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February 25, 2005

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

Re: Docket No. 040156-TP

Dear Ms. Bayó:

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

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

Sincerely yours,

Tracy W. Hatch

Tracy W. Hatch

TWH/scd
Enclosure
cc: Parties of Record

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DIRECT TESTIMONY OF E. CHRISTOPHER NURSE

ON BEHALF OF AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC

FEBRUARY 25, 2005

CERTIFICATE OF SERVICE
DOCKET NO. 040156-TP

I HEREBY CERTIFY that a copy of the foregoing has been furnished via U.S. Mail this 25th day of February 2005, the following parties of record:

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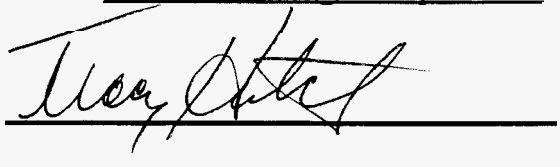

Tracy W. Hatch

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

A. My name is E. Christopher Nurse, and my business address is 1120 20TH NW, Washington, DC 20036. I am employed by AT&T as a District Manager, Law and Government Affairs. I am currently responsible for presenting AT&T's regulatory advocacy on a broad range of issues, particularly focusing on issues supporting AT&T's efforts to enter and compete in Verizon's local exchange markets. I have focused on the fourteen state jurisdictions in AT&T's Eastern Region, from Virginia to Maine, and recently expanded my responsibilities to include AT&T interconnection issues nationally.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I received a B.A. in Economics from the University of Massachusetts at Amherst. In 1996, I received a Masters in Business Administration from Southern New Hampshire University in Manchester, New Hampshire. I have twenty-four years experience in the telecommunications industry, including nearly eight years with AT&T through its acquisition of Teleport Communications Group, Inc. ("TCG"). Prior to my time at TCG, I was a telecommunications analyst with the New Hampshire Public Utilities Commission from 1991 until 1997, where I held a broad range of responsibilities. Assigned to the Engineering Department, I was the lead analyst or a contributing analyst to nearly all telecommunications matters before the

New Hampshire Commission.

Since joining AT&T I have appeared regularly on behalf of the company in regulatory proceedings, industry workshops and collaborative proceedings. These have included the New York Carrier Working Group, the Pennsylvania Global Settlement, the New Jersey Technical Solutions Facilitation Team, and the New York DSL collaborative. Also, I was AT&T's principal negotiator in developing performance metrics and the Performance Assurance Plan across the Verizon East footprint. I was extensively involved in several of the KPMG OSS tests including those in Pennsylvania, New Jersey, Virginia, Maryland, and the District of Columbia. Recently, I have been engaged in the commission-ordered audits of Verizon's metrics performance in a multi-state collaborative, the Joint State Committee meeting in New York; in a case against BellSouth's anticompetitive tying of DSL and POTS in Georgia; and in a case challenging Verizon's proposal for the deregulation of small business services in New Jersey.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE REGULATORY COMMISSIONS AND IN OTHER REGULATORY PROCEEDINGS?

A. Yes. I have testified on behalf of AT&T in proceedings before the state commissions in Connecticut, Delaware, District of Columbia, Georgia, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Oklahoma, Pennsylvania, Virginia and West Virginia. I also have made numerous *ex parte* presentations to the FCC staff and commissioners. Recently, I filed a declaration in the U.S. District Court, Eastern District of Pennsylvania, in Case No. 04-27091. I have testified on a wide variety of policy and operational subjects, including issues involving rates and terms for obtaining access to unbundled network elements ("UNEs"), carrier access charge

reform, incumbent providers' plans for alternative regulation and network modernization, Section 271 checklist compliance, collocation, reciprocal compensation, and interconnection agreement arbitrations. I also was a witness for AT&T in the state commission impairment proceedings conducted under the FCC's *Triennial Review Order.*[1]

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS CASE?

A. The purpose of my testimony is to provide AT&T's position on a number of the disputed arbitration issues that have been identified in the Pre-hearing Order. These issues have arisen as a result of Verizon's effort to amend its current interconnection agreement with AT&T in the wake of the *Triennial Review Order,* the *USTA II* decision,[2] and the FCC's *Interim Order.*[3] Further, since this proceeding began, the FCC has issued its latest order and rules that address many of these issues. Specifically, I will describe why the Commission should adopt both AT&T's position for resolving those disputes and the contractual language AT&T has submitted for purposes of amending its ICA with Verizon in order to properly implement those decisions and the *TRO and TRRO.*

Q. WHAT ISSUES DOES YOUR TESTIMONY ADDRESS?

A. My testimony provides information related to the Commission's consideration of Issues addresses Issues 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 14(b), (c), (g), (h), (i), 15, 16, 17, 18, 19, 20, 21, 21(a), 21(b), 21(b)(2), 21(c), 22, 24, 25, and 26. In my testimony, I also note in several instances that the resolution of the Issue, and Verizon's obligations under federal law to provide unbundled network elements and interconnection, is affected by the FCC's *Triennial Review Remand Order* ("*TRRO*")

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[1] In the Matter of Review of the Section 251 Unbundling Obligations of the Incumbent Local Exchange Carriers, CC Docket No. 01-338, Further Report and Order on Remand and Further Notice of Proposed Rulemaking, Aug. 21, 2003 ("Triennial Review Order" or "TRO").

[2] United States Telecom Association v. Federal Communications Commission, 359 F.3d 554 (D.C. Cir. 2004) ("USTA II").

[3] Order and Notice of Proposed Rulemaking, *Unbundled Access to Network Elements*, WC Docket No. 04-313, ¶ 21 (August 20, 2004) ("*Interim Order*").

and the new network unbundling rules issued by the FCC on February 4, 2005.[4] Because the FCC's Order was release only three weeks ago and is not yet effective, the parties have not had an opportunity to fully negotiate language for those issues affected by the FCC's rules. Therefore, in the case of those issues, I will discuss the FCC's new requirements and make recommendations as to the principles that need to be reflected in our agreement.

Q. BEFORE ADDRESSING THE SPECIFIC ISSUES SET FORTH IN THE PRE-HEARING ORDER, DO YOU HAVE ANY GENERAL OBSERVATIONS CONCERNING THE APPROACH VERIZON HAS TAKEN CONCERNING THE PROCESS OF AMENDING THE INTERCONNECTION AGREEMENT WITH AT&T?

A. Yes. Verizon's approach has been flawed both procedurally and substantively. As a matter of process, rather than dealing with **all** of the issues raised by the *TRO*, the *USTA II* decision, and subsequent FCC rulings[5] in a unified, comprehensive manner, Verizon has advocated for a scattershot approach in which Verizon's favorable issues, would be segregated from, and considered before, other *TRO*-related issues – specifically those that impose unfavorable obligations on Verizon.[6]

Q. IS VERIZON'S PICK AND CHOOSE APPROACH TO THE ICA NEGOTIATING PROCESS REASONABLE?

A. Although I am not an attorney, it is my understanding that this attempt to bifurcate the arbitration issues is contrary to governing law. Just as important, it is antithetical to

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[4] Order on Remand, *Unbundled Access to Network Elements*, WC Docket No. 04-313, February 4, 2005.
[5] *MDU Reconsideration Order*, 19 FCC Rcd 15856 (2004); *FTTC Reconsideration Order*, FCC 04-248, issued October 18, 2004.
[6] It would be equally unreasonable to segregate and expedite all the issues favorable to AT&T. Fundamental fairness compels that the good be taken with the bad, rather than Verizon's "pick and choose" approach.

the goals of the good-faith negotiation process. The fundamental principle of good faith negotiations certainly does not confer on Verizon the ability to unilaterally determine those issues it will and will not negotiate and arbitrate. It is critical to a comprehensive and equitable resolution of the important issues presented in this case that *all* of those issues be negotiated in good faith, and failing agreement, all of the issues be simultaneously arbitrated. AT&T and Verizon are each obligated to negotiate the entirety of issues raised by change of law.

Q. IS VERIZON'S APPROACH SUBSTANTIVELY CORRECT?

A. No. Verizon fares no better on the substance of its proposals. In fact, both of Verizon's proposed amendments to the interconnection agreement fail to faithfully reflect all of the directives of the even the *TRO*. For example, Verizon's Amendment 1 seeks to vest in Verizon the right to unilaterally discontinue provisioning of unbundled network elements and other facilities without prior negotiation with AT&T or consideration by the Commission. Verizon's Amendment 2, in turn, attempts to saddle AT&T with obligations not grounded in the *TRO*, ignores obligations placed on Verizon by the *TRO*, and fails to grapple at all with critical issues discussed in the *TRO* such as batch hot cuts, line splitting and line conditioning. In addition, it seeks to impose rates for conversions and routine network modifications that are both unsupported and which the *TRO* indicates generally are already included in the rates Verizon is already charging AT&T for those UNEs. Despite the explicit directive in the *TRO*, and the FCC's finding that Verizon's policy was anticompetitive and "discriminatory on its face," Verizon has not come forward with a showing that its unsubstantiated rates are not double recovery. [7] As a result of all of this, Verizon's proposed amendments should be rejected. Further, now that the FCC has issued the *TRRO*, there should no longer be disputes regarding Verizon's obligations or the appropriate transition for those facilities no longer subject to unbundling.

Q. HOW SHOULD THE COMMISSION IMPLEMENT THE AMENDMENTS TO THE INTERCONNECTIONS AGREEMENT?

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[7] Triennial Review Order at ¶39, n. 1940.

A. The Commission should reject both of Verizon's proposed amendments and approve and implement AT&T's comprehensive single amendment. Given the pervasive procedural and substantive flaws in Verizon's current approach, AT&T formulated a single comprehensive Amendment incorporating both the favorable and the unfavorable outcomes, which it submitted to Verizon on September 15, 2004. Unlike Verizon's separate proposals, AT&T's Amendment, which is attached my testimony as ***Exhibit ECN-1***, reflects **all** of the provisions of the *TRO, USTA II* and the FCC's *Interim Order* that require incorporation into AT&T's interconnection agreement with Verizon. Of course, a single Amendment, by definition would implement al the issues simultaneously, without gaming the implementation to wrangle an improper advantage.

In the wake of the FCC's recent action, the disputed issues fall into two categories those that are impacted by the *TRRO* and those that are not. AT&T respectfully requests that the Commission adopt AT&T's previously proposed comprehensive amendment, modified to reflect the *TRRO* as I discuss below.

Q. THE PREHEARING ORDER LISTED A NUMBER OF SPECIFIC ISSUES IN DISPUTE BETWEEN THE PARTIES. IS THERE ANY COMMON THEME TO THOSE ISSUES?

A. Yes. There is one overarching dispute between the parties that pervades Verizon's proposed Amendments – namely, Verizon's effort to place itself in the position of unilaterally interpreting and then implementing any further regulatory decisions concerning AT&T's access to unbundled network elements, without consultation with AT&T or recourse to the Commission.

Q. HOW IS VERIZON ATTEMPTING TO DO THIS?

A Verizon proposes in its draft amendments that all further orders and rules removing an obligation on Verizon to make unbundled elements available to AT&T somehow be automatically incorporated into the interconnection agreement without negotiation or discussion as to the interpretation of the future changes, nor of the transition involving implementation of any such changes. As experience has shown, the nature of these regulatory changes is that they are anything but ministerial, and usually lead to disputes over their interpretation. Accordingly, it is inherently not a matter that can be delegated as if some mere compliance issue. Under Verizon's proposition, Verizon would place itself in the position of being the sole interpreter and arbiter of all of these decisions, as if it were the Commission, rather than a party to the ICA.[8] In addition to Verizon's obvious bias, and harm to AT&T, Verizon's proposal seeks to usurp this Commission's oversight authority.

Q. IS THAT APPROACH CONSISTENT WITH EITHER THE *TRO* OR THE *TRRO?*

A. No. The transition provisions in both the *TRO* and the *TRRO* specifically require the parties to follow the Section 252 process to implement the *TRO*'s changes.[9] The FCC insisted upon the Section 252 process even in the face of several RBOCs' requests that that process be overridden "to permit unilateral change to all interconnection

[8] It would be equally unreasonable for AT&T to be placed in a position to unilaterally interpret future regulatory changes and then arbitrarily and unilaterally impose its disputed interpretation onto VZ, a party to the contract, without consent or Commission approval.

[9] *TRO*, ¶ 701. TRRO ¶¶ 143,196 & 227.

agreements to avoid any delay associated with negotiation of contract provisions."[10]

Q. ARE THERE ANY OTHER PROBLEMS WITH VERIZON'S UNILATERAL APPROACH?

A. Yes, it is inconsistent with common sense and Verizon's own practice. In the *TRRO*, the FCC recognized the §252 process as the appropriate mechanism for ILECs and CLECs to reconcile existing agreements with its new rules. Under the terms of §252, the parties are compelled to negotiate the meaning of those rules and how they can be implemented through the interconnection agreement. To the extent the parties are unable to reach consensus, disputes are to be resolved by this Commission through arbitration. Indeed, Verizon is pursuing the instant arbitration petition to implement the *TRO* (and now that the FCC has acted, the *TRRO*) precisely because the parties have vastly different views on the plain meaning of those provisions in the FCC's order – such as routine network modifications -- that do not require further Commission, FCC, or judicial action. In particular, given the FCC's finding that Verizon's routine network modification interpretation was anticompetitive and "discriminatory on its face" [11][it would be unconscionable to then turn around and vest Verizon with authority to unilaterally interpret and implement regulatory changes. Verizon is certainly not a competent, neutral third-party arbitrator.[12] Accordingly, the Commission should reject Verizon's Amendments, and adopt

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[10] *TRO, id.*

instead the transitional approach specified in AT&T's proposed Amendment.

Issue 2: ***What rates, terms, and conditions regarding implementing changes in unbundling obligations or changes of law should be included in the Amendment to the parties' interconnection agreements?***

Q. WHAT IS THE ISSUE IN DISPUTE BETWEEN VERIZON AND AT&T ON THIS ISSUE?

A. Essentially, Verizon is trying to hijack the process of amending its current interconnection agreement with AT&T (to reflect the changes in law that resulted from the *TRO* and *USTA II*) and divert it into a fundamental change to the actual change-of-law provision itself. These are two very different matters, although Verizon is wrong on both.

The first one involves amending the current agreement to reflect the specific changes in unbundling requirements that resulted from the FCC's rules and orders and the D.C Circuit's decision; this should be straightforward. The second involves a revision to the ***process*** that the parties have already agreed to – and that the Commission has already approved – for reflecting these and other changes in the law. Thus, the changes that Verizon is seeking are beyond the scope of the *TRO* and *USTA II*, and are outside the scope of this docket.[13]

Q. IS VERIZON COMPETENT TO INTERPRET THE FCC RULES IN PLACE OF THIS COMMISSION?

A. No. Verizon seeks blanket pre-approval to take unilateral action to instantaneously implement all future, as yet unknown, rules based solely on its interpretation of those rules. While Verizon objected to the FCC's sub-delegation of authority to the state

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[11] *TRO*, paragraph 639, fn 1940

[12] Likewise, intellectual honest compels the concession that AT&T is likewise not a competent, neutral third-party arbiter.

[13] Further as to the merits. Verizon presumably would bear the burden of proving the current process is inadequate; and Verizon has made no such supportable claim.

commissions, it now seeks this Commission's sub-delegation of authority to Verizon. To the extent there was any doubt that the existing process was the appropriate one to address these changes, the *TRRO*, by expressly reaffirming the use of the §252 process, has eliminated that doubt. [14]

Q. GIVEN THAT, WHAT GENERAL CHANGES IN UNBUNDLING OBLIGATIONS SHOULD THE COMMISSION AUTHORIZE AS PART OF AN AMENDMENT TO AT&T'S INTERCONNECTION AGREEMENT WITH VERIZON?

A. The Amendment should only address those changes in unbundling or interconnection obligations, i.e. the changes of law brought about by: the *TRO*, the *USTA II* decision, and the FCC's *TRRO*. For all future cases, the parties' existing interconnection agreement's change-in-law provisions will continue as the process to be followed when there is a change of law. The Amendment should not change—and need not reach--the parties' change of law clauses themselves. There was no issue in the FCC's *Triennial Review Order*, or in *USTA II* or *the TRRO* relating to *changing* the change-of-law clauses in the parties' interconnection agreements, and therefore nothing in the amendment should alter those clauses.[15]

Q. DOES VERIZON'S PROPOSED AMENDMENT REFLECT THESE LIMITS?

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[15] I would note that Issue 2 is stated so broadly that it necessarily encompasses, and is duplicative of, several others Issues dealing with specific unbundled elements. Accordingly, my testimony on this issue is limited to the question of what general changes are necessary to reflect the changes in law that have occurred since the execution of the ICA. Issues regarding unbundling requirements for specific UNE will be addressed later in my testimony.

A. No. As I noted above, Verizon's proposal essentially seeks to rewrite the existing change of law provisions in the ICA to vest in Verizon alone the ability to interpret and then implement future unbundling rulings by the FCC. Such revisions, however, are outside the scope of this proceeding. Indeed, any future rules or orders concerning the scope of Verizon's unbundling obligations should be handled pursuant to the existing change of law provisions in the ICA and the terms of those future rules and orders. Verizon's effort to bootstrap into this proceeding a change to the existing change of law provision in its ICA with AT&T thus should be rejected.

Q. WHAT IS THE PROBLEM WITH VERIZON'S APPROACH?

A. One obvious problem is that because this dispute is clearly beyond the proper scope of this proceeding, it is wasteful of the Commission's and the parties' time and resources. Second, I am advised by counsel that the issue is beyond the order of notice and therefore is unlawfully beyond the scope of this proceeding. Thirdly, Verizon is seeking to obfuscate processing changes-in-law through the ICA terms, with *changing* the change-in-law terms of the ICA. Even if Verizon's proposal were within the scope, it is patently unreasonable, and I am advised fundamentally unlawful. Parties cannot contract for all un-envisioned circumstances, and certainly the Commission is not going to approve a blank check.

Q. IS AT&T'S PROPOSED AMENDMENT WITHIN THE SCOPE OF THE *TRO* AND OTHER RULINGS APPLICABLE TO THIS CASE?

A. Yes. AT&T's proposed amendment has not sought to change the change-in-law provision in the ICA with Verizon. Instead, AT&T has sought only to properly

reflect in the ICA the changes in unbundling and other obligations that emanate from the *TRO*, *USTA II*, the *TRRO* and other applicable decisions.

Issue 3: What obligations under federal law, if any, with respect to unbundled access to local circuit switching, including mass market and enterprise switching (including Four-Line Carve-Out switching), and tandem switching, should be included in the Amendment to the parties' interconnection agreements?

Q. WHAT ACTIONS DID THE FCC TAKE IN THE *TRIENNIAL REVIEW REMAND ORDER* THAT AFFECT THE STATUS OF UNBUNDLED SWITCHING AND UNE-P?

A. Clearly the most significant change that the FCC ordered in the *TRRO* was the nationwide elimination of unbundled switching and UNE-P. Specifically, the FCC found that incumbent LECs have no obligation to provide competitive LECs with unbundled access to mass market local circuit switching. In imposing this decision, the FCC recognized that eliminating unbundled access to incumbent LEC switching on a flash cut basis could substantially disrupt service to millions of mass-market customers, and therefore adopted a 12-month plan for competing carriers to transition away from the use of unbundled mass-market local circuit switching. Therefore, the contract language AT&T previously proposed no longer is consistent with Verizon's reduced obligations, and AT&T recognizes that it needs to be accordingly modified.[16]

Q. WHAT ARE THE TERMS OF THE FCC'S TRANSITION PLAN?

A. The FCC's plan requires CLECs to submit the necessary orders to convert mass market customers to an alternative service arrangement within twelve months of the March 11, 2005, effective date of the *TRRO*.[17] The plan allows CLECs to continue to serve their embedded customer base, including the use of signaling, call related databases and shared transport for grandfathered UNE-P arrangements prior to conversion to an alternative arrangement,[18] but it prohibits CLECs from adding new UNE-P arrangements.[19] Therefore, carriers have twelve months from the effective date of the Order to modify their interconnection agreements and transition UNE-P customers. [20]

Q. DOES THE FCC'S TRANSITION PLAN ADDRESS THE RATES VERIZON MAY CHARGE FOR UNE-P DURING THE TRANSITION PERIOD?

A. Yes. The transition price for embedded customers is the higher of: the UNE-P rate as of June 16, 2004 (the effective date of the *TRO*) plus one dollar, or a rate set by the PSC between that date and March 11, 2005 (if higher) plus one dollar.[21] Additionally, the FCC found that a true up shall apply to the rates for UNE-P

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17 TRRO ¶227.

18 *TRRO* at footnote 627.

19 *TRRO* ¶226.

20 Of course, as I discuss later in my testimony, Verizon is required to provide CLECs that may be presently utilizing unbundled local circuit switching to serve enterprise customers with notice of the discontinuance of those facilities and permit the FCC prescribed 12-month transition for the CLEC to find alternative arrangements.

21 TRRO ¶228. Additionally, the Commission provided that: "[t]o the extent that a state public utility commission order raises some rates and lowers others for the aggregate combination of loops, shared transport, and switching (i.e., UNE-P), the incumbent LEC may adopt either all or none of these UNE platform rate changes. Id. at footnote 630.

arrangements no longer subject to unbundling upon the completion of relevant interconnection agreements.[22]

Q. WHAT IS THE "FOUR LINE CARVE OUT" RULE AND HOW IS IT IMPACTED BY THE *TRRO* ON FINAL UNBUNDLING RULES?

A. The "four line carve out" was largely un-enforced and now is superseded. It was a policy announced by the FCC in its 1999 UNE Remand Order. In its UNE Remand Order, the FCC concluded that incumbent LECs like Verizon that make Enhanced Extended Links combinations (EELs) available were not required to provided unbundled local circuit switching available to CLECs serving customers with four or more DS0 loops in Density Zone one of the top fifty MSAs.

Having determined that unbundled switching would no longer be available after the 12-month transition period, the FCC chose not to establish a cut-off between mass market and enterprise customers, thereby applying the transition period to all UNE-P arrangements used to serve customers at a single location, as long as they do not exceed 24 lines (a DS1 equivalent).[23]

Q. DOES AT&T HAVE AN ALTERNATIVE PROPOSAL TO ADDRESS THE CHANGE IN VERIZON'S OBLIGATION TO PROVIDE UNBUNDLED SWITCHING AND PROVIDE THE TRANSITION FOR EXISTING CUSTOMERS ESTABLISHED BY THE FCC?

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[22] *Id.*

[23] *TRRO* at footnote 625 "The transition period we adopt here thus applies to all unbundled local circuit switching arrangements used to serve customers at less than the DS1 capacity level as of the effective date of this Order [March 11, 20-05]. The transition for local circuit switching for the DS1 enterprise market was established in the Triennial Review Order, 18 FCC Red at 17318, para. 532.."

A. Yes, AT&T proposes that we follow the intervening Order. Given the short time frame since the *TRRO* was issued and the fact that AT&T has not had an opportunity to negotiate terms consistent with the FCC's order with Verizon, I cannot in fairness provide a full, formal proposal here. However, AT&T has identified some concerns and possible solutions that we believe are necessary to appropriately implement the FCC's Order and rules.

Q. PLEASE ELABORATE AT&T's PROPOSAL FOR UNE-P, GIVEN THE INTERVENING ISSUANE OF THE *TRRO*.

A. Overall, AT&T's concerns relate to ensuring that our customers currently served by UNE-P continue to enjoy quality service without interruption.

Maintenance and Repair. For example, AT&T needs to be able to continue to use existing systems to submit repair orders and to place maintenance orders e.g. requesting vertical feature changes for existing arrangements.

Premature/Unilateral Conversion. Further, while the ability to place orders to migrate a customer to another arrangement such as Resale or UNE-P-Like should be available immediately, it is essential that Verizon not be able to unilaterally change any UNE-P arrangement prior to the end of the transition period, as such would be clearly inconsistent with FCC rules and the *TRRO*, which *expressly* identifies that the CLEC will initiate the conversion orders.

Efficient & Transparent conversion. Additionally, it is important to adopt procedures that make the transition to alternative service arrangements both efficient for AT&T—that is mechanized--and as transparent as possible for our customers

Q. IS IT ESSENTIAL THAT THE ICA CONTAIN SPECIFIC DETAIL ON TRANSITION PROCEDURES?

A. It depends. To a great extent the concerns I have identified above can be addressed through business-to-business negotiations. However, it is essential that the ICA is sufficiently detailed to remove the possibility of misunderstandings and or avoidable disputes. Given the relatively short time frame for the transition, there is simply no room for delays caused by competing 'understandings' of the parties' rights and obligations or ineffectively lengthy dispute resolutions processes.

