff's requests for data production. Likewise, several CLECs did not participate at all in providing data in California, including Adelphia, CSX, Cogent, Enkido, and Telseon. In Pennsylvania, discovery was focused on the largest CLECs, and did not include data from smaller CLECs and several fiber transport providers, including DQE Communications, Fibertech, Metromedia Fiber, D&E Systems, City Signal Communications, Lightwave Communications, and Williams Communications.[1]

4. Second, the evidence presented in the state proceedings was typically limited to meeting the terms of the now overturned *TRO*. The *TRO* established certain "triggers," and parties presented evidence regarding whether those triggers had been met. For example, for

[1] *See Pennsylvania TRO Proceeding*, Docket Nos. I-00030100, 00030099, M-00031754, Procedural Order, at 19-20 n.14 (Oct. 2, 2003).

DS1-capacity transport, the triggers were only satisfied for "routes" served by two or more unaffiliated wholesale providers. *TRO*, Appendix B, § 51.319(e)(1). For dark fiber and DS3-capacity transport, the trigger was not met unless it could be shown that there were three CLEC self-provisioning facilities on a route, or two or more wholesale providers of DS3 capacity or dark fiber on a route respectively. *Id.*, § 51.319(e)(2) and (e)(3). For loops, the impairment triggers were met by providing evidence for each business customer location. For DS1-capacity loops, the trigger showing required two or more wholesale providers at a location. *Id.*, § 51.319(a)(4). For dark fiber or DS3-capacity service, the triggers required two or more providers serving that location with dark fiber or DS3-capacity service respectively. *Id.*, § 51.319(a)(5) and (6). Because of the specific triggers already set forth by the *TRO*, the lack of standards under the *TRO* for a finding of no impairment where the triggers were not met, and the limited time allowed for these proceedings, Verizon focused in the state proceedings on only those routes and customer locations that met specific *TRO* triggers, and then only in certain geographic locations a limited number of states. Other parties also focused their cases on the specific *TRO* triggers.

5. Third, because providing data regarding the existence and capacities of facilities would only help demonstrate that CLECs were not impaired without access to UNEs, CLECs had little or no incentive to provide data regarding their own facilities or the facilities they leased to or from other carriers. Indeed, CLECs were very creative in finding ways to avoid providing data regarding their fiber transport deployment in the state proceedings. For example, in Florida, AT&T argued that none of its facilities met the definition of transport in the *TRO* and therefore did not meet the trigger requirements. AT&T argued that self-provided transport did not count unless the capacity between two wire center endpoints was twelve or fewer DS3s. Thus, if

AT&T self-provisioned thirteen or more DS3s along a particular route, it argued that those facilities did not meet the trigger requirement, and therefore did not provide any data on its transport facilities.[2]

6. Several carriers stated that they only deployed fiber at the OCn level, and provided little or no data concerning channelized capacity for DS1 or DS3 service. In Florida, for example, AT&T, KMC, MCI, and Xspedius did not dispute that they own and use extensive fiber transport facilities that provide physical connections among Verizon wire centers. However, they claimed – erroneously– that *none* of their OCn fiber transport facilities in Florida would "count" toward the *TRO*'s transport triggers. Therefore, data regarding many CLEC-owned fiber optic facilities in Florida were completely excluded from the state *TRO* proceedings. Xspedius provided some information to the Commission regarding CLLI codes and wire centers, but did not provide any capacity-specific information.

7. Specifically, in the Florida proceeding, AT&T testified that it "has OCn fiber facilities terminating in collocation arrangements," and that all AT&T fiber facilities meet at a "central point" – an AT&T switch – thereby admitting that it has fiber facilities that provide connections that run from numerous Verizon wire centers, through AT&T's switching facilities, to numerous other Verizon wire centers. However, AT&T produced *no* data regarding its transport facilities in the Florida proceeding. In response to Verizon discovery requests seeking to determine the nature and location of AT&T's transport facilities, AT&T responded, "AT&T is not a self-provider of transport *as defined by the TRO* and therefore has no input to provide."[3]

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[2] *See Florida TRO Proceeding*, Docket No. 030852-TP, AT&T Rebuttal Testimony of Jay M. Bradbury, at 10-11 (Jan. 21, 2004).

[3] *See Florida TRO Proceeding*, Docket No. 030852-TP, AT&T's Response to Verizon's Request for Admissions – Interrogatory #1 (Dec. 22, 2003) (emphasis added).

8. Similarly, KMC provided no data regarding its SONET architecture in Florida, despite the fact that it reported that: it "has deployed its own transport facilities" on its simultaneous and multidirectional "SONET ring backbone architecture," and established operational collocation arrangements at multiple ILEC wire centers that are physically connected to the KMC ring;[4] KMC's "central office configuration includes electronic digital cross connect devices" and "transport equipment;"[5] and KMC has deployed "a 72 pair-strand fiber network."[6]

9. Again using Florida as an example, during the state proceedings, AT&T, KMC and MCI argued that their "backhaul" facilities, which they defined as any transport facility that takes traffic from the Verizon wire center to the CLEC switch, did not count toward the *TRO* triggers, even if a pair of such facilities could connect at the CLEC switch to provide transport between Verizon wire centers.[7] This definitional trick eliminated from the evidence produced in discovery virtually all of these CLECs' facilities that might meet the triggers for a "route" – transport facilities that could be used to connect one ILEC wire center to another. Of those three CLECs, only MCI provided data regarding its backhaul facilities in Florida.

