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February 25, 2005

Ms. Blanca S. Bayo, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 040156-TP
Petition for Arbitration of Amendment to Interconnection Agreements With Certain Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in Florida by Verizon Florida Inc.

Dear Ms. Bayo:

Please find enclosed for filing an original and 15 copies of the Direct Testimony of Alan F. Ciamporcero on behalf of Verizon Florida Inc. in the above matter. Service has been made as indicated on the Certificate of Service. If there are any questions concerning this filing, please contact me at 813-483-1256.

Sincerely,

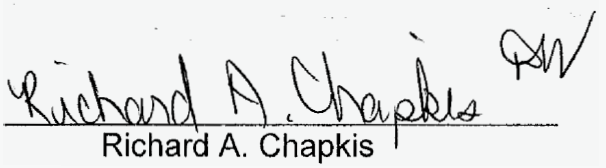
Richard A. Chapkis

Richard A. Chapkis

RAC:tas
Enclosures

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the Direct Testimony of Alan F. Ciamporcero on behalf of Verizon Florida Inc. in Docket No. 040156-TP were sent via U. S. mail on February 25, 2005 to the parties on the attached list.



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Arbitration of Amendment to Interconnection Agreements With Certain Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in Florida by Verizon Florida Inc.	)	Docket No. 040156-TP

DIRECT TESTIMONY OF ALAN F. CIAMPORCERO

ON BEHALF OF

VERIZON FLORIDA INC.

FEBRUARY 25, 2005

Q. PLEASE STATE YOUR NAME, POSITION WITH VERIZON, AND BUSINESS ADDRESS.

A. My name is Alan F. Ciamporcero. I am employed by Verizon Communications Inc. as President – Southeast Region. I am testifying on behalf of Verizon Florida Inc. ("Verizon"). My business address is 201 N. Franklin Street, Tampa, Florida 33602.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE.

A. Prior to becoming President of Verizon's Southeast Region in January of 2003, I was Vice President – State Regulatory Affairs for Verizon Corporation in Washington, D.C. From the time I was hired in 1998 until the GTE/Bell Atlantic merger was finalized in 2001, I oversaw GTE's relations with the Federal Communications Commission. Before joining GTE, I spent ten years with Pacific Telesis Corporation, first as an attorney in the marketing group, then focusing on antitrust and Modified Final Judgment (divestiture) compliance issues, and finally overseeing the company's relations with the FCC. Earlier in my career, I worked as an attorney in private practice in California and Washington, as a law clerk for the United States Court of Appeals for the Ninth Circuit, and on the staff of the United States House of Representatives.

I received my J.D. degree from the University of California, Davis in 1983, my Ph.D. in political science from the State University of New

York at Albany in 1980, and my undergraduate degree in political science from the University of Pittsburgh in 1970.

Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?

A. I will explain why Verizon initiated this proceeding, why it must conclude promptly, and, in general terms, what Verizon's *Triennial Review Order* ("*TRO*") Amendments are designed to do. My testimony addresses, at a high level, Issues 2 (how changes in unbundling obligations should be reflected in the amendment), 6 (repricing of arrangements no longer subject to unbundling), 7 (notice of discontinuance before the effective date of elimination of unbundling obligations), 8 (Verizon's entitlement to charge for conversion of UNEs to non-UNE alternatives), 11 (implementation of rate increases and new charges), 14 (whether the Amendment should address certain items unrelated to the *TRO*), 17 (whether existing performance measures should apply to new *TRO* services and activities), and 26 (interim adoption of Verizon's proposed rates for new *TRO* services). However, my primary purpose is to provide helpful background for the Commission, rather than to explain how specific provisions in Verizon's proposed amendments implement the legal rulings in the *TRO* or the *Triennial Review Remand Order* ("TRRO"). I am not testifying here as a lawyer. As Verizon has consistently maintained, issues concerning implementation of the *TRO* and *TRRO* rulings are legal, not fact, issues, and are properly addressed in legal briefs, rather than through testimony and hearings. I understand, however, that the CLECs insisted on direct testimony and

hearings here in Florida, although even they agree that a number of issues can be addressed solely through briefing. If any CLEC presents fact or policy testimony that merits rebuttal, Verizon will address it through rebuttal witnesses.