Q. HAS VERIZON PROVIDED AT&T WITH ANY INFORMATION ON HOW IT PLANS TO IMPLEMENT THE *TRRO*?

A. Yes. On February 10, 2005, Verizon sent AT&T two letters that purportedly explain Verizon's interpretation of the *TRRO* and the process to be used to implement the terms of the Order. AT&T has begun to review this information, but is not yet prepared to comment on whether we believe the processes and limitations outlined by Verizon are consistent with the FCC's Order.

Issue 4: ***What obligations under federal law, if any, with respect to unbundled access to DS1 loops, unbundled DS3 loops, and unbundled dark fiber loops should be included in the Amendment to the parties' interconnection agreements?***

Q. TO BEGIN WITH THE EASYONE, WHAT HAS THE FCC RULED WITH REGARDS TO DARK FIBER LOOPS?

A. In the *TRRO*, the FCC ruled that CLECs are not impaired without access to dark fiber loops. AT&T recognizes that the contract language needs to be updated to reflect Verizon's more narrow unbundling obligation.

Q. WHY IS IT IMPORTANT FOR COMPETITORS LIKE AT&T TO HAVE UNBUNDLED ACCESS TO HIGH CAPACITY LOOPS AT THE DS1 AND DS3 LEVELS?

A. Because, as the FCC found in the *TRO*, there are still substantial barriers to the ability of CLECs to self-deploy these types of facilities. The FCC found that the "cost to self-deploy local loops at any capacity is great," and that the cost to deploy fiber does not vary based on capacity."[24] Indeed, the FCC noted the record evidence showing the significant time required to construct local loops, a process fraught with delays attributable to such issues as securing rights of way from local authorities, permitting processes, and even construction moratoria.[25] The FCC also cited the additional barriers to entry associated with serving multiunit premises, particularly in those cases where the entity controlling access to the premises does not permit a competitor to reach customers there.[26]

Given the costs associated with all of these obstacles, the FCC found a competitor planning to deploy its own high capacity facilities would target those locations where

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[24] *TRO*, ¶303.
[25] *TRO*, ¶304.
[26] *TRO*, ¶305.

there was sufficient demand to generate a revenue stream that could recover the sunk costs of construction, including laying the fiber and attaching the necessary optronics for lighting it.[27] Even then, the CLEC would have to convince the prospective customer to accept the delays and uncertainty associated with this self-deployment – and the enterprise business customers usually involved in these situations are not characterized by their patience with delay and uncertainty in the provision of their telecommunications services. Thus, the ability of CLECs to obtain unbundled access to the incumbent's high capacity loops is still necessary in many – if not most – locations to facilitate competitive choice for these customers.

Q. DO THE FCC'S RULES PROVIDE FOR CLECS TO CONTINUE TO OBTAIN ACCESS TO VERIZON'S HIGH CAPACITY LOOPS?

A. Yes. Although the FCC's new rules do limit access to high capacity loops under certain conditions, the availability of the remaining types of loops as UNEs is clearly preserved.

Q. WHAT TYPES OF LOOPS DOES AT&T SEEK TO UNBUNDLE?

A. AT&T seeks cost-based, unbundled access to all loop types that the FCC has require Verizon to unbundle. Specifically, AT&T seeks access to all loops that Verizon employs, with the express exception of:

- "Greenfield" fiber-to-the-home ("FTTH") loops, where the premises have not previously been served by any Verizon loop facility;

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[27] *TRO*, ¶303

- "Brownfield" FTTH loops, except where copper is not otherwise available;[28]
- Certain loops to Multiple Dwelling Units (MDU), pursuant to the FCC's *MDU Reconsideration Order*;[29]
- DS1 loops in wire centers containing both 60,000 or more business lines *and* 4 or more fiber-based collocators;
- DS3 loops in wire centers containing both 38,000 business lines *and* 4 or more fiber-based collocators;
- dark fiber loops; and
- OC-n loops.

The unbundling requirements proposed by AT&T generally are technology-neutral, and must include all of the features, functions, and capabilities of the loop.

Q. SHOULD UNBUNDLED ACCES TO HIGH CAPACITY LOOPS BE RESTRICTED IN THE ICA IN ANY OTHER WAY?

A. . The only restrictions[30] that the ICA should impose on a CLEC's access to unbundled loops are:

- that it be technically feasible to unbundle the loop at the point desired by the CLEC (i.e., at any point ordinarily accessible by a technician without having to open a splice case or remove a cable sheath);

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[28] The term "Brownfield," refers to those situations in which the original copper plant has been overlaid with new fiber facilities, but the original plant remains.

[29] "The Commission held that fiber loops deployed to the minimum point of entry (MPOE) of multiple dwelling units (MDUs) that are predominantly residential should be treated as fiber-to-the home loops (FTTH) for unbundling purposes, irrespective of the ownership of inside wiring." *TRRO* footnote 49, summarizing its *MDU Reconsideration Order*, 19 FCC Rcd 15856 (2004).

[30] These are in addition to the seven exceptions enumerated above.

- that the CLECs' use of the loop does not interfere with another carrier's ability to utilize, in a non-discriminatory manner, the full functions and capabilities of neighboring loops (e.g., binder group separation between analog and digital signals);
- that unbundled loops may not be used for the *exclusive* provision of mobile wireless services or interexchange service; and
- that Verizon is not obligated to unbundle more than one DS-3 and 10 DS-1s per CLEC, per building.[31]

Q. YOU HAVE MENTIONED THAT THE FCC ADOPTED SOME LIMITATIONS ON THE AVAILABILITY OF HIGH-CAPACITY LOOPS IN THE *TRRO*. PLEASE EXPLAIN THOSE LIMITATIONS.

A. The FCC's new rules impose four new types of limitations on the use of unbundled high-capacity loops: exclusive use, geographic market, quantity and type.

Exclusive Use. First, the FCC revised its rules to specifically prohibit the use of all UNEs for the ***exclusive*** provision of mobile wireless services or interexchange services. See § 51.309(b). In applying this prohibition, the FCC found that competition evolved in both of these markets without access to UNEs, and relying on its "at a minimum' authority, determined that "whatever incremental benefits could be achieved . . . by requiring unbundling in these service markets would be outweighed by the costs of such unbundling.[32]

Geographic market. After evaluating a requesting carrier's ability to use alternatives to the unbundled high-capacity loops and the best method for determining the

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[31] *TRRO*, ¶¶177, 181.

[32] *TRRO* ¶36. In adopting this standard, the FCC discarded the "qualifying service" requirement established in the *TRO*.

appropriate geographic market for determining impairment, the FCC adopted a wire center-based analysis. Specifically, the Commission determined that the combination of two criteria – the number of fiber-based collocators located at the wire center *and* the number of business lines within the wire center's service area at both ends– provided the best evidence of impairment. Significantly, the FCC found in the *TRRO* that in the vast majority of wire centers, CLECs are impaired without access to unbundled DS-1 and DS-3 loops.[33]

Dark Fiber. Relying on economic criteria, the Commission determined that requesting carriers are not impaired without access to unbundled dark fiber loops.

Quantity. In addition, the new rules impose a limit on the number of DS1 and DS3 loops available to an individual CLEC, to any single building.

Q. WHAT OBLIGATIONS DOES VERIZON HAVE UNDER THE *TRRO* WITH RESPECT TO DS1 LOOPS?

A. Verizon is required to provide unbundled access to all DS1 loops except those that terminate in wire centers with both at least *60,000* business lines *and* at least 4 fiber-based collocators.[34] Additionally, as noted above, each requesting carrier will be limited to 10 DS1s to any single building.[35]

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[33] The FCC estimates that its new criteria will only limit UNE availability of high-capacity DS3 loops in wire centers accounting for about 14% of BOC business lines (fn 477), and of high-capacity DS1 loops in wire centers accounting for approximately 8% of BOC business lines (¶179)

[34] *TRRO* ¶ 146.

[35] *TRRO* ¶. 179.

Q. WHAT OBLIGATIONS DOES VERIZON HAVE UNDER THE *TRRO* WITH RESPECT TO DS3 LOOPS?

A. Verizon is required to provide unbundled access to all DS3 loops except to those that terminate in wire centers with both at least *38,000* business lines *and* at least 4 fiber-based collocators.[36] Additionally, as noted above, each requesting carrier will be limited to 1 DS3 to any single building. [37]

Q. HOW WILL THESE DETERMINATIONS APPLY TO VERIZON'S FACILITIES IN FLORIDA?

A. On February 4, 2005, FCC's Wire Line Competition Bureau Chief requested that all of the BOCs, including Verizon, provide data by February 18, 2005, to identify

" . . . by CLLI code the wire centers that satisfy the non-impairment thresholds for DS1 and DS3 loops.[38] In its filing, Verizon indicated that it continues to have the obligation to provide access to unbundled DS1 and DS3 loops at all of its wire centers in Florida.[39]

Q. SINCE VERIZON HAS INDICATED THAT IT STILL HAS AN OBLIGATION TO PROVIDE UNBUNDLED ACCESS TO DS1 AND DS3 LOOPS IN ALL OF ITS FLORIDA WIRE CENTERS, DOES THE

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[36] *TRRO* ¶174.
[37] *TRRO* ¶177.
[38] February 4, 2005 Letter to James C. Smith, Senior Vice President, SBC from Jeffrey J. Carlisle, Chief, Wireline Competition Bureau.
[39] February 18, 2005, letter to Jeffrey J. Carlisle, Chief, Wireline Competition Bureau, FCC, from Suzanne A. Guyer, Senior Vice President Federal Regulatory Affairs, Verizon.

COMMISSION NEED TO TAKE ANY FURTHER STEPS TO VERIFY THIS CERTIFICATION?

A. Not with regard to loops since at this point CLECs will continue to have access to unbundled DS1 and DS3 loops. However, as Verizon noted in its letter, the *TRRO* recognizes that some certain wire centers may meet the thresholds for non-impairment in the future.[40] Therefore, since the information regarding the number of fiber-based collocators and business lines served in any particular wire center resides only with Verizon, it is appropriate for Verizon to provide the Commission, AT&T and other CLECs the wire-center specific information on which it relied in making its certifications. Verizon did not provide verifiable information in its February 18th listing; there simply is no verifiable trail to even track Verizon's adjustments to its FCC filings that purportedly produce the submitted listing.

For the hard task of factual verification, the responsibility falls to the state commissions in their role overseeing §252 arbitrations. This information needs to include the identity of each collocator, in each wire center, and the three relevant categories of lines: ARMIS business lines, business UNE-P lines, and UNE-L business lines in each wire centers where non-impairment is asserted.[41] This information is essential to ensure that both the Commission and CLECs are able to

[40] *TRRO* footnote 519.

[41] To the extent such an inquiry would involve proprietary information, the parties could enter into appropriate non-disclosure agreements.

properly determine if future classification changes meet the *TRRO* requirements.[42] There can be no burdensome claim in producing this information, since its calculation was necessarily the basis for the proffered listing by Verizon.

Q DOES AT&T HAVE ANY OTHER RECOMMENDATIONS REGARDING THE DESIGNATION OF WIRE CENTERS?

A. These designations should apply for the term of the carriers' agreements, avoiding market disruption and allowing for the certainty needed for business planning. Such an approach would be consistent with the FCC's rationale behind establishing a permanent wire center classification.[43]

Q. DOES THE ICA NEED SPECIFIC PROVISIONS TO ADDRESS SITUATIONS WHERE CONDITIONS IN A PARTICULAR WIRE CENTER CHANGE SO AS TO AFFECT THE AVAILABILITY OF HIGH-CAPACITY LOOPS?

A. Not if the above process is implemented. AT&T believes a periodic designation of wire centers for the term of the interconnection agreement would prevent disputes and

[42] This principle is also consistent with ¶ 100 of the *TRRO*, which clearly affirms a CLEC's right to verify and challenge Verizon's identification of fiber-based collocation arrangements in the listed Tier 1 and Tier 2 wire centers.

[43] The FCC determined that, in order to protect against the possible disruption to the market if modest changes could result in the re-imposition of unbundling obligations, once a wire center satisfies the criteria to eliminate the obligation of the ILEC to provide either certain high capacity loops or dedicated transport, the wire center will not be subject to reclassification. *TRRO* at fn 466; 47 C.F.R. §§ 51.319(a)(4); 51.319(a)(5); 51.319(e)(3)(i),(ii).

result in the best use of both the Commission's and parties' resources. In the absence of such a provision, parties should rely on the ICA dispute resolution processes.[44]

Q. WILL VERIZON HAVE ANY OBLIGATION TO PROVIDE CONTINUED ACCESS TO HIGH CAPACITY LOOPS IN THOSE WIRE CENTERS WHERE CLECS ULTIMATELY ARE FOUND NOT TO BE IMPAIRED?

A. Yes. Based on Verizon's own designations, it will continue to be obligated to provide high-capacity loops in all of its wire centers in the current term. If such designations change in the future, Verizon is obligated to provide for a transition. Recognizing that it would be imprudent to remove significant unbundling obligations without a transition period, the FCC established a plan for competing carriers to transition of high-capacity loops no longer subject to unbundling, by establishing a 12-month plan for the conversion of DS1 and DS3 loops, and an 18-month transition for dark fiber loops.[45] The transition plans only apply to a CLEC's embedded customer base, and does not permit CLECs to add new high-capacity loops UNEs where an unbundling obligation no longer exists.[46] AT&T believes that the terms outlined by the FCC apply to any future reclassifications of wire-centers that require CLECs to seek alternate arrangements.

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[44] The FCC concluded that "[i]n such cases, we expect incumbent LECs and requesting carriers to negotiate appropriate transition mechanisms through the section 252 process." *TRRO* at footnote 519.

[45] The *TRRO* establishes a plan that is consistent with both the FCC's *Interim Order* and *NPRM* and the pricing scheme established for the transition of dedicated transport UNEs. During the transition period, any high-capacity loop UNEs that a CLEC leases as of the effective date of the Order, but for which there is no longer an unbundling obligation, shall be available at the higher of (1) 115 % of the rate the requesting carrier paid for the high-capacity loop on June15, 2004, or (2) 115% of the rate the state commission has established or establishes, if any, between June 16 2004 and the effective date of the Order.

[46] *TRRO* ¶ 195

Issue 5: ***What obligations under federal law, if any, with respect to unbundled access to dedicated transport, including dark fiber transport, should be included in the Amendment to the parties' interconnection agreements?***

Q. WHY IS IT IMPORTANT FOR COMPETITORS LIKE AT&T TO HAVE UNBUNDLED ACCESS TO DEDICATED INTEROFFICE TRANSPORT, INCLUDING DARK FIBER TRANSPORT?

A. There are at least two reasons why dedicated transport remains important to CLECs like AT&T.

First, where AT&T has a collocation presence in a Verizon central office, dedicated transport availability is necessary for AT&T to be able to cost-effectively transmit traffic from one wire center collocation to another.[47] Ultimately, AT&T will route the traffic back to its own switch in a pure facilities-based scenario

- Second, UNE transport is a scalable means for AT&T to connect customers to its network, when AT&T is not collocated in the wire center serving that customer, by aggregating and extending the customer's loop to a wire center where AT&T does have a collocation presence. That requires using Dedicated Transport facilities such as EELs (see discussion below). As access to unbundled switching will no longer be available from Verizon, AT&T's access to UNE loops (UNE-L) will be of increased importance. Accordingly,

[47] As the FCC expressly recognized in the *TRRO* UNE transport and Special Access are cross elastic, and the price and availability of UNEs bears directly on, and benefits purchasers of special access. TRRO fn 187.

AT&T's need to be able to extend a customer's loop to an AT&T switch via Dedicated Transport increases considerably.

Q. DO THE FCC'S RULES PROVIDE FOR CLECS TO CONTINUE TO BE ABLE TO OBTAIN ACCESS DEDICATED INTEROFFICE TRANSPORT FROM VERIZON?

A. Yes. The FCC found in the *TRRO* that CLECs were impaired without access to UNE transport except in limited, specific circumstances, which primarily involve only the most urban markets. In its *TRRO* decision, the FCC adopted a route-specific and capacity-specific approach to unbundling dedicated transport. This approach establishes categories of routes, defined by the economic characteristics of the end-points. The issue of impairment is determined by both the actual deployment of competitive facilities and by the probability of future deployment, based on inferences drawn from the existing correlations between the number of business lines and fiber-based collocations in a given ILEC wire center.[48]

Q. UNDER WHAT TERMS AND CONDITIONS IS VERIZON REQUIRED TO PROVIDE UNBUNDLED ACCESS TO DEDICATED TRANSPORT?

A. The FCC articulated very clear "administrable and verifiable" criteria for determining where CLECs will have access to unbundled transport. Although the presumption is that unbundled dedicated transport is available under most circumstances, the FCC did identify circumstances in which ILECs are not required to provide dedicated access. The first circumstance is consistent with the FCC's finding that carriers are

[48] TRRO, ¶44

not impaired without access to UNEs for the ***exclusive*** provision of mobile wireless services or long distance service. Therefore, Verizon is not required to provide unbundled dedicated access for the provisioning of those services. Second, the FCC found that ILECs are not required to provide unbundled dedicated transport for the purpose of entrance facilities. [49]

Q. DID THE FCC APPLY OTHER RESTRICTIONS TO A CLEC'S ABILITY TO ACCESS DEDICATED TRANSPORT?

A. Yes. As I noted previously, the FCC adopted rules to determine the availability of dedicated transport based on the characteristics of the wire centers forming a route[50] and the capacity of the facility being sought by the CLEC. First, the Commission rules identified three categories of ILEC wire centers.

- Tier 1 wire centers are those that have either at least *4* fiber-based collocators *or* at least 38,000 business lines *or* both. Tier 1 also includes ILEC tandem switching locations that have no line switching but are used as a point of traffic aggregation accessible by CLECs.[51]
- Tier 2 wire centers are those wire centers that are not Tier 1 wire centers and have either at least *3* fiber-based collocators *or* at least *24,000* business lines *or* both.
- Tier 3 wire centers include all of the ILEC wire centers that do not fall within the first two categories.

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[49] While an ILEC is not obligated to provide access to entrance facilities as UNEs, the FCC was clear that CLECs will have continue to have access to these facilities at cost-based rates. TRRO ¶140. See also discussion re: Issue 20 below.

[50] A route is defined as a transmission path between one of the ILEC's wire centers or switches and another of its wire centers or switches. Transmission paths between identical endpoints are the same route, regardless of whether they pass through the same intermediate points or switches. TRRO ¶ 80.

[51] TRRO ¶ 112.

Q. HOW ARE WIRE CENTERS CLASSIFIED AS TIER 1, 2 OR 3?

A Although the FCC noted that the information needed to make these determinations was readily available to ILECs, the Commission did not elaborate on the process to be used to categorize wire centers. However, the Commission did adopt new definitions of the terms *business lines,*[52] *fiber-based collocator*[53] and *wire center*[54] to be used in making the determination. Additionally, as noted above, all BOCs were asked by the Chief of the Wireline Competition Bureau to submit a list identifying the wire centers in its operating areas that satisfy the Tier 1, 2 and 3 criteria for dedicated transport.

Q. ONCE A WIRE CENTER IS CATEGORIZED AS TIER 1, 2 OR 3, HOW DOES THIS AFFECT THE AVAILABILITY OF UNBUNDLED DEDICATED TRANSPORT?

A. Using the Tier 1, 2 and 3 designations, the FCC then established criteria based on the size of the facility sought by the requesting carrier. The rules establish that DS1 dedicated transport is available between any pair of ILEC wire centers, *except* if both the wire centers at the ends of the route are Tier 1.[55] Additionally, each CLEC is

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[52] "Business Line. A business line is an incumbent LEC-owned switched access line used to serve a business customer, whether by the incumbent LEC itself or by a competitive LEC that leases the line from the incumbent LEC. include ILEC-owned switched access lines used to serve a business customer, including lines used to provide retail service and lines leased as UNEs by CLECs, including UNE-P loops. 47 C.F.R. §51.5 (Terms and Conditions).

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

[54] Wire center. A wire center is the location of an incumbent LEC local switching facility containing one or more central offices, as defined in Appendix to Part 36 of this chapter. The wire center boundaries define the area in which all customers served by a given wire center are located. *Id.*

[55] TRRO ¶ 126.

limited to a maximum of 10 DS1 circuits on a single route.[56] DS3 dedicated transport circuits are available between any pair of ILEC wire centers, *except* if both ends are categorized as Tier 1 or Tier 2.[57] In the case of DS3 circuits, each CLEC is limited to a maximum of 12 DS3 circuits on a single route.[58] Dark fiber transport facilities will continue to be available as a UNE only on routes where one end of the route is in a Tier 3 wire center.[59]

Q. SHOULD THE ICA INCLUDE ANY DEDICATED TRANSPORT USE RESTRICTIONS OTHER THAN WHAT IS MANDATED BY THE FCC?

A. No. The FCC specifically abandoned the "qualifying service" approach it set forth in the *TRO* that limited access to UNEs only for the provision of services competing with "core" incumbent LEC offerings.[60] With its most recent order, the FCC has established the criteria by which ILECs may restrict access[61] and no further restrictions are permissible.

Q. HOW WILL THESE DETERMINATIONS APPLY TO VERIZON'S FACILITIES IN FLORIDA?

A. As noted above, all BOCs were asked by the Chief of the Wireline Competition Bureau to submit a list identifying the wire centers in its operating areas that satisfy the Tier 1, 2 and 3 criteria for dedicated transport. Verizon has classified nine (9) of its wire centers as Tier 1, and the remaining four (4) wire centers as Tier 2.

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[56] TRRO ¶ 128.
[57] TRRO ¶129.
[58] TRRO ¶ 131.
[59] TRRO ¶ 133.
[60] TRRO ¶29.
[61] As provided in previous FCC Orders, Verizon is only obligated to unbundle Dedicated Transport over existing facilities (i.e., Verizon is not obligated to construct new plant).

Q. DOES THE COMMISSION NEED TO TAKE ANY FURTHER STEPS TO VERIFY THIS CERTIFICATION?

A. Yes. Because of the nature of the Wire Center information, unless a specific verification process is adopted, it will be extremely difficult for AT&T or other CLECs to engage in a comprehensive and accurate verification of the data, and its application. As noted by the FCC, the information regarding the number of fiber-based collocators and business lines served in any particular wire center resides only with the ILEC. Although the FCC called these data "administrable and verifiable," the ability to accurately verify the data is dependent on further regulatory action as I will explain below."[62]

Verizon's letter identifying Tier 1 and 2 wire centers provides no information regarding the basis of its classifications. Further, under the *TRRO* requirements, once these wire centers are verified, Verizon will not be required in the future to unbundle those elements.[63] Given the significance of such identification, it is very important that AT&T, as well as other CLECs, and this Commission be assured that the ILECs have properly applied the FCC's criteria.[64]

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[62] *TRRO* at footnote 466.

[63] *TRRO* at fn 466.

[64] This principle is also consistent with ¶ 100 of the *TRRO*, which clearly affirms a CLEC's right to verify and challenge Verizon's identification of fiber-based collocation arrangements in the listed Tier 1 and Tier 2 wire centers.

Q. DOES AT&T HAVE A RECOMMENDATION FOR HOW VERIZON'S IDENTIFICATION OF RELEVANT WIRE CENTERS SHOULD BE CONFIRMED?

A. Yes. Although the FCC suggests that carriers could resolve disputes regarding wire center designations that are tied to UNE availability through the Section 252 negotiation and arbitration process, this process could be a huge burden on the Commission's resources and could produce inconsistent outcomes.[65] Instead, AT&T believes that it would be more efficient for the Commission to conduct a generic inquiry into the wire centers identified by Verizon as part of this proceeding. Verizon should be required to provide both the Commission and participating CLECs the wire-center specific information on which it relied in making its assertions. Disputes regarding Verizon's conclusions could then be resolved and the Commission could certify the list of wire center designations to be incorporated into all ICAs, thereby making those designations both identifiable and no longer subject to dispute. These designations should apply for the term of the carriers' agreements, avoiding market disruption and allowing for the certainty needed for business planning. Such an approach would be consistent with the FCC's rationale behind establishing a permanent wire center classification.[66]

[65] If the question of verifying the list of wire centers were addressed in an uncoordinated fashion, it is possible that the outcome of two different arbitrations could arrive at inconsistent outcomes based on the underlying records.

[66] The FCC determined that, in order to protect against the possible disruption to the market if modest changes could result in the re-imposition of unbundling obligations, once a wire center satisfies the criteria to eliminate the obligation of the ILEC to provide either certain high capacity loops or dedicated transport, the wire center will not be subject to reclassification. *TRRO* at fn 466; 47 C.F.R. §§ 51.319(a)(4); 51.319(a)(5); 51.319(e)(3)(i), (ii).