10. The history of the CLEC data production in the Florida *TRO* proceeding is typical of the CLEC data production in other state proceedings. In all of the state proceedings in which Verizon participated, some CLEC participants provided either no data at all regarding their

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4 *Florida TRO Proceeding*, Docket No. 030852-TP, KMC Rebuttal Testimony of Marva Brown Johnson, at 15 (Jan. 21, 2004) ("KMC Florida Rebuttal Testimony")

5 KMC Telecom Holdings, Inc.'s Annual Report (Form 10-K) for the fiscal year ended December 31, 2001, at 3-4.

6 *Id.*, at 6.

7 *See, e.g.*, KMC Florida Rebuttal Testimony, at 5-6; *Florida TRO Proceeding*, Docket No. 030852-TP, Rebuttal Testimony of Lonnie Hardin on behalf of MCI WorldCom Communications, Inc. and MCIMetro Access Transmission Services LLC, at 6 (Jan. 21, 2004); *Florida TRO Proceeding*, Docket No. 030852-TP, AT&T Rebuttal Testimony of Jay M. Bradbury, at 16-17 (Jan. 21, 2004).

transport, or provided tortured interpretations of the *TRO* triggers in order to withhold data on the amount of transport they actually owned and operated in the relevant markets.

11. For example, in the California *TRO* proceeding, AT&T objected to the definition of "transport services" and provided no data on its transport routes, or provided evidence on its transport routes based upon the definition it preferred. As in Florida, in California in response to Verizon discovery requesting detailing of its fiber network in California, AT&T responded, "AT&T does not offer dedicated transport *as defined by the FCC in its Triennial Review Order*."[8]

12. Also in the California proceeding, **[BEGIN CLEC PROPRIETARY]**

[9] **[END CLEC PROPRIETARY]**

13. Similarly, in the California proceeding, **[BEGIN CLEC PROPRIETARY]**

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[8] *See California TRO Proceeding*, Docket No. 95-04-043, AT&T's Response to Verizon's Request for Admissions, Interrogatories and Documents, request for Admission Nos. 1 and 2 (Dec. 24, 2003) (emphasis added).

[9] *California TRO Proceeding*, Transcript Vol. 59, at 9142-9143.

[END CLEC PROPRIETARY][10] When asked to identify by wire center its high-capacity loop facilities, MCI responded as follows: "MCI states that it does not track the loop facility information identified in response to Question 7 by customer serving wire center 8-digit CLLI code."[11] Moreover, when asked to provide a map of its network, MCI declined.[12]

14. In the Pennsylvania *TRO* proceeding, there also were serious deficiencies in the data produced on competitive transport facilities. As an initial matter, the vast majority of the CLECs that were required by the Pennsylvania Commission to produce information on self-provisioned transport did not disclose any information on their "routes." For example, while AT&T identified the Verizon wire centers at which it has operational fiber-based collocation, it did not reveal how its fiber transport facilities connect Verizon wire centers with each other and with AT&T switching centers. As justification for withholding this information, AT&T claimed that none of its extensive, robust fiber transport facilities in Pennsylvania "count" toward the transport triggers because some portion of those routes consist of "backhaul" facilities, and in the

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10 *California TRO Proceeding*, **[BEGIN CLEC PROPRIETARY]** **[END CLEC PROPRIETARY]**

11 Second Supplemental Response of Worldcom, Inc. to Verizon California Inc.'s (U 102 C) First Set of Requests for Admission, Interrogatories and Documents, Hi-Capacity Loop Question No. 7 (Feb. 6, 2004).

12 Response of Worldcom, Inc. to Verizon California Inc.'s (U 102 C) First Set of Requests for Admission, Interrogatories and Documents, Dedicated Transport Request No. 2 (Dec. 26, 2003).

Triennial Review Order, the FCC relieved Verizon and other ILECs of the obligation to provide dedicated transport UNEs for backhaul.[13] AT&T also did not describe its routes among Verizon wire centers on the ground that AT&T does "not transport traffic directly" between Verizon central offices.[14]

15. As another example, MCI claimed in the Pennsylvania *TRO* proceeding to be unable to identify whether its transport facilities are lit or dark, the existence and number of DS1s and DS3s running over its OCn facilities, or even the termination equipment at its collocation arrangements.[15]

16. In New Jersey, several carriers produced either insufficient or squarely nonresponsive materials in the state *TRO* proceeding. As an example, at least five carriers did not provide individual line counts by wire center, data that would have been crucial to the findings the Board was purporting to make.

