

ORIGINAL



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March 25, 2005

BY HAND DELIVERY

Ms. Blanca Bayó, Director
The Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

05 MAR 25 PM 3:22
COMMISSION
CLERK
-FPSC

Re: Docket No. 040156-TP

Dear Ms. Bayó:

Enclosed for filing are an original and 15 copies of the Rebuttal Testimony of E. Christopher Nurse filed on behalf of AT&T Communications of the Southern States, LLC's and TCG South Florida, Inc. in the above-referenced docket.

Please acknowledge receipt of this letter by stamping the extra copy of this letter "filed" and returning to me. Thank you for your assistance with this filing.

Sincerely yours,

Tracy W. Hatch

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- COM 3
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- ee: Parties of Record
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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

**REBUTTAL TESTIMONY OF
E. CHRISTOPHER NURSE**

**ON BEHALF OF
AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC
AND TCG SOUTH FLORIDA, INC.**

March 25, 2005

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION**
2 **TITLE.**

3 A. My name is E. Christopher Nurse. I am employed by AT&T as a District
4 Manager, Law and Government Affairs. Since I submitted Direct Testimony in
5 this proceeding my business address has changed to 1120 20th St., NW, Suite
6 1000, Washington, D.C. 20036.

7 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

8
9 A. I am responding to the Direct Testimony of Alan F. Ciamporcero submitted in this
10 proceeding on behalf of Verizon Florida Inc.

11
12 **Q. BEFORE ADDRESSING THE SPECIFICS OF MR. CIAMPORCERO'S**
13 **DIRECT TESTIMONY, DO YOU HAVE ANY GENERAL COMMENTS**
14 **CONCERNING HIS SUBMISSION?**

15
16 A. Yes, where is the rest of Verizon's direct testimony? As an initial matter, it is
17 difficult to deal with the "specifics" of Mr. Ciamporcero's direct testimony
18 because it is woefully lacking in them. His direct testimony only deals with a
19 handful of the Issues that were identified in the Commission's December 13, 2004
20 Order Establishing Procedure in this Docket. In addition, Mr. Ciamporcero's
21 direct testimony is replete with generalities and does not provide Verizon's
22 position on the Issues. As a result, his direct testimony can be of little use to the
23 Commission in resolving the important issues that are presented for resolution in
24 this case.

25

26

27

1 Second, the fact that Mr. Ciamporcero fails to address in his direct testimony the
2 issues that were contained in the Procedural Order should be troubling to the
3 Commission. Mr. Ciamporcero's testimony (at 2-3) makes it very clear that
4 Verizon *could* have, but strategically chose not to submit direct testimony on the
5 Issues identified in the Procedural Order, in keeping with Verizon's view that
6 the matters at issue here are "legal" – and thus, in Verizon's opinion, not the
7 proper subject for testimony, In other words, Verizon chose deliberately not to file
8 direct testimony on the identified issues, notwithstanding the fact that the
9 Commission never indicated in its Procedural Order that certain Issues were legal
10 and could be decided on the legal briefs and certain Issues required testimony.
11 Thus Verizon has defaulted in the presentation of its direct case. While I am no
12 attorney, my lawyers tell me that under normal rules of civil procedure, AT&T
13 could seek and would be entitled to obtain an order in the nature of a directed
14 verdict.

15
16 Mr. Ciamporcero states in his direct testimony that Verizon intends to wait until
17 the rebuttal round to submit its direct case on the Issues identified in the
18 Procedural Order. Hopefully, it will not be lost on this Commission that this is a
19 blatant attempt to "sandbag" the CLEC parties to the case.

20
21 While AT&T is proceeding with this rebuttal to Mr. Ciamporcero's "direct"
22 testimony – such as it is - AT&T nevertheless reserves it right to pursue

1 appropriate relief from the Commission for any untimely and inapt submissions
2 Verizon may make in the rebuttal testimony phase of this proceeding..

3
4 **Q. HOW DO YOU RESPOND TO MR. CIAMPORCERO'S GENERALIZED**
5 **ALLEGATIONS (AT 4-5) THAT THE CLECS HAVE FAILED TO**
6 **"COOPERATE" IN THIS ARBITRATION?**

7
8 A. There are several problems with his very serious accusation. However, to get
9 right to the bottom line - if Mr. Ciamporcero has evidence to support a claim that
10 a particular CLEC failed to negotiate in good faith as is required by the federal
11 Act, Verizon should have filed such a complaint. They did not.

12
13 The problem with Mr. Ciamporcero's generalized allegations is that it is far from
14 clear just what or whom Mr. Ciamporcero is complaining about. If Mr.
15 Ciamporcero is claiming that some CLEC or CLECs have not been negotiating in
16 good faith, as required under section 252 of the Act, he should have made that
17 charge against each specific CLEC to whom he asserts it applies and support the
18 claim with facts. He has not done so.

19
20 Conversely, to the extent he is claiming that the CLECs have not "cooperated"
21 with the Commission, as provided in section 252(b)(5) of the Act, the few
22 ambiguous examples of CLEC actions that he does cite -- such as "procedural
23 challenges" -- simply do not support the claim. Certainly the federal Act does not
24 require a CLEC to give up its rights to due process. In any event, and as he even
25 admits in his testimony (Verizon Direct at p.4, line 19), one of those "procedural
26 challenges" -- Sprint's Motion to Dismiss Verizon's original arbitration petition --

1 was granted by the Commission after finding that Verizon's filing did not comply
2 with the requirements of the federal Act. After the Commission dismissed
3 Verizon's initial arbitration petition in July, 2004, it took Verizon nearly two
4 months to refile its arbitration petition. Verizon should accept responsibility for
5 its defective filing and the resultant delay.

6
7 Mr. Ciamporcero also paints with an extremely broad brush, leveling his
8 accusations at some amorphous collection of "CLECs" without identifying any
9 one in particular. Insofar as AT&T is part of that group, however, Mr.
10 Ciamporcero's claims are simply untrue.

11 Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF THE TIMELINE OF
12 NEGOTIATIONS BETWEEN AT&T AND VERIZON REGARDING THE
13 IMPLEMENTATION OF THE VARIOUS FCC ORDERS?
14

15 A. In October 2003, shortly after the FCC issued the Triennial Review Order
16 {"TRO"}, Verizon posted a generic draft of its proposed TRO amendment on its
17 web site. AT&T reviewed the proposal and, in February 2004, provided Verizon
18 with a 'red-lined' version of the Amendment, identifying those provisions of the
19 amendment that AT&T believed were not consistent with the FCC's order, and
20 providing alternate proposals for Verizon's consideration. During this time
21 period, as this Commission is aware, AT&T and Verizon were also participating
22 in the Commission's proceedings to implement the provisions of the TRO to
23 make the state determinations, required by the FCC, of the geographic areas
24 where CLECs were impaired without access to mass market switching and high
25 capacity loops and transport.

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On February 20, 2004, Verizon filed its initial arbitration petition with this Commission against AT&T and other CLECs, along with a proposed amendment reflecting its views of what was required by the FCC's TRO Order.

Meanwhile, in early March 2004, not having received any response from Verizon to the red-lined version of the Verizon original proposed TRO amendment that AT&T had sent in February, AT&T contacted Verizon to establish negotiations regarding Verizon's proposed TRO amendment. During this same period, however, and before AT&T and the other named CLECs could file a response to Verizon's initial February 20th arbitration petition Verizon filed an amendment to its arbitration petition on March 19, 2004 and yet another version of its proposed amendment to reflect its view of the requirements of the TRO after the Court of Appeals decision vacating parts of the TRO order on March 2, 2004.

While AT&T and Verizon participated in numerous negotiation sessions over the next several months, it is important to note that these negotiations were particularly difficult and not very successful in light of the unsettled status of the FCC's TRO Order.

On July 12, 2004, this Commission dismissed Verizon's arbitration petition that had been filed in March, finding that Verizon had not complied with the

1 arbitration filing requirements of the federal Act, but permitted Verizon to refile
2 its arbitration petition within 60 days.

3

4 Q. DID THE UNSETTLED STATUS OF THE TRO AND VERIZON'S FEDERAL
5 UNBUNDLING OBLIGATIONS CONTINUE AFTER JULY, 2004?

6

7 A. Yes. On August 20, 2004, the FCC released its "Interim Rules Order" that
8 required Verizon to continue to perform the unbundling obligations contained in
9 its interconnection contracts as they existed as of June 15, 2004 and put in place a
10 "transitional" pricing structure for mass market switching and high capacity loops
11 and transport in order to avoid disruption in the telecommunications industry
12 while new permanent unbundling rules were being promulgated. In its Interim
13 Rules Order, the FCC also established a Notice of Proposed Rulemaking (NPRM)
14 in order to promulgate new unbundling rules.

15

16 On September 9, 2004, some 20 days after the issuance of the Interim Rules
17 Order, Verizon filed the arbitration petition that is the subject of this proceeding.
18 Along with that arbitration petition, Verizon filed an entirely new TRO
19 Amendment, which "gutted" the proposed amendment on which AT&T and
20 Verizon had been working since March.

21

22

23

24

1 Q. **WHY DO YOU SAY THAT THE VERIZON'S NEW PROPOSED TRO**
2 **AMENDMENT "GUTTED" THE PROPOSED TRO AMENDMENT ON**
3 **WHICH AT&T AND VERIZON HAD BEEN WORKING SINCE MARCH**
4

5 A. The TRO amendment that Verizon filed with its September 9th arbitration petition
6 did not address the substance of all of the unbundling obligations that had been
7 ordered in the TRO and Interim Rules Order. This TRO amendment – which is
8 now labeled “Amendment 1” (Verizon’s original TRO amendment was
9 approximately 22 pages; the new “Amendment 1” was approximately 7 pages)
10 would basically permit Verizon to unilaterally implement the provisions of the
11 TRO based on its view of its unbundling obligations. Under Verizon’s
12 Amendment 1, the other CLEC party to the interconnection contract would have
13 no say in the matter and the provisions in the party’s interconnection contract
14 would not need to be changed. In addition, Verizon’s proposed “Amendment 1”
15 was strictly limited to the declassification of UNEs, and those parts of the FCC’s
16 order which relieved Verizon of its federal unbundling obligations. Verizon’s
17 Amendment 1 did not address other parts of the TRO which were still valid and
18 beneficial to CLECs, such as the opportunity to convert special access circuits to
19 unbundled network elements, implement the new “safe harbor” provisions for
20 EELs and to commingle unbundled network elements with access and other
21 tariffed services.

22
23 Verizon’s substitution of its new Amendment 1 and eventually Amendment 2,
24 was, among other things, a unilateral decision to discard its original October 2003

1 Amendment and with it, the work that AT&T had undertaken to use Verizon's
2 proposed original TRO amendment as the starting point for negotiations.

3 **Q. DID AT&T AND VERIZON CONTINUE TO NEGOTIATE A CONTRACT**
4 **AMENDMENT TO IMPLEMENT THE PROVISIONS OF THE TRO AND**
5 **THE INTERIM RULES ORDER?**

6
7 A. Yes. Despite Verizon's new posture presented by its proposed Amendment 1,
8 AT&T continued its efforts to work with Verizon. On September 15, 2004,
9 AT&T provided Verizon with its version of a TRO amendment that addressed in
10 a single document all of the provisions in the TRO and the FCC's Interim Rules
11 Order that were not included in Verizon's Amendment 1.¹ This new document
12 used Verizon's original October 2003 Amendment as its starting point. It
13 incorporated the changes proposed by AT&T to accurately reflect the FCC's
14 TRO, including those provisions beneficial to CLECs that I discussed above and
15 included modifications addressing the provisions of the FCC's Interim Rules
16 Order.

17
18 On October 22, 2004, Verizon finally provided AT&T with its generic proposed
19 "Amendment 2". As discussed, Verizon's proposed Amendment 1, proposed in
20 September 2004 sought to ignore the TRO's findings that were beneficial to the
21 CLECs. Verizon provided its proposed Amendment 2 that contained those
22 provisions that were beneficial to the CLECs and sought to "bi-furcate" both the
23 negotiations and arbitrations of these two amendments. In effect, Verizon sought
24 to bifurcate arbitration of Amendments 1 and 2 in order to expedite

¹ Unlike the bifurcated Amendment 1/Amendment 2 proposal, Verizon's original unified proposal was reasonably comprehensive. AT&T sought to negotiate relative to the comprehensive amendment.

1 implementation of the TRO's advantageous findings (Amendment 1) while slow
2 rolling implementation of the adverse findings of the TRO (Amendment 2). This
3 effort to game the negotiation and arbitration process to its advantage generated
4 much of the controversy, confusion and delay of which Verizon now complains.
5 Notwithstanding Verizon's antics, AT&T continued to pursue negotiations with
6 Verizon until the end of November, when issuance of the FCC's final unbundling
7 rules, which were expected around December 15th, was imminent.