Q. PLEASE DESCRIBE THE *TRRO* REQUIREMENTS FOR THE TRANSITION FROM UNES TO ALTERNATIVE TRANSPORT OPTIONS.

A. The FCC adopted a similar twelve-month plan for competing carriers to transition DS1 and DS3 dedicated transport to alternative facilities or arrangements. Recognizing the unique characteristics of dark fiber, the Commission adopted a longer, eighteen-month transition period.[67] Although the FCC had suggested in its *Interim Order and NPRM*[68] that a six-month transition may be appropriate, ultimately the FCC determined that the longer time periods were necessary to ensure an orderly transition for CLECs, including providing sufficient time for CLECs to make decisions concerning where to deploy, purchase or lease facilities. The transition plan only applies to a CLEC's embedded customer base and CLECs are prohibited from ordering new transport UNEs not permitted under the *TRRO*'s new rules.[69]

Q. DOES THE *TRRO* SET FORTH TRANSITION PRICING FOR FACILITIES AFFECTED BY THE CHANGE?

A. Yes. The Commission adopted the proposal outlined in the *Interim Order*. The rate for any dedicated transport UNE that a competitive LEC leases as of the effective date of the *TRRO*, but for which there is no future unbundling requirement, shall be the higher of (1) 115 % of the rate the requesting carrier paid for the transport element

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[67] *TRRO* ¶142.

[68] Unbundled Access to Network Elements: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, FCC 04-179 (*Interim Order and NPRM*), released August 20, 2004

[69] *TRRO* ¶143.

on June15, 2004, or (2) 115% of the rate the state commission has established or establishes, if any, between June 16, 2004 and the effective date of the Order.[70]

Issue 6: ***Under what conditions, if any, is Verizon permitted to re-price existing arrangements, which are no longer subject to unbundling under federal law?***

Issue 7: ***Should Verizon be permitted to provide notice of discontinuance in advance of the effective date of removal of unbundling requirements?***

Issue 8: ***Should Verizon be permitted to assess non-recurring charges for the disconnection of a UNE arrangement or the reconnection of service under an alternative arrangement? If so, what charges apply?***

Q. WHAT IS THE DISPUTE BETWEEN AT&T AND VERIZON OVER THIS ISSUE?

A. As I have been discussing in this testimony, prior to the issuance of the *TRO* and the FCC's decision on remand from the *USTA II* decision, CLECs had been authorized access to certain facilities as unbundled network elements, and in fact had been purchasing those UNEs from Verizon at TELRIC rates. When that happens, Verizon is insisting on the right to assess non-recurring charges on AT&T for the discontinuation of the eliminated UNE, or for the transition of that UNE to an

[70] *TRRO* ¶145; 47 C.F.R. §51.319(e)(2)(ii)(C) and (iii)(C).

"alternative arrangement," such as changing a UNE-P arrangement to resale.

Q. SHOULD VERIZON BE PERMITTED TO ASSESS NON-RECURRING CHARGES UNDER THESE CIRCUMSTANCES?

A. No. If anything, that is only adding insult to the injury of the loss of access to the UNE. This is not a situation in which AT&T has imposed any non-recurring costs on Verizon. If anything, this is a situation in which Verizon is the cost-causer. Indeed, the disconnection of a UNE arrangement utilized by AT&T that occurs as a result of the elimination of Verizon's obligation to provide that arrangement as a UNE is an activity that Verizon has initiated. It is certainly not AT&T's decision to disconnect the UNE. To the contrary, AT&T would still utilize the UNE arrangement if Verizon agreed to make it available. As a result, in the unlikely event that there is even any cost incurred at all – or one that has not already been recovered through the non-recurring charges that Verizon assessed when AT&T first ordered the UNE -- it should be borne by the cost causer. In this case, that is Verizon.

Q. DOES THE FCC PROVIDE ANY GUIDANCE ON THIS ISSUE?

A. Although the FCC did not specifically address this issue in the *TRRO*, AT&T believes that the transition from UNEs to alternative arrangements should be governed by the same principles articulated by the FCC in rule 51.316(b) and (c) for the conversion of wholesales services to UNEs. Verizon should be required to perform the conversions without adversely affecting the service quality enjoyed by the requesting telecommunications carrier's end-user. Further, Verizon should not be able to impose any termination charges, disconnect fees, reconnect fees, or charges associated with

establishing a service for the first time, in connection with the conversion between existing arrangements and new arrangements.

Q. YOU NOTED THAT IT IS UNLIKELY THAT VERIZON WOULD INCUR ANY COST IN THIS CIRCUMSTANCE. WHY IS THAT THE CASE?

A. Because it is not likely that any physical work involved. For example, take the case in which Verizon is switching the CLEC's UNE-P customers over to an "alternative" resale arrangement. There is no technical work involved – the same loop, transport and switching facilities that were being used to provide UNE-P also would be used in this alternative arrangement. At most, the only "work" would simply involve a billing change. As the FCC found with respect to EELs conversions, "Converting between wholesale services and UNEs (or UNE combinations) is largely a billing function."[71]

Issue 10: ***Should Verizon be required to follow the change of Law and/or dispute resolution provisions in its existing interconnection agreements if it seeks to discontinue the provisioning of UNEs?***

Q. SHOULD VERIZON BE REQUIRED TO FOLLOW THE CHANGE OF LAW AND/OR DISPUTE RESOLUTION PROVISIONS OF ITS EXISTING INTERCONNECTION AGREEMENTS IF IT SEEKS TO DISCONTINUE THE PROVISIONING OF UNBUNDLED NETWORK ELEMENTS?

A. Yes. As I noted previously, in the *TRRO*, the FCC repeatedly referred to the process for negotiation and arbitration established by §252, including the requirement to amend ICAs to reflect changes occasioned by the FCC's Order. [72] If Verizon has a contractual obligation to provision a particular unbundled network element, then it

[71] *TRO*, ¶588.
[72] See footnote 8 above

should be required to adhere to the provisions of that contract to amend the agreement. To the extent the FCC relieves Verizon of its obligation under federal law to provide a particular unbundled network element, then Verizon should invoke the change of law provisions of the contract and notify the other party that it seeks to negotiate an amendment to the contract to change its obligations to provide that particular UNE.

Where the parties cannot reach an agreement as to either the effect of the change of law or contract language to implement this change of law, the parties should be required to follow the dispute resolution provisions contained in the contract.

Issue 11: ***How should any rate increases and new charges established by the FCC in its final unbundling rules or elsewhere be implemented?***

Q. DOES THE *TRRO* SET FORTH TRANSITION PRICING FOR FACILITIES AFFECTED BY THE CHANGE?

A. Yes. As I described above, the FCC allows ILECs to increase the price for UNE-P by $1 over the higher of the UNE-P rate as of June 16, 2004 (the effective date of the *TRO*), or a rate set by the PSC between that date and March 11, 2005. For dedicated transport and high-capacity loops, the Commission adopted the proposal outlined in the *Interim Order*. The rate for any dedicated transport UNE that a competitive LEC leases as of the effective date of the *TRRO*, but for which there is no future unbundling requirement, shall be the higher of (1) 115 % of the rate the requesting carrier paid for the transport element on June15, 2004, or (2) 115% of the rate the state commission has established or establishes, if any, between June 16, 2004 and the effective date of the Order. Similarly, during the transition period, any high-capacity

loop UNEs that a CLEC leases as of the effective date of the Order, but for which there is no longer an unbundling obligation, shall be available at the higher of (1) 115 % of the rate the requesting carrier paid for the high-capacity loop on June15, 2004, or (2) 115% of the rate the state commission has established or establishes, if any, between June 16 2004 and the effective date of the Order.

Q. IN THE CASE OF THOSE ELEMENTS FOR WHICH THE NEW FCC RULES WILL AFFECT RATES, HOW SHOULD ANY NEW RATES BE IMPLEMENTED?

A. The *TRRO* provides that the transition rates apply starting the effective date of the order (March 11, 2005). Further, the FCC found that a true up shall apply to the rates no longer subject to unbundling upon the completion of relevant interconnection agreements.[73]

Issue 12: ***Should the interconnection agreements be amended to address changes arising from the TRO with respect to commingling of UNEs with wholesale services, EELs, and other combinations? If so, how?***

Q. HOW DID THE *TRO* AFFECT THE RULES CONCERNING "COMMINGLING" OF UNES AND OTHER WHOLESALE SERVICES?

A. Prior to the issuance of the *TRO*, the FCC placed certain restrictions on when competitive carriers could "commingle" or combine "loops or loop-transport

[73] *TRRO* footnote 630.

combinations with tariffed special access services."[74] The *TRO* eliminated these restrictions. Instead the FCC modified the rules to "affirmatively permit requesting carriers to commingle UNEs and combinations of UNEs with services (e.g. switched and special access services offered pursuant to tariff), and to require incumbent LECs to perform the necessary functions to effectuate such commingling upon request."[75] Verizon is now required to permit CLECs like AT&T to commingle UNEs or UNE combinations it obtains from Verizon with other wholesale facilities.

Q. WHY IS IT IMPORTANT FOR CLECS TO BE ABLE TO COMMINGLE UNES WITH OTHER WHOLESALE FACILITIES?

A. Commingling helps level the playing field for CLECs to compete with Verizon in the local exchange market. The FCC agreed with several state commissions "that the commingling restriction puts competitive LECs at an unreasonable competitive disadvantage by forcing them either to operate two functionally equivalent networks – one network dedicated to local services and one dedicated to long distance and other services – or to chose between using UNEs and using more expensive special access services to serve their customers."[76] Because Verizon and the other incumbents place no such restrictions on themselves, the FCC found that restricting commingling by the CLECs was unjust, unreasonable, and discriminatory.[77]

[74] Supplemental Order Clarification, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996,June 2, 2000, paragraph 22..
[75] *TRO*, ¶ 579.
[76] *TRO*, ¶ 581.
[77] *Id.*

Q. AS OF WHAT DATE SHOULD THE AMENDMENT TO THE ICA REFLECT VERIZON'S OBLIGATIONS TO PROVISION ORDERS FOR COMMINGLED ARRANGEMENTS?

A. According to the *TRO*, Verizon must permit commingling and conversion *upon the TRO's effective date* so long as the requesting carrier certifies that it has met certain eligibility criteria.[78] In light of this new rule, AT&T's proposed amendment makes clear that (1) as of October 2, 2003, Verizon is required to provide commingling and conversions unencumbered by additional processes or requirements (e.g., requests for unessential information) not specified in *TRO*;[79] (2) AT&T is required to self-certify its compliance with any applicable eligibility criteria for high capacity EELs (and may do so by written or electronic request) and to permit an annual audit by Verizon to confirm its compliance;[80] (3) Verizon's performance in connection with commingled facilities must be subject to standard provisioning intervals and performance measures;[81] and (4) there will be no charges for conversion from wholesale to UNEs or UNE combinations.[82]

Q. DO VERIZON'S PROPOSALS FOR AMENDING THE ICA PROPERLY REFLECT THE REQUIREMENTS OF THE *TRO*?

A. No. The manner in which Verizon is seeking to implement that change does not

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78 *Id.*, ¶ 589; Rule 51.318.

79 *Id.*, ¶ 586, 588, 623-624.

80 *Id* ¶¶ 623-624.

81 *Id.*, ¶ 586; Rule 51.316(b).

82 *Id.*, ¶ 587; Rule 51.316 (c) ("Except as agreed to by the parties, an incumbent LEC shall not impose any untariffed termination charges or any disconnect, re-connect fees, or charges associated with establishing a service for the first time, in connection with any conversion between a wholesale service or group of wholesale services and an unbundled network element or combination of unbundled elements").

comply with the *TRO*, and in fact seeks to impose new and onerous obligations on the CLECs that will act to impede the competitor's ability to provide services through commingled facilities. In particular, Verizon contends that: (1) AT&T should be required to re-certify that it meets the *TRO*'s eligibility requirements for DS1 and DS1 equivalent circuits on a circuit-by-circuit basis rather than through the use of a single written or electronic request; (2) Verizon's performance in connection with commingled facilities should not be subject to standard provisioning intervals and performance measures; and (3) it is entitled to apply a non-recurring charge for each circuit that AT&T requests to convert from a wholesale service to UNE or UNE combination, as well as other fees not contemplated by the *TRO* (for example, "retag fees"). Verizon also would require AT&T to reimburse Verizon for the entire cost of an audit where an auditor finds no AT&T material failure to comply with the service eligibility criteria for any DS1 circuit. However, none of these contrived requirements finds any support in the *TRO*.

Q. SHOULD AT&T BE REQUIRED TO RE-CERTIFY ITS ELIGIBILITY TO OBTAIN DS1 AND DS1-EQUIVALENT CIRCUITS ON A CIRCUIT-BY-CIRCUIT BASIS, AS VERIZON CONTENDS?

A. No. AT&T's eligibility for these circuits has already been established, and forcing AT&T – or any other CLEC – to go through this process will unnecessarily increase costs. The Commission thus should permit competitors to re-certify all prior conversions in one batch. Moreover, for future conversions requests, rather than requiring competitors to certify individual requests on a circuit-by-circuit basis, the Commission should permit competitors to submit orders for these as a batch.

Verizon proffers no *bona fide* purpose to voluminous stacks of circuit-by-circuit certifications.

Q. SHOULD VERIZON'S PROVISIONING OF REQUESTS FOR COMMINGLED SERVICES BE SUBJECT TO ORDER AND PROVISIONING METRICS AND PERFORMANCE MEASURES AND REMEDIES?

A. Absolutely. At a minimum the commingled arrangements that CLECs are ordering include UNEs that already are subject to metrics and remedies. There is no reason why Verizon's provisioning of these UNEs should be excluded from appropriate provisioning intervals and performance incentives simply because they are being provided in combination with other wholesale services. This is especially true in view of Verizon's history of antagonism towards commingling. Without metrics and remedies Verizon would have little incentive to ensuring that the CLECs orders for these arrangements are provisioned in a timely and efficient manner.

Q. HOW SHOULD NON-RECURRING CHARGES APPLY TO THESE ARRANGEMENTS?

A. The amendment should provide that the recurring and non-recurring charges contained in the Verizon access tariff will apply to the access portion of the "commingled" arrangement, and that the recurring and non-recurring charges contained in the interconnection agreement will apply to the UNE portion of the commingled arrangement, prorated as appropriate.

Q. DOES VERIZON AGREE WITH THIS APPROACH?

A. To an extent. However, Verizon also seeks to impose additional non-recurring charges "to each UNE that is a part of the commingled arrangement." For example, it appears that Verizon would insist on charging CLECs for the "expense" of retagging circuits to reflect their status as UNEs rather than access facilities. Such retagging fees are not forward-looking costs, and are not compensate.

Q. ARE VERIZON'S PROPOSED ADDITIONAL CHARGES APPROPRIATE?

A. No. For conversions of special access facilities to commingled UNE EELs, there should be no order charge. As the FCC concluded in the *Triennial Review Order* at ¶ 587,

> [b]ecause incumbent LECs are never required to perform a conversion in order to continue serving their own customers, we conclude that such charges are inconsistent with an incumbent LEC's duty to provide nondiscriminatory access to UNEs and UNE combinations on just, reasonable, and nondiscriminatory rates, terms, and conditions.

Moreover, as a legacy of Verizon's refusal to previously make these arrangements available as UNEs, imposing charges for retagging these circuits now would be blatantly discriminatory. Accordingly, they should be rejected.

Q. SHOULD AT&T BE LIABLE FOR THE ENTIRE COST OF A SERVICE ELIGIBILITY AUDIT, AS VERIZON PROPOSES?

A. No. Verizon should be able to pass along the total cost of an audit only if the independent auditor concludes that AT&T failed to comply with the service eligibility criteria "in material respects." AT&T certainly should not be required to bear the

entire cost of an audit in the event of a few inadvertent mistakes, or something less than a material misrepresentation that affects more than a *de minimis* number of circuits. On the other hand, if the auditor finds AT&T materially in compliance with the service eligibility criteria, then Verizon should have to pay AT&T's costs of complying with any requests of the independent auditor.

Issue 13*: Should the interconnection agreements be amended to address changes arising from the TRO with respect to conversion of wholesale UNEs/UNE combinations? If so, how?*

Q. WHAT DOES AT&T NEED REGARDING CONVERSIONS TO UNES?

A. With the FCC's reaffirmation of the elimination of commingling restrictions and the elimination of qualifying services criteria in the *TRRO*, AT&T needs to have Verizon convert high-priced special access and wholesale services to UNEs, unless precluded by service eligibility criteria, so that AT&T can be cost competitive with Verizon. Therefore, the parties' ICA needs to be amended to reflect this requirement. Such conversions should be done as requested by AT&T in the future, as well as retroactively as allowed by the *TRO*. Since conversions are essentially a mere billing change, Verizon should make the conversions to UNEs and UNE rates effective with the next month's billing.

Issues 14 (b) and (c): *Should the ICAs be amended to address changes, if any, arising from the TRO with respect to: newly built FTTP loops and Overbuilt FTTP loops?*

Q. SHOULD THE INTERCONNECTION AGREEMENT BE AMENDED TO ADDRESS CHANGES ARISING FROM THE *TRO* WITH RESPECT TO NEWLY BUILT AND OVERBUILT FIBER TO THE HOME (FTTH) LOOPS?

A. Yes. The Commission should adopt AT&T's proposed contract amendment language at Paragraphs 3.2.2 through 3.2.2.6 contained in Attachment X. These provisions properly implement the FCC's Rules regarding Verizon's obligation to provide access to a narrowband transmission path in newly built FTTH and certain overbuild FTTH situations.

Q. WHAT IS THE PRIMARY DISAGREEMENT BETWEEN AT&T AND VERIZON WITH REGARD TO VERIZON'S OBLIGATIONS TO PROVIDE A NARROWBAND TRANSMISSION PATH IN NEWLY BUILT FTTH AND OVERBUILD FTTH SITUATIONS?

A. The primary disagreement between AT&T's proposed language and Verizon's proposed language is that AT&T uses the acronym "FTTH", while Verizon uses the acronym "FTTP". AT&T's proposed language, with the acronym FTTH, should be adopted because it is consistent with the FCC's rules. The FCC, in its rules (51.319(a)(3) uses the term of art: "Fiber-to-the-home" or FTTH, as proposed by AT&T, and not the term "Fiber to the premises" or FTTP, as proposed by Verizon. With regards to new builds, the FCC rules specifically provide that Verizon is "not required to provide nondiscriminatory access to a fiber-to-the-home loop on an unbundled basis when the incumbent LEC deploys such a loop to an end user's customer premises that previously has not been served by any loop facility." As the FCC noted (TRO 275) with respect to newly built FTTH, "the entry barriers

appear to be largely the same for both the incumbent and competitive LEC – that is, both incumbent and competitive carriers must negotiate rights-of-way, respond to bid requests for new housing developments, obtain fiber optic cabling and other materials, develop deployment plans and implement construction programs". With regard to overbuilds, where Verizon presently has facilities in place to residential subdivisions, but retires the copper facilities, Verizon is obligated to provide AT&T with a 64 kilobit transmission path capable of voice grade service. By attempting to define this fiber deployment as Fiber to the Premises or FTTP, rather than Fiber to the Home, as the FCC has defined it, Verizon seeks to unlawfully limit its unbundling obligations under federal law. If Verizon has a substantive change to make then it should make its case on the merits for being inconsistent with the FCC orders, rather than seek to sneak the change through in obscure terminology in proposed contract language.

Issue 14 (g): ***Should the ICAs be amended to address changes, if any, arising from the TRO with respect to: Line conditioning?***

Q. SHOULD THE INTERCONNECTION AGREEMENT BE AMENDED TO ADDRESS CHANGES ARISING FROM THE *TRO* WITH RESPECT TO LINE CONDITIONING?

A. Yes. The Commission should adopt AT&T's proposed contract amendment language at Paragraphs 3.3(B) in Attachment X. These provisions properly implement the FCC's Rule 319(a)(1)(iii) regarding Verizon's obligation to perform line

conditioning. Verizon's proposed contract language does not contain provisions spelling out its obligations to perform line conditioning.

Q. WHAT IS LINE CONDITIONING?

A. The FCC defined line conditioning in its rules as "the removal from a copper loop or copper subloop of any device that could diminish the capability of the loop or subloop to deliver high-speed switched wireline telecommunications capability, including digital subscriber line service. Such devices include, but are not limited to, bridge taps, load coils, low pass filters, and range extenders." 47 CFR §51.319(a)(1)(iii)(A).

Q. DOES VERIZON HAVE AN OBLIGATION UNDER FEDERAL RULES TO PROVIDE LINE CONDITIONING?

A. Yes. In the *TRO* (642), the FCC concluded that Verizon is obligated to provide access to "xDSL-capable stand alone copper loops because competitive carriers are impaired without such loops." In order to provide such xDSL-capable loops, "line conditioning is necessary because of the characteristics of xDSL service – that is certain devices added to the local loop in order to facilitate the provision of voice services disrupt the capability of the loop in the provision of xDSL services. In particular, bridge taps; load coils and other equipment disrupt xDSL transmissions. Because providing a local loop without conditioning the loop for xDSL services would fail to address the impairment competitive carriers face, we require incumbent LECs to provide line conditioning to requesting carriers."

Verizon had argued at the FCC that it should not be required to perform line

conditioning because such action amounted to providing the competitive carriers with "superior quality access". The FCC, however, rejected Verizon's argument, noting that line conditioning and the other routine network modifications being required by the FCC rules were similar to the same modifications that Verizon makes to its network to serve its own customers. *TRO* 639.

Q. IS VERIZON AUTHORIZED BY FEDERAL LAW TO IMPOSE A SEPARATE CHARGE FOR LINE CONDITIONING OVER AND ABOVE THE NON-RECURRING CHARGES THAT CLECS PAY FOR A XDSL-CAPABLE UNBUNDLED LOOP?

A. No. Verizon is not authorized to impose a specific charge for line conditioning over and above the TELRIC- based nonrecurring and recurring charges that CLECs pay for an xDSL capable unbundled loop. The FCC rules at 47 CFR 51.319(a)(1)(iii)(B) are quite specific that Verizon is required to "recover the costs of line conditioning from the requesting telecommunications carrier in accordance with the Commission's forward-looking pricing principles promulgated pursuant to section 252(d)(1) of the Act and in compliance with rules governing nonrecurring costs in § 51.507(e)".

Verizon's proposal in this case is to require CLECs to pay additional charges for line conditioning, including charges for the removal of load coils and bridged taps that are contained in the unsupported Pricing Attachment to its proposed contract amendment in addition to the non-recurring rates that CLECs pay for an xDSL capable loop. Verizon's proposal is not authorized by federal law and should be rejected.

Issue 14 (h): ***Should the ICAs be amended to address changes, if any, arising from the TRO with respect to: packet switching?***

Q. SHOULD THE INTERCONNECTION AGREEMENT BE AMENDED TO ADDRESS CHANGES ARISING FROM THE *TRO* WITH RESPECT TO PACKET SWITCHING?

A. Yes. It appears that Verizon will no longer have an obligation to provide AT&T with packet switching functionality as an unbundled network element. The main disagreement between AT&T and Verizon involves the situation where AT&T's UNE-P customers are served off of a Verizon switch that has both packet switching and circuit switching capability. Verizon should be required to continue to provide AT&T with circuit switching capability to serve its UNE-P customers during the 12-month transition, until such time as Verizon is no longer required to provide UNE-P.

Q. HAS AT&T ENCOUNTERED ANY SITUTATIONS IN WHICH AT&T'S UNE-P CUSTOMERS COULD HAVE BEEN IMPACTED BY VERIZON'S DECISION TO INSTALL PACKET SWITCHING CAPABILITY?

A. Yes. In California Verizon notified carriers of its intent to replace circuit switches with packet switches in five central offices and, as a result, claimed that it was no longer obligated to provide unbundled local switching through those offices. In order to protect its customers from the significant disruption that would occur if Verizon implemented its plans, AT&T filed a complaint against Verizon (C.04-08-026) and filed a Motion for a Temporary Restraining Order. Specifically, AT&T did not seek to limit Verizon's ability to install packet switch capability. Rather, AT&T sought to

ensure the continuation of its customers' service under the terms of the parties' ICA. The Commission granted AT&T's motion, partially because AT&T established that its customers would be harmed if Verizon went ahead with its plans. The bottom line is that there need to be realistic parameters placed around any such radical change in the relationship between AT&T and Verizon when that change might affect the relationship between AT&T and its customers.[83]

Q. WHAT CONTRACT LANGUAGE SHOULD BE INCLUDED IN THE INTERCONNECTION AGREEMENT TO ADDRESS THIS SITUATION?

A. The interconnection agreement should contain a provision regarding Packet Switching requiring that Verizon provide AT&T with 12 months notice for any switch change that would eliminate the availability of circuit switching prior to March 11, 2006, and ensuring that regardless of Verizon's decision to deploy packet switching, it is obligated to continue to provide local circuit switching functionality to AT&T for its UNE-P customers until such time as Verizon is no longer required to provide UNE-P, i.e. the FCC-mandated transition period.

