

EXHIBIT 1

AMENDMENT NO. __

to the

INTERCONNECTION AGREEMENT

between

VERIZON NORTHWEST INC.

and

[CLEC FULL NAME]

This Amendment No. [NUMBER] (the "Amendment") is made by and between Verizon Northwest Inc. ("Verizon"), a Washington corporation with offices at 1800 41st Street, Everett, WA 98201, and [CLEC FULL NAME], a [CORPORATION/PARTNERSHIP] with offices at [CLEC ADDRESS] ("***CLEC Acronym TXT***"), and, except as otherwise expressly provided herein, shall be deemed effective upon Commission approval pursuant to Section 252 of the Act (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 of Washington (the "State").

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 of Washington, [FOR INTRASTATE IN-REGION ADOPTIONS: the interconnection agreement between [NAME OF UNDERLYING CLEC AGREEMENT] and Verizon] [FOR INTERSTATE OR INTRASTATE OUT-OF-REGION ADOPTIONS: the terms of the Interconnection Agreement between [UNDERLYING CLEC LEGAL ENTITY] and [VZ LEGAL ENTITY OF UNDERLYING AGREEMENT] that was approved by the [Underlying State Commission]] (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"), which became effective as of June 15, 2004; and

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

WHEREAS, on February 4, 2005, the FCC released an Order on Remand in WC Docket No. 04-313 and CC Docket No. 01-338 (the "TRRO") setting forth additional rules, which became effective March 11, 2005; and

WHEREAS, on July 8, 2005, the Arbitrator in Washington Utilities and Transportation Commission Docket No. UT-043013 issued Order No. 17 ("Order No. 17") recommending that certain interconnection agreements be amended in accordance with rulings set forth therein; and

WHEREAS, on September 22, 2005, the Washington Utilities and Transportation Commission in Docket No. UT-043013 issued Order No. 18, which affirmed in part and modified in part Order No. 17 (Order No. 18 and Order No. 17, as affirmed and modified by Order No. 18, may be referred to collectively herein as the "Arbitration Orders").

WHEREAS, in light of the foregoing developments, the Parties, pursuant to Sections 252(a) and (b) of the [NOTE: IF CLEC'S AGREEMENT IS AN ADOPTION, REPLACE "Act" WITH: "the Communications Act of 1934, as amended, (the "Act")] Act, wish to amend the Agreement in order to comply with the applicable rulings set forth in the Arbitration Orders and to give contractual effect to the provisions set forth herein;

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

1. Amendment to Agreement. The Agreement is amended to include the following provisions **and the Pricing Attachment to the TRO Amendment (including Exhibit A) attached hereto**, all of which shall apply to and be a part of the Agreement notwithstanding any other provision of the Agreement.
2. General Conditions.
 - 2.1 Except as permitted by the Amended Agreement, the Federal Unbundling Rules, or the Arbitration Orders, Verizon shall not impose limitations, restrictions, or requirements on requests for, or the use of, unbundled network elements for the service ***CLEC Acronym TXT*** seeks to offer.
 - 2.2 **Notwithstanding any other provision of the Agreement or this Amendment: [Subject to Sections 2.5 and 4.4 below:]** (a) Verizon shall be obligated to provide access to unbundled Network Elements ("UNEs"), combinations of unbundled Network Elements ("Combinations"), or UNEs commingled with wholesale services ("Commingling") to ***CLEC Acronym TXT*** under the terms of this Amendment in accordance with, but only to the extent required by, **the Federal Unbundling Rules and the Arbitration Orders [in accordance with the Federal Unbundling Rules, applicable state law, or the Arbitration Orders]**, and (b) Verizon may decline to provide access to UNEs, Combinations, or Commingling to ***CLEC Acronym TXT*** under the terms of this Amendment to the extent that provision of access to such UNEs, Combinations, or Commingling is not required by **the Federal Unbundling Rules and the Arbitration Orders [the Federal Unbundling Rules, applicable state law, or the Arbitration Orders]**. [NOTE: DELETE SECTION 2.2 FROM THE AMENDMENT FOR AT&T AND ANY CLECS (INCLUDING MCI) THAT ADOPTED AT&T'S AGREEMENT, EXCEPT WHERE SUCH ADOPTIONS WERE LATER AMENDED TO INCLUDE AUTOMATIC UNE DISCONTINUANCE TERMS. SECTION 2.1 REMAINS IN THE AMENDMENT FOR ALL OTHER PARTIES.]

