



unaffiliated IXCs (or whether Verizon resells its toll in a non-discriminatory fashion). Verizon requests that the Commission clarify this point.

3 **Clarify Relevancy of Earnings/Revenue Requirement**. In paragraphs 23, 25, 35 and 50, the Commission points out that *this* phase of the proceeding will address the two issues described above, and that *subsequent* phases, if required, will address specific remedies. In explaining this point, the Commission refers to Verizon's pre-filed issues list, which has a separate "Remedy" section.<sup>2</sup> That list includes as possible remedies an increase in toll rates, or a decrease in access charges accompanied by offsetting increases in other rates. Thus, no access charge reductions will be ordered at the end of this phase of the proceedings, and the Commission will consider access reductions and other remedies, including simultaneous, revenue-neutral increases in other Verizon rates, in a separate phase (if needed). There is, however, disagreement about whether Verizon's overall earnings and revenue requirement (i.e., Verizon's total regulated costs) should be addressed in this phase.

4 In paragraph 16, the Commission sets forth AT&T's position that "evidence of Verizon's overall earnings may be germane to the issues of the reasonableness of Verizon's switched access and toll rates." For example, if Verizon's access charges are above *incremental* cost, they could be "just and reasonable" because they allow Verizon the opportunity to earn a "sufficient" return. Given AT&T's admission, and given that the *Fifth Supplemental Order* did not strike Verizon's testimony on its overall earnings and revenue requirement, Verizon believes such evidence is relevant in this phase. Again, a company's annual revenue requirement equals the company's total annual costs, and since access charges help recover these costs, such evidence is relevant. At the pre-hearing conference, however, some parties suggested that this evidence is not relevant. The Commission should clarify this point and confirm that evidence of Verizon's overall earnings and revenue requirement are relevant to the issues of the reasonableness of Verizon's switched access rates.

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<sup>2</sup> *Id.* at ¶ 24, n.4.

5        **Clarify Admissibility of “Price Squeeze” and “Harm” to AT&T.** In paragraph 3, the Commission repeats AT&T’s claim that it suffers a “price squeeze.” Also, as explained in Verizon’s response to AT&T’s *Petition to Review*, a significant portion of AT&T’s testimony (and complaint) claim that AT&T has suffered and continues to suffer harm as a result of Verizon’s access charges and toll rates.<sup>3</sup> In paragraph 46, however, the Commission repeats AT&T’s recent admission that it has *not* suffered any harm; therefore, the Commission held that Verizon’s discovery requests regarding the alleged price squeeze and harm to AT&T are not relevant. Given the Commission’s ruling and the narrowing of the issues, none of AT&T’s testimony on its alleged “price squeeze” and resultant “harm” is relevant, and therefore should be stricken. Verizon requests that the Commission clarify paragraph 46 of its order to include the following: “Since AT&T now claims that it has suffered no losses, the portions of its complaint and testimony alleging a price squeeze and other harms, e.g., its claims that it must ‘operate at a loss or be priced out of the market,’ are not relevant to this phase and should be stricken.” In other words, if Verizon’s discovery requests on this point are not relevant, then AT&T’s complaint and supporting testimony on this point are not relevant.

6        **Clarify Relevancy of Tucek Testimony & Cost Studies.** The Commission granted Public Counsel’s motion to strike the testimony of Verizon witness David Tucek. Public Counsel moved to strike this testimony because other Verizon witnesses – e.g., Mr. Danner – relied on some cost studies sponsored by Mr. Tucek to explain why basic residential rates must be increased if access charges are reduced. The Commission should allow all of Mr. Tucek’s

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<sup>3</sup> From the start of this case, AT&T has alleged that Verizon’s toll rates result in a “price squeeze” and that AT&T and other competitors must either “operate at a loss or price themselves out of the market.” See AT&T Complaint at ¶ 2 (filed Apr. 3, 2002). Indeed, AT&T’s complaint and the accompanying affidavit of Dr. Lee Selwyn are peppered with allegations on Verizon’s alleged “price squeeze” and the resultant harm to AT&T. See, e.g., AT&T Complaint at ¶¶ 2, 3, 17, 18, 20, 24, 25, 35; Selwyn Affidavit at paras. ¶¶ 4 (stating that price squeeze is a “fundamental concern” in this docket), 6, 14-19. Also, at the August 27, 2002 prehearing conference, AT&T’s counsel represented to the ALJ that AT&T was “enduring a price squeeze” every day, and as a result was “making less money” and “serving fewer customers”: “We are enduring a price squeeze, which inhibits our ability to provide service to customers, inhibits our ability to gain or retain market share in the long distance market, we make less money, we serve fewer customers because we can’t make prices that Verizon establishes because it can cross-subsidize. ... So we’re dealing in a situation where our business is hampered, competition in the State of Washington is hampered, and the longer that goes on, the more harm there is to my client as well as to the public interest in our view.” Transcript, August 27, 2002, Vol. III, p. 80.

testimony to be admitted because it includes essential cost studies that set forth Verizon's incremental costs, including the cost of access. This testimony clearly is relevant. To accommodate Public Counsel, Verizon agrees that Mr. Tucek's testimony cannot be used in this phase of the proceeding as a basis for increasing basic residential rates – again, the Commission has made clear that a remedy, if any, will be examined in another phase.

7        **Clarify Ruling on Verizon's First Motion to Strike.** Finally, Verizon requests clarification on whether its *First Motion to Strike* has been granted, denied, or not yet decided. That motion asked to strike portions of AT&T's and Staff's testimony that purport to adjust Verizon's intrastate earnings based on Verizon's interstate costs, revenues, and earnings. As Verizon explained in its motion and its recently filed *Reply to Staff's and AT&T's Answers in Opposition*, the issue presented is a legal one. The *Fifth Supplemental Order*, however, does not squarely address this issue. As noted above, the order both grants and denies Verizon's motion, and the only other relevant discussion appears in paragraph 35, which states that "[i]f certain adjustments proposed by Ms. Erdahl are relevant to the determinations of Verizon's costs to provide service, then her testimony is relevant." That paragraph also expresses doubt that the FCC's separations freeze means that "erroneous calculations have to be accepted." But as Verizon explained in its motion and reply, Ms. Erdahl's adjustment, as a matter of law, is not relevant to Verizon's *intrastate* costs, and therefore must be stricken. Also, her adjustment is not based on an "erroneous calculation," but instead is based on the fact that she disagrees with the FCC separations rules and binding Ninth Circuit precedent. Therefore, Verizon requests that the Commission clarify its order and grant Verizon's *First Motion to Strike* Staff's and AT&T's testimony that address Verizon's interstate earnings.

8        In sum, Verizon requests that the Commission clarify its *Fifth Supplemental Order* on the points discussed above. By doing so, the hearing can proceed in a more efficient manner.

Respectfully submitted,  
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