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May 28, 2002

VIA HAND DELIVERY

Blanca S. Bayo, Director
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Re: Docket No.: 990649-B-TP

Dear Ms. Bayo:

On behalf of DIECA Communications, Inc. d/b/a Covad Communications Company (Covad), enclosed for filing and distribution are the original and 15 copies of the following:

- Post Hearing Brief of DIECA Communications, Inc. d/b/a Covad Communications Company.

Also is a disk containing the pleading. Please acknowledge receipt of the above on the extra copy of each and return the stamped copies to me. Thank you for your assistance.

Comm-5
Sec-1

Sincerely,

Vicki Gordon Kaufman

VGK/bae
Enclosure

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into pricing of unbundled network elements (Verizon/Sprint Track)	))))	Docket No. 990649B-TP Filed: May 28, 2002

POST-HEARING BRIEF OF DEICA COMMUNICATIONS, INC. d/b/a COVAD COMMUNICATIONS COMPANY

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POST-HEARING BRIEF OF DEICA COMMUNICATIONS, INC. d/b/a COVAD COMMUNICATIONS COMPANY

Pursuant to Rule 28-106.215, Florida Administrative Code, DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad") hereby file its Post-Hearing Brief in the above-captioned docket.[1]

I. FACTUAL AND LEGAL BACKGROUND

A. Factual Background

In the current proceeding, Verizon Florida, Inc. ("Verizon") has proposed a nonrecurring rate of $779.92 for a DS-1 Loop. Verizon Exhibit BIS-1 to the pre-filed direct testimony of Verizon witness Mr. Bert I. Steel. In the BellSouth Telecommunications, Inc. ("BellSouth") portion of this docket (Docket No. 990649-TP), the Florida Public Service Commission (the "Commission") eventually ordered a rate for this same element of $282.15 (PSC-01-1181-FOF-TP (May 25, 2001) and PSC-01-2132-PCO-TP (October 29, 2001), "BellSouth UNE Orders").[2] This is but one example of Verizon's astonishing rate proposals, rates that are often four, five, six or even ***one hundred*** times larger than those ordered by the Commission in last year's BellSouth UNE Orders. Even a cursory glance at these rates reveals that they must be derived

[1] In its Post-Hearing Brief, Covad is only briefing the Issues that pertain the establishment of rates for xDSL capable loops. For other Issues, Covad adopts the positions taken by the ALEC Coalition in its concurrently filed post-hearing brief.

from a dramatically flawed cost study, as indeed they are. Verizon's proposed rates should be rejected by the Commission in their entirety.

Last year the Commission, after a lengthy and contested hearing and complete briefing by all concerned parties, completed its comprehensive review of the rates that BellSouth may assess Florida alternative local exchange carriers ("ALECs") for access to unbundled network elements ("UNEs"). The BellSouth UNE Order together with the Order that will be result from this portion of the docket are the two most important prerequisites to the establishment of local competition in the State of Florida.

Covad provides DSL service throughout Florida. As the sole ALEC participating in this docket whose principle business is providing its customers nationwide with affordable, high speed data service via DSL technology, Covad's brief will focus on elements essential to sustaining competition in DSL services in Florida. More specifically, we respectfully request that the Commission pay particular attention to the following rates:

- 2-wire loop and associated ordering charges;
- 4-wire loop and associated ordering charges;
- DS-1 loop and associated ordering charges;
- Loop conditioning (short);
- Bridged tap removal (short);
- Loop qualification;
- IDT DS-1 transport facility per termination;
- IDT DS-1 transport facility per ALM;

[2] It should be noted that in ongoing proceedings before the Georgia Public Service Commission, BellSouth Telecommunications, Inc. ("BellSouth") is advocating a rate of $420.23 to perform the same task. See Revised Exhibit CKC-1 to the pre-filed testimony of Cynthia Cox dated May 2, 2002.

- IDT DS-3 transport facility per termination;
- IDT DS-3 transport facility per ALM; and
- Line and station transfer.

Examining both the recurring and nonrecurring rates that Verizon has proposed for these elements, it becomes quickly apparent that there are serious problems associated with its inputs, its model itself, or both. Verizon carries the burden of proving to this Commission that its proposed rates are justified, and it did not even make the effort to tell the Commission why these rates are so much higher than the rates ordered by the Commission in the BellSouth UNE Orders except to repeatedly say that "these reflect our engineering practices." See discussion of Issue 7(a). This amounts to a flat rejection of the TELRIC principles upon which it must—under the Orders of this Commission and applicable federal laws and regulations—base its costs. Its proposed rates are not TELRIC compliant, they are not supported by credible evidence, and they should be rejected.

In its BellSouth UNE Orders, the Commission established a baseline of efficiency for all Florida ILECs. TELRIC principles require that in determining appropriate prices for network elements the network modeled must be based upon forward-looking network design assumptions. Telecommunications Act of 1996 ("Telecom Act") and the corresponding regulations of the Federal Communications Commission ("FCC"), 47 C.F.R. §§ 51-501 — 51.511, 51.515). Specifically excluded from consideration are the embedded, sunk costs of an incumbent carrier, whether found in the form of outdated OSS, inefficient work processes or work groups, or obsolete outside plant facilities. Not surprisingly, Verizon's studies rely almost exclusively on exactly the backward looking, embedded costs that are precluded from consideration under the law. Although it may be appropriate in certain circumstances to take the

specific circumstances of a given ILEC into account in setting UNE prices, see FCC Order 96-523 (DN 96-98), Interconnection Order ¶ 680 ("Local Competition Order") and 47 C.F.R. § 51.505(e), it is inconceivable that the forward-looking UNE costs could ever be four, five, six or even ***one hundred*** times higher for one ILEC than they would be for another operating in the same state under substantially similar conditions.