- 2.3 Restrictions on ***CLEC Acronym TXT***'s Use of UNEs. To the extent Verizon is required to provide a UNE, Combination, or Commingling under this Amendment, ***CLEC Acronym TXT*** may use such UNE, Combination, or Commingling only for those purposes for which Verizon is required by the **Federal Unbundling Rules and the Arbitration Orders [Federal Unbundling Rules, applicable state law, or the Arbitration Orders]** to provide such UNE, Combination, or Commingling to ***CLEC Acronym TXT***. By way of example and without limiting the foregoing, ***CLEC Acronym TXT*** may not access a UNE for the exclusive provision of Mobile Wireless Services or Interexchange Services.
- 2.4 Discontinued Elements. **Notwithstanding any other provision of the Agreement or this Amendment, but subject to [Subject to sections 2.5 and 4.4 below, and to]** the transition requirements associated with the TRRO as set forth in Sections 3.4, 3.5, and 3.7 below, Verizon may, cease offering or providing access on an unbundled basis at rates prescribed under Section 251 of the Act to any facility that is **[DELETE FROM AT&T AND ADOPTIONS OF AT&T THAT HAVE NOT BEEN AMENDED TO INCLUDE AUTOMATIC UNE DISCONTINUANCE TERMS: or becomes]** a Discontinued Element, whether as a stand-alone UNE, as part of a Combination, or otherwise. To the extent Verizon has not already ceased providing a particular Discontinued Element to ***CLEC Acronym TXT***, Verizon, provided it has given at least ninety (90) days written notice of discontinuance of such Discontinued Element, will continue to provide such Discontinued Element under the Amended Agreement only through the effective date of the notice of discontinuance, and not beyond that date. The Parties acknowledge that Verizon, prior to the Amendment Effective Date, has provided ***CLEC Acronym TXT*** with any required notices of discontinuance of certain Discontinued Elements, and that Verizon, to the extent it has not already done so pursuant to a pre-existing or independent right it may have under the Agreement, **a Verizon tariff**, or otherwise, may, at any time and without further notice to ***CLEC Acronym TXT***, cease providing any such Discontinued Elements.
- 2.4.1 Where Verizon is permitted to cease providing a Discontinued Element pursuant to Section 2.4 above and ***CLEC Acronym TXT*** has not submitted an LSR or ASR, as appropriate, to Verizon requesting disconnection of the Discontinued Element and has not separately secured from Verizon an alternative arrangement to replace the Discontinued Element, then Verizon, to the extent it has not already done so prior to execution of this Amendment, may elect to: (a) convert the subject Discontinued Element to an arrangement available under a Verizon access tariff (i.e., month-to-month rate provided under an applicable access tariff, unless ***CLEC Acronym TXT*** is then subscribed to an applicable special access term/volume plan or other special access tariff arrangement, pursuant to which ***CLEC Acronym TXT*** would be entitled to a different rate), a resale arrangement, or other analogous arrangement that Verizon shall identify or has identified in writing to ***CLEC Acronym TXT***, or (b) in lieu of such a conversion, reprice the subject Discontinued Element by application of a new rate (or, in Verizon's sole discretion, by application of a surcharge) to be equivalent to an arrangement available under a Verizon access tariff (i.e., month-to-month rate provided under an applicable access tariff, unless ***CLEC Acronym TXT*** is then subscribed to an applicable special access term/volume plan or other special access tariff arrangement, pursuant to which ***CLEC Acronym TXT*** would be entitled to a different rate), a resale arrangement, or other analogous arrangement that Verizon shall identify or has identified in writing to ***CLEC Acronym TXT***; provided, however, that Verizon may disconnect the subject Discontinued Element (or the replacement service to which the Discontinued Element has been converted) if ***CLEC Acronym TXT*** fails to pay when due any applicable new rate or surcharge billed by Verizon.