Q. WHY DID VERIZON INITIATE THIS PROCEEDING?

A. Verizon initiated this proceeding because the FCC told carriers to promptly amend their interconnection agreements to the extent necessary to implement the *TRO* rulings. The FCC found that even a months-long delay in implementing the *TRO* rulings "will have an adverse impact on investment and sustainable competition in the telecommunications industry." (*TRO*, ¶ 703.) The FCC warned that refusal to negotiate a *TRO* amendment, or unreasonably delaying the amendment process, "could be considered a failure to negotiate in good faith and a violation of section 251(c)(1)" of the Act. (*Id.* ¶ 704.) To prevent foot-dragging, the FCC told carriers to use the timetable for interconnection negotiations and arbitrations in section 252(b) of the Act. Thus, if carriers could not agree to an amendment, the FCC expected state Commissions to resolve disputes over contract language no later than nine months from the date of the *TRO*. (*Id.* ¶¶ 703-04.)

Q. WHEN DID THE *TRO* TAKE EFFECT?

A. Almost 17 months ago, on October 2, 2003. The FCC deemed October 2, 2003 to be the start of negotiations for a TRO amendment (*id.* ¶ 703). On that same day, Verizon sent a notice to all carriers with which it had

interconnection agreements, making available its *TRO* Amendment for negotiation. Although some CLECs eventually executed Verizon's *TRO* Amendment, Verizon's negotiation request produced little response from most CLECs. When negotiations proved unsuccessful, Verizon filed for arbitration here on February 20, 2003, within the window the FCC had established.

Q. DID THE CLECS COOPERATE WITH THE ARBITRATION PROCESS THE FCC HAD PRESCRIBED?

A. No. They did everything they could to delay the arbitration, and, thus, implementation of federal law. Even though the FCC specifically rejected the CLECs' contentions that negotiation of a *TRO* amendment should be delayed until all appeals of the *TRO* were final and nonappealable (*TRO,* ¶ 705), the CLECs claimed that Verizon's Petition for Arbitration was premature while the *TRO* was under appeal. The CLECs also raised various procedural challenges to Verizon's Petition. On July 12, 2004, the Commission granted Sprint's motion to dismiss Verizon's Petition because the Commission found that the filing did not provide enough information for the Commission to efficiently proceed with arbitration. In this regard, the Commission recognized that "those CLECs that have failed to respond to Verizon have contributed greatly to the lack of information available and have likely increased the burden on Verizon to meet the requirements of Section 252(b)(2)." (Order Granting Sprint's Motion to Dismiss, July 12, 2004, at 6.) The Commission thus granted Verizon leave to file a corrected Petition for Arbitration that

included the information specified in the July 12 Order. Verizon filed its new Petition for Arbitration and updated *TRO* Amendment on September 9, 2004, and that Petition is the basis for this proceeding.

Q. HOW MANY CLECS ARE INCLUDED IN THE ARBITRATION?

A. Nineteen. Verizon named 18 CLECs to the arbitration (a third of which are AT&T and MCI affiliates). Sprint was later permitted to intervene in the arbitration when it decided that it wanted to participate after all, despite its request for dismissal from the original arbitration.

In accordance with the Commission's July 12 Order, Verizon thoroughly reviewed the change-of-law provisions in its agreements to specify which carriers should be included in the arbitration. As Verizon explained in its Petition for Arbitration, most of Verizon's interconnection agreements already contain clear and specific terms permitting Verizon, upon designated notice (or no specified notice), to stop providing unbundled access to facilities that are no longer subject to an unbundling obligation under 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51. (Petition for Arbitration at 2.) There was no need to include CLECs with these self-effectuating agreements in the arbitration because Verizon could lawfully discontinue the UNEs delisted in the TRO without amending these agreements.

Even as to the 18 carriers Verizon named in its Petition, Verizon made clear that it sought to proceed with arbitration only because their

contracts might be *mis*construed to call for an amendment to permit Verizon to discontinue the UNEs delisted in the *TRO*. Verizon does not concede that it can be required under *any* of its interconnection agreements to provide UNEs eliminated by the FCC or federal courts. In addition, some CLEC contracts in this arbitration clearly specify that Verizon may discontinue particular UNEs upon notice.

Finally, amending contracts to incorporate the *TRO* and *TRRO* permanent unbundling rules is a separate matter from implementing the *TRRO*'s mandatory plan to transition CLECs from UNE-P and high-capacity facilities no longer subject to section 251 unbundling obligations. I understand from Verizon's lawyers that no amendments are necessary to implement the FCC's specific transition directives, which take effect on March 11, 2005, (TRRO, ¶ 235), but that issue is more appropriately addressed through legal briefs.