To use a concrete example of the corruption of Verizon's model, it would not be at all surprising to find a 5% cost differential for a gallon of milk between Orlando and Tampa, but it would be quite surprising if this gallon of milk were 280% more expensive in Tampa than in Orlando. Yet this is precisely what Verizon proposes when it asks the Commission to set the nonrecurring rate for a DS-1 loop at $779.92 in the Tampa area while at the same time decreeing that BellSouth must charge $282.15 for the same loop in Orlando. A model that produces costs such as this (or the 129% differential between the Verizon proposed and the current BellSouth recurring rate for this same loop), has flaws that are too deep to be described as simple ILEC to ILEC differences. Instead, the simple fact is this: last year the Commission ordered rates for BellSouth that established an ILEC efficiency baseline. Verizon has proposed rates that are not TELRIC compliant. Verizon's rates should be rejected.

B. Legal Background

The Commission has the clear authority to make all of the determinations that Covad requests in this proceeding. First, Verizon has an unambiguous obligation to provide data ALECs with xDSL capable loops in a manner intended to promote competition in the provision of advanced services to Florida consumers. See, e.g., FCC Order 99-238 (DN 96-98), Third Report and Order and ERRATA ¶¶ 166, 172-174, and 190-195 ("UNE Remand Order"). For example, the Federal Communications Commission ("FCC") has repeatedly—and with increasing detail—required incumbent local exchange carriers ("ILECs" or "incumbents"),

including Verizon, to provide ALECs with access to xDSL capable loops, including situations in which an ALEC would require the incumbent to de-condition a loop in order for it to be capable of transmitting an xDSL signal. FCC Order 96-523 (DN 96-98), Interconnection Order ¶¶ 380-382 ("Local Competition Order") UNE Remand Order ¶¶ 166, 172-174, and 190-195. Further, the FCC clarified that incumbents, including Verizon, must provide ALECs with access to loop makeup information (*i.e.*, information delineating the physical characteristics of the specific loop plant that terminates at an ALEC specified end-user location). UNE Remand Order ¶¶ 425-437; 47 C.F.R. §§ 51.5 and 51.319(g).

In response to these directives, Verizon—while ostensibly offering loops in accordance with the FCC's directives—has proposed extraordinarily high rates, particularly nonrecurring rates, for these xDSL loops. Verizon's proposed xDSL loop rates far exceed those being offered by Verizon in other parts of its footprint, by ILECs in other parts of the country, and by BellSouth in Florida itself. In fact, Verizon's proposed rates are often double the rates that were *proposed* by BellSouth in its portion of this docket, not to mention being many hundreds—and sometimes thousands—of percentage points higher than the rates that the Commission *ordered* for BellSouth UNEs last year.

Moreover, Verizon's proposed rates are inconsistent with any rational application of the pricing standards required by the Telecom Act, the pricing rules of the FCC, and the previous pricing policies established by this Commission (Florida Public Service Commission – Order No. PSC-96-1579-FOF-TP; Florida Public Service Commission – Order No. PSC-98-0604-FOF-TP). (As will be shown below, these pricing rules remain in full force and effect.) Consistent with the Telecom Act, the FCC's pricing rules, and this Commission's prior pricing decisions,

the Commission should set Verizon's UNE rates based on forward-looking network design assumptions.

Further, use of the same forward-looking network to establish recurring and nonrecurring rates requires the conclusion that conditioning charges must be set at zero. This conclusion is supported by Verizon's own testimony in which it admits that a forward-looking network does not contain load coils. (Tr. at 909). Accordingly, in such a network no load coils (or bridged taps, for that matter) exist to condition, and there is never a reason to assess a conditioning charge. Task times and work group assumptions must also be based on forward-looking, efficient practices. Provisioning of an xDSL capable loop is a simple process, as reflected by the fact that Verizon itself admits that "loops are loops" and asserts that there should be no differences in loop pricing based on loop-length or the technology to be deployed. (Tr. at 909). Prices for xDSL loops should be set in accord with this principle.[3]

II. DISCUSSION

A. Recent Decisions by the United States Supreme Court and the United States Court of Appeals for the District of Columbia Circuit Have No Bearing on Any of the Rates to Be Established in This Docket

The Federal pricing rules in place when this docket began in 1999 remain in full effect today. In Verizon Communications, Inc. v. F.C.C., No. 00-511, ___ U.S. ___ (May 13, 2002), the United States Supreme Court affirmed the FCC's pricing rules for network elements, commonly referred to as its "TELRIC rules." Further, though the United States Court of

[3] If, for any reason, the Commission is not satisfied with the prices proposed in this Brief, it should not rely on Verizon's unsupported figures, but should instead require Verizon to perform the same type of detailed and statistically validated studies that the New York Public Service Commission required of it. Proceeding on Motion of the Commission to Examine New York Telephone Company's Rates for Unbundled Network Elements, Opinion and Order Concerning DSL Charges, Case 98-C-1357 at 39 (Dec. 17, 1999). The Public Utilities Commission of Ohio recently noted that requiring an ILEC to conduct time and motion studies to justify work times is preferable to relying on the use of ILEC subject matter experts because such studies enable one to accurately quantify the specific tasks required to process and fill UNE orders. Cincinnati Bell Telephone Co. - Retail Pricing Plan, Case No. 96-899 TP-ALT at 7 (P.U.C.O. January 20, 2000).