Issue 14 (i): *Should the ICAs be amended to address changes, if any, arising from the TRO with respect to: Network Interface Devices (NIDs)?*

Q. SHOULD THE INTERCONNECTION AGREEMENT BE AMENDED TO ADDRESS CHANGES ARISING FROM THE *TRO* WITH RESPECT TO NETWORK INTERFACE DEVICES (NIDS)?

A. Yes. The Commission should adopt provisions that accurately reflect Verizon's

[83] The Washington Utilities and Transportation Commission recently entered a similar order prohibiting Verizon from taking similar action in that state.

obligations pursuant to FCC orders and rules. In this case, AT&T's proposed contract amendment language at Paragraphs 3.2.6 and 3.4.9 in Attachment X, properly reflect the FCC's Rules regarding Verizon's obligation to provide access to Network Interface Devices (NIDs) and to provide the NID functionality with unbundled local loops ordered by AT&T.

Q. IS THERE A DISAGREEMENT BETWEEN AT&T AND VERIZON REGARDING ACCESS TO THE NID AND THE INCLUSION OF NID FUCTIONALITY WITH UNBUNDLED LOCAL LOOPS?

A. I don't know. Verizon's proposed contract amendment does not address either issue. In the *TRO* (Par.356, footnote 1083) the FCC stated that the "NID and subloop unbundling rules we adopt herein ensure that competitive LECs obtain a full loop, including the network termination [NID] portion of that loop or subloop, if required, yet preserves the ability of facilities-based LECs to obtain access to only the NID on a stand-alone basis when required."

In order to insure the avoidance of doubt about Verizon's obligations, AT&T would prefer that the issues be clearly addressed in the interconnection agreement to reflect the above FCC ruling.

Issue 15: ***What should be the effective date of the Amendment to the parties' agreements?***

Q. WHAT SHOULD BE THE EFFECTIVE DATE OF THE AMENDMENT TO THE PARTIES INTERCONNECTION AGREEMENT?

A. The effective date of the parties' amendment to the interconnection agreement should be on the date the amendment is executed by the parties and filed with the Commission. This should occur expeditiously after the Commission has ruled on the various issues in this arbitration proceeding and the parties have agreed to language that implements the Arbitrators decision. The Commission should be watchful of parties' efforts to try to take a proverbial "second bite at the apple" by proposing compliance language that does not genuinely conform to the Commission's order.

Issue 16*: How should CLEC requests to provide narrowband services through unbundled access to a loop where the end user is served via Integrated Digital Loop Carrier (IDLC) be implemented?*

Q. PLEASE DESCRIBE WHAT ANINTEGRATED DIGITAL LOOP CARRIER ("IDLC") SYSTEM IS?

A. An Integrated Digital Loop Carrier (IDLC) system is a type of "pair gain" or loop concentration system that permits carriers to more efficiently utilize their loop and switching plant. IDLC systems are the integration of the integrated digital terminal (IDT) and remote digital terminal (RDT). The IDT is a part of and integrated directly into the digital switch. Unlike Universal Digital Loop Carrier (UDLC) systems, with IDLC, there is often not a one-for-one transmission path or appearance in the central office for each line. As a result, incumbent LECs like Verizon must implement different practices and procedures to provide CLECs with unbundled loops where the customer is served by a Verizon IDLC system. A remote terminal may contain and

often contains a mixture of both IDLC and UDLC whenever IDLC is present at the remote terminal.

Q. DOES VERIZON HAVE AN OBLIGATION UNDER FEDERAL LAW TO PROVIDE AT&T AND OTHER CLECS WITH ACCESS TO UNBUNDLED LOOPS WHERE THE CUSTOMER IS SERVED BY A VERIZON IDLC SYSTEM?

A. Yes. The FCC found in the *TRO* (Par 297) that Verizon has an obligation to provide AT&T and other CLECs access to unbundled loops where the customer is served by an IDLC system. As the FCC recognized, providing this transmission path "may require incumbent LECs to implement policies, practices, and procedures different from those used to provide access to loops served by Universal DLC systems." The FCC further recognized that "in most cases, this will be either through a spare copper facility or through the availability of Universal DLC systems. Nonetheless *even if neither of these options is available, incumbent LECs must present requesting carriers a technically feasible method of unbundled access.*" [emphasis added].

Q. HAS VERIZON PROPOSED TO PROVIDE AT&T AND OTHER CLECS WITH ACCESS TO UNBUNDLED LOOPS WHERE THE CUSTOMER IS SERVED BY A VERIZON IDLC SYSTEM?

A. Not genuinely. Instead, Verizon has proposed a costly, time consuming and discriminatory process for providing AT&T and other CLECs with access to unbundled loops served by IDLC systems. This undermines Verizon's express

obligation to unbundled IDLC loops, and is particularly critical when compounded by the sunsetting of unbundled switching, or UNE-P. Verizon's proposal should be rejected, and Verizon should be compelled to genuinely comply with the FCC requirement.

Q. PLEASE DESCRIBE VERIZON'S PROPOSAL.

A. At Paragraph 3.2.4.1 of its proposed Amendment, Verizon states that when AT&T requests an unbundled loop to serve a customer location that is served by an IDLC system, it will "endeavor" to provide AT&T with an unbundled loop over either existing copper or a loop served by Universal DLC. However, if neither of these options is available, Verizon's proposal at Paragraph 3.2.4.2 is that it will construct either a copper loop or Universal DLC system at AT&T's expense. In addition to the whopping special construction NRC for the unbundled loop, Verizon proposes to charge AT&T an additional charge whenever a line and station transfer is performed; "an engineering query charge of $183.99 for the preparation of a price quote"; "an engineering work order charge" of $94.40; plus "all construction charges as set forth in the price quote". These additional charges are contained in the Exhibit A Rate Proposal attached to Verizon's Proposed Interconnection Agreement language.

This process and these charges are both discriminatory – in that Verizon does not have to incur these charges to serve that customer at the same location – and unnecessary. Verizon's proposal to fulfill its obligation to offer CLEC's a technically feasible method to unbundled a loop is disingenuously larded up with costs so as to avoid its obligation. The FCC requirement is intended to facilitate service to end-

users; Verizon's proposal converts it to a regulatory sham.

Q. WHY DO YOU SAY THAT VERIZON'S PROPOSED PROCESS AND THESE CHARGES ARE UNNECCESSARY?

A. Other than possibly to inflate the costs and delay the provisioning of a loop ordered by AT&T, there is no reason why Verizon should construct loop plant or a UDLC system to provide AT&T with access to an unbundled loop served by an IDLC system. There are several engineering solutions that are available – as Verizon recognized when it was providing information to the FCC during the *TRO* proceedings – and could be implemented by Verizon.

As the FCC noted in Paragraph 297, footnote 855, the ILECs "can provide unbundled access to hybrid loops served by integrated DLC systems by configuring existing equipment, adding new equipment, or both." In fact, during the course of the *TRO* proceedings, when Verizon was advocating at the FCC that CLECs could use their own switching equipment and unbundled loops from Verizon to serve mass-market customers, Verizon apparently saw no impediments to providing loops served by IDLC systems. As noted by the FCC, "Frequently, unbundled access to Integrated DLC-fed hybrid loops can be provided through the use of cross-connect equipment, which is equipment incumbent LECs typically use to assist in managing their DLC systems", citing a July 19, 2002 Ex Parte Letter from Verizon "showing that Verizon typically uses central office terminations and cross-connects".

Furthermore, apparently, BellSouth has no problems reconfiguring existing equipment to provide CLECs with access to an unbundled loops served by IDLC systems. In its filing with this Commission on November 1, 2004 requesting a generic docket to consider interconnection agreement amendments to implement the changes required by the *TRO*, BellSouth submitted a draft interconnection agreement

amendment as Exhibit B to that filing. At Paragraphs 2.6 through 2.6.2, BellSouth's proposed contract offer provides that where a CLEC seeks access to an unbundled loop served by an IDLC system and where "an alternative facility is not available, then to the extent technically feasible, BellSouth will implement one of the following arrangements (e.g. hairpinning): 1. Roll the circuits from the IDLC to any spare copper that exists to the End User premises; 2. Roll the circuits from the IDLC to an existing [UDLC] DLC that is not integrated; 3. If capacity exists, provide "side door" porting through the switch; 4. If capacity exists, provide Digital Access Cross-Connect System (DACS) – door" porting (if the IDLC routes through a DACS prior to integration into the switch)."

I find it difficult to believe that Verizon, which uses much of the same equipment and abides by the same engineering standards as BellSouth, cannot implement an engineered solution similar to the one offered by BellSouth. The Commission should reject Verizon's costly, time consuming and discriminatory proposal to require that AT&T pay to construct facilities to obtain access to an unbundled loop to its customer presently served by a Verizon IDLC system. The Commission should direct Verizon to provide a solution involving the rearrangement of existing equipment as it told the FCC it could do and apparently its peers (BellSouth) do on a routine basis. Further Verizon's proposal present Verizon with the wrong incentives; rather than a motivation to find the most expeditious, least cost method, Verizon's proposal provides the incentive for Verizon to offer a fatally expensive, uneconomic method which effective undermines its unbundling obligation.

Issue 17: *Should Verizon be subject to standard provisioning intervals or performance measurements and potential remedy payments, if any, in the underlying Agreement or elsewhere, in connection with its provision of:*

a. unbundled loops in response to CLEC requests for access to IDLC-served hybrid loops;
b. Commingled arrangements;
c. Conversion of access circuits to UNEs;
d. Loops or Transport (including Dark Fiber Transport and Loops) for which Routine Network Modifications are required;
e. Batch hot cut, large job hot cut, and individual hot cut processes

Q. SHOULD VERIZON BE REQUIRED TO MEET THE STANDARD PROVISIONING INTERVALS OR PERFORMANCE MEASUREMENTS AND BE SUBJECT TO POTENTIAL REMEDY PAYMENTS FOR FAILURE TO MEET THOSE REQUIREMENTS FOR IDLC-SERVED LOOPS; COMMINGLED ARRANGEMENTS; CONVERSION OF ACCESS CIRCUITS TO EELS; PROVISIONING OF HIGH CAPACITY LOOPS AND TRANSPORT; AND HOT CUTS?

A. Yes. Verizon should be required to meet the standard provisioning intervals or performance measurements that are contained in the current plan adopted and approved by this Commission. Furthermore, Verizon should be subject to the potential remedy payments for failure to meet those requirements that are contained in the current plan adopted and approved by this Commission.

In its proposed amendment, Verizon proposes to specifically exempt itself from these requirements for the provision of IDLC loops at Paragraph 3.2.4.3 and for the provision of Commingled arrangements at Paragraph 3.4.1.1. In addition, Verizon seeks to exempt itself from the requirements of the Commission's plan for Routine Network Modifications at Paragraph 3.5.2. As my testimony discusses, Routine Network Modifications are already contemplated in the activities in the Verizon cost

study that establish the non-recurring and recurring charges for High Capacity Loops and Transport.

As a result, the provisioning of High Capacity Loops and Transport, which require Routine Network Modifications, should adhere to the Commission's approved provisioning intervals and performance measurements. Verizon's proposal to exempt itself from the Commission's approved plan should be rejected.[84]

Issue 18: ***How should sub-loop access be provided under the TRO?***

Q. WHAT OBLIGATIONS DOES THE *TRO* IMPOSE ON VERIZON FOR PROVIDING UNBUNDLED ACCESS TO SUBLOOPS?

A. The *TRO* requires Verizon to provide AT&T with unbundled access to Verizon's copper subloops and Verizon's network interface devices ("NIDs"). These requirements encompass any means of interconnection of the Verizon distribution plant to customer premises wiring.[85] In addition, the FCC found that AT&T and other CLECs are impaired on a nationwide basis "without access to unbundled subloops used to access customers in multiunit premises."[86] As a result, the *TRO* requires Verizon to provide AT&T with access to any technically feasible access point located near a Verizon remote terminal for these subloop facilities.[87]

Q. WHY IS IT IMPORTANT FOR COMPETITORS TO OBTAIN ACCESS TO SUBLOOPS AS AN UNBUNDLED ELEMENT?

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[84] Further, it would seem to make the Commission's metrics and remedies program an administrative nightmare if different standards were applicable to some CLECs relative to others, based on their currently effective ICAs. Instead AT&T proposes here to adhere to the uniform standards applicable to all CLECs. Any modifications or exceptions to the Commission's metrics and remedies program should be addressed in the docket established for that purpose, after notice to all carriers.

[85] *TRO*, ¶ 205.

[86] *Id.*, ¶ 348.

[87] *Id.*, ¶ 343.

A. Because as the FCC found, for example in the case of multiunit premises CLEC face significant barriers to obtaining access to provide service to customers there. This is particularly true in view of the exclusive access to these premises that the incumbent providers previously have enjoyed. Given the substantial costs and risks associated with self-deployment to these multiunit premises, "the ability to access subloops at, or near, the customer's premises in order to reach the infrastructure in those premises where they otherwise would not be able to take their loop the full way to the customer, is critical."[88]

Q. DOES VERIZON'S PROPOSED AMENDMENT PROPERLY REFLECT ITS OBLIGATIONS UNDER THE *TRO* CONCERNING SUBLOOPS?

A. No. In many critical respects Verizon's amendment does not fully reflect the requirements of the *TRO*, and leaves issues unresolved that could subsequently result in new disputes that will require Commission intervention. In contrast, AT&T's Amendment is consistent with and faithful to the *TRO*'s requirements on subloops.[89]

Q. DOES VERIZON'S AMENDMENT EVEN DEFINE SUBLOOPS?

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[88] *Id.*, ¶ 348.

[89] For example, AT&T's proposed amendment comprehensively addresses issues concerning the Single Point of Interconnection (SPOI), collocation, access to multiunit premises wiring, technical feasibility, best practices, and NID access that are either dealt with cursorily by Verizon or not at all. Because, in contrast to Verizon's language, AT&T's proposal is both complete and tracks the *TRO* faithfully, it should be adopted.

A. No. AT&T's Amendment, on the other hand, defines the Inside Wire Subloop, in both paragraphs 2.17 and in 3.4, as set forth in the *TRO*.[90]

Q. WHY ARE THESE DEFINITIONS IMPORTANT?

A. The definitions help to make clear just what Verizon is providing and what it is not providing. Ensuring that the parties are in agreement as to the meaning of these terms should prevent unnecessary threshold disputes in the future.

Q. DOES VERIZON'S PROPOSAL COMPLY WITH THE *TRO*'S REQUIREMENT TO PROVIDE ACCESS "AT, OR NEAR" THE CUSTOMER'S PREMISES?

A. No. Verizon proposal seeks to limit access to "any technically feasible point" located near a Verizon remote terminal. While this minor language difference may appear insignificant, experience indicates that minor differences can result in not-so-minor disputes. AT&T simply seeks to have the language of the ICA track the requirements of the FCC's order to avoid such disputes.

Q. VERIZON'S PROPOSAL ALSO INDICATES THAT ACCESS WOULD BE SUBJECT TO CERTAIN RATES AND CHARGES TO BE REFLECTED IN THE AMENDDED ICA. HAS VERIZON PROPOSED SUCH CHARGES?

A. It is my understanding that Verizon has yet to submit any proposed charges for review or negotiation by the parties. Of course, proposed rates when submitted

[90] For example, AT&T 3.4.4 provides that Verizon is required to provide AT&T with non-discriminatory access to Inside Wire Subloops for access to multiunit premises wiring on an unbundled basis regardless of the capacity or type of media (including, but not limited to copper, coax, radio and fiber) employed for the Inside Wire Subloop. Although, in the MDU Reconsideration Order, the FCC extended the terms of its FTTH rules to include multiple dwelling units that are predominantly residential, the FCC specifically stated that it was retaining CLEC's rights under the TRO to unbundled access to inside wiring, NIDs, and other subloops for multi-tenant premises. MDU Reconsideration Order ¶9.

would have to be forward looking, not involve double recovery, and be supported.

Q. DOES AT&T AGREE WITH VERIZON'S REFUSAL TO RESERVE HOUSE AND RISER CABLE FOR COMPETITORS?

A. AT&T is willing to accept this limitation if and only if Verizon is expressly willing to contract to abide by the same limitation.[91]

Q. DOES VERIZON'S PROPOSAL SEEK TO IMPROPERLY RESTRICT ACCESS TO UNBUNDLED SUBLOOPS?

A. Yes, Verizon seeks to impose a variety of restrictions on AT&T's access to Inside Wire Subloops. These are found in paragraph 3.3.1.1.1.3 of Verizon's proposal. For example, Verizon contends that AT&T's facilities cannot be attached, otherwise affixed or adjacent to Verizon's facilities or equipment, cannot pass through or otherwise penetrate Verizon's facilities or equipment and cannot be installed so that AT&T's facilities or equipment are located in a space where Verizon plans to locate its facilities or equipment. Verizon also asserts that it shall perform any cutover of a customer to AT&T service by means of a House and Riser Cable subject to a negotiated interval, that Verizon shall install a jumper cable to connect the appropriate Verizon House and Riser Cable pair to AT&T's facilities, and that Verizon shall determine how to perform such installation. Finally, under its proposal Verizon would perform all installation work on Verizon equipment in connection with AT&T's use of Verizon's House and Riser Cable.

91 That is, if Verizon will not reserve House and Riser cable for its competitors, it also should forego reserving those facilities for its own retail operations. Otherwise this limitation would discriminate against the CLECs.

Q. ARE THESE RESTRICTIONS PERMITTED UNDER THE *TRO*?

A. No. Verizon's effort to force AT&T to use only Verizon's technicians to enable access to subloops is not authorized by the *TRO*. Indeed, this restriction would result in unnecessary delays and increased costs in providing service to customers. Thus, AT&T's proposed amendment, at Paragraph 3.4.8, makes it clear that connections to subloops (including the NID), including but not limited to directly accessing the cross-connection device owned or controlled by Verizon, may be performed by AT&T technicians or its duly authorized agents, at its option, (i) without the presence of Verizon technicians, and (ii) at no additional charge by Verizon. AT&T's language also makes clear that, "Such connecting work performed by AT&T may include but is not limited to lifting and re-terminating of cross connection or cross-connecting new terminations at accessible terminals used for subloop access. No supervision or oversight by Verizon personnel shall be required but Verizon may monitor the work, at its sole expense, provided Verizon does not delay or otherwise interfere with the work being performed by AT&T or its duly authorized agents."

Q. IS AT&T SEEKING UNLIMITED ACCESS TO THE VERIZON'S EQUIPMENT, LIKE THE SPLICE CASE?

A. No. But AT&T should be entitled to non-discriminatory access. [92]

Q. HOW DOES VERIZON PROPOSE TO DEAL WITH THE ISSUES CONCERNING SINGLE POINT OF INTERCONNECTION?

[92] I.e., AT&T should be entitled to access the wiring inside the splice case when Verizon itself has opened it, and a Verizon technician is present.

A. It doesn't. Verizon's proposal language would require the parties to negotiate yet an other amendment to the ICA at a future date to memorialize the terms conditions and rates under which Verizon would provide a SPOI at a multiunit premises. However, there is no reason to wait for some indeterminate date to come to terms on this issue. Rather, the Commission should resolve it in this proceeding, under the terms AT&T has proposed in its Paragraph 3.4.5 of its proposed Amendment.

Issue 19: ***Where Verizon collocates local circuit switching equipment (as defined by the FCC's rules) in a CLEC facility/premises, should the transmission path between that equipment and the Verizon serving wire center be treated as unbundled transport? If so, what revisions to the Amendment are needed?***

Q. WHERE VERIZON COLOCATES LOCAL CIRCUIT SWITCHING EQUIPMENT IN AT&T'S PREMISES, SHOULD THE TRANSMISSION PATH BETWEEN VERIZON'S LOCAL CIRCUIT SWITCHING EQUIPMENT AND THE VERIZON SERVING WIRE CENTER BE TREATED AS UNBUNDLED TRANSPORT?

A. Yes. The transmission path between the Verizon's local circuit switching equipment located in AT&T facilities and the Verizon serving wire center should be treated as unbundled transport, as required by the FCC. In the *TRO* (Par. 369, footnote 1126), the FCC recognized that "incumbent LECs may 'reverse collocate' in some instances by collocating equipment at a competing carrier's premises, or may place equipment in a common location, for purposes of interconnection ... to the extent that an incumbent LEC has local switching equipment, as defined by the Commission's rules, "reverse collocated" in a non-incumbent LEC premises, the transmission path

from this point back to the incumbent LEC wire center shall be unbundled as transport between incumbent LEC switches or wire centers...".In making this finding, the FCC distinguished a "reverse collocation" arrangement from an "entrance facility." Therefore, Verizon continues to be obligated to provide such unbundled dedicated transport under the terms set forth in the *TRRO*.

AT&T's proposed contract language contains a definition of Dedicated Transport at Paragraph 2.7 that reflects the FCC's findings, as follows: "Dedicated Transport - A transmission facility between Verizon switches or wire centers, (including Verizon switching equipment located at AT&T's premises), within a LATA, that is dedicated to a particular end user or carrier and that is provided on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law

Issue 20: ***Are interconnection trunks between a Verizon wire center and a CLEC wire center, interconnection facilities under section 251(c)(2) that must be provided at TELRIC?***

Q. ARE INTERCONNECTION TRUNKS BETWEEN A VERIZON WIRE CENTER AND A CLEC WIRE CENTER INTERCONNECTION FACILITIES THAT MUST BE PROVIDED AT TELRIC PRICING?

A. Yes. Interconnection trunks between a Verizon wire center and a CLEC wire center established for the transmission and routing of telephone exchange service and exchange access are interconnection facilities under section 251(c)(2) that must be provided at TELRIC.

Section 251(c)(2) of the federal Act specifically provides that Verizon has an obligation to interconnect with the CLEC's network via interconnection trunks "for the transmission and routing of telephone exchange service and exchange access ... on rates, terms and conditions ... in accordance with ... Section 252" (251(c)(2)(A) and (D). Section 252(d)(1), in turn, contains the TELRIC standard.

Although, in the *TRO,* the FCC revised the definition of dedicated transport to exclude entrance facilities, finding that they "exist outside the incumbent LEC's local network," the FCC was very clear that this conclusion did not alter the obligations of Verizon to continue to provide interconnection trunks, pursuant to Section 251(c)(2), at TELRIC prices. Specifically, the FCC (TRO 365) observed that, "Competitive LECs use these transmission connections between incumbent LEC networks and their own networks both for interconnection and to backhaul traffic. Unlike the facilities that incumbent LECs explicitly must make available for section 251(c)(2) interconnection, we find that the Act does not require incumbent LECs to unbundle transmission facilities connecting incumbent LEC networks to competitive LEC

networks for the purpose of backhauling traffic."[93] To be clear, however, the FCC (TRO 366) noted, "In reaching this determination we note that, to the extent that requesting carriers need facilities in order to "interconnect [] with the [incumbent LEC's] network," section 251(c)(2) of the Act expressly provides for this and we do not alter the Commission's interpretation of this obligation."

In the *TRRO*, the FCC, relying on guidance from the D.C. Circuit in the *USTA II* decision, reinstated the *Local Competition Order* definition of dedicated transport.[94] However, after applying an impairment analysis to dedicated transport, the Commission found that CLEC carriers are not impaired without access to entrance facilities as an unbundled network element. The FCC did not, however, retreat from its finding regarding the availability of interconnection facilities at TELRIC prices. Rather, the FCC stated that while an ILEC is not obligated to provide access to entrance facilities as UNEs, CLECs continue to have access to these facilities at cost-based rates, stating:

> [o]ur finding of non-impairment with respect to entrance facilities does not alter the right of competitive LECs to obtain ***interconnection facilities*** pursuant to section 251(c)(2) for the transmission and routing of telephone exchange service and exchange access service. Thus, competitive LECs will have access to these facilities *at* ***cost-based rates*** to the extent that they require them to interconnect with the incumbent LEC's network.[95]

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[93] On this basis, the FCC (TRO 366) found that "the transmission facilities connecting incumbent LEC switches and wire centers are an inherent part of the incumbent LECs' local network Congress intended to make available to competitors under section 251(c)(3). On the other hand, we find that transmission links that simply connect a competing carrier's network to the incumbent LEC's network are not inherently a part of the incumbent LEC's local network. Rather, they are transmission facilities that exist *outside* the incumbent LEC's local network. Accordingly, such transmission facilities are not appropriately included in the definition of dedicated transport."