8
9 **Q. HAS AT&T AND VERIZON CONTINUED TO NEGOTIATE SINCE THE**
10 **ISSUEANCE OF THE FINAL UNBUNDLING RULES IN THE FCC'S**
11 **TRO REMAND ORDER ("TRRO")**

12
13 A. Yes. Recently, AT&T provided Verizon with a revised TRO Amendment,
14 embodying the FCC's rulings in the TRO Remand Order ("TRRO") issued on
15 February 4, 2005. As noted in Mr. Ciamporcero's testimony and to date Verizon
16 has not supplied AT&T with any document embodying the FCC's final
17 unbundling rules as contained in the TRRO. In fact, Verizon's proposed TRO
18 Amendments 1 and 2 submitted to this Commission in this case does not address
19 any of the FCC's rulings from the TRRO. Verizon's refusal to incorporate
20 known federal unbundling rules, as now they now exist in the TRRO simply
21 makes no sense.

1 **Q. MR. CIAMPORCERO'S CLAIMS (AT 6-7) THAT VERIZON DOES NOT**
2 **NEED TO REVISE ITS PROPOSED CONTRACT AMENDMENT IN**
3 **RESPONSE TO THE TRRO. DO YOU AGREE?**

4
5
6
7 A. Given that its Verizon's proposal, I'm certainly not in a position to argue with
8 them if they do not want to update their contract proposal to reflect the FCC's
9 final unbundling rules. Still, it is more than passing strange to argue that in a
10 proceeding designed to implement changes in the federal unbundling rules - and
11 with Issues identified for resolution in the Commission's Procedural Order that
12 would do so – that Verizon is not obligated to present a proposal that actually
13 reflects those rules. Of course, as I indicated in my direct testimony, that is
14 emblematic of Verizon's strategy in this case. Rather than use this arbitration to
15 establish, as directed by the FCC, contract language that reflects the changes in
16 Verizon's federal unbundling obligations brought about by the *TRO* and *TRRO*,
17 Verizon is steadfastly maintaining its position that it should be entitled, via its
18 Amendment 1, to unilaterally interpret the effect of the *TRO* and *TRRO* and
19 unilaterally change its contractual obligations. In essence, Verizon would
20 displace the Commission as arbiter of disputes about what changes in law have
21 occurred and set itself up as the judge of its own unbundling obligations. Verizon
22 would thus claim the right to unilaterally discontinue provisioning of unbundled
23 network elements without prior negotiation with AT&T or consideration by the
24 Commission.

25

1 In contrast to Verizon's approach, AT&T believes that any amendment that
2 results from this arbitration should explicitly reflect the FCC's rules as they exist
3 today. To that end, AT&T has revised its proposed TRO Amendment to
4 incorporate the provisions of the *TRRO*. That revised amendment, which
5 previously was provided to Verizon, is attached as Exhibit ECN-R1.²

6
7 **Q. MR. CIAMPORCERO'S RECOMMENDS (AT 14-15) THAT THE**
8 **COMMISSION ADOPT VERIZON'S PROPOSED RATES INCLUDING**
9 **ROUTINE NETWORK MODIFICATIONS IN THIS ARBITRATION**
10 **DESPITE THE FACT THAT VERIZON HAS *NOT* SUBMITTED A COST**
11 **STUDY TO SUPPORT THEM. DO YOU AGREE WITH THAT**
12 **RECOMMENDATION?**

13
14 A. Absolutely not. As I explained in my Direct Testimony, the FCC noted in the
15 TRO that the costs of routine network modifications are most often already
16 included in existing TELRIC rates.³ This means that, in most instances, existing
17 non-recurring and recurring UNE rates have been set at levels that fully recover
18 Verizon's forward-looking cost of performing routine network modifications and,
19 as a consequence, no further cost recovery is justified. Thus, the *TRO* itself is
20 quite clear that AT&T should not be obligated to pay separate fees for routine
21 network modifications to any UNE or UNE combination unless and until Verizon
22 demonstrates that such costs are not already recovered from its approved monthly
23 recurring and non-recurring rates for the applicable UNE(s).

24

² Verizon brazenly states that it has no intention of amending its proposal to reflect the requirements of the *TRRO*. This is a circular argument. That is, because Verizon's proposal contorts the existing change of law provisions into an automatic, unilateral vehicle for Verizon's abuse, the *TRRO* and all other FCC or Commission ordered changes can be implemented by Verizon unilaterally, without discussion, and in accordance with its interpretation. This results in an "amended" interconnection agreement, without the changes being embodied within the document itself.

³ *TRO*, ¶ 640.

1 As Mr. Ciamporcero’s testimony indicates, however, Verizon is seeking to
2 constructively excuse itself from that requirement in this case.

3
4 Verizon proposes that the Commission adopt its rates now, and hold cost
5 proceedings later. Similarly, the Commission can decline to adopt Verizon’s
6 proposed rates now, hold cost proceedings, and then enter an appropriate order
7 regarding Verizon’s rates. If a true-up were appropriate, it could be added at that
8 time rather than pre-judging the outcome today.

9

10 **Q. BUT MR. CIAMPORCERO CLAIMS (AT 14) THAT VERIZON LACKED**
11 **THE TIME AND THE “PRECISE PARAMETERS” NECESSARY TO**
12 **COMPLETE A COST STUDY IN SUPPORT OF THESE RATES. IS**
13 **THAT CLAIM CREDIBLE?**

14

15 A. No. At the outset, if Mr. Ciamporcero’s claims were to be believed, it is difficult
16 to understand how Verizon was able to develop the rates it has proposed in the first place.
17 In any event, and as I just noted, the “parameters” necessary for Verizon to supports its
18 proposed rates have been well known since the *TRO* was published.⁴ Additionally, it has
19 been known to Verizon since the *TRO* was published that it would have to show that its
20 proposed charges are not already captured in its current rates. Such a showing should
21 only require the data from the cost studies Verizon already has relied upon to establish its
22 currently effective rates in Florida. The fact that it has not been able to produce that
23 data should indicate that it doesn’t exist, and that Verizon’s proposals cannot be
24 supported by evidence – and accordingly should be flatly rejected.

⁴ Verizon was quite strong in noting the passage of the then “17-months” since the *TRO* took effect, and then noting the FCC’s finding that “a month-long delay in implementing the *TRO* ruling “will have an impact on investment and sustainable competition in the telecommunications industry.” (Verizon, apparently, doesn’t feel bound by that position when it cuts against Verizon).

1
2 **Q. HAVE DEVELOPMENTS IN OTHER VERIZON ARBITRATIONS**
3 **SHOWN THAT ITS PROPOSED RATES FOR ROUTINE NETWORK**
4 **MODIFICATIONS ARE UNSUPPORTABLE?**
5

6 A. Yes. In my Direct Testimony I referenced decisions from New York, Maine and
7 Virginia that rejected Verizon’s efforts to impose rates for routine network
8 modifications. More recently, events in both Massachusetts and Vermont have
9 confirmed Verizon’s inability to meet its burden of proof under the *TRO*. In fact,
10 the Massachusetts Department of Telecommunications and Energy (“DTE”)
11 provided Verizon with the opportunity to submit testimony and cost support for
12 its proposed network modernization rates in the *TRO* Amendment arbitration that
13 is now pending there. But even after the date for Verizon to submit that evidence
14 was extended – at Verizon’s request – it failed to do so. To the contrary, on
15 March 1, 2005 Verizon’s counsel submitted a letter to the DTE indicating that
16 because of “difficulties” in gathering the necessary data Verizon had not been
17 able to complete the study. *See attached Exhibit ECN-R2*⁵ As a result, Verizon
18 indicated that it was not going to litigate the issue in the arbitration or charge for
19 routine network modifications in the interim. Subsequently, Verizon informed the
20 Vermont Public Service Board that it would not submit a cost study in that
21 arbitration either, nor assess charges for routine network modifications. *See*
22 *attached Exhibit ECN-R3*.⁶

23 Given that the data necessary to make its case – to the extent it exists at all
24 – resides in the studies Verizon used to establish its UNE rates, the claim that

⁵ Letter from Bruce P. Beausejour to Mary Cottrell, Docket D.T.E. 04-33, March 1, 2005.

⁶ Letter from Linda M. Ricci to Susan M. Hudson, PSB Docket No. 6932, March 8, 2005.

1 “difficulties” somehow prevented Verizon from making its case is simply not
2 credible. The far more plausible explanation is that the “difficulties” Verizon
3 encountered is the patent inability to prove that it is not already recovering the
4 costs of routine network modifications in its existing rates. Verizon should not be
5 permitted to impose these charges on AT&T for routine network modifications
6 without a prior determination by this Commission of whether the activities for
7 which the rates have been proposed are already included in the non-recurring or
8 recurring rates for the unbundled element in question and a review and approval
9 of underlying cost studies supporting the charges to be imposed.

10

11

12

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

13

14

A. Yes, it does.

AMENDMENT NO. __
to the
INTERCONNECTION AGREEMENT
between
[VERIZON LEGAL ENTITY]
and
[AT&T LEGAL ENTITY]

This Amendment No. [NUMBER] (the "Amendment") is made by and between Verizon [LEGAL ENTITY] ("Verizon"), a [STATE OF INCORPORATION] corporation with offices at [VERIZON STATE ADDRESS], and AT&T [LEGAL ENTITY], a [STATE OF INCORPORATION] corporation with offices at 32 Avenue of the Americas, New York, New York 10013 ("AT&T"), and shall become effective on _____ (the "Amendment Effective Date"). Verizon and AT&T are hereinafter referred to collectively as the "Parties" and individually as a "Party".

WITNESSETH

[DELETE

WHEREAS, Verizon and AT&T are Parties to an Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 dated [DATE] (the "Agreement"); and

[INSERT THE FOLLOWING WHEREAS ONLY IF AGREEMENT HAS USED AN ADOPTION LETTER]

WHEREAS, pursuant to an adoption letter dated [DATE] (the "Adoption Letter"), AT&T adopted in the [STATE], the interconnection agreement between [NAME OF UNDERLYING AGREEMENT] and Verizon (such Adoption Letter and underlying adopted interconnection agreement referred to herein collectively as the "Agreement"); and

WHEREAS, the Federal Communications Commission (the "FCC") released an order on August 21, 2003 in CC Docket Nos. 01-338, 96-98, and 98-147 (the "Triennial Review Order" or "TRO"), which became effective as of October 2, 2003; and

WHEREAS, on March 2, 2004, the U.S. Circuit Court of Appeals for the District of Columbia Circuit (the "D.C. Circuit") issued a decision, which became effective on June 15, 2004, affirming in part and vacating in part the TRO (the "D.C. Circuit Decision"); and

WHEREAS, the FCC released an order on August 20, 2004 in WC Docket No. 04-313 and CC Docket No. 01-338, which became effective as of September 13, 2004; and

WHEREAS, the FCC released an order on February 4, 2005 in WC Docket No. 4-313 and CC Docket No. 01-338 (the "Triennial Review Remand Order" or "TRRO"), which became effective as of March 11, 2005; and

WHEREAS, pursuant to Section 252(a)(1) of the [NOTE: IF AGREEMENT IS AN ADOPTION, REPLACE "Act" WITH: "the Communications Act of 1934, as amended (the "Act")] Act, the Parties wish to amend the Agreement in order to give contractual effect to the provisions of the TRO and the TRRO as set forth herein; and

NOW, THEREFORE, in consideration of the promises and mutual agreements set forth herein, the Parties agree to amend the Agreement as follows:

1. Scope of Amendment. The Parties agree that the Agreement should be amended by the addition of the terms and conditions set forth herein, in the TRO Attachment and any exhibits thereto ("collectively referred to as "Amendment"). The TRO Attachment is hereby incorporated by reference into this Amendment. The Amendment shall apply notwithstanding any other provision of a Verizon tariff or a Verizon Statement of Generally Available Terms and Conditions ("SGAT") unless AT&T, at AT&T's option, orders from a Verizon tariff or SGAT. As used herein, the Agreement, as revised and supplemented by this Amendment, shall be referred to as the "Amended Agreement."
2. Conflict between this Amendment and the Agreement. This Amendment shall be deemed to revise the terms and provisions of the Agreement only to the extent necessary to give effect to the terms and provisions of this Amendment. In the event of a conflict between the terms and provisions of this Amendment and the terms and provisions of the Agreement, this Amendment shall govern, *provided, however*, that the fact that a term or provision appears in this Amendment but not in the Agreement, or in the Agreement but not in this Amendment, shall not be interpreted as, or deemed grounds for finding, a conflict for purposes of this Section 2.
3. Counterparts. This Amendment may be executed in one or more counterparts, each of which when so executed and delivered shall be an original and all of which together shall constitute one and the same instrument.
4. Captions. The Parties acknowledge that the captions in this Amendment have been inserted solely for convenience of reference and in no way define or limit the scope or substance of any term or provision of this Amendment.
5. Rights of Parties. Notwithstanding any contrary provision in the Agreement, this Amendment, or in any Verizon tariff or SGAT, nothing contained in the Agreement, this Amendment, or any Verizon tariff or SGAT shall limit the Parties' rights to appeal, seek reconsideration of or otherwise seek to have stayed, modified, reversed or invalidated any order, rule, regulation, decision, ordinance or statute issued by the Commission, the FCC, any court or any other governmental authority related to, concerning, or that may affect either Party's obligations or rights under the Agreement, this Amendment, any Verizon tariff or SGAT, or Applicable Law.
6. [STATE] TRO/TRRO Proceedings. Nothing contained in this Amendment is intended to waive either Party's right to incorporate the Commission's decisions resulting from any TRO or TRRO proceedings. Any such decisions that materially affect any material terms of the Amended Agreement shall be considered a change in law and shall be subject to the change in law provisions of the Amended Agreement, if any.

