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April 9, 2004

VIA OVERNIGHT & ELECTRONIC MAIL

Ms. Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
Post Office Box 47250
Olympia, WA 98504-7250

Re: Docket No. UT-043013

Dear Ms. Washburn:

Enclosed is an original and two copies of MCI's response to Verizon's Petition for Arbitration. Copies have been sent out to all parties via regular and electronic mail. If there are any questions or concerns, please contact either Michel Singer Nelson 303-390-6106 or myself 303-390-6686.

Sincerely,

A handwritten signature in cursive script that reads "Ragnhild Kinoshita".

Ragnhild Kinoshita

As an initial matter, MCI reserves its rights with respect to whether this arbitration process should be conducted on a consolidated basis, as requested by Verizon, and if so, to what extent or degree. Under the Act and the terms of MCI's interconnection agreements with Verizon, MCI is entitled to negotiate a change of law amendment with Verizon with respect to its individual contract and to seek arbitration by the Commission of any resulting disputes. Because of the nature of the *TRO* and the fact that many of MCI's edits to Verizon's proposed amendment are intended to reflect more accurately the FCC's rules, MCI agrees that there may be aspects of this proceeding that might be suitable for consolidated resolution.

In addition, MCI reserves its rights with respect to the position taken by Verizon that the FCC has required that amendments implementing the *TRO* be implemented in accordance with the timeframes set forth in section 252(b) of the Act. Specifically, MCI reserves the right to argue, among other things, that in the *TRO*, the FCC did not mandate that the timing requirements of 252(b) apply to the negotiation of amendments to contracts that contain a change-of-law provision. Although MCI is willing to pursue this proceeding with Verizon at this time, the current state of MCI's negotiations with other incumbent local exchange carriers varies, in part, because of the different change-of-law procedures specified in MCI's contracts with those carriers. MCI reserves the right to argue that the change-of-law provisions in its interconnection agreements, and not the timing requirements under section 252(b), are what govern the process of negotiating and arbitrating amendments to implement the *TRO*.

In revising Verizon's proposed language, MCI has edited the proposed amendment to reflect the *TRO* in its entirety, as it went into effect on October 2, 2003. MCI recognizes that for certain of Verizon's proposed changes, namely, those noted in Verizon's Update to Petition, Verizon relies as authority on the recent decision of the United States Court of Appeals for the

District of Columbia Circuit in *United States Telecom Association v. Federal Communications Commission*, Case No. 00-1012, decided March 2, 2004 (“*USTA II*”). As discussed below, MCI disagrees with Verizon that *USTA II* has effected a “change of law” within the meaning of the parties’ interconnection agreements. Indeed, the D.C. Circuit’s mandate has not yet issued and its decision is not yet effective. Accordingly, MCI’s position is that it would be inappropriate at this time for the Commission to arbitrate amendments to the parties’ agreements based upon the D.C. Circuit’s decision. MCI reserves the right to submit additional edits or changes as part of this proceeding in the event that *USTA II* becomes effective during the course of this proceeding.

Finally, MCI reserves its rights to argue in this proceeding that Verizon has independent obligations under state law and to provide the network elements that are the subject of the proposed TRO Attachment and that those obligations should be set forth in the parties’ interconnection agreement.

DISCUSSION

As reflected in the detailed discussion below, MCI agrees in principle with much of Verizon’s proposed amendment to its interconnection agreements with MCI. MCI does object, however, to certain of Verizon’s proposals. Some of MCI’s objections can be remedied with minor changes to the phrasing of Verizon’s proposed amendment; others require more substantial additions to and/or rewording of Verizon’s proposed language. As explained below, the great majority of MCI’s proposed revisions involve clarification and elaboration of Verizon’s proposed amendment to conform it to the FCC’s determinations in the *TRO*, and thus stem from its desire, also expressed by Verizon, to “ensure that existing agreements are comprehensively modified to bring them into accord with the requirements of federal law.” Verizon Pet. at 6. For example, Verizon’s proposed amendment does not explicitly address the parties’ obligations

with respect to line splitting, line conditioning, and combinations, all of which were reaffirmed by the FCC in the *TRO*. MCI thus proposes additions to Verizon's proposal to make explicit these obligations.

In what follows, MCI sequentially addresses Verizon's proposals, explaining to what degree MCI agrees with these proposals, and, where MCI objects, explaining the nature of its objection and offering proposed revisions to Verizon's proposal. MCI also attaches to this pleading a red-lined markup of Verizon's proposed amendment and attachments ("MCI Revisions"), to which MCI will refer throughout the discussion below. This markup includes all of MCI's proposed revisions to Verizon's submission at this time (subject to the reservations of rights noted above), including a number of stylistic and technical edits that are not discussed in the body of this pleading. In addition, a few of MCI's proposed changes are of a global nature; these proposed changes will be addressed below and flagged as global issues.

I. Amendment Terms and Conditions

MCI largely agrees with Verizon's proposed terms and conditions. MCI's primary objection concerns Verizon's attempt prematurely to implement the D.C. Circuit's *USTA II* decision in this arbitration proceeding through Verizon's Update to Petition and accompanying revised amendment. The D.C. Circuit has not yet issued its mandate, and, as to the portions of the *TRO* that the D.C. Circuit vacated, the court's decision is stayed for 60 days. Thus, the D.C. Circuit's decision has not yet become effective. Moreover, even once the D.C. Circuit's decision eventually triggers the "change of law" provisions of the parties' interconnection agreements, the parties are still obliged under those agreements to negotiate for a period of time before requesting arbitration by the Commission. MCI thus disagrees with Verizon's position that the terms of the D.C. Circuit's decision should be incorporated into the parties' agreements at this

juncture. Accordingly, MCI proposes to remove language from Verizon's proposed Amendment Terms and Conditions that would inappropriately give the court's decision an immediate effect. *See* MCI Revisions to Amendment Terms and Conditions §§ Preamble, 6.

Other than MCI's objections concerning Verizon's reliance on *USTA II*, MCI proposes only minor wording changes, as reflected in the attached Revisions. First, MCI proposes wording that would make clear that the parties' interconnection agreements remain in full force and effect except to the extent explicitly modified by the amendment. *See id.* §§ 2, 5. To ensure parity, MCI also proposes language reserving its rights, which mirrors Verizon's reservation of rights. *See id.* § 6.¹ Finally, the Commission should revise the provision concerning "Stay or Reversal of the *TRO*" to ensure that the parties' original agreements remain in effect during any stay of the *TRO* or in the event that the *TRO* is vacated or reversed. *See id.* § 6.

II. General Conditions (TRO Attachment 1)

A. Change of Law and Applicable Law (Global Issue)

MCI objects to Verizon's proposed amendment insofar as it contains unilateral change of law provisions in favor of Verizon. Specifically, MCI objects to Verizon's language in § 1.1 (which language reappears in many places elsewhere in the Attachment), which states that Verizon's obligations flow "only to the extent required by both 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51." Verizon TRO Attachment, § 1.1. The effect of Verizon's proposed language is to create a substantive condition precedent to specific Verizon obligations, and to all of Verizon's obligations generally under the TRO Attachment, that would immediately free Verizon from its obligations in the TRO Attachment if a change in the referenced law were to remove the legal basis for a particular Verizon obligation.

¹ MCI proposes similar changes to other provisions of Verizon's proposed amendment, in order to ensure reciprocal reservation of rights. *See, e.g.*, MCI Revisions TRO Attachment §§ 1.4, 3.1.1.3

MCI's proposed language in § 1.1 would articulate the appropriate framework of Applicable Law for the entire amendment. For the same reasons, MCI proposes that Verizon's proposed § 1.3 be revised to address changes in law generally and remove Verizon's ability to unilaterally implement any such changes through its tariffs. *See* MCI Revisions §§ 1.1, 1.3. MCI's proposal would ensure that all change of law issues – those arising under the existing agreement, as well as under the amendment – would be treated equally. That is, all changes of law will be subject to the negotiation procedures set forth in this amendment, and Verizon would not be able unilaterally to assert or implement (through its tariffs or otherwise) an alleged change in law.

These changes impact many sections, including, but not limited to, MCI Revisions §§ 1.1, 1.3, 3.1.1.1, 3.1.1.2, 3.1.2.2, 3.1.3.2, 3.1.3.3, 3.3.1, 3.3.1.1, 3.3.1.2, 3.3.2, 3.4.1, 3.4.3, 3.5.1, 3.5.2, 3.5.3, 3.6.1, 3.6.2.1.5, 3.7.1, and 3.8.1.

B. Use of Network Elements (TRO Attachment 1.2)

MCI objects to Verizon's proposed § 1.2, which would restrict MCI's use of UNEs in a manner inconsistent with the current state of federal law. *See, e.g.*, 47 C.F.R. § 51.309(a)-(d); *TRO* ¶¶ 135-153, 591-592. MCI thus proposes a revised § 1.2, which would consist of three subsections that accurately implement the treatment of qualifying services and use restrictions under the *TRO* and the FCC's revised rules. *See* MCI Revisions §§ 1.2.1, 1.2.2, 1.2.3.

C. Non-Discrimination

In order to address Verizon's nondiscrimination obligations, MCI proposes adding two new subsections to the General Conditions section of Verizon's proposed TRO Attachment (§ 1), as reflected in the attached Revisions. These subsections would bring the parties' agreements into conformity with federal law with respect to nondiscrimination, a principle that the FCC

reaffirmed in the *TRO*. See, e.g., *TRO* ¶ 575 (“Pursuant to the statute, requesting carriers are entitled to nondiscriminatory access to UNE combinations on just, reasonable, and nondiscriminatory rates, terms and conditions.”); *id.* ¶ 592. Specifically, MCI’s proposed §§ 1.5, 1.5.1, and 1.5.2 would explicitly recognize Verizon’s nondiscrimination obligations, including with respect to UNE combinations. See 47 C.F.R. §§ 51.307(a), 51.311(b); *TRO* ¶¶ 575, 592. In addition, MCI’s proposed § 1.6 would make express Verizon’s obligation to provide MCI with a demarcation point on a nondiscriminatory basis. See 47 C.F.R. § 51.307(b).

III. Glossary (TRO Attachment § 2)

A. Ensuring Conformity With FCC Definitions (Global Issue)

The bulk of MCI’s proposed changes to Verizon’s proposed Glossary would bring the definitions into conformity with the FCC’s definitions in the *TRO*. Although Verizon claims that its proposed Glossary “reflects the FCC’s definitions in the *Triennial Review Order*,” Verizon Pet. at 7, this is not the case with respect to several of Verizon’s proposed definitions. For example, MCI proposes adding language to Verizon’s proposed definition of DS1 Loop to conform with the definition set forth in 47 C.F.R. § 51.319(a)(4). See MCI Revisions § 2.8. Similarly, MCI proposes a definition of local switching that tracks the FCC’s definition of this term in 47 C.F.R. § 51.319(d)(1). See MCI Revisions § 2.17. Changes of this type are reflected in MCI’s attached Revisions. See, e.g., MCI Revisions §§ 2.8, 2.10, 2.17, 2.19, 2.22, 2.25.²

MCI also proposes removing from the proposed Glossary all uses by Verizon of the phrase “that is provided on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51.” See, e.g., Verizon TRO Attachment §§ 2.2, 2.3, 2.6, 2.7, 2.15. This language is

² MCI proposes removing “Tandem Switching” from the definition of Enterprise Switching, see MCI Revisions § 2.10, because the FCC includes Tandem Switching within its definition of Local Switching – a term already included in Verizon’s proposed definition of Enterprise Switching. Similarly, MCI proposes removing Verizon’s separate definition of Tandem Switching, see Verizon TRO Attachment § 2.23, and MCI’s Revisions reflect the removal of other references to this term throughout the document, see, e.g., MCI Revisions § 3.4.3.

unnecessary to a description of the affected terms, and it is confusing, as it has the potential to be read as transforming mere definitions into terms and conditions of the parties' agreements.

Specifically with respect to Verizon's proposed definition of "Nonconforming Facility," Verizon TRO Attachment § 2.16, MCI proposes certain critical revisions. First, to reflect that this term is a creation of the parties but creates no new legal obligations, MCI proposes that the term be denoted as "Nonconforming Elements." *See* MCI Revisions § 2.20. Second, MCI proposes language clarifying the difference between changes in the legal status of elements that should be handled under the Nonconforming Elements provision and those that should be handled under the Change of Law provisions of the parties' agreements. *See id.* In addition, MCI suggests omitting Verizon's use of the word "otherwise," because that word creates unnecessary ambiguity concerning which legal bodies can make non-impairment findings. *See id.* MCI's proposed changes are reflected not only in the Glossary portion of the amendment, *see id.*, but where necessary throughout the amendment, and are further elaborated in MCI's proposal regarding a transition period for Nonconforming Elements, *see id.* § 3.8.

Finally, MCI disagrees with two of Verizon's proposed definition changes contained in Verizon's Update to Petition, namely, the suggested deletion of the definition of "Qualifying Services" and the proposed revision to the definition of "Route." *See* Verizon Update to Petition, TRO Attachment §§ 2.22, 2.23. According to Verizon, both of these changes are required by the D.C. Circuit's *USTA II* decision. As an initial matter, the redefinition of "Route" that Verizon proposes is not required by *USTA II*, because the court did not redefine the term as used by the FCC, but merely suggested that the FCC erred by failing to consider the route concept properly in its impairment analysis for dedicated transport. Moreover, as MCI has explained, *see I, supra*, it is not appropriate to implement the Court's *USTA II* decision into the

parties' agreements at this time. Thus, MCI proposes striking the revisions that Verizon has argued are required by *USTA II*. See MCI Revisions §§ 2.22 (restoring the definition of "Qualifying Service"); 2.23 (striking Verizon's proposed addition to the FCC's definition of route).

B. Additional Definitions

MCI proposes that additional terms be added to the list of terms Verizon offers in its proposed Glossary. MCI's proposed terms not only are relevant to an implementation of the *TRO*, but would update the parties' agreements such that they are "comprehensively modified to bring [them] into accordance with the requirements of federal law." Verizon Pet. at 6. Specifically, MCI proposes adding definitions for Combination (Revisions § 2.2), Commingling (MCI Revisions § 2.3, see 47 C.F.R. § 51.5; *TRO* ¶ 579); Line Splitting (MCI Revisions § 2.16, see 47 C.F.R. § 319(a)(1)(ii));³ Loop (MCI Revisions § 2.18, see 47 C.F.R. § 319(a); *TRO* n.628); and Wire Center (MCI Revisions § 2.28).

C. Preventing Retroactive Effects (Global)

In several portions of Verizon's proposed amendment, beginning in the proposed Glossary, Verizon proposes that the obligations of the amendment be deemed effective October 2, 2003. See, e.g., Verizon *TRO* Attachment § 2.16 ("prior to October 2, 2003"). MCI opposes this approach, because using a past date as the amendment's effective date would threaten to retroactively impose the terms of the agreement on MCI's purchases under the agreements between October 2, 2003 and the date that this amendment is executed. Such a retroactive effect may not only be in conflict with the Change of Law provisions of the parties' agreements (which

³ In general, MCI's current agreements with Verizon do not explicitly include Line Splitting, and, in accordance with the parties' shared goal of comprehensively modifying their agreement, MCI suggests explicitly providing for line splitting and defining that term in accordance with the language in Verizon's Global Template Agreement.

call for negotiation, not immediate implementation of changes of law), but would also undermine the FCC's recognition in the *TRO* of the value of a *de facto* transition period due to the negotiation called for by many agreements' change of law provisions, *see, e.g., TRO ¶ 700*.

Accordingly, MCI proposes deleting Verizon's references to October 2, 2003 as the effective date of the amendment, and, where necessary, making other changes to Verizon's proposal to make clear that the effective date of the amendment is no earlier than the date that an agreed-to amendment is executed by the parties. As reflected in the attached Revisions, MCI's change includes, but is not limited to, MCI Revisions §§ 2.20, 3.1.1, 3.1.1.2.1, 3.1.3.2, 3.1.3.3, 3.1.3.4, 3.3.1, 3.4.1, 3.4.3, 3.5.1, 3.5.2, 3.5.3, and 3.8.1.2.