Q. DOES VERIZON PLAN TO REVISE ITS PETITION OR AMENDMENT IN LIGHT OF THE *TRRO*?

A. The *TRRO*, released on February 4, 2005, memorialized the FCC's final unbundling rules adopted on December 15, 2004. There is no need for Verizon to revise its Petition or to rewrite its Amendment in response to the *TRRO*, because Verizon's Amendment was designed to accommodate future changes in unbundling obligations. Therefore, the Amendment will incorporate the *TRRO*'s no-impairment rulings for UNE-P and for the high-capacity facilities that meet the FCC's criteria, and

any future no-impairment findings the FCC may make. The amendment establishes clearly that Verizon's unbundling obligations under its interconnection agreements are the same as its obligations under section 251(c)(3) and the FCC's implementing rules. (See Amendment 1 ("Am. 1"), §§ 2, 3.1, 4.7.3, 4.7.6.) Under the Amendment, Verizon may cease providing unbundled access to "Discontinued Facilities," meaning facilities that Verizon no longer has any obligation to provide under section 251(c)(3) of the Act and the FCC's implementing rules. (Am. 1, § 4.7.3.) By tying Verizon's obligations under its agreements to the obligations imposed under federal law, Verizon's Amendment provides for automatic implementation of any subsequent reductions in unbundling obligations without the wasteful and prolonged procedure that has been underway here for a year. When the FCC eliminates an unbundling obligation, that decision can be and should be implemented through the parties' interconnection agreements as well, without the need for any amendment to the agreement's language.

Verizon's Amendment, in addition, specifically identifies as Discontinued Facilities certain items that were eliminated in *TRO* decisions that are final and unappealable. (Am. 1, § 4.7.3.) In their efforts to delay this proceeding, the CLECs focused solely on the UNEs at issue in the FCC's permanent unbundling rules. But there are a number of *TRO* rulings that the CLECs refused to implement, even though they became binding months ago. These rulings, which were either upheld by the D.C. Circuit or not challenged in the first place, include, among others,

the elimination of unbundling requirements enterprise switching, OCn loops, OCn transport, the feeder portion of the loop on a stand-alone basis, signaling networks and virtually all call-related databases; and the determination that the broadband capabilities of hybrid copper-fiber loops and fiber-to-the-premises facilities are not subject to unbundling. The FCC's permanent unbundling rules do not affect these rulings *at all*, yet the CLECs have never offered any excuse for failing to reflect them in their contracts in the 17 months that have passed since the *TRO* took effect. Quick resolution of this proceeding is critical for this reason, and to meet the FCC's deadline for *TRRO* amendments.

Q. IS VERIZON WILLING TO CONTINUE NEGOTIATING ITS TRO AMENDMENT AS THE ARBITRATION PROCEEDS?

A. Yes. Although Verizon does not intend to overhaul its Amendment in light of the *TRRO*, it is open to discussing revisions put forward by other parties. Parties to section 252 arbitrations typically continue to negotiate disputed issues after the proceedings are underway, and this case is no different. Verizon remains willing to engage in (or continue) good-faith negotiations over its *TRO* Amendment as this arbitration progresses. In fact, in a notice sent on February 14, 2005, Verizon made clear to the CLECs in this arbitration that its previously released TRO Amendment was suited for implementing the *TRRO*'s no-impairment findings, and that Verizon was prepared to continue negotiation of that Amendment. Verizon also reminded CLECs that the FCC had given carriers a firm deadline for completion of amendments incorporating its no-impairment

findings—twelve months from March 11, 2005 for local circuit switching (*i.e.*, mass-market UNE-P), dedicated DS1 and DS3 transport, and DS1 and DS3 loops; and eighteen months for dark fiber loops and transport. These amendment deadlines are not subject to change, because they are linked to the FCC's transition periods for the delisted UNEs. Given the need to proceed promptly, Verizon's notice asked CLECs to notify their assigned Verizon negotiator within 30 days if they intended to continue negotiations or add terms to any contract language they had previously proposed.