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed as of the Amendment Effective Date.

AT&T [AT&T Company Full Name]

VERIZON [Verizon Company Full Name]

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

TRO Attachment

1. General Conditions

- 1.1 Notwithstanding any other provision of the Agreement, this Amendment, the Amended Agreement, or any Verizon tariff or SGAT, and subject to the change of law provisions of this Amended Agreement and all other relevant provisions of this Amended Agreement, Verizon shall be obligated to provide access to unbundled network elements ("UNEs"), combinations of unbundled network elements ("Combinations"), or UNEs commingled with wholesale services ("Commingling"), to AT&T under the terms of this Amended Agreement pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law as it exists at the time the parties enter into this Amendment.
- 1.2 AT&T reserves the right to argue in any proceeding before the Commission, the FCC or another governmental body of competent jurisdiction that an item not identified in the Agreement, this Amendment, or any Verizon tariff or SGAT (a) is a network element under 47 U.S.C. Sec. 251(c)(3) or other Applicable Law, (b) is a network element Verizon is required to provide by 47 U.S.C. Sec. 251(c)(3) or other Applicable Law to AT&T, or (c) is an item that Verizon is required to offer to AT&T at the rates set forth in the Amended Agreement. Verizon reserves the right to argue in any proceeding before the Commission, the FCC or another governmental body of competent jurisdiction that an item identified in the Agreement or this Amendment as a network element (a) is not a network element under 47 U.S.C. § 251(c)(3) or other Applicable Law, (b) is not a network element Verizon is required by 47 U.S.C. § 251(c)(3) or other Applicable Law to provide to AT&T, or (c) is an item that Verizon is not required to offer to AT&T at the rates set forth in the Amended Agreement.

2. Definitions

Notwithstanding any other provision in the Agreement or any Verizon tariff or SGAT, the following terms, as used in the Amendment, shall, for purposes of the Amendment, have the meanings set forth below:

2.0 Applicable Law.

All laws, rules and regulations, including, but not limited to, the Communications Act of 1934, as amended, (the "Act") (including but not limited to 47 U.S.C. 251 and 47 U.S.C. 271), effective rules, regulations, decisions and orders of the FCC and the Commission, and all orders and decisions of courts of competent jurisdiction.

2.1 Business Switched Access Line

A business switched access line is a Verizon switched access line used to serve a business customer, whether by Verizon itself or by a competitive LEC that leases the line from the Verizon.

2.2 Call-Related Databases

Databases, other than operations support systems, that are used in signaling networks for billing and collection, or the transmission, routing, or other provision of a telecommunications service. Call-related databases include, but are not limited to, the calling name database, 911 database, E911 database, line information database, toll free calling database, advanced intelligent network databases, and downstream number

portability databases and are to be accessed by physical connectivity at the signaling transfer point linked to the unbundled databases..

2.3 Circuit Switch.

A device that performs, or has the capability of performing, switching via circuit technology. The features, functions, and capabilities of the switch include the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks.

2.4 Combination

The provision of UNEs in combination with each other, including, but not limited to, the loop and switching combinations and shared transport combination (also known as Network Element Platform or UNE-P) and the combination of loops and Dedicated Transport (also known as an EEL).

2.5 Commingling

The connecting, attaching or otherwise linking of a network element, or a Combination of network elements, to one or more facilities or services that AT&T has obtained at wholesale from Verizon pursuant to any other method other than unbundling under Section 251(c)(3) of the Act, or the combining of a network element, or a Combination of network elements, with one or more such facilities or services. "Commingle" means the act of Commingling.

2.6 Dark Fiber Loop

Consists of fiber optic strand(s) in a Verizon fiber optic cable between Verizon's accessible terminal, such as the fiber distribution frame, or its functional equivalent, located within a Verizon wire center, and Verizon's accessible terminal located in Verizon's main termination point at an end user customer premises, such as a fiber patch panel, which fibers are "in place" or can be made spare and continuous via routine network modifications in Verizon's network and that Verizon has not yet activated through optronics that "light" it and render it capable of carrying communications services. It also includes strands of optical fiber existing in aerial, buried, or underground cables which may have lightwave repeater (regenerator or optical amplifier) equipment interspliced to it at appropriate distances, but which has no attached line terminating, multiplexing, or aggregation electronics.

2.7 Dark Fiber Transport.

Unactivated optical interoffice transmission facilities that meet the criteria for Dedicated Transport set forth in 2.9 below.

2.8 Declassified Network Elements

Declassified Network Elements are the following 47 U.S.C. 251(c)(3) facilities, whether as stand-alone facilities or combined with other facilities (except "d", below): (a) Entrance Facility; (b) Enterprise Switching; (c) OCn loops and OCn Dedicated Transport; (d) the stand-alone Feeder portion of a loop; (e) Line Sharing, subject to any transition period set forth in the TRO; (f) Call-Related Database, other than the 911 and E911 databases, that is not provisioned in connection with AT&T's use of Verizon's Mass Market Switching; (g) Signaling or Shared Transport that is provisioned in connection with AT&T's use of Verizon's Enterprise Switching.

2.9 Dedicated Transport.

Dedicated Transport includes Verizon transmission facilities between Verizon switches or wire centers, (including Verizon switching equipment located at AT&T's premises), or between Verizon wire centers or switches and requesting telecommunications carriers' switches or wire centers, including DS-1, DS3, and OCn-capacity level services as well as dark fiber, dedicated to a particular customer or carrier.

2.10 DS1 Dedicated Transport.

Dedicated Transport having a total digital signal rate of 1.544 Mbps

2.11 DS3 Dedicated Transport.

Dedicated Transport having a total digital signal rate of 44.736 Mbps.

2.12 DS1 Loop.

A digital transmission channel, including any necessary Routine Network Modifications, between the main distribution frame (or its equivalent) in an end user's serving wire center and the demarcation point at the end user customer's premises, suitable for the transport of 1.544 Mbps digital signals. A DS1 Loop includes the electronics necessary to provide the DS1 transmission rate.

2.13 DS3 Loop.

A digital transmission channel, including any necessary Routine Network Modifications, between the main distribution frame (or its equivalent) in an end user's serving wire center and the demarcation point at the end user customer's premises, suitable for the transport of isochronous bipolar serial data at a rate of 44.736 Mbps (the equivalent of 28 DS1 channels). A DS3 Loop includes the electronics necessary to provide the DS3 transmission rate.

2.14 Enhanced Extended Link (EEL) Combination.

An EEL consists of, at AT&T's option, any two or more of the following: an unbundled loop, transmission functionality such as concentration and multiplexing, and unbundled dedicated transport. An EEL provides AT&T the capability to serve a customer by extending a customer's loop from the customer's premises (including points where customer loops are aggregated) to another premise or office designated by AT&T). AT&T may order new EELs and/or request the conversion of existing services to EEL functionality.

2.15 Enterprise Switching.

Local Switching or Tandem Switching that, if provided to AT&T, would be used for the purpose of serving AT&T's customers using DS1 or above capacity loops.

2.16 Entrance Facility.

A transmission facility (lit or unlit) or service provided between (i) a Verizon wire center or switch and (ii) a switch or wire center of AT&T or a third party, but excluding any

facilities used for interconnection or reciprocal compensation purposes provided pursuant to 47 U.S.C. § 251(c)(2).

2.17 Feeder

The fiber optic cable (lit or unlit) or metallic portion of a loop between a serving wire center and a remote terminal (if present) or feeder/distribution interface (if no remote terminal is present).

2.18 Fiber-Based Collocator

A fiber-based collocator is any carrier, unaffiliated with Verizon, that maintains a collocation arrangement in a Verizon Wire Center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a collocation arrangement within the Wire Center; (2) leaves the Verizon Wire Center premises; and (3) is owned by a party other than Verizon or any affiliate of the incumbent LEC, except as set forth in this paragraph.

2.19 FTTH Loop

A local loop consisting entirely of fiber optic cable, whether dark or lit, serving a DS0 end user's customer premises or, in the case of predominantly residential multiple dwelling units (MDUs), a fiber optic cable, whether lit or dark that extends to a multiunit premise's Minimum Point of Entry (MPOE). For purposes of this Amendment, FTTH Loops shall also include Fiber-to-the-curb loops (FTTC) which are loops consisting of fiber optic cable connecting to a copper distribution plant that is not more than 500 feet from the customer's premises or in the case of predominantly residential (MDUs), not more than 500 feet from the MDU's MPOE. The fiber optic cable in a FTTC Loop must connect to a copper distribution plant at a serving area interface from which every other copper distribution Subloop also is not more than 500 feet from the respective customer's premises. FTTH Loops do not include such intermediate fiber-in-the-loop architectures as fiber-to-the-node (FTTN), and fiber-to-the-building (FTTB).

2.20 Hot Cut

The transfer of a loop from one carrier's switch to another carrier's switch or from one service provider to another service provider.

2.21 Hybrid Loop

Any local loop composed of both fiber optic cable and copper wire or cable, including such intermediate fiber-in-the-loop architectures as FTTN and FTTB. FTTH Loops are not Hybrid Loops.

2.22 Inside Wire Subloop

The Inside Wire Subloop network element, as set forth in FCC Rule 51.319(b), is defined as any portion of the loop that is technically feasible to access at a terminal in the incumbent LEC's outside plant at or near a multiunit premises, e.g. inside wire owned or controlled by the incumbent LEC between the premises' minimum point of entry (MPOE), as defined in FCC Rule 68.105 and the incumbent LEC's demarcation point as defined in FCC Rule 68.3.

2.23 Line Conditioning

The removal from a copper loop or copper Subloop of any device that could diminish the capability of the loop or Subloop to deliver high-speed switched wireline telecommunications capability, including digital subscriber line service. Such devices include, but are not limited to, bridge taps, load coils, low pass filters, and range extenders.

2.24 Line Sharing.

The process by which AT&T is providing xDSL service over the same copper loop that Verizon uses to provide voice service by utilizing the frequency range on the copper loop above the range that carries analog circuit-switched voice transmissions (the High Frequency Portion of the loop, or "HFPL"). The HFPL includes the features, functions, and capabilities of the copper loop that are used to establish a complete transmission path between Verizon's distribution frame (or its equivalent) in its Wire Center and the demarcation point at the end user's customer premises, and includes the high frequency portion of any inside wire (including any Inside Wire Subloop) owned or controlled by Verizon.

2.25 Line Splitting.

The process in which one competitive LEC provides narrowband voice service over the low frequency portion of a copper loop and a second competitive LEC provides digital subscriber line service over the high frequency portion of that same loop.

2.26 Local Circuit Switching.

Local Circuit Switching is a function provided by a Circuit Switch or Packet Switch and encompasses all line-side and trunk-side facilities, plus the features, functions, and capabilities of the Circuit Switch or their equivalent. Local circuit switching includes all vertical features that the switch is capable of providing, including customer calling, custom local area signaling services features, and Centrex, as well as any technically feasible customized routing functions. Specifically, this includes the line-side and trunk-side facilities associated with the line-side port on a circuit switch in Verizon's network, plus the features, functions, and capabilities of that switch, unbundled from loops and transmission facilities, including, but not limited to, (a) the line-side Port (including but not limited to the capability to connect a loop termination and a switch line card, telephone number assignment, dial tone, one primary directory listing, pre-subscription, and access to 911); (b) line and line group features (including but not limited to all vertical features and line blocking options that the switch and its associated deployed switch software are capable of providing that are provided to Verizon's local exchange service Customers served by that switch); (c) usage (including but not limited to the connection of lines to lines, lines to trunks, trunks to lines, and trunks to trunks); and (d) trunk features (including but not limited to the connection between the trunk termination and a trunk card).