Appeals for the District of Columbia Circuit, in United States Telecom Association v. F.C.C., No. 00-1012, ___ F.3d ___ (May 24, 2002), remanded the UNE Remand Order to the FCC for further consideration, that order is still in full force.[4] Accordingly, the Commission should apply the federal pricing rules, in their entirety, to determine the rates and charges for Verizon UNEs.

This is not to say, however, that the Verizon Communications case has no significance to this proceeding. Since the FCC first issued the TELRIC rules, Verizon has strenuously argued—as it did in various testimony in this proceeding—that ILECs should not be required to base their costs on a forward looking, hypothetical network that maximizes the efficiency of providing unbundled network elements. This is, in fact, the very argument that has finally been laid to rest by the Supreme Court. Thus, each time Verizon fails to base its rates on the most efficient telecommunications equipment available to a network service provided on a forward-looking network, Verizon's proposals are not in compliance with the law.

The Telecom Act requires that Verizon provide ALECs ". . . nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. . . ." 47 U.S.C. § 251(c)(3). *See also,* 47 U.S.C. §251(c)(2)(D). While Congress placed upon state commissions, including this Commission, the obligation to establish appropriate UNE rates, Congress also permitted the FCC to establish pricing rules for state commissions to follow when determining UNE rates. See AT&T Corp. v. Iowa Util. Bd., 525 U.S. 366, 385 (1999). The FCC's pricing rules require that rates be established using a forward-looking pricing

[4] United States Telecom also vacated and remanded the FCC order that is commonly known as the Line Sharing Order, but this portion of the decision has no impact on this proceeding because line sharing rates not a part of this docket.

methodology. Specifically, the FCC's pricing rules direct that Verizon's rates for each UNE must comply with a "*forward-looking* economic cost-based pricing methodology." 47 C.F.R. § 51.503(b) (emphasis added). The FCC adopted such a methodology because "a pricing methodology based on forward-looking, economic costs best replicates, to the extent possible, the conditions of a competitive market." Local Competition Order ¶ 679. Further, a forward-looking pricing methodology specifically rejects cost recovery based on embedded cost incurred historically by the incumbents. 47 C.F.R. § 51.505(d)(1). The United States Supreme Court's Verizon Communications decision has merely reaffirmed the ongoing vitality of these rules.

Thus, the pricing methodologies that the Commission must apply here are the same as those that existed when this proceeding began several years ago and the same as those that existed when the Commission set rates for BellSouth last year. Indeed, the legal landscape with respect to this issue is clearer now than it has ever been: forward-looking cost methodologies must be utilized in determining the rates that Verizon may charge ALECs for access to xDSL loops and other UNEs.

B. Issues

Issue 1. What factors should the Commission consider in establishing rates and charges for UNEs (including deaveraged UNEs and UNE combinations)?

Covad: The Commission should adopt recurring and nonrecurring charges for all elements, including xDSL capable loops, that reflect the efficient provisioning of a single, consistent, forward-looking network architecture. Covad further adopts the position of the ALEC Coalition in its brief filed concurrently herewith.

Issue 2. **(a) What is the appropriate methodology to deaverage UNEs and what is the appropriate rate structure for deaveraged UNEs?**

(b) For which of the following UNEs should the Commission set deaveraged rates?

(1) loops (all);
(2) local switching;
(3) interoffice transport (dedicated and shared);
(4) other (including combinations).

Covad: Covad adopts the position of the ALEC Coalition in its brief filed concurrently herewith.

Issue 3. **(a) What are xDSL capable loops?**

Covad: xDSL capable loops are loops that can be used to provide xDSL services. In a forward-looking network, such facilities include both "clean copper loops" and fiber-fed digital loop carrier (DLC) based loops. ALECs need to obtain loop make-up information, determine themselves if a loop is suitable for DSL service, and then reserve and order that loop.

First, it is important to note that there is no disagreement between Covad and Verizon over the basic definition of an xDSL loop. We concur that "an xDSL loop is a basic 2-wire or 4-wire UNE loop that possesses the electrical characteristics that allow for the transmission of xDSL –based technology signals." (Tr. at 570). In short, xDSL capable loops are any loops that ALECs qualify for themselves as being capable of supporting xDSL services.

DSL providers in Florida want and need to be able to obtain accurate loop makeup information in advance of ordering a loop. DSL providers may then use that information to determine for themselves, based on their own equipment and technical requirements, whether the facility is indeed an xDSL capable loop. After reserving and ordering the loops they have qualified, ALECs then need those loops to be marked so that the loop selected and ordered will not be rolled to another facility, such as fiber. Thus, an xDSL capable loop is the same as a 2-

wire loop, except that the ALEC specifies the particular loop ordered after obtaining loop makeup information from Verizon. See also, Tr. at 571 ("UNE loops that have the technical parameters to facilitate xDSL transmissions also have the technical parameters to facilitate plain old voice transmission.")