Q. DOES VERIZON PLAN TO DISCONNECT CLEC SERVICES THAT ARE NO LONGER SUBJECT TO AN UNBUNDLING OBLIGATION?

A. No. No CLEC will be dropped from Verizon's network unless the CLEC asks for its services to be disconnected. Under Verizon's Amendment, Verizon would give a CLEC 90 days' written notice before discontinuing a UNE that is no longer subject to a section 251 unbundling obligation. (Am. 1, § 3.1) If the CLEC has not requested disconnection or negotiated an agreement for replacement arrangements before the end of the 90-day notice period, then Verizon would reprice the service by applying a new rate equivalent to resale, access, or other analogous arrangement that Verizon will identify in a written notice to the CLEC. (Am. 1, § 3.2.) The Amendment makes clear that any negotiations regarding non-UNE replacement arrangements are deemed *not* to have been conducted under section 252 or the FCC's unbundling rules, so these arrangements are not subject to arbitration under the Act. (Am. 1,

§ 3.3.) It also specifies that nothing in the Amendment affects any pre-existing or independent right Verizon may have to cease providing Discontinued Facilities. (Am. 1, § 3.4.)

The Amendment provides that Verizon may issue a discontinuation notice in advance of the date on which a delisting ruling will take effect, to give effect to Verizon's right to reject orders on that date. The Amendment also recognizes that before it took effect, Verizon had provided written notices to the CLECs, identifying arrangements that would replace certain delisted facilities, so Verizon can implement those arrangements without further notice once the Amendment takes effect. (Am. 1, §§ 3.1, 3.2.)

Q. WHY IS IT REASONABLE FOR VERIZON TO RELY ON NOTICES OF DISCONTINUATION SENT BEFORE THE AMENDMENT'S EFFECTIVE DATE?

A. Because the CLECs have already had more than ample notice of the *TRO* rulings and time to transition delisted services to non-UNE replacements. For example, in the *TRO*, the FCC determined that CLECs are not impaired without access to enterprise switching. This ruling took effect on December 31, 2003. On May 18, 2004, Verizon gave all CLECs 90 days' written notice that Verizon would not provide enterprise switching as of August 22, 2004, and invited CLECs to negotiate replacement arrangements. Verizon did, in fact, discontinue enterprise switching for most carriers (and transitioned them to

alternative arrangements), because their contracts clearly permitted Verizon to do so without an amendment. However, Verizon has continued to provide unbundled enterprise switching to the CLECs in this proceeding, because, as I explained above, their contracts may be misconstrued to require an amendment before discontinuing delisted UNEs. Therefore, by resisting Verizon's efforts to arbitrate contract amendments incorporating the *TRO* delistings, these CLECs have retained access to an element that was discontinued by the FCC well over a year ago. Under the current schedule, which calls for briefs on June 20, 2005, it is unlikely that amendments will be executed before late summer, at the earliest. By that time, two years will have passed since release of the *TRO* and well over a year will have passed since Verizon formally notified carriers of discontinuation of enterprise switching. Given the unduly long period of time these CLECs have had to prepare themselves for discontinuation of enterprise switching, there is no legitimate reason for CLECs to insist on *another* notice that allows them to keep enterprise switching for *another* three months after the Amendment takes effect.

The same logic holds true for other services delisted in the *TRO*, but which CLECs in this arbitration may still attempt to retain on an unbundled basis (*e.g.*, OCn loops and transport; dark fiber channel terminations and entrance facilities; dark fiber feeder subloop; and hybrid loops). Those rulings took effect on October 2, 2003 (even before the enterprise switching ruling did), and Verizon gave notice of

discontinuation that same day. As with enterprise switching, these services were discontinued for all carries but those Verizon named in its arbitration petition.

Q. HOW DOES VERIZON PROPOSE TO ADDRESS RATE CHANGES?

A. Under the Amendment, Verizon may implement any rate increases or new charges established by the FCC for UNEs or related services by issuing a schedule of such rate changes. The rate increases or new changes would take effect on the date indicated in the schedule, unless the FCC specified a different date. (Am. 1, § 3.5.) The Amendment recognizes that such rate increases or new charges would be in addition to any approved by this Commission or that Verizon otherwise has the right to implement. *Id.* Of course, regardless of any provisions in the Amendment or underlying contracts, all carriers must comply with specific FCC directives regarding rate increases or changes, such as those established in its *TRRO* transition plan. Again, however, explanations about implementation of the transition plan, including its rate increase provisions, are more appropriately handled by Verizon's lawyers.

Q. DOES THE AMENDMENT RECOGNIZE THAT VERIZON MIGHT BE REQUIRED TO OFFER NEW UNES?

A. Yes. In the unlikely event that the FCC designates new UNEs after the effective date of the Amendment, the rates, terms, and conditions will be established in Verizon's tariffs, if applicable, or through negotiation of an

amendment to the interconnection agreement. (Am. 1, § 2.3.)