IV. Loops (TRO Attachment § 3)

A. Hi-Cap Loops (TRO Attachment § 3.1.1)

As reflected in the attached Revisions, MCI recommends three minor substantive changes to this section. First, MCI would strike the word "written," *see* MCI Revisions §§ 3.1.1.1 and 3.1.1.2, because written request (if, by that, Verizon means a letter or email) is not standard practice, as MCI frequently requests UNEs from Verizon by automated processes that may or may not be deemed "written." Because these processes for ordering and provisioning are already covered in the parties' existing agreements or pre-existing operational practices, there is no need to address or modify those procedures in this Amendment. Second, MCI would modify Verizon's language in two minor respects to conform to FCC definitions of the relevant terms. *See* MCI Revisions §§ 3.1.1.2.1 (no mention of "DS-3 equivalents" in 47 C.F.R. § 319(a)(5)(iii), 3.1.1.3 (same with respect to "class or grouping of locations in a particular market" and 47 C.F.R. § 319(a)(5)).⁴ Finally, MCI would add language to the Nonimpairment section to make

⁴ To the extent that Verizon argues that this "class or grouping of locations in a particular market" language is required by *USTA II*, *see* Verizon Update to Petition, TRO Attachment § 3.1.13, Verizon is wrong. First of all,

clear that the proposed procedures to address Nonconforming Elements would be implicated by a relevant finding of nonimpairment. *See* MCI Revisions § 3.1.1.3. Adding such language is appropriate not only because Verizon's submission recognizes the need for a transition mechanism, but also because absent such a mechanism, there would be the risk of a flash cut disconnection of MCI's facilities – an outcome that would be disastrous.

B. FTTH Loops (TRO Attachment § 3.1.2)

MCI generally agrees with Verizon's proposed language, subject to the minor changes indicated in the attached Revisions. Among other things, MCI's revisions are intended to bring these provisions into conformity with 47 C.F.R. § 319(a)(3)(ii). *See* MCI Revisions § 3.1.2.2.

C. Hybrid Loops Generally (TRO Attachment § 3.1.3)

MCI generally agrees with Verizon's proposed language, subject to the minor changes indicated in the attached Revisions. Among other things, MCI's revisions are intended to bring these provisions into conformity with 47 C.F.R. § 319(a)(2)(iii). *See* MCI Revisions §§ 3.1.3.2, 3.1.3.3, 3.1.3.4.

D. IDLC Hybrid Loops (TRO Attachment § 3.1.4)

As reflected in the attached Revisions, MCI recommends four substantive changes to this section. First, MCI proposes to delete section 3.1.4.2. Second, MCI proposes to modify the language in section 3.1.4.1 to reflect the *TRO's* requirements that Verizon provide requesting CLECs with one of the following options, in the case of IDLC loops: 1) a spare copper loop, 2) a UDLC loop, or 3) any technically feasible method of unbundled access. *TRO* at ¶297. Third, MCI recommends deleting the verb "endeavor" and using the term "where available" to make clear Verizon's affirmative obligation to provide MCI with a transmission path over hybrid loops

USTA II addressed this concept in the context of dedicated transport, not high-cap loops, and so there is no *USTA II* holding on point. Moreover, as MCI has explained, it would be inappropriate to incorporate the effects of *USTA II* into the parties' agreements at this juncture. *See I, supra*.

served by IDLC; Verizon cites no basis in the *TRO* or the FCC's rules for any reduced standard. *See* MCI Revisions § 3.1.4.1. Finally, MCI disagrees with Verizon's proposal that "standard provisioning intervals" and "performance standards" do not apply to loops provisioned under this section. *See* Verizon TRO Attachment § 3.1.4.3. Verizon has provided no support for its proposal that these generally applicable standards should not apply, and, accordingly, the Commission should modify this section to make clear that such standards *do* apply to Verizon's obligations described in this section. *See* MCI Revisions § 3.1.5.

E. Retirement of Copper Loops (MCI Revisions § 3.1.6)

Verizon's proposed amendment omits a description of its obligations with respect to the retirement of copper loops, as described in the *TRO* and the FCC's new rules. *See* 47 C.F.R. § 319(a)(3)(iii); *TRO* ¶ 283. Accordingly, MCI proposes adding a new section addressing this topic, in conformity with the FCC's description thereof. *See* MCI Revisions § 3.1.6.

F. Line Sharing and Line Splitting (TRO Attachment § 3.2, MCI Revisions § 3.2)

MCI proposes directly addressing new line sharing arrangements and the FCC's contemplated transition mechanism for these arrangements, *see* 47 C.F.R. § 51.319(a)(1)(i), in this amendment, and thus disagrees strongly with Verizon that "separate agreements" between the parties will be necessary for MCI to receive the benefit of new line sharing arrangements and the line sharing transition mechanism outlined in the *TRO*. *See* Verizon TRO Attachment § 3.2.1.1. To this end, MCI proposes a substantial modification to Verizon's proposed line sharing provisions, as reflected in the attached Revisions. Verizon proposes that a "separate, non-§ 251 wholesale arrangement," Verizon Pet. at 15, is the proper forum for the parties to address new line sharing arrangements because the FCC made a national finding of nonimpairment with respect to line sharing, and thus, according to Verizon, new line sharing

arrangements are now outside the scope of interconnection agreements arbitrated under Section 251 of the Act. Not only has Verizon offered no reasoning to support this position, *see* Verizon Pet. at 14-15, but this position is inconsistent with the FCC's rules and would drain meaning from the line sharing arrangements established by the FCC in the *TRO*. MCI is concerned that Verizon will invoke its "second agreement" proposal to create an unwarranted delay in providing critically needed line-sharing arrangements. Accordingly, MCI proposes removing the "separate agreement" requirement from this section of the amendment, thereby encompassing within the amendment new line sharing arrangements established pursuant to the *TRO*. *See* MCI Revisions § 3.2.1.1. To the same end, MCI proposes adding language to this section directly addressing Verizon's obligation to provide a Line Sharing transition mechanism and the details of that mechanism, as described by the FCC. *See id.* § 3.2.2.⁵

Unlike Verizon's Global Template Agreement, many of Verizon's contracts with MCI do not address the topic of line splitting. Thus, to ensure that Verizon's proposed amendment brings its agreement with MCI into conformity with present law, *see* Verizon Pet. at 5-6, MCI proposes including a section entitled Line Splitting, which will incorporate the terms of Verizon's Global Template Agreement. *See* MCI Revisions § 3.2.3. MCI also proposes additional language to address line splitting arrangements in the context of a UNE loop arrangement. *See* MCI Revisions §3.2.3.1.

Similarly, many of Verizon's contracts with MCI do not address the topic of line conditioning. Thus, to ensure that Verizon's proposed amendment brings its agreement with MCI into conformity with present law, *see* Verizon Pet. at 5-6, MCI proposes including a section

⁵ In addition, MCI proposes adding language to Verizon's description of Grandfathered Line Sharing, *see* MCI Revisions § 3.2.1.2, in order to bring that section into conformity with the FCC's rules, *see TRO* ¶ 264.

entitled Line Conditioning, which will incorporate the terms of the FCC's rules regarding line conditioning. *See* MCI Revisions § 3.2.4.

V. Subloops (TRO Attachment § 3.3)

Subject to MCI's proposed changes in the attached Revisions (which address concerns already discussed about retroactivity and change of law, *see* II.A., III.C, *supra*), MCI agrees with Verizon's subloops proposal. *See* MCI Revisions §§ 3.3.1, 3.3.1.1, 3.3.1.2, 3.3.1.2.2, 3.3.2. However, MCI notes Verizon's inexplicable omission of a section entitled "Sub-Loop Access to Multiunit Premises," which appears as section 3.3.1 in the TRO Attachment in the amendment proposed by Verizon in several other states. MCI proposes that the language be included in the amendment.

VI. Local Switching (TRO Attachment §§ 3.4.1-3.4.2 & 3.4.4)

Subject to MCI's proposed changes in the attached Revisions (which address concerns already discussed about retroactivity, change of law, and conformity with FCC definitions, *see* II.A., III.C, n.2, *supra*), MCI agrees with Verizon's proposal concerning local switching. *See* MCI Revisions § 3.4.1. MCI also proposes additional language to implement the decision of the FCC in the Virginia arbitration with respect to customized routing.⁶ *See id.* § 3.4.4. Finally, MCI disagrees with Verizon's proposal in its Update to Petition that the term "conditional" be used to describe Verizon's obligation to provide mass market switching, because Verizon's obligation is not conditional and may not be unilaterally altered by Verizon. *See* MCI Revisions § 3.4.1. To the extent Verizon suggests that the D.C. Circuit's *USTA II* decision renders Verizon's obligation conditional, MCI objects for reasons previously articulated. *See I, supra.*

⁶ In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration, CC Docket No. 00-218, Memorandum Opinion and Order (rel. July 17, 2002) ("Virginia Arbitration Order") at ¶¶ 532-536.

VII. Signaling/Databases (TRO Attachment § 3.4.3)

Subject to MCI's proposed changes in the attached Revisions (which address concerns already discussed about retroactivity, change of law, and conformity with FCC definitions, *see* II.A., III.C, n.2, *supra*), MCI agrees with Verizon's proposal concerning signaling and call-related databases. *See* MCI Revisions § 3.4.3.

VIII. Interoffice Facilities (TRO Attachment § 3.5)

Subject to MCI's proposed changes in the attached Revisions (which address concerns already discussed about retroactivity, change of law, and the inapplicability of written requests to this context, *see* II.A., III.C, IV.A., *supra*), MCI agrees with Verizon's proposal concerning interoffice facilities. *See* MCI Revisions §§ 3.5.1, 3.5.2, 3.5.2.1, 3.5.3, 3.5.3.1.

IX. Commingling and Combinations (TRO Attachment § 3.6)

A. Commingling (TRO Attachment § 3.6.1)

As an initial matter, it is MCI's view that its present agreement with Verizon, which is silent on the topic of commingling, permits commingling, and MCI reserves the right to argue accordingly in other proceedings and in other fora. Nonetheless, MCI agrees that it would be useful to detail Verizon's obligations with respect to commingling in the present amendment.

With respect to the substance of Verizon's proposed language in TRO Attachment § 3.6.1, MCI generally agrees, but believes that certain changes are necessary to make clear the affirmative nature of Verizon's obligations, and to conform these obligations to the FCC rules. *See* MCI Revisions § 3.6.1. In addition to stating explicitly the nature of Verizon's obligations, MCI's proposal makes clear that Verizon shall charge MCI for commingled UNEs and wholesale services on an "element-by-element" and "service-by-service" basis. *See id.* Moreover, MCI opposes and would delete Verizon's proposed language concerning a

“nonrecurring charge intended to offset Verizon’s costs of implementing and managing commingled arrangements,” Verizon TRO Attachment § 3.6.1, because Verizon has provided neither an adequate explanation for the necessity of such a charge, nor a cost study to support that charge. In addition, similar to MCI’s objections elsewhere, *see* IV.D., *supra*, MCI disagrees with Verizon’s proposal that “standard provisioning intervals” and “performance measures and remedies” do not apply to commingling. Verizon TRO Attachment § 3.6.1. Verizon has provided no support for its proposal that these generally applicable standards should not apply, and MCI would thus modify this section to make clear that such standards *do* apply to Verizon’s obligations described in this section. *See* MCI Revisions § 3.6.1. Finally, MCI proposes adding language to this provision recognizing that the parties’ amended agreement satisfies Verizon’s tariffs concerning commingling, and that Verizon shall not change such tariffs absent an amendment of the parties’ agreement. *See id.*

B. High-Cap Loop/Transport Combinations Eligibility Criteria (TRO Attachment § 3.6.2)

MCI has no objection in principle to most of Verizon’s proposal concerning Service eligibility criteria, but nonetheless proposes a substantial revision of the relevant provisions, as reflected in the attached Revisions, largely to ensure conformity with the FCC’s rules.

First, MCI proposes additional language to make clear, in accordance with the FCC’s rules, that eligibility criteria are applicable only to high-capacity loop and transport facilities, and not to “lower capacity EELs, other combinations, or individual network elements.” MCI Revisions § 3.6.2.1.5; *see* MCI Revisions § 3.6.2. Second, rather than merely reference the “service eligibility criteria set forth in 47 C.F.R. § 51.318,” Verizon TRO Attachment § 3.6.2.1.5, MCI would incorporate these service eligibility criteria explicitly, for the sake of clarity and completeness, *see* MCI Revisions § 3.6.2.2 (and subsections). MCI’s proposed

language regarding service eligibility criteria is grounded not only in 47 C.F.R. § 51.318, but also in *TRO* ¶¶ 602-611, and MCI's Revisions reflect other minor changes to Verizon's proposed § 3.6.2 (and subsections) based on the language of the FCC's rules. Third, and similarly, MCI proposes adding a new subsection making express the FCC's ruling, *see TRO* ¶ 577, that no terms and conditions other than those described in the amendment may be imposed by Verizon on MCI's purchases of EELs. *See* MCI Revisions ¶ 3.6.2.4. And, in the same vein, MCI proposes revisions to Verizon's proposed language regarding high-capacity EEL auditing, *see* MCI Revisions § 3.6.2.5; this language conforms with the FCC's discussion of such auditing in *TRO* ¶¶ 625-629.

In addition to these changes, MCI proposes moving Verizon's provisions involving conversions, *see* Verizon TRO Attachment §§ 3.6.2.3-3.6.2.6, to a freestanding section, *see* MCI Revisions § 3.9. MCI believes that it is necessary to remove the conversions provisions from their present location (within the EELs discussion), because conversions are not only applicable to EELs, but can affect other UNEs, such as stand-alone loops. MCI discusses this proposed new section below. *See* XII, *infra*.

C. Combinations (MCI Revisions § 3.6.3)

Verizon's proposed § 3.6 is entitled "Commingling and Combinations," but does not contain provisions detailing the parties' obligations with respect to combinations. Moreover, the parties' current agreements are outdated with respect to combinations, and an express description of these obligations would bring the parties' agreements into conformity with federal law. Accordingly, MCI proposes the addition of new provisions, *see* MCI Revisions § 3.6.3 (and subsections) tracking the FCC's relevant rules, *see* 47 C.F.R. § 51.315(a)-(f); *TRO* ¶¶ 573-574.

X. Routine Network Modifications (TRO Attachment § 3.7)

MCI approves of Verizon's approach of treating loops and transport together, with respect to routine network modifications. However, MCI proposes several revisions to Verizon's General Conditions provision, *see* MCI Revisions § 3.7.1, to bring the language of that provision into conformity with the relevant FCC rules, *see* 47 C.F.R. §§ 319(a)(8), (e)(5). (These MCI revisions concern changes proposed by Verizon in both its initial Petition for Arbitration and its Update to Petition.) In addition, as it has objected elsewhere, *see* IV.D., IX.A., *supra*, MCI objects to Verizon's proposal that "standard provisioning intervals" and "performance measures and remedies" do not apply to commingling. Verizon TRO Attachment § 3.7.2. Verizon has provided no support for its proposal that these generally applicable standards should not apply, and MCI would thus modify this section to make clear that such standards *do* apply to Verizon's obligations described in this section. *See* MCI Revisions § 3.7.2.

XI. Non-Conforming Elements (TRO Attachment § 3.8)

A threshold concern with respect to non-conforming elements is the proper definition thereof (and distinguishing such elements from legal changes that implicate the Change of Law provisions of the parties' agreements). MCI has discussed this issue above. *See* III.A., *supra*. With respect to Verizon's proposed transitional provisions for such elements, MCI has proposed significant revisions. *See* MCI Revisions § 3.8 (and subsections). These revisions generally accept Verizon's proposal in substance, but would explicate the transition mechanism in greater detail. In essence, MCI's proposed changes fall into three categories.