What ALECs need, then, is very simple: a voice grade copper loop, unencumbered by load coils, excessive bridged tap, and other interferors. ALECs also need the ability to locate and reserve, using Verizon's loop makeup data, loops that meet these specifications. Once such a loop has been identified and ordered by an ALEC, it is critical to the continued provisioning of DSL service that the loop not be moved onto DLC or otherwise changed from its all-copper configuration for any reason including routine plant maintenance. For this reason, it is appropriate, as the Commission decided last year in the BellSouth UNE Order, to require Verizon "to provision [a 2-wire loop] and guarantee not to roll it to another facility, or, in other words, guarantee not to convert it to an alternative technology." BellSouth UNE Order (May 25, 2001) at p. 76. In this way, xDSL providers and their customers will not be inadvertently rolled from a loop that supports xDSL (all copper) to a loop that does not support xDSL (copper and fiber).

(b) Should a cost study for xDSL-capable loops make distinctions based on loop length and/or the particular DSL technology to be deployed?

Covad: No. The Commission should adopt costs for all loops, including xDSL capable loops, that reflect the efficient provisioning of such loops in a forward-looking network architecture. In a forward-looking network, a cost study for xDSL-capable loops should not make distinctions based on loop length or on the particular xDSL technology to be deployed.

Again, Covad and Verizon are in agreement on this issue: "any proposal for a UNE loop defined by a specific technology-driven loop length consideration conflicts with rational pricing

objectives . . . ." Tr. at 573-74. Accordingly, the Commission-established rate for xDSL capable loops should not be driven by the length of a loop or by the particular xDSL technology that the ALEC will deploy over that loop. Rather, the Commission should establish rates for the single, non-distance sensitive, non-technology sensitive, xDSL-capable loop described in Issue 3(a) and supported by both Covad and Verizon. It must be emphasized, however, that although Covad and Verizon are in agreement that loop costs should not be based on loop length or deployed technology, Covad *does not* believe that Verizon's proposed loop rates are in any way appropriate.

Issue 4. **(a) Which subloop elements, if any, should be unbundled in this proceeding, and how should prices be set?**

(b) How should access to such subloop elements be provided, and how should prices be set?

Covad: Covad adopts the position of the ALEC Coalition in its brief filed concurrently herewith.

Issue 5. **For which signaling networks and call-related databases should rates be set.**

Covad: Covad adopts the position of the ALEC Coalition in its brief filed concurrently herewith.

Issue 6. **Under what circumstances, if any, is it appropriate to recover non-recurring costs through recurring rates?**

Covad: Verizon's nonrecurring charges do not reflect efficient, forward-looking economic costs of provisioning unbundled network elements and should be rejected. If the nonrecurring charges adopted are so high as to create barriers to competition in Florida, then it is appropriate to consider recovering some of the non-recurring costs through recurring rates.

In its BellSouth UNE Orders, the Commission determined that it could "set recurring rates that recover a portion of non-recurring costs through recurring charges" and that "[i]nclusion of non-recurring costs in recurring rates should be considered where the resulting

level of nonrecurring charges would constituted a barrier to entry." BellSouth UNE Order (May 25, 2001) at p. 125. Verizon presented no testimony or other evidence directed at this issue, and the Commission should not change its basic policy conclusions outlined above.

Additional support for Covad's position on this issue is provided by federal law and regulations. Loop rates that pose a barrier to entry are statutorily precluded under the Telecom Act: "No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." 47 U.S.C. § 253(a). Thus, the Commission must not permit the exorbitant nonrecurring charges proposed by Verizon to take effect.

While Verizon's proposed nonrecurring charges should be rejected outright, see Issue 8, infra, if the Commission adopts total, cumulative nonrecurring charges that create a barrier to competitive entry in Florida, it would be appropriate for the Commission to convert some or all of the nonrecurring charges to recurring charges. Section 51.507(e) of the FCC's pricing rules for unbundled network elements explicitly permits such a step: "[s]tate commissions may, where reasonable, require incumbent LECs to recover nonrecurring costs through recurring charges over a reasonable period of time." 47 C.F.R. § 51.507(e). Covad and other ALECs have provided the Commission with ample evidence that the nonrecurring charges proposed by Verizon are unjustified, unsupported, and dramatically out-of-line with the rates set in other parts of Florida and, indeed, set for Verizon in other states. See Issue 8, infra. To the extent that the Commission decides to accept, in whole or in part, the nonrecurring charges proposed by Verizon, Covad encourages the Commission to consider requiring Verizon to recover those charges over time in its recurring rates as it does for its retail services.

Issue 7. What are the appropriate assumptions and inputs for the following items to be used in the forward-looking recurring UNE cost studies?

(a) network design (including customer location assumptions);

Covad: The network design assumptions for the recurring UNE cost studies should be based on a single forward-looking network designed to support all UNEs.

In recurring UNE cost studies, the network design assumptions should be based on forward-looking network principles. See, Factual Background and Issue 1, supra. This network design must be based, at the very least, on the forward-looking network design that Verizon will deploy in the long-run. Id.; see also 47 C.F.R. §§ 51.503(b)(1) and 51.505. Verizon has admittedly ignored this basic principle, instead making the following statements at various points in its testimony:

- Verizon's new network model moves the model "substantially closer to the network that actually exists in Verizon's Florida operations" (Tr. at 715);
- Verizon's model "estimates the forward-looking costs of provisioning telecommunications services out of the Company's own network by reflecting Verizon's engineering practices and operating characteristics, and by relying on the Company's Florida costs for material and labor" (Tr. at 716);
- "the Verizon proposed rates that are here [regarding loop conditioning] are based on actual costs that Verizon will incur in providing the services requested" (Tr. at 1105); and
- "Verizon has taken great care to present a nonrecurring cost study that accurately depicts the actual processes and activities that are necessary to handle the ALEC or DLEC request for service" (Tr. at 1049);

- "These [nonrecurring] rates are intended to recover Verizon's costs for orders received and service connections performed on behalf of the ALECs" (Tr. at 1053);
- "The rates are based on the costs . . ." (Tr. at 1053);
- "This cost study looks at the actual cost based on average times that it would take to perform that activity, and that is what our cost study displays" (Tr. at 1133).

