

May 25, 2004

NOTICE OF RULING ON MOTION TO STRIKE

RE: In the Matter of the Review of Unbundled Loop and Switching Rates and
Review of the Deaveraged Zone Rate Structure
Docket No. UT-023003

TO ALL THE PARTIES:

On May 17, 2004, AT&T filed a motion to strike the May 12, 2004 rebuttal testimony of Dr. Timothy J. Tardiff, on the grounds that it was not proper rebuttal to the April 20, 2004 testimony of AT&T witness Stephen Turner. Dr. Tardiff's testimony addresses the VZ Cost model and compares it with aspects of the HM 5.3 cost model sponsored by AT&T and MCI. In particular, at pages 11-17 of his testimony, and in one of his exhibits, premarked TJT-4, Dr. Tardiff discusses the difficulty of tracing calculations in the HM 5.3 cost model.

AT&T objects that Verizon had ample opportunity to include such testimony as part of its April 26-27, 2004 filing on the HM 5.3 model and that AT&T witness Turner did sponsor the HM 5.3 cost model and provides no testimony about it.

Commission Staff agrees with AT&T that the Commission should strike the Tardiff rebuttal testimony.

The Commission views Dr. Tardiff's testimony as proper rebuttal to Mr. Turner. Mr. Turner makes several comparisons between the VZ Cost model and the HM 5.3 model in his testimony and he also establishes a standard for cost models in general, related to ease of tracing calculations for UNE investments. Moreover, the information in Dr. Tardiff's testimony at pages 11-17 may be of assistance to the Commission in evaluating the two cost models at issue in this proceeding. Therefore, the Commission will not strike Dr. Tardiff's testimony. However, it appears that in order to allow AT&T an opportunity to address the testimony at pages 11-17, and to make a clear record on the question of tracing

calculations in HM 5.3, AT&T may offer very brief additional oral direct testimony on that very narrow question. Verizon will then be able to cross-examine on that testimony.

AT&T should advise the Commission and the parties on or before Wednesday, May 26, 2004 at 1:30 p.m. which witness will offer the additional testimony and when that witness will testify.

Sincerely,

THEODORA M. MACE
Administrative Law Judge