ORIGINAL

Richard Chapkis
Vice President & General Counsel, Southeast Region
Legal Department

verizon

FLTC0717
201 North Franklin Street (33602)
Post Office Box 110
Tampa, Florida 33601-0110

Phone 813 483-1256
Fax 813 273-9825
richard.chapkis@verizon.com

March 21, 2003

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

Re: Docket No. 020960-TP
Petition for arbitration of open issues resulting from interconnection negotiations with Verizon Florida Inc. by DIECA Communications, Inc. d/b/a Covad Communications Company

Dear Ms. Bayo:

Please find enclosed for filing an original and 15 copies of Verizon Florida Inc.'s Prehearing Statement in the above matter. Also enclosed is a diskette with a copy of the Prehearing Statement in Word format. Service has been made as indicated on the Certificate of Service. If there are any questions regarding this matter, please contact me at 813-483-1256.

US
AF
MP
OM 3
TR
CR
CL
PC
MMS
SEC 1
OTH

Sincerely,

Richard A. Chapkis

Richard Chapkis

RC:tas
Enclosure

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition by DIECA Communications, Inc. d/b/a Covad Communications Company for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with Verizon Florida Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996	)	Docket No. 020960-TP Filed March 21, 2003

VERIZON FLORIDA INC.'S PREHEARING STATEMENT

Verizon Florida Inc. ("Verizon") files its Prehearing Statement in accordance with Order No. PSC-02-1589-PCO-TP in this docket and Commission Rule 25-22.038.

A. Witnesses

Verizon's witnesses in this proceeding and the issues to which they will testify are as follows:

Ronald J. Hansen:	Issues 2, 4-5, and 9
David J. Kelly and John White:	Issues 19 and 22
Rosemarie Clayton:	Issues 23 and 27
Faye H. Raynor:	Issues 4, 13, 22, and 37
John White:	Issues 12, 30-32, and 33
Don Albert and Alice B. Shocket:	Issues 41-49

B. Exhibits

Verizon has not yet introduced any exhibits. However, Verizon reserves the right to introduce exhibits at the hearing.

C. Verizon's Basic Position

The issues in this proceeding should be resolved in Verizon's favor, consistent with federal law and this Commission's precedent. The issues that Covad has raised generally focus on two areas. First, Covad raises issues related to the parties' business relationship — ordering, billing, and other logistics. Second, Covad seeks unprecedented access to Verizon's network and to impose unprecedented burdens on Verizon to accommodate Covad's preferences without regard to the public interest. Covad's positions are without merit. First, the accommodations that Covad seeks are unauthorized by the federal Telecommunications Act of 1996 ("1996 Act" or "Act") and contrary to this Commission's policies. Second, many issues that Covad seeks to litigate in this bilateral proceeding have already been resolved — or are being resolved — through *multilateral* processes. Relitigating such issues in this bilateral arbitration would lead to endless — and needless — proceedings and would undermine the 1996 Act's strong policy in favor of uniform treatment for all industry participants.

D., E., F. Verizon's Specific Positions

Verizon believes that all of the open issues in this arbitration involve questions of law and policy, rather than disputed issues of fact.

Issue 1: If a change of law, subject to appeal, eliminates one or more of Verizon's obligations to provide unbundled network elements or other services required under the Act and the Agreement resulting from this proceeding, when should that change of law provision be triggered?

Verizon's position: This issue involves the extent to which the parties' agreement can obligate Verizon to continue providing Covad with access to any UNE or other service, payment, or benefit once applicable law no longer requires Verizon to provide such access. Verizon has proposed language stating that, once there is an effective order

eliminating a prior obligation, Verizon "may discontinue immediately the provision of any arrangement" pursuant to that obligation, except that Verizon will maintain existing arrangements for 45 days, or for the period specified in the order or another source of applicable law (including, among other things, the agreement, a Verizon tariff, or state law). Verizon Response Attach. C at 1, 8, 24 (Agreement § 4.7; UNE Attachment § 1.5; Collocation Attachment § 1). This language strikes a reasonable balance between Verizon's right to have its obligations under the agreement remain consistent with the terms of applicable law and the interest, shared by Verizon and Covad, in ensuring a smooth transition to the new legal regime.

Covad, on the other hand, has proposed language that would require Verizon to wait until the entry of a final and non-appealable order before it is permitted to take advantage of a change in law. An order that is subject to appeal, however, is still legally binding. Indeed, in this arbitration, the Commission is required to apply federal law as set forth in the effective orders of the FCC and decisions of the federal law, even if those orders and decisions are subject to appeal. *See* 47 U.S.C. § 252(c). There is no reason to adopt language that would allow Covad to avoid the effect of such an order or decision merely because it is issued after the parties' agreement has been approved. Indeed, on this reasoning, state commissions in California,[1] Delaware,[2] Massachusetts,[3] New York,[4]

---

[1] *See* Final Arbitrator's Report, *Global NAPs, Inc. (U-6449-C) Petition for Arbitration of an Interconnection Agreement with Verizon California Inc. f/k/a GTE California Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Application 01-12-026, at 73 (Cal. PUC May 15, 2002), *aff'd*, Order Adopting Final Arbitrator's Report with Modification, Decision 02-06-076 (Cal. PUC June 27, 2002).

[2] *See* Arbitration Award, *Petition by Global Naps, Inc., for the Arbitration of Unresolved Issues from the Interconnection Negotiations with Verizon Delaware Inc.*, PSC Docket No. 02-235, at 41 (Del. PSC Dec. 18, 2002), *aff'd*, Order, PSC Docket No. 02-235 (Del. PSC Mar. 17, 2003).

[3] *See* Order, *Petition of Global NAPs, Inc., pursuant to Section 252(b) of the Telecommunications Act of 1996, for arbitration to establish an interconnection agreement with Verizon New England, Inc.*

Rhode Island,[5] and Vermont[6] have all rejected proposed language virtually identical to Covad's.[7]

Issue 2: What time limit should apply to the Parties' rights to assess previously unbilled charges for services rendered?

Issue 9: Should the anti-waiver provisions of the Agreement be altered in light of the resolution of Issue 2?

Verizon's position: The parties' right to assess previously unbilled charges (*i.e.*, to "backbill"), in the absence of a voluntary agreement to the contrary, should be governed by the five-year statute of limitations in Fla. Stat. § 95.11(2)(b). This statute of limitations applies to billing under contractual relationships between businesses generally, and appropriately protects the parties' interest in collecting the established price for services they provide under the agreement. If this statute of limitations were deemed not to apply, a party would potentially be able to provide service and collect fees from its customers while avoiding the appropriate payments for the inputs it purchases from the other party.

Covad's proposal is not only inconsistent with the statute of limitations, but also one-sided and therefore unreasonable. The parties' right to backbill to recoup any

---

d/b/a Verizon Massachusetts f/k/a New England Telephone & Telegraph Co. d/b/a Bell Atlantic-Massachusetts, D.T.E. 02-45, at 79 (Mass. DTE Dec. 12, 2002).