17. Some carriers in the New Jersey *TRO* proceeding simply never responded to the Board's discovery.[16] AT&T simply did not answer Board questions about the interconnections between collocations, the capacities of its transport facilities, the numbers of dark and lit fibers, and its willingness to provide transport to other carriers, and argued that *none* of its interoffice

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[13] *Pennsylvania TRO Proceeding*, AT&T St. 1.0, Direct Testimony of Robert J. Kirchberger and E. Christopher Nurse at 100-120 (Jan. 12, 2004).

[14] *Pennsylvania TRO Proceeding*, Responses of AT&T Communications of Pennsylvania, LLC to Preliminary Discovery Requests (Nov. 4, 2003); Responses of AT&T Communications of Pennsylvania, LLC to Verizon's Third Set of Interrogatories (Jan. 16, 2004).

[15] *Pennsylvania TRO Proceeding*, Response of MCI WorldCom Network Services, Inc. to Pennsylvania Public Utility Commission's Appendix A Interrogatories (Oct. 3, 2003); *Pennsylvania TRO Proceeding,* Response of MCI WorldCom Network Services, Inc. to Set III Interrogatories and Docket Requests of Verizon Pennsylvania, Inc. (Jan. 2, 2004).

[16] *New Jersey TRO Proceeding*, Supplemental Testimony of Harold E. West III and John White on Behalf of Verizon New Jersey, Inc., at 11 (Jan. 16, 2004) ("NJ West/White testimony") (public version).

architecture was responsive to any question relevant to the FCC's triggers, and that it therefore had no obligation to provide the requested data.[17]

18. In New Jersey, CLEC data were often also inconsistent with either their publicly-released materials or with the data that *other* CLECs provided regarding each other. For example, Covad Communications indicated that XO New Jersey was among its transport providers, while XO, when specifically asked to identify transport facilities made available to other carriers, replied: "This question is not applicable to the telecommunications services provided by XO in New Jersey."[18] Another carrier, Allegiance, which *tariffs* DS1 and DS3 service in New Jersey, publicly advertised T-1 service on a network it "owns," and provides extensive contact information for wholesale provisioning on its website, denied providing any fiber to other carriers in the New Jersey. [19]

19. In the District of Columbia as well, CLECs did not provide *any* meaningful information about the locations and capacities of their transport facilities, or about the facilities they offer at wholesale. For example, AT&T and Allegiance claimed to have no dedicated interoffice transport facilities – even though their transport facilities physically pass through two or more Verizon's wire centers – because traffic from a collocation arrangement at a Verizon wire center may pass also through an AT&T or Allegiance switch location before being delivered to a collocation arrangement at another Verizon wire center.[20] AT&T and MCI also

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17 *Id.*, at 12-13.

18 *Id.*, at 9-10.

19 *Id.*, at 10-11.

20 *See, e.g., District of Columbia TRO Proceeding*, Formal Case No. 1024, Direct Testimony of Robert J. Kirchberger and E. Christopher Nurse, at 100 & n.141, 101 (Jan. 12, 2004) (claiming that because of the FCC's definition of the dedicated transport UNE, "considerable portions of AT&T's fiber network have been rendered irrelevant to the transport trigger analysis by the FCC's TRO, such as entrance facilities to AT&T's POP or to AT&T's

did not rebut Verizon's evidence of the transport routes meeting the triggers on a route-by-route basis as required by the FCC.[21]

20. Other than data obtained from CLEC discovery responses in the state *TRO* proceedings, the only additional transport data Verizon was able to produce during the state proceedings largely was limited to what Verizon could determine based on physical inspections of CLEC fiber-based collocation. Even then, Verizon had resources to inspect only a limited number of wire centers. In addition, this data did not include competitive fiber that did not pass through Verizon wire centers. Moreover, as discussed in paragraph 4 above, the data Verizon produced in state proceedings was incomplete for purposes of analysis in this proceeding to the extent it focused on triggers that have since been reversed by the D.C. Circuit court.

21. Data regarding deployment of high capacity loops also was insufficient. Verizon had no independent data regarding CLEC-deployed loops at that time, because those loops in most cases completely bypass Verizon's network. In seven states (California, the District of Columbia, Florida, Massachusetts, Maryland, New Jersey, and Pennsylvania), Verizon was able to obtain enough loop data from CLECs in discovery to put forth a triggers case. However, even the data that was provided often was incomplete. In Florida, AT&T stated that "[t]he high-capacity loops that AT&T self-provides all carry three or more DS3s of demand and therefore

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'local' switch."); *District of Columbia TRO Proceeding*, Formal Case No. 1024, Direct Testimony of Richard Anderson on Behalf of Allegiance Telecom of the District of Columbia, Inc. at 3-4 (Jan. 12, 2004).

