

## STATEMENT OF ISSUES

ISSUE	DRAFT AMENDMENT SECTION	DESCRIPTION	TYPE OF ISSUE	VERIZON POSITION	CLEC POSITION
1  (AT&T/ CCG Issues 13, 14, 24) <sup>1</sup>	2.1, 2.2, 2.3, 3.1, 3.3, 3.5, 4.7.3 , 4.7.6	Must interconnection agreements provided for by 47 U.S.C. §251 and subject to arbitration under 47 U.S.C. §252 include terms concerning network unbundling obligations that may (or may not) be imposed on Verizon by legal authorities other than 47 U.S.C. § 251 and 47 CFR Part 51?	Legal issue, only briefing required.	No. Verizon does not have any obligation to provide unbundled access to network elements in the absence of lawful unbundling rules adopted by the <i>FCC</i> under section 251 of the 1996 Act. Any attempt to impose obligations under state law is inconsistent with the statutory regime and preempted.	AT&T Comm. of the Pacific Northwest, Inc. and TCG Seattle (collectively, “AT&T”), MCI, WilTel, & CCG <sup>2</sup> : Yes. There should be no use restrictions on UNEs (or, in the case of WilTel, the use restrictions should be reworded to permit WilTel to use UNEs in any manner permitted by federal and state law), and the parties’ amendment should include terms concerning network unbundling obligations imposed by other law, such as state law, 47 U.S.C. §

<sup>1</sup> AT&T and the Competitive Carrier Group (“CCG”) submitted a joint issues list on November 11, 2004. Verizon has listed the AT&T/CCG issues that appear to correspond to particular Verizon issues. In many cases, Verizon’s issue subsumes a number of AT&T/CCG issues, either because AT&T/CCG have listed essentially the same issue multiple times with different wording, or because AT&T and CCG break issues into unduly narrow subissues.

<sup>2</sup> “CCG” refers to the “Competitive Carrier Group,” a coalition of CLECs represented by Kelley, Drye & Warren. The composition of the CCG has changed over the course of the proceeding, but Verizon believes it currently includes: Advanced TelCom Group, Inc.; BullsEye Telecom, Inc.; Comcast Phone of Washington LLC; Covad Communications Company; Global Crossing Local Services, Inc., and Winstar Communications LLC. The CCG and AT&T jointly prepared a draft amendment and submitted a joint issues list. Verizon has withdrawn its Petition for Arbitration as to all CCG members except for Comcast. See Verizon’s Identification of Specified Interconnection Agreements and Withdrawal of Arbitration as to Those Parties (Sept. 15, 2004).

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					271, or the <i>Bell Atlantic/GTE Merger Order</i> .
2  (AT&T/ CCG Issues 10, 59, 65)	3.1, 3.2, 4.7.3	Should the amendment to parties' interconnection agreements include a mechanism to implement discontinuance of Verizon's provision of unbundled access to elements that have been eliminated (or that may be eliminated in the future) from the federal list of UNEs?	Legal issue, only briefing required.	Yes. Verizon only has an obligation to provide unbundled access to network elements to the extent required by 47 U.S.C. § 251, 47 CFR Part 51, and the FCC's Interim Rules (to the extent they are effective). For network elements that have been eliminated from the federal list of UNEs (or that may be eliminated in the future), Verizon should be able to discontinue providing those elements at TELRIC rates after 90 days' notice.	AT&T and CCG, and MCI No. The parties must negotiate (and arbitrate as necessary) an amendment whenever a UNE is eliminated. Once such a negotiated or arbitrated amendment is in place, Verizon could then initiate a six-month negotiation period. At the end of that period, Verizon still would not be permitted to discontinue the element until such time as the parties concluded another round of arbitration at the Commission.  WilTel: Yes, but such amendment should nonetheless impose limitations on Verizon's ability to cease providing a UNE once the obligation to provide that UNE has been eliminated. WilTel would,

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					however, permit such UNE discontinuance to take place during negotiation of an amendment or in the event Witel unsuccessfully challenges Verizon's UNE discontinuance.
3  (AT&T/CCG Issues 16, 42, 56, 59, 61, 63, 64, 65, 66)	Third "Whereas" clause; 2.1, 3.1, 3.5, 4.7.4, 4.7.6, , 4.7.8, , 4.7.12, 4.7.13,	Does the Amendment accurately reflect the law with respect to unbundled access to local circuit switching, including mass market and enterprise switching (including Four-Line Carve-Out switching), and tandem switching?	Legal issue, only briefing required	Yes. Verizon has no legal obligation to provide unbundled access to local circuit switching, except that Verizon will comply with the transitional unbundling obligations the FCC's Interim Rules impose on mass-market switching, to the extent those Rules are effective.	<p>AT&amp;T and CCG: No. In place of Verizon's proposal, AT&amp;T and CCG have proposed new sections 3.1 and 3.5 that purport to implement the switching obligations of the FCC's <i>Interim Rules Order</i>. AT&amp;T and CCG also argue that the amendment should require Verizon to provide switching under other "Applicable Laws."</p> <p>MCI: MCI does not object to the 90-day notice period for elements discontinued by the <i>Triennial Review Order</i>. MCI admits that these "changes in Verizon's unbundling obligations are in effect and not the subject of</p>