First, with regard to switching, MCI proposes minor changes to Verizon's proposal that would ensure that the time periods described both would track the effective date of the amendment and would permit MCI to complete certain tasks ahead of schedule. *See* MCI Revisions §§ 3.8.1.1, 3.8.1.2. In addition, MCI has proposed language that would make clear

what the FCC rules contemplate: that mass market switching would be subject to the rates, terms and conditions of the parties' agreement during the transition period. *See id.* § 3.8.1.1.

Second, concerning "Other Nonconforming Elements," Verizon TRO Attachment § 3.8.2, MCI proposes a substantial expansion of this section, in order to set forth clear and detailed options and procedures upon a finding that MCI (or CLECs generally) is no longer impaired with respect to a particular location, route, or geographic market. Of particular significance, MCI's modifications would expressly provide for the option of transferring a service from Verizon's facilities to that of MCI or another CLEC, *see* MCI Revisions § 3.8.2.2.5. This option concerns a reality – Verizon-to-CLEC transitions – that the parties will necessarily encounter upon findings of non-impairment, because the entire basis for a nonimpairment finding is that the CLEC should be able to provide the element itself, or that adequate competitive supply exists with respect to a particular location, route, or market. Thus, MCI explicates a procedure for transferring from Verizon to a CLEC that will place appropriate incentives on the parties to complete efficiently such transitions. In addition, MCI proposes language detailing the procedures and requirements for the various types of conversions recognized in Verizon's proposal. *See* MCI Revisions §§ 3.8.2.2.1-3.8.2.2.4, 3.8.2.3. Finally, MCI proposes building a degree of flexibility into the transition deadlines, based upon the scope of the transition and the use of automation, *see id.* §§ 3.8.2.1, 3.8.2.2, and specifies the details that Verizon should include in a "Transition Notice," *id.* § 3.8.2. Though lengthy, MCI's proposed changes to TRO Attachment § 3.8.2 are largely consistent with Verizon's treatment of nonconforming elements, and merely add the detail needed to ensure that transitions will happen smoothly, predictably, and with minimal debate about the meaning of the parties' agreements.

Finally, MCI suggests minor changes and clarifications to Verizon's proposal regarding substitute services, as reflected in the attached Revisions. *See* MCI Revisions § 3.8.3.

XII. Conversions (MCI Revisions § 3.9)

As MCI has explained, *see* IX.B., *supra*, it proposes to treat conversions in a standalone section, because various UNEs may be subject to conversions. At present, MCI and Verizon still need to finalize and implement a conversion process that meets the needs of both parties and permits conversion to proceed consistent with the FCC's rules. Accordingly, MCI has suggested modifications to Verizon's language to permit the parties to move forward processing conversions on a manual project basis at this time until such time as an automated process is agreed-upon and implemented, *see* MCI Revisions § 3.9 (and subsections). In addition, MCI has proposed additional language intended to bring the conversion provisions into conformity with the applicable FCC rules, *see* 47 C.F.R. § 51.316; *TRO ¶¶* 585-589.

XIII. Pricing Exhibit


With respect to Verizon's Pricing Exhibit to the TRO Attachment and all other references in Verizon's proposed amendment to this Pricing Exhibit, MCI expressly reserves its rights to dispute the prices proposed therein, and nothing in this pleading or MCI's Revisions markup of Verizon's proposal should be read to indicate MCI's agreement to Verizon's proposed prices. Furthermore, MCI requests that the Commission order Verizon to produce cost studies in support of the prices it has proposed to the Commission in this proceeding. MCI's position is that new prices may take effect only after Verizon has produced cost studies to support its proposed rates and the Commission has approved the proposed rates, and that it would be inequitable and too uncertain to leave pricing decisions within Verizon's discretion as it "develop[s] such Charges" – as Verizon's proposal contemplates, *see* Verizon Pricing Exhibit § 1.2.

Reflecting these overarching concerns, MCI proposes a modest restructuring and revision of the Pricing Exhibit. First, MCI proposes that § 1.2 be revised to indicate that a finalized pricing attachment will include only Commission-approved prices, and that subsequent revisions to these prices by the Commission will be automatically incorporated into the parties' agreements. *See* MCI Pricing Revisions § 1.2. In order to prevent Verizon from having unilateral control over prices – which would be patently inequitable – MCI proposes deleting Verizon's language providing for Verizon's sole control over pricing. *See id.* Second, MCI revises § 1.3, both to remove language proposed by Verizon that would be redundant in light of MCI's revised § 1.2, as well as to provide a process for negotiation and litigation of prices that have not yet been set by the Commission. *See id.* § 1.3.⁷

Dated this 12th day of April 2004.

Respectfully submitted,

MCI



Michel U. Singer Nelson
707 17th Street, Suite 4200
Denver, CO 80202
303 390 6106
303 390 6333 (fax)
michel.singer_nelson@mci.com

⁷ *See* Virginia Arbitration Order at ¶¶ 619-621.


I hereby certify that I served a true and correct copy of the foregoing on the following:

Please see attached Service List

Sent by the following indicated method or methods:

- By **faxing** full, true, and correct copies thereof to the attorneys at the fax numbers shown above, which are the last known fax numbers for the attorneys' offices, on the date set forth below. The receiving fax machines were operating at the time of service and the transmissions were properly completed, according to the attached confirmation reports.
- By **mailing** full, true, and correct copies thereof in sealed, first-class postage-prepaid envelopes, addressed to the attorneys as shown above, the last-known office addresses of the attorneys, and deposited with the United States Postal Service at Seattle, Washington, on the date set forth below.
- By sending full, true, and correct copies thereof via **overnight courier** in sealed, prepaid envelopes, addressed to the attorneys as shown above, the last-known office addresses of the attorneys, on the date set forth below.
- By causing full, true and correct copies thereof to be **hand-delivered** to the attorneys at the attorneys' last-known office addresses listed above on the date set forth below.
- By **e-mailing** to the e-mail addresses as noted on the attached service list.

DATED 9th of April, 2004



Raghild Kinoshita

APPENDIX A

<u>PARTIES REPRESENTATIVES</u>				
DOCKET NO. UT-043013			Updated 3/30/04	
COMPANY	REPRESENTATIVE AND ADDRESS	PHONE NUMBER	FAX NUMBER	E-MAIL ADDRESS
Adelphia Business Solutions, Inc.; Allegiance Telecom of WA; DSLnet.com, Focal Communications; ICG Telecom Group, Inc.; Integra Telecom, Inc.; Level 3 Communications; McLeodUSA Telecom Services; Pac-West Telecomm, Inc.	<i>(Paper & Fax Service)</i> EDWARD W. KIRSCH Swidler Berlin Shereff Friedman, LLP 300 K Street NW – Suite 300 Washington, D.C. 2007-5116	202-424-7877	202-424-7643	ewkirsch@swidlaw.com
	<i>(E-mail Service only)</i> PHILIP J. MACRES			pjmacres@swidlaw.com
AT&T Communications of the Pacific Northwest, Inc. and AT&T Local Services (TCG Seattle)	<i>(Paper & Fax Service)</i> LETTY S.D. FRIESEN AT&T Law Department 1875 Lawrence Street Suite 1575 Denver, CO 80202	303-298-6475	281-664-6301	lsfriesen@att.com
	<i>(E-mail Service only)</i> ADAM WALCZAK AT&T Law Department 1875 Lawrence Street Room 14-41 Denver, CO 80202	303-298-6957	303-298-6301	awalczak@att.com

<p>COMPETITIVE CARRIER COALITION (Advanced Telecom Group, Inc., BullsEye Telecom Inc., Comcast Phone of Washington LLC, Covad Communications Company, Global Crossing Local Services, Inc., KMC Telecom V Inc., and Winstar Communications LLC</p>	<p><i>(Paper & Fax Service)</i> ANDREW M. KLEIN Kelley, Drye & Warren, LLP 1200 19th Street, N.W. Washington D.C. 20036</p> <p><i>(E-mail Service Only)</i> GENEVIEVE MORELLI</p> <p>MICHAEL B. HAZZARD</p> <p>HEATHER T. HENDRICKSON</p>	<p>202-887-1257</p>	<p>202-955-9792</p>	<p>aklein@kelleydrye.com</p> <p>gmorelli@kelleydrye.com</p> <p>mhazzard@kelleydrye.com</p> <p>hhendrickson@kelleydrye.com</p>
<p>Centel Communications</p>	<p><i>(Paper & Fax Service)</i> BROOKS E. HARLOW Miller Nash LLP 4400 Two Union Square 601 Union Street Seattle, WA 98101</p> <p><i>(E-mail Service Only)</i> HONG HUYNH Miller Nash LLP 111 S.W. Fifth Avenue Suite 300 Portland, OR 97204</p>	<p>206-622-8484</p> <p>503-205-2485</p>	<p>206-622-7485</p> <p>503-224-0155</p>	<p>brooks.harlow@millernash.com</p> <p>Hong.huynh@millernash.com</p>
<p>Covad Communications Company</p>	<p><i>(Paper & Fax Service)</i> KAREN SHORESMAN FRAME Covad Communications Co. 7901 Lowry Blvd. Denver CO 80230</p>	<p>720-208-1069</p>	<p>720-208-3350</p>	<p>kframe@covad.com</p>

NORTHWEST COMPETITIVE COMMUNICATION COALITION (Eschelon Telecom of Washington, Inc.; Stan Efferding, d/b/a Vilaire)	<i>(Paper & Fax Service)</i> BROOKS E. HARLOW Miller Nash LLP 4400 Two Union Square 601 Union Street Seattle, WA 98101	206-622-8484	206-622-7485	brooks.harlow@millernash.com
	<i>(E-mail Service Only)</i> HONG HUYNH Miller Nash LLP 111 S.W. Fifth Avenue Suite 300 Portland, OR 97204	503-205-2485	503-224-0155	Hong.huynh@millernash.com
Pac-West Telecomm, Inc.	<i>(Paper & Fax Service)</i> GREGORY J. KOPTA Davis Wright Tremaine LLP 2600 Century Square 1501 Fourth Avenue Seattle, WA 98101-1688	206-628-7692	206-628-7699	gregkopta@dwt.com
Sprint Communications Company, LP	<i>(Paper & Fax Service)</i> WILLIAM E. HENDRICKS, III Sprint Corporation 902 Wasco Street Hood River, OR 97031	541-387-9439	541-387-9753	Tre.e.Hendricks.iii@mail.sprint.com
Verizon Northwest Inc.	<i>(Paper & Fax Service)</i> TIMOTHY J. O'CONNELL Stoel Rives, LLP One Union Square 600 University Street Suite 3600 Seattle WA 98101	206-624-0900	206-386-7500	tjoconnell@stoel.com
	AARON M. PANNER Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C. Sumner Square 1615 M Street N.W. Suite 400 Washington D.C. 20036	202-326-7900	202-326-7999	apanner@khhte.com

WorldCom, Inc. and its subsidiaries in WA (n/k/a MCI Inc.)	<i>(Paper & Fax Service)</i> MICHEL SINGER NELSON Regulatory Attorney MCI, Inc. 707 17 th Street, Suite 4200 Denver, CO 80202	303-390-6106	303-390-6333	michel.singer_nelson@mci.com
XO Washington, Inc.	<i>(Paper & Fax Service)</i> GREGORY J. KOPTA Davis Wright Tremaine LLP 2600 Century Square 1501 Fourth Avenue Seattle, WA 98101-1688	206-628-7692	206-628-7699	gregkopta@dwt.com
Presiding Arbitrator/ Administrative Law Judge	ANN E. RENDAHL 1300 S Evergreen Park Dr SW P.O. Box 47250 Olympia WA 98504-7250	360-664-1144	360-664-2654 [ALD fax only – do not use to file]	arendahl@wutc.wa.gov

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET NO. UT-043103

EVENT	DATE
Responses to Sprint's Motion to Dismiss	April 6, 2004
Replies to Responses to Sprint's Motion Answers to Verizon's Updated Petition Deadline for filing dispositive motions	April 13, 2004
Responses to any motions filed on April 13	April 27, 2004
Replies to responses to April 13 motions	May 4, 2004
Prehearing Conference	May 14, 2004 – 9:30 a.m.
Hearings	TBD
Initial Briefs	TBD
Responsive Briefs	[no later than July 9, 2004]
Arbitrator's Report and Decision	July 27, 2004

AMENDMENT NO. ____
to the
INTERCONNECTION AGREEMENT
between
[VERIZON LEGAL ENTITY]
and
[CLEC-MCI FULL NAME]

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 [FULL CLEC NAME], a [CORPORATION/PARTNERSHIP] with offices at [CLEC ADDRESS] 22001 Loudoun County Parkway, Ashburn, VA 20147 ("**CLEC Acronym TXT**"), and shall be deemed effective [FOR CALIFORNIA] upon Commission approval pursuant to Section 252 of the Act (the "Amendment Effective Date").] [FOR ALL OTHER STATES: on _____ (the "Amendment Effective Date").] Verizon and **CLEC Acronym TXT** are hereinafter referred to collectively as the "Parties" and individually as a "Party". This Amendment covers services in Verizon's service territory in the [State or Commonwealth] of [STATE/COMMONWEALTH NAME OF AGREEMENT] (the "State"/"Commonwealth").

WITNESSETH:

NOTE: **DELETE** THE FOLLOWING WHEREAS SECTION ONLY IF CLEC'S AGREEMENT HAS USED AN ADOPTION LETTER:

[WHEREAS, Verizon and **CLEC Acronym TXT** are Parties to an Interconnection Agreement under Sections 251 and 252 of the Communications Act of 1934, as amended [the "Act"] dated [INSERT DATE] (the "Agreement"); and]

NOTE: **INSERT** THE FOLLOWING WHEREAS SECTION ONLY IF CLEC'S AGREEMENT USED AN ADOPTION LETTER:

[WHEREAS, pursuant to an adoption letter dated [INSERT DATE OF ACTUAL ADOPTION LETTER] (the "Adoption Letter"), **CLEC Acronym TXT** adopted in the [State or Commonwealth] of [STATE/COMMONWEALTH NAME], the interconnection agreement between [NAME OF UNDERLYING CLEC 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. Court of Appeals for the District of Columbia Circuit (the "D.C. Circuit") issued a decision affirming in part and vacating in part the TRO (the "D.C. Circuit Decision"), and as to the portions of the TRO that the D.C. Circuit vacated, the D.C. Circuit Decision immediately stayed for a period of at least sixty (60) days such vacatur; and

WHEREAS, pursuant to Section 252(a)(1) of the [NOTE: IF CLEC'S 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 certain aspects of the D.C. Circuit Decision 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. The Parties agree that the Agreement should be amended by the addition of the rates, terms and conditions set forth in the TRO Attachment and the Pricing Attachment to the TRO Attachment~~ment~~ (including Exhibit A) attached hereto. The TRO Attachment and the Pricing Attachment to the TRO Attachment (including Exhibit A) are hereby incorporated by reference into this Amendment. The TRO Attachment and the Pricing Attachment to the TRO Attachment~~ment~~ (including Exhibit A) shall apply notwithstanding any other provision of the Agreement or a Verizon tariff or a Verizon Statement of Generally Available Terms and Conditions ("SGAT").
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. Scope of Amendment. This Amendment shall amend, modify and revise the Agreement only to the extent set forth expressly in Section 1 of this Amendment, and except to the extent set forth in Section 1 of this Amendment, the terms and provisions of the Agreement shall remain in full force and effect after the Amendment Effective Date. As used herein, the Agreement, as revised and supplemented by this Amendment, shall be referred to as the "Amended Agreement." Nothing in this Amendment shall be deemed to amend or extend the term of the Agreement, or to affect the right of a Party to exercise any right of termination it may have under the Agreement.
6. Stay or Reversal. Notwithstanding any contrary provision in the Agreement, this Amendment, or any Verizon tariff or SGAT, nothing contained in the Agreement, this Amendment, or any Verizon tariff or SGAT shall limit the Parties'~~Verizon's~~ 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 [***State Commission TXT***], the FCC, any court or any other governmental authority related to, concerning, or that may affect ~~Verizon's~~ either Parties' obligations or rights under the Agreement, this Amendment, any Verizon tariff or SGAT, or Applicable Law. The Parties acknowledge that certain provisions of the TRO (along with a Writ of Mandamus relating to the TRO) were subject to review by the D.C. Circuit, and that the D.C. Circuit Decision, with respect to those portions of the TRO vacated by the D.C. Circuit, has not become effective. Notwithstanding any other provision in the

Agreement, this Amendment, or any Verizon tariff or SGAT, should the FCC, the D.C. Circuit (through the mandate of the D.C. Circuit Decision becoming effective or otherwise), or the United States Supreme Court issue a stay of, or vacate, any or all of the TRO's provisions, ~~or should the D.C. Circuit or the United States Supreme Court issue a stay of any or all of the D.C. Circuit Decision's provisions,~~ any terms and conditions of this Amendment that implement the stayed provisions shall be suspended, and shall have no force and effect, from the effective date of such stay or vacatur until the stay or vacatur is lifted, and for the duration of such stay or vacatur the original provisions of the Agreement shall remain in effect as if they were not amended by this Amendment.