[21] *See District of Columbia TRO Proceeding*, Formal Case No. 1024, Direct Testimony of Michael D. Pelcovits on Behalf of MCIMetro Access Transmission Services, LLC, MCI WorldCom Communications, Inc. and WorldCom-ICC, Inc. (collectively MCI) at 77-92 (Jan. 12, 2004). In its direct testimony, AT&T did not discuss a single specific AT&T transport route, describe the path of AT&T's own network, or explain the termination equipment at AT&T's own switching locations and collocations. *See District of Columbia TRO Proceeding*, Formal Case No. 1024, Direct Testimony of Robert J. Kirchberger and E. Christopher Nurse, at 81-111 (Jan. 12, 2004).

are not relevant as self-provisioning triggers."[22] However, it did not specify what was deployed to each location or at what capacity loops were actually being used to serve end-users. In many states, AT&T stated simply that it had deployed **[BEGIN CLEC PROPRIETARY]**

[23]

[24] **[END CLEC PROPRIETARY]**

Similarly, in most states, MCI stated that **[BEGIN CLEC PROPRIETARY]**

[END CLEC PROPRIETARY] but it failed to identify the capacity at which it was serving end-user customers.[25] Again, these problems with high capacity loop data were representative of the data problems that existed in all state *TRO* proceedings in which Verizon participated.

22. As with transport, some CLEC data was often inconsistent with either their publicly-released materials or with the data that *other* CLECs provided regarding each other. For example, in all states where Verizon put in a loop case, AT&T denied that is was a wholesale provider of high capacity loop facilities.[26] However, AT&T's 2004 10K stated that it offers

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[22] *Florida TRO Proceeding*, Docket No. 030852-TP, AT&T Rebuttal Testimony of Jay M. Bradbury, at 27 (Jan. 21, 2004).

[23] *See, e.g.*, *California TRO Proceeding*, Supplemental Testimony of Orville D. Fulp and John White at 14-14 (citing Response of AT&T to the Commission's Information Request (Nov. 12, 2003)); *Massachusetts TRO Proceeding*, AT&T Supplemental Response to DTE Interrogatory 11 (Oct. 9, 2003).

[24] *See, e.g.*, *California TRO Proceeding*, Response of AT&T to the Commission's Information Request (Nov. 12, 2003).

[25] *See, e.g.*, *California TRO Proceeding*, Response of MCI to the Commission's Information Request (Nov. 12, 2003).

[26] *See, e.g.*, *Florida TRO Proceeding*, Docket No. 030852-TP, AT&T Rebuttal Testimony of Jay M. Bradbury, at 14 (Jan. 21, 2004).

> wholesale networking capacity and switched services to other carriers. We offer a combination of high volume transmission capacity, conventional dedicated line services and dedicated switched services on a regional, national and international basis to internet service providers (ISPs) and facility-based and switchless resellers. Our wholesale customers are primarily large tier-one ISPs, wireless carriers, competitive local exchange carriers, regional phone companies, interexchange carriers, cable companies and systems integrators. Our clients are located both in the U.S. and internationally. We focus on ensuring optimal network utilization through the sale of off-peak capacity. We also have sold dedicated network capacity through indefeasible rights-of-use agreements under which capacity is furnished for contract terms as long as 25 years.

AT&T 10K filed with the SEC, at 4 (Mar. 15, 2004). AT&T's webpage also advertised wholesale private line facilities. Moreover at least two CLECs, **[BEGIN CLEC PROPRIETARY]** **[END CLEC PROPRIETARY]**, identified ATT-TCG as a wholesale supplier of DS1 loops in response to discovery in California.[27]

23. Fourth, the state proceedings were never completed and most never even completed evidentiary hearings. In total, Verizon participated in *TRO* proceedings or negotiations before twelve separate state commissions: California, Delaware, the District of Columbia, Florida, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Texas, and Virginia. All of the state *TRO* proceedings terminated or were held in abeyance before a decision was reached when the D.C. Circuit Court vacated the *TRO* in *USTA II*. Of the dozen states listed above, ten never even completed evidentiary hearings before the proceedings were terminated.

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[27] *See, e.g.*, **[BEGIN CLEC PROPRIETARY]**

[END CLEC PROPRIETARY]

24. In Virginia, for example, the proceeding terminated before discovery even began. Similarly, the Massachusetts Department of Telecommunications and Energy, noted that the Massachusetts *TRO* proceeding was stayed "before any formal evidence was admitted into the record and before the Department made any findings on the parties' information relative to the FCC's 'triggers' impairment analysis."[28] In New York, the state commission did not ever institute formal discovery or hold an evidentiary hearing. Instead, data was collected by its staff, based on information requests the staff developed. However, the CLEC responses to these information requests were never a part of sworn testimony, or subjected to cross-examination.

25. For the District of Columbia, AT&T filed a brief with the state commission arguing that the record of the state *TRO* proceeding "must be deemed too incomplete for [the D.C.] Commission to 'summarize'" to the Federal Communications Commission, because, among other things, the proceeding was terminated before the CLECs filed any testimony on high capacity loop impairment, and before any pre-filed testimony was admitted into the record or subjected to cross-examination.[29] Verizon had outstanding motions to compel against several providers – including AT&T, Xspedius, Allegiance, and MCI – at the time the D.C. proceeding was halted.[30] Verizon also had requests pending before the District commission for subpoenas to compel the production of information from non-CLEC fiber providers such as WilTel Communications, PPL Telcom, DSL.net, Inc., and Northeast Optic Networks – information that is critical to providing a complete picture of the extent to which fiber facilities are readily

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[28] Commonwealth of Massachusetts Department of Telecommunications and Energy, Memorandum, D.T.E. 03-60 (Oct. 1, 2004).