[94] ¶¶136-141.

[95] TRRO, ¶140 (emphasis added).

Therefore, it is clear that interconnection trunks between a Verizon wire center and a CLEC wire center established for the transmission and routing of telephone exchange service and exchange access, and not for the purpose of "backhauling" traffic, are interconnection facilities under section 251(c)(2) that must be provided at TELRIC.

Issue 21: ***What obligations under federal law, if any, with respect to EELs should be included in the Amendment to the parties' interconnection agreements?***

Q. WHAT IS AN "EEL" AND WHY IS IT IMPORTANT TO AT&T TO BE ABLE TO HAVE ACCESS TO EELS TO SERVE ITS CUSTOMERS IN FLORIDA?

A. An EEL is an Enhanced Extended Link. It is the combination of one or more segments of unbundled (DS-0, DS1 and DS3) loops with unbundled (typically DS1 and DS3) dedicated transport. At the option of the CLEC, an EEL may or may not include multiplexing and the loop portion is not limited to just DS1 loop types. EELs are essentially long loops -- loops that have been extended from the legacy ILEC wire center to a location where AT&T has a switch or some other network appearance. As such, EELs provide a natural bridge between resale or UNE-P to UNE-L, recognizing that it is not practical or prudent for AT&T to establish physical collocation in every Verizon wire center in Florida. If volumes of a CLEC's dedicated transport traffic (and the transport component of EELs) cross the economic break-even point to

warrant self-provision given a particular transport route's construction cost (driven by rights-of-way, distance, and other cost factors), a CLEC such as AT&T can then establish collocation in that end office, construct its own transport facilities or obtain third-party transport, and roll service from EELs to UNE-L (or completely off of UNEs if it has its own or controlled loop facilities). As the FCC concluded in the *TRO*, (Par 576) "EELs facilitate the growth of facilities-based competition in the local market.... The availability of EELs ... promotes innovation because competitive LECs can provide advanced switching capabilities in conjunction with loop-transport combinations."

Q. DOES VERIZON HAVE AN OBLIGATION UNDER FEDERAL LAW TO PROVIDE AT&T AND OTHER CLECS WITH ACCESS TO EELS?

A. Yes. In the *TRRO*, the FCC noted that the *USTA II* court affirmed the EELs eligibility criteria that were established in the *TRO*. Specifically, the Commission reiterated its previous finding in the *TRO* and stated that "to the extent that the loop and transport elements that comprise a requested EEL circuit are available as unbundled elements, then the incumbent LEC must provide the requested EEL."[96] Thus, the EEL's eligibility requirements have been in place since the effective date of the *TRO*, and they have not been changed by either the *USTA II* Court or the FCC in the *TRRO*.[97] This should be dispositive of the matter.

As discussed in my Testimony on Issues 4 and 5, the *TRRO* provides specific criteria

[96] *TRRO* ¶ 85.
[97] *TRRO* ¶ 85.

to determine in which wire centers Verizon will no longer have an obligation to provide unbundled DS1 and DS3 Loops and unbundled DS1 and DS3 dedicated transport. In locations where Verizon's obligation to provide unbundled DS1 and DS3 Loops and unbundled DS1 and DS3 dedicated transport has not been removed, Verizon is required to provide AT&T and other CLECs with EELs. This obligation exists in both the situation where AT&T is placing an order for a new EEL circuit or converting an existing circuit (for example a T-1 access circuit) to an EEL, so long as certain service criteria eligibility are met.

Verizon's obligation to provide EELs, as well as the criteria for ordering or converting existing circuits to EELs is contained in FCC Rule 51.318. As the FCC stated in the *TRO* (Par. 575), "Our rules currently require incumbent LECs to make UNE combinations, including loop-transport combinations, available in all areas where the underlying UNEs are available and in all instances where the requesting carrier meets the eligibility requirements."

Issue 21(a) ***What information should a CLEC be required to provide to Verizon as certification to satisfy the service eligibility criteria (47 C.F.R. Sec. 51.318) of the TRO in order to (1) convert existing circuits/services to EELs or (2) order new EELs?***

Q. WHAT INFORMATION SHOULD AT&T OR A CLEC BE REQUIRED TO PROVIDE IN ORDER TO SATISFY THE SERVICE ELIGIBILITY CRITERIA SPECIFIED BY THE FCC RULES?

A. The FCC established specific service eligibility criteria for a CLEC to self-certify when ordering either a new EEL or convert existing circuits to an EEL. That service eligibility criteria is provided in FCC Rule 51.318 and requires a CLEC to be

certificated by the state and provide self-certification that that each DS1 circuit and each DS1-equivalent circuit on a DS3 EEL meet the following criteria:

> (i) Each circuit to be provided to each customer will be assigned a local number prior to the conversion of that circuit;
>
> (ii) Each DS1-equivalent circuit on a DS3 enhanced extended link must have its own local number assignment, so that each DS3 must have at least 28 local voice numbers assigned to it;
>
> (iii) Each circuit to be provided to each customer will have 911 or E911 capability prior to the conversion of that circuit;
>
> (iv) Each circuit to be provided to each customer will terminate in a collocation arrangement that meets the requirements of paragraph (c) of this section;
> (v) Each circuit to be provided to each customer will be served by an interconnection trunk that meets the requirements of section (d) of this section;
>
> (vi) For each 24 DS1 enhanced extended links or other facilities having equivalent capacity, the requesting telecommunications carrier will have at least one active DS1 local service interconnection trunk that meets the requirements of paragraph (d) of this section; and
>
> (vii) Each circuit to be provided to each customer will be served by a switch capable of switching local voice traffic.

Q. DID THE FCC REQUIRE ANY FURTHER INFORMATION OTHER THAN A SELF-CERTIFICATION LETTER FROM THE CLEC CERTIFYING THAT THE ABOVE REQUIREMENTS HAVE BEEN SATISFIED?

A No. In fact, the FCC rejected the proposals of the incumbent LECs such as Verizon that had sought to require other onerous conditions on the CLECs as a pre-condition to order an EEL or convert existing circuits to EELs, such as pre-audits and other requirements that the FCC described as constituting "unjust, unreasonable and discriminatory terms and conditions for obtaining access to UNE combinations."

(*TRO* 577). Regarding the certification process, the FCC prescribed that a requesting carrier's "self certification" that it satisfied the service eligibility criteria "is the appropriate mechanism to obtain promptly the requested circuit" and found that "a critical component of nondiscriminatory access is preventing the imposition of undue gating mechanisms that could delay the initiation of the ordering or conversion process". (*TRO* Para. 623).

The FCC further prescribed that this "self certification" process would be subject to "later verification based on cause" (*TRO* 622) in the limited annual audit process discussed by the FCC. The FCC found that a requesting carrier's self-certification of satisfying the qualifying service eligibility criteria for EELs "is the appropriate mechanism to obtain promptly the requested circuit". (*TRO* 623).

Q. PLEASE DESCRIBE THE PROPOSED REQUIREMENTS THAT VERIZON WOULD IMPOSE ON AT&T AND OTHER CLECS IN ORDER TO PLACE ORDERS FOR EELS.

A. Verizon's contract amendment proposal regarding the information that AT&T and other CLECs would be required to provide in its "self certification" of satisfaction of the service eligibility criteria in order to (1) convert existing circuits/services to EELs or (2) order new EELs constitutes an "undue gating mechanism", is discriminatory and should be rejected. Verizon's proposal is much more onerous than required by the Rules and appears to be designed to impede AT&T and other CLECs from utilizing the EELs that Verizon is obligated to provide.

Paragraph 3.4.2.3 of the Verizon proposal would require AT&T to provide the

specific local telephone number assigned to each DS1 circuit or DS1-equivalent; the date each circuit was established in the 911/E911 database; the specific collocation termination facility assignment for each circuit and a "showing" that the particular collocation arrangement was established pursuant to the provisions of the federal Act dealing with local collocation and the interconnection trunk circuit identification number that serves each DS1 circuit. The specific information that Verizon proposes goes well beyond what is required by the FCC for a CLEC to "self certify" the satisfaction of the service eligibility criteria and receive "promptly the requested circuit." Verizon has no legal or persuasive basis for these extraordinary requirements that are not contained in the FCC rules.

For example, AT&T should only have to send a letter "self-certifying" that the DS1 EEL circuit or the 28 DS1-equivalent circuits of a DS3 EEL has a local telephone number assigned[98] and the date established in the 911 or E911 database[99] and should not be required to provide the specific telephone number or the date that the telephone number was established in the 911/E911 database. Likewise, AT&T should not be required to make a "showing" as to the nature of the collocation that it has established,[100] but rather should be permitted to self-certify that the collocation

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[98] E.g. the particular, local telephone number assigned may change in the ordinary course of business, but a change in the local telephone number assigned continues to satisfy the FCC criteria, and should not trigger a pointless recertification obligation. Verizon's proposal is plainly designed to harass and be punitive in its wasteful burden.

[99] The requirement to establish the local number in the E911 database is a binary condition. Verizon's proposal seeks to expand the requirement, thereby converting a one-time certification into an ongoing certification contrary to the FCC rules. Of course, a change in telephone number could be associated with a new establishment of that number in the E911 database. Neither condition changes the CLEC's eligibility or triggers any bona fide need for a re-certification.

[100] E.g. the collocation arrangement may have originally been established for access traffic and now used for both access and local, interstate and intrastate purposes.

established for the termination of the circuit meets the requirements established in Rule 51 C.F.R. 318 (c). Furthermore, there is no requirement in the qualifying service eligibility requirements that AT&T provide the "interconnection trunk circuit identification number"[101] for each DS1 EEL or DS1-equivalent of a DS3 EEL. Rather, the eligibility criteria requires that AT&T self-certify that each DS1 or DS1-equivalent circuit will be served by an interconnection trunk that "will transmit the calling party's number in connection with calls exchanged over the trunk". Rule 51.318 (d).

Much of the information that Verizon's Amendment proposal would require is information that would be examined in an "after the fact" compliance audit should such an audit be initiated. Verizon's proposal effectively foists the burden of a "before the fact" and continuous audit upon the CLECs, contrary to the FCC rules, and without justification. Rule 51.318(b)(2). As a result, the information requested in Verizon's proposal amounts to an impermissible "pre-audit" and continuous audit requirement that was rejected by the FCC as being a discriminatory "gating mechanism," and should be rejected.

Issue 21(b)(1) ***Should Verizon be prohibited from physically disconnecting, separating or physically altering the existing facilities when a CLEC requests a conversion of existing circuits/services to an EEL unless the CLEC requests such facilities alteration?***

Q. SHOULD VERIZON BE PROHIBITED FROM PHYSICALLY DISCONNECTING, "BREAKING" OR PHYSICALLY ALTERING THE

[101] Individually and in total, Verizon extraneous requirements constitute a backdoor effort to rewrite the FCC eligibility rules. Such a naked attempt should be rejected outright. Given that Verizon has offered nothing of value in exchange for these extra-regulatory requirements, it is difficult to see how such a position constitutes required, good faith negotiation.

EXISTING FACILITIES WHEN AT&T OR OTHER CLECS REQUESTS THAT AN EXISTING CIRCUIT BE CONVERTED TO AN EEL?

A. Yes. The FCC Rules do not permit Verizon to physically disconnect, separate or physically alter the existing facilities when AT&T requests the conversion of existing access circuits to an EEL unless AT&T specifically requests that such work be performed. Section 51.316(b) specifically provides that:

> An incumbent LEC shall perform any conversion from a wholesale service or group of wholesale services to an unbundled network element or combination of unbundled network elements without adversely affecting the service quality perceived by the requesting telecommunications carrier's end-user customer.

As discussed by the FCC in the *TRO* (Par 586) "Converting between wholesale services and UNEs or UNE combinations should be a *seamless* process that does not alter the customers perception of service quality" …and is "largely a billing function". *TRO* 588, (emphasis added).

Issue 21(b)(2) ***In the absence of a CLEC request for conversion of existing access circuits/services to UNE loops and transport combinations, what types of charges, if any, can Verizon impose?***

Q. IS VERIZON AUTHORIZED TO IMPOSE NON-RECURRING CHARGES ON AT&T AND OTHER CLECS WHEN ACCESS FACILITIES ARE BEING CONVERTED TO EELS?

A. Basically no. Verizon is not authorized to impose non-recurring charges (including, but not limited to termination charges, disconnect and reconnect fees) on a circuit-by-circuit basis when wholesale services (e.g. special access facilities) are being

converted to EELs. In fact, FCC Rules specifically prohibit such charges. FCC Rule 51.316(c) provides that:

> (c) Except as agreed to by the parties, an incumbent LEC shall not impose any untariffed termination charges, or any disconnect fees, re-connect fees, or charges associated with establishing a service for the first time, in connection with any conversion between a wholesale service or group of wholesale services and an unbundled network element or combination of unbundled network elements.

In promulgating this Rule, the FCC recognized (*TRO* 587) that:

> [O]nce a competitive LEC starts serving customer, there exists a risk of ***wasteful and unnecessary*** charges, such as termination charges, re-connect and disconnect fees, or non-recurring charges associated with establishing a service for the first time. We agree that such charges could deter legitimate conversions from wholesale services to UNEs or UNE combinations, or could ***unjustly enrich*** an incumbent LEC. Because incumbent LECs are never required to perform a conversion in order to continue serving their own customers, we conclude that such charges are inconsistent with an incumbent LECs duty to provide nondiscriminatory access to UNEs and UNE combinations on just reasonable and nondiscriminatory rates, terms and conditions.[102]

PLEASE DESCRIBE THE CHARGES THAT VERIZON WOULD PROPOSE TO IMPOSE ON AT&T AND OTHER CLECS IN ORDER TO PLACE ORDERS TO CONVERT EXISTING ACCESS SERVICES TO EELS.

A. Verizon's proposed Amendment contains several such charges, which are in violation of Rule 51.316(b), are unreasonable and discriminatory and therefore should be

[102] Emphasis supplied

rejected. Verizon's proposed Amendment, at Paragraph 3.4.2.4 provides that the charges for conversions from access arrangements to EELs are contained in its Pricing Attachment (Exhibit A).

Verizon would propose to charge, on a per circuit basis - $19.33 for a service order and $7.27 for an installation (or $26.60 "per circuit"). Thus, for a DS1 EEL, which consists of 24 circuits, Verizon would propose to charge $638.40 (or 24 X $26.50). In addition, at Paragraph 3.4.2.5, of Verizon's proposed Amendment, Verizon would propose to add on an additional charge a for "re-tagging fee" of $59.43 per circuit or $1426.32 per DS1 EEL (24 X $59.43). Plainly, a retagging fee is a band-aid approach to Verizon's inventory systems, and is plainly not recoverable as a forward-looking cost. Verizon's proposed Amendment and its proposed charges of over $2000 for the simple conversion of an T-1 access circuit to a DS1 EEL is clearly in excess of the forward-looking costs incurred by Verizon to make the "simple billing change" as described by the FCC and should be rejected as discriminatory.

Issue 21(c) ***What are Verizon's rights to obtain audits of CLEC compliance with the service eligibility criteria in 47 C.F.R. 51.318?***

Q. WHAT RIGHTS DOES VERIZON HAVE TO CONDUCT AUDITS TO INSURE CLEC COMPLIANCE WITH THE SERVICE ELIGIBILITY CRITERIA FOR EELS?

A. AT&T does not object to the audit rights granted by the FCC; AT&T does object to the extra-regulatory audit burdens sought by Verizon. As discussed by the FCC, Verizon should have a limited right on an annual basis to audit the compliance of

CLECs with the service eligibility criteria for EELs. An independent auditor in accordance with the standards established by the American Institute for Certified Public Accountants (AICPA) should conduct the limited audit. Verizon should be required to pay for the audit unless the auditor finds that the CLEC failed to comply in all material respects with the service eligibility criteria. (TRO 626, 627). The FCC's requirement clearly functions as counterbalance to Verizon's invoking baseless, harassing audits on CLECs. Verizon has no basis for its unlimited auditing proposal.

Q. HAS AT&T PROPOSED CONTRACT AMENDMENT LANGUAGE THAT WOULD PROPERLY IMPLEMENT THE FCC RULES AND REQUIRMENTS REGARDING THE ORDERING OF NEW EELS AND THE CONVERSION OF EXISTING CIRCUITS TO EELS?

A. Yes. Paragraphs 3.7.2 through 3.7.2.8. " Service Eligibility Criteria for Certain Combinations, Conversions and Commingled Facilities and Services" in AT&T's proposed contract amendment, (Attachment X) would implement the FCC Rules and requirements regarding the ordering of new EELs and the conversion of existing circuits to EELs.

Issue 22*: How should the Amendment reflect an obligation that Verizon perform routine network modifications necessary to permit access to loops, dedicated transport, or dark fiber transport facilities where Verizon is required to provide unbundled access to those facilities under 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51?*

Q. IS VERIZON REQUIRED TO PERFORM ROUTINE NETWORK MODIFICATIONS NECESSARY TO PERMIT AT&T AND OTHER CLECS TO GAIN ACCESS TO UNBUNDLED ELEMENTS?

A. Yes. The FCC very clearly obligated Verizon to perform the routine network modifications necessary to permit AT&T access to loops and dedicated transport. The *TRO* requires ILECs to make routine network modifications to unbundled transmission facilities used by requesting carriers where the requested transmission facility has already been constructed.[103] This obligation was made explicit in the FCC's Rules, §51.319(e)(5), which prescribes that,

> "Routine network modifications.
> (i) An incumbent LEC shall make all routine network modifications to unbundled loop facilities used by requesting telecommunications carriers where the requested loop facility has already been constructed. An incumbent LEC shall perform these routine network modifications to unbundled loop facilities in a nondiscriminatory fashion, without regard to whether the loop facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier.
>
> (ii) A routine network modification is an activity that the incumbent LEC regularly undertakes for its own customers. Routine network modifications include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that the incumbent LEC ordinarily attaches to a DS1 loop to activate such loop for its own customer. They also include activities needed to enable a requesting telecommunications carrier to obtain access to a dark fiber loop. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the construction of a new loop, or the installation of new aerial or buried cable for a requesting telecommunications carrier.

Q. DOES THE ICA NEED TO BE AMENDED TO CREATE A NEW VERIZON OBLIGATION TO PERFORM ROUTINE NETWORK MODIFICAITONS?

A. No. Verizon's requirement to make routine network modifications ***pre-existed*** the

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[103] *TRO*, ¶ 632.

TRO, and that order simply clarified that existing obligation, rejecting Verizon's bogus "no build" policy as anticompetitive and discriminatory on its face. Thus, there has been no "change in law" that would necessitate an amendment to the ICA, rather simply an enforcement of existing law. Nevertheless, for purposes of moving this case forward – and because Verizon has refused to comply with its obligations absent an amendment -- AT&T has proposed language that correctly reflects the FCC's rules. However, AT&T does not in any way concede by its response that there has been a "change in law." Likewise AT&T reserves it rights to peruse all remedies available for Verizon's unlawful "no build" practice.

Q. IF THERE IS TO BE AN AMENDMENT TO THE ICA ON THIS ISSUE, HOW SHOULD VERIZON'S OBLIGATIONS BE REFLECTED IN THE CONTRACT?

A. The contract Amendment should describe routine network modifications in the same manner and in the same detail as they are described by the FCC's Rules and in the *TRO*. For example, to clarify the extent of Verizon's obligations the *TRO* listed (illustrative but not exhaustive) examples of such necessary loop modifications as including "rearrangement or splicing of cable; adding a doubler or repeater; adding an equipment case; adding a smart jack; installing a repeater shelf; adding a line card; and deploying a new multiplexer or reconfiguring an existing multiplexer."[104] Similarly, AT&T's proposed amendment, at Paragraph 3.8.1, specifies that routine network modifications "include but are not limited to": rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack;

[104] *Id.*, ¶ 634.

installing a repeater shelf; and deploying a new multiplexer or reconfiguring an existing multiplexer. Consistent with the FCC's approach, AT&T's proposed language also states that the determination of whether a modification is routine should be based on the nature of the tasks associated with the modification, not on the end-user service that the modification is intended to enable.

Q. IS VERIZON'S PROPOSED AMENDMENT CONSISTENT WITH THE *TRO?*

A. No. Verizon proposed contract amendment is simply a continuation of its thoroughly discredited and unlawful refusal to unbundled at forward-looking rates. Verizon's proposal falls short in several critical respects. First, unlike AT&T's proposal, Verizon's proposed Amendment does not describe all of the routine network modification activities specified in the FCC Rules and the *TRO*, and also attempts to weaken its obligation in certain areas. For this reason alone it should be rejected as inconsistent with The FCC rules, in favor of AT&T's proposal. In addition, and perhaps even more fatally, Verizon tries to condition its obligation by asserting that it will make routine network modifications subject to certain rates and charges that it has set forth in a Pricing Attachment.[105]

Q. HOW HAS VERIZON SOUGHT TO WEAKEN ITS OBLIGATION TO PROVIDE ROUTINE NETWORK MODIFICATIONS?

A. There are number of examples of this. For one, Verizon, in its proposed Paragraph

[105] This is simply a continuation of Verizon's anticompetitive and facially discriminatory "no build" policy. For several years, the FCC found, that ILECs such as Verizon collected rates that typically include forward-looking cost recovery for routine network modifications, although Verizon refused to perform the routine network modifications. Now Verizon reformulates its noncompliance by only agreeing to perform routine network modifications at an unsupported rate of $1.000 in addition to the costs embedded in the Commission's approved UNE rates, as found by the FCC.

3.5.1.1. describes routine network modification to include rearranging or splicing of "in-place" cable at "existing splice points." However, there is nothing in the *TRO* or the FCC Rules that limits modifications to "in-place" cable or to "existing splice points." Such modifications could involve new cable or old cable spliced in a new arrangement. It also may necessitate establishing a new splice point.

Q. VERIZON ALSO CONTENDS THAT THE PROVISION OF ROUTINE NETWORK MODIFICATIONS SHOULD BE EXCLUDED ALTOGETHER FROM STANDARD PROVISIONING INTERVALS AND PERFORMANCE MEASURES AND REMEDIES. IS THIS CONSISTENT WITH THE *TRO*?

A. No. There is nothing in the *TRO* that support the exclusion of routine network modifications from existing metrics and remedies plans. To the contrary, the FCC found that the extent modifications did affect loop-provisioning intervals it expected any such impact would be addressed by the state commissions in their recurring reviews of LEC performance.[106]

Q. WHY IS IT APPROPRIATE TO SUBJECT VERIZON'S PERFORMANCE OF ROUTINE NETWORK MODIFICATIONS TO PERFORMANCE MEASUREMENTS AND REMEDIES?

[106] *TRO*, ¶ 639.

A. As I have previously indicated, there is simply no reason to exclude these obligations from the performance metrics and remedies adopted by this Commission. This is consistent with the principle the FCC used to impose the obligation to provide routine network modifications in the first place – parity with its retail operations

Q. IS VERIZON IS ENTITLED TO CHARGE COMPETITORS FOR ROUTINE NETWORK MODIFICATIONS?

A. Verizon is *already* is charging competitors for routine network modifications, although it has refused to perform them. Accordingly, Verizon has necessarily over recovered its forward-looking costs for what it the high capacity loops not needing modification that it has provided. This has been a windfall. Further to the extent that Verizon choked back competition for business customers and propped-up alternative special access prices, Verizon has enjoyed unjust enrichment.

The FCC noted that the costs of routine network modifications are most often already included in existing TELRIC rates.[107] This means that, in most instances, existing non-recurring and recurring UNE rates have been set at levels that fully recover an Verizon's forward-looking cost of performing routine network modifications and, as a consequence, no further cost recovery is justified. Certainly Verizon's unsupported and unsupportable $1000 rate is unjustified on its own. Thus, the *TRO* itself is quite clear that AT&T shall not be obligated to pay separate fees for routine network modifications to any UNE or UNE combination unless and until Verizon demonstrates that such costs are not already recovered from monthly recurring rates

[107] *TRO*, ¶ 640.

for the applicable UNE(s) or from another cost recovery mechanism. Verizon has not even bother to make a colorable effort at compiling with this express FCC requirement.

Q. HAS ANY STATE COMMISSION ALREADY RULED AGAINST VERIZON'S PROPOSED ADDITIONAL COMPENSATION FOR ROUTINE NETWORK MODIFICATIONS?

A. Yes. Maine, Virginia, and New York have each ruled against Verizon on this issue.

Maine In Docket 2004-135, the Maine Commission agreed with the FCC that the costs of routine network modifications are often reflected in existing TELRIC rates. The Maine Commission placed the burden of proof on the ILEC to demonstrate that additional charges are necessary.