[4] *See* Order Resolving Arbitration Issues, *Petition of Global NAPs, Inc., Pursuant to Section 252(b) of the Telecommunications Act of 1996, for Arbitration to Establish an Intercarrier Agreement with Verizon New York Inc.*, Case 02-C-0006, at 21 (N.Y. PSC May 22, 2002).

[5] *See* Arbitration Decision, *Arbitration of the Interconnection Agreement Between Global NAPs and Verizon-Rhode Island*, Docket No. 3437, at 40-41 (R.I. PUC Oct. 16, 2002), *aff'd*, Final Order on Arbitration, Docket No. 3437 (R.I. PUC Jan. 24, 2003).

[6] *See* Order, *Petition of Global NAPs, Inc., for Arbitration Pursuant to § 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon New England Inc., d/b/a Verizon Vermont*, Docket No. 6742, at 33-34, 47 (Vt. PSB Dec. 26, 2002).

[7] An arbitrator in New Jersey recently reached the same result. *See* Arbitrator's Recommended Decision, *Petition of Global NAPs, Inc. For Arbitration Pursuant to Section 252 of the*

undercharges should be symmetrical with the right to contest any previously billed overcharges. Despite its claims that a time limit on the right to backbill is necessary to provide "certainty in the billing relationship," Covad has proposed no similar limitation on the right to dispute past overcharges, which would remain governed by the five-year statute of limitations. But, just as a party's right to dispute overcharges should not be arbitrarily limited, a party's right to collect undercharges also should not be so limited.

Consistent with Verizon's position, the anti-waiver provision of the agreement should not be altered.

Issue 4: When the Billing Party disputes a claim filed by the Billed Party, how much time should the Billing Party have to provide a position and explanation thereof to the Billed Party?

Verizon's position: Any performance standards governing when Verizon must respond to a billing dispute should be set on an industry-wide basis, as this Commission recently did in Docket No. 000121C-TP. Otherwise, the process for responding to such disputes would soon become unworkable, as different standards may be established for different ALECs. To the extent Covad believes it is important for the Commission to adopt billing dispute resolution performance measurements, it should propose them in Docket No. 000121C-TP.

In any event, Covad's proposed standard is unreasonable. Under Covad's proposal, there is no requirement that Covad's notice of the dispute contain sufficient information for Verizon to investigate the matter; nor is there any requirement that the billing dispute be sufficiently current to ensure that Verizon will have access to the data necessary to investigate Covad's claim within 30 days. Billing dispute resolution

---

Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon New Jersey, Inc., f/k/a Bell Atlantic-New Jersey, Docket No. TO02060320, at 19 (N.J. BPU Mar. 7, 2003).

performance measurements established in other Verizon states include both requirements (as well as others), and the same should be true of any such industry-wide measurements adopted in Florida.

Issue 5: When Verizon calculates the late payment charges due on disputed bills (where it ultimately prevails on the dispute), should it be permitted to assess the late payment charges for the amount of time exceeding thirty days that it took to provide Covad a substantive response to the dispute?

Verizon's position: Yes. This Commission has previously rejected Covad's attempts to avoid paying late-payment charges when billing disputes are resolved in the ILEC's favor, *see* Final Order on Arbitration, Order No. PSC-01-2017-FOF-TP, Docket No. 001797-TP, at 118 (Fla. PSC Oct. 9, 2001), and should do so again here. Covad is not required to pay disputed amounts during the pendency of a dispute. As a result, if late-payment fees do not accrue after 30 days from Verizon's receiving notice of a dispute, Covad would have the incentive to submit frivolous claims to earn interest on the "disputed" amounts. Moreover, as explained above, depending upon the degree of detail Covad provides when it submits its dispute and whether the dispute pertains to recent bills, 30 days may not be a commercially reasonable period in which to resolve a billing dispute.

Covad also proposes language that would prohibit a party from assessing late-payment charges in the event that the other party fails to pay previously assessed late-payment charges. It is commercially reasonable for late-payment charges to apply to any failure to pay amounts due under the agreement, whether those amounts are charges for services or late-payment charges. Non-payment of charges amounts to a forced, interest-free loan from Verizon to its competitor.

Issue 7: For service-affecting disputes, should the Parties employ arbitration under the rules of the American Arbitration Association, and if so, should the normal period of negotiations that must occur before invoking dispute resolution be shortened?

Verizon's position: As Covad recognizes, under the 1996 Act, all open issues must be resolved in accordance with the requirements of federal law. Although federal law protects parties' right to *choose* to resolve their disputes through binding arbitration, no provision of federal law authorizes this Commission to *require* Verizon to give up its right to seek resolution of any dispute before an appropriate forum. Instead, arbitration is "a matter of consent, not coercion," *Volt Info. Scis., Inc. v. Board of Trustees*, 489 U.S. 468, 479 (1989), and "arbitrators derive their authority to resolve disputes *only because the parties have agreed* in advance to submit such grievances to arbitration," *AT&T Techs., Inc. v. Communications Workers of Am.*, 475 U.S. 643, 648-49 (1986) (emphasis added).

Issue 8: Should Verizon be permitted to terminate this Agreement as to any exchanges or territory that it sells to another party?

Verizon's position: Yes. Verizon cannot be required to condition any sale of its operations on the purchaser agreeing to an assignment of this agreement. Once Verizon sells an exchange or territory, it is no longer the ILEC for that service area and has no obligations under the interconnection provisions of the 1996 Act. *See* 47 U.S.C. § 252(a) (obligating ILECs to enter into interconnection agreements); *id.* §§ 251(h), 252(j) (defining "ILEC" for purposes of § 252). Nor can the purchaser be forced to accept Verizon's obligations under this agreement. Not only does federal law provide no basis for such obligations, but also any such obligations would likely reduce the price that Verizon could receive for a sale, and could impose on any would-be purchaser

obligations under the agreement greater than those that apply to it under federal law. *See, e.g., id.* § 251(f) (exempting rural carriers from certain requirements under the 1996 Act). In any event, if Verizon were to sell an exchange or territory in Florida, Covad can protect its rights and interests without the inclusion of the language it seeks to add, by participating in the Commission's proceeding regarding the sale.

Issue 10: Should the Agreement include language addressing whether Covad can bring future action against Verizon for violation of Section 251 of the Act?