These statements, perhaps, provide some clue as to why Verizon's proposed recurring and nonrecurring rates are so incredibly high: they are not based on a forward-looking network at all, but, instead, are based on the "network that actually exists in Verizon's Florida operations." This is totally inappropriate, and the Commission should reject these rates as non-TELRIC compliant.

Since Verizon has failed utterly to base its rates on a forward looking-network design, the Commission must takes steps to make assumptions that do create a forward looking network design. First, a forward looking network has loaded copper loops longer than 18,000 from the central office. Thus, since no load coils would exist on loops under 18,000 in a forward looking network , the forward looking cost of removing those impediments is zero. The commission reached this conclusion last year in the BellSouth UNE Orders. Second, an efficient forward looking network supports variety of services without requiring excessive manual intervention or outside plant rearrangement. Verizon's nonrecurring cost studies are full of such inputs and those must be rejected.

(b) **depreciation;**
(c) **cost of capital;**
(d) **tax rates.**
(e) **structure sharing;**
(f) **structure costs;**
(g) **fill factors;**
(h) **manholes;**
(i) **fiber cable (material and placement costs);**
(j) **copper cable (material and placement costs);**
(k) **drops;**
(l) **network interface devices;**
(m) **digital loop carrier costs;**
(n) **terminal costs;**
(o) **switching costs and associated variables;**
(p) **traffic data;**
(q) **signaling system costs;**
(r) **transport system costs and associated variables;**
(s) **loadings;**
(t) **expenses;**
(u) **common costs;**
(v) **other.**

Covad: Covad adopts the position of the ALEC Coalition in its brief filed concurrently herewith.

Issue 8. **What are the appropriate assumptions and inputs for the following items to be used in the forward-looking non-recurring UNE cost studies?**

(a) **network design;**

Covad: Network design should be TELRIC-compliant, and Verizon's is not. Instead of creating a forward-looking network model, Verizon has chosen to rely upon a network that is based upon its current network, processes and costs, regardless of their efficiency.

The entire process by which the nonrecurring charge inputs were generated raises doubts about the accuracy of the inputs, and, as noted previously, the outlandish nonrecurring rates that Verizon is asking the Commission to order are—in and of themselves—enough to raise questions about the process by which they were obtained. Specific problems with the proposed NRCs include:

- Verizon's cost model cannot be manipulated without significant software engineering, and this hides problems such as the fact that changing one input to the model may effect multiple rate elements and result in outputs that are even more absurd than those that Verizon has submitted (Tr. at 1129);
- Verizon's inputs to its nonrecurring cost calculator were arrived at though a confusing array of techniques including unidentified SME input, drive time surveys, time and motion studies, and work sampling, all of which may have been modified further by SME input and all of which result in time estimates rather than definite and verifiable work times (Tr. at 1308-10, 1095-1102);
- No method that Verizon used to gather task times or create inputs for its nonrecurring cost calculator was statistically validated, nor can the inputs be audited by the Commission or any ALECs (Richter Deposition at p. 16).

Indeed, the Commission has little record evidence that can justify reliance on Verizon's "estimated" task times. These task times and the outputs that arise from them should be rejected.

(b) OSS design;

Covad: The NRC cost study should assume electronic OSS for all preordering and ordering functions, including access to loop make-up data. The study should assume that ILECs have reasonably maintained complete, quality databases and that competitors will have nondiscriminatory access to the data therein and to the electronic processing capability of the incumbent's OSS.

This Commission should base its assumptions regarding operations support systems ("OSS") design on the forward-looking OSS system that should be contemplated by Verizon. First and foremost, a forward looking OSS includes electronic preordering and ordering functions that enable an ALEC to access the data needed to qualify its own loops and to submit an xDSL-capable loop order electronically. The electronic OSS should allow orders to flow

through without manual handling and reject those orders with errors or incorrect inputs almost instantaneously, allowing the ALEC to immediately correct the error or seek further clarification. Once the order is submitted, work tasks should be assigned electronically, again without manual intervention, for the work to be performed in the central office or in the field, if necessary.

The costs that Verizon has proposed based upon its OSS systems fit none of these criteria. First, Verizon freely and arrogantly admits that the costs it is asking the Commission to order are based on the current state of its OSS systems (Tr. at 1074-75). This, once again, is entirely contrary to the law. Furthermore, not a single Verizon witness testified that the process it used or will use in the future to deliver xDSL loops is the most efficient process available, nor did a single Verizon witness explain why its own existing electronic systems suffered such astonishingly high failure rates.