2.27 Loop Distribution.

The portion of a loop in Verizon's network that is between the point of demarcation at an end user customer premises and Verizon's feeder/distribution interface. It is technically feasible to access any portion of a loop at any terminal in Verizon's outside plant, or inside wire owned or controlled by Verizon, as long as a technician need not remove a splice case to access the wire or copper of the Subloop; provided, however, near Remote Terminal sites, Verizon shall, upon site-specific request by AT&T, provide access to a Subloop at a splice.

2.28 Mass Market Switching.

Local Switching or Tandem Switching that is provided to AT&T to serve AT&T's end user customers over DS0 loops.

2.29 Packet Switch.

A network device that performs switching functions primarily via packet technologies. Such a device may also provide other network functions (e.g., Circuit Switching).

2.30 Packet Switching.

The routing or forwarding of packets, frames, cells, or other data units based on address or other routing information contained in the packets, frames, cells or other data units, or the functions that are performed by the digital subscriber line access multiplexers, including but not limited to the ability to terminate an end-user customer's copper loop (which includes both a low-band voice channel and a high-band data channel, or solely a data channel).

2.31 Route.

For purposes of FCC Rule 51.319 (e) through (e)(4), a transmission path between one of Verizon's wire centers or switches and another of Verizon's wire centers or switches. A route between two points (e.g., wire center or switch "A" and wire center or switch "Z") may pass through one or more Verizon intermediate wire centers or switches (e.g., Verizon wire center or switch "X"). Transmission paths between identical end points (e.g., Verizon wire center or switch "A" and Verizon wire center or switch "Z") are the same "route", irrespective of whether they pass through the same intermediate Verizon wire centers or switches, if any.

2.32 Routine Network Modifications.

Routine Network Modifications are those prospective or reactive activities that Verizon is required to perform for AT&T and that are of the type that Verizon regularly undertakes when establishing or maintaining network connectivity for its own retail customers.

2.33 Signaling.

Signaling includes, but is not limited to, signaling links and signaling transfer points.

2.34 Single Point of Interconnection (SPOI).

The Single Point of Interconnection (SPOI) is a cross-connect device that provides non-discriminatory access for cross connections to all intra-premise subloop elements and to all units in a multi-tenant environment (MTE). The SPOI shall be capable of terminating multiple carriers' outside plant that serve a particular premise.

2.35 Subloop.

A subloop (including Inside Wire Subloops, defined above) is a portion of a copper loop, or hybrid loop, between any technically feasible point in Verizon's outside plant, including inside wire owned, controlled or leased by Verizon, and the end-user customer premises. A subloop includes all intermediate devices (e.g. repeaters and load coils), and includes the features, functions, and capabilities of the loop. A subloop includes two-wire and four-wire analog voice grade subloops and two-wire and four-wire

subloops conditioned for digital service, regardless of whether the subloops are in service or held as spares.

2.36 Tandem Switching

Tandem Switching creates a temporary transmission path between interoffice trunks that are interconnected at a Verizon tandem switch for the purpose of routing a call. A tandem switch does not provide basic functions such as dial tone service.

2.37 Transitional Declassified Network Elements

Transitional declassified network elements are network elements which Verizon is no longer required to provide on an unbundled basis pursuant to Section 251(c)(3), but for which Verizon has specific transitional obligations established by the FCC in the TRRO. For the avoidance of doubt, transitional declassified network elements may only include the following if no impairment has been established pursuant to Applicable Law: mass market local circuit switching, DS1 Loops, DS3 Loops and Dark Fiber Loops, and DS1 Dedicated Interoffice Transport, DS3 Dedicated Interoffice Transport and Dark Fiber Dedicated Interoffice Transport as described in 3.6.2.1.

2.38 UNE-P

UNE-P consists of a leased combination of the loop, local switching, and shared transport UNEs.

2.39 Wire Center

A wire center is the location of a Verizon local switching facility containing one or more central offices, as defined in 47 C.F.R. Part 51.5. The wire center boundaries define the area in which all customers served by a given wire center are located.

3. UNE TRO/TRRO Provisions

3.1 Verizon shall provide network elements consistent with the rates, terms and conditions of this Amendment and shall not make any unilateral changes to (including any discontinuances of) its offering of network elements. Verizon shall provide to AT&T access to mass market local circuit switching and associated shared transport and correlated databases, DS1, DS3 and dark fiber loops and DS1, DS3 and dark fiber dedicated transport as set forth hereinbelow. Notwithstanding anything to the contrary set forth anywhere herein, Verizon shall not assess any of the transition rates set forth below for mass market local circuit switching and associated shared transport and correlated databases, DS1 Loops, DS3 Loops and Dark Fiber Loops, or for DS1 Dedicated Transport, DS3 Dedicated Transport and Dark Fiber Transport unless it has fully complied with Section 3.7 herein, and permits AT&T to commingle UNEs and UNE Combinations without restriction.

3.2 Loops

3.2.1 Hi-Cap Loops. Notwithstanding any other provision of the Agreement or a Verizon tariff or SGAT and subject to the provisions of Section 3.1 above, upon AT&T's request, Verizon shall provide AT&T with nondiscriminatory access to DS1 Loops and/or to DS3 Loops on an unbundled basis under the Amended Agreement in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law and as follows:

- 3.2.1.1 Wire Center Criteria for Hi-Cap Loops. If a Wire Center meets the Wire Center Criteria set forth below for the specified loop capacity, Verizon shall have no obligation to provide new loop UNEs between a customer premise and that Verizon serving Wire Center after March 11, 2005.

A Wire Center meets the DS1 Loop Wire Center Criteria if the Wire Center serves more than 60,000 business switched access lines and has four or more Fiber-Based Collocators. A Wire Center meets the DS3 Loop Wire Center Criteria if the Wire Center serves more than 38,000 business switched access lines and has four or more Fiber-Based Collocators.

Notwithstanding the foregoing, for DS1 Loops or DS3 Loops from a Wire Center that meets the Wire Center Criteria and that are provided to AT&T as a UNE as of March 11, 2005, Verizon shall continue to provide UNE loop access from such Wire Centers through March 10, 2006 at the terms and conditions set forth in this Agreement and at the transition rates set forth below. For all buildings served by a Wire Center that does not meet the above Wire Center Criteria, Verizon shall continue to provide DS1 Loops and DS3 Loops as UNEs pursuant to the rates, terms and conditions set forth in this Agreement for UNE loops.

- 3.2.1.2. Loop Caps. As of March 11, 2005, Verizon is no longer obligated to provide more than ten (10) DS1 Loops as UNEs to any single building; or to provide more than one DS3 Loop as a UNE to any single building (hereinafter referred to as "Loop Caps.").

Notwithstanding the foregoing, if, as of March 11, 2005, Verizon was providing AT&T loop access to any single building and the number of circuits provided to AT&T in that building exceeds the applicable Loop Caps, and the Wire Center does not meet the Wire Center Criteria, Verizon shall continue to provide such access through March 10, 2006, pursuant to the terms and conditions set forth in this Agreement for UNE loops and shall apply the transition rate to those circuits that are above the Loop Cap. For loops that are below the Loop Cap, the rates, terms and conditions for UNE loops set forth in this Agreement shall apply.

As of March 11, 2006 for those Wire Centers that do not meet the above Wire Center Criteria, Verizon shall offer loop access for circuits below the Loop Caps pursuant to the rates terms and conditions set forth in this Agreement for UNE loops, and for circuits above the Loop Caps, Verizon shall offer loop access for those circuits at tariffed access rates.

- 3.2.1.3 Transition Rates for DS1/D3 Loops. As of March 11, 2005, Verizon may assess a transition rate for any DS1 Loops and DS3 Loops to which Verizon was providing AT&T access as of March 11, 2005, from Wire Centers that meet the Wire Center Criteria and for those loops that exceed the Loop Caps described above. The transition rate shall apply for the period from March 11, 2005 to March 11 2006. The transition rate shall not exceed the higher of (i) 115% of the TELRIC rate AT&T paid for that element on June 15, 2004; or (ii) 115% of the TELRIC rate the Commission establishes, if any between June 16, 2004 and March 11, 2005.

If the Commission established a rate for unbundled loops between June 16, 2004 and March 11, 2005, that increases some rate elements and decreases other rate elements, then Verizon must either accept all or reject all of those more recently established rates for purposes of establishing the transition rate for unbundled loops.

Verizon may assess a true up charge, as necessary, back to March 11, 2005, for any transitional charges that were not collected for the period between March 11, 2005 and the effective date of this Amendment. Although true-up charges may be assessed back to March 11, 2005, no late payments or penalties may be calculated where AT&T timely pays the true-up charge within the billing cycle time allotted from receipt of the true up bill.

3.2.2 FTTH Loops and Retirement of Copper Loops.

3.2.2.1 New Builds. Verizon shall not be required to provide nondiscriminatory access to a FTTH Loop on an unbundled basis where Verizon has deployed such a FTTH Loop to an end user's customer premises that previously has not been served by any Verizon loop.

3.2.2.2 Overbuilds. Verizon shall not be required to provide nondiscriminatory access to a FTTH Loop on an unbundled basis when Verizon has deployed such a FTTH Loop parallel to, or in replacement of, an existing copper loop facility, except that:

3.2.2.3 Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT and subject to the conditions in this Section below, Verizon shall maintain the existing copper loop connected to the particular customer premises after deploying the FTTH Loop and provide nondiscriminatory access to that copper loop on an unbundled basis unless Verizon retires the copper loop pursuant to the terms of this Section 3.2.2.3.

3.2.2.4 If Verizon maintains the existing copper loop pursuant to Section 3.2.2.3 above, until AT&T requests unbundled access to the loop, and such loop is to be placed back into service, Verizon need not incur any expenses to ensure that the existing copper loop remains capable of transmitting signals. Upon receipt of such request, Verizon shall promptly restore the copper loop to serviceable condition (as per Section 3.2.8 below).

3.2.2.5 If Verizon retires the copper loop pursuant to Section 3.2.2.7 below, it shall provide nondiscriminatory access to 64 kilobits per second transmission paths capable of voice grade service over the FTTH Loop on an unbundled basis at TELRIC pricing.

3.2.2.6 Verizon shall not retire any copper loop or copper subloop and replace it with FTTH Loops unless it files notice of such retirements with the FCC and AT&T at least 180 calendar days before the proposed retirement date. If the FCC approves the proposed retirement, and if the proposed retirement also meets any and all requirements of the Commission regarding the retirement of copper loops, Verizon may proceed with the retirement consistent with Section 3.2.2.5 above. Notwithstanding the above, Verizon shall not retire any copper loop or copper subloop during the time that there is a pending Commission proceeding that is

examining retirement rules. The requirements for the retirement of copper loops also apply to the retirement of copper subloops.

- 3.2.2.7 Verizon shall not make any changes to the underlying loop architecture without providing notice of intent to make the change and notifying AT&T at least 180 calendar days before the actual change, and unless Verizon can demonstrate, in writing, if so requested by AT&T, that the proposed change will not, in any way, reduce the transmission capability of an unbundled loop type employed by AT&T that would be affected by the change. In addition, Verizon shall not migrate AT&T copper loops onto other network architectures without AT&T's prior approval.
- 3.2.2.8 Any approved network changes to the transmission characteristics of any loop interface, including the retirement of a copper loop or copper subloop that have met the applicable requirements of this Section 3.2.2, shall be implemented according to mutually agreeable change management procedures.
- 3.2.2.9 Verizon shall not engineer the transmission capabilities of its network in a manner, or engage in any policy, practice, or procedure, that disrupts or degrades AT&T's access to, or ability to tap the full capabilities of, a local loop or subloop. As such, Verizon's modification of loop plant (e.g., removing copper feeder facilities and stranding CLEC's access to distribution Subloop) shall not limit or restrict AT&T's ability to access all of the loop features, functions and capabilities, including DSL capabilities, nor increase the price of any loop used by, or to be used by, AT&T.

3.2.3 Hybrid Loops Generally.

- 3.2.3.1 Broadband Services. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, as of the Amendment Effective Date, when AT&T seeks access to a Hybrid Loop for the provision of "broadband services," as such term is defined by the FCC, then in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, Verizon shall provide AT&T with nondiscriminatory access under the Amended Agreement to the time division multiplexing features, functions, and capabilities of that Hybrid Loop, including DS1 or DS3 capacity (where impairment has been found to exist), on an unbundled basis, to establish a complete transmission path between the main distribution frame (or equivalent) in the end user's serving wire center and the end user's customer premises. This access shall include access to all features, functions, and capabilities of the Hybrid Loop except for the transmission of packetized information.
- 3.2.3.2 Narrowband Services. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, as of the Amendment Effective Date, when AT&T seeks access to a Hybrid Loop for the provision to its customer of "narrowband services," as such term is defined by the FCC, then in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, Verizon may either (a) provide nondiscriminatory access under the Amended Agreement to a spare home-run copper loop serving that customer on an unbundled basis, or (b) provide nondiscriminatory access under the Amended Agreement, on an unbundled basis, to an entire Hybrid Loop capable of voice-grade

service (i.e., equivalent to DS0 capacity), using time division multiplexing technology. If AT&T specifies an unbundled copper loop in its order, Verizon shall provide an unbundled copper loop, using Routine Network Modifications as necessary, unless no such facility can be made available via Routine Network Modifications.