Verizon's position: Covad seeks to insert language that it hopes would impede Verizon's ability to defend against a future lawsuit claiming violations of § 251 of the Act. Whether the execution of an interconnection agreement affects any other remedies the parties might have is a question that is not presented here and that the Commission should not attempt to pre-judge in this proceeding. In particular, the question whether Covad, once it has signed an interconnection agreement with Verizon, could bring an action against Verizon based on an alleged violation of subsections (b) and (c) of § 251 is not presented in this proceeding, and the Commission should not include any language in the parties' agreement purporting to address that issue. Instead, that question should be addressed by the FCC or a court of competent jurisdiction if and when the question arises. In any event, uniform federal court authority, including authority from the federal district courts in Florida, holds that no action may be brought pursuant to §§ 206 and 207 of the Act for such alleged violations of § 251. *See, e.g., Law Offices of Curtis V. Trinko, LLP v. Bell Atlantic Corp.*, 305 F.3d 89 (2d Cir. 2002), *cert. granted on other grounds*, No. 02-682 (U.S. Mar. 10, 2003); *Supra Telecomms. & Info. Sys., Inc. v. BellSouth Telecomms., Inc.*, No. 99-1706-CIV, 2001 U.S. Dist. LEXIS 23816 (S.D. Fla. June 8,

2001); *Intermedia Communications, Inc. v. BellSouth Telecomms., Inc.*, 173 F. Supp. 2d 1282 (M.D. Fla. 2000).

Issue 12: What language should be included in the Agreement to describe Verizon's obligation to provide Covad with nondiscriminatory access to the same information about Verizon's loops that Verizon makes available to itself, its affiliates and third parties?

Verizon's position: The dispute here is not about whether Verizon must provide Covad with nondiscriminatory access to loop qualification information. The agreement already provides that "[t]he pre-ordering function includes providing Covad nondiscriminatory access to the same detailed information about the loop that is available to Verizon and its affiliates." Verizon Response Attach. A at 48 (Additional Services Attachment § 8.1.1). The agreement also provides that Verizon "shall provide to Covad, pursuant to Section 251(c)(3) of the Act, 47 U.S.C. § 251(c)(3), Verizon OSS Services." *Id.* at 49 (Additional Services Attachment § 8.2.1); *see also id.* at 65 (UNE Attachment § 3.13.3) ("Verizon shall provide access to loop qualification information in accordance with, but only to the extent required by, Applicable Law"). Accordingly, the agreed-upon provisions of the agreement already require Verizon to provide Covad with loop qualification information as required by federal law. Covad has shown no need for its additional language.

Furthermore, Covad's proposed language is inconsistent with the requirements of federal law insofar as it purports to regulate the manner in which Verizon provides loop qualification information. *See, e.g., id.* Attach. C at 5 (Additional Services Attachment § 8.1.4) ("Verizon will provide such information about the loop to Covad in the *same manner* that it provides the information to any third party and in *a functionally equivalent manner* to the way that it provides such information to itself.") (emphases added). The

language Covad has proposed has no basis in the 1996 Act or in any FCC rule or order implementing the Act.

Issue 13: In what interval should Verizon be required to return Local Service Confirmations to Covad for pre-qualified Local Service Requests submitted mechanically and for Local Service Requests submitted manually?

Verizon's position: Intervals for returning Local Service Request Confirmations ("LSRCs") — formerly referred to as Firm Order Confirmations ("FOCs") — should not be established on an interconnection-agreement-by-interconnection-agreement basis. Instead, any such intervals should be established on an industry-wide basis, as this Commission recently did in Docket No. 000121C-TP. Covad's proposed language would change both the intervals and the performance standards contained in the measurements this Commission adopted and should be rejected for that reason. Furthermore, including these intervals in interconnection agreements would mean that amendments to those agreements would be required to modify the intervals, when necessary.

Issue 19: Do Verizon's obligations under Applicable Law to provide Covad with nondiscriminatory access to UNEs and UNE combinations require Verizon to build facilities in order to provision Covad's UNE and UNE combination orders?

Verizon's position: This issue pertains to Covad's attempt to expand Verizon's unbundling obligations under federal law by requiring Verizon to build facilities in order to provision Covad's UNE orders. Incumbent LECs are not legally obligated to construct or deploy new facilities or equipment in order to provide access to their networks on an unbundled basis. As the Eighth Circuit has held, under the UNE provisions of the 1996 Act, ALECs are granted "access only to an incumbent LEC's *existing* network — not to a yet unbuilt superior one." *Iowa Utils. Bd. v. FCC*, 120 F.3d 753, 813 (8th Cir. 1997), *aff'd in part, rev'd in part sub nom. AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999).

Consistent with that holding, the FCC expressly affirmed that it "did not require incumbent LECs to construct facilities to meet a requesting carrier's requirements where the incumbent LEC has not deployed [such] facilities for its own use." *UNE Remand Order*[8] ¶ 324; *see also Triennial Review NPRM*[9] ¶ 65 (under FCC's current rules, "incumbent LECs are not required to build new facilities in order to fulfill competitors' requests for network elements"). Reviewing this clear body of law, the FCC's Wireline Competition Bureau stated, in the context of an interconnection agreement arbitration, that "Verizon is . . . correct that the Act does not require it to construct network elements . . . for the sole purpose of unbundling those elements for . . . other carriers." *Virginia Arbitration Order*[10] ¶ 468. The Sixth Circuit has also recently made clear that an ILEC is not required to construct facilities to provide an ALEC with unbundled access to its network, even if it would perform such construction for its retail customers. *See, e.g.*, *Michigan Bell Tel. Co. v. Strand*, 305 F.3d 580, 593 (6th Cir. 2002) ("[t]he Act does not forbid [an ILEC] from discriminating between [an ALEC] requesting unbundled network elements and [the ILEC's] own retail customers"). Finally, the FCC has also reviewed Verizon's specific practices with respect to providing unbundled elements on numerous occasions and, in each case, has found that Verizon's practices satisfy the requirements of

---

[8] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999) ("*UNE Remand Order*"), *petitions for review granted, United States Telecom Ass'n v. FCC*, 290 F.3d 415 (D.C. Cir. 2002).

[9] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Notice of Proposed Rulemaking, 16 FCC Rcd 22781 (2001) ("*Triennial Review NPRM*").

[10] *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, Memorandum Opinion and Order, 17 FCC Rcd 27039 (Wireline Comp. Bur. 2002) ("*Virginia Arbitration Order*").

the Act and the FCC's regulations. *See Pennsylvania 271 Order*[11] ¶ 92; *Virginia 271 Order*[12] ¶¶ 141, 144; *New Hampshire/Delaware 271 Order*[13] ¶¶ 112-114; *New Jersey 271 Order*[14] ¶ 151.

In the FCC's recently adopted, but as yet unreleased, *Triennial Review Order*, the FCC adopted further rules regarding this issue. *See* FCC News Release, *FCC Adopts New Rules for Network Unbundling Obligations of Incumbent Local Phone Carriers*, Attach. at 3-4 (Feb. 20, 2003) ("*Triennial Review* News Release"). Although the content of those rules is not yet known, unless stayed or vacated by a court of competent jurisdiction, they will form the basis for any language in the parties' agreement on this issue. In the event the FCC has changed its prior rules, Verizon reserves the right to propose new language in light of those rules and will address this issue further at the hearing in this proceeding and in its post-hearing brief.