Second, Verizon's fallout rates do not account for improvements to the systems that would decrease expensive manual intervention. In fact, *its proposed rates assume that no order placed by an ALEC will ever pass through a fully mechanized Verizon OSS system.* (Tr. at 1063, 1066-67, and 1133). In practice, this means that for even the simplest order that can be placed by an ALEC, *Verizon assumes a fallout rate of 60%.* (Tr. 947). Verizon's proposal, then, locks it into recovering costs that result from its embedded, malfunctioning OSS at it exists today. It makes no attempt to look forward toward improvements that are clearly warranted by technology that is available right now. Any competitive business experiencing the level of fallout that Verizon assumes in its cost study would clearly be incented to drive those fallout rates down to more acceptable levels. Looking forward, this Commission should base prices on the efficient use of a fully functional, electronic OSS for xDSL preordering and ordering, such that fallout rates are kept to a bare minimum.

Last year in the BellSouth UNE Order (May 25, 2001 at pp. 423-32), the Commission adopted fallout rates for application to BellSouth's OSS costs that are dramatically lower than those proposed by Verizon, and there is no reason why Verizon should now be allowed to behave in a manner even more inefficient than BellSouth. Accepting Verizon's proposed fallout rates—which arise substantially from its stubborn refusal to mechanize its processes—would be to allow it to foist the costs of its inefficiency upon Florida ALECs, the very situation that the FCC's rules were designed to prevent. Verizon's proposed rates should be rejected in their entirety.

(c) labor rates;

Covad: Covad adopts the position of the ALEC Coalition in its brief filed concurrently herewith.

(d) required activities;

Covad: The nonrecurring cost study should assume only the efficient performance of those activities which would be required in a forward-looking network. For xDSL loops, those activities include processing an ALEC service order, performing the necessary central office work, and closing the order. Verizon's nonrecurring cost study unnecessarily bloats both the work activities and the work times for provisioning xDSL loops and improperly bundles disconnect fees that may never occur into the nonrecurring cost for provisioning a loop.

A. Required Activities And Task Times For xDSL Loops

The processes involved in the provisioning of xDSL loops do not vary meaningfully from one ILEC to another. Covad and Verizon agree that no special treatment is given to a 2-wire copper loop used for DSL service. The only activities required to process an order for an individual xDSL capable loop are those steps required for a basic unbundled loop, and—given that there is agreement that a 2-wire loop is provisioned in the same way as an xDSL loop—the

Commission should set tasks based upon those that it found to be appropriate in provisioning a 2-wire loop in the BellSouth UNE Orders.

(e) mix of manual versus electronic activities;

Covad: A forward looking network includes fully automated operation support systems. Where Verizon now penalizes competitors by forcing them to use expensive, manual processes, those processes should be automatic and costs should be set on a forward-looking basis to reflect that automation.

One fundamental underpinning of a forward-looking network is the recognition that tasks that can be automated will be automated. Verizon's assumptions fail to recognize the need to automate its systems, eliminate duplicative work groups and streamline its provisioning processes. This Commission is empowered to require Verizon to provide service in the most efficient manner possible, including incenting Verizon to properly automate its OSS by establishing rates that assume forward-looking electronic OSS. Verizon should be allowed to recover for manual tasks only where it has proven that those tasks cannot be automated. Where manual task work is triggered by inflated Verizon fallout rates, those assumptions must be reduced to acceptable, competitive levels as described in Issue 8(b).

(f) other.

Covad: Covad adopts the position of the ALEC Coalition in its brief filed concurrently herewith.

Issue 9. **(a) What are the appropriate recurring rates (averaged or deaveraged as the case may be) and non-recurring charges for each of the following UNEs?**

(1) 2-wire voice grade loop;
(2) 4-wire analog loop;
(3) 2-wire ISDN/IDSL loop;
(4) 2-wire xDSL-capable loop;
(5) 4-wire xDSL-capable loop;
(6) 4-wire 56 kbps loop;
(7) 4-wire 64 kbps loop;
(8) DS-1 loop;
(9) high capacity loops (DS3 and above);
(10) dark fiber loop;
(11) subloop elements (to the extent required by the Commission in Issue 4);
(12) network interface devices;
(13) circuit switching (where required);
(14) packet switching (where required);
(15) shared interoffice transmission;
(16) dedicated interoffice transmission;
(17) dark fiber interoffice facilities;
(18) signaling networks and call-related databases;
(19) OS/DA (where required).

Covad: There is no reason why the costs for these elements should be substantially different than the costs ordered by the Commission last year in the BellSouth UNE Orders except to the extent that these costs should be lower based on Verizon's efficiency as compared to BellSouth.

As noted above for nonrecurring costs, there is no reason to believe that Verizon should experience recurring costs that are significantly more or less than those that are experienced by BellSouth. In fact, as detailed extensively in the ALEC Coalition's Post-Hearing Brief filed concurrently herewith, there is significant evidence that Verizon's cost should actually be *lower* than BellSouth's costs. The table below summarizes Verizon's proposed recurring costs as compared to the current Commission-ordered rates for BellSouth. Covad respectfully submits that the Commission should set rates equal to or lower than those that it ordered for BellSouth in

the BellSouth UNE Orders. All rates quoted are Zone 1 rates as state-wide average rates are not available for the BellSouth region.