- 3.2.3.3 Feeder. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, and subject to the provisions of Section 3.9 below, as of the Amendment Effective Date, Verizon shall not be required to provide access to the Feeder portion of a loop on an unbundled, standalone basis.
- 3.2.4 IDLC Hybrid Loops. Notwithstanding any other provision of the Agreement, Section 3.2.3 above, or any Verizon tariff or SGAT, as of the Amendment Effective Date, if AT&T requests, in order to provide narrowband services, unbundling of a 2 wire analog or 4 wire analog loop currently provisioned via Integrated Digital Loop Carrier (over a Hybrid Loop) ("IDLC"), Verizon shall, pursuant to 47 U.S.C. Section 251(c)(3), 47 C.F.R. Part 51, or other Applicable Law, provide AT&T unbundled access to a transmission path over Hybrid Loops served by IDLC systems, which shall be either through a spare copper facility or through the availability of Universal DLC systems. If neither of the aforementioned options is available, Verizon shall provide AT&T a technically feasible method of unbundled access, including UNE-P at TELRIC. If AT&T specifies an unbundled copper loop in its order, Verizon shall provide an unbundled copper loop, using Routine Network Modifications as necessary, unless no such facility can be made available via Routine Network Modifications.
- 3.2.5 Dark Fiber Loops. Upon AT&T's request, Verizon shall provide AT&T with nondiscriminatory access to Dark Fiber Loops on an unbundled basis under the Amended Agreement in accordance with 47 U.S.C § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law.
- 3.2.5.1 New Dark Fiber Loops Requested After March 11, 2005. Verizon shall have no obligation after March 11, 2005 to provide any new Dark Fiber Loops pursuant to the terms of this Agreement.
- 3.2.5.2 Embedded Base as of March 11, 2005. Verizon shall, for AT&T's March 10, 2005 embedded base of Dark Fiber Loops, if any, continue to provide access to such embedded base pursuant to the terms and conditions set forth in the June 15, 2004 Interconnection Agreement for those Dark Fiber Loops, and pursuant to the transition rates provisions set forth below. Such transitional obligations apply through September 10, 2006.

As of March 11, 2005, Verizon may assess a transition rate to any Dark Fiber Loops for which Verizon is providing AT&T unbundled access as of March 11, 2005. The transition rate shall apply for the period from March 11, 2005 through September 10, 2006. The transition rate shall not exceed the higher of (i) 115% of the TELRIC rate AT&T paid for that element on June 15, 2004; or (ii) 115% of the TELRIC rate the Commission establishes, if any between June 16, 2004 and March 11, 2005. If the Commission established a rate for unbundled dark fiber transport between June 16, 2004 and March 11, 2005, that increases some rate elements and decreases other rate elements, the ILEC must

either accept all or reject all of those more recently established rates when establishing the transition rate for Dark Fiber Loops. ILEC may assess a true up charge, as necessary, back to March 11, 2005 to collect any transitional charges applicable to Dark Fiber Loops that were not collected for the period between March 11, 2005 and the effective date of this Amendment. Although true-up charges may be assessed back to March 11, 2005, no late payments or penalties may be calculated where AT&T timely pays the true-up charge within the billing cycle time allotted from receipt of the true up bill.

- 3.2.6 Network Interface Device. If AT&T requests access to a loop or Subloop, Network Interface Device ("NID") functionality shall be provided with such loop and no additional NID charge shall be included.
- 3.2.7 Packet-based Loops. Where Verizon deploys a packet-based loop, Verizon must provide non-discriminatory access to at least 64 kbps loop connections that have software defined paths and performance parameters, and that meet service parameters (delay, sustained cell rate, call loss and peak cell rate) suitable for common telecommunication services and IP enabled services.
- 3.2.8 Verizon must provide timely access to unbundled loops (i.e., the lesser of 3 days or the standard interval offered by Verizon to its retail customers). If Verizon is unable to provide timely access to unbundled loops (including causes due to lack of efficient processes or systems) and if Verizon has established, or can establish via Routine Network Modifications, broadband connectivity to the customer premise, then Verizon must provide timely access to a broadband loop (including all of the functions, features, and capabilities of the broadband loop) until such time as access to the requested unbundled loop is completed.
- 3.2.9 Line Sharing. Notwithstanding any other provision in the Agreement or any Verizon tariff or SGAT, as of October 2, 2003, Verizon shall provision Line Sharing arrangements and continue to provide existing Line Sharing arrangements in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law.
- 3.2.10 Line Splitting. Verizon shall provision Line Splitting arrangements under the Amended Agreement pursuant to Applicable Law. Verizon shall enable AT&T to engage in line splitting using a splitter collocated at the Central Office.
- 3.2.11 Line Conditioning. Verizon shall condition a copper loop, at no cost, where AT&T seeks access to a copper loop, the high frequency portion of a copper loop, or a copper Subloop to ensure that the copper loop or copper Subloop is suitable for providing digital subscriber line services, including those provided over the high frequency portion of the copper loop or copper Subloop, whether or not Verizon offers advanced services to the end-user customer on that copper loop or copper Subloop.
- 3.2.11.1 Insofar as it is technically feasible, Verizon shall test and report troubles for all the features, functions, and capabilities of conditioned copper lines, and may not restrict its testing to voice transmission only.
- 3.2.11.2 Where AT&T seeks access to the high frequency portion of a copper loop or copper Subloop and Verizon claims that conditioning that loop or Subloop will significantly degrade, as defined in Section 51.233 of

the FCC's rules, the voiceband services that Verizon is currently providing over that loop or Subloop, Verizon must either: (i) Locate another copper loop or copper Subloop that has been or can be conditioned, migrate Verizon's voiceband service to that loop or Subloop, and provide AT&T with access to the high frequency portion of that alternative loop or Subloop; or (ii) Make a showing to the Commission that the original copper loop or copper Subloop cannot be conditioned without significantly degrading voiceband services on that loop or Subloop, as defined in Section 51.233 of the FCC's rules, and that there is no adjacent or alternative copper loop or copper Subloop available that can be conditioned or to which the end-user customer's voiceband service can be moved to enable line sharing.

3.2.11.3 If, after evaluating Verizon's showing under section 51.319(a)(1)(ii)(D)(2) of the FCC's rules, the Commission concludes that a copper loop or copper Subloop cannot be conditioned without significantly degrading the voiceband service, Verizon cannot then or subsequently condition that loop or Subloop to provide advanced services to its own customers without first making available to AT&T the high frequency portion of the newly conditioned loop or Subloop.

3.2.12 DS0 Loops. Verizon shall provide nondiscriminatory access to stand-alone local loops comprised entirely of copper wire or cable, where available. Copper loops include two-wire and four-wire analog voice-grade copper loops, digital copper loops (e.g., DS0s and integrated services digital network lines), as well as two-wire and four-wire copper loops conditioned to transmit the digital signals needed to provide digital subscriber line services, regardless of whether the copper loops are in service or held as spares. The copper loop includes, at AT&T's option, attached electronics. Where AT&T is unable to take advantage of the full functionality of a 2-wire analog loop due to network configurations made by Verizon, Verizon must provide AT&T with UNE-P at TELRIC pricing.

3.3 Loop Maintenance, Repair, and Testing. Verizon shall provide, on a nondiscriminatory basis, physical loop test access points to AT&T at the splitter, through a cross-connection to AT&T's collocation space, or through a standardized interface, such as an intermediate distribution frame or a test access server, for the purpose of testing, maintaining, and repairing copper loops and copper Subloops.

3.4 Subloop. Verizon shall provide AT&T with nondiscriminatory access to Subloops on an unbundled basis at any technically feasible point (including at fiber distribution facilities) and pursuant to Section 251(c)(3) of the Act, Section 51.319(b) of the FCC's rules, and any other Applicable Law. One type of Subloop is Inside Wire Subloop, which is defined in Section 2.22 above. The Subloop element shall include any and all of the features, functions, and capabilities of the Subloop, including, but not limited to: (i) loop concentration/multiplexing functionality, (ii) loop distribution, and (iii) on-premises wiring owned or controlled by Verizon. Verizon shall also provide any combination of Subloop elements ordinarily combined in the Verizon network, and any pre-existing combination of Subloop elements shall not be separated unless so directed by AT&T.

3.4.1 Copper Subloops. Verizon shall provide AT&T with nondiscriminatory access to a copper Subloop on an unbundled basis. A copper Subloop is a portion of a copper loop, or hybrid loop, comprised entirely of copper wire or copper cable that acts as transmission facility between any point of technically feasible access, as defined in Section 3.4.2 below, and the end-user customer premises. A copper Subloop also includes all intermediate devices (including repeaters and load coils) used to establish a transmission path between a point of

technically feasible access and the demarcation point at the end-user customer premises, and includes the features, functions, and capabilities of the copper loop. Copper Subloops include two-wire and four-wire analog Subloops as well as two-wire and four-wire Subloops conditioned to transmit the digital signals needed to provide digital services, regardless of whether the Subloops are in service or held as spares.

- 3.4.2 Point of Technically Feasible Access. A point of technically feasible access is any point in Verizon's outside plant owned or controlled by Verizon, or is at or near a multiunit premises, where it is technically feasible for a technician to access the wire or fiber within a cable without removing a splice case to reach the wire or fiber and thereby establish connectivity. Such points include, but are not limited to, a pole or pedestal, the serving area interface, the network interface device, the minimum point of entry, any remote terminal, the single point of interconnection, the feeder/distribution interface, and cross-connection panels deployed at the customer premises. Verizon shall upon a site-specific request by AT&T, provide access to a copper Subloop at a splice near a remote terminal. Within thirty (30) days from the Amendment Effective Date, Verizon shall provide AT&T with a written proposal that describes in detail commercially viable methods that allow AT&T to access Subloops in accordance with the terms of the Agreement, this Amendment and Applicable Law. Within ten (10) days of receipt of such proposal but in no case later than forty (40) days from the Amendment Effective Date, the Parties shall begin to negotiate mutually agreeable terms that effectuate commercially viable methods for AT&T to access Subloops. The agreed upon methods shall be implemented within thirty (30) days after the Parties reach such agreement. Should the Parties not reach agreement within ninety (90) days from the Amendment Effective Date, either Party may pursue resolution of these issues pursuant to the dispute resolution provisions of the Amended Agreement and, to the extent they exist, the expedited dispute resolution processes of such Agreement. Until these issues are resolved by the Parties, or during the pendency of any dispute resolution proceeding initiated by a Party to resolve these issues, Verizon shall, notwithstanding the terms in Section 3.1.3 above, provide AT&T with access to the full frequency/spectrum of copper/fiber Hybrid Loops.
- 3.4.3 Collocation. Access to the copper Subloop shall be subject to sections 51.321 and 51.323 of the FCC's collocation rules; provided, however, no collocation requirement may be imposed by Verizon at a customer's premises when AT&T uses the same or similar space to access Inside Wire Subloops.
- 3.4.4 Access to Multiunit Premises Wiring. Verizon shall provide AT&T with nondiscriminatory access to Inside Wire Subloops for access to multiunit premises wiring on an unbundled basis regardless of the capacity or type of media (including, but not limited to copper, coax, radio and fiber) employed for the Inside Wire Subloop.
- 3.4.5 Single Point of Interconnection. Upon notification by AT&T that it requests interconnection and/or access to unbundled Inside Wire Subloops, at a multiunit premises and, if so requested by AT&T, Verizon shall provide a single point of interconnection (SPOI) that is suitable for use by multiple carriers. This obligation shall be in addition to Verizon's obligations, under section 51.319 (b) (2) of the FCC's rules, to provide nondiscriminatory access to a Subloop for access to multiunit premises wiring, including any inside wire, at any technically feasible point and in any technically feasible manner (with Verizon having the burden of demonstrating infeasibility). Unless mutual agreement is reached with respect to completion of SPOI construction, Verizon shall complete the

construction of the SPOI and provide AT&T with unrestricted access thereto not more than forty-five (45) days from receipt of a request by AT&T to construct a SPOI. Upon completion of the SPOI, Verizon agrees Verizon shall access all customers it serves at that location through the same SPOI. Verizon charges shall recover only total element long-run incremental cost for constructing any such SPOI. The charges for the SPOI shall be recovered in a nondiscriminatory manner from all carriers (including the portion used by Verizon) using the SPOI. If, within fifteen (15) days from Verizon's receipt of a request from AT&T to construct a SPOI, Verizon and AT&T are unable to negotiate rates, terms, and conditions under which Verizon will provide this single point of interconnection, then any issues in dispute regarding this obligation shall be resolved in state proceedings under Section 252 of the Act. Notwithstanding arbitration of the rates, if Verizon has not completed construction the SPOI and provided access to AT&T within forty-five (45) days of AT&T's request, AT&T may elect to deploy its own cross connection configuration and connect it to the existing Verizon access point with no further financial obligation to Verizon. If the Verizon SPOI is subsequently made operational and pricing resolved, then Verizon may re-terminate the AT&T cross-connections, without additional charge to AT&T provided that AT&T may obtain a mutually agreeable customer release schedule. Verizon may, at its own option and expense, deploy a multi-carrier SPOI but only if that deployment does not delay AT&T access to customers in the MTE.