Q. HAS VERIZON ALSO PROPOSED LANGUAGE TO IMPLEMENT NEW OBLIGATIONS IMPOSED IN THE *TRO*?

A. Yes. Although my discussion so far has focused on the *TRO* Amendment Verizon proposed for arbitration ("Amendment 1"), Verizon made available in negotiations a second amendment ("Amendment 2") in response to CLEC proposals and requests. Verizon filed Amendment 2 in this proceeding on October 18, 2004, after the CLECs had put its subject matter at issue in the arbitration. Whereas Amendment 1 primarily addresses discontinuation of delisted UNEs, Amendment 2 fleshes out Verizon's obligations as to certain *TRO* requirements, including those relating to commingling, conversions of non-UNE services to UNEs, routine network modifications, overbuilt fiber-to-the-premises loops and hybrid loops. Like Amendment 1, Amendment 2 ties Verizon's obligations to federal law, but establishes specific terms and conditions to govern provision of the new services required by the FCC in the *TRO* (to the extent that underlying facilities still need to be made available under the FCC's permanent unbundling rules). If CLECs wish to obtain these new services, they must execute an amendment to do so.

The specifics of how the Amendment 2 provisions incorporate the TRO's legal rulings is a matter for the legal briefs but, to the extent CLECs raise fact issues in their testimony, Verizon will respond to them in

rebuttal.

Q. IS VERIZON PROPOSING PRICES FOR THE NEW SERVICES REQUIRED BY THE *TRO*?

A. Yes. Amendment 2 includes a pricing attachment setting forth Verizon's proposed rates for activities relating to commingling, conversions, and routine network modifications. The Commission has already set rates for some elements in the pricing schedule, and Verizon is not seeking to change those here. As to the rates that have not been set by the Commission, Verizon proposes to charge them on an interim basis, pending completion of a cost case. Verizon did not submit a cost study in this phase of the case because, until the FCC released its new rules, Verizon could not determine the precise parameters of such a study. Therefore, there was insufficient time to prepare thorough studies for the numerous jurisdictions in which arbitration proceedings are underway. In addition, cost proceedings are typically protracted and raise complicated fact issues. Given the FCC's directive to promptly conclude proceedings to implement the no-impairment rulings in the *TRO* and the *TRRO*, and the number of non-cost issues the Commission must consider, it is not reasonable to litigate and resolve costing and pricing issues in this phase of the proceeding. Therefore, Verizon recommends that the Commission adopt the rates specified in Verizon's pricing attachment to Amendment 2 on an interim basis, pending completion of a pricing proceeding to be held later. To the extent Verizon is required to provide the services covered in Amendment 2, it is also entitled to

payment for them. The interim rates will assure cost recovery until the Commission can set permanent rates.

Q. WHY DOES VERIZON OPPOSE ADDING LANGUAGE TO THE *TRO* AMENDMENT TO ADDRESS LINE SPLITTING, RETIREMENT OF COPPER LOOPS, LINE CONDITIONING, PACKET SWITCHING, AND NETWORK INTERFACE DEVICES?

A. The purpose of this arbitration is to amend agreements to implement the permanent unbundling rules in *TRO* and *TRRO*. These Orders did not change Verizon's obligations (or lack thereof) with regard to the items listed in the question. These matters are already addressed in the underlying agreements, so there is no reason to address them in the *TRO* Amendment. This proceeding is not a free-for-all for parties to revise any terms in their underlying agreements that they may not like. Introduction of these extraneous issues will unduly and unnecessarily complicate this proceeding, because it would require consideration of extensive new language that has nothing to do with obligations imposed in the *TRO*. The Commission has enough *TRO*-related items to consider in the coming months, without trying to evaluate contract proposals for non-*TRO* issues. If the Commission were to determine that these or other non-*TRO* items should be addressed in the *TRO* Amendment, then Verizon must have the opportunity to propose language during negotiations to conform the amendment to the Commission's decision.

Q. IS THERE ANY NEED FOR THE COMMISSION TO CONSIDER PERFORMANCE MEASURES AND REMEDIES IN THIS DOCKET, AS THE CLECS HAVE ASKED IT TO?

A. No. Issue 17 asks: "Should Verizon be subject to standard provisioning intervals or performance measurements and potential remedy payments, *if any*, in the underlying Agreement or elsewhere, in connection with its provision of a) unbundled loops in response to CLEC requests for access to IDLC-served hybrid loops; b) commingled arrangements; c) conversion of access circuits to UNEs; [and] d) loops or transport (including dark fiber transport and loops) for which routine network modifications are required." (Emphasis added.)