[29] Response of AT&T Communications of Washington, DC LLC and Teleport Communications – Washington, DC Inc. to Commission Order No. 13371, DC Public Service Commission Formal Case No. 1024, at 2 (Sept. 15, 2004).

[30] Verizon Washington, DC Inc.'s Comments Pursuant to Order No. 13371, DC Public Service Commission Formal Case No. 1024, at 4 (Sept. 15, 2004).

available at wholesale.[31] In addition, "Verizon had not yet filed reply testimony, and there had not been any hearings, cross-examination of evidence, creation of an evidentiary record, or post-hearing briefs, let alone findings of fact and conclusions of law" before the D.C. proceeding was stayed.[32]

II. THE QSI STUDY

26. On October 4, 2004, CompTel, Ascent, and other CLECs submitted an *ex parte* letter to the Commission, with an attached study entitled, "Analysis of State Specific Loop and Transport Data: Impairment Analysis" ("QSI Study"). The QSI Study states that it was based "in large part on the public data that were made available in various state proceedings, initiated in response to the FCC's *Triennial Review Order*." QSI Study at 2. The data used in that study appears to suffer from the same flaws that were present in the state *TRO* proceedings. Moreover, those errors are compounded because it appears that the only data incorporated in the QSI Study was the data provided by CLECs in response to discovery requests. QSI Study at 5. Thus, the QSI Study apparently ignored *all* of the facility transport data filed by Verizon in those cases.

27. In addition, the QSI Study specifically adopts some of the erroneous limitations on data that were used by the CLECs to avoid producing data on their networks in state *TRO* proceedings. For example, the QSI Study states, "We removed routes on which 3 or more CLECs did not acknowledge they self-provide transport between the two wire center endpoints at the relevant capacity level (*12 or fewer DS3s* and dark fiber)." QSI Study at 16 (emphasis added). QSI sets a similar incorrect hurdle for high capacity loops, by eliminating the "Number of CLECs representing that they provide 2 or fewer DS3s of capacity into each building." QSI

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31 *Id.*

32 *Id.*, at 2.

Study at 4. QSI also states that it removed routes for "CLECs that are only providing service at the OCn or multiple DS3 (13 or more) capacity level ..." QSI Study at 16. These are precisely the types of arguments AT&T used to withhold data on its extensive facilities from state *TRO* proceedings. Thus, it appears that even in those limited instances where some CLECs produced relevant data, QSI adopted the artificial and self-imposed constraints created by AT&T in order to exclude such data from its study.

28. This concludes my declaration.

I hereby certify under penalty of perjury that the foregoing is true to the best of my knowledge, information, and belief.

Executed on October 19, 2004.

Lynn W. Walker

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REPLY DECLARATION
OF
THOMAS MAGUIRE

1. My name is Thomas Maguire. I submitted a Declaration in this proceeding on October 4, 2004. My qualifications are set forth in that Declaration.

I. Purpose of Reply Declaration

2. The purpose of my Reply Declaration is to respond to the testimony of John S. Sczepanski, Mark David Van de Water and Sharon E. Norris submitted on behalf of AT&T and the testimony of Sherry Lichtenberg, Michael Starkey and Sidney Morrison on behalf of MCI.

3. As explained in the Declaration of Dr. William E. Taylor, it is unlikely that Verizon will experience a significant increase in demand for hot cuts. Nonetheless, Verizon can accommodate competing carriers' requests for hot cuts through one or more of Verizon's hot cut processes: (1) the basic hot cut process; (2) the large job hot cut process; and (3) the batch hot cut process. All of these processes are scalable and can accommodate significant increases in hot cut demand. Moreover, Verizon's hot cut

performance has consistently met or exceeded applicable performance standards and benchmarks, even during significant increases in demand.

4. AT&T's and MCI's criticisms of Verizon's batch hot cut process focus on particular loop types and particular cutover scenarios that are not suitable for a batch hot cut process which relies extensively on mass production techniques. These loop types and scenarios, which reflect a small minority of hot cuts overall, are better handled through one of Verizon's other hot cut processes. Both the basic and the large job hot cut processes are just as scalable and capable of handling large volumes as Verizon's batch hot cut process.

5. Verizon's hot cut processes are already automated to the fullest extent practicable. The only manual aspect of Verizon's hot cut processes is the physical wiring work that takes only minutes to complete. MCI's recommendations for further automation are infeasible, have not been implemented by the industry and would require extensive manual wiring work to implement.

6. Verizon's batch hot cut process was built on its existing basic and large job hot cut processes. Those existing processes have already been proven in the real world and their performance has been exemplary. There is therefore no need to test Verizon's batch hot cut process.