4.27. Joint Work Product. This Amendment is a joint work product, and any ambiguities in this Amendment shall not be construed by operation of law against either Party.

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

CLEC Full Name TXT

VERIZON***IF Verizon Company Full Name 2 TXT
!= *****

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

[FOR CALIFORNIA, FLORIDA AND PENNSYLVANIA ONLY, ADD:]

Date: _____

Date: _____

TRO Attachment

1. General Conditions

1.1 Notwithstanding any other provision of the Agreement, this Amendment (but subject to Section 1.3 of this Attachment), or any Verizon tariff or SGAT: ~~(a) Verizon shall be obligated to provide access to unbundled Network Elements ("UNEs"), combinations of unbundled Network Elements ("Combinations"), or UNEs eCommingle with wholesale services ("Commingle"), to ***CLEC Acronym TXT*** under the terms of their Amended Agreement only to the extent required by both 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51, and, (b) Verizon may decline to provide access to UNEs, Combinations, or Commingle to ***CLEC Acronym TXT*** to the extent that provision of access to such UNEs, Combinations, or Commingle is not required by both 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51.~~

1.2 Use of Network Elements.

1.2.1 ***CLEC Acronym TXT*** may use any Network Element or any Combination to provide any feature, function, capability, or service option that such Network Element or Combination is capable of providing. Except as set forth in Section 3.6.2.2 of this Attachment as it applies to high-capacity EELs, Verizon shall not impose limitations, restrictions, or requirements on requests for, or the use of, Network Elements for the service ***CLEC Acronym TXT*** seeks to offer.

1.2.2 When purchasing access to a Network Element or to a feature, function, or capability of a Network Element, ***CLEC Acronym TXT*** is entitled to exclusive use of that Network Element or of the feature, function or capability of that Network Element. ***CLEC Acronym TXT***'s purchase of access to a Network Element does not relieve Verizon of the duty to maintain, repair, or replace the Network Element.

~~1.2.1.3~~ ***CLEC Acronym TXT*** may not access a Network Element or Combination for the sole purpose of providing Non-qualifying Services. ***CLEC Acronym TXT*** may, however, use a Network Element or Combination to provide Non-qualifying Services as long as it accesses or uses the same Network Element for a qualifying purpose. For the purposes of this Section [1.2], "Non-qualifying Service" means a service that is NOT a Qualifying Service (including, but not limited, long distance voice services and data services provided on an interexchange basis). ***CLEC Acronym TXT*** may use a UNE, a Combination, or Commingle only for those purposes for which Verizon is required by 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51 to provide such UNE, Combination, or Commingle to ***CLEC Acronym TXT***.

1.3 Notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT, if the FCC or the [***State Commission TXT***] promulgates rules or regulations, or issues orders, or a court of competent jurisdiction issues orders, which make unlawful any provision of the Amended Agreement, or which materially alter the obligation(s) to provide services or the services themselves embodied in the Amended Agreement, then the Parties shall negotiate promptly and in good faith in order to amend the Amended Agreement to substitute contract provisions which conform to such rules, regulations or orders. In the event the Parties cannot agree on an amendment within thirty (30) days after the date any such rules, regulations or orders become effective, then the Parties shall resolve their dispute under the applicable procedures set forth in

the dispute resolution provisions of the Amended Agreement to the extent Verizon is required by a change in Applicable Law to provide to ***CLEC Acronym TXT*** pursuant to 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51 a UNE, a Combination, or Commingling that is not offered under the Amended Agreement to ***CLEC Acronym TXT*** as of the Amendment Effective Date, the rates, terms, conditions for such UNE, Combination, or Commingling shall be as provided in an applicable Verizon tariff, or, in the absence of an applicable Verizon tariff, as mutually agreed in writing by the Parties.

1.4 Verizon reserves the right to argue in any proceeding before the [***State Commission TXT***], the FCC, or another governmental body of competent jurisdiction that an item identified in the Agreement or this Amendment as a Network Element (a) should not be a Network Element under 47 U.S.C. § 251(c)(3), (b) should not be a Network Element that Verizon is required by 47 U.S.C. § 251(c)(3) to provide to ***CLEC Acronym TXT***, or (c) should be an item that Verizon is not required to offer to ***CLEC Acronym TXT*** at the rates set forth in the Amended Agreement. ***CLEC Acronym TXT*** reserves the right to argue in any proceeding before the [***State Commission TXT***], the FCC, or another governmental body of competent jurisdiction that an item whether or not identified in the Agreement or this Amendment as a Network Element: (a) should be considered a Network Element for which unbundled access should be required under 47 U.S.C. § 251(c)(3); or (b) should be made available by Verizon on an unbundled basis either pursuant to 47 U.S.C. §§ 251 or 271 or applicable state law.

1.5 **Non-Discriminatory Provision of Network Elements.** Notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT, Verizon shall offer Network Elements to ***CLEC Acronym TXT*** at rates and on terms and conditions that are just, reasonable, and non-discriminatory. Verizon shall provide ***CLEC Acronym TXT*** with Network Elements, as well as access to Network Elements, of at least the same level of quality as Verizon provides itself, its customers, subsidiaries, or Affiliates, or any third party. If Verizon denies ***CLEC Acronym TXT*** access to any Network Element based on a claim that it is not Technically Feasible, Verizon shall have the full burden of proving that the provision of the Network Element or access to the Network Element is not Technically Feasible. To the extent Verizon proves technical infeasibility, Verizon shall provide ***CLEC Acronym TXT*** alternative suitable arrangements that (i) do not impair ***CLEC Acronym TXT***'s ability to provide services and (ii) are technically equivalent to, and subject to the same terms and conditions as, the access initially sought by ***CLEC Acronym TXT***.

1.5.1 Verizon shall permit ***CLEC Acronym TXT*** to connect ***CLEC Acronym TXT***'s facilities, or facilities provided to ***CLEC Acronym TXT*** by third parties, with each of Verizon's Network Elements or Combinations at any Technically Feasible point designated by ***CLEC Acronym TXT***. ***CLEC Acronym TXT*** may, at its option, designate any Technically Feasible method of access to Network Elements.

1.5.2 Unless expressly set forth in this TRO Attachment or the Agreement, Verizon shall not impose any pre-conditions, conditions, limitations, or restrictions (including, but not limited to, certifications and audits) upon ***CLEC Acronym TXT***'s ability to access Network Elements or Combinations of Network Elements.

1.6 For each Network Element, Verizon shall provide (i) a demarcation point (e.g., at a Digital Signal Cross Connect, Light Guide Cross Connect/Light Distribution frame panel or a Main Distribution Frame, or other location) acceptable to ***CLEC Acronym TXT***, and (ii) if necessary, access to the demarcation point.

2. TRO Glossary

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

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 Combination.

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

2.3 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 ***CLEC Acronym TXT*** 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. "Comingle" means the act of Commingling.

~~2.2.4~~ Dark Fiber Transport.

An unactivated optical transmission facility within a LATA, without attached multiplexing, aggregation or other electronics, between Verizon switches (as identified in the LERG) or ~~wWire eCenters, that is provided on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 54.~~ Dark fiber facilities between (i) a Verizon ~~wWire eCenter or switch~~ and (ii) a switch or ~~wWire eCenter~~ of ***CLEC Acronym TXT*** or a third party are not Dark Fiber Transport.

~~2.32.5~~ Dedicated Transport.

A DS1 or DS3 transmission facility between Verizon switches (as identified in the LERG) or ~~wWire eCenters, 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) and 47 C.F.R. Part 54.~~ Transmission facilities or services provided between (i) a Verizon wire center or switch and (ii) a switch or ~~wWire eCenter~~ of ***CLEC Acronym TXT*** or a third party are not Dedicated Transport.

~~2.42.6~~ DS1 Dedicated Transport.

Dedicated Transport having a total digital signal speed of 1.544 Mbps.

2-52.7 DS3 Dedicated Transport.

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

2-62.8 DS1 Loop.

A digital ~~transmission channel~~ Loop 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) and 47 C.F.R. Part 51.~~ DS1 Loops include, but are not limited to, two-wire and four-wire copper Loops capable of providing high-bit rate DSL services, including T1 services. This loop type is more fully described in Verizon TR 72575, as revised from time to time. A DS-1 Loop requires the electronics necessary to provide the DS-1 transmission rate.

2-72.9 DS3 Loop.

A digital ~~transmission channel~~ Loop suitable for the transport of isochronous bipolar serial data at a rate of 44.736 Mbps (the equivalent of 28 DS-1 channels) ~~that is provided on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51.~~ This Loop type is more fully described in Verizon TR 72575, as revised from time to time. A DS-3 Loop requires the electronics necessary to provide the DS-3 transmission rate.

2-82.10 Enterprise Switching.

Local Switching ~~or Tandem Switching~~ that, if provided to ***CLEC Acronym TXT*** would be used for the purpose of serving ***CLEC Acronym TXT***'s customers using DS1 or above capacity Loops.

2-92.11 Feeder.

The fiber optic cable (lit or unlit) or metallic portion of a Loop between a serving ~~w~~Wire Center and a remote terminal or feeder/distribution interface.

2-102.12 FTTH Loop.

A Loop consisting entirely of fiber optic cable, whether dark or lit, between the main distribution frame (or its equivalent) in an end user's serving wire center and the demarcation point at the end user's customer premises.

2-112.13 House and Riser Cable.

A distribution facility in Verizon's network, other than in a FTTH Loop, 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, that is owned and controlled by Verizon. [This section intentionally left blank].

2-122.14 Hybrid Loop.

A local Loop composed of both fiber optic cable and copper wire or cable.

2-132.15 Line Sharing.

The process by which ***CLEC Acronym TXT*** provides 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 House and Riser Cable) owned and controlled by Verizon.

2.16 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 xDSL service over the HFPL of the same Loop.

2.142.17 Local Switching.

The line-side and trunk-side facilities associated with the line-side port, on a circuit switch in Verizon's network (as identified in the LERG), plus the features, functions, and capabilities of that switch, unbundled from loops and transmission facilities, including: (a) the line-side Port (including 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 all vertical features and line blocking options 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 the connection of lines to lines, lines to trunks, trunks to lines, and trunks to trunks); and (d) trunk features (including the connection between the trunk termination and a trunk card). Local Switching (sometimes referred to as "Local Circuit Switching") is the Network Element described as:

(i) Local Switching encompasses all line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch. The features, functions, and capabilities of the switch shall include the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks.

(ii) Local Switching includes all vertical features that the switch is capable of providing, including custom calling, custom local area signaling services features, and Centrex, as well as any Technically Feasible customized routing functions.

2.18 Loop.

A transmission facility between a distribution frame (or its equivalent) in Verizon's Wire Center and the loop demarcation point (marking the end of Verizon's control of the Loop) at a customer premises, including inside wire owned by Verizon. The Loop includes all features, functions, and capabilities of such transmission facility. Those features, functions, and capabilities include, but are not limited to, dark fiber, all electronics (except those electronics used for the provision of advanced services, such as Digital Subscriber Line Access Multiplexers), optronics, and intermediate devices (including repeaters and load coils) used to establish the transmission path to the end-user customer premises.

2.152.19 Mass Market Switching.

Local Switching or Tandem Switching that Verizon offers on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51, and that is provided to

CLEC Acronym TXT to serve ***CLEC Acronym TXT***'s end user customers over DS0 Loops.

2-162.20 Nonconforming FacilityElement.

Any Network Element or Combination facility that Verizon was providing to ***CLEC Acronym TXT*** on an unbundled basis pursuant to the Agreement, this Amendment, or a Verizon tariff or SGAT ~~prior to October 2, 2003~~, but which 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, whether by operation of the TRO, ~~a subsequent nonimpairment finding of nonimpairment issued by the [***State Commission TXT***] or the FCC, or otherwise (other than a finding of nonimpairment that eliminates Verizon's obligation to provide an Network Element or Combination on an unbundled basis on a nationwide or statewide basis; such changes in Verizon's obligations are to be handled by amendment under Section 1.3 of this Attachment and not through the transition periods specified in Section 3.8 of this Attachment.~~ By way of example and not by way of limitation, Nonconforming Facilities Elements may include any of the following: (a) ~~any unbundled dedicated transport or dark fiber facility that is no longer encompassed within the amended terms applicable to DS1 Dedicated Transport, DS3 Dedicated Transport, or Dark Fiber Transport;~~ (b) DS1 Dedicated Transport, DS3 Dedicated Transport, or Dark Fiber Transport on a Route or Routes as to which the [***State Commission TXT***] or the FCC, on or after October 2, 2003, finds telecommunications carriers to be nonimpaired without access to such facilities; (c) ~~Enterprise Switching;~~ (d) Mass Market Switching in any market in which the [***State Commission TXT***] or the FCC, on or after October 2, 2003, finds telecommunications carriers to be nonimpaired without access to such facilities; (e) Local Switching subject to the FCC's four line carve out rule, as described in Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No 96-98, 15 FCC Red 3822-31 (1999) (the "Four Line Carve Out Rule"); (f) OCn Loops and OCn Dedicated Transport; (g) the Feeder portion of a Loop; (h) Line Sharing; (i) an EEL that does not meet the service eligibility criteria established in the TRO; (j) any Call-Related Database, other than the 911 and E911 databases, that is not provisioned in connection with ***CLEC Acronym TXT***'s use of Verizon Mass Market Switching as a result of a finding of nonimpairment in the preceding subpart (b); (k) Signaling that is not provisioned in connection with ***CLEC Acronym TXT***'s use of Verizon's Mass Market Switching as a result of a finding of nonimpairment in the preceding subpart (b); and (l) other changes to the scope of Verizon's obligations as expressly provided elsewhere in this Attachment ~~FTTH Loops (lit or unlit) in a new build environment; (m) FTTH Loops (lit or unlit) in an overbuild environment, subject to the limited exceptions set forth herein; or (n) any facility or class of facilities as to which the [***State Commission TXT***] or the FCC, on or after October 2, 2003, makes a general finding of nonimpairment.~~

2-172.21 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); the ability to forward the voice channels, if present, to a circuit switch or multiple circuit switches; the ability to extract data units from the data channels on the Loops; and the ability to combine data units from multiple Loops onto one or more trunks connecting to a packet switch or packet switches.

2.22 [INTENTIONALLY LEFT BLANK]Qualifying Service.

A telecommunications service that competes with a telecommunications service that has been traditionally the exclusive or primary domain of the incumbent LECs, including, but not limited to, local exchange service, such as plain old telephone services and local data service, and access services, such as digital subscriber line services and high-capacity circuits.

2.192.23 Route.

A transmission path between one of Verizon's ~~w~~Wire ~~c~~Centers or switches and another of Verizon's ~~w~~Wire ~~c~~Centers or switches (or, as applicable, a class or grouping of such transmission paths in a particular market) 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.