- 3.4.6 Technical Feasibility. If Verizon and AT&T are unable to reach agreement through voluntary negotiations as to whether it is technically feasible, or whether sufficient space is available, to unbundle a copper Subloop or Subloop for access to multiunit premises wiring at the point where AT&T requests, Verizon shall have the burden of demonstrating to the state commission, in state proceedings under Section 252 of the Act, that there is not sufficient space available, or that it is not technically feasible to unbundle the Subloop at the point requested by AT&T.
- 3.4.7 Best Practices. Once one state commission has determined that it is technically feasible to unbundle Subloops at a designated point, Verizon, in any state, shall have the burden of demonstrating to the state commission, in state proceedings under Section 252 of the Act, that it is not technically feasible, or that sufficient space is not available, to unbundle its own Subloops at such a point.
- 3.4.8 Connection to Subloops. Connection to Subloops (including the network interface device (NID)), including but not limited to directly accessing the customer side or network side of the cross-connection device owned or controlled by Verizon, may be performed by AT&T technicians or its duly authorized agents, at its option, (i) without the presence of Verizon technicians, and (ii) at no additional charge by Verizon. Such connecting work performed by AT&T may include but is not limited to lifting and re-terminating of cross-connection or cross-connecting new terminations at accessible terminals used for Subloop access. No supervision or oversight by Verizon personnel shall be required but Verizon may monitor the work, at its sole expense, provided Verizon does not delay or otherwise interfere with the work being performed by AT&T or its duly authorized agents.
- 3.4.9 Network Interface Device. Apart from its obligation to provide the NID functionality as part of an unbundled loop or Subloop as set forth in Section 3.2.6 above, Verizon shall provide nondiscriminatory access to the NID on an unbundled basis. Verizon shall permit AT&T to connect its own loop facilities to

on-premises wiring through Verizon's NID, or at any other technically feasible point.

3.5 Unbundled Local Switching. Verizon shall, in accordance with Applicable Law, have no obligation to provide unbundled Local Circuit Switching except as set forth below.

3.5.1 Mass Market Switching. For purposes of this Agreement, Mass Market Switching includes all unbundled Local Circuit Switching arrangements used to service customers at the DS0 capacity level, regardless of the number of lines provided to a customer location. Verizon shall provide Mass Market Switching to AT&T on a nondiscriminatory basis, in accordance with 47 U.S.C. 251(c)(3), 47 C.F.R. Part 51, or other Applicable Law and as follows:

3.5.1.1 New Customers after March 11, 2005. Absent an independent state ruling that access to new UNE-P arrangements must be provided pursuant to applicable state law at specific regulated rates, terms and conditions, Verizon shall not be required to provide new UNE-P arrangements pursuant to the terms of this Agreement after March 11, 2005. Notwithstanding the foregoing, Verizon shall allow AT&T to place resale orders using the existing UNE-P ordering process, subject to true-up to the resale rate until AT&T has the capability to place electronic orders for resale, but in no event after March 11, 2006. For purposes of this section, "new customers" are customers that are acquired by AT&T after March 11, 2005. New customers do not include AT&T's existing customers whose connectivity is changed (e.g. technology migration, hot cut, loop reconfiguration, UNE-P to UNE-L etc.) on or after March 11, 2005. AT&T will provide Verizon with the information necessary to identify new customers and Verizon shall apply its rate for new customers only to those orders identified by AT&T as orders relating to new customers.

3.5.1.2 Embedded base as of March 11, 2005. Verizon shall, for all of AT&T's subscribers of unbundled switching based services that were in existence as of March 11, 2005 and are served by Mass Market Switching in combination with shared transport and loops (UNE-P), continue to provide access pursuant to the UNE-P terms and conditions set forth in the Interconnection Agreement between the Parties in effect as of June 15, 2004 ("June 15 Interconnection Agreement"), and pursuant to the transition rate provisions set forth below. This obligation shall include the duty to accept orders for feature changes for these customers, but shall not include, except as permitted under applicable Commission Orders, the obligation to provision new UNE-P arrangements for such customers, or to provision UNE-P arrangements for new customers. This obligation shall also include the continued provision, pursuant to the terms and conditions of the June 15, 2004 Interconnection Agreement, of shared transport, signaling and any call related databases that were purchased by AT&T in combination with unbundled switching as of March 11, 2005. The transitional obligations set forth in this section shall apply through March 10, 2006.

As of March 11, 2005, Verizon may assess a transition rate applied to Mass Market Switching elements provided as part of a UNE-P arrangement for the 12 month period from March 11, 2005 through March 10, 2006. The transition rate shall not exceed the higher of (i) the TELRIC rate at which AT&T leased that combination of network elements on June 15, 2004, plus one dollar; or (ii) the TELRIC rate the

Commission established, if any, between June 16, 2004 and March 11, 2005, plus one dollar. If the Commission established a rate for unbundled switching and related network elements between June 16, 2004 and March 11, 2005, that increases some rate elements and decreases other rate elements, Verizon shall either accept all or reject all of those more recently established rates when establishing the transition rate for mass market local switching. Verizon may assess a true up charge, as necessary, back to March 11, 2005 to collect any transitional charges applicable to UNE-P that were not collected for the period between March 11, 2005 and the effective date of this Amendment. Although true-up charges may be assessed back to March 11, 2005, no late payments or penalties may be calculated where AT&T timely pays the true-up charge within the billing cycle time allotted from receipt of the true up bill.

3.5.2 Enterprise Switching. Verizon shall be obligated to provide non-discriminatory access to Enterprise Switching only where the Commission has ordered Verizon to provide Enterprise Switching under state law.

3.5.3 Signaling and Call-Related Databases. Verizon shall provide access to Signaling and Call-related Databases under the Amended Agreement in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law. In conjunction with the provision of Local Switching or Tandem Switching that Verizon is otherwise obligated to make available to AT&T under the Amended Agreement, Verizon shall provide Signaling and Call-Related Databases. Verizon shall continue to provide nondiscriminatory access to the 911 and E911 Call-Related Databases in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law. Where Verizon's obligation to provide Local Circuit Switching or Tandem Switching associated with a particular Signaling facility or Call-Related Database ends, Verizon shall provide the Signaling facility or Call-Related Database associated with that Local Circuit Switching or Tandem Switching facility subject to the same transitional provisions set forth herein (except for the 911 and E911 Call-Related Databases, as noted above).

3.5.4 Local Circuit Switching, even if performed by a Packet Switch, is a network element that Verizon is obligated to provide as Unbundled Network Element to the extent it also is required to provide Local Circuit Switching as an Unbundled Network Element basis.

3.6 Dedicated Transport

3.6.1 Verizon shall provide AT&T with Dedicated Transport in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law.

3.6.2 Unbundled Dedicated Interoffice Transport Facilities. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, and in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, Verizon shall provide AT&T with DS1 Dedicated Transport, DS3 Dedicated Transport and Dark Fiber Transport that connects a pair of Verizon Wire Centers ("Unbundled Dedicated Interoffice Transport").

3.6.2.1 Upon AT&T's request, Verizon shall provide AT&T with nondiscriminatory access to DS1 Dedicated Interoffice Transport and DS3 Dedicated Interoffice Transport and Dark Fiber Dedicated Interoffice Transport on an unbundled basis pursuant to the Amended

Agreement. For the avoidance of doubt: (a) a transmission facility or service that uses an OCn interface is a Declassified Network Element; (b) Entrance Facilities are a Declassified Network Element; and (c) Unbundled Interoffice Dedicated Transport includes transport between a Verizon wire center or switch and Verizon's facilities located at a CLEC's premises.

3.6.2.2 Wire Center Criteria for Unbundled Dedicated Interoffice Transport. If the originating and terminating Wire Centers for a Dedicated Interoffice Transport Route meet the Wire Center Criteria set forth below for the specified capacity, Verizon shall have no obligation to provide new UNE access to any additional dedicated interoffice transport over those routes after March 11, 2005.

A Wire Center meets the Wire Center Criteria if, for DS1 Dedicated Interoffice Transport, the Wire Centers on each end of a Dedicated Interoffice Transport Route serve more than 38,000 business switched access lines or have four or more fiber based collocators or both. A Wire Center meets the Wire Center Criteria if, for DS3 Dedicated Interoffice Transport or for Dark Fiber Interoffice Transport, the Wire Centers on each end of a Dedicated Interoffice Transport Route service more than 24,000 business switched access lines or have three or more fiber based collocators or both.

For DS1 and DS3 Dedicated Interoffice Transport UNEs that Verizon provided to AT&T as of March 11, 2005, that meet the above Wire Center Criteria, Verizon shall continue to provide such UNEs on those Routes through March 10, 2006. For Dark Fiber Dedicated Interoffice Transport UNEs that Verizon provided to AT&T as of March 11, 2005, that meet the above Wire Center Criteria, Verizon shall continue to provide such UNE on those Routes through September 10, 2006. Such DS1 Unbundled Dedicated Interoffice Transport, DS3 Unbundled Dedicated Interoffice Transport and Dark Fiber Unbundled Dedicated Interoffice Transport shall be provided under the terms and conditions set forth in this Amended Agreement for UNE Dedicated Transport and at the transition rates set forth below.

For all Routes that do not meet the above Wire Center Criteria, Verizon shall continue to provide DS1 Dedicated Interoffice Transport, DS3 Dedicated Interoffice Transport and Dark Fiber Dedicated Transport as an UNE pursuant to the rates, terms, and conditions set forth in this Agreement for such transport.

If both the originating and terminating Wire Center meet the Wire Center Criteria, Verizon shall have no obligation to provide access as a UNE to any new Dark Fiber Dedicated Interoffice Transport over those Routes after March 11, 2005.

3.6.2.3 Transport Caps. As of March 11, 2005, Verizon is no longer obligated to provide DS1 Dedicated Interoffice Transport as an Unbundled Network Element for more than 10 DS1 circuits on any Route, or provide DS3 Dedicated Interoffice Transport as an Unbundled Network Element for more than 12 DS3 circuits on any Route (hereinafter referred to as "Transport Caps").

Notwithstanding the foregoing, if, as of March 11, 2005, Verizon was providing DS1 Dedicated Interoffice Transport or DS3 Dedicated Interoffice Transport on a single Route to AT&T, and the number of circuits on that Route exceeds the applicable Transport Caps, and the Route does not meet the above Wire Center Criteria, Verizon shall continue to provide such access through March 10, 2006, pursuant to the terms and conditions set forth in this Amended Agreement for UNE Dedicated Interoffice Transport and shall apply the Transition Rates to those circuits that are above the Transport Cap. For circuits on such Routes that are below the Transport Cap, the rates, terms, conditions and rates for UNE Dedicated Interoffice Transport set forth in this Amended Agreement shall continue to apply.

As of March 11, 2006, for those Routes that do not meet the Wire Center Criteria, Verizon shall offer Dedicated Interoffice Transport for circuits below the Transport Caps pursuant to the rates, terms and conditions set forth in this Amended Agreement for UNE Dedicated Interoffice Transport. For any circuits above the Transport Caps over those Routes, Verizon shall offer access to those circuits at tariffed access rates.

3.6.2.4 Transition Rates. As of March 11, 2005, Verizon may assess a transition rate for any DS1 and DS3 Dedicated Interoffice Transport and Dark Fiber Dedicated Interoffice Transport UNEs provided to AT&T on Routes for which Verizon is providing AT&T access as of March 11, 2005 if those Routes meet the above Wire Center Criteria, and for those circuits that exceed the Transport Caps. The transition rate shall apply for the period from March 11, 2005 until March 11, 2006 for DS1 Dedicated Interoffice Transport and DS3 Dedicated Interoffice Transport, and until September 11, 2006 for Dark Fiber Dedicated Transport. The transition rate shall not exceed the higher of (i) 115% of the TELRIC rate AT&T paid for that element on June 15, 2004; or (ii) 115% of the TELRIC rate the Commission establishes, if any between June 16, 2004 and March 11, 2005.

If the Commission established a rate for Unbundled Dedicated Interoffice Transport between June 16, 2004 and March 11, 2005, that increases some rate elements and decreases other rate elements, the ILEC must either accept all or reject all of those more recently established rates for purposes of establishing the transition rate for Dedicated Transport.