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					<p>further appeals or remand proceedings.”</p> <p>WiTel: As to the third “whereas” clause, CCG and WiTel dispute the statement that the D.C. Circuit in USTA II held that the FCC made no lawful impairment findings for certain UNEs, including without limitation high-capacity loops.</p>
<p>4  (AT&amp;T/ CCG Issues 16, 24, 25, 26, 56, 59, 61, 63, 64, 65)</p>	<p>Third “whereas” clause; 2.1, 3.1, 3.5, 4.7.3, 4.7.6, 4.7.7,</p>	<p>Does the Amendment accurately reflect the law with respect to unbundled access to DS1 loops, unbundled DS3 loops, and unbundled dark fiber loops?</p>	<p>Legal issue, only briefing required.</p>	<p>Yes. Verizon has no legal obligation to provide unbundled access to DS1 loops, DS3 loops, or dark fiber loops, except that Verizon will comply with the transitional unbundling obligations the FCC’s Interim Rules impose on enterprise loops, to the extent those Rules are effective.</p>	<p>AT&amp;T and CCG: No, if the FCC decides in its final rules not to unbundle high-capacity loops or any other elements, Verizon should not be able to implement that ruling until a replacement interconnection agreement is negotiated.</p> <p>MCI: MCI does not object to the 90-day notice period for elements discontinued by the <i>Triennial Review Order</i>. MCI admits that these “changes in</p>

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					<p>Verizon’s unbundling obligations are in effect and not the subject of further appeals or remand proceedings.” As to elements at issue in the <i>Interim Rules Order</i>, MCI essentially acknowledges Verizon’s right to discontinue such elements upon a non-impairment finding by the FCC.</p> <p>WiTel: As to the third “whereas” clause, CCG and WiTel dispute the statement that the D.C. Circuit in USTA II held that the FCC made no lawful impairment findings for certain UNEs, including without limitation high-capacity loops. In addition, WiTel argues that Verizon must continue to offer the feeder portion of the loop as a UNE at TELRIC rates. AT&amp;T and CCG argue that, in order to cease providing feeder, Verizon must first arbitrate an</p>

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					amendment, at which time the parties would undertake another lengthy negotiation and arbitration
5  (AT&T/CCG Issues 16, 43, 44, 45, 56, 59, 61, 63, 64, 65)	Third “whereas” clause; 2.1, 3.1, 4.7.2, 4.7.3, 4.7.5, 4.7.6	Does the Amendment accurately reflect the law with respect to unbundled access to dedicated transport, including dark fiber transport?	Legal issue, only briefing required.	Yes. Verizon has no legal obligation to provide unbundled access to dedicated transport, including dark fiber transport, but will comply with the transitional unbundling obligations the FCC’s Interim Rules impose on dedicated transport, to the extent those Rules are effective. Pursuant to the TRO, Verizon has no obligation to provide unbundled transport (dark or lit) between a Verizon switch or wire center and the switch or wire center of a CLEC or third party.	<p>AT&amp;T and CCG: These carriers’ new proposed section 3.6 includes various conditions for Verizon’s provision of transport. It defines “dedicated transport” to include transport between a Verizon wire center or switch and Verizon’s facilities located at a CLEC’s premises (<i>i.e.</i>, reverse collocation), and to include transport between a CLEC switch and Verizon’s tandem switch or the CLEC’s point of interconnection.</p> <p>MCI: MCI does not object to the 90-day notice period for elements discontinued by the <i>Triennial Review Order</i>. MCI admits that these “changes in Verizon’s unbundling</p>

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					<p>obligations are in effect and not the subject of further appeals or remand proceedings.”</p> <p>WiTel: As to the third “whereas” clause, WiTel disputes the statement that the D.C. Circuit in USTA II held that the FCC made no lawful impairment findings for certain UNEs, including without limitation high-capacity loops. In addition, WiTel argues that Verizon must continue to offer entrance facilities as UNEs at TELRIC rates.</p>
6  (AT&T/ CCG Issues 57, 68, 69)	3.1, 3.2	How should the amendment address continuation of access to items that are no longer subject to unbundling under federal law?	Legal issue, only briefing required.	If a CLEC, within 90 days of Verizon's notice of discontinuance, does arrange a service (e.g., access tariffed service, resale, or commercial agreement) to replace	As indicated under Issue 2 above, AT&T and CCG propose that the parties must first arbitrate an amendment in order for Verizon to discontinue elements that AT&T and