Issue 22: What appointment window should apply to Verizon's installation of loops? What penalty, if any, should apply if Verizon misses the appointment window, and under what circumstances?

Verizon's position: Verizon offers ALECs and its retail customers the opportunity to request an appointment window: a.m., p.m., or first or last appointment. Verizon makes good-faith efforts to meet those windows, but does not guarantee the appointment

---

[11] *Application of Verizon Pennsylvania Inc., et al. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, Memorandum Opinion and Order, 16 FCC Rcd 17419 (2001) ("*Pennsylvania 271 Order*"), *appeal pending, Z-Tel Communications, Inc. v. FCC*, No. 01-1461 (D.C. Cir.).

[12] *Application by Verizon Virginia Inc., et al., for Authorization to Provide In-Region, InterLATA Services in Virginia*, Memorandum Opinion and Order, 17 FCC Rcd 21880 (2002).

[13] *Application by Verizon New England Inc., et al., for Authorization To Provide In-Region, InterLATA Services in New Hampshire and Delaware*, Memorandum Opinion and Order, 17 FCC Rcd 18660 (2002).

[14] *Application by Verizon New Jersey Inc., et al., for Authorization To Provide In-Region, InterLATA Services in New Jersey*, Memorandum Opinion and Order, 17 FCC Rcd 12275 (2002) ("*New Jersey 271 Order*").

window for either retail customers or ALECs. Through this process, Verizon provides ALECs with parity service, as required by the 1996 Act. Verizon believes that the parties are in agreement that access to appointment windows on these terms satisfies Verizon's obligations under the 1996 Act.

However, the parties continue to disagree about Covad's proposed penalty provisions, which would prevent Verizon from charging for dispatches in certain circumstances and require it to pay penalties in other circumstances. A two-party arbitration is not the appropriate forum to address the issue of performance measurement penalties. In any event, Covad's penalty proposals are unreasonable. First, the penalties proposed would apply even where it is Covad's fault (or its end-user customers' fault) that an appointment date was missed. Second, because the applicable legal standard is parity — and thus Verizon is required to meet substantially the same percentage of provisioning appointments for comparable retail and wholesale orders — a penalty provision that could apply even when Verizon's performance for Covad is better than Verizon's performance for its own customers is inconsistent with federal law.

Issue 23: What technical references should be included in the Agreement for the definition of the ISDN and HDSL loops?

Verizon's position: Verizon and Covad agree that the sections of the agreement at issue should make reference to industry standards, which contain technical references for the technology and electronics used to provide ISDN and HDSL. The parties disagree, however, about whether those sections should also refer to the Verizon technical documents, which apply those technical references to specify the particular types of loops in Verizon's network that can be used to provision ISDN and HDSL. Although Verizon revises its technical documents from time to time to remain current with industry

standards, it is ultimately Verizon's documents — and not the industry standards — that define the loops that Verizon provides when Covad places an order for an ISDN or an HDSL loop. Because Covad is entitled to obtain unbundled access only to Verizon's existing network, the agreement should reference the Verizon technical documents as well as industry standards.

Issue 27: What are Covad's obligations under Applicable Law, if any, to notify Verizon of services it is deploying on UNE loops?

Verizon's position: Verizon's proposed language states that "Covad and Verizon will follow Applicable Law governing spectrum management." Verizon Response Attach. C at 12 (UNE Attachment § 3.11). Covad, in contrast, has proposed changes to that language that do *not* follow current applicable law. Covad's proposed language would give it the right to deploy advanced services on loops that it obtains from Verizon without informing Verizon of the particular type of advanced service Covad is deploying on the loop. Under the FCC's rules, however, Covad is obligated to provide this information to Verizon. *See Line Sharing Order*[15] ¶ 204. Verizon also uses this information to ensure that the various services provided over loops in a binder group do not interfere with each other. This information also may be relevant in trouble-shooting and repairs, for which Verizon is held to performance standards. Verizon's possession of this information better enables end users to receive the services that they order and, therefore, is in the public interest.

---

[15] *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98, 14 FCC Rcd 20912 (1999) ("*Line Sharing Order*"), *vacated and remanded, United States Telecom Ass'n v. FCC*, 290 F.3d 415 (D.C. Cir. 2002).

Issue 30: Should Verizon be obligated by this Agreement to provide cooperative testing of loops it provides to Covad, or should such testing be established on an industry-wide basis only? If Verizon is to be required by this Agreement to provide such testing, what terms and conditions should apply?

Verizon's position: Covad proposes to add language to the agreement that specifies, in great detail, a manual cooperative testing process that Verizon's technicians must follow when they provision an xDSL-capable loop. The process described in Covad's language was developed in the former Bell Atlantic region of Verizon's territory through a DSL collaborative proceeding that commenced in New York in August 1999. This procedure, however, is not employed in Verizon's former GTE jurisdictions, such as Florida. In any event, because the cooperative testing of loops is an operational matter that is subject to change over time, detailed processes for such testing should not be specified in interconnection agreements. Finally, Verizon opposes Covad's position because it would require Verizon to conduct inefficient and burdensome manual testing, even when mechanized testing of the loop is available.

Issue 32: Should the agreement establish terms, conditions and intervals to apply to a manual loop qualification process?

Verizon's position: Even as revised in the Evans/Clancy Joint Rebuttal Testimony, Covad's proposals are generally inapplicable to the procedures Verizon provides for retail and ALEC loop qualification requests in Florida. The single electronic loop qualification transaction Verizon offers to itself and to ALECs in Florida provides not only all the information provided by the various electronic transactions offered in Verizon's former Bell Atlantic Service Areas, but also information that is usually only available on a manual basis in those areas. For this reason, Verizon does not offer a manual loop qualification process in Florida. Nonetheless, as an exceptions process,

Verizon will manually investigate loop qualification information on particular loops for both its retail DSL service and for ALECs, and will provide to both any information found in substantially the same time and manner.

In addition, Covad's proposal is contrary to law. The FCC recently has reaffirmed that an ILEC's obligation is to provide ALECs with nondiscriminatory access to the loop qualification information the ILEC has. The FCC "has never required incumbent LECs to ensure the accuracy of their loop qualification databases." *BellSouth Five-State 271 Order*[16] ¶ 142. Accordingly, there is no basis to Covad's asserted right to be able to obtain loop qualification information at no cost in cases where the information Verizon returns through the mechanized transaction is "defective."

Issue 33: Should the Agreement allow Covad to contest the prequalification requirement for an order or set of orders?