Verizon may assess a true up charge, as necessary, back to March 11, 2005 for any transitional charges that were not collected for the time period between March 11, 2005, and the effective date of this Amendment. Although true up charges may be assessed back to March 11, 2005, no late payments or penalties may be calculated where AT&T timely pays the true-up charge within the billing cycle time allotted from receipt of the true up bill.

3.6.3 Section 251(c)(2) Interconnection Facilities. Interconnection facilities and equipment provided pursuant to 47 U.S.C. Section 251(c)(2) ("Interconnection Facilities") are not UNEs provided pursuant to 47 U.S.C. Section 251(c)(3) and nothing in this Amendment is intended to impair or limit in any way AT&T's rights to obtain access to 251(c)(2) Interconnection Facilities. Interconnection Facilities include, but are not limited to, transport facilities and equipment

between the AT&T switch and the Verizon Tandem Switch, or other Point of Interconnection designated by AT&T, used for the exchange of traffic between AT&T and Verizon as well as all associated Signaling and Call-Related Database functionality. Interconnection Facilities are to be provided by Verizon to AT&T at rates consistent with the TELRIC pricing principles established by the FCC and the Commission.

3.7 Commingling, Conversions, and Combinations.

3.7.1 Commingling and Conversions. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, and subject to the conditions set forth in the following Section 3.7.2, as of October 2, 2003 Verizon shall permit AT&T to commingle a UNE or Combination or Declassified Network Elements with wholesale services obtained from Verizon, and to also convert wholesale services to a UNE or Combination. Verizon shall, upon request of AT&T, perform the functions necessary to commingle a UNE or Combination with one or more facilities or services or inputs that AT&T has obtained at wholesale from Verizon. Verizon shall not impose any policy or practice related to commingling that imposes an unreasonable or undue prejudice or disadvantage upon AT&T, and in no event shall Verizon impose any policy or practice relating to commingling that is inconsistent with Section 3.7.2 below. Subject to Section 3.7.2.2, the rates, terms and conditions of the applicable access tariff will apply to wholesale services, and the rates, terms and conditions of this Amended Agreement or the Verizon UNE tariff, as applicable, will apply to UNEs or Combinations or to the Declassified Network Elements as set forth in Exhibit A to this Amended Agreement. "Ratcheting," as that term is defined by the FCC, shall not be required. In addition, Verizon shall cooperate fully with AT&T to ensure that operational policies and procedures implemented to effect Commingled arrangements shall be handled in such a manner as to not operationally or practically impair or impede AT&T's ability to implement new Commingled arrangements and convert existing arrangements to Commingled arrangements in a timely and efficient manner and in a manner that does not affect service quality, availability, or performance from the end user's perspective., For the avoidance of doubt, Verizon acknowledges and agrees that the language of this Amendment complies with and satisfies the requirements of Verizon's wholesale and access tariffs with respect to Commingling. Verizon shall not change its wholesale and access tariffs in any fashion that impacts the availability or provision of Commingling under this Amendment or the Agreement, unless Verizon and AT&T have amended this Amendment and the Agreement in advance to address Verizon's proposed tariff changes.

3.7.2 Service Eligibility Criteria for Certain Combinations, Conversions and Commingled Facilities and Services. Verizon shall provide EELs pursuant to the requirements set forth in the TRO, including the service eligibility criteria established by the TRO and set forth in Rule 51.318. for high capacity loop and transport combinations known as EELs. For the avoidance of any doubt, to the extent that commingling restrictions applied prior to the TRO, such restrictions applied to EELs only.

3.7.2.1 To the extent the service eligibility criteria for high capacity EELs apply, AT&T shall be permitted to self certify its compliance with these criteria. AT&T may elect to self-certify using a written or electronic notification sent to Verizon. AT&T must remain in compliance with said service eligibility criteria for so long as AT&T continues to receive the aforementioned combined, converted, or commingled facilities and/or

services from Verizon. The service eligibility criteria shall be applied to each DS1 circuit or DS1 equivalent circuit. The foregoing shall apply whether the circuits in question are being provisioned to establish a new circuit or to convert an existing wholesale service, or any part thereof, to unbundled network elements.

- 3.7.2.2 There will be no charges for conversion from wholesale to UNEs or UNE combinations, unless a specific tariff charge has been approved for that purpose.
- 3.7.2.3 Any substitution of UNEs for wholesale services shall be subject to all of the requirements of the Amended Agreement applicable to the purchase of UNEs and Combinations, and shall include without limitation the following:
 - 3.7.2.4. When a wholesale service employed by AT&T is replaced with UNEs, Verizon shall not physically disconnect, separate, alter or change in any other fashion equipment and facilities employed to provide the wholesale service, except at the request of AT&T.
 - 3.7.2.5 Verizon shall process expeditiously all conversions requested by AT&T without adversely affecting the service quality perceived by AT&T's end user customer.
 - 3.7.2.6 Until such time as Verizon implements its ASR-driven conversion process in the East, conversion of access circuits to UNEs will be performed manually pursuant to Verizon's conversion guidelines. AT&T may request conversions of any existing service or group of services to UNEs by submitting a written or electronic request. Except where AT&T specifically requests that Verizon physically disconnect, separate, alter or change the equipment and facilities employed to provide the wholesale service being replaced, the conversion order shall be deemed to have been completed effective upon receipt by Verizon of the written or electronic request from AT&T, and recurring charges for UNEs set forth in Verizon's applicable tariffs shall apply as of such date. For the avoidance of any doubt, conversion requests issued after the effective date of the TRO, but before the effective date of this Amendment ("Pending Requests"), shall be deemed to have been completed on the date Verizon received the Pending Request and retroactive adjustments between the applicable UNE charges and the previously applicable charges shall be calculated back to the date that Verizon received notice from AT&T of the Pending Request. The UNE charges for all conversion requests (including any retroactive adjustments) shall be reflected in the first billing cycle following the effective date of this Amendment. If that bill does not reflect the appropriate charges, AT&T is nevertheless obligated to pay no more than the applicable UNE rate.

Pricing changes for conversion requests submitted after the Amendment Effective Date shall become effective upon receipt by Verizon of AT&T's request and shall be made by Verizon in the first billing cycle after such request. If any bill does not reflect the appropriate charge adjustment, AT&T may withhold payment in an amount that reflects the amount of the adjustment that should have been made on the bill for the applicable conversions. Where AT&T

specifically requests that Verizon physically disconnect, separate, alter or change the equipment and facilities employed to provide the wholesale service, recurring charges set forth in Verizon's applicable tariffs and applicable to UNEs shall apply effective upon the earlier of (a) the date on which Verizon completes the requested work or (b) the standard interval for completing such work (in no event to exceed 30 days), regardless of whether Verizon has in fact completed such work. Verizon shall bill AT&T pro rata for the wholesale service through the date prior to the date on which billing at UNE rates commences pursuant to this Section. The effective bill date for conversions is the first of the month following Verizon's receipt of an accurate and complete ASR or electronic request for conversion pursuant to Verizon's conversion guidelines.

3.7.2.7 All ASR-driven conversion requests will result in a change in circuit identification (circuit ID) from access to UNE or UNE to access.

3.7.2.8 On an annual basis (i.e., one 12-month period), Verizon may, pursuant to the terms and conditions of this section, obtain and pay for an independent auditor to audit AT&T's compliance in all material respects with the service eligibility criteria applicable to EELs. Such annual audit will be initiated only to the extent reasonably necessary to determine AT&T's compliance with Applicable Law. AT&T and the FCC shall each be given thirty (30) days' written notice of a scheduled audit. Any such audit shall be performed in accordance with the standards established by the American Institute for Certified Public Accountants and may include, at Verizon's discretion, the examination of a sample selected in accordance with the independent auditor's judgment. Verizon shall direct its auditor to provide a copy of its report to AT&T at the same time it provides the report to Verizon. To the extent the independent auditor's report concludes that AT&T failed to comply in all material respects with the service eligibility criteria, then AT&T will promptly take action to correct the noncompliance and true up any difference in payments and reimburse Verizon for the cost of the independent auditor within thirty (30) days after receiving a statement of such costs from Verizon. Should the independent auditor confirm AT&T's compliance in all material respects with the service eligibility criteria, then AT&T shall provide to the independent auditor a statement of AT&T's costs of complying with any requests of the independent auditor, and Verizon shall then reimburse AT&T for its costs associated with the audit within thirty (30) days after receiving AT&T's statement. AT&T shall maintain records adequate to support its compliance with the service eligibility criteria for each DS1 or DS1 equivalent circuit.

3.8 Routine Network Modifications.

3.8.1 General Conditions. Routine Network Modifications are those prospective or reactive activities that Verizon regularly undertakes when establishing or maintaining network connectivity for its own retail customers. Determination of whether a modification is "routine" shall be based on the tasks associated with the modification, not on the end-user service that the modification is intended to enable. In accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51, or other Applicable Law, Verizon shall make such Routine Network Modifications in a nondiscriminatory fashion as are necessary to permit access by AT&T to the loop (including Dark Fiber Loops), Dedicated Transport, and Dark Fiber Transport facilities available under the Amended Agreement, including DS1

Loops and DS1 Dedicated Transport, and DS3 Loops and DS3 Dedicated Transport. Where facilities are unavailable, Routine Network Modifications do not include trenching, the pulling of cable, the construction of new loops or Transport or the installation of new aerial or buried cable to provision an order of AT&T. Verizon shall perform Routine Network Modifications without regard to whether the facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier. Routine Network Modifications applicable to loops or Dedicated Transport may include, but are not limited to: rearranging or splicing of in-place cable; adding an equipment case; adding a doubler or repeater; line conditioning; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; accessing manholes; attaching electronic and other equipment that Verizon ordinarily attaches to a DS1 Loop to activate such loop for its own customer; and deploying bucket trucks to reach aerial cable. Routine Network Modifications applicable to Dark Fiber Transport may include, but are not limited to, splicing of in-place dark fiber; accessing manholes; deploying bucket trucks to reach aerial cable; installing equipment casings; and routine activities, if any, needed to enable AT&T to light a Dark Fiber Transport facility that it has obtained from Verizon under the Amended Agreement. The costs for these Routine Network Modifications are already included in the existing rates for the UNEs as set forth in the Agreement.

- 3.8.2 Performance. Verizon's performance in connection with the provisioning of UNEs for which Routine Network Modifications are necessary remains subject to standard provisioning intervals, and to performance measures and remedies, if any, contained in the Amended Agreement or under Applicable Law. Routine Network Modifications must be completed by Verizon within the same timeframe applicable to similar network modifications made by Verizon to provide comparable functionality to its own retail customer. 3.9 The Wire Center List.

3.9 Wire Center Lists.

- 3.9.1 Verizon Wire Centers that Verizon asserts currently meet the above Wire Center Criteria for hi-cap loops and Dedicated Interoffice Transport as described in the preceding paragraphs of this Section 3, are attached as ~~Appendix~~ (hereinafter referred to as the "Wire Center List"). If the Wire Center List has not been independently verified by the Commission, the individual Wire Centers/routes listed are subject to challenge by AT&T in the following circumstances at a minimum: (i) when AT&T submits a request for conversion of special access facilities to a UNE or EEL; (ii) when AT&T submits a request for new Dedicated Interoffice Transport or loop UNEs; or (iii) when AT&T receives a bill assessing transition rates for a particular loop or Dedicated Interoffice Transport UNE if AT&T asserts the charge is based upon an incorrect designation of a Wire Center.
- 3.9.2 If a state verification process finds that the attached Wire Center List is in error, the Wire Center List shall be amended consistent with those findings. If the Wire Center List has not been independently verified by the Commission and Verizon disagrees with any specific AT&T challenges to the Wire Center List, such disputes shall be resolved pursuant to the dispute resolution sections of this Amended Agreement. If the result of a dispute resolution is that the attached Wire Center List is in error, the Wire Center List shall be amended, with retroactive application, consistent with that resolution.