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				<p>access to a Discontinued Facility, or request disconnection, then Verizon may reprice such Facilities at a rate equivalent to access, resale, or other analogous Arrangement.</p>	<p>CCG concede Verizon currently is not required to provide. Once that amendment takes effect, the parties would then begin another lengthy round of negotiations and dispute resolution to implement Verizon's discontinuance rights. All future rulings removing Verizon's unbundling obligations would take effect only when incorporated through an amendment to the parties' interconnection agreements.</p> <p>MCI proposes a different rate structure for discontinued elements, such as restricting non-recurring charges, and requiring Verizon simply to charge the resale rate. MCI also proposes a more extensive transitional provision in its section 8.</p> <p>WilTel: The parties should have to undertake</p>



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					<p>negotiations and, if necessary, seek Commission intervention before transitioning to UNE replacement services. If the FCC reinstates an unbundling obligation, however, the parties should immediately implement that obligation without an amendment. Any Discontinued Facility that is repriced may only be repriced at a “reasonable and nondiscriminatory” rate.</p>
<p>7  (AT&amp;T/ CCG Issue 17)</p>	<p>3.3</p>	<p>Should the Amendment make clear that commercial agreements that may be negotiated for services or facilities to which Verizon is not required to provide access as UNEs under the Act are not part of the Amendment or subject to negotiation or arbitration pursuant to section 252?</p>	<p>Legal issue, only briefing required.</p>	<p>Yes. Verizon is not, and has not, agreed to negotiate terms and conditions of commercial agreements for replacement services for any of the Discontinued Facilities under the auspices of section 251 or 252 or as part of the negotiations over a <i>TRO</i> Amendment and the Amendment should specifically so state.</p>	<p>AT&amp;T and CCG: No. The terms of any commercial agreements should be incorporated into section 252 agreements filed with the Commission.</p> <p>MCI: No, the agreement should not provide that commercial negotiations take place apart from section 252.</p>

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8	3.5	How should the Amendment reflect Verizon's right to implement any rate increases and new charges established by the FCC in its final unbundling rules or elsewhere?	Legal issue, only briefing required	Yes. If the FCC establishes new rates, particularly in the projected second phrase of the <i>Interim Order</i> , Verizon should be able to publish a new rate schedule accordingly.	<p>MCI: No. Any new rates established by the FCC should then be subject to dispute resolution between the parties.</p> <p>Preferred: Revises Verizon's section 3.5 to specify that Verizon must implement any rate decreases ordered by the state Commission.</p> <p>AT&amp;T AND CCG: Verizon may implement only certain FCC rates, and only upon certain conditions specified by AT&amp;T and CCG.</p>
9 (AT&T/ CCG Issues 18, 19)	4	Should the Commission approve Verizon's proposed definitions in the Amendment's Definitions section or include any other terms?	Legal issue, only briefing required.	Yes. Verizon's proposed definitions comport with applicable law.	<p>AT&amp;T and CCG: No. The Commission should modify several of Verizon's definitions, such as the definition of dedicated transport.</p> <p>MCI: No. MCI makes several additions (such as "commingling" and "combinations") and</p>

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					<p>deletions (such as “entrance facility”).</p> <p>WilTel: WilTel disagrees with Verizon’s definition of FTTP loop.</p>
10	2.1	<p>If a Verizon company in another state provides particular UNEs to any CLEC there, must Verizon Washington provides the same UNEs in Washington, at “no less favorable” rates?</p>	<p>Legal issue; only briefing required</p>	<p>Verizon has no obligation to offer a cross-state “most-favored-nations” clause in its WA agreements; in addition, Verizon WA’s rates must be based on Verizon WA’s costs, not the costs of a different Verizon company in another state.</p>	<p>Preferred Long Distance: If any Verizon company in any state offers a particular UNE or combination to any CLEC there, Verizon WA must offer the same UNE or combination to CLECs in WA, at no less favorable rates, for as long as the other Verizon company does in the other state.</p>
11	3.4	<p>Should the Amendment specify that Verizon’s rights as to discontinuance of Discontinued Facilities are in addition to, and not in limitation of, any rights Verizon may have under the Agreement, a Verizon tariff or SGAT, or otherwise?</p>	<p>Legal issue; only briefing required.</p>	<p>Yes. The Amendment should specify that its rights as to discontinuance of Discontinued Facilities are in addition to, and not in limitation of, any rights Verizon may have under the Agreement, a Verizon tariff or SGAT, or otherwise.</p>	<p>WilTel: No. WilTel does not agree that Verizon should be permitted to cease providing a UNE based upon some right that Verizon believes may exist outside of the Agreement. The terms of WilTel’s interconnection agreement govern the relationship between the parties pertaining to the purchase and provision of UNEs as</p>

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					<p>required by law, according to WiTel, so any rights of discontinuance must be contained in the interconnection agreement or in any agreement pursuant to which WiTel is purchasing a UNE, subject to the change in law provisions WiTel seeks to include in the TRO Amendment.</p>