Verizon's position: No. It is essential that orders for advanced services be provisioned on loops that possess the appropriate technical capabilities. Accordingly, Verizon expects that ALECs have prequalified their xDSL orders before submitting them. If Covad seeks to dispute Verizon's determination that a particular loop or set of loops does not meet the necessary technical specifications to handle the advanced services Covad seeks to provide, then Covad may challenge those findings. But Covad should not be permitted to eliminate entirely the prequalification requirement for a particular class of loops. If Covad were not required to prequalify its xDSL-capable loop orders, then Verizon could be required to attempt to provision Covad's xDSL-capable loop orders where no xDSL-capable loop is available.

---

[16] *Joint Application by BellSouth Corp., et al. for Provision of In-Region, InterLATA Services In Alabama, Kentucky, Mississippi, North Carolina and South Carolina*, Memorandum Opinion and Order, 17 FCC Rcd 17595 (2002) ("*BellSouth Five-State 271 Order*").

Issue 34: Should the Agreement specify an interval for provisioning loops other than either the interval that Verizon provides to itself (for products with retail analogs) or the interval that this Commission establishes for all ALECs (for products with no retail analog)?

Verizon's position: No. There is no basis in federal law for Covad to obtain an interval that is shorter than the interval Verizon provides to itself or the interval this Commission establishes for all ALECs. Instead, Covad should obtain the same nondiscriminatory intervals available to all other ALECs.

Covad has also proposed the deletion of language stating that the applicable interval for provisioning a loop does not include any time necessary for engineering and conditioning. Although Verizon will perform such engineering and conditioning work to enable a loop to handle the service Covad has ordered, that work is not part of the normal provisioning process, and Verizon should have additional time in which to complete that work.

Issue 35: Under what terms and conditions should Verizon conduct line and station transfers ("LSTs") to provision Covad loops?

Verizon's position: Through negotiations in the DSL collaborative in New York, Verizon and interested ALECs — including Covad — reached agreement on a process for line and station transfers ("LSTs"). Verizon will conduct an LST if the loop currently serving an end user cannot handle the service Covad has ordered and there is a spare loop that meets the necessary technical specifications for that service. The LST enables Verizon to complete Covad's order by rearranging the loops. Pursuant to the agreement, Verizon performs LSTs as a matter of course when provisioning ALECs' orders because ALECs, including Covad, requested that Verizon take the steps necessary to provision their orders successfully. Although Verizon is developing a uniform process by which

ALECs would indicate, on an order-by-order basis, whether they wish to have an LST performed, Covad should remain bound to the terms of the existing industry agreement until the new uniform process is in place. Further, Covad and other ALECs should be required to pay for any LSTs performed, as such activity constitutes additional work that Verizon is not required to perform in order to provide unbundled access to its network. Finally, because performing an LST can add time to the provisioning process, Verizon should have additional time to perform an LST when it is required to provision an ALEC's order. Indeed, the agreement reached in the DSL collaborative expressly recognized that LSTs will require an additional charge and involve additional installation work.

Issue 36: Is Verizon obligated to provide line sharing where an end-user customer receives voice service from a reseller?

Verizon's position: No. Federal law on this point is clear. Verizon has no obligation to provide access to the high-frequency portion of the loop where an ALEC provides voice service on a loop as a reseller. *See Virginia 271 Order* ¶ 151; *Line Sharing Order* ¶ 72; *Texas 271 Order*[17] ¶ 330. There is thus no reason for the Commission to revisit this issue, especially in light of the FCC's recent conclusion that "[t]he high-frequency portion of the loop (HFPL) is not an unbundled network element" in any circumstance. *Triennial Review* News Release, Attach. at 2. Pursuant to Verizon's federal tariff, ALECs may resell Verizon's retail DSL service over resold lines, so end users that purchase their voice service from a reseller are able to obtain DSL services on a competitive basis.

[17] *Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas*, Memorandum Opinion and Order, 15 FCC Rcd 18354 (2000).

Issue 37: What should the interval be for Covad's line sharing Local Service Requests?

Verizon's position: See Verizon's position on Issue 13.

Issue 38: What interval should apply to collocation augmentations where a new splitter is to be installed?

Verizon's position: The intervals in Verizon's effective collocation tariff in Florida (§ 19) should apply to collocation augments that Covad orders, including when Covad seeks to have Verizon install a new splitter. All the collocation-related terms and conditions that apply to Covad should be the same as those in the tariff on file with this Commission, which comports with the Commission's decision in its generic collocation docket. *See* Final Order on Collocation Guidelines, Order No. PSC-00-0941-FOF-TP, Docket Nos. 981834-TP, 990321-TP (Fla. PSC May 11, 2000). Contrary to Covad's claim, only then would it be "provided reasonable and nondiscriminatory access to UNEs." Indeed, by suggesting that the terms and conditions under which Verizon is required to provide collocation should be set on an interconnection-agreement-by-interconnection-agreement basis, Covad is suggesting that it is entitled to preferential treatment.

Issue 39: On what terms should Covad be permitted to access loops for testing purposes?

Verizon's position: As an initial matter, this dispute pertains only to line shared loops, not to all loops as the title of this issue suggests. As noted above, the FCC has recently concluded that "the high-frequency portion of the loop (HFPL) is not an unbundled network element" and has adopted new rules limiting ILECs' obligations to provide line sharing. *See Triennial Review* News Release, Attach. at 2

Furthermore, § 4.8.1 of the UNE Attachment — which is not subject to dispute here — already permits Covad to use its own test head for line shared loops in Verizon end offices where Verizon employs a POT Bay for interconnection of a Covad collocation arrangement with Verizon's network. Under § 4.8.2, Covad may not use its own test head where Verizon has not employed a POT Bay for interconnection of a Covad collocation arrangement with Verizon's network. However, Verizon will make available to Covad an on-line, electronic test system for those lines.

Covad has proposed to specify in § 4.8.2 that the inability to use its own test head pertains only to line-shared loops. This is already clear from the context of the provision, in that § 4 is captioned "Line Sharing" and addresses only line-shared loops, but Verizon does not object to the inclusion of Covad's first proposed addition to Verizon's language, which does not change the meaning of the provision. Covad has further proposed to add language stating that it may use Verizon's on-line test system at no charge. Verizon opposes this provision, which Covad does not defend, and for which there is no basis. Finally, Covad proposes to add language stating that the inclusion of § 4.8.2 in the agreement does not constitute Covad's acknowledgement that Verizon has satisfied its obligations under 47 C.F.R. § 51.319(h)(7)(i). But Verizon clearly has done so. That section requires ILECs to provide "test access points . . . at the splitter . . . *or* through a standardized interface, such as . . . a test access server." 47 C.F.R. § 51.319(h)(7)(i) (emphasis added). Accordingly, there is no basis for Covad's proposed language.

Issue 41: Should Verizon provide Covad access to unterminated, unlit fiber as a UNE? Should the dark fiber UNE include unlit fiber optic cable that has not yet been terminated on a fiber patch panel at a pre-existing Verizon Accessible Terminal?