- 2.5 Pre-Existing Discontinuance Rights. Verizon's **[The Parties']** rights as to discontinuance of Discontinued Elements pursuant to this Amendment are in addition to, and not in limitation of, any rights Verizon **[the Parties]** may have under the Agreement as to discontinuance of Discontinued Elements, and nothing contained herein shall be construed to prohibit, limit, or delay Verizon's past or future exercise of any pre-existing right it may have under the Agreement to cease providing unbundled access to elements and facilities that are or become Discontinued Elements, **and nothing contained herein shall be construed to limit or preclude ***CLEC Acronym TXT***'s exercise of any pre-existing right it may have under the Agreement to dispute or condition Verizon's discontinuance of any UNEs or facilities.**
- 2.6 Limitation With Respect to Replacement Arrangements. Certain provisions of this Amendment refer to Verizon's provision of a facility, service, or arrangement to replace Discontinued Elements. Any reference in this Amendment to Verizon's provision of a facility, service, or arrangement that Verizon is not required to provide under the Federal Unbundling Rules **[or applicable state law]** is solely for the convenience of the Parties and shall not be construed as consent of either Party that the rates, terms or conditions upon which Verizon shall provide such facilities, services, or arrangements are subject to any requirements of 47 U.S.C. § 252.
- 2.7 For the avoidance of any doubt, Verizon shall not be required to offer or provide unbundled access to any packet switch or packet switching, whether as a stand-alone facility, as part of a combination, or otherwise.
- 2.8 Any reference in this Amendment to Order No. 18, Order No. 17, or the "Arbitration Orders" shall be construed not to impose on Verizon, pursuant to state law or otherwise, any requirement to provide unbundled access to a facility that the FCC determines or has determined is not subject to unbundling under 47 U.S.C. § 251(c)(3).
3. Verizon's Provision of Certain Network Elements and Related Services.
- 3.1 FTTH and FTTC Loops.
- 3.1.1 New Builds. **Notwithstanding any other provision of the Amended Agreement [Subject to and without limiting Section 4.4 below], ***CLEC Acronym TXT*** shall not be entitled to obtain access to a FTTH or FTTC Loop, or any segment thereof, on an unbundled basis when Verizon deploys such a Loop to the customer premises of an end user that has not been served by any Verizon Loop other than a FTTH or FTTC Loop.**
- 3.1.2 Overbuilds. **Notwithstanding any other provision of the Amended Agreement (but subject [Subject] to and without limiting Section 2 above[and Section 4.4 below]),** Verizon is not required to provide nondiscriminatory access to an FTTH or an FTTC Loop on an unbundled basis when Verizon has deployed such a loop parallel to, or in replacement of, an existing copper loop facility, except that, in accordance with, but only to the extent required by, the **Federal Unbundling Rules and the Arbitration Orders [Federal Unbundling Rules, applicable state law, or the Arbitration Orders]:** (a) Verizon must maintain the existing copper loop connected to the particular customer premises after deploying the FTTH or FTTC Loop and provide nondiscriminatory access to that copper loop on an unbundled basis unless Verizon, in its sole discretion, retires the copper loop pursuant to paragraph 47 C.F.R. § 51.319(a)(3)(iv); (b) if Verizon maintains the existing copper loops pursuant to 47 C.F.R. § 51.319(a)(3)(iii)(A), it need not incur any expenses to ensure that the existing copper loop remains capable of transmitting signals prior to receiving a request for access pursuant to that paragraph, in which case Verizon shall restore the

copper loop to serviceable condition upon request; and (c) if Verizon retires the copper loop pursuant to 47 C.F.R. § 51.319(a)(3)(iv), it shall provide nondiscriminatory access to a 64 kilobits per second TDM transmission path (or an equivalent transmission path using other technologies) capable of voice grade service over the FTTH or FTTC Loop (a "Voice Grade Transmission Path") on an unbundled basis. **For the avoidance of doubt, where the retired loop is a DS-0 copper loop Verizon need only provide a single such transmission path, but where the retired loop is a DS-1 copper loop, Verizon must provide, at the CLECs' request, up to 24 such voice grade transmission paths or a DS-1 equivalent transmission path.** The rates for a Voice Grade Transmission Path under (c) above shall be the same rates applicable under the Amended Agreement to a DS0 loop to the same customer premises were such a loop available, unless and until such time as different rates for a Voice Grade Transmission Path are established pursuant to the terms set forth in the Pricing Attachment to this Amendment, in which case such different rates shall apply.