New York Even more recently, the New York Public Service Commission issued a decision requiring Verizon New York Inc. to make any and all routine network modifications necessary without imposing any charge for such modifications. In making this finding, the NYPSC relied on the FCC's *TRO* and stated:

> As the FCC found, the failure to carry out activities for CLECs that are routinely performed for retail customers is discriminatory and therefore anticompetitive.[108]

Virginia: The Virginia State Corporation Commission ruled, "The costs for routine network modifications have been addressed in the TELRIC rates previously established by the Commission for high capacity UNE loops."[109]

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[108] Proceeding on Motion of the Commission to Examine the Provision of High-Capacity Facilities in by Verizon New York, Case 02-C-1233 (other cites excluded), Order Directing Routine Network Modifications, issued February 10, 2005.

[109] *Petition of Cavalier Telephone, LLC For Injunction Against Verizon Virginia Inc. for Violations of Interconnection Agreement and For Expedited Relief to Order Verizon Virginia Inc. to Provision Unbundled*

Q. HAS VERIZON MADE HERE THE SHOWING EXPRESSLY REQUIRED BY THE FCC?

A. No. Verizon hasn't even made a colorable effort to comply. Verizon has done no more than submit an unsupported and unsupportable Pricing Attachment and claim an entitlement to those rates. It has not made any good faith attempt to prove that the alleged costs of routine network modifications are not already captured in its existing recurring and nonrecurring rates. Verizon has not shown that it excluded these costs from the assumptions and inputs that were used to develop its current rates. Thus, Verizon should not be permitted to impose these charges on AT&T for routine network modifications without a prior determination by this Commission of whether the activities for which the rates have been proposed are already included in the non-recurring or recurring rates for the unbundled element in question and, if not, without a review and approval of underlying cost studies supporting the charges to be imposed. It is critical for this Commission to address this matter in the proper light of years of active non-compliance by Verizon, which the FCC found was anti-competitive and facially discriminatory. The Commission should give Verizon no quarter to spin new theories for its non-compliance, and the Commission should stand ready to engage all available enforcement mechanism in opposition to any continuation of this anticompetitive scheme.

Network Elements in Accordance with the Telecommunications Act of 1996, Case No. PUC-2002-00088, Final Order (January 28, 2004) at 8, *recon. denied* by Order on Reconsideration (March 5, 2004).

Issue 24: ***Should the Amendment set forth a process to address the potential effect on the CLECs' customers' services when a UNE is discontinued?***

Q. WHY ARE THE TRANSITION PROCESSES ESTABLISHED BY THE FCC IMPORTANT TO AT&T?

A. There are several reasons, including: service stability for our existing customers; protection against a tidal wave of maintenance issues and service rearrangements; and stability of prices/costs so that AT&T can properly analyze business decisions. By adopting these transition plans, the FCC provided CLECs with the tools to control to the greatest degree both its customers' experience and the firm's business needs. Any adverse modification to these time frames or rates would make an already difficult transition unworkable, and would be inconsistent with the FCC rules. In exchange the FCC granted the ILECs a 15% premium above their forward-looking loop and transport costs, and a one-dollar per line premium above their forward-looking UNE-P costs.

Q. SHOULD THE ICA BE AMENDED TO SET FORTH THE TRANSITION PROCESS?

A. Yes, this is not the area for ambiguity. As I noted earlier, it is essential that the ICA is sufficiently detailed to remove the possibility of avoidable misunderstandings and or disputes. Given the relatively short time frame for the transition, there is simply no room for delays caused by competing 'understandings' of the parties' rights and obligations or lengthy dispute resolutions processes.

Q. WHAT IS THE PRIMARY GOAL OF THE TRANSITION LANGUAGE PROPOSED BY AT&T?

A. AT&T seeks to ensure that services to AT&T's customers are not disrupted as a result of the changing obligations under the FCC's orders. As I discussed earlier with regard to the removal of the obligation to provide unbundled switching, the FCC is very sensitive to these issues and as a result adopted specific parameters for the transition. Verizon also received additional compensation during this transition period.

Q. WHAT SHOULD BE THE PROCESS THAT APPLIES WHEN VERIZON IS NO LONGER OBLIGATED TO PROVIDE A PARTICULAR UNBUNDLED NETWORK ELEMENT?

A. As I have described above, the *TRRO* established specific time frames and rates associated with the provision of UNEs during the FCC determined transition plan.

Q. ARE THERE OTHER TRANSITION ISSUES THAT NEED TO BE ADDRESSED?

A. Yes. AT&T believes that the transition from UNEs to alternative arrangements should be governed by the same principles articulated by the FCC in Rule 51.316(b) and (d) for the conversion to UNEs. Verizon should be required to perform the conversions without adversely affecting the service quality enjoyed by the requesting telecommunications carrier's end-user. Further, Verizon should not be able to impose any termination charges, disconnect fees, reconnect or charges associated with

establishing a service for the first time, in connection with the conversion between existing arrangements and new arrangements.

Issue 25: ***How should the Amendment implement the FCC's service eligibility criteria for combinations and commingled facilities and services that may be required under 47 U.S.C. §251©(3) and 47 C.F.R. Part 51? (See discussion of Issues 21)***

Issue 26: ***Should the Commission adopt the new rates specified in Verizon's Pricing Attachment on an interim basis?***

Q. SHOULD THE COMMISSION ADOPT THE RATES SPECIFIED IN VERIZON'S PRICING ATTACHMENT ON AN INTERIM BASIS?

A. No. The *TRRO* has clearly established the transition rates that Verizon may use, and, Verizon is prohibited from imposing different rates. Further, Verizon's Pricing Attachment, by its own terms, is not based on a Florida-specific cost study. Furthermore, even if Verizon had developed a Florida-specific cost study, that cost study has not been presented in this proceeding and the parties have not had an opportunity to examine and test the various inputs.

In addition, as my testimony demonstrates, Verizon is explicitly prohibited by federal Rules from charging the rates contained in its Pricing Attachment for EELs conversions. With regard to its proposed rates for Routine Network Modifications and Line Conditioning, the FCC and other Verizon State Commissions have already found that the costs are already recovered in the non-recurring and recurring charges for the underlying UNEs and Verizon should not be permitted to "double recover" its costs for performing these activities. This would simply move us from Verizon

charging one time and ***not*** doing the modification at all, to a scenario where Verizon double recovers to perform the modification once.

Similarly, Verizon has an obligation under federal rules to perform the functions necessary to permit AT&T to commingle unbundled network elements and combinations with access services. For this activity, Verizon should be permitted to charge AT&T the applicable charges for the UNE portion of the commingled arrangement at its UNE rates and the access portion of the commingled arrangement at the rates contained in its access tariff, each appropriately prorated. Verizon should not be permitted to charge AT&T the bogus additional charge contained in its Pricing Attachment for "Commingling Arrangements".

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes it does.

AMENDMENT NO. __

to the

INTERCONNECTION AGREEMENT

between

[VERIZON LEGAL ENTITY]

and

[AT&T LEGAL ENTITY]

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

WITNESSETH:

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

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

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

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

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

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

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

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

1. Scope of Amendment. The Parties agree that the Agreement should be amended by the addition of the terms and conditions set forth herein, in the TRO Attachment and any exhibits thereto ("collectively referred to as "Amendment"). The TRO Attachment (including Exhibits A, B, and C) are hereby incorporated by reference into this Amendment. The Amendment shall apply notwithstanding any other provision of a Verizon tariff or a Verizon Statement of Generally Available Terms and Conditions ("SGAT") unless AT&T, at AT&T's option, orders from a Verizon tariff or SGAT. As used herein, the Agreement, as revised and supplemented by this Amendment, shall be referred to as the "Amended Agreement."

2. Conflict between this Amendment and the Agreement. This Amendment shall be deemed to revise the terms and provisions of the Agreement only to the extent necessary to give effect to the terms and provisions of this Amendment. In the event of a conflict between the terms and provisions of this Amendment and the terms and provisions of the Agreement, this Amendment shall govern, *provided, however,* that the fact that a term or provision appears in this Amendment but not in the Agreement, or in the Agreement but not in this Amendment, shall not be interpreted as, or deemed grounds for finding, a conflict for purposes of this Section 2.

3. Counterparts. This Amendment may be executed in one or more counterparts, each of which when so executed and delivered shall be an original and all of which together shall constitute one and the same instrument.

4 Captions. The Parties acknowledge that the captions in this Amendment have been inserted solely for convenience of reference and in no way define or limit the scope or substance of any term or provision of this Amendment.

5. Rights of Parties. Notwithstanding any contrary provision in the Agreement, this Amendment, or in any Verizon tariff or SGAT, nothing contained in the Agreement, this Amendment, or any Verizon tariff or SGAT shall limit the Parties' rights to appeal, seek reconsideration of or otherwise seek to have stayed, modified, reversed or invalidated any order, rule, regulation, decision, ordinance or statute issued by the Commission, the FCC, any court or any other governmental authority related to, concerning, or that may affect either Party's obligations or rights under the Agreement, this Amendment, any Verizon tariff or SGAT, or Applicable Law.

6 [STATE] TRO Proceedings. Nothing contained in this Amendment is intended to waive either Party's right to incorporate the Commission's decisions resulting from its TRO proceedings. Any such decisions that materially affect any material terms of the Amended Agreement shall be considered a change in law and shall be subject to the change in law provisions of the Amended Agreement, if any.

SIGNATURE PAGE

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

AT&T [AT&T Company Full Name]

By: _____

Printed: _____

Title: _____

VERIZON [Verizon Company Full Name]

By _____

Printed: _____

Title _____

TRO Attachment

1. General Conditions

1.1 Notwithstanding any other provision of the Agreement, this Amendment, the Amended Agreement, or any Verizon tariff or SGAT, and subject to the change of law provisions of this Amended Agreement and all other relevant provisions of this Amended Agreement, Verizon shall be obligated to provide access to unbundled Network Elements ("UNEs"), combinations of unbundled Network Elements ("Combinations"), or UNEs commingled with wholesale services ("Commingling"), to AT&T under the terms of this Amended Agreement pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law as it exists at the time this Amendment is entered into.

1.2 AT&T reserves the right to argue in any proceeding before the Commission, the FCC or another governmental body of competent jurisdiction that an item not identified in the Agreement, this Amendment, or any Verizon tariff or SGAT (a) is a Network Element under 47 U.S.C. Sec. 251(c)(3) or other Applicable Law, (b) is a Network Element Verizon is required to provide by 47 U.S.C. Sec. 251(c)(3) or other Applicable Law to AT&T, or (c) is an item that Verizon is required to offer to AT&T at the rates set forth in the Amended Agreement. Verizon reserves the right to argue in any proceeding before the Commission, the FCC or another governmental body of competent jurisdiction that an item identified in the Agreement or this Amendment as a Network Element (a) is not a Network Element under 47 U.S.C. § 251(c)(3) or other Applicable Law, (b) is not a Network Element Verizon is required by 47 U.S.C. § 251(c)(3) or other Applicable Law to provide to AT&T, or (c) is an item that Verizon is not required to offer to AT&T at the rates set forth in the Amended Agreement.

2. Definitions

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

2.0 Applicable Law

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

2.1 Call-Related Databases.

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

2.2. Circuit Switch.

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

2.3 Combination.

The provision of unbundled Network Elements in combination with each other, including, but not limited to, the Loop and Switching Combinations and Shared Transport Combination (also known as Network Element Platform or UNE-P) and the Combination of Loops and Dedicated Transport (also known as an EEL).

2.4 Commingling.

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

2.5 Dark Fiber Loops and Dark Fiber Transport.

Dark Fiber Loops and Dark Fiber Transport shall be as defined in FCC Rule 51.319. Without limiting the foregoing, such facilities include the physical transmission media (e.g., optical fiber) which are "in place" or can be made spare and continuous via routine network modifications in Verizon's network, but are not being used to provide service, and which Verizon shall provide on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law. Dark Fiber is fiber within an

existing fiber optic cable that has not yet been activated through optronics to render it capable of carrying communications services. It also includes strands of optical fiber existing in aerial, buried, or underground cables which may have lightwave repeater (regenerator or optical amplifier) equipment interspliced to it at appropriate distances, but which has no attached line terminating, multiplexing, or aggregation electronics. Types of Dark Fiber UNEs include:

A) Dark Fiber Loops -- As defined above, and providing fiber connectivity between a wire center and the network demarcation point at a customer premises, and

B) Dark Fiber Transport -- As defined above, and providing fiber connectivity between Verizon switches or wire centers (including Verizon switching equipment located at AT&T's premises).

2.6 Declassified Network Elements.

Any facility that Verizon was obligated to provide to AT&T on an unbundled basis pursuant to Applicable Law, the Agreement or a Verizon tariff or SGAT, but which, except as otherwise provided in Section 3.9 below, Verizon is no longer obligated to provide on an unbundled basis under 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51. Unless there is a finding of impairment by the FCC or the Commission, Declassified Network Elements include the following: (a) Enterprise Switching; (b) OCn Loops and OCn Dedicated Transport; (c) the Feeder portion of a Loop as a stand-alone UNE; and (d) Packet Switching.

2.7 Dedicated Transport.

A transmission facility between Verizon switches or wire centers, (including Verizon switching equipment located at AT&T's premises), within a LATA, that is dedicated to a particular end user or carrier and that is provided on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law.

2.8 DS1 Dedicated Transport.

Dedicated Transport having a total digital signal rate of 1.544 Mbps

2.9 DS3 Dedicated Transport.

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

2.10 DS1 Loop.

A digital transmission channel suitable for the transport of 1.544 Mbps digital signals that is provided on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law. A DS1 Loop includes the electronics necessary to provide the DS1 transmission rate.

2.11 DS3 Loop.

A digital transmission channel suitable for the transport of isochronous bipolar serial data at a rate of 44.736 Mbps (the equivalent of 28 DS1 channels) that is provided on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law. A DS3 Loop includes the electronics necessary to provide the DS3 transmission rate.

2.12 Enterprise Switching

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

2.13 Feeder.

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

2.14 FTTH Loop.

A mass market Loop consisting entirely of fiber optic cable, whether dark or lit, between the main distribution frame (or its equivalent) in a wire center and the demarcation point at the end user's customer premises. FTTH Loops do not include such intermediate fiber-in-the-loop architectures as fiber-to-the-curb ("FTTC"), fiber-to-the-node ("FTTN"), and fiber-to-the-building ("FTTB").

2.15 Hot Cut.

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

2.16 Hybrid Loop.

Any local Loop composed of both fiber optic cable and copper wire or cable, including such intermediate fiber-in-the-loop architectures as FTTC, FTTN, and FTTB.

2.17 Inside Wire Subloop

As set forth in FCC Rule 51.319(b), a Verizon-owned or controlled distribution facility in Verizon's network between the minimum point of entry ("MPOE") at a multiunit premises where an end user customer is located and the Demarcation Point for such facility.

2.18 Line Conditioning.

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

2.19 Line Sharing

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

2.20 Line Splitting.

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

2.21 Local Circuit Switching.

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

2.22 Loop Distribution.

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

2.23 Mass Market Switching.

Local Switching or Tandem Switching that Verizon offers on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, and that is provided to AT&T to serve AT&T's end user customers over DS0 Loops.

2.24 Packet Switch.

A network device that performs switching functions primarily via packet technologies. Such a device may also provide other network functions (e.g., Circuit Switching). Circuit Switching, even if performed by a Packet Switch, is a network element that Verizon is obligated to provide on an Unbundled Network Element basis.

2.25 Packet Switching.

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

2.26 Route.

For purposes of FCC Rule 51.319 (e)(1) through (e)(5), a transmission path between one of Verizon's wire centers or switches and another of Verizon's wire centers or switches within a LATA. A route between two points (e.g., wire center or switch "A" and wire center or switch "Z") may pass through one or more Verizon intermediate wire centers or switches (e.g., Verizon wire center or switch "X"). Transmission paths between identical end points (e.g., Verizon wire center or switch "A" and Verizon wire center or switch "Z") are the same "route", irrespective of whether they pass through the same intermediate Verizon wire centers or switches, if any.

2.27 Routine Network Modifications.

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

2.28 Signaling.

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

2.29 Subloop for Multiunit Premises Access

Any portion of a Loop that is technically feasible to access at a terminal in Verizon's outside plant at or near a multiunit premises. For access to copper Subloops, it is technically feasible to access any portion of a Loop at any terminal in Verizon's outside plant, or inside wire owned or controlled by Verizon, as long as a technician need not remove a splice case to access the wire or copper of the Subloop; provided, however, near Remote Terminal sites, Verizon shall, upon site-specific request by AT&T, provide access to a Subloop at a splice.

2.30 Tandem Switching

The trunk-connect facilities on a Verizon circuit switch that functions as a tandem switch, plus the functions that are centralized in that switch, including the basic switching function of connecting trunks to trunks, unbundled from and not contiguous with loops and transmission facilities. Tandem Switching creates a temporary transmission path between interoffice trunks that are interconnected at a Verizon tandem switch for the purpose of routing a call. A tandem switch does not provide basic functions such as dial tone service.

2.31 UNE-P

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

3. UNE TRO/FCC Interim Rules Provisions

3.1 During the Interim Period, Verizon shall provide Network Elements consistent with the rates, terms and conditions of this Amendment and shall not make any unilateral changes to (including any discontinuances of) its offering of Network Elements. Consistent with the Interim Order Verizon shall provide to AT&T access to mass market local circuit switching, and associated shared transport, DS1, DS3 and dark fiber loops and DS1, DS3 and dark fiber dedicated transport on all the same terms, conditions and rates in effect between Verizon and AT&T as of June 15, 2004 as set forth in **[CITE the interconnection agreement between the Parties as of June 15, 2004]** the "Interim Period Agreement" for the period described in Section 3.1.2 below. The applicable provisions of the Interim Period Agreement shall include both the Network Elements sections specific to the provision of access to mass market local circuit switching, and associated shared transport, DS1, DS3 and dark fiber loops and DS1, DS3 and dark fiber dedicated transport, as well as all the sections of generally applicable Network Elements terms and conditions. These obligations apply to both existing and new Network Elements (Network Elements ordered after the effective date of this Amendment) and apply to access to such Network Elements either singly or in any combination thereof, including EELs and UNE-P, as provided by said Interim Period Agreement. Notwithstanding any other provision in the Interim Period Agreement, including any scheduled expiration of the Interim Period Agreement, that agreement shall remain effective until a replacement interconnection agreement is implemented.

3.1.1 The terms, conditions and rates relating to access to other Network Elements (those elements not listed in Section 3.1 above) are unaffected by the terms of the Interim Order.

3.1.2 Subject to the provisions set forth in Sections 3.1.8 through 3.1.13 below regarding change in law, the obligations set forth in Section 3.1 above shall remain in place from the effective date of this Amendment until the earlier of the effective date of the final unbundling rules promulgated by the FCC in CC Docket No 01-338, or six months after Federal Register publication of the Interim Order ("Interim Period"), except to the extent that the obligations, in whole or in part, have been superceded by either a voluntary negotiated agreement between AT&T and Verizon; an intervening FCC Order affecting specific unbundling obligations implemented pursuant to the change in law section, Section * , of the Interim Period Agreement ; or (with respect to rates only) a Commission order raising or reducing rates for the above listed Network Elements.

3.1.3 Transition Period – If not otherwise superceded as provided in Section 3.1.2 above, for six months following the end of the Interim Period (the "Transition Period"), and unless, during those six months, the FCC establishes different transition rules and/or time frames in its final rules in CC Docket 01-338; and/or in the absence of an FCC ruling that switching, and/or DS1/DS3 or dark fiber loops or DS1/DS3 or dark fiber dedicated transport must be made available pursuant to Section 251(c)(3); and/or absent any independent Commission ruling that access to such network elements must be made available pursuant to applicable federal or state law at rates different than those set forth in 3.1.4 and 3.1.5 below; Verizon may charge, on a prospective basis only, up to the following rates for AT&T's existing customer base.

3.1.4 For switching, Verizon's rates for switching elements when provided in combination with shared transport and loops (UNE-P) shall not exceed the higher of:

3.1.4.1 The TELRIC rate at which AT&T leased that combination of elements on June 15, 2004, plus one dollar; or

3.1.4.2 The TELRIC rate the Commission established, if any, between June 16, 2004, and six months after Federal Register publication of the Interim Order, plus one dollar.

3.1.5 For DS1, DS3 and dark fiber loops and dedicated transport, Verizon's rates shall not exceed

3.1.5.1 115% of the TELRIC rate AT&T paid for that element on June 15, 2004; or

3.1.5.2 115% of the TELRIC rate the Commission establishes, if any, between June 16, 2004 and six months after Federal Register publication of the Interim Order (September 13, 2004).

3.1.6 Where the Transition Period takes effect and the rates set forth in Section 3.1.4 and/or 3.1.5 apply, the terms and conditions of access for these elements shall remain unchanged and shall be provided consistent with the Interim Period Agreement, as revised by this Amendment.

3.1.7 Absent a Commission ruling that access to the Network Elements set forth in Section 3.1 must be provided to new customers pursuant to applicable federal or state law at specific regulated rates, terms and conditions, the rates terms and conditions of access for new customers are not subject to the rate caps set forth in 3.1.4 and 3.1.5 above. For purposes of this section, new customers are customers that are acquired by AT&T on or after either the beginning of the Transition Period, or the Amendment Effective Date, whichever is later. New customers do not include AT&T's existing customers at additional locations, or existing customers for which AT&T is providing additional or expanded services or facilities on or after the effective date of this Amendment, or for customers whose connectivity is changed (e.g. technology migration, hot cut, loop reconfiguration, UNE-P to UNE-L etc) on or after the effective date of this Amendment. AT&T will provide Verizon with the information necessary to identify new customers and Verizon shall apply its rate for new customers only to those orders identified by AT&T as orders relating to new customers.

3.1.8 If the FCC's final rules find there is no impairment for one or more of the Network Elements set forth in Sections 3.1 and the final rules incorporate, without change, the transition terms set forth in Sections 3.1.3 – 3.1.7 above for the applicable Network Elements, and the Commission has not issued a ruling that requires Verizon to provide access to such element(s) pursuant to federal or state law at specific regulated rates, terms and conditions, different than those set forth in Section 3.1, then the transition terms and conditions set forth in Sections 3.1.3 – 3.1.7 shall apply to those elements for which there has been a finding of non-impairment upon the effective date of that FCC order.

3.1.9 Under no circumstances shall there be any retroactive application of price increases for any such Network Elements.

3.1.10 Upon expiration of the Transition Period, Verizon shall not impose any termination charges associated with the conversion or any discontinuance of any such Network Element and the conversion of such Network Element(s) shall take place in a seamless manner without any customer disruptions or adverse affects to service quality. When a conversion of such Network Element is to an analogous access service or alternative service arrangement, Verizon shall perform such conversion on a single order and shall not assess any non-recurring charges for such conversion even if managed as a project.

3.1.11 If the FCC's final rules find that there is impairment for one or more of the Network Elements set forth in Section 3.1, then Verizon shall provide AT&T access to those network elements consistent with those rules upon the effective date of the rules. Pursuant to this requirement, and without limiting the foregoing, if there is a finding of impairment with respect to EELs, Verizon shall, without delay, accept and process all pending and new conversion requests for EELs. All other terms and conditions for access to any network element for which the FCC finds impairment shall continue to be governed by the terms of the Agreement as they existed on June 15, 2004.

3.1.12 If the FCC's final rules address issues other than the impairment issues for the Network Elements set forth in Section 3.1, or if the final rules adopt transition rules that are different than the rules set forth in Sections 3.1.3 – 3.1.7, then, the Parties shall, if a change in law has occurred, incorporate those final rules into the Agreement pursuant to the change in law provisions of Section ** of the Interim Period Agreement.

3.1.13 Notwithstanding any other provision of this Amended Agreement, if the Commission issues any ruling, pursuant to federal or state law, requiring access to any of the Network Elements set forth in Section 3.1 after the expiration of the Interim Period, at rates terms and conditions different than those set forth in Sections 3.1.3 – 3.1.7, Verizon shall continue to provide such access consistent with the Commission order upon the effective date of that order.

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

3.2.1 Hi-Cap Loops. Notwithstanding any other provision of the Agreement or a Verizon tariff or SGAT and subject to the provisions of Section 3.1 above:

3.2.1.1 DS1 Loops. Upon AT&T's request, Verizon shall provide AT&T with nondiscriminatory access to DS1 Loops on an unbundled basis under the Amended Agreement in accordance with Section 3.1 above, and 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law.

3.2.1.2 DS3 Loops. Upon AT&T's request, Verizon shall provide AT&T with nondiscriminatory access to DS3 Loops on an unbundled basis under the Amended Agreement in accordance with Section 3.1 above, 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law.