- 3.9.3 Except for any corrections to the Wire Center List as a result of either state verification or AT&T challenges, the ILEC Wire Center List may not be changed from the attached list for the term of this Agreement.
- 3.9.4 After March 11, 2005, for requests for new unbundled loops or unbundled Dedicated Interoffice Transport (including Dark Fiber Dedicated Interoffice Transport), ordered either individually or as part of a combination or conversion request, AT&T shall engage in a reasonably diligent inquiry as to the status of the requested UNE and based on that inquiry, self certify (by letter) that to the best of AT&T's knowledge, the request is consistent with the requirements set forth in the *Triennial Review Remand Order*. Upon receipt of such a request, Verizon must, even if it challenges the request, immediately process AT&T's request. Any Verizon challenges to AT&T's requests must be resolved *via* the dispute resolution procedures set forth in this Agreement. Any submission that is consistent with Verizon's list attached as **Appendix** need only reference that fact to be accepted as a reasonably diligent inquiry pursuant to this section. If the Wire Center List has been independently verified by the Commission, all AT&T requests for unbundled access associated with unbundled loops and Unbundled Dedicated Interoffice Transport shall be consistent with that list.
- 3.9.5 Transition Rate Billing. Any bills issued by Verizon that include either a transition rate charge or a true up amount for Transitional Declassified Network Elements, shall specifically identify the time period for which such transition rate or true up applies; the applicable transition rate or true up, and details that enable AT&T to identify the specific facilities to which the transition rate or true up amounts apply.
- 3.9.6 Access To Conduit Space. If Verizon denies an AT&T request for conduit space that AT&T would otherwise use to deploy DS1 or DS3 Loops or Dedicated Interoffice Transport that AT&T is no longer entitled to received on an unbundled basis pursuant to this Section 3, or if more than 45 days have passed since the initial request for conduit space and access to the requested conduit has not been granted, AT&T may, upon the occurrence of either of these events, elect to lease, for up to a three year term, a suitable facility (such as high cap loops and/or transport or an EEL) provided by Verizon at a rate equal to the TELRIC rate for such facility, and subject to the terms and conditions for such facility set forth in the Agreement. If conduit space subsequently becomes available, Verizon shall immediately notify AT&T and AT&T may opt to utilize the conduit space without affecting its rights to use in-place facilities priced at TELRIC.
- 3.10 Conversions from Transitional Declassified Network Elements. The preceding parts of this Section 3 set forth various transitional rates, terms, and conditions associated with Transitional Declassified Network Elements.
- 3.10.1 The Conversion Process. Verizon shall not make any unilateral changes to convert Transitional Declassified Network Elements to alternative arrangements. For any Transitional Declassified Network Elements, AT&T shall request disconnection, an analogous access service (including converting Transitional Declassified Network Elements to any special access volume discount offerings), or an alternative service arrangement (such as resale) at any time after the effective date of this Agreement, and prior to the last day a transition rate applies to a Transitional Declassified Network Element. Unless AT&T specifically requests an earlier date, the effective date of any such requested conversions shall not be any sooner than the day after the last day that the transition rate applies to a particular Transitional Declassified Network Element,

and any recurring charges applicable to the requested alternative service arrangement shall apply as of that date and be reflected in the next billing cycle

- 3.10.2 All conversions from Transitional Declassified Network Elements shall take place in a seamless manner without any customer disruption or adverse effects to service quality and notwithstanding other provisions herein, shall be done in accordance with a mutually agreed upon process. The Parties agree to work together to develop a mutually agreeable, conversion process that includes agreement on the conversion request formats and associated systems, as well as agreement on what additional information is needed from Verizon to enable AT&T to identify the loop and Dedicated Interoffice Transport network elements that are to be converted. Notwithstanding any other provisions herein, if the Parties fail to arrive at a mutually agreeable conversion process by the deadline for submissions of conversion requests set forth in Section 3.10.1 above, the deadline for such conversions shall be extended until mutual agreement is reached on the conversions process and a new time frame within which AT&T shall submit its conversion requests shall be agreed upon between the Parties. During this time period, Verizon shall continue to apply the transition rates.
- 3.10.3 After the Parties agree to a conversion process, the Verizon may assess a true up charge to collect the difference between the recurring charges for the selected alternative arrangements and the transitional charges for the time period between the end of the initially established transition period for the particular Transitional Declassified Network Element and the date the conversion requests are completed.
- 3.10.4 Verizon will not require physical rearrangements if a conversion can be completed through billing changes only, and will not physically disconnect, separate or alter or change the facilities being replaced, except at the request of AT&T. The effective date of conversion requests completed through billing changes shall be as set forth in Section 3.10.1. If a physical rearrangement is requested by AT&T, unless AT&T requests an earlier date, the conversion request shall be deemed to be completed the last day that the transition rate applies to a particular Transitional Declassified Network Element, and the recurring charges for the new arrangement shall apply as of that date and shall appear on the bill in the next billing cycle.
- 3.10.5 To avoid customer impact during the transition of UNE-P to alternative arrangements, Verizon commits to suppress line loss and related CARE notifications when the conversion request are processed.
- 3.10.6 Conversion Charges. Verizon shall not impose any termination, re-connect or other non-recurring charges associated with any conversion or any discontinuance of any Transitional Declassified Network Elements.
- 3.11 Transitional Provisions for Declassified Network Elements. Verizon shall notify AT&T in writing of the specific facilities that are of the types listed below in this section, that qualify as Declassified Network Element and that ILEC is currently providing to AT&T on an unbundled basis ("Identified Facility"). The notice shall include sufficient information to enable AT&T to identify the Identified Facility or Facilities. If the notice does not contain sufficient information to enable AT&T to identify each such Identified Facility, AT&T may reject the notice and request additional information. For avoidance of any doubt, Identified Facilities may only include the following types of Section 251(c)(3) network elements:

- OCn loops
- OCn Dedicated Transport
- **Entrance Facilities that are** not used for purposes of interconnection or reciprocal compensation transport
- packet switching
- **local switching** that serves capacities of DS1 and above,
- **standalone feeder** subloop portion of a loop
- **signaling, call** related databases (except for 911 and E911 databases) and shared transport, that are not purchased in combination with unbundled local switching.

3.11.1 Verizon shall continue to provide to AT&T, without change, all Declassified Network Elements listed in Section 1.3.1 above, that Verizon notices as Identified Facilities, until the provisions set forth herein are met. Not later than the end of 90 days from the date AT&T received notice, AT&T shall either request disconnection; submit a request for analogous access service; identify another alternative service arrangement; or object that the proposed declassification of the Identified Facility is improper based on Applicable Law. If AT&T takes such action and the Parties cannot agree upon the rates, terms and conditions applicable to the Identified Facility within 20 days after AT&T's request or objection, either Party may submit a request to the Commission to resolve the issue. Until the issue is resolved by the Parties, or during the pendency of any state proceeding initiated by a Party to resolve the issue, Verizon shall continue to provide the Identified Facility without change. The rate applicable to such Identified Facility and the date such rate becomes effective will be determined as part of the resolution process.

3.11.2 Verizon shall not impose any termination charges associated with the conversion or any discontinuance of any Declassified Network Element and any conversion to another service arrangement shall be provided in a seamless manner without any customer disruption or adverse effects to service quality. When the conversion is to an analogous access service or alternative service arrangements, Verizon shall permit AT&T to request the conversions using a single request. Verizon shall not assess AT&T any non-recurring charges for such conversions.

3.12 Hot Cut.

3.12.1 AT&T and Verizon shall perform Hot Cut processes in accordance with the processes established by the FCC and the Commission.

Bruce P. Beausejour
Vice President and General Counsel – New England

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March 1, 2005

Mary L. Cottrell, Secretary
Department of Telecommunications & Energy
Commonwealth of Massachusetts
One South Station, 2nd Floor
Boston, MA 02110

**Re: D.T.E. 04-33 - Petition of Verizon New England, Inc. d/b/a
Verizon Massachusetts for Arbitration of Interconnection
Agreements**

Dear Secretary Cottrell:

In its December 15, 2004, *Procedural Order* in this proceeding, the Department found that the FCC's *Triennial Review Order* imposed a new obligation on Incumbent Local Exchange Carriers ("ILECs"), like Verizon Massachusetts ("Verizon MA"), to undertake certain modifications to their networks to provision UNE loops requested by CLECs. Prior to the FCC's ruling, Verizon MA did not add equipment or otherwise modify its loop facilities when doing so would be required to provision a UNE loop for a CLEC on a requested route. *Procedural Order* at 30. In the *Triennial Review Order*, the FCC resolved what it recognized was a controversial issue by obligating ILECs to perform activities on existing facilities, including adding certain equipment, to provision UNE loop orders that the ILECs would routinely undertake when provisioning orders for their own customers. *Triennial Review Order* at ¶ 32. The FCC explained that the obligation extended to "routine network modification" which meant that "incumbent LECs must perform those activities that incumbent LECs regularly undertake for their own customers." *Id.*

Mary L. Cottrell, Secretary
March 1, 2005
Page 2

Docket 040156-TP
E. Christopher Nurse
Exhibit ___ ECN-R2
Letter to MA DTE dated March 1, 2005
Page 2 of 2

The Department also concluded that it would consider in this case whether the routine network modification costs for which Verizon MA sought recovery were already being recovered in existing loop rates. The Department thus found that in order for it to approve any charges for routine modifications, it required Verizon MA not only to demonstrate that the proposed charges for routine modifications are just and reasonable, but also that there is no double recovery of costs in any charges it seeks to impose for routine modifications. *Procedural Order* at 31.

Under the schedule set by the Department for this arbitration, Verizon MA was to file today its non-recurring cost study for the routine network modifications for which rates have not already been set by the Department as identified on Exhibit A of Verizon MA's Amendment No. 2 filed on December 22, 2004. Verizon MA has not, however, been able to complete that study because a number of difficulties arose associated with gathering necessary data for the base period used in the last TELRIC study to address fully the double-recovery issue. Verizon MA will address the issue of charges for network modifications with its next TELRIC study when both the recurring and non-recurring cost elements for particular UNEs are examined in a comprehensive manner. Consequently, Verizon MA will not seek through this arbitration to litigate charges for the non-recurring rate elements identified in Exhibit A for which the Department has not already set approved rates. Until rates for those elements are approved by the Department, Verizon MA will not charge for the activities when provisioning new loops once interconnection agreements are appropriately amended.

Sincerely,

/s/Bruce P. Beausejour

Bruce P. Beausejour

cc: Tina Chin, Hearing Officer
Michael Isenberg, Director—Telecommunications Division
Paula Foley, Esquire
Service Lists (D.T.E. 04-33)

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March 8, 2005

VIA E-MAIL AND OVERNIGHT DELIVERY

Susan M. Hudson, Clerk
Vermont Public Service Board
112 State Street
Drawer 20
Montpelier, VT 05620-2701

**Re: PSB Docket No. 6932 – Petition of Verizon VT for Arbitration of
Interconnection Agreements Pursuant to Section 252 and the Triennial
Review Order**

Dear Mrs. Hudson:

By Order dated February 18, 2005, Hearing Officer George Young adopted a schedule for the remainder of the above-captioned docket. Under that schedule, Verizon New England Inc. d/b/a Verizon Vermont (Verizon VT) is due to file its non-recurring cost study and supporting testimony for routine network modifications on or before April 1, 2005.

Verizon VT wishes to inform the Board that it no longer seeks through this arbitration to litigate charges for the non-recurring network modification rate elements as to which the Board has not already set approved rates and that it therefore will not file a cost study as originally anticipated.

By way of background, in the *Triennial Review Order*, the FCC obligated ILECs to perform activities on existing facilities, including adding certain equipment, to provision UNE loop orders that the ILECs would routinely undertake when provisioning orders for their own customers. *Triennial Review Order* at ¶ 632. The FCC explained that the obligation extended to "routine network modifications," which meant that "incumbent LECs must perform those activities that incumbent LECs regularly undertake for their own customers." *Id.*

Susan M. Hudson, Clerk
March 8, 2005
Page 2

Docket 040156-TP
E. Christopher Nurse
Exhibit ___ECN-R3
Letter to VT PSB dated March 8, 2005
Page 2 of 2

On December 22, 2004, Verizon VT filed Amendment No. 2 to its interconnection agreements, which reflects language proposed by Verizon to address, *inter alia*, routine network modifications. Exhibit A to Verizon VT's Amendment No. 2 reflects the proposed rates and charges for such routine network modifications and distinguishes between those rates that the Board has already approved and those that were to be determined through this proceeding.

Verizon VT no longer seeks through this arbitration to litigate charges for the non-recurring rate elements identified in Exhibit A for which the Board has not already set approved rates. Verizon VT cannot complete its non-recurring cost study within the established timeframe, because a number of difficulties arose in the data-gathering process. As a result, unless and until rates for those elements are approved by the Board, Verizon VT will not charge for the activities when provisioning new loops once interconnection agreements are appropriately amended. Verizon VT reserves its rights to address the issue of charges for network modifications at a future date.

Based upon Verizon VT's withdrawal of these matters from this proceeding, I enclose a revised version of Exhibit A to Amendment No. 2. This revised version both updates the identification of rate elements for which the Board has already set approved rates (the earlier version inadvertently failed to denote certain non-recurring charges as already having been approved by the Board) and marks the remainder of rate element charges with a "TBD" designation for determination outside of this proceeding.

Kindly date stamp the enclosed copy of this letter and return it to me in the enclosed self-addressed stamped envelope.

Thank you for your assistance

Very truly yours,

/s/ Linda M. Ricci

Linda M. Ricci

Encl.

cc: Attached Service List (by U.S. Mail)