- 3.1.2.1 In retiring a copper Loop or subloop, Verizon shall comply with any effective and lawful requirements that apply to that copper loop or subloop under 47 C.F.R. § 51.319(a)(3)(iv); provided, however, that any such requirements shall not apply to retirement of copper feeder subloop.

3.2 Hybrid Loops.

- 3.2.1 Packet Switched Features, Functions, and Capabilities. **Notwithstanding any other provision of the Amended Agreement [Subject to Section 4.4 below],** ***CLEC Acronym TXT*** shall not be entitled to obtain access to the packet switched features, functions, or capabilities of any Hybrid Loop on an unbundled basis. Packet switching capability is 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, and 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. Verizon shall not be required to build any time division multiplexing (TDM) capability into new packet-based networks or into existing packet-based networks that do not already have TDM capability.
- 3.2.2 Broadband Services. **Notwithstanding any other provision of the Amended Agreement (but subject [Subject] to and without limiting Section 2 above [and Section 4.4 below]),** 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, the Federal Unbundling Rules and the Arbitration Orders, [the Federal Unbundling Rules, applicable state law, or the Arbitration Orders,]** Verizon shall provide ***CLEC Acronym TXT*** with nondiscriminatory access under the Amended Agreement to the existing time division multiplexing

features, functions, and capabilities of that Hybrid Loop, including DS1 or DS3 capacity (where impairment has been found to exist, which, for the avoidance of any doubt, does not include instances in which Verizon is not required to provide a DS1 Loop under Section 3.4.1 below or is not required to provide a DS3 Loop under Section 3.4.2 below) on an unbundled basis to establish a complete transmission path between the Verizon central office serving an end user 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.

3.2.3 **Narrowband Services.** **Notwithstanding any other provision of the Amended Agreement (but subject [Subject] to and without limiting Section 2 [and Section 4.4 below]),** when ***CLEC Acronym TXT*** seeks access to a Hybrid Loop for the provision of "narrowband services," as such term is defined by the FCC, then in accordance with, **but only to the extent required by,** the Federal Unbundling Rules and the Arbitration Orders, Verizon shall, in its sole discretion, either: (a) provide nondiscriminatory access, on an unbundled basis, to an entire hybrid loop capable of voice-grade service (*i.e.*, equivalent to DS0 capacity), using existing time division multiplexing technology; or (b) provide nondiscriminatory access to a spare home-run copper loop serving that customer on an unbundled basis.

3.2.4 **IDLC Hybrid Loops.** **Notwithstanding any other provision of the Amended Agreement (but subject [Subject] to and without limiting Section 2 [and Section 4.4 below]),** 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 the Federal Unbundling Rules and the Arbitration Orders, [in accordance with the Federal Unbundling Rules, applicable state law, or the Arbitration Orders,]** provide ***CLEC Acronym TXT*** unbundled access to a Loop capable of voice-grade service to the end user customer served by the Hybrid Loop.

3.2.4.1 Verizon, in its sole discretion will provide ***CLEC Acronym TXT*** with an **existing** copper Loop or a Loop served by **existing** Universal Digital Loop Carrier ("UDLC"), **where available.** 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.

3.3 Sub-Loop.

3.3.1 **Distribution Sub-Loop Facility.** **Notwithstanding any other provision of the Amended Agreement (but subject [Subject] to the conditions set forth in Section 2 [and Section 4.4 below]),** in accordance with, **but only to the extent required by, the Federal Unbundling Rules and the Arbitration Orders, [the Federal Unbundling Rules, applicable state law, or the Arbitration Orders,]** 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 Amended 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.