Verizon's position: The *UNE Remand Order* defines dark fiber as "unused loop capacity that *is physically connected to facilities* that the incumbent LEC currently uses to provide service; was installed to handle increased capacity and can be used by competitive LECs *without installation by the incumbent.*" *UNE Remand Order* ¶ 174 n.323 (emphases added). Moreover, as described above, the law is clear that Verizon is not required to construct new UNEs for an ALEC. *See, e.g., Virginia Arbitration Order* ¶ 468 ("Verizon is also correct that the Act does not require it to construct network elements, including dark fiber, for the sole purpose of unbundling those elements for . . . other carriers.").

Fiber that has not been installed between two accessible terminals (for example, between two end offices or between an end office and a customer premises) does not meet the FCC's definition because it is *not* physically connected to facilities used to provide service and *cannot* be used *by anyone* without installation by Verizon. The FCC expressly held that dark fiber must "connect[] two points within the incumbent LEC's network" to be fully installed and available as a UNE. *UNE Remand Order* ¶ 325. Fiber that does not extend from one accessible terminal to another does not *connect* any point in the network to any other point in the network. Such fiber, therefore, does not fall within the FCC's definition: it is not "an uninterrupted pathway between locations in Verizon's network," as Covad claims. In fact, the FCC stated that "dark fiber" is a "network element" within the meaning of § 153(29) of the Act *only* if it is both "physically connected to the incumbent's network and is *easily called into service.*" *Id.*

¶ 328 (emphasis added). If additional construction is required to complete an end-to-end route and make fiber ready for use, that fiber is not a network element under the FCC's definition.

Covad claims that terminating fiber at an accessible terminal is "an inherently simple and speedy task" and that Verizon supposedly would "protect every strand of spare fiber in its network from use by a competitor by simply leaving the fiber unterminated until Verizon wants to use the facility." Covad's claim, however, does not reflect the manner in which Verizon actually constructs fiber facilities in its network. Verizon does not construct new fiber optic facilities to the point where the *only* remaining work item required to make them available and attached end-to-end to Verizon's network is to terminate the fibers onto fiber distributing frame connections at the customer premises.

Issue 42: Under Applicable Law, is Covad permitted to access dark fiber in technically feasible configurations that do not fall within the definition of a Dark Fiber Loop, Dark Fiber Sub-Loop, or Dark Fiber IOF, as specified in the Agreement? Should the definition of Dark Fiber Loop include dark fiber that extends between a terminal located somewhere other than a central office and the customer premises?

Verizon's position: "Dark fiber" is not a separate, stand-alone UNE under the FCC's rules. To the contrary, dark fiber is available to an ALEC *only* to the extent that it falls within the definition of specifically designated UNEs set forth in 47 C.F.R. § 51.319(a) and (d) — in particular, the loop network element, subloop network element, or interoffice facilities ("IOF"). Verizon's proposed contract language allows Covad to obtain access to dark fiber loops, subloops, and IOF, as those network elements are specifically defined by the FCC. That is all that applicable law requires. Covad's proposed § 8.1.5, which purports to expand Covad's right to dark fiber beyond the loop,

subloop, or IOF network elements, is inconsistent with the FCC's rules implementing § 251(c)(3) of the Act.

In addition, Covad's proposed modification to the definition of dark fiber loops in § 8.1.1 of the UNE Attachment is inaccurate and confusing. Section 51.319(a)(1) of the FCC's rules defines the loop network element as "a transmission facility between a distribution frame (or its equivalent) in an incumbent LEC central office and the loop demarcation point at an end-user customer premises, including inside wire owned by the incumbent LEC." 47 C.F.R. § 51.319(a)(1). Verizon's proposed contract language in § 8.1.1 follows this definition, describing a dark fiber loop as unlit fiber optic strands "between Verizon's Accessible Terminal, such as the fiber distribution frame, or its functional equivalent, located within a Verizon Wire Center [*i.e.*, a "central office"], and Verizon's main termination point at a Customer premise, such as the fiber patch panel located within a Customer premise." Verizon Response Attach. C at 19 (UNE Attachment § 8.1.1). Covad, however, expands this definition to include unlit fiber optic strands at a "Verizon Wire Center or other Verizon premises in which Dark Fiber Loops terminate." *Id.* In other words, Covad would define a dark fiber "loop" as any dark fiber that extends between a terminal located somewhere other than the central office (*i.e.*, a "remote terminal") and the customer premises. What Covad is describing, however, is not a "loop" at all, but a "subloop," which is already covered under § 8.1.2 of the UNE Attachment. In particular, § 8.1.2(b) defines a dark fiber subloop to include dark fiber strands "between Verizon's Accessible Terminal at a Verizon remote terminal equipment enclosure and Verizon's main termination point located within a Customer premise." *Id.* at 20 (UNE Attachment § 8.1.2). Therefore, Covad's proposed modification to Verizon's

proposed contract language is unnecessary to provide Covad with access to dark fiber at accessible terminals outside a Verizon central office.

Issues 43: Should Verizon make available dark fiber that would require a cross connection between two strands of dark fiber in the same Verizon central office or splicing in order to provide a continuous dark fiber strand on a requested route? Should Covad be permitted to access dark fiber through intermediate central offices?

Verizon's position: As explained above with respect to Issue 41, the law is clear that Verizon is not required to splice new fiber routes for an ALEC. If fiber optic strands must be spliced together end-to-end to create a continuous, uninterrupted transmission path, that fiber route is not yet fully constructed, and does not meet the definition of dark fiber. *See Virginia Arbitration Order* ¶¶ 451-453.

Verizon will cross-connect fibers at intermediate central offices for Covad and has proposed new contract language that would allow Covad to order dark fiber on an indirect basis, without having to collocate at intermediate central offices. Reasonable limitations on Verizon's offering, however, are necessary due to limitations of Verizon's network design and/or prevailing industry practices for optical transmission applications.

Issue 44: Should Verizon be obligated to offer Dark Fiber Loops that terminate in buildings other than central offices?

Verizon's position: Verizon's proposed § 8.1.1 of the UNE Attachment provides that Covad may access dark fiber loops at an accessible terminal in a Verizon Wire Center. "Wire Center" is defined as "[a] building or portion thereof which serves as a Routing Point for Switched Exchange Access Service. The Wire Center serves as the premises for one or more Central Offices." Verizon Response Attach. A at 43 (Glossary Attachment § 2.115). Furthermore, the definition of "Central Office" states that "[s]ometimes this term is used to refer to a telephone company building in which

switching systems and telephone equipment are installed." *See id.* at 31 (Glossary Attachment § 2.20). Thus, the definition of a "Verizon Wire Center" includes any Verizon premises that houses a switch and thus acts as a "Central Office." More importantly, however, Verizon's definition of "Dark Fiber Loops" in § 8.1.1 is fully consistent with § 51.319(a)(1) of the FCC's rules, which defines the loop network element as "a transmission facility between a distribution frame (or its equivalent) *in an incumbent LEC central office* and the loop demarcation point at an end-user customer premises, including inside wire owned by the incumbent LEC." 47 C.F.R. § 51.319(a)(1) (emphasis added).