3.2.2 FTTH Loops and Retirement of Copper Loops.

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

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

3.2.2.3 Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT and subject to the conditions in this Section below, Verizon shall maintain the existing copper Loop connected to the particular customer premises after deploying the FTTH Loop and provide nondiscriminatory access to that copper

Loop on an unbundled basis unless Verizon retires the copper Loop pursuant to the terms of this Section 3.2.2.3.

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

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

3.2.2.6 Verizon shall not retire any copper Loop or copper Subloop and replace it with FTTH Loops unless it provides AT&T with notice of such retirement and that retirement has been approved consistent with the network disclosure requirements set forth in Section 3.2.2.7 below.

3.2.2.7 For retirement of copper Loops or cooper Subloops that are replaced with FTTH Loops, Verizon shall file notice of such retirements with the FCC and AT&T at least 180 calendar days before the proposed retirement date. If the FCC approves the proposed retirement, and if the proposed retirement also meets any and all requirements of the Commission regarding the retirement of copper Loops, Verizon may proceed with the retirement consistent with Section 3.2.2.5 above. Notwithstanding the above, Verizon shall not retire any copper Loop or copper Subloop during the time that there is a pending Commission proceeding that is examining retirement rules. The requirements for the retirement of copper Loops also apply to the retirement of copper Subloops.

3.2.2.8 Verizon shall not make any changes to the underlying Loop architecture without providing notice of intent to make the change and notifying AT&T at least 180 calendar days before the actual change, and unless Verizon can demonstrate, in writing, if so requested by AT&T, that the proposed change will not, in any way, reduce the transmission capability of an unbundled Loop type employed by AT&T that would be affected by the change. In addition, Verizon shall not migrate AT&T copper Loops onto other network architectures without AT&T's prior approval.

3.2.2.9 Any approved network changes to the transmission characteristics of any Loop interface, including the retirement of a copper Loop or copper Subloop that have met the applicable requirements of this Section 3.2.2, shall be implemented according to mutually agreeable change management procedures.

3.2.2.10 Verizon shall not engineer the transmission capabilities of its network in a manner, or engage in any policy, practice, or

procedure, that disrupts or degrades AT&T's access to, or ability to tap the full capabilities of, a local loop or subloop. As such, Verizon's modification of loop plant (e.g., removing copper feeder facilities and stranding CLEC's access to distribution subloop) shall not limit or restrict AT&T's ability to access all of the loop features, functions and capabilities, including DSL capabilities, nor increase the price of any loop used by, or to be used by, AT&T. Furthermore, Verizon will not retire all or part of a copper loop facility or otherwise limit AT&T's access to copper loops unless Verizon has: (1) provided at least 180 days advance notice to AT&T of the planned modification; (2) offered alternative means for AT&T to serve affected and prospective customers with equivalent bandwidth and compatible protocol at no greater charge by Verizon had a copper loop remained available; and (3) received written acknowledgement from AT&T that the alternative is acceptable. In the event of a dispute, no change shall be implemented unless the Parties can resolve the dispute within 30 days, or, absent such resolution, the Commission approves the proposed change.

3.2.3 Hybrid Loops Generally

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

3.2.3.2 Narrowband Services. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, as of the Amendment Effective Date, when AT&T seeks access to a Hybrid Loop for the provision to its customer of "narrowband services," as such term is defined by the FCC, then in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, Verizon may either (a) provide nondiscriminatory access under the Amended Agreement to a spare home-run copper Loop serving that customer on an unbundled basis, or (b) provide nondiscriminatory access under the Amended Agreement, on an unbundled basis, to an entire Hybrid Loop capable of voice-grade service (i.e., equivalent to DS0 capacity), using time division multiplexing technology. If AT&T specifies an unbundled copper loop in its order, Verizon shall provide an unbundled copper loop, using Routine Network Modifications as necessary, unless no such facility can be made available via Routine Network Modifications.

3.2.3.3 Feeder. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, and subject to the provisions of Section 3.9 below, as of the Amendment Effective Date, Verizon shall not be required to

provide access to the Feeder portion of a Loop on an unbundled, standalone basis.

3.2.4 IDLC Hybrid Loops.

IDLC Hybrid Loops. Notwithstanding any other provision of the Agreement, Section 3.2.3 above, or any Verizon tariff or SGAT, as of the Amendment Effective Date, if AT&T requests, in order to provide narrowband services, unbundling of a 2 wire analog or 4 wire analog Loop currently provisioned via Integrated Digital Loop Carrier (over a Hybrid Loop) ("IDLC"), Verizon shall, pursuant to 47 U.S.C. Section 251(c)(3), 47 C.F.R. Part 51, or other Applicable Law, provide AT&T unbundled access to a transmission path over Hybrid Loops served by IDLC systems, which shall be either through a spare copper facility or through the availability of Universal DLC systems. If neither of the aforementioned options is available, Verizon shall provide AT&T a technically feasible method of unbundled access. If AT&T specifies an unbundled copper loop in its order, Verizon shall provide an unbundled copper loop, using Routine Network Modifications as necessary, unless no such facility can be made available via Routine Network Modifications.

3.2.5 Dark Fiber Loops.

Upon AT&T's request, Verizon shall provide AT&T with nondiscriminatory access to Dark Fiber Loops on an unbundled basis under the Amended Agreement in accordance with Section 3.1 above and 47 U.S.C § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law.

3.2.6 Network Interface Device

If AT&T requests access to a Loop, Network Interface Device ("NID") functionality shall be provided with such Loop and no additional NID charge shall be included.

3.2.7 Packet-based Loops. Where Verizon deploys a packet-based loop, Verizon must provide non-discriminatory access to at least 64 kbps loop connections that have software defined paths and performance parameters, and that meet service parameters (delay, sustained cell rate, call loss and peak cell rate) suitable for common telecommunication services and IP Enabled services.

3.2.8 Verizon must provide timely access to unbundled loops (i.e., the lesser of 3 days or the standard interval offered by Verizon to its retail customers). If Verizon is unable to provide timely access to unbundled loops (including causes due to lack of efficient processes or systems) and if Verizon has established, or can establish via Routine Network Modifications, broadband connectivity to the customer premise, then Verizon must provide timely access to a broadband loop (including all of the functions, features, and capabilities of the broadband loop) until such time as access to the requested unbundled loop is completed.

3.3 Line Sharing.

Notwithstanding any other provision in the Agreement or any Verizon tariff or SGAT, as of October 2, 2003:

3.3.1 Line Sharing

3.3.1.1 New Line Sharing. Verizon shall provision new Line Sharing arrangements in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law. Verizon shall provide new Line Sharing arrangements on a transitional basis pursuant to rates, terms, and conditions prescribed by the FCC in 51.319(a)(1)(i) (B) or other Applicable Law.

3.3.1.2 Grandfathered Line Sharing. Any existing Line Sharing arrangement over a copper Loop or Subloop in place with an end user customer of AT&T will be grandfathered at existing rates, provided AT&T began providing xDSL service to that end user customer using Line Sharing over that Loop or Subloop prior to October 2, 2003, and only so long as AT&T, or its successor or assign, has not ceased providing xDSL service to that end user customer at the same location over that Loop or Subloop.

3.3(A) Line Splitting

(a) Verizon shall provision Line Splitting arrangements under the Amended Agreement pursuant to Applicable Law. Verizon shall enable AT&T to engage in line splitting using a splitter collocated at the Central Office.

(b) Verizon's obligation to provide AT&T with the ability to engage in line splitting applies regardless of whether the carrier providing voice service provides its own switching or obtains local circuit switching as an unbundled network element pursuant to Applicable Law.

(c) Verizon shall make all necessary network modifications, including providing nondiscriminatory access to operations support systems necessary for pre-ordering, ordering, provisioning, maintenance and repair, and billing for loops used in line splitting arrangements.

(d) AT&T may, at its option, utilize the LSR process to order line splitting.

3.3 (B) Line Conditioning

(a) Verizon shall condition a copper loop, at no cost, where AT&T seeks access to a copper loop, the high frequency portion of a copper loop, or a copper Subloop to ensure that the copper loop or copper Subloop is suitable for providing digital subscriber line services, including those provided over the high frequency portion of the copper loop or copper Subloop, whether or not Verizon offers advanced services to the end-user customer on that copper loop or copper Subloop.

(b) Insofar as it is technically feasible, Verizon shall test and report troubles for all the features, functions, and capabilities of conditioned copper lines, and may not restrict its testing to voice transmission only

(c) Where AT&T seeks access to the high frequency portion of a copper loop or copper Subloop and Verizon claims that conditioning that loop or Subloop will significantly degrade, as defined in Section 51.233 of the FCC's rules, the voiceband services that Verizon is currently providing over that loop or Subloop, Verizon must either:

(i) Locate another copper loop or copper Subloop that has been or can be conditioned, migrate Verizon's voiceband service to that loop or Subloop, and provide AT&T with access to the high frequency portion of that alternative loop or Subloop; or

(ii) Make a showing to the Commission that the original copper loop or copper Subloop cannot be conditioned without significantly degrading voiceband services on that loop or Subloop, as defined in Section 51.233 of the FCC's rules, and that there is no adjacent or alternative copper loop or copper Subloop available that can be conditioned or to which the end-user customer's voiceband service can be moved to enable line sharing.

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

3.3(C) Maintenance, Repair, and Testing

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

3.4 Subloop. Verizon shall provide AT&T with nondiscriminatory access to subloops on an unbundled basis at any technically feasible point (including at fiber distribution facilities) and pursuant to Section 251(c)(3) of the Act, Section 51.319(b) of the FCC's rules, and any other Applicable Law. One type of Subloop is Inside Wire Subloop, which is defined in Section 2.17 above. The subloop element shall include any and all of the features, functions, and capabilities of the subloop, including, but not limited to: (i) loop concentration/multiplexing functionality, (ii) loop distribution, and (iii) on-premises wiring owned or controlled by Verizon. Verizon shall also provide any combination of subloop elements ordinarily combined in the Verizon network, and any pre-existing combination of subloop elements shall not be separated unless so directed by AT&T.

3.4.1 Copper Subloops. Verizon shall provide AT&T with nondiscriminatory access to a copper subloop on an unbundled basis. A copper subloop is a portion of a copper loop, or hybrid loop, comprised entirely of copper wire or

copper cable that acts as transmission facility between any point of technically feasible access, as defined in Section 3.4.2 below, and the end-user customer premises. A copper subloop also includes all intermediate devices (including repeaters and load coils) used to establish a transmission path between a point of technically feasible access and the demarcation point at the end-user customer premises, and includes the features, functions, and capabilities of the copper loop. Copper subloops include two-wire and four-wire analog subloops as well as two-wire and four-wire subloops conditioned to transmit the digital signals needed to provide digital subscriber line services, regardless of whether the subloops are in service or held as spares

3.4.2 Point of Technically Feasible Access. A point of technically feasible access is any point in Verizon's outside plant owned or controlled by Verizon, or is at or near a multiunit premises, where it is technically feasible for a technician to access the wire or fiber within a cable without removing a splice case to reach the wire or fiber and thereby establish connectivity. Such points include, but are not limited to, a pole or pedestal, the serving area interface, the network interface device, the minimum point of entry, any remote terminal, the single point of interconnection, the feeder/distribution interface, and cross-connection panels deployed at the customer premises. Verizon shall upon a site-specific request by AT&T, provide access to a copper subloop at a splice near a remote terminal. Within thirty (30) days from the Amendment Effective Date, Verizon shall provide AT&T with a written proposal that describes in detail commercially viable methods that allow AT&T to access subloops in accordance with the terms of the Agreement, this Amendment and Applicable Law. Within ten (10) days of receipt of such proposal but in no case later than forty (40) days from the Amendment Effective Date, the Parties shall begin to negotiate mutually agreeable terms that effectuate commercially viable methods for AT&T to access subloops. The agreed upon methods shall be implemented within thirty (30) days after the Parties reach such agreement. Should the Parties not reach agreement within ninety (90) days from the Amendment Effective Date, either Party may pursue resolution of these issues pursuant to the dispute resolution provisions of the Amended Agreement and, to the extent they exist, the expedited dispute resolution processes of such Agreement. Until these issues are resolved by the Parties, or during the pendency of any dispute resolution proceeding initiated by a Party to resolve these issues, Verizon shall, notwithstanding the terms in Section 3.1.3 above, provide AT&T with access to the full frequency/spectrum of copper/fiber Hybrid Loops.

3.4.3 Collocation. Access to the copper subloop shall be subject to sections 51.321 and 51.323 of the FCC's collocation rules; provided, however, no collocation requirement may be imposed by Verizon at a customer's premises when AT&T uses the same or similar space to access Inside Wire Subloops.

3.4.4 Access to Multiunit Premises Wiring. Verizon shall provide AT&T with nondiscriminatory access to Inside Wire Subloops for access to multiunit premises wiring on an unbundled basis regardless of the capacity or type of media (including, but not limited to copper, coax, radio and fiber) employed for the Inside Wire Subloop.

3.4.5 Single Point of Interconnection. Upon notification by AT&T that it requests interconnection and/or access to unbundled Inside Wire Subloops, at a multiunit premises and, if so requested by AT&T, Verizon shall provide a single point of interconnection (SPOI) that is suitable for use by multiple carriers. This obligation shall be in addition to Verizon's obligations, under section 51.319 (b) (2) of the FCC's rules, to provide nondiscriminatory access to a subloop for

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

3.4.6 Technical Feasibility. If Verizon and AT&T are unable to reach agreement through voluntary negotiations as to whether it is technically feasible, or whether sufficient space is available, to unbundle a copper subloop or subloop for access to multiunit premises wiring at the point where AT&T requests, Verizon shall have the burden of demonstrating to the state commission, in state proceedings under Section 252 of the Act, that there is not sufficient space available, or that it is not technically feasible to unbundle the subloop at the point requested by AT&T.

3.4.7 Best Practices. Once one state commission has determined that it is technically feasible to unbundle subloops at a designated point, Verizon, in any state, shall have the burden of demonstrating to the state commission, in state proceedings under Section 252 of the Act, that it is not technically feasible, or that sufficient space is not available, to unbundle its own subloops at such a point.

3.4.8 Connection to Subloops. Connection to subloops (including the network interface device (NID)), including but not limited to directly accessing the customer side or network side of the cross-connection device owned or controlled by Verizon, may be performed by AT&T technicians or its duly authorized agents, at its option, (i) without the presence of Verizon technicians, and (ii) at no additional charge by Verizon. Such connecting work performed by AT&T may include but is not limited to lifting and re-terminating of cross-connection or cross-connecting new terminations at accessible terminals used for subloop access. No supervision or oversight by Verizon personnel shall be required but Verizon may monitor the work, at its sole expense, provided Verizon does not delay or otherwise interfere with the work being performed by AT&T or its duly authorized agents.

3.4.9 Network Interface Device. Apart from its obligation to provide the NID functionality as part of an unbundled loop or subloop as set forth in Section 3.2.6 above, Verizon shall provide nondiscriminatory access to the NID on an unbundled basis. Verizon shall permit AT&T to connect its own loop facilities to on-premises wiring through Verizon's NID, or at any other technically feasible point.

3.5 Unbundled Local Switching

3. 5.1 Unbundled Local Circuit Switching. Verizon shall provide AT&T with non-discriminatory access to Local Circuit Switching, including Tandem Switching, and all Signaling and Call-Related Databases associated with such Local Circuit and Tandem switching, on an unbundled basis, in accordance with Applicable Law.

3.5.1.1 Mass Market Switching. Verizon shall provide Mass Market Switching to AT&T under the Amended Agreement. Such Mass Market Switching will be provided on a nondiscriminatory, unbundled basis, in accordance with 47 U.S.C. 251(c)(3), 47 C.F.R. Part 51, Section 3.1 (including but not limited to Section 3.1.13) above or other Applicable Law.

3.5.1.2 Enterprise Switching. Verizon shall be obligated to provide non-discriminatory access to Enterprise Switching where the Commission has ordered Verizon to provide Enterprise Switching under state law or pursuant to Section 271 **[applicable where Verizon is an RBOC]**.

3.5.2 End-User Transition. Except as set forth in Section 3.1.8 above, the Parties agree to implement the FCC's final rules with respect to Local Circuit Switching in accordance with an operational plan agreed to by the Parties. To the extent that the Parties are unable to agree to such a plan within 60 days from the effective date of the permanent rules, the dispute shall be resolved in accordance with the Dispute Resolution provisions of the Agreement.

3.5.3 Signaling and Call-Related Databases. Verizon shall provide access to Signaling and Call-related Databases under the Amended Agreement in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law. In conjunction with the provision of Local Switching or Tandem Switching that Verizon is otherwise obligated to make available to AT&T under the Amended Agreement, Verizon shall provide Signaling and Call-Related Databases. Verizon shall continue to provide nondiscriminatory access to the 911 and E911 Call-Related Databases in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law. Where Local Switching or Tandem Switching associated with a particular Signaling facility or Call-Related Database is or becomes a Declassified Network Element, the associated Signaling facility or Call-Related Database associated with that Local Switching or Tandem Switching facility shall also be subject to the same transitional provisions in Section 3.9 (except for the 911 and E911 Call-Related Databases, as noted above).

3.6 Unbundled Interoffice Facilities.

3.6.1 **[INTENTIONALLY OMITTED]**

3.6.2 Dedicated Transport. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT and subject to the provisions of Section 3.1 above, and in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law:

3.6.2.1 Upon AT&T's request, Verizon shall provide AT&T with nondiscriminatory access to DS1 Dedicated Transport and DS3 Dedicated Transport on an unbundled basis pursuant to the Amended Agreement. For the avoidance of doubt: (a) a transmission facility or service that uses an OCn interface is a Declassified Network Element; and (b) Dedicated Transport includes transport between a Verizon wire center or switch and Verizon's facilities located at a CLEC's premises.

3.6.2.2 Section 251(c)(2) Interconnection Facilities. Interconnection facilities and equipment provided pursuant to 47 U.S.C. Section 251(c)(2) ("Interconnection Facilities") are not unbundled Network Elements provided pursuant to 47 U.S.C. Section 251(c)(3) and nothing in this Amendment is intended to impair or limit in any way AT&T's rights to obtain access to 251(c)(2) Interconnection Facilities. Interconnection Facilities include, but are not limited to, transport facilities and equipment between the AT&T switch and the Verizon Tandem Switch, or other Point of Interconnection designated by AT&T, used for the exchange of traffic between AT&T and Verizon. Interconnection Facilities are to be provided by Verizon to AT&T at rates consistent with the TELRIC pricing principles established by the FCC and the Commission.

3.6.3 Dark Fiber Transport. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT and subject to the provisions of Section 3.1 above, and in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, upon AT&T's request Verizon shall provide AT&T with nondiscriminatory access to Dark Fiber Transport on an unbundled basis pursuant to the Amended Agreement.

3.7 Commingling, Conversions, and Combinations.

3.7.1 Commingling and Conversions. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, and subject to the conditions set forth in the following Section 3.7.2, as of October 2, 2003 Verizon shall permit AT&T to commingle a UNE or Combination or Declassified Network Elements with wholesale services obtained from Verizon, and to also convert wholesale services to a UNE or Combination. Commingling is defined as set forth in FCC Rule 51.5. Verizon shall, upon request of AT&T, perform the functions necessary to commingle a UNE or Combination with one or more facilities or services or inputs that AT&T has obtained at wholesale from Verizon. Verizon shall not impose any policy or practice related to commingling that imposes an unreasonable or undue prejudice or disadvantage upon AT&T, and in no event shall Verizon impose any policy or practice relating to commingling that is inconsistent with Section 3.7.2 below. Subject to Section 3.7.2.2, the rates, terms and conditions of the applicable access tariff will apply to wholesale services, and the rates, terms and conditions of this Amended Agreement or the Verizon UNE tariff, as applicable, will apply to UNEs or Combinations or to the Declassified Network Elements as set forth in Exhibit A to this Amended Agreement. "Ratcheting," as that term is defined by the FCC, shall not be required. In addition, Verizon shall cooperate fully with AT&T to ensure that operational policies and procedures implemented to effect Commingled arrangements shall be handled in such a manner as to not operationally or practically impair or impede AT&T's ability to implement new Commingled arrangements and convert existing arrangements to Commingled arrangements in a timely and efficient manner and in a manner that does not affect service quality, availability, or performance from the end user's perspective., For the avoidance of doubt, Verizon acknowledges and agrees that the language of this Amendment complies with and satisfies the requirements of Verizon's wholesale and access tariffs with respect to Commingling. Verizon shall not change its wholesale and access tariffs in any fashion that impacts the availability or provision of Commingling under this Amendment or the Agreement, unless Verizon and

AT&T have amended this Amendment and the Agreement in advance to address Verizon's proposed tariff changes.

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

3.7.2.1 To the extent the service eligibility criteria for high capacity EELs apply, AT&T shall be permitted to self certify its compliance with these criteria. AT&T may elect to self-certify using a written or electronic notification sent to Verizon. AT&T must remain in compliance with said service eligibility criteria for so long as AT&T continues to receive the aforementioned combined, converted, or commingled facilities and/or services from Verizon. The service eligibility criteria shall be applied to each DS1 circuit or DS1 equivalent circuit. The foregoing shall apply whether the circuits in question are being provisioned to establish a new circuit or to convert an existing wholesale service, or any part thereof, to unbundled network elements.

3.7.2.2 There will be no charges for conversion from wholesale to UNEs or UNE combinations, unless a specific tariff charge has been approved for that purpose.

3.7.2.3 Any substitution of UNEs for wholesale services shall be subject to all of the requirements of the Amended Agreement applicable to the purchase of UNEs and Combinations, and shall include without limitation the following:

3.7.2.4. When a wholesale service employed by AT&T is replaced with UNEs, Verizon shall not physically disconnect, separate, alter or change in any other fashion equipment and facilities employed to provide the wholesale service, except at the request of AT&T.

3.7.2.5 Verizon shall process expeditiously all conversions requested by AT&T without adversely affecting the service quality perceived by AT&T's end user customer.

3.7.2.6 Until such time as Verizon implements its ASR-driven conversion process in the East, conversion of access circuits to unbundled Network Elements will be performed manually pursuant to Verizon's conversion guidelines. AT&T may request conversions of any existing service or group of services to UNEs by submitting a written or electronic request. Except where AT&T specifically requests that Verizon physically disconnect, separate, alter or change the equipment and facilities employed to provide the wholesale service being replaced, the conversion order shall be deemed to have been completed effective upon receipt by Verizon of the written or electronic request from AT&T, and recurring charges for UNEs set forth in Verizon's applicable tariffs

shall apply as of such date. For the avoidance of any doubt, conversion requests issued after the effective date of the TRO, but before the effective date of this Amendment ("Pending Requests"), shall be deemed to have been completed on the date Verizon received the Pending Request and retroactive adjustments between the applicable UNE charges and the previously applicable charges shall be calculated back to the date that Verizon received notice from AT&T of the Pending Request. The UNE charges for all conversion requests (including any retroactive adjustments) shall be reflected in the first billing cycle following the effective date of this Amendment. If that bill does not reflect the appropriate charges, AT&T is nevertheless obligated to pay no more than the applicable UNE rate. Pricing changes for conversion requests submitted after the Amendment Effective Date shall become effective upon receipt by Verizon of AT&T's request and shall be made by Verizon in the first billing cycle after such request. If any bill does not reflect the appropriate charge adjustment, AT&T may withhold payment in an amount that reflects the amount of the adjustment that should have been made on the bill for the applicable conversions. Where AT&T specifically requests that Verizon physically disconnect, separate, alter or change the equipment and facilities employed to provide the wholesale service, recurring charges set forth in Verizon's applicable tariffs and applicable to UNEs shall apply effective upon the earlier of (a) the date on which Verizon completes the requested work or (b) the standard interval for completing such work (in no event to exceed 30 days), regardless of whether Verizon has in fact completed such work. Verizon shall bill AT&T pro rata for the wholesale service through the date prior to the date on which billing at UNE rates commences pursuant to this Section. The effective bill date for conversions is the first of the month following Verizon's receipt of an accurate and complete ASR or electronic request for conversion pursuant to Verizon's conversion guidelines.

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

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

noncompliance and true up any difference in payments and reimburse Verizon for the cost of the independent auditor within thirty (30) days after receiving a statement of such costs from Verizon. Should the independent auditor confirm AT&T's compliance in all material respects with the service eligibility criteria, then AT&T shall provide to the independent auditor a statement of AT&T's costs of complying with any requests of the independent auditor, and Verizon shall then reimburse AT&T for its costs associated with the audit within thirty (30) days after receiving AT&T's statement. AT&T shall maintain records adequate to support its compliance with the service eligibility criteria for each DS1 or DS1 equivalent circuit.