2.202.24 Signaling.

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

2.212.25 Sub-Loop for Multiunit Premises Access.

~~Any portion of a Loop, other than a FTTH Loop, that is technically feasible to access at a terminal in Verizon's outside plant at or near a multiunit premises. It is not technically feasible to access a portion of a Loop at a terminal in Verizon's outside plant at or near a multiunit premises if a technician must access the facility by removing a splice case to reach the wiring within the cable. A point of technically feasible access is any point in the~~ Verizon's outside plant at or near a multiunit premises where a technician can access the wire or fiber within the cable without removing a splice case to reach the wire or fiber within to access the wiring in the multiunit premises. Such points include, but are not limited to, a pole or pedestal, the network interface device, the minimum point of entry ("MPOE"), the single point of interconnection, and the feeder/distribution interface.

2.222.26 Sub-Loop Distribution Facility.

The copper portion of a Loop in Verizon's network that is between the minimum point of entry ("MPOE") at an end user customer premises and Verizon's feeder/distribution interface.

2.232.27 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. [MCI Comment: Under FCC definitions this is included in local circuit switching – not clear that a separate definition is necessary.]

2.28 Wire Center.

A building or portion thereof that serves as the premises for one or more switches and

related facilities.

3. UNE TRO Provisions

3.1 Loops.

3.1.1 Hi-Cap Loops. Notwithstanding any other provision of the Agreement or a Verizon tariff or SGAT, ~~as of October 2, 2003:~~

3.1.1.1 DS1 Loops. Upon ***CLEC Acronym TXT***'s written request, Verizon shall provide ***CLEC Acronym TXT*** with nondiscriminatory access to a DS1 Loop on an unbundled basis ~~under the Amended Agreement in accordance with, but only to the extent required by, 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51.~~

3.1.1.2 DS3 Loops. Upon ***CLEC Acronym TXT***'s written request, Verizon shall provide ***CLEC Acronym TXT*** with nondiscriminatory access to a DS3 Loop on an unbundled basis ~~under the Amended Agreement in accordance with, but only to the extent required by, 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51.~~

3.1.1.2.1 Cap on DS3 Loops. ***CLEC Acronym TXT*** may obtain on an unbundled basis a maximum of two (2) DS3 Loops ~~(or two (2) DS3 equivalents)~~ at any single end user location. Any Loop previously made available to ***CLEC Acronym TXT*** at said end user location above the two (2) Loop cap shall as of the Amendment Effective Date be considered a Nonconforming Element Facility.

3.1.1.3 Nonimpairment. Without limiting any other rights Verizon or ***CLEC Acronym TXT*** may have under the Amended Agreement or under Applicable Law, subject to the provisions of Section 3.8 below, Verizon shall be under no obligation to provide or continue providing ***CLEC Acronym TXT*** with nondiscriminatory access to DS-1 Loops or DS3 Loops under the Amended Agreement at a specific end user location if the [***State Commission TXT***] or the FCC finds that ***CLEC Acronym TXT*** or CLECs generally are not impaired without access to such DS1 Loops or DS3 Loops at such end user location ~~(or class or grouping of locations in a particular market).~~ Any DS1 Loops or DS3 Loops previously made available to ***CLEC Acronym TXT*** at the subject end user location shall be considered Nonconforming Facilities Elements ~~immediately on the effective date of the nonimpairment findings~~ subject to Section 3.8 below and thereafter.

3.1.2 FTTH Loops.

3.1.2.1 New Builds. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, ***CLEC Acronym TXT*** shall not be entitled to obtain access to a FTTH Loop (or any segment thereof) on an unbundled basis where Verizon has

deployed such a Loop to an end user's customer premises that previously was not served by any Verizon Loop.

- 3.1.2.2 Overbuilds. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, ***CLEC Acronym TXT*** shall not be entitled to obtain access to a FTTH Loop (or any segment thereof) on an unbundled basis where Verizon has deployed the ~~such~~ subject Loop parallel to, or in replacement of, an existing copper Loop; provided, however, unless Verizon retires the copper Loop pursuant to Section [3.1.6], Verizon must (i) maintain the existing copper Loop connected to the particular customer premises after deploying the FTTH Loop and (ii) provide ***CLEC Acronym TXT*** nondiscriminatory access to that copper Loop on an unbundled basis, upon ***CLEC Acronym TXT***'s request; provided further, however, that if such a Loop replaces a copper Loop that Verizon has retired, and there are no other available copper Loops or Hybrid Loops, then in accordance with, but only to the extent required by, 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51, Verizon shall provide ***CLEC Acronym TXT*** with nondiscriminatory access on an unbundled basis to a 64 kilobits per second transmission path from Verizon's serving ~~w~~Wire eCenter to the demarcation point at the end user's customer premises capable of voice grade service over the FTTH Loop.

3.1.3 Hybrid Loops Generally.

- 3.1.3.1 Packet Switching. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, ***CLEC Acronym TXT*** shall not be entitled to obtain access to the Packet Switching ~~C~~capability of any Hybrid Loop on an unbundled basis.
- 3.1.3.2 Broadband Services. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, ~~as of October 2, 2003,~~ when ***CLEC Acronym TXT*** seeks access to a Hybrid Loop for the provision of "broadband services," as such term is defined by the FCC, then ~~in accordance with, but only to the extent required by, 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51,~~ Verizon shall provide ***CLEC Acronym TXT*** with access ~~under the Amended Agreement~~ to the time division multiplexing features, functions, and capabilities of that Hybrid Loop, including DS1 or DS3 capacity (but only 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 ~~w~~Wire eCenter and the end user's customer premises. This access shall include access to all features, functions, and capabilities of the Hybrid Loop that are not used to transmit packetized information.
- 3.1.3.3 Narrowband Services. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, ~~as of October 2, 2003,~~ when ***CLEC Acronym TXT*** 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, but only to the extent required by, 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51,~~ Verizon shall either (a) provide access ~~under the~~

Amended Agreement to a spare home-run copper Loop serving that customer on an unbundled basis, or in Verizon's sole discretion; or (b) provide access under the Amended Agreement, on an unbundled basis, to an entire Hybrid Loop capable of a voice-grade service (i.e., equivalent to DS0 capacity) transmission path between the main distribution frame (or equivalent) in the end user's serving wire center and the end user's customer premises, using time division multiplexing technology.

3.1.3.4 Feeder. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, ~~as of October 2, 2003,~~ ***CLEC Acronym TXT*** shall not be entitled to obtain access to the Feeder portion of a Loop on an unbundled, standalone basis.

3.1.4 IDLC Hybrid Loops.

Notwithstanding any other provision of the Agreement, Section 3.1.3.3 above, or any Verizon tariff or SGAT, if ***CLEC Acronym TXT*** 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), Verizon shall, ~~as and to the extent required by 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51,~~ provide ***CLEC Acronym TXT*** unbundled access to a Loop capable of voice-grade service to the end user customer served by the Hybrid Loop.

3.1.4.1 Verizon will endeavor to provide ***CLEC Acronym TXT*** with (i) an existing copper Loop; or (ii) a Loop served by existing Universal Digital Loop Carrier ("UDLC"), where available; or (iii) an unbundled TDM channel on the Hybrid Loop. Standard recurring and non-recurring Loop charges will apply. In addition, a non-recurring charge will apply whenever a line and station transfer is performed.

3.1.4.2 Intentionally Left Blank ~~If neither a copper Loop nor a Loop served by UDLC is available, Verizon shall, upon request of ***CLEC Acronym TXT***, construct the necessary copper Loop or UDLC facilities. In addition to the rates and charges payable in connection with any unbundled Loop so provisioned by Verizon, ***CLEC Acronym TXT*** shall be responsible for the following charges: (a) an engineering query charge for preparation of a price quote; (b) upon ***CLEC Acronym TXT***'s submission of a firm construction order, an engineering work order nonrecurring charge; and (c) construction charges, as set forth in the price quote. If the order is cancelled by ***CLEC Acronym TXT*** after construction work has started, ***CLEC Acronym TXT*** shall be responsible for cancellation charges and a pro-rated charge for construction work performed prior to the cancellation.~~

~~3.1.4.3.1.5~~ Verizon's performance in connection with providing unbundled Loops pursuant to this Section 3.1 shall ~~not~~ be subject to standard provisioning intervals or to performance measures and remedies, if any, contained in the Amended Agreement or under Applicable Law elsewhere.

3.1.6 Retirement of Copper Loops. Prior to retiring any copper Loop that has been replaced with a FTTH Loop, Verizon shall comply with (i) the network disclosure requirements set forth in Section 251(c)(5) of the Act and in

Sections 51.325 through 51.335 of the FCC's Rules (which, in part, require Verizon to submit notice of copper Loop retirement no later than nine-one (91) days prior to the planned date of such retirement); and (ii) any applicable requirements of state law. If ***CLEC Acronym TXT*** is leasing a copper Loop when Verizon submits its notice pursuant to the foregoing sentence, Verizon shall also provide ***CLEC Acronym TXT*** with a copy of such notice pursuant to the notice provisions of the Amended Agreement.

3.2 Line Sharing and Line Splitting.

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

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

3.2.1.1 New Line Sharing. Verizon shall be under no obligation to provision new Line Sharing arrangements under the Agreement or this Amendment; *provided, however,* that as and to the extent required by ~~47 U.S.C. § 251(e)(3) and 47 C.F.R. Section Part 51.319,~~ and subject to Section 3.8.3 below, Verizon offers shall provide new Line Sharing arrangements on a transitional basis as set forth in Sections 3.2.1.2 and 3.2.2 pursuant to rates, terms, and conditions offered by Verizon in a separate agreement that is subject to FCC-prescribed pricing rules.

3.2.1.2 Grandfathered Line Sharing. Any existing Line Sharing arrangement over a copper Loop or Sub-Loop in place with an end user customer of ***CLEC Acronym TXT*** ~~is hereby will be~~ grandfathered at existing rates, provided that ***CLEC Acronym TXT*** began providing xDSL service to that end user customer using Line Sharing over that Loop or Sub-Loop prior to October 2, 2003, and only so long as ***CLEC Acronym TXT***, or its successor or assign, has not ceased providing xDSL service to that end user customer at the same location over that Loop or Sub-Loop.

3.2.2 Line Sharing Transition. On or after October 2, 2003, Verizon shall provide ***CLEC Acronym TXT*** with the ability to engage in Line Sharing over a copper Loop, between the October 2, 2003 and October 2, 2006, where ***CLEC Acronym TXT*** began providing xDSL service to a particular end-user customer on or before October 2, 2004. Beginning on October 2, 2006, Verizon is no longer required to provide ***CLEC Acronym TXT*** with the ability to engage in Line Sharing for this end-user customer or any new end-user customer. Between October 2, 2003 and October 2, 2006, Verizon shall provide ***CLEC Acronym TXT*** with access to Line Sharing in order to serve Line Sharing customers obtained between October 2, 2003 and October 2, 2004 in the following manner:

(1) During the first year following October 2, 2003, Verizon shall provide access to the high frequency portion of a copper Loop at twenty-five percent (25%) of the state-approved monthly recurring rate for the Loop in effect on that date.

(2) Beginning October 3, 2004 until October 2, 2005, Verizon shall provide access to the high frequency portion of a copper Loop at fifty

percent (50%) of the state-approved monthly recurring rate for the Loop in effect on October 2, 2003.

(3) Beginning October 3, 2005 until October 2, 2006, Verizon shall provide access to the high frequency portion of a copper Loop at seventy-five percent (75%) of the state-approved monthly recurring rate for the Loop in effect on October 2, 2003.

3.2.3 Line Splitting. CLECs may provide integrated voice and data services over the same Loop by engaging in "Line Splitting" as set forth in paragraph 18 of the FCC's Line Sharing Reconsideration Order (CC Docket Nos. 98-147, 96-98), released January 19, 2001. Any Line Splitting between two CLECs shall be accomplished by prior negotiated arrangement between those CLECs. To achieve a Line Splitting capability, CLECs may utilize supporting Verizon OSS to order and combine in a Line Splitting configuration an unbundled xDSL Compatible Loop terminated to a collocated splitter and DSLAM equipment provided by a participating CLEC, unbundled switching combined with shared transport, collocator-to-collocator connections, and available cross-connects, under the terms and conditions set forth in their Interconnection Agreement(s). The participating CLECs shall provide any splitters used in a Line Splitting configuration. CLECs seeking to migrate existing UNE platform configurations to a Line Splitting configuration using the same Network Elements utilized in the pre-existing platform arrangement, or seeking to migrate a Line Sharing arrangement to a Line Splitting configuration using the existing Loop, a Verizon Local Switching Network Element, and the existing central office wiring configuration, may do so consistent with such implementation schedules, terms, conditions and guidelines as are agreed upon for such migrations in the ongoing DSL Collaborative in the State of New York, NY PSC Case 00-C-0127, allowing for local jurisdictional and OSS differences.

3.2.3.1 Line Splitting with a CLEC-Owned Switch ("Loop Splitting"). When provisioning a ***CLEC Acronym TXT*** Line Splitting order for a standalone Loop where ***CLEC Acronym TXT*** or a third party LEC is providing switching, Verizon shall use the same length of tie pairs and CFA assignments it uses for Line Splitting in conjunction with Verizon provided switching plus an additional CLEC-to-CLEC connection and shall employ a basic installation "lift and lay" procedure, in which the Verizon technician lifts the Loop from its existing termination in the applicable Verizon Wire Center and lays it on a new termination connection to ***CLEC Acronym TXT***'s or its associated advanced services provider's collocated equipment in the same Wire Center utilizing the existing CFA. When submitting an order for Line Splitting for a standalone Loop where ***CLEC Acronym TXT*** or a third party LEC is providing switching, ***CLEC Acronym TXT*** or its associated advanced services provider will provide, on the service order, the appropriate frame terminations that are dedicated to splitters. Verizon shall administer all cross connects/jumpers on the COSMIC/MDF and IDF.

3.2.4 Line Conditioning. Verizon shall condition a copper Loop at the request of ***CLEC Acronym TXT*** when seeking access to (i) a copper Loop under Section [3.1] of this Attachment or under the Agreement, the high frequency portion of a copper Loop under Section [3.2] of this Attachment, or (iii) a copper Sub-Loop under Section [3.3] of this Attachment, to ensure that the

copper Loop or copper Sub-Loop is suitable for providing xDSL services, including those provided over the high frequency portion of the copper Loop or copper Sub-Loop, whether or not Verizon offers advanced services to the end-user customer on that copper Loop or copper Sub-Loop. If Verizon seeks compensation from ***CLEC Acronym TXT*** for line conditioning, ***CLEC Acronym TXT*** has the option of refusing, in whole or in part, to have the line conditioned; and ***CLEC Acronym TXT***'s refusal of some or all aspects of line conditioning will not diminish any right it may have, under this Section 3.2.4, to access the copper Loop, the high frequency portion of the copper Loop, or the copper Sub-Loop.

3.2.4.1 Line conditioning is defined as the removal from a copper Loop or copper Sub-Loop of any device that could diminish the capability of the Loop or Sub-Loop to deliver high-speed switched wireline telecommunications capability, including DSL service. Such devices include, but are not limited to, bridge taps, load coils, low pass filters, and range extenders.

3.2.4.2 Verizon shall recover the costs of line conditioning from ***CLEC Acronym TXT*** in accordance with the FCC's forward-looking pricing principles promulgated pursuant to section 252(d)(1) of the Act and in compliance with rules governing nonrecurring costs in Section 51.507(e) of the FCC's rules.

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

3.2.4.4 Where ***CLEC Acronym TXT*** is seeking access to the high frequency portion of a copper Loop or copper Sub-Loop and Verizon claims that conditioning that Loop or Sub-Loop 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 Sub-Loop, Verizon must either:

3.2.4.4.1 Locate another copper Loop or copper Sub-Loop that has been or can be conditioned, migrate Verizon's voiceband service to that Loop or Sub-Loop, and provide ***CLEC Acronym TXT*** with access to the high frequency portion of that alternative Loop or Sub-Loop; or

3.2.4.4.2 Make a showing to the [***State Commission TXT***] that the original copper Loop or copper Sub-Loop cannot be conditioned without significantly degrading voiceband services on that Loop or Sub-Loop, as defined in Section 51.233 of the FCC's rules, and that there is no adjacent or alternative copper Loop or copper Sub-Loop available that can be conditioned or to which the end-user customer's voiceband service can be moved to enable Line Sharing.