Covad's proposed modification to the definition of "Dark Fiber Loops" in § 8.1.1 is inaccurate and confusing, for the reasons explained above in Verizon's response to Issue 42. What Covad is seeking at "other Verizon premises" where the fiber is terminated is not a "loop" at all, but a "subloop," which is already covered under § 8.1.2 of the UNE Attachment. In particular, § 8.1.2(b) defines "Dark Fiber Subloops" to include dark fiber strands "between Verizon's Accessible Terminal at a Verizon remote terminal equipment enclosure and Verizon's main termination point located within a Customer premise." Verizon Response Attach. C at 20 (UNE Attachment § 8.1.2). Covad should not be permitted to conflate the definitions of Dark Fiber Loops and Dark Fiber Subloops in this manner.

Issues 45: Should Covad be permitted to request that Verizon indicate the availability of dark fiber between any two points in a LATA without any regard to the number of dark fiber arrangements that must be spliced or cross connected together for Covad's desired route?

Verizon's position: As described in response to Issue 43, Verizon has proposed new language for § 8.2.5 that would use intermediate office routing in response to dark fiber

inquiries and in provisioning dark fiber orders. As a result, Covad would not need to collocate at intermediate central offices in order to obtain dark fiber on these routes. Pursuant to this language, Verizon would provide fiber optic cross-connects to join the terminated dark fiber IOF strands at the intermediate central offices.

Reasonable limitations on this offering, however, are necessary. As set forth above in Verizon's proposed new language, Verizon reserves the right to limit the number of intermediate central offices on an indirect route consistent with limitations in Verizon's network design and/or prevailing industry practices for optical transmission applications. Verizon will discuss with Covad any limitations on the number of intermediate offices along an indirect route to permit Covad to make any necessary collocation decisions.

Issue 46: To what extent must Verizon provide Covad with detailed dark fiber inventory information?

Verizon's position: Verizon's obligation to provide information regarding its dark fiber inventory does not compel Verizon to provide to ALECs information that Verizon itself does not possess. In its proposed language, Covad demands that Verizon provide "maps of routes that contain available Dark Fiber IOF by LATA for the cost of reproduction." Verizon Response Attach. C at 23 (UNE Attachment § 8.2.5.1). Verizon, however, does not have such "maps" available for its own use that show what dark fiber is available along each route in Verizon's network. The availability of dark fiber at specific locations changes on a day-to-day basis based on the needs of Verizon, ALECs, IXCs, and other customers for lit fiber services, as well as ongoing construction and maintenance and repair activities. If Verizon were to provide a snapshot picture of all available dark fiber in Florida at any given instant in time — which it cannot do — Covad could not assume

that such dark fiber would be available when and if Covad later decides to place an order. In fact, because Verizon must review its records manually on a route-by-route basis to determine the availability of dark fiber, by the time Verizon finished a review of the entire state, the results would *already* be outdated. Therefore, requiring Verizon to provide Covad information identifying all available dark fiber in Florida not only would be unduly burdensome and costly for Verizon, but the information would be useless to Covad as soon as it was received.

In addition, for the reasons set forth in Verizon's response to Issues 43 and 45, Covad's proposed modifications to § 8.2.5 of the UNE Attachment are unnecessary (and, insofar as they purport to require Verizon to splice fiber for Covad, are inconsistent with applicable law). Verizon will propose language such that, if no direct route is available between the A to Z points requested by Covad, Verizon will search for reasonable indirect routes without requiring Covad to submit additional dark fiber inquiries.

Issue 47: What information must Verizon provide in response to a field survey request? How detailed should any provisions of the Agreement be that address Verizon's responses to field survey requests?

Verizon's position: The type of detailed technical information requested by Covad in its proposed § 8.2.8.1 to the UNE Attachment is not the type of detail that should be defined on an interconnection-agreement-by-interconnection-agreement basis. Indeed, at this time, Verizon does not know whether it has the capability to provide the type of information requested by Covad. "Parity" access to dark fiber information does not include access to information that Verizon does not track for itself.

The information Verizon provides in response to field surveys is the same for all ALECs, and is the result of various industry collaboratives, interconnection agreement

arbitrations and § 271 proceedings in other states. As part of the field survey, Verizon will provide the ALEC with the total measured dB optical insertion loss for the specific fibers assigned to the ALEC's order. The ALEC can then factor this loss into the design of its fiber optic electronics, just as Verizon engineers do when they design Verizon's own lit fiber optic systems.

Covad's language, to the extent it can be read as a demand for a specific level of transmission quality (*i.e.*, 0.35dB/km loss at 1310 nanometers and 0.25dB/km loss at 1550 nanometers), is a technical requirement/specification for the transmission characteristics of Verizon's fibers. Verizon, however, is obligated only to provide dark fiber to ALECs "as is," and the transmission capabilities of the fiber are not guaranteed. *See, e.g., Virginia Arbitration Order* ¶ 468 (ruling that ALECs "may not hold Verizon's dark fiber to a given standard of transmission capacity").

Issue 48: What restrictions, if any, should apply to Covad's leasing of the dark fiber in any given segment of Verizon's network?

Verizon's position: The FCC has ruled that state commissions retain the flexibility to establish reasonable limitations and technical parameters for dark fiber unbundling. *See UNE Remand Order* ¶¶ 199, 352. Verizon's contract language is patterned after the 25-percent cap on dark fiber established by the Texas Public Utility Commission in 1996, which the FCC expressly approved. *Id.* ¶ 352 n.694 (finding that "the measures established by the Texas PUC address the incumbent LEC's legitimate concerns").

Dark fiber is a scarce resource in Verizon's network. Verizon's proposed limit of 25 percent of fiber on a given route is a reasonable anti-warehousing provision that prevents one ALEC from occupying all available dark fiber in a particular area and excluding entry by other carriers. It does not reserve even a single strand of fiber for

Verizon. This 25-percent limit does not impose any practical limitation on Covad's ability to provide service to its customers, given the huge bandwidth of fiber. In fact, such a limit would encourage Covad and other ALECs to utilize fiber more efficiently so as to maximize the resources available for all telecommunications companies in Florida.

Issue 51: If a UNE rate contained in the proposed Agreement is not found in a currently effective FCC or FPSC order or state or federal tariff, is Covad entitled to retroactive application of the effective FCC or FPSC rate either back to the date of this Agreement in the event that Covad discovers an inaccuracy in Appendix A to the Pricing Attachment (if such rates currently exist) or back to the date when such a rate becomes effective (if no such rate currently exists)? Will a subsequently filed tariff or tariff amendment, when effective, supersede the UNE rates in Appendix A to the Pricing Attachment?