II. Verizon's Three Hot Cut Processes Can Accommodate the Unique Needs of Competing Carriers.

7. As I explained in my Declaration, Verizon currently has three separate, though closely related, hot cut processes: the basic hot cut process, the large job hot cut process and the batch hot cut process. Verizon's basic hot cut process is a universal process that can be used for the widest range of loop types and cutover scenarios. It is

not limited to orders for one loop or even a small numbers of loops, but rather can be used for hot cut orders with a large or a small number of loops. Verizon's large job and batch hot cut processes, on the other hand, are more specialized processes. They are designed to be used in those situations that are suitable for mass production techniques.

8. AT&T's and MCI's criticisms of Verizon's batch process are largely focused on the loop types and cutover scenarios where that process is not suitable. In these situations, AT&T and MCI can use either Verizon's basic or large job hot cut processes. In fact, AT&T admits that "project managed, after-hours, bulk transfers of customers on a central office and competitive carrier specific bases can improve the quality and efficiency of the hot cut process, and allows competitive carriers to make use of their facilities in those cases where such migrations are possible because of the presence of collocated competitive carrier equipment." AT&T's Sczepanski *et al.* Decl. ¶ 33. Verizon's large job process remains an alternative choice to Verizon's batch hot cut process and basic hot cut process.

9. And, as I explained in my Declaration, even Verizon's basic hot cut process is scalable and capable of handling significant increases in demand for hot cuts. Although Verizon's large job and batch hot cut processes are not suitable for loops and cutover scenarios that require a dispatch, they could be used for many types of hot cut orders. These large job and batch hot cut processes enable Verizon to make more efficient use of its work force than the basic hot cut process.

A. Verizon's Hot Cut Processes Can Handle Cutovers Between Competing Carriers.

10. AT&T claims that the batch hot cut process should include hot cuts of loops between competing carriers. AT&T's Sczepanski *et al.* Decl. ¶¶ 74-83. Verizon's

batch hot cut process does accommodate such cutovers. In fact, all three of Verizon's hot cut processes can be used for cutovers between competing carriers.

11. MCI claims that hot cuts between competing carriers are more difficult because of the need to coordinate customer service records, number portability and directory listings. MCI's Lichtenberg Decl. ¶¶ 8-16, 25-32. The failure of competing carriers to cooperate with each other is not a problem that Verizon can be expected to fix. Verizon already has in place the processes necessary to coordinate the exchange of customer service records, number portability and directory listings. MCI and other competing carriers should implement the same processes that Verizon already has in place.

12. MCI implies that it will be difficult to maintain the accuracy of directory listings if hot cut demand increases and cites a recent dispute resolution filing by Cavalier Telephone in the Commonwealth of Virginia. MCI's Lichtenberg Decl. ¶¶ 25-28. Verizon provides competing carriers with the tools necessary to avoid errors in their customers' directory listings. For example, Verizon makes available to competing carriers Listing Verification Reports that enable them to verify the accuracy of their customer's directory listings before the directory is published. Cavalier Telephone has access to these Listing Verification Reports, but chooses not to use them to verify its customer's listings.

B. Verizon's Hot Cut Processes Can Handle Lines with DSL Service.

13. MCI claims that the batch hot cut process should be able to handle loops that carry both voice traffic and data traffic through either line sharing or line splitting arrangements. MCI's Starkey/Morrison Decl. ¶¶ 48-50. Not only does Verizon's batch

hot cut process accommodate loops with DSL service, as requested by another competing carrier that specializes in DSL service, but Verizon's basic and large job hot cut processes do as well.

14. Moreover, on lines with DSL service, Verizon makes the cutover at the splitter which separates voice traffic from data traffic on the loop. This enables the data carrier to continue using the same data circuit to serve the customer after the cutover that it was using to serve the customer prior to the cutover. There is no need for cage to cage cabling, as suggested by MCI.

C. Verizon's Hot Cut Processes Can Cutover Lines To EEL Arrangements.

15. MCI wants the ability to cutover loops to EEL arrangements. MCI's Starkey/Morrison Decl. ¶ 47. For example, MCI wants to establish transport facilities to central offices where it lacks collocation and have Verizon cutover loops to voice grade channels on that transport facility. Although MCI has not previously asked Verizon to perform such a cutover, Verizon's existing hot cut processes can accommodate it.

16. If MCI establishes a transport circuit in a central office, MCI can have that circuit multiplexed into individual voice grade circuits. So long as MCI identifies the connecting facility assignment on that multiplexer to which it wishes to have a loop cutover and provides dial tone at that connecting facility assignment, Verizon can hot cut the loop.

D. Verizon's Hot Cut Processes Can Handle Lines with Integrated Digital Loop Carrier ("IDLC") Technology.

17. AT&T and MCI object to the fact that IDLC-equipped loops are not eligible for Verizon's batch hot cut process. AT&T's Sczepanski *et al.* Decl. ¶¶ 55-73;

MCI's Starkey/Morrison Decl. ¶¶ 58-77. Because of the additional work involved to cutover a line served by IDLC technology, such lines are not suitable for Verizon's "mass production" batch hot cut process. Nonetheless, Verizon can cutover lines served by IDLC technology on a bulk basis through its basic hot cut process.