3.3.2 **Sub-Loop for Access to Multiunit Premises.** **Notwithstanding any other provision of the Amended Agreement (but subject [Subject] to the conditions set forth in Section 2 [and Section 4.4 below]), upon request by ***CLEC Acronym TXT***, Verizon shall provide to ***CLEC Acronym TXT*** access to the Sub-Loop for Multiunit Premises Access in accordance with, but only to the extent required by, the Federal Unbundling Rules and the Arbitration Orders [the Federal Unbundling Rules, applicable state law, or the Arbitration Orders].**

3.3.2.1 **Inside Wire Subloop.** If and at such at time as ***CLEC Acronym TXT*** should request unbundled access to Inside Wire Subloop that Verizon is determined to own or control, the Parties shall negotiate the rates, terms, and conditions for such access in accordance with the **Federal Unbundling Rules and the Arbitration Orders [the Federal Unbundling Rules, applicable state law, or the Arbitration Orders].**

3.3.2.2 **Single Point of Interconnection.** In accordance with, but only to the extent required by, the Federal Unbundling Rules and the Arbitration Orders, [the Federal Unbundling Rules, applicable state law, or the Arbitration Orders], upon request by ***CLEC Acronym TXT*** and provided that the conditions set forth in Subsections 3.3.2.1.1 and 3.3.2.1.2 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:

3.3.2.2.1 Verizon has distribution facilities to the multiunit premises, and either owns and controls, or leases and controls, the Inside Wire Subloop at the multiunit premises; and

3.3.2.2.2 ***CLEC Acronym TXT*** certifies that it will place an order for access to an unbundled Sub-Loop network element under the Federal Unbundling Rules [or applicable state law] via the newly provided single point of interconnection.

3.4 **High Capacity Loops.**

3.4.1 **DS1 Loops.** To the extent the Agreement otherwise requires Verizon to provide ***CLEC Acronym TXT*** with unbundled access to DS1 Loops [pursuant to the Federal Unbundling Rules] (this section not being intended to create any such obligation in the first instance) the following provisions shall apply notwithstanding any such requirement:

3.4.1.1 Effective as of March 11, 2005, and subject to the transition requirements set forth in Sections 3.4.1.2 and 3.6.3 below:

3.4.1.1.1 Verizon shall provide ***CLEC Acronym TXT*** with nondiscriminatory access to a DS1 Loop on an unbundled basis to any building not served by a Wire Center with at least 60,000 Business Lines and at least four Fiber-Based Collocators. Once a Wire Center exceeds both of these

thresholds, no future DS1 Loop unbundling will be required in that Wire Center.

3.4.1.1.2 *****CLEC Acronym TXT*** and its Affiliates** may obtain a maximum of ten unbundled DS1 Loops to any single building in which DS1 Loops are available as unbundled loops.

3.4.1.2 Transition Period For DS-1 Loops.

3.4.1.2.1 For a 12-month period beginning on March 11, 2005, any DS1 Loop UNEs that *****CLEC Acronym TXT***** leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.4.1.1 above, shall be available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate *****CLEC Acronym TXT***** paid for the loop element on June 15, 2004, or (b) 115% of the rate the Commission has established or establishes, if any, between June 16, 2004, and March 11, 2005, for that loop element. Where Verizon is not required to provide unbundled DS1 Loops pursuant to Section 3.4.1.1, *****CLEC Acronym TXT***** may not obtain new DS1 Loops as unbundled network elements.

3.4.2 DS3 Loops. To the extent the Agreement otherwise requires Verizon to provide *****CLEC Acronym TXT***** with unbundled access to DS3 Loops **[pursuant to the Federal Unbundling Rules]** (this section not being intended to create any such requirement in the first instance) the following provisions shall apply notwithstanding any such requirement:

3.4.2.1 Effective as of March 11, 2005, and subject to the transition requirements set forth in Sections 3.4.2.2 and 3.6.3 below:

3.4.2.1.1 Verizon shall provide *****CLEC Acronym TXT***** with nondiscriminatory access to a DS3 Loop on an unbundled basis to any building not served by a Wire Center with at least 38,000 Business Lines and at least four Fiber-Based Collocators. Once a Wire Center exceeds both of these thresholds, no future DS3 Loop unbundling will be required in that Wire Center.