3.2.4.5 If, after evaluating Verizon's showing under Section [3.2.4.4.2] above, the [***State Commission TXT***] concludes that a copper Loop or copper Sub-Loop cannot be conditioned without

significantly degrading the voiceband service, Verizon cannot then or subsequently condition that Loop or Sub-Loop to provide advanced services to its own customers without first making available to any requesting telecommunications carrier, including ***CLEC Acronym TXT***, the high frequency portion of the newly conditioned Loop or Sub-Loop.

3.3 Sub-Loop.

3.3.1 Sub-Loop for Access to Multiunit Premises. All provisions in the Agreement governing ***CLEC Acronym TXT*** access to Inside Wire, House and Riser or House and Riser Cable are hereby deleted and replaced with this Section 3.3.1, which shall supersede any other provision in the Agreement or in any Verizon tariff or SGAT in effect on the Amendment Effective Date. Upon request by ***CLEC Acronym TXT***, Verizon shall provide to ***CLEC Acronym TXT*** access to the Sub-Loop for Multiunit Premises Access.

3.3.1.1 Inside Wire Sub-Loop. Upon request by ***CLEC Acronym TXT***, Verizon shall provide to ***CLEC Acronym TXT*** access to a House and Riser Cable pursuant to this Section 3.3.1.1 at the rates and charges provided in the Agreement. Verizon shall not reserve a House and Riser Cable for ***CLEC Acronym TXT***. ***CLEC Acronym TXT*** may access a House and Riser Cable only between the MPOE for such cable and the demarcation point at a technically feasible access point. It is not technically feasible to access inside wire sub-loop if a technician must access the facility by removing a splice case to reach the wiring within the cable.

3.3.1.1.1 ***CLEC Acronym TXT*** must satisfy the following conditions before ordering access to a House and Riser Cable from Verizon:

3.3.1.1.1.1 ***CLEC Acronym TXT*** shall locate its facilities within cross connect distance of the point of interconnection on such cable. Facilities are within cross connect distance of a point of interconnection if they are located in the same room (not including a hallway) or within twelve (12) feet of such point of interconnection.

3.3.1.1.1.2 If suitable space is available, ***CLEC Acronym TXT*** shall install its facilities no closer than fourteen (14) inches of the point of interconnection for such cable, unless otherwise agreed by the Parties.

3.3.1.1.1.3 ***CLEC Acronym TXT***'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 ***CLEC Acronym TXT***'s facilities or equipment are located in a space where

Verizon plans to locate its facilities or equipment.

3.3.1.1.4 ***CLEC Acronym TXT*** shall identify its facilities as those of ***CLEC Acronym TXT***.

3.3.1.1.2 To provide ***CLEC Acronym TXT*** with access to a House and Riser Cable, Verizon shall not be obligated to (a) move any Verizon equipment, (b) secure any right of way for ***CLEC Acronym TXT***, (c) secure space for ***CLEC Acronym TXT*** in any building, (d) secure access to any portion of a building for ***CLEC Acronym TXT*** or (e) reserve space in any building for ***CLEC Acronym TXT***.

3.3.1.1.3 Verizon shall perform cutover of a customer to ***CLEC Acronym TXT*** service by means of a House and Riser Cable subject to a negotiated interval. Verizon shall install a jumper cable to connect the appropriate Verizon House and Riser Cable pair to ***CLEC Acronym TXT***'s facilities, and Verizon shall determine how to perform such installation. ***CLEC Acronym TXT*** shall coordinate with Verizon to ensure that House and Riser Cable facilities are converted to ***CLEC Acronym TXT*** in accordance with ***CLEC Acronym TXT***'s order for such services.

3.3.1.1.4 If proper ***CLEC Acronym TXT*** facilities are not available at the time of installation, Verizon shall bill ***CLEC Acronym TXT***, and ***CLEC Acronym TXT*** shall pay to Verizon, the Not Ready Charge set forth in the Agreement and the Parties shall establish a new cutover date.

3.3.1.1.5 Verizon shall perform all installation work on Verizon equipment in connection with ***CLEC Acronym TXT***'s use of Verizon's House and Riser Cable. All ***CLEC Acronym TXT*** equipment connected to a House and Riser Cable shall comply with applicable industry standards.

3.3.1.1.6 Verizon shall repair and maintain a House and Riser Cable at the request of ***CLEC Acronym TXT***. ***CLEC Acronym TXT*** shall be solely responsible for investigating and determining the source of all troubles and for providing Verizon with appropriate dispatch information based on its test results. Verizon shall repair a trouble only when the cause of the trouble is a Verizon House and Riser Cable. If (a) ***CLEC Acronym TXT*** reports to Verizon a Customer trouble, (b) ***CLEC Acronym TXT*** requests a dispatch, (c) Verizon dispatches a technician, and (d) such trouble was not caused by a Verizon House and Riser Cable in whole or in part, then ***CLEC Acronym TXT*** shall pay Verizon the charge set forth in the Agreement for

time associated with said dispatch. In addition, this charge also applies when the Customer contact as designated by ***CLEC Acronym TXT*** is not available at the appointed time. If as the result of ***CLEC Acronym TXT*** instructions, Verizon is erroneously requested to dispatch to a site on Verizon company premises ("dispatch in"), a charge set forth in the Agreement will be assessed per occurrence to ***CLEC Acronym TXT*** by Verizon. If as the result of ***CLEC Acronym TXT*** instructions, Verizon is erroneously requested to dispatch to a site outside of Verizon company premises ("dispatch out"), a charge set forth in the Agreement will be assessed per occurrence to ***CLEC Acronym TXT*** by Verizon.

3.3.1.2 Single Point of Interconnection. Upon request by ***CLEC Acronym TXT*** and provided that the conditions set forth in Subsections [3.3.1.2.1 and 3.3.1.2.2] are satisfied, the Parties shall negotiate in good faith an amendment to the Amended Agreement memorializing the terms, conditions and rates under which Verizon will provide a single point of interconnection at a multiunit premises suitable for use by multiple carriers:

3.3.1.2.1 Verizon has distribution facilities to the multiunit premises, and either owns and controls, or leases, the House and Riser Cable at the multiunit premises; and

3.3.1.2.2 ***CLEC Acronym TXT*** certifies that it will place an order for access to an unbundled Sub-Loop network element via the newly provided single point of interconnection.

3.3.1.3.2 Distribution Sub-Loop Facility. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, in accordance with, but only to the extent required by, 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 54, upon site-specific request, ***CLEC Acronym TXT*** may obtain access to the Distribution Sub-Loop Facility at a technically feasible access point located near a Verizon remote terminal equipment enclosure at the rates and charges provided for Unbundled Sub-Loop Arrangements (or the Distribution Sub-Loop) in the Agreement. It is not technically feasible to access the sub-loop distribution facility if a technician must access the facility by removing a splice case to reach the wiring within the cable.

3.4 Unbundled Local Circuit Switching.

3.4.1 General Requirements. Verizon shall provide Mass Market Switching to ***CLEC Acronym TXT*** under the Amended Agreement in accordance with, but only to the extent required by, 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 54. Notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT, as of October 2, 2003, with the exception of the foregoing conditional obligation to provide Mass Market Switching, Verizon shall have no other obligation to provide any other form of Local Switching or Tandem Switching (such as Enterprise Switching) to ***CLEC Acronym TXT***, and any Local Switching or Tandem Switching previously made available to ***CLEC Acronym TXT*** shall be considered a Nonconforming Facility Element that shall be subject to the transition provisions of Section 3.8

below. For the avoidance of doubt: (a) Enterprise Switching is a Nonconforming Facility Element as of the Amendment Effective Date October 2, 2003 and shall be subject to Section 3.8 below; and (b) Local Switching subject to the FCC's Four-Line Carve Out Rule is a Nonconforming Facility Element by operation of law in effect prior to the Amendment Effective Date and shall be subject to Section 3.8 below.

3.4.2 Nonimpairment. Subject to the provisions of Section 3.8 below, Verizon shall be under no obligation to continue to provide ***CLEC Acronym TXT*** with nondiscriminatory access to Mass Market Switching on an unbundled basis under the Amended Agreement upon a finding by the [***State Commission TXT***] or the FCC that requesting telecommunications carriers are not impaired without access to Mass Market Switching in a particular market, or where the [***State Commission TXT***] or the FCC has found that all impairment would be cured by implementation of a transition plan for unbundled circuit switching in a particular market.

3.4.3 Signaling and Call-Related Databases. Verizon shall provide access to Signaling and Call-related Databases under the Amended Agreement in accordance with, but only to the extent required by, 47 U.S.C. § 251(e)(3) and 47 C.F.R. Part 51. Specifically, notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, ~~as of October 2, 2003,~~ Verizon shall provide Signaling and Call-Related Databases only in conjunction with the provision of Local Switching ~~or Tandem Switching~~ that Verizon is otherwise obligated to make available to ***CLEC Acronym TXT*** under the Amended Agreement; *provided, however,* that Verizon shall continue to provide nondiscriminatory access to the 911 and E911 Call-Related Databases in accordance with, but only to the extent required by, 47 U.S.C. § 251(e)(3) and 47 C.F.R. Part 51. Where Local Switching ~~or Tandem Switching~~ associated with a particular Signaling facility or Call-Related Database is or becomes a Nonconforming Facility 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 3.8 (except for the 911 and E911 Call-Related Databases, as noted above).

3.4.4 Customized Routing. Where Verizon has deployed an AIN capability that allows routing of OS/DA calls to ***CLEC Acronym TXT***'s FGD trunks, or where Verizon uses existing switch features and functions to route OS/DA calls to ***CLEC Acronym TXT***'s FGD trunks, Verizon shall provide customized routing of OS/DA calls placed by ***CLEC Acronym TXT*** customers to the particular outgoing trunks and associated routing tables designated by ***CLEC Acronym TXT***, using FGD protocol, including trunks terminating at OS/DA platforms designated by ***CLEC Acronym TXT***. Where Verizon has not deployed such AIN capability and has not used such existing switch features, Verizon shall provide OS/DA services to ***CLEC Acronym TXT*** as unbundled network elements. In that instance, upon request by ***CLEC Acronym TXT***, the Parties shall negotiate the terms, conditions, and cost-based rates for providing OS/DA services as unbundled Network Elements. Where Verizon provides OS/DA services to ***CLEC Acronym TXT*** on a resale basis, Verizon shall provide such services at Parity and on a Non-Discriminatory basis.

3.5 Unbundled Interoffice Facilities.

3.5.1 General Requirements. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, ~~as of October 2, 2003:~~ (a) Verizon shall

provide Dedicated Transport and Dark Fiber Transport under the Amended Agreement in accordance with, but only to the extent required by, 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51.

3.5.2 Dedicated Transport. On or after October 2, 2003, notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, and in accordance with, but only to the extent required by, 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51:

3.5.2.1 Upon ***CLEC Acronym TXT***'s written request, Verizon shall provide ***CLEC Acronym TXT*** 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 between a Verizon switch or wire center and a switch or wire center of ***CLEC Acronym TXT*** or a third party is not Dedicated Transport; and (b) a transmission facility or service that uses an OCn interface or a SONET interface is not Dedicated Transport. Subject to the provisions of Section 3.8 below, Verizon is under no obligation to provide or continue providing the Nonconforming Facilities-Elements described in clauses (a) and (b) above under the Agreement or the Amended Agreement.

3.5.2.2 Cap on Dedicated Transport. ***CLEC Acronym TXT*** may obtain on an unbundled basis a maximum of twelve (12) DS3 Dedicated Transport circuits (or twelve (12) DS3-equivalents, e.g. 336 DS1s) on any single Route on which unbundled transport is otherwise available. Any circuit capacity on that Route above such twelve (12) circuit cap shall be considered a Nonconforming FacilityElement.

3.5.2.3 Nonimpairment. Subject to the provisions of Section 3.8 below, Verizon shall be under no obligation to provide or continue providing ***CLEC Acronym TXT*** with nondiscriminatory access to DS1 Dedicated Transport or DS3 Dedicated Transport on an unbundled basis under the Amended Agreement on a particular Route upon a finding by the [***State Commission TXT***] or the FCC that requesting telecommunications carriers are not impaired without access to DS1 Dedicated Transport or DS3 Dedicated Transport, respectively, on the subject Route(s) or on all Routes. Any DS1 Dedicated Transport or DS3 Dedicated Transport previously made available to ***CLEC Acronym TXT*** on the subject Route(s) shall be considered Nonconforming ElementFacilities immediately on the effective date of the nonimpairment finding and thereafter, subject to Section 3.8 below.

3.5.3 Dark Fiber Transport. On or after October 2, 2003, notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, and in accordance with, but only to the extent required by, 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51:

3.5.3.1 Upon ***CLEC Acronym TXT***'s written request, Verizon shall provide ***CLEC Acronym TXT*** with nondiscriminatory access to Dark Fiber Transport on an unbundled basis pursuant to the Amended Agreement. For the avoidance of doubt, Dark Fiber

Transport does not include a dark fiber facility between (a) a Verizon switch or wire center and (b) a switch or wire center of ***CLEC Acronym TXT*** or any third party, and subject to the provisions of Section 3.8 below, Verizon is under no obligation to provide or continue providing such Nonconforming Facility Element under the Amended Agreement.

3.5.3.2 Nonimpairment. Subject to the provisions of Section 3.8 below, Verizon shall be under no obligation to provide or continue providing ***CLEC Acronym TXT*** with nondiscriminatory access to Dark Fiber Transport on an unbundled basis under the Agreement or the Amended Agreement on a particular Route upon a finding by the [***State Commission TXT***] or the FCC that requesting telecommunications carriers are not impaired without access to unbundled Dark Fiber Transport on the subject Route(s) or on all Routes. Any Dark Fiber Transport previously made available to ***CLEC Acronym TXT*** on the subject Route(s) shall be considered a Nonconforming Facility Element, as of the effective date of the nonimpairment findings subject to Section 3.8 below.

3.6 Commingling and Combinations.

3.6.1 Commingling. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, but subject to the conditions set forth in the following Section 3.6.2, Verizon will not prohibit, and hereby permits, the Commingling of an unbundled Network Element or a Combination of unbundled Network Elements obtained under the Agreement or Amended Agreement pursuant to 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51, or under a Verizon UNE tariff ("Qualifying UNEs"), with wholesale services obtained from Verizon under a Verizon wholesale or access tariff or separate non-251 agreement ("Qualifying Wholesale Services"), but only to the extent and so long as commingling and provision of such Network Element (or combination of Network Elements) is required by 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51. Moreover, to the extent and so long as required by 47 U.S.C. § 251(c)(3) and 47 U.S.C. Part 51, Verizon shall, upon request of ***CLEC Acronym TXT***, perform the functions necessary to Commingle or combine Qualifying UNEs with Qualifying Wholesale Services. Subject to Section 3.8.3 below, the rates, terms and conditions of the applicable wholesale or access tariff or separate non-251 agreement will apply to the Qualifying Wholesale Services, and the rates, terms and conditions of the Amended Agreement or the Verizon UNE tariff, as applicable, will apply to the Qualifying UNEs; provided, however, that a nonrecurring charge will apply for each UNE circuit that is part of a commingled arrangement, as set forth in the Pricing Attachment to this Amendment. This charge is intended to offset Verizon's costs of implementing and managing commingled arrangements. Verizon shall not deny access to a Network Element or a Combination of Network Elements on the grounds that one or more of the Network Elements (i) is connected to, attached to, linked to, associated with, or combined with, a facility or service obtained from Verizon; or (ii) shares part of Verizon's network with access services or inputs for Non-qualifying Services. When ***CLEC Acronym TXT*** purchases Commingled Network Elements and Qualifying Wholesale Services from Verizon, Verizon shall charge ***CLEC Acronym TXT*** on an element-by-element and service-by-service rate. "Ratcheting," as that term is defined by the FCC, shall not be required. Qualifying UNEs that are Commingled with Qualifying Wholesale Services

are not included in the shared use provisions of the applicable tariff. Verizon's performance in connection with the provisioning of eCommingled facilities and services shall not be subject to standard provisioning intervals, or to performance measures and remedies, if any, contained in the Amended Agreement or under Applicable Law elsewhere. In addition, Verizon shall cooperate fully with ***CLEC Acronym TXT*** 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 ***CLEC Acronym TXT***'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 perspective. For the avoidance of any doubt, Verizon acknowledges and agrees that the language of this TRO Attachment complies with and satisfies the requirements of Verizon's wholesale and access tariffs with respect to Commingling. Verizon shall not change its wholesale or access tariffs in any fashion that impacts the availability or provision of Commingling under this TRO Attachment or the Agreement, unless Verizon and ***CLEC Acronym TXT*** have amended this TRO Attachment and the Agreement in advance to address Verizon's proposed tariff changes.