18. As I explained in my Declaration, a cutover for a customer served by an IDLC-equipped loop requires more work than a cutover for a customer served by an all copper loop. An IDLC-equipped loop is partly copper and partly fiber. The copper part of an IDLC loop connects a customer premises to a remote terminal where it is multiplexed with other loops, in groups of 24, onto a DS-1 fiber circuit. The DS-1 fiber circuit is connected directly to the digital line ports on Verizon's switch.

19. Before a customer served by an IDLC-equipped loop can be cut over to a competing carrier, the customer must be shifted from an IDLC-equipped loop to an all-copper loop or to a loop served via Universal Digital Loop Carrier ("UDLC") technology (which, unlike IDLC, can be unbundled in the central office). These additional steps are required for the cutover of an IDLC-equipped loop, but are not required for a traditional hot cut.

20. Generally, two outside dispatches are required for a hot cut on an IDLC-equipped loop, the first to confirm the availability of suitable replacement facilities and the second, on the due date, to actually move the customer's service to the new facilities. (All necessary connections at the central office are pre-wired before the customer's service is cut over in the field on the due date, which limits the interruption in the customer's service.)

21. Despite the additional work involved with lines served by IDLC technology, Verizon does not set a different interval for such loops. If a competing carrier submits an LSR to cutover a line served by IDLC technology and alternative facilities are available, Verizon will complete the order within the standard five business day interval for hot cuts.

22. Verizon could shorten the time and reduce the work necessary to cutover a line equipped with IDLC technology. For example, Verizon could cutover the loop during the first dispatch once a suitable alternative facility has been established. Competing carriers, however, have consistently resisted such a change to Verizon's basic hot cut process.

23. Lines equipped with IDLC technology do not represent a significant portion of Verizon's loops. As of August, 2004, only about 16 percent of Verizon's lines were equipped with IDLC technology. In addition, over 99 percent of Verizon's distribution terminals have copper or UDLC loops available. This means that less than one percent of Verizon's outside plant distribution terminals are served exclusively by IDLC technology with no accessible alternative.

24. AT&T claims that competing carriers must use Verizon's OSS to verify that a customer is not served by IDLC technology before submitting a batch hot cut order for that customer. AT&T's Sczepanski *et al.* Decl. ¶ 66. In order to process batch hot cut order requests as quickly as possible, competing carriers like AT&T should use Verizon's preordering OSS to determine whether the loop is eligible for Verizon's batch hot cut process before submitting a batch hot cut order request. Verizon's preordering OSS give competing carriers the ability to determine whether a loop is served by IDLC technology

before submitting a hot cut order. However, if a competing carrier does not perform that verification, Verizon's Wholesale Provisioning and Tracking System ("WPTS") will automatically identify the presence or absence of IDLC technology on the line. This information is then available to both the Verizon provisioning personnel and to the competing carrier. Verizon will automatically move the IDLC-equipped lines from the batch hot cut process to the basic hot cut process.

25. MCI claims that Verizon should be required to unbundle loops served by IDLC technology at the switch, rather than making alternative loop facilities (*e.g.*, copper loops or UDLC loops) available to the competing carrier. MCI's Starkey/Morrison Decl. ¶¶ 69-77. MCI proposes two alternatives for such unbundling –*i.e.*, multihosting and side-door – neither of which is feasible, in use by the industry or practical.

26. As an initial matter, Verizon is already satisfying its unbundling obligations under the Commission's *Triennial Review Order*. The Commission gave incumbent carriers the option of fulfilling their unbundling obligations by "provid[ing] requesting carriers access to a transmission path" to customers served by IDLC-equipped lines. At the incumbent carrier's adoption, it can provide access through: (a) a spare copper facility; (b) a UDLC system; or (c) other "technically feasible methods of unbundled access." *Triennial Review Order* ¶ 297. The Commission does not require incumbent carriers to unbundle IDLC-equipped lines, because unbundled access to IDLC-equipped loops is "not always desirable for either carrier." *Id.* n.855.

27. Consistent with these requirements, Verizon first checks to see if a spare copper loop is available. If it is, Verizon uses that copper loop for the cutover. If a spare copper loop is not available, Verizon checks to see whether it can rearrange loops among

its customers to make a non-IDLC-equipped loop available. If it can, Verizon will rearrange its facilities to make that loop available on the cutover. If suitable loop facilities are still not available, the competing carrier may request that Verizon construct additional loop facilities that can be unbundled.

28. The first method proposed by MCI for unbundling IDLC-equipped loops – multihosting – is not currently feasible nor has such an option been implemented by any carrier or vendor for the purpose of unbundling IDLC-equipped loops. In order to unbundle IDLC-equipped loops through GR-303 technology, there would have to be a high degree of sophisticated real-time coordination between the digital switch, the remote terminal electronics and the associated OSS. While equipment using GR-303 technology does support multiple interface groups between the remote terminal and the digital switch, they do not support control of, and access to, the GR-303-compliant electronics in the remote terminal by more than one carrier. Thus, multi-carrier access to a GR-303 system would require partitioning of control, security, provisioning, and testing functions, as well as other measures that would prevent carriers from inadvertently or intentionally interfering with each others' services. At this time, Verizon is not aware of any GR-303 equipment – much less one supported by industry-wide standards bodies – that would address these issues.