3.4.2.1.2 *****CLEC Acronym TXT*** and its Affiliates** may obtain a maximum of a single unbundled DS3 Loop to any single building in which DS3 Loops are available as unbundled loops.

3.4.2.2 Transition Period For DS-3 Loops. For a 12-month period beginning on March 11, 2005, any DS3 Loop UNEs that *****CLEC Acronym TXT***** leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.4.2.1 above, shall be available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate *****CLEC Acronym TXT***** paid for the loop element on June 15, 2004, or (b) 115% of the rate the Commission has established or establishes, if any, between June 16, 2004, and March 11, 2005, for that loop element. Where Verizon is not required to provide unbundled DS3 Loops pursuant to Section 3.4.2.1, *****CLEC Acronym TXT***** may not obtain new DS3 Loops as unbundled network elements.

3.4.3 Dark Fiber Loops.

3.4.3.1 Effective as of March 11, 2005, and subject to the transition requirements set forth in Section 3.4.3.2 below, Verizon is not required to provide *****CLEC Acronym TXT***** with access to a Dark Fiber Loop **[pursuant to the Federal Unbundling Rules]** on an unbundled basis.

3.4.3.2 Transition Period For Dark Fiber Loops. For an 18-month period beginning on March 11, 2005, any Dark Fiber Loop UNEs that *****CLEC Acronym TXT***** leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.4.3.1 above, shall be available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate *****CLEC Acronym TXT***** paid for the loop element on June 15, 2004, or (b) 115% of the rate the Commission has established or establishes, if any, between June 16, 2004, and March 11, 2005, for that loop element. *****CLEC Acronym TXT***** may not obtain new Dark Fiber Loops as unbundled network elements.

3.5 High Capacity Transport.

3.5.1 DS1 Dedicated Transport. To the extent the Agreement otherwise requires Verizon to provide *****CLEC Acronym TXT***** with unbundled access to DS1 Dedicated Transport **[pursuant to the Federal Unbundling Rules]** (this section not being intended to create any such requirement in the first instance) the following provisions shall apply notwithstanding any such requirement:

3.5.1.1 Effective as of March 11, 2005, and subject to the transition requirements set forth in Sections 3.5.1.2 and 3.6.3 below:

3.5.1.1.1 Verizon shall unbundle DS1 Dedicated Transport between any pair of Verizon Wire Centers except where, through application of tier classifications described in Section 3.5.5 below, both Wire Centers defining the Route are Tier 1 Wire Centers. As such, Verizon must unbundle DS1 Dedicated Transport if a Wire Center at either end of a requested Route is not a Tier 1 Wire Center, or if neither is a Tier 1 Wire Center.

3.5.1.1.2 *****CLEC Acronym TXT*** and its Affiliates** may obtain a maximum of ten unbundled DS1 Dedicated Transport circuits on each Route where DS1 Dedicated Transport is available on an unbundled basis.

3.5.1.2 Transition Period For DS-1 Dedicated Transport. For a 12-month period beginning on March 11, 2005, any DS1 Dedicated Transport UNE that *****CLEC Acronym TXT***** leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.5.1.1 above, shall be available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate *****CLEC Acronym TXT***** paid for the dedicated transport element on June 15, 2004, or (b) 115% of the rate the Commission has established or establishes, if any, between June 16, 2004, and March 11, 2005, for that dedicated transport element. Where Verizon is not required to provide unbundled DS1 Dedicated Transport pursuant to Section 3.5.1.1 above, *****CLEC Acronym TXT***** may not obtain new DS1 Dedicated Transport as unbundled network elements.