3.6.2 Service Eligibility Criteria for High-Capacity Loop/Transport Certain Combinations and Commingled Facilities and Services. Notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT to the contrary:

3.6.2.1 Verizon shall not be obligated to provide:

3.6.2.1.1 an unbundled DS1 Loop in combination with unbundled DS1 or DS3 Dedicated Transport, or eCommingled with a DS1 or DS3 interoffice access transport services;

3.6.2.1.2 an unbundled DS3 Loop in combination with unbundled DS3 Dedicated Transport, or eCommingled with a DS3 interoffice access transport services;

3.6.2.1.3 unbundled DS1 Dedicated Transport eCommingled with DS1 channel termination access-service;

3.6.2.1.4 unbundled DS3 Dedicated Transport eCommingled with DS1 channel termination access-service; or

3.6.2.1.5 unbundled DS3 Dedicated Transport eCommingled with DS3 channel termination service,

except to the extent and so long as Verizon is required by 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51 to do so, and then not unless and until ***CLEC Acronym TXT*** certifies in writing (via email or letter) to Verizon that ***CLEC Acronym TXT***'s for each DS1 circuit or DS1 equivalent circuit that it is in compliance with each of the High-Cap EEL service eligibility criteria set forth in Section 3.6.2.247 C.F.R. § 51.318. Anything to the contrary in this Section 3.6.2 notwithstanding, ***CLEC Acronym TXT*** shall not be required to provide certification to obtain access to lower capacity EELs, other Combinations or individual Network Elements. ***CLEC Acronym TXT*** must remain in compliance

with said service eligibility criteria for so long as ***CLEC Acronym TXT*** continues to receive the aforementioned combined or eCommingle facilities and/or services from Verizon. The High-Cap EEL service eligibility criteria shall be applied to each DS1 circuit or DS1 equivalent circuit. If the circuit is, becomes, or is subsequently determined to be, noncompliant, the noncompliant circuit will be treated as a Nonconforming ElementFacility subject to the provisions of Section 3.8 below. 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. For existing circuits, the CLEC must re-certify in writing for each DS1 circuit or DS1 equivalent within 30 days of the Amendment Effective Date. Circuits not re-certified shall be Nonconforming FacilitiesElements.

3.6.2.2 High-Cap EEL Service Eligibility Criteria:

3.6.2.2.1 ***CLEC Acronym TXT*** has received state certification to provide local voice service in the area being served or, in the absence of a state certification requirement, has complied with registration, tariffing, filing fee, or other regulatory requirements applicable to the provision of local voice service in that area. Verizon hereby acknowledges that ***CLEC Acronym TXT*** has received state certification sufficient to satisfy this criteria; and

3.6.2.2.2 The following criteria are satisfied for each combined/commingled circuit, including each DS1 circuit, each DS1 EEL, and each DS1-equivalent circuit on a DS3 EEL:

3.6.2.2.2.1 Each DS1 circuit to be provided to each customer will be assigned a local number prior to the provision of service over that circuit; and

3.6.2.2.2.2 Each DS1-equivalent circuit on a DS3 EEL must have its own local number assignment, so that each DS3 must have at least 28 local voice numbers assigned to it; and

3.6.2.2.2.3 Each DS1 circuit used to provide local call origination service will have 911 or E911 capability prior to the provision of service over that circuit; and

3.6.2.2.2.4 Each DS1 circuit to be provided to each customer will terminate in a collocation arrangement that meets the requirements of Section [3.6.2.2.3]; and

3.6.2.2.2.5 Each DS1 circuit to be provided to each customer will be served by an

interconnection trunk that meets the requirements of Section [3.6.2.2.4]; and

3.6.2.2.2.6 For each 24 DS1 EELs or other facilities having equivalent capacity, ***CLEC Acronym TXT*** will have at least one active DS1 local service interconnection trunk that meets the requirements of Section [3.6.2.2.4]; and

3.6.2.2.2.7 Each DS1 circuit to be provided to each customer will be served by a switch capable of switching local voice traffic.

3.6.2.2.3 A collocation arrangement meets the requirements of this Section [3.6.2.2] if it is:

3.6.2.2.3.1 Established pursuant to section 251(c)(6) of the Act and located at a Verizon premise within the same LATA as ***CLEC Acronym TXT***'s customer's premises, when Verizon is not the collocator; and

3.6.2.2.3.2 Located at a third party's premises within the same LATA as ***CLEC Acronym TXT***'s customer's premises, when Verizon is the collocator.

3.6.2.2.4 An interconnection trunk meets the requirements of this Section [3.6.2.2] if ***CLEC Acronym TXT*** will transmit the calling party's number in connection with calls exchanged over the trunk.

3.6.2.2.3 Each written certification to be provided by ***CLEC Acronym TXT*** pursuant to Section 3.6.2.1 above must contain the following information for each DS1 circuit or DS1 equivalent: (a) the local number assigned to each DS1 circuit or DS1 equivalent; (b) the local numbers assigned to each DS3 circuit (must have 28 local numbers assigned to it); (c) the date each circuit was established in the 911/E911 database; (d) the collocation termination connecting facility assignment for each circuit, showing that the collocation arrangement was established pursuant to 47 U.S.C. § 251(c)(6), and not under a federal collocation tariff; (e) the interconnection trunk circuit identification number that serves each DS1 circuit. There must be one such identification number per every 24 DS1 circuits; and (f) the local switch that serves each DS1 circuit. When submitting an ASR for a circuit, this information must be contained in the Remarks section of the ASR, unless provisions are made to populate other fields on the ASR to capture this information.

3.6.2.4 Other than the High-Cap EEL service eligibility criteria set forth in this Section [3.6.2], Verizon shall not impose terms and conditions, including without limitation, pre-audits and

requirements to purchase special access and then convert to EELs, on ***CLEC Acronym TXT***'s purchase of High-Capacity EELs.

[MCI Comment: MCI proposes moving the provisions that deal with Access-to-UNE conversions (formerly Sections 3.6.2.3 through 3.6.2.6) to a new, standalone section (3.9) because conversions do not necessarily only involve EELs.]

~~3.6.2.3~~ The charges for conversions are as specified in the Pricing Attachment to this Amendment and apply for each circuit converted.

~~3.6.2.4~~ 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. 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.

~~3.6.2.5~~ All ASR-driven conversion requests will result in a change in circuit identification (circuit ID) from access to UNE or UNE to access. If such change in circuit ID requires that the affected circuit(s) be retagged, then a retag fee per circuit will apply as specified in the pricing attachment.

~~3.6.2.6~~ All requests for conversions will be handled as a project and will be excluded from all ordering and provisioning metrics.

~~3.6.2.3~~ 3.6.2.5 No more frequently than every twelve (12) calendar months ~~Once per calendar year~~, Verizon may request, on thirty (30) day advanced written notice, obtain and pay for an independent auditor to audit ***CLEC Acronym TXT***'s compliance in all material respects with the High-Cap EEL service eligibility criteria ~~applicable to EELs~~. 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. To the extent the independent auditor's report concludes that ***CLEC Acronym TXT*** failed to comply with the High-Cap EEL service eligibility criteria ~~for any DS1 or DS1 equivalent circuit~~, then (i) ***CLEC Acronym TXT*** must convert all noncompliant circuits to the appropriate service, true up any difference in payments to the initial date of non-compliance, make the correct payments on a going-forward basis; and (ii) Verizon shall provide to the independent auditor for its verification a statement of Verizon's out-of-pocket costs of complying with any requests of the independent auditor. ***CLEC Acronym TXT*** shall then reimburse Verizon for its out-of-pocket costs within thirty (30) days after the auditor's verification of the same. ~~reimburse Verizon for the entire cost of the audit within thirty (30) days after receiving a statement of such costs from Verizon. Should the independent auditor confirm ***CLEC Acronym TXT***'s compliance with the service eligibility criteria for each DS1 or DS1~~

equivalent circuit, then ***CLEC Acronym TXT*** shall provide to the independent auditor for its verification a statement of ***CLEC Acronym TXT***'s out-of-pocket costs of complying with any requests of the independent auditor, and Verizon shall then reimburse ***CLEC Acronym TXT*** for its out-of-pocket costs within thirty (30) days of the auditor's verification of the same. ***CLEC Acronym TXT*** shall maintain records adequate to support its compliance with the service eligibility criteria for each DS1 or DS1 equivalent circuit for at least eighteen (18) months after the service arrangement in question is terminated.

3.6.3 Combinations.

3.6.3.1 ***CLEC Acronym TXT*** may, at its option, combine a Network Element with any other Network Element to the extent Technically Feasible. Verizon, however, may not require ***CLEC Acronym TXT*** to combine Network Elements.

3.6.3.2 In addition to offering each Network Element individually, Verizon shall, upon ***CLEC Acronym TXT***'s request, perform the functions necessary to combine Network Elements in any manner, even if those Network Elements are not ordinarily combined in Verizon's network; provided, however, that such Combination (i) is Technically Feasible; and (ii) would not undermine the ability of other carriers to obtain access to Network Elements or to interconnect with Verizon's network. If Verizon denies ***CLEC Acronym TXT*** access to any Combination based on a claim that it is not Technically Feasible, Verizon must prove to the [***State Commission TXT***] that the requested Combination is not Technically Feasible. If Verizon denies ***CLEC Acronym TXT*** access to any Combination based on a claim that it would undermine the ability of other carriers to access Network Elements or to interconnect, Verizon must prove to the [***State Commission TXT***] that the requested Combination would impair the ability of other carriers to obtain access to Network Elements or to interconnect with Verizon's network.

3.6.3.3 Upon ***CLEC Acronym TXT***'s request, Verizon shall perform the functions necessary to combine Network Elements with elements possessed or provided by ***CLEC Acronym TXT*** in any Technically Feasible manner.

3.6.3.4 Except when requested by ***CLEC Acronym TXT***, Verizon shall not separate requested Network Elements that Verizon currently combines.

3.7 Routine Network Modifications.

3.7.1 General Conditions. In accordance with, but only to the extent required by, 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51, Verizon shall make all such routine network modifications to, at the rates and charges set forth in the Pricing Attachment to this Amendment, as are necessary to permit access by ***CLEC Acronym TXT*** to the any Loop, Dedicated Transport, or Dark Fiber Transport facilities used by ***CLEC Acronym TXT*** available under the Amended Agreement (including, but not limited to, DS1 Loops and DS1

Dedicated Transport, and DS3 Loops and DS3 Dedicated Transport), where the facility has already been constructed. Verizon shall perform all routine network modifications to unbundled Loop, Dedicated Transport, and Dark Fiber Transport facilities in a nondiscriminatory fashion, 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, Dedicated Transport, or Dark Fiber Transport may include, but are not limited to: rearranging or splicing of in-place cable at existing splice points; adding an equipment case; adding a doubler or repeater; adding a smart jack; adding a line card; installing a repeater shelf; and deploying a new multiplexer or reconfiguring an existing multiplexer; accessing manholes; and deploying bucket trucks to reach aerial cable. Routine network modifications also include, but are not limited to, activities needed to enable ***CLEC Acronym TXT*** to obtain access applicable to Dark Fiber Loops and light Dark Fiber Transport. Routine network modifications may entail include, but are not limited to, splicing of in-place dark fiber at existing splice points; accessing manholes; deploying bucket trucks to reach aerial cable; or installing equipment casings and routine activities, if any, needed to enable ***CLEC Acronym TXT*** to light a Dark Fiber Transport facility that it has obtained from Verizon under the Amended Agreement. Routine network modifications do not include the construction of a new Loop or new Transport or facilities, trenching, the pulling of cable, the installation of new aerial, or buried, or underground, cable for ***CLEC Acronym TXT*** a requesting telecommunications carrier, or the placement of new cable.

3.7.2 Performance Plans. Verizon's performance in connection with the provisioning of Loops or Transport (including Dark Fiber Transport) for which routine network modifications are necessary shall ~~not~~ be subject to standard provisioning intervals, or to performance measures and remedies, if any, contained in the Amended Agreement or under Applicable Law elsewhere.

3.8 Transitional Provisions for Nonconforming Facilities Elements.

3.8.1 Nonimpairment Findings – Switching. ~~To the extent required by 47 U.S.C. § 251(e)(3) and 47 C.F.R. Part 54,~~ Verizon and ***CLEC Acronym TXT*** will abide by the following transitional procedures with respect to Mass Market Switching and Enterprise Switching:

3.8.1.1 Mass Market Switching. Upon a finding by the [***State Commission TXT***] or the FCC that no impairment exists in a particular market with respect to Mass Market Switching, Verizon will continue accepting orders under the Amended Agreement for Mass Market Switching for a transitional period of five (5) months. Thereafter, Verizon shall be under no obligation to accept new orders for Mass Market Switching. Counting from the effective date of the [***State Commission TXT***]'s or FCC's order finding no impairment in a particular market or markets, but not including any days during which such order is stayed, ***CLEC Acronym TXT*** shall submit orders to Verizon to migrate the embedded base of its end user customers in the subject market off of Verizon's Mass Market Switching product to any other switching service or product made available by Verizon, subject to Section 3.8.3 below, under separate agreement, or to ***CLEC Acronym TXT***'s own or a third party's facilities, in accordance with the following schedule: (a) during by the end of month 13, ***CLEC

Acronym TXT*** must submit orders to migrate one-third of its embedded base of end user customers; (b) ~~during by the end of~~ month 20, ***CLEC Acronym TXT*** must submit orders to migrate one-half of the remaining embedded base of end user customers; and (c) ~~during by the end of~~ month 27, ***CLEC Acronym TXT*** must submit orders to migrate the remainder of its embedded base of end user customers. For purposes of the foregoing schedule, customers already in a "rolling" transition plan established by the [***State Commission TXT***] or the FCC shall not be included in the embedded base. For the avoidance of doubt, Mass Market Switching (i) provided under this Amended Agreement to new customers ordering service within the five-month transitional period specified above or (ii) provided for the embedded based during the migration period specified above shall, in either and both cases, be subject to the rates in effect under the Agreement as of the day before the effective date of the order finding no impairment in a particular market or markets.

3.8.1.2

Enterprise Switching. Verizon will provide ***CLEC Acronym TXT*** with at least thirty (30) days advance written notice of the date on which Verizon will cease provisioning Enterprise Switching to ***CLEC Acronym TXT***. Verizon agrees to continue provisioning Enterprise Switching to ***CLEC Acronym TXT*** under the terms of the Amended Agreement during a transitional period, which transitional period shall end on the date that is three (3) months after the Amendment Effective Date. Beginning on the Amendment Effective Date set forth in the notice. ~~Beginning January 1, 2004,~~ ***CLEC Acronym TXT*** shall have ninety (90) days in which to submit orders to Verizon to migrate its embedded base of end user customers served by Verizon's Enterprise Switching product to any other switching service or product made available by Verizon, subject to Section 3.8.3 below, under separate agreement, or to ***CLEC Acronym TXT***'s own or a third party's facilities.