Verizon's position: Where there is a generally applicable rate for a service, effective under the laws of Florida or federal law, and subject to the regulatory review and challenge provided for under state and federal law, that rate should govern. Covad's effort to portray this provision as giving Verizon the ability to modify rates contained in the agreement unilaterally is incorrect. *See* Covad Petition Attach. B at 20. Under Verizon's proposal, where a rate is contained in an applicable tariff that this Commission or the FCC has allowed to go into effect, any rate contained in the agreement does not apply. *See* Verizon Response Attach. C at 24-25 (Pricing Attachment §§ 1.3-1.5). Covad's proposal would permit Covad to game the system by seeking to maintain rates that are more favorable than those available to all other ALECs in Florida based simply on an accident of timing.

Finally, to the extent that rates are set forth in Appendix A to the Pricing Attachment, rather than in a generally applicable tariff, Covad has not raised a dispute with respect to any of those rates. Accordingly, these are agreed-upon rates and, therefore, are binding upon the approval of this agreement by this Commission. These

rates will be superseded by any new rates that are required by any order of the Commission or the FCC, approved by the Commission or the FCC, or otherwise allowed to go into effect by the Commission or the FCC. There is no basis, however, to suggest that either party is entitled to retroactive application of those rates.

Issue 52: Should Verizon be required to provide Covad individualized notice of tariff revisions and rate changes?

Verizon's position: Verizon already provides public notice to its customers, including wholesale customers, of its tariff filings. Verizon should not also be required to provide individualized notice to each of the ALECs operating in Florida. When a tariff takes effect, Covad is just as able as Verizon to make informational updates to the parties' Pricing Appendix. Verizon should not be required to perform such administrative tasks on Covad's behalf.

G. Stipulated Issues

The parties have settled Issues 3, 6, 11, 14-18, 20-21, 26, 28-29, 31, 40, 49-50, and 53-55.

H. Pending Matters

Verizon is unaware of any pending matters.

I. Pending Requests or Claims for Confidentiality

There are no pending confidentiality claims or requests in this matter.

J. Procedural Requirement

To the best of its knowledge, Verizon can comply with all requirements set forth in the procedural order in this arbitration.

K. Relevant FCC and Court Decisions

- *Iowa Utils. Bd. v. FCC*, 120 F.3d 753 (8th Cir. 1997), *aff'd in part, rev'd in part sub nom. AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999).

- *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98, 14 FCC Rcd 20912 (1999), *vacated and remanded, United States Telecom Ass'n v. FCC*, 290 F.3d 415 (D.C. Cir. 2002).

- *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999), *petitions for review granted, United States Telecom Ass'n v. FCC*, 290 F.3d 415 (D.C. Cir. 2002).

- *Applications of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, For Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, Memorandum Opinion and Order, 15 FCC Rcd 14032 (2000).

- *Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas*, Memorandum Opinion and Order, 15 FCC Rcd 18354 (2000).

- *Application of Verizon New England Inc., et al., For Authorization to Provide In-Region, InterLATA Services in Massachusetts*, Memorandum Opinion and Order, 16 FCC Rcd 8988 (2001), *aff'd in pertinent part, remanded in part, WorldCom, Inc. v. FCC*, 308 F.3d 1 (D.C. Cir. 2002).

- *Application by Verizon New England Inc., et al., for Authorization To Provide In-Region, InterLATA Services in New Hampshire and Delaware*, Memorandum Opinion and Order, 17 FCC Rcd 18660 (2002).

- *Application of Verizon Pennsylvania Inc., et al. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, Memorandum Opinion and Order, 16 FCC Rcd 17419 (2001), *appeal pending, Z-Tel Communications, Inc. v. FCC*, No. 01-1461 (D.C. Cir.).

- *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Notice of Proposed Rulemaking, 16 FCC Rcd 22781 (2001).

- *Application by Verizon New Jersey Inc., et al., for Authorization To Provide In-Region, InterLATA Services in New Jersey*, Memorandum Opinion and Order, 17 FCC Rcd 12275 (2002).

- *Application by Verizon Virginia Inc., et al., for Authorization to Provide In-Region, InterLATA Services in Virginia*, Memorandum Opinion and Order, 17 FCC Rcd 21880 (2002).

- *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, Memorandum Opinion and Order, 17 FCC Rcd 27039 (Wireline Comp. Bur. 2002).

- *Joint Application by BellSouth Corporation, et al., for Provision of In-Region, InterLATA Services in Alabama, Kentucky, Mississippi, North Carolina, and South Carolina*, Memorandum Opinion and Order, 17 FCC Rcd 17595 (2002).

- *Michigan Bell Tel. Co. v. Strand*, 305 F.3d 580 (6th Cir. 2002).

- *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Order, CC Docket No. 01-338, FCC 03-___ (FCC adopted Feb. 20, 2003).

- *Law Offices of Curtis V. Trinko, LLP v. Bell Atlantic Corp.*, 305 F.3d 89 (2d Cir. 2002), *cert. granted on other grounds*, No. 02-682 (U.S. Mar. 10, 2003).

- *Supra Telecomms. & Info. Sys., Inc. v. BellSouth Telecomms., Inc.*, No. 99-1706-CIV, 2001 U.S. Dist. LEXIS 23816 (S.D. Fla. June 8, 2001).

- *Intermedia Communications, Inc. v. BellSouth Telecomms., Inc.*, 173 F. Supp. 2d 1282 (M.D. Fla. 2000).

L. Objection to Expert Witness Qualifications

Covad has not identified any expert witnesses.

Respectfully submitted on March 21, 2003.

By: Richard A Chapkis

Richard Chapkis
Verizon Florida Inc.
201 North Franklin Street
Tampa, FL 33602
(813) 483-1256

Aaron M. Panner
Scott H. Angstreich
Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C.
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
(202) 326-7900

Attorneys for Verizon Florida Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of Verizon Florida Inc.'s Prehearing Statement in Docket No. 020960-TP were sent via U.S. mail on March 21, 2003 to the parties on the attached list.

Richard A. Chapkis

Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Vicki Gordon Kaufman
McWhirter Reeves Law Firm
117 South Gadsden Street
Tallahassee, FL 32301

William H. Weber
Covad Comm. Co.
1230 Peachtree Street N.E.
19th Floor
Atlanta, GA 30309

David J. Chorzempa
Covad Comm. Co.
227 West Monroe, 20th Floor
Chicago, IL 60606

Steven Hartmann
Verizon
1515 N. Courthouse Road
Suite 500
Arlington, VA 22201

Aaron M. Panner
Scott H. Angstreich
Kellogg Huber Law Firm
1615 M Street, N.W.
Suite 400
Washington, DC 20036

Anthony Hansel
Covad Comm. Co.
600 14th Street, NE, Suite 750
Washington, DC 20005