Cost Element	Verizon Proposed Recurring Rate	BellSouth UNE Orders Recurring Rate
2-wire loop	$22.17	$11.52
4-wire loop	$53.60	$14.24
DS-1 loop	$235.24	$73.44

Nonrecurring charges should be based on efficient practices. The nonrecurring charges should reflect only the work that is necessary for provisioning xDSL loops and those work times must be based on efficient practices. The table below summarizes Verizon's proposed nonrecurring costs as compared to the current Commission-ordered rates for BellSouth. Note that Verizon's proposed ordering charges are typically five to six times those previously ordered by the Commission for manual orders, but ***thirty to one hundred times higher than Commission-ordered rates in a mechanized environment.*** This staggering cost differential is driven primarily by Verizon's stone-age OSS systems that—as noted above—assume that 60% of the even the simplest orders will be handled manually. Covad respectfully submits that the Commission should set rates equal to or lower than those that it ordered for BellSouth in the BellSouth UNE Orders.

Cost Element	Verizon Proposed Nonrecurring Rate	BellSouth UNE Order Nonrecurring Rate
2-wire loop	$102.84	$44.69
Manual ordering charge (2 wire loops)	$56.07	$10.73
Mechanized ordering charge (2 wire loops)	$36.91	$1.37

DS-1 loop	$779.92	$313.75
DS-1 manual ordering charge	$64.43	$10.73
DS-1 mechanized ordering charge	$36.91	$1.37
IDT Interoffice Dedicated Transport (DS-1)	$719.32	$95.16
IDT Interoffice Dedicated Transport (DS-3)	$719.32	$302.43
IDT manual ordering charge (DS-1/3)	$174.68	$10.73
IDT mechanized ordering charge (DS-1/3)	$112.58	$1.37
Loop conditioning (short)	$2789.47	$0.00
Bridged tap removal (short)	$2188.71	$0.00
Loop makeup (mechanized)	$0.51	$0.68
Line and Station Transfer	$403.03	N/A

In addition to the tremendous cost differentials outline above, Verizon's inclusion of a Line and Station Transfer charge of $403.03 is particularly harmful to ALECs ability to continue to provide Florida customers with the benefits of competition. A line and station transfer is a part of routine plant maintenance for Verizon. For instance, if a new Verizon customer requested phone service and Verizon discovered that the loop serving that customer premise was somehow damaged or unsuitable for the service requested, Verizon would simply roll that customer onto another loop via the mechanism of a line and station transfer. It is impossible to believe that Verizon would tell that customer, "We are sorry, but the loop that serves your home is unsuited to the service you have requested, and we will require a payment from you of $403.03 before we can activate your phone service."

Instead, Verizon undoubtedly provisions the requested service, and the cost for performing the line and station transfer—which, as with all of Verizon's other proposed costs, is

exorbitant—is spread over all of Verizon's loops. This is precisely what should happen here. For BellSouth the cost of line and station transfers is included in the cost of a loop, and any added costs associated with it are spread over all BellSouth's loops as part of BellSouth's recurring rate structure. Should the Commission allow Verizon to recover these costs at all, it should order Verizon to provide a cost study detailing a small incremental cost that would then be added to whatever recurring rates are ordered by the Commission.

Verizon's nonrecurring rates are also made higher by the inclusion of a disconnect charge *that must be paid by an ALEC at the initiation of service on a loop*. This is unacceptable, and the Commission should order rates that include a separate disconnect element. Any other result would mean that Florida ALECs would, in effect, be providing an interest-free loan to Verizon each time that a loop was ordered to pay for a service that Verizon may never perform. Inclusion of such a charge amounts to nothing more than an attempt to erect ever-higher barriers to competition, and the Commission should reject it.

(b) Subject to the standards of the FCC's Third Report and Order, should the Commission require ILECs to unbundle any other elements or combinations of elements? If so, what are they and how should they be priced?

Covad: Covad adopts the position of the ALEC Coalition in its brief filed concurrently herewith.

Issue 10. What is the appropriate rate, if any, for customized routing?

Covad: Covad adopts the position of the ALEC Coalition in its brief filed concurrently herewith.

Issue 11. What is the appropriate rate if any, for line conditioning, and in what situations should the rate apply?

Covad: In a forward-looking network line conditioning is unnecessary; hence a zero rate should apply. This was the Commission's policy based-determination in the BellSouth UNE Orders, and it has been presented with no evidence in this docket indicating that a modification of this policy should be made for the benefit of Verizon.

Covad and Verizon agree that a forward-looking network does not have load coils on loops less than 18,000 feet. (Tr. at 909). As the Commission observed in the BellSouth UNE Orders, under these circumstances "loop conditioning charges for short loops [<18,000 feet] . . . shall be eliminated." BellSouth UNE Order (May 25, 2002) at p. 459. Accordingly, loop conditioning[5] rates should be set at zero.

Despite the evidence and the law to the contrary, Verizon argues that, because it incurs costs in removing load coils and bridged tap from its embedded network, it is entitled to recover those costs. Nonetheless, load coils and bridged tap on loops are features of an antiquated network which has not been modernized in accordance with engineering standards that have been in place for more than 20 years. See Testimony of Joseph P. Riolo as cited by the Commission in the BellSouth UNE Order (May 25, 2001) at p. 453; see generally, Exhibit 60 at pp. 65-80. Accordingly, in the Bell Atlantic territories, Verizon does not even attempt to charge for load coil removal on loops under 18,000 feet in length. Exhibit 60 at pp. 74-75.