3.8.2

Nonconforming Facilities Elements -- Generally. Except as addressed in the limited circumstances described in Section 3.8.1 above relating to a finding of no impairment, Verizon will notify ***CLEC Acronym TXT*** in writing as to any particular unbundled facility or element previously made available to ***CLEC Acronym TXT*** that is or becomes a Nonconforming Element Facility, as defined herein. Such notice ("Transition Notice") shall identify the type of Nonconforming Element generally, identify and describe the legal authority under which Verizon has determined that it is subject to treatment as a Nonconforming Element, and provide, with respect to each instance of such Nonconforming Element (e.g., such as a circuit, customer location, transport route, geographic market or other granular attribute) specific information identifying each instance of each Nonconforming Element obtained by ***CLEC Acronym TXT***, including without limitation, for each such Nonconforming Element, the Verizon account number; the ***CLEC Acronym TXT*** identification number associated with each such Nonconforming Element to the extent contained in Verizon's records; the street address associated with the locations at which each such Nonconforming Element is provided; the CLLI codes associated with the locations at which each such Nonconforming Element is provided, if applicable; and any and all other information reasonably available to Verizon that would help identify, with particularity, each instance of a Nonconforming

Element that Verizon intends to have covered by the notice provided under this section.

3.8.2.1 If the Transition Notice identifies a significant number of Nonconforming Elements (e.g., more than one hundred Loops or more than one hundred Dedicated Transport circuits) ***CLEC Acronym TXT*** shall have a transition period of ninety (90) days after receipt of the Transition Notice within which to specify one of the Alternate Service Arrangements specified below with respect to each Nonconforming Element. If the Transition Notice does not identify a significant number of Nonconforming Elements (e.g., fewer than one hundred Loops or fewer than one hundred Dedicated Transport circuits) ***CLEC Acronym TXT*** shall have a transition period of thirty (30) days after receipt of the Transition Notice within which to specify one of the Alternate Service Arrangements specified below with respect to each Nonconforming Element. In either case, Verizon agrees to continue providing the Nonconforming Elements that are the subject of the Transition Notice during the applicable transition period (and thereafter to the extent specified for a given Alternative Service Arrangement) under the rates, terms, and conditions of the Agreement, as if the same were in effect as of the day before the effective date of the legal authority on which the Transition Notice is based.

3.8.2.2 By the end of the applicable transition period specified in section 3.8.2.1. above, ***CLEC Acronym TXT*** shall designate one of the following Alternative Service Arrangements for each Nonconforming Element identified in the Transition Notice.

3.8.2.2.1 Conversion to Access Service: ***CLEC Acronym TXT*** may elect to convert a Nonconforming Element to the analogous access service, if available. Where the Nonconforming Elements are converted to an analogous access service, from and after the date on which Verizon processes ***CLEC Acronym TXT***'s order, Verizon shall provide such access services at the rates applicable under the term plan selected by ***CLEC Acronym TXT***, and in accordance with the terms and conditions, of Verizon's applicable access tariff, with the effective bill date being the first day following the date on which Verizon processes ***CLEC Acronym TXT***'s order. Conversion to an analogous access service shall be accomplished via the applicable LSR or ASR process, or with respect to a significant number of Nonconforming Elements, via letter and spreadsheet, which will be coordinated by the Parties on a project basis. Until the date on which Verizon processes ***CLEC Acronym TXT***'s order with respect to a particular Nonconforming Element and converts it to the analogous access service, Verizon agrees to continue providing such Nonconforming Element under the rates, terms, and conditions of the Agreement, as the same were in effect as of the day before the effective date of the legal authority on which the Transition Notice is based.

3.8.2.2.2 Conversion to Resale Arrangement: ***CLEC Acronym TXT*** may elect to convert a Nonconforming Element to a resale arrangement (either under the Agreement or otherwise), if available. Where the Nonconforming Elements are converted to such a resale arrangement, from and after the date on which Verizon processes ***CLEC Acronym TXT***'s order, Verizon shall provide such resale arrangements under the rates, terms, and conditions applicable under the this Agreement (or if applicable, the relevant Verizon tariff), with the effective bill date being the first day following the date on which Verizon processes ***CLEC Acronym TXT***'s order. Conversion to a resale arrangement shall be accomplished via the applicable LSR or ASR process, or with respect to a significant number of Nonconforming Elements, via letter and spreadsheet, which will be coordinated by the Parties on a project basis. Until the date on which Verizon processes ***CLEC Acronym TXT***'s order with respect to a particular Nonconforming Element and converts it to a resale arrangement, Verizon agrees to continue providing such Nonconforming Element under the rates, terms, and conditions of the Agreement, as the same were in effect as of the day before the effective date of the legal authority on which the Transition Notice is based.

3.8.2.2.3 Conversion to Alternative Verizon Service Arrangement: ***CLEC Acronym TXT*** and Verizon may mutually agree to convert a Nonconforming Element to some other service arrangement (e.g., a separate agreement at market-based or other rates). Conversion to some other service arrangement shall be accomplished via a process to be mutually agreed-upon by the Parties. Until the date on which the conversion is completed per the terms agreed-upon by the Parties, Verizon agrees to continue providing such Nonconforming Element under the rates, terms, and conditions of the Agreement, as the same were in effect as of the day before the effective date of the legal authority on which the Transition Notice is based.

3.8.2.2.4 Disconnection of a Nonconforming Element: ***CLEC Acronym TXT*** may elect to disconnect a Nonconforming Element. Disconnection of a Nonconforming Element shall be accomplished via the applicable LSR or ASR process, or with respect to a significant number of Nonconforming Elements, via letter and spreadsheet, which will be coordinated by the Parties on a project basis. Billing for such Nonconforming Element shall cease as of the effective date of disconnect specified by ***CLEC Acronym TXT*** in its order (which date shall be no earlier than fifteen (15) days from the date of ***CLEC Acronym TXT***'s order. Until the date on which Verizon processes ***CLEC Acronym TXT***'s disconnect order

Pricing Attachment to the TRO ~~Amendment~~Attachment

1. General

1.1 As used in this Pricing Attachment:

1.1.1 "Services" means and includes any Network Element or other service, facility, equipment or arrangement, provided pursuant to this Amendment; and,

1.1.2 "Charges" means the rates, fees, charges and prices for a Service.

1.2 ~~Charges for Services provided under the Amended Agreement shall be those set forth in Exhibit A of this Pricing Attachment~~Exhibit and in the Amended Agreement (including any cross references therein to applicable tariffs, if any). Parties intend that the Charges set forth in Exhibit A reflect the rates and charges required or approved by the [***State Commission TXT***] or the FCC. The Charges set forth in Exhibit A of this Pricing Exhibit shall be automatically superseded by any new Charge(s) when such new Charge(s) are required by any order of the [***State Commission TXT***] or the FCC, approved by the [***State Commission TXT***] or the FCC, provided such new Charge(s) are not subject to a stay issued by any court of competent jurisdiction. For ~~Charges rate elements provided in Exhibit A of this Pricing Attachment that do not include a specific rate~~Charge, if any, whether marked as "TBD" or otherwise, Verizon is developing such Charges and has not finished developing such Charges as of the Amendment Effective Date. When Verizon finishes developing such a Charge, Verizon shall notify ***CLEC Acronym TXT*** in writing of such Charge in accordance with, and subject to, the notices provisions of the Amended Agreement and thereafter shall bill ***CLEC Acronym TXT***, and ***CLEC Acronym TXT*** shall pay to Verizon, for Services provided pursuant to this Amendment on the Amendment Effective Date and thereafter in accordance with such Charge. Any Charges set out in a notice provided by Verizon to ***CLEC Acronym TXT*** pursuant to this Section 1.2 shall be deemed to be a part of Exhibit A of this Pricing Attachment immediately after Verizon sends such notice to ***CLEC Acronym TXT*** and thereafter.

~~1.3 In the absence of Charges for a Service established pursuant to Section 1.2 of this Attachment, the Charges for the Service shall be the Charges required, approved, or otherwise allowed to go into effect, by the [***State Commission TXT***] or the FCC (including, but not limited to, in a tariff that has been filed with the [***State Commission TXT***] or the FCC), provided such Charges are not subject to a stay issued by any court of competent jurisdiction.~~

1.4.1.3 In the absence of Charges for a Service established pursuant to Sections 1.2 through 1.3 of this Pricing ExhibitAttachment, the Charges for the Service shall be mutually agreed to by the Parties in writing. Within thirty (30) days after the Amendment Effective Date, Verizon shall provide to ***CLEC Acronym TXT*** the cost data necessary to establish a Charge where a specific rate for such Charge is not reflected in Exhibit A so that the Parties may negotiate a mutually agreeable rate. If after sixty (60) days after the Amendment Effective Date, the Parties have not mutually agreed to such Charge(s), then either Party may seek resolution and determination of such Charge(s) with the ***State Commission TXT***.

Exhibit A

with respect to a particular Nonconforming Element, Verizon agrees to continue providing such Nonconforming Element under the rates, terms, and conditions of the Agreement, as the same were in effect as of the day before the effective date of the legal authority on which the Transition Notice is based.

3.8.2.2.5 Transfer of Service to ***CLEC Acronym TXT*** or a Third Party: ***CLEC Acronym TXT*** may elect to replace a Nonconforming Element with a service provisioned on ***CLEC Acronym TXT***'s own facilities or those of a third-party. With respect to such Nonconforming Elements, Verizon shall cooperate fully with ***CLEC Acronym TXT*** to accomplish a seamless transition that does not affect service quality, availability, or performance from the end user perspective. Verizon and ***CLEC Acronym TXT*** shall use commercially reasonable efforts to expedite the preparation of the relevant facilities or the applicable third-party facilities to meet the transition schedules. Until the date on which Verizon processes ***CLEC Acronym TXT***'s transfer order with respect to a particular Nonconforming Element, Verizon agrees to continue providing such Nonconforming Element under the rates, terms, and conditions of the Agreement, as the same were in effect as of the day before the effective date of the legal authority on which the Transition Notice is based, provide that to the extent undue delays in the transfer process are attributable to ***CLEC Acronym TXT*** or the third-party, Verizon shall have the right to obtain an equitable adjustment in the rates payable by ***CLEC Acronym TXT*** for all time periods resulting from such undue delays.

3.8.2.3 At the end of the applicable transition period specified in 3.8.2.2, if ***CLEC Acronym TXT*** has not designated an Alternative Service Arrangement for a Nonconforming Element listed in the Transition Notice, Verizon may convert such Nonconforming Elements to an analogous access service, if available, and provide such access services at the month-to-month rates, and in accordance with the terms and conditions, of Verizon's applicable access tariff, with the effective bill date being the first day following the applicable transition period; provided that if no analogous access service is available, Verizon may disconnect such Nonconforming Elements.

The Parties acknowledge that such notice was issued prior to the execution of this Amendment with respect to certain Nonconforming Facilities. During a transitional period of thirty (30) days from the date of such notice, Verizon agrees to continue providing the Nonconforming Facilities addressed in the subject notice(s) to ***CLEC Acronym TXT*** under the terms of the Amended Agreement. At the end of that thirty (30) day period, unless ***CLEC Acronym TXT*** has submitted an LSR or ASR, as appropriate, to Verizon requesting disconnection of the Nonconforming Facility, Verizon shall, subject to Section 3.8.3 below, convert the subject Nonconforming Facilities to an analogous access service, if available, or if no analogous access service is available, to such other service arrangement as ***CLEC Acronym TXT*** may have separately

~~secured from Verizon (e.g., a separate agreement at market-based rates or resale); provided, however, that where there is no analogous access service, if ***CLEC Acronym TXT*** has not separately secured from Verizon, subject to Section 3.8.3 below, a substitute service within such thirty (30) day period, then Verizon may disconnect the Nonconforming Facilities; and provided, further, that with respect to any dark fiber facility that, pursuant to the terms of this Amendment, is (or becomes) a Nonconforming Facility, the transition period shall be ninety (90) days from the date of the aforementioned notice; and provided further, that unless ***CLEC Acronym TXT***, subject to Section 3.8.3 below, has separately secured from Verizon a suitable transitional services agreement for such dark fiber facilities within that ninety (90) day period, Verizon may disconnect the Nonconforming Facility in question. Where the Nonconforming Facilities are converted to an analogous access service, Verizon shall, subject to Section 3.8.3 below, provide such access services at the month-to-month rates, and in accordance with the terms and conditions, of Verizon's applicable access tariff, with the effective bill date being the first day following the thirty (30) day notice period. ***CLEC Acronym TXT*** shall pay all applicable termination charges, if any, for any Nonconforming Facilities that ***CLEC Acronym TXT*** requests Verizon to disconnect, or that Verizon disconnects as permitted by terms of this Amendment or otherwise.~~

- 3.8.3 Limitation With Respect to Substitute Services. Notwithstanding any contrary provision in the Agreement, this Amendment, or any Verizon tariff or SGAT, to the extent a Nonconforming Element Facility is replaced, in whole or in part, by a service, facility, or arrangement that Verizon is not required by 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51 to provide, including without limitation an analogous access service (a "Substitute Service"), any negotiations regarding the rates, terms or conditions of such Substitute Service shall not be deemed to have been conducted pursuant to this Amended Agreement or 47 U.S.C. § 252(a)(1) (or 47 C.F.R. Part 51), and the rates, terms, and conditions of any such Substitute Service shall not be subject to arbitration pursuant to 47 U.S.C. § 252(b). Verizon does not agree to negotiate pursuant to 47 U.S.C. § 252(a)(1) the rates, terms, or conditions of any Substitute Service. Any reference in this Amended Agreement to Verizon's provision of a service that Verizon is not required by 47 U.S.C. § 251(c)(3) or and 47 C.F.R. Part 51 to provide is solely for the convenience of the Parties and shall not be construed in a manner contrary to this Section 3.8.3.

3.9 Conversion of Network Elements and Services.

[MCI Comment: Sections 3.9.1 through 3.9.4 are initially Verizon-proposed sections moved to this location from former Sections 3.6.2.3 through 3.6.2.6 to address conversions separately from Combinations/Commingling. Conversions could be of special access loops to UNE loops alone without involving loop/transport Combinations.]

- 3.9.1 The charges for conversions are as specified in the Pricing Exhibit Attachment to this TRO Attachment Amendment and apply for each circuit converted.
- 3.9.2 Until such time as Verizon and ***CLEC Acronym TXT*** mutually agree on an automated implements its ASR-driven conversion process in the East, conversion of access circuits to unbundled Network Elements will be performed manually on a project basis pursuant to Verizon's conversion guidelines. The effective bill date for conversions is the first of the month following Verizon's receipt of a written request from ***CLEC Acronym TXT*** reasonably identifying the circuits or other facilities that are the subject of the conversion request ~~an accurate and complete ASR or electronic request for conversion pursuant to Verizon's conversion guidelines.~~

- 3.9.3 ~~All ASR driven conversion requests will result in a change in circuit identification (circuit ID) from access to UNE or UNE to access. If such change in circuit ID requires that the affected circuit(s) be retagged, then a retag fee per circuit will apply as specified in the pricing attachment.~~ Intentionally Left Blank
- 3.9.4 ~~For so long as All requests for conversions will be handled via a manual process as a project, they and will be excluded from all ordering and provisioning metrics.~~
- 3.9.5 Upon ***CLEC Acronym TXT***'s request, Verizon shall convert a wholesale service, or group of wholesale services, to the equivalent Network Element, or Combination of Network Elements, that is available to ***CLEC Acronym TXT*** under this TRO Attachment or the Amended Agreement. Unless otherwise agreed to in writing by the Parties, such conversion shall be completed in a manner so that the correct Charge is reflected on the next billing cycle after ***CLEC Acronym TXT***'s request.
- 3.9.6 Verizon shall perform any conversion from a wholesale service or group of wholesale services to a Network Element or Combination of Network Elements without adversely affecting the service quality perceived by ***CLEC Acronym TXT***'s customer.
- 3.9.7 In connection with any conversion between a wholesale service or group of wholesale services and a Network Element or Combination of Network Elements, Verizon shall not impose any untariffed termination charges. Further, Verizon shall not impose 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 a Network Element or Combination of Network Elements.