29. Even if GR-303 technology could support the unbundling of IDLC-equipped loops, GR-303 technology has not been deployed throughout Verizon's service territory. Less than two percent of IDLC-equipped loops in the Verizon East service territory are deployed on equipment and administered by OSS that are capable of supporting GR-303 technology. Thus, even if such equipment could support unbundling

of IDLC-equipped loops, this would still represent a relatively small percentage of Verizon's IDLC-equipped loops.

30. Finally, the New York Public Service Commission ("New York PSC") recently examined MCI's multihosting proposal and concluded that it is "problematic" and "poses significant difficulties."[1] According to the New York PSC, "this hardware was not designed for this precise purpose, so the necessary procedures and practices for using the equipment to perform hot cuts in the way advocated by MCI have not been developed and tested. Moreover, the software and operations support systems to control and coordinate electronic provisioning have not been developed, tested or deployed."[2]

31. The second method proposed by MCI for unbundling IDLC loops – side-door – is not currently feasible or practical. MCI's side-door proposal would require the use of a shared GR-303 interface in conjunction with a "side-door" capability to rearrange IDLC-equipped loops to a competing carrier's DS-1 transport facility. Side-door porting (sometimes referred to as "hairpinning") is a capability that is not currently deployed in Verizon's network. From a hardware perspective, side-door porting requires the use of two DS-0 channels on the same switch interface unit in order to effectively route a DS-0 channel "in" and "out" of the switch line unit. In addition, a DS-1 outbound port (containing the DS-0 channels) would have to be established on the switch line unit and an additional hardware element, such as a D4 channel bank or a 1/0 digital cross

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1 *Proceeding on Motion of the Commission to Examine the Process and Related Costs of Performing Loop Migrations on a More Streamlined (e.g., Bulk) Basis, Order Setting Permanent Hot Cut Rates*, Case 02-C-1425, at 23 (New York PSC, Aug. 25, 2004) ("NY Order").

2 *Id.* at 22-24.

connect system, would have to be utilized to terminate the DS-1 in order to provide DS-0 channel connections to the competing carrier. Most importantly, there are no OSS capabilities to support side-door porting as an unbundling tool. For these reasons, side-door porting is not utilized by Verizon for its retail or wholesale services.

32. In addition, the New York PSC recently examined MCI's side-door proposal and concluded that it "[t]he 'side door' option for rerouting IDLC loops poses significant problems, including a dramatic increase in the number of ports that must be used to accommodate it."[3]

E. Verizon's Hot Cut Processes Can Cutover Lines in a Timely Manner.

33. All three of Verizon's processes give competing carriers the ability to obtain hot cuts in a timely manner. Under Verizon's basic hot cut process, competing carriers can obtain a standard five business day interval for their hot cuts and can select an available cutover window. Under Verizon's large job hot cut process, the interval and the cutover times are negotiated between Verizon and the competing carrier. Under the batch process, the cutovers will be completed within 6 to 26 business days to enable Verizon to accumulate a critical mass of orders to take advantage of mass production techniques. In fact, AT&T admits that "this practice may be more efficient for Verizon, because it allows the technicians to work on the lines associated with the batch in the order in which they are located on the frame." AT&T's Sczepanski *et al.* Decl. ¶ 133.

34. AT&T and MCI criticize Verizon's batch hot cut process for not giving competing carriers more control over the interval and timing of batch hot cuts. AT&T's Sczepanski *et al.* Decl. ¶¶ 120-140; MCI's Starkey/Morrison Decl. ¶¶ 43-44. In many

[3] NY Order at 24.

cases, the interval and timing of the hot cut should not matter to the competing carrier. For example, where a competing carrier is already serving the customer with UNE-P, the potentially longer interval for a batch hot cut does not delay the time when the competing carrier began serving the customer. The longer batch interval, however, enables Verizon to accumulate enough batch hot cut orders to employ mass production techniques. In those situations where the competing carrier needs more control over the interval and timing of the hot cut, the competing carrier can use either Verizon's basic or large job hot cut process.

35. AT&T's testimony also expresses concern that competing carriers will not know precisely when the cutover will occur under the batch hot cut process and therefore will not know when the customer will be out of service. AT&T's Sczepanski *et al.* Decl. ¶¶ 126-127. In a routine hot cut, the physical wiring can be completed in only minutes so that the customer is out of service for only a very brief period of time. Since Verizon verifies that the customer is not using his or her phone at the time of the cutover, it is extremely unlikely that the customer would even notice when his or her phone is out of service. Moreover, if the timing of the cutover is critical for some particular customers, AT&T can use one of Verizon's other hot cut processes.

36. Another concern expressed in AT&T's testimony is the timing of the number portability activation under Verizon's batch hot cut process. AT&T's Sczepanski *et al.* Decl. ¶¶ 128-130. In order to minimize the amount of coordination needed between Verizon and the competing carrier, Verizon's technician will activate number portability as soon as the cutover is complete on an individual order under Verizon's batch hot cut process. By doing so, Verizon is further minimizing the period of time during which a