The presence of load coils and bridged tap in the Verizon plant today results from Verizon's failure to bring its outside plant up to modern specifications. Furthermore, the FCC supports the analysis set forth above with explicit instruction that it will "defer to the states to

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[5] Loop conditioning refers to modifications to embedded loop plant facilities to remove equipment or plant arrangements that would impede the transmission of xDSL-based services. Thus, Verizon must condition copper loops in its embedded plant by removing now obsolete and unnecessary equipment that may have been required in 20- to 30-year-old plant designs to support analog/voice services – such as load coils and bridged taps – to make the loops in its embedded plant xDSL-capable.

A "load coil" is a device placed on copper POTS lines longer than 18,000 feet to counteract the effect of capacitance that builds up as the length of the loop increases.

A "bridged tap" is a three-way splice of a cable pair such that dial tone can appear in two or more different cable pair locations.

ensure that the costs incumbents impose on competitors for line conditioning *are in compliance with our pricing rules for nonrecurring costs.*" UNE Remand Order ¶ 194 (emphasis added). When the FCC's pricing rules for nonrecurring costs are applied to the proper forward-looking network, as shown above, there are no conditioning charges for Verizon to recover.

The Massachusetts DTE reached this precise conclusion when confronted with arguments from Verizon that were almost identical to the arguments it is making here.

> Loop qualification and loop conditioning would not be necessary in a network with all fiber feeder should not be necessary [sic]. The presence or absence of load coils or bridged taps . . . [is] immaterial in a network with 100 percent fiber feeder. Verizon does not dispute this conclusion, but instead argues that "the relevant costs should take into account the network that is being used," and that it is "irrational to develop these costs on a network design . . . that was assumed for the pricing of different types of loops, such as 2-wire analog loops as a surrogate for xDSL loops . . . In so arguing, Verizon ignores our findings in the *Phase 4 Order* and the *Phase 4-L Order* where we stated that the goal of the TELRIC methodology is "to model a forward-looking telecommunications network" (*Phase 4-L Order* at 19), not the network in place today.
>
> . . .
>
> Concerning Verizon's argument that the FCC has explicitly allowed it to recover its costs for line qualification and conditioning, we find that this is not a correct interpretation of the FCC's Order. We believe that the FCC's directives related to recovery of loop qualification and conditioning costs are only relevant to states that have assumed copper feeder for purposes of calculating TELRIC. The FCC has not directed states to assume copper feeder in calculating TELRIC, and, without such a directive, it would be illogical for the FCC to mandate the recovery of costs that are relevant only to a network assumption that may not have been approved in a particular state.

MA Decision at 86-87. For the same reasons, the Commission should order that loop conditioning charges (load coil removal and bridged tap removal) be set at zero as it did in the BellSouth UNE Order and as the commissions of Georgia and Louisiana have also done.

In sum, the Commission should reject Verizon's proposal to impose additional non-recurring charges on competitors for loop conditioning activities based upon cost studies that apply assumptions inconsistent with the TELRIC principles reflected in forward-looking recurring loop costs. Instead, the Commission should adopt a $0.00 charge for loop conditioning activity.

Issue 12. **Without deciding the situations in which such combinations are required, what are the appropriate recurring and non-recurring rates for the following UNE combinations:**

(a) "UNE platform" consisting of: loop (all), local (including packet, where required) switching (with signaling), and dedicated and shared transport (through and including local termination);

(b) "extended links," consisting of:

(1) loop, DSO/1 multiplexing, DS1 interoffice transport;
(2) DS1 loop, DS1 interoffice transport;
(3) DS1 loop, DS1/3 multiplexing, DS3 interoffice transport.

Covad: Covad adopts the position of the ALEC Coalition in its brief filed concurrently herewith.

Issue 13. **When should the recurring and non-recurring rates and charges take effect?**

Covad: The recurring and nonrecurring rates and charges established by the Commission in this proceeding should take effect immediately upon the Commission's issuance of its order. ALECs should not be required to amend their interconnection agreements with BellSouth in order to avail themselves of these rates and charges.

The rates and charges established by the Commission should take effect immediately upon the Commission issuance of its order establishing UNE rates in this docket. Such new or changed rates should automatically govern the purchase by ALECs of services and network elements from Verizon, so that ALECs and Verizon will not be required to amend their

interconnection agreements to immediately apply these new rates. To the extent that Verizon and ALECs amend interconnection agreements to reflect the results of this proceeding, such amendments should be deemed to apply as of the date of the Commission's order in this proceeding. Otherwise, Verizon may seek to delay the process of amending existing interconnection agreements in order to prevent, or at least delay, ALECs from purchasing services and network elements under the new rates, thereby frustrating the development of local telecommunications competition in Florida.

III. CONCLUSION

The rates and charges that the Commission will adopt in this proceeding will in large measure determine if competition, particularly competition in the advanced services market, is to develop in the State of Florida. As Covad demonstrates, Verizon's proposed rates and charges fail to comport with forward-looking pricing rules and with forward-looking, efficient practices. Specifically, Verizon failed to comply with the FCC's pricing rules which required it to propose rates and charges, both recurring and nonrecurring, based on a forward-looking network design. Consequently, the Commission should reject Verizon's proposed rates and charges in their entirety. Instead, the Commission should adopt the rates and charges that are rationally related to the rates and charges adopted in the BellSouth UNE Orders, lowering those rates where appropriate to account for the fact that Verizon, regardless of it apparent pride in its inefficiency, *should*, as the larger ILEC, enjoy greater economies of scale than BellSouth.

RESPECTFULLY SUBMITTED this 28th of May, 2002

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