The question concerns only potential application of already existing measures. Verizon has not determined the full extent to which its Florida contracts might be construed to require intervals, performance measurements or potential remedy payments, but such provisions, if they do exist, would likely be rare. In any event, whatever intervals, measurements, or remedy payments that may exist were not designed to account for any extra time and activities associated with the new *TRO* requirements. These requirements did not exist when the contracts were executed.

In addition, the Commission should not consider any performance measurement proposals in this arbitration, because such proposals must be addressed according to the provisions of the Stipulation on

Verizon Florida Inc. Performance Measurement Plan, adopted by Order No. PSC-03-0761-PAA-TP in Docket No. 000121C-TP. As the Commission correctly stated in that Order, the stipulation adopts the performance metrics set forth in the California Joint Partial Settlement Agreement and identifies a process for the flow-through of changes ordered by the California Public Utilities Commission to the measures in effect in Florida:

> [T]he stipulation identifies a process for the flow through of changes ordered by the California Public Utilities Commission to the measures in effect in Florida. The parties agree that the review process in California will consider and satisfactorily resolve such issues. In the event that it does not, any party can apply to the Florida Public Service Commission for resolution, as defined in the stipulation.

Order No. PSC-03-0761-PAA-TP at 4. In particular, the Stipulation requires written notice of performance measurement plan changes to the Commission and all CLECs, a formal opportunity for parties to challenge any noticed changes, issuance of a Proposed Agency Action adopting the changes, and implementation within a designated timeframe. (Stipulation, at 4-5.) The stipulation also allows for consideration of "issues that have neither been raised nor resolved in the California process." For such issues, a party is to request, in writing, negotiation, and if no resolution is reached within thirty calendar days, the parties can either extend the negotiations period or petition the

FPSC to resolve the issue. (*Id.* at 5.)

Therefore, there is already a specific procedure to present proposals for additions or changes to Verizon's performance plan in Florida. The CLECs should be required to follow the procedures they agreed to, rather than raising performance plan issues in this forum. Even aside from the existence of the stipulation, consideration of performance plan issues is not appropriate here, because nothing in the *TRO* requires implementation of performance plans, and performance plan issues should be considered in a generic forum in which all CLECs can participate, rather than in this arbitration with particular CLECs.

Q. HAS ONE PERFORMANCE PLAN ISSUE ALREADY BEEN DROPPED FROM THIS CASE?

A. Yes. When the parties were negotiating the list of issues to be resolved in this arbitration, certain CLECs insisted on including the issue of hot cut performance metrics and remedies. Verizon challenged the inclusion of this issue, and it was deleted from the case in an Order issued February 24, 2005. (Order Denying CLECs' Motion for Modification of Order Establishing Procedure, Order No. PSC-05-0221-PCO-TP, at 8 (Feb. 24, 2005).) .

The rationale for excluding hot cut performance metrics from this arbitration applies with equal force to all of the other items in Issue 17. There is no need to consider performance measures relating to any of

these new services or activities, because there is already an ongoing performance measures docket, including agreed-upon procedures to raise such issues. In fact, the Order removing the hot cuts issue from this case advises "[a]ll parties...to make a concerted effort to negotiate in good faith regarding performance measures issues in the future, as specifically called for in the 'Continuing Best Efforts' section of the stipulation." Id. The Order emphasizes that: "From the Commission's standpoint, such communication is expected before matters are escalated to the extent they have been in this proceeding." In addition, development of performance metrics and remedies is an extremely complex, fact-intensive, technical undertaking that does not lend itself to litigation. That is why such metrics are typically developed in industry collaboratives, rather than through adversary processes. It is highly unlikely that the Commission will be able to evaluate performance metric and remedy proposals—in addition to all the other issues in this case—within the few months remaining for decision. Any evaluation of remedy proposals would be further complicated by the need to address the fundamental legal issue of whether the Commission has the authority to adopt any remedy plan at all. As Verizon's lawyers made clear at the outset of Verizon's performance measures docket, the Commission cannot award damages, so it cannot impose any enforcement mechanism that includes monetary payments.

In accordance with the Commission's expectation that parties will try to negotiate performance issues before raising them in litigation, the

Commission should make clear at this point that it will not consider proposals for any new performance measures or remedies in this case, before parties waste time trying to litigate any such proposals.

Q. DOES THAT CONCLUDE YOUR TESTIMONY?

A. Yes.