3.8 Routine Network Modifications.

3.8.1 General Conditions. Routine Network Modifications are those prospective or reactive activities that Verizon regularly undertakes when establishing or maintaining network connectivity for its own retail customers. Determination of whether a modification is "routine" shall be based on the tasks associated with the modification, not on the end-user service that the modification is intended to enable. In accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51, or other Applicable Law, Verizon shall make such Routine Network Modifications in a nondiscriminatory fashion as are necessary to permit access by AT&T to the Loop (including Dark Fiber Loops), Dedicated Transport, and Dark Fiber Transport facilities available under the Amended Agreement, including DS1 Loops and DS1 Dedicated Transport, and DS3 Loops and DS3 Dedicated Transport. Where facilities are unavailable, Routine Network Modifications do not include trenching, the pulling of cable, the construction of new Loops or Transport or the installation of new aerial or buried cable to provision an order of AT&T. Verizon shall perform Routine Network Modifications without regard to whether the facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier. Routine Network Modifications applicable to Loops or Transport may include, but are not limited to: rearranging or splicing of in-place cable; adding an equipment case; adding a doubler or repeater; line conditioning; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; accessing manholes; attaching electronic and other equipment that Verizon ordinarily attaches to a DS1 Loop to activate such Loop for its own customer; and deploying bucket trucks to reach aerial cable. Routine Network Modifications applicable to Dark Fiber Transport may include, but are not limited to, splicing of in-place dark fiber; accessing manholes; deploying bucket trucks to reach aerial cable; installing equipment casings; and routine activities, if any, needed to enable AT&T to light a Dark Fiber Transport facility that it has obtained from Verizon under the Amended Agreement. The costs for these Routine Network Modifications are already included in the existing rates for the unbundled Network Elements as set forth in the Agreement.

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

3.9 Transitional Provisions for Declassified Network Elements

In accordance with 47 U.S.C. Sec. 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, Verizon and AT&T will abide by the following transitional procedures with respect to Declassified Network Elements.

3.9.1 With respect to any Declassified Network Elements, Verizon will notify AT&T in writing as to any particular unbundled facility previously made available to AT&T that is or becomes a Declassified Network Element, as defined herein ("Identified Facility"). For purposes of the Agreement and this Amendment, such Identified Facilities shall be considered Declassified Network Elements. The notice shall include sufficient information to enable AT&T to identify the Identified Facility or Facilities. If the notice does not contain sufficient information to enable AT&T to identify the Identified Facility, AT&T may, in writing, reject the notice and request additional information. For the avoidance of any doubt, Identified Facilities can only include the following: OCn Loops; OCn transport; Packet Switching; Local Switching that serves capacities of DS1 and above; and Feeder Subloop as a stand-alone UNE.

3.9.2 For any Packet Switching or stand-alone Feeder Subloop that Verizon notices as an Identified Facility, Verizon shall continue to provide any such Identified Facility without change to AT&T on a transitional basis. At any time after AT&T receives notice from Verizon pursuant to Section 3.9.1 above, but no later than the end of 120 days from the date AT&T received notice, AT&T shall either request disconnection; submit a request for analogous access service; identify and request another alternative service arrangement, or object to the proposed declassification if the Identified Facility should not be declassified based on Applicable Law. If AT&T identifies an alternative service arrangement, or analogous access service, or if AT&T objects to the declassification of the Identified facility, and the Parties cannot agree to the applicable rates, terms and conditions of the Identified Facility within 60 days after AT&T's request or objection, either Party may submit a request to the Commission to resolve the issue. Until the issue is resolved by the Parties, or during the pendency of any Commission proceeding initiated by a Party to resolve the issue, Verizon shall continue to provide the Identified Facility without change.

3.9.3 For OCn Loops, OCn transport, and Local Switching for DS1 and above that Verizon notices as an Identified Facility, Verizon shall continue to provide any such Identified Facility without change to AT&T consistent with the provisions set forth herein At any time after AT&T receives written notice from Verizon pursuant to Section 3.9.1 above, but no later than the end of the 120 days from the date AT&T received such notice, AT&T shall either request disconnection; submit a request for analogous access service; submit a request for an analogous Declassified Network Element pursuant to Exhibit A attached hereto and made a part hereof, identify another alternative service arrangement, or object to the proposed declassification if the Identified Facility should not be declassified based on Applicable Law. If AT&T identifies an alternative service arrangement, or analogous access service, or if AT&T objects to the declassification of the Identified facility, and the Parties cannot agree to the applicable rates, terms and conditions of the Identified Facility within 60 days after AT&T's request or objection, either Party may submit a request to the Commission to resolve the issue. Until the issue is resolved by the Parties or during the pendency of any Commission proceeding initiated by a Party to resolve the issue, Verizon shall continue to provide the Identified Facility without change.

3.9.4 Verizon shall not impose any termination charges associated with the conversion or any discontinuance of any Identified Facility and the conversion shall take place in a seamless manner without any customer disruption or adverse effects to service quality. When conversion is to an analogous access service or analogous

Declassified Network Element, Verizon shall perform such conversion on a single order Verizon shall not assess AT&T any non-recurring charges for such conversion.

3.9.5 Notwithstanding any other provision of the Amended Agreement, for any Declassified Network Element that Verizon remains obligated to provide as an unbundled network element pursuant to 47 USC 271 or other Applicable Law, Verizon shall provide the Network Element without interruption pursuant to the terms and conditions set forth in the Agreement. Verizon shall provide the Network Elements at TELRIC under the Section 271 "just and reasonable" pricing standard.

3.10 Hot Cut

3.10.1 AT&T and Verizon shall perform Hot Cut processes in accordance with Exhibit B, annexed hereto.

3.10.2 The Parties shall amend the applicable performance metrics/standards/measurements and remedies provisions ("Metrics/Remedies Terms") of the Agreement in accordance with Exhibit C annexed hereto. They shall have thirty (30) days from the Amendment Effective Date to negotiate mutually agreeable terms that effectuate the concepts addressed in Exhibit C. If Metrics/Remedies Terms are not already included in the Agreement, the Parties shall utilize Exhibit C to amend the Agreement to include such terms for Hot Cuts. The agreed upon measures and remedies for Hot Cuts shall be implemented within thirty days thereafter. Should the Parties not reach agreement within thirty (30) days, either Party may pursue resolution of these issues pursuant to the Dispute Resolution provisions of the Amended Agreement.

In the case of any finding of non-impairment by the Commission, the FCC or any court of competent jurisdiction with respect to unbundled Mass Market Switching, Verizon will continue to provide AT&T access to unbundled Mass Market Switching under the same rates, terms and conditions as before any finding of non-impairment, until the later of (a) such time as Batch Hot Cut, Large Job Hot Cut and Individual Hot Cut Performance Metrics and Remedies have been adopted and implemented with stable performance as part of this Amended Agreement and in accordance with Exhibit C annexed hereto or (b) the transition period set forth by the Commission, the FCC or a court of competent jurisdiction for discontinuing the unbundling of Mass Market Switching.

EXHIBIT A to Amendment No. __

to the Interconnection Agreement between

[VERIZON LEGAL ENTITY] and [AT&T LEGAL ENTITY]

1.0 Introduction

1.1 The following terms are applicable to those Network Elements that Verizon is no longer required to provide on an unbundled basis pursuant to the terms of the Agreement after Amendment Effective Date. For any such network elements that also qualify as an Identified Facility pursuant to Section 3.9 of the TRO Attachment, and for which AT&T has submitted a request for a Declassified Network Element, Verizon shall also comply with the transition requirements set forth in that section.

1.2 Upon request, Verizon shall make available to AT&T the following Declassified Network Elements under the rates, terms and conditions set forth in this Exhibit:

- OCn loops,
- OCn transport,
- local switching that serves capacities of DS1 and above

2.0 OCn Access

Verizon shall provide OCn access as set forth in this Section. OCn is an optical interface designed to work with a Synchronous Optical Network (SONET). SONET is an optical interface standard for translating electronic communications signals into photonic signals for transmission across fiber optic facilities. Ideally, SONET transmission systems are laid out in a ring formation to provide redundancy. OCn transmission facilities are deployed as SONET channels having a bandwidth of typically 155.52 Mbps (OC3 or the equivalent capacity of 3 DS3s) and higher, e.g., OC12 (622.08 Mbps); OC48 (2.488 Gbps).

2.1 Declassified OCn Loops

2.1.1 Verizon shall provide access to a Declassified OCn Loop. The Declassified OCn Loop, is a transmission facility between a distribution frame, or its equivalent, in an incumbent LEC central office, and the loop demarcation point at the end user premises. The Declassified OCn Loop shall be terminated at an appropriate network interconnect device. Specifically, AT&T shall have access to the NID and any associated Inside Wire Subloop pursuant to the rates, terms and conditions of the Agreement. The Declassified OCn Loop also includes all features, functions, and capabilities of such transmission facility. Those features, functions, and capabilities include, but are not limited to, attached electronics (except those electronics used for the provision of advanced services). Access to the Declassified OCn Loop shall also include the use of all test access functionality, including without limitation, smart jacks, for both voice and data. The OCn loop includes the secondary or redundant transmission path between the loops end points (or diverse virtual path if a physical diverse path is not technically feasible). Notwithstanding the foregoing, when Verizon deploys such technology as Next Generation Digital Loop Carrier (NGDLC), the OCn loop may include one or more transmission facilities between one or more distribution frames, digital loop carriers (DLC) and remotely deployed DSLAM, owned or controlled by Verizon.

2.1.2. Declassified OCn Loops are subject to the transmission, transmission-related functionalities and other OCn requirements as set forth in the Agreement.

2.1.3 Declassified OCn Loops also shall be subject to the loop requirements set forth in the Agreement, and shall be provided at just and reasonable rates.

2.2 **Declassified OCn Dedicated Transport**

2.2.1 In addition to providing access to Declassified Dedicated Transport as set forth in the Agreement, Verizon will also provide access to the Declassified OCn Dedicated Transport, between any Verizon switch, serving wire center or other Verizon location, or between any Verizon switch, serving wire center or other Verizon location and an AT&T switch, serving wire center or other AT&T location at OC3 (155.520 Mbps) and OC12 (622.080 Mbps) interfaces. In addition, Verizon offers OC48 (2488.320 Mbps) bandwidth as an option for interoffice capacity. AT&T may request other interface options pursuant to the BFR process.

2.2.2 When Verizon provides Declassified OCn Dedicated Transport as a circuit or a system, the entire designated transmission circuit or system shall be dedicated to AT&T's use.

2.2.3 OCn Declassified Dedicated Transport shall meet the technical requirements set forth in the Agreement. Verizon also shall provide cross-office wiring up to a suitable Point of Termination (POT) between Declassified Dedicated Transport and AT&T designated equipment, and shall provide a fiber cross connect for optical signals for the physical POT.

2.2.4 OCn dedicated access shall be provided in accordance with the requirements set forth in the Agreement; and shall be provided at just and reasonable rates.

3.0 Declassified Enterprise Local Switching

3.1 Verizon shall provide access to Declassified Enterprise Local Switching, including Tandem Switching. Declassified Enterprise Local Switching is local switching, as that term is defined in the Agreement, that serves capacities of DS1 and above. Tandem Switching establishes a communications path between two switching offices through a third switching office.

3.2 Verizon agrees to provide Declassified Enterprise Local Switching under the same terms and conditions as set forth in the Agreement, and at just and reasonable rates.

Verizon shall provide the following interfaces with Declassified Enterprise Local Switching:

DS1 (DID)	trunk side associated with a PBX
DS1 (IOF)	trunk side, associated with Dedicated Transport

4.0 Additional Requirements

Verizon agrees to offer the Declassified Network Elements set forth in this Exhibit A consistent with the applicable cooperative testing requirements as may be set forth in the Agreement, and shall also comply with the commingling requirements in Section 3.7 of the TRO Attachment, and the Routine Network Modification requirements in Section 3.8 of the TRO Attachment.

Exhibit B to Amendment No. __

to the Interconnection Agreement

between [Verizon Legal Entity] and [AT&T Legal Entity]

HOT CUT PROCESSES

1.0 Hot Cuts shall be defined as the transfer of a loop from one carrier's switch to another carrier's switch. The loop hot cut procedure shall be designed (and shall be modified from time to time as necessary) to ensure that Parties are able to transfer commercial volumes of customers from one Party's to the other Party's services on a timely basis and without perceptible disruption in service. A perceptible disruption in service shall be deemed to have occurred if the customer can notice a lack of dial tone, or if an existing call is disrupted or disconnected by the change. The process shall address acceptance/turnover process elements including but not limited to the following:

- order initiation and verification;
- order changes;
- dial tone and ANI check;
- no dial tone found at testing and resolution;
- Verizon and AT&T contact information;
- due date updates;
- cut complete and stop cut procedures;
- problem identification and status updates;
- service (facility/translation) restoral, explanation and verification;
- records/database updates;
- escalation procedures; and
- order completion, service verification and acceptance.

2.0 Development and use of provisioning tracking system to permit exchange of status information between AT&T and Verizon

Verizon shall give AT&T real time electronic notification of order status, testing status, and notification of individual loop cut completion. e.g., No dial tone, go-ahead for cut, cut completion, loop acceptance.

3.0 Cross Connects

Verizon shall conduct installation of cross-connects on MDF for purpose of provisioning UNE-L line splitting. Verizon shall permit, but not require, cage-to-cage cabling between data and voice CLECs

4.0 Concurrent development and implementation of batch hot cut process (see, Section 6.0)

The process must enable AT&T to access necessary circuit id information from Verizon to facilitate CLEC to CLEC migration.

5.0 Conversion Coordination Procedures

The following coordination procedures shall apply to conversions of customers with active service to a service configuration where AT&T uses Loops provided by Verizon (hereinafter referred to as "hot cuts")

5.1 AT&T shall request unbundled Loops from Verizon by delivering to Verizon a valid Service Order using Verizon electronic ordering platform (as cooperatively designed and implemented to

meet the minimum requirements for information exchange needed to order and provision services to certified local exchange carriers and enhanced to support industry standards as developed for interconnection services) or another mutually agreed upon system. AT&T is not required to pre-qualify that a loop can be migrated. Within XX hours of Verizon's receipt of a Service Order, Verizon shall provide AT&T the firm order confirmation ("FOC") date according to the applicable Performance Interval Dates set forth in [ ] (Performance Standards, Measurements and Penalties) of this Agreement by which the Loop(s) covered by such Service Order will be installed. A FOC is both an acknowledgement of the receipt of a valid order as well as a commitment that the order will be worked as specified in the FOC and completed by the FOC date.

5.2 Verizon agrees to accept from AT&T at the time the service request is submitted for scheduled conversion of hot cut Loop orders, a desired date, including but not limited to weekend dates, and time (the "Scheduled Conversion Time") in the "A.M." (12:01 midnight to 12:00 noon) or "P.M." (12:01 noon to 12:00 midnight) (as applicable, the "Conversion Window") for the hot cut. Verizon shall promptly acknowledge receipt of AT&T's request for a Scheduled Conversion Time, and shall also promptly advise AT&T as to whether or not such Scheduled Conversion Time will be met by Verizon. If Verizon is unable to meet the Scheduled Conversion Time requested by AT&T, in its response to AT&T Verizon shall advise as to an appropriate Scheduled Conversion Time that Verizon will meet.

5.3 Verizon shall pre-wire the pending hot cut no later than two days (or 48 hours) hours prior to the scheduled conversion time. AT&T will establish dial-tone for the customer at least two (2) business days in advance of the scheduled port time. Verizon shall perform two (2) tests for ANI and dial tone. Verizon technicians will perform ANI and dial tone tests through the tie cable provisioned between Verizon's main distribution frame and the AT&T expanded interconnection point to ensure continuity and existing dial tone. In addition, Verizon will perform ANI and dial tone testing on the existing unbundled Loop to insure that Verizon has identified the correct facility and that it is working. Such testing shall be completed by Verizon no later than XX hours prior to the scheduled conversion time. If Verizon finds no dial tone, Verizon shall immediately notify AT&T of this finding and promptly seek to rectify the situation so that dial tone is provided by the scheduled conversion time.

5.4 Except as otherwise agreed by the Parties, the time interval for the hot cut shall be monitored and shall conform to the performance standards and consequences for failure to meet the specified standards as reflected in [ ] **(Performance Standards, Measurements and Penalties)** of this Agreement.

5.5 After receiving notification of completion of the hot cut by Verizon, AT&T will confirm operation of the loop[s]. In the event the loop[s] is not functional, AT&T may request that a loop be tested in the central office. Upon such a request, Verizon's Central Office Technician will check for dial-tone and ANI on the line at the AT&T POI. If no dial-tone is found at this point, the Central Office Technician will refer the trouble back to AT&T. If AT&T cannot isolate the trouble on its side of the network, AT&T will request a meeting between the AT&T Technician and Verizon Central Office Technician to resolve the problem.

If Verizon's Central Office Technician finds dial-tone at the AT&T POI, a second dial-tone and ANI test will be performed at the last test point within Verizon's Central Office. If a problem is found at this point, Verizon Central Office Technician will isolate the problem, review the cross connects at the main distribution frame, and correct the problem. If Verizon's Central Office Technician cannot isolate the problem with the dial tone leaving the central office, a dispatch of a field technician will be required.

Verizon's field technician shall then test for dial tone to any extended demarcation point at the customer's premises that may be associated with that order.

If Verizon cannot isolate and fix the problem in a timeframe acceptable to AT&T or the customer, AT&T will be able to request the restoral for the customer to service on Verizon network. Such restoration shall occur immediately, and shall be consistent with the time required to reconnect the customer's loop to

Verizon's network. Further, AT&T customers shall not be subjected to any Verizon process delay designed for new or returning customers.

5.6 Should the customer experience trouble within 24 hours of loop acceptance by AT&T, Verizon agrees to restore the customer to service on Verizon's switch within XX hours of receiving oral request from AT&T to return service to Verizon. AT&T shall reschedule migration of the customer's service to AT&T by issuing a supplement to the original local service request.

5.7 Verizon will ensure that it processes AT&T requests for cancellation of local service requests in a time frame that allows AT&T to accurately maintain its CFA records.

6.0 Batch Hot Cut Process

A batch hot cut process shall comply with the process and requirements defined for individual hot cuts in Section 1.0 and, in addition, shall comply with the terms as described below.

6.1 AT&T shall have access to UNE-P as a customer acquisition process in anticipation of application of batch conversion process.

6.2 Batch process must include all mass-market (residential and small business served at DS0 level) customers, all types of loops used to serve such customers, and all types of transfers between LECs including but not limited to:

- Retail to UNE-L
- UNE-P to UNE-L (same local service provider)
- Migrations to and from DS0 EELs
- Migrations to and from line-splitting
- Migrations from line sharing
- UNE-P to UNE-L (different local service provider [(CLEC to CLEC)]
- UNE-L to UNE-L
- UNE-P to TSR
- UNE-P to DS0 EEL

In addition to existing UNE-P customers served over copper, UDLC and NGDLC, the process must apply to customers served over IDLC Loops

6.3 Batch Size Requirements (irrespective of loop type to be converted) are set forth below:

6.3.1 Batch shall include only migrations to AT&T.

6.3.2 AT&T shall be permitted to migrate up to 300 lines, per day, per central office. There shall be no other restrictions on number of lines to be converted per day (such as # of COs, etc.)

6.3.3 Minimum migration shall be 20 lines per hour

6.4 Timing of Batch Conversions shall be as set forth below:

6.4.1 Batch migration shall have an interval of five days

6.4.2 Verizon shall specify the order of the lines to be cut (i.e., the 20 line minimum.) within a specific one–hour window, and report such "line-up" back to AT&T via electronic tracking system described in Section 2.0. Verizon will cut over lines in sequence reported to AT&T. All (up to a maximum of 20) of an end-user's lines will be scheduled to be cut in same one-hour window.

6.5 Process Requirements shall include:

6.5.1 At AT&T's option, it may include multiple LSRs in a single batch (i.e., the ability to submit individual LSRs with a batch identifier).

6.5.2. Verizon shall provide OSS functionality equivalent to that available for UNE-P, including but not limited to:

6.5.2.1 Electronic pre-ordering, including but not limited to due date scheduling, and batch identifier assignment.

6.5.2.2 Flow-through levels for ordering and provisioning.

6.5.2.3 "As is" directory listings.

7.0 Cost of Batch Process

7.1 Verizon will provide hot cuts to AT&T at rates that are cost effective and provide AT&T with a meaningful opportunity to compete. The TELRIC forward looking rate will be based on software defined solutions and shall not exceed $5.00 per line for individual hot cuts or $3.00 per line for batch hot cuts (quantities of XX or more). Specific rates for batch hot cuts are set forth in pricing schedule Attachment XX.

7.2 Charges for migrations employing UNE-P as transition tool should be no greater than the direct hot cut charge. (Single migration charge for migration from other carrier to UNE-P to UNE-L).

8.0 Validation, Testing and Quality Assurance Requirements

8.1 Verizon shall provide a third-party certification of adequacy, scalability and quality of batch process.

8.2 AT&T and Verizon shall work cooperatively to insure data base integrity is achieved between carrier CFA assignments. This cooperative effort will include at a minimum: AT&T ensuring that its processes support data base integrity, e.g., timely issuance of disconnects, proper assigning of facilities pending on canceled LSRs, and use of information provided by Verizon to allow AT&T to identify and synchronize such data base.

8.3 The Batch Process should have no negative impacts on related systems or processes, including but not limited to:

- E911 "unlocks";
- Number porting;
- Availability of repair testing capabilities;
- Repair databases;
- Billing systems migrations;
- Provisioning systems such as TIRKS (Trunks Integrated Records Keeping System).

Exhibit C to Amendment No. __

to the Interconnection Agreement

between [Verizon Legal Entity] and [AT&T Legal Entity]

FRAMEWORK FOR HOT CUTS METRICS/REMEDIES NEGOTIATIONS

- Percentage of hot cuts completed on-time. Percentage of hot cuts completed on-time shall be adopted in the Amended Agreement to include performance for large submissions of Basic (or Individual) Hot Cuts, Bulk or Project Hot Cuts, and Batch Hot cuts. The performance standard shall be comparable to that experienced by consumers under UNE-P, 99% on time. The intervals shall be commensurate with UNE-P and Verizon's winback efforts; while the interval may reasonably be "stratified" or disaggregated to account for differences between large fully-staffed central office and remote, unstaffed manual offices, the batch interval shall not exceed the current interval for Basic Hot Cuts.
- Non-discriminatory average interval offered. Average interval offered and completed for all disaggregation of hot cuts shall be at parity with Verizon Retail offered and completed interval for addition of new lines with no dispatch.
- Percentage of hot cuts completed without a service disruption. Hot cut processes shall be structured so that all customer outages during a hot cut are captured in the I code metric. I code reporting shall be disaggregated for hot cuts. A very high Percentage of hot cuts must be completed without a service disruption, given the direct customer impact of a service disruption, consumer expectations from UNE-P, and Verizon's description of the ease of training craft. The performance standard for disaggregated hot cuts (including Individual, Bulk and Batch Hot Cut) shall be <1%. This should span Basic, Bulk/Projects, and Batch cuts
- Average duration of service interruption. The duration of a customer's outage shall be very short given the controlled central office environment. The performance standard shall be 95% I codes TTR< 15 minutes to provide a high availability rate.
- Percentage completed without timely notification. Under the Basic and Large Job hot cut processes, AT&T is responsible for activation of the ported number at NPAC following cutover of the loop. AT&T will not use the Batch process if it includes Verizon responsibility for this step.

As a result, any process that AT&T uses will require Verizon to promptly notify AT&T following the loop cutover that the cutover is complete so that AT&T can activate the number at NPAC Given the customer impact of AT&T not being able to complete the number portability transaction until it is notified by Verizon that the hot cut is complete, the performance standard for the notification shall be commensurately high: 99.5% of the notifications issued timely (within 15 minutes) after the completion (regardless of whether the hot cut was completed timely or not)

- Separating linked Hot Cut Metrics. Remedies associated with Hot Cut metrics (Basic, Bulk/Projects, and Batch Cuts) shall be calculated separately from the automatic bill credit remedies associated with other metrics.
- Minimum $50 Million Remedy. Verizon shall potentially be subject to at least $50 million in remedies under the Amended Agreement solely as the result of poor hot cut (Basic, Bulk/Projects, and Batch cuts) performance. These funds shall not be capped on a per month basis, meaning that Verizon could be liable for the full dollar amount in any given month of the year if its performance warranted it, but, in any event, would not be liable to AT&T for more than the full dollar amount in any one year period. Verizon shall be subject to additional penalties for missing performance standards in consecutive months.