- 3.5.2 DS3 Dedicated Transport. To the extent the Agreement otherwise requires Verizon to provide ***CLEC Acronym TXT*** with unbundled access to DS3 Dedicated Transport **[pursuant to the Federal Unbundling Rules]** (this section not being intended to create any such requirement in the first instance) the following provisions shall apply notwithstanding any such requirement:
- 3.5.2.1 Effective as of March 11, 2005, and subject to the transition requirements set forth in Sections 3.5.2.2 and 3.6.3 below:
- 3.5.2.1.1 Verizon shall unbundle DS3 Dedicated Transport between any pair of Verizon Wire Centers except where, through application of tier classifications described in Section 3.5.5 below, both Wire Centers defining the Route are either Tier 1 or Tier 2 Wire Centers. As such, Verizon must unbundle DS3 Dedicated Transport if a Wire Center on either end of a requested Route is a Tier 3 Wire Center.
- 3.5.2.1.2 ***CLEC Acronym TXT*** **and its Affiliates** may obtain a maximum of twelve unbundled DS3 Dedicated Transport circuits on each Route where DS3 Dedicated Transport is available on an unbundled basis.
- 3.5.2.2 Transition Period For Dedicated Transport. For a 12-month period beginning on March 11, 2005, any DS3 Dedicated Transport UNE that ***CLEC Acronym TXT*** leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.5.2.1 above, shall be available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate ***CLEC Acronym TXT*** paid for the dedicated transport element on June 15, 2004, or (b) 115% of the rate the Commission has established or establishes, if any, between June 16, 2004, and March 11, 2005, for that dedicated transport element. Where Verizon is not required to provide unbundled DS3 Dedicated Transport pursuant to Section 3.5.2.1 above, ***CLEC Acronym TXT*** may not obtain new DS3 Dedicated Transport as unbundled network elements.
- 3.5.3 Dark Fiber Transport. To the extent the Agreement otherwise requires Verizon to provide ***CLEC Acronym TXT*** with unbundled access to Dark Fiber Transport **[pursuant to the Federal Unbundling Rules]** (this section not being intended to create any such requirement in the first instance) the following provisions shall apply notwithstanding any such requirement:
- 3.5.3.1 Effective as of March 11, 2005, and subject to the transition requirements set forth in section 3.5.3.2 below, Verizon shall unbundle Dark Fiber Dedicated Transport between any pair of Verizon Wire Centers except where, through application of tier classifications described in Section 3.5.5 below, both Wire Centers defining the Route are either Tier 1 or Tier 2 Wire Centers. As such, Verizon must unbundle Dark Fiber Transport if a Wire Center on either end of a requested Route is a Tier 3 Wire Center.
- 3.5.3.2 Transition Period For Dark Fiber Transport. For an 18-month period beginning on March 11, 2005, any Dark Fiber Transport UNE that ***CLEC Acronym TXT*** leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.5.3.1 above, shall be available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate ***CLEC Acronym TXT*** paid for the Dark Fiber

Transport element on June 15, 2004, or (b) 115% of the rate the Commission has established or establishes, if any, between June 16, 2004, and March 11, 2005, for that Dark Fiber Transport element. Where Verizon is not required to provide unbundled Dark Fiber Transport pursuant to Section 3.5.3.1 above, ***CLEC Acronym TXT*** may not obtain new Dark Fiber Transport as unbundled network elements.

3.5.4 **Notwithstanding any other provision of the Amended Agreement**, Verizon is not obligated to provide ***CLEC Acronym TXT*** with unbundled access to Entrance Facilities **[pursuant to the Federal Unbundling Rules]**, and **[such]** Entrance Facilities are not subject to the transition provisions (including, but not limited to, transition rates) set forth in this Section 3. In accordance with Paragraph 140 of the TRRO and the Arbitration Orders, nothing in this Section nor the FCC's finding of non-impairment with respect to Entrance Facilities alters ***CLEC Acronym TXT***'s right to obtain interconnection facilities pursuant to Section 251(c)(2) of the Act or to obtain access to such facilities at cost based rates.

3.5.5 Wire Center Tier Structure. For purposes of this Section 3.5, Verizon's Wire Centers shall be classified into three tiers, defined as follows:

3.5.5.1 Tier 1 Wire centers are those Verizon Wire Centers that contain at least four Fiber-Based Collocators, at least 38,000 Business Lines, or both. Tier 1 Wire Centers also are those Verizon tandem switching locations that have no line-side switching facilities, but nevertheless serve as a point of traffic aggregation accessible by competitive LECs. Once a Wire Center is or has been determined to be a Tier 1 Wire Center, that Wire Center is not subject to later reclassification as a Tier 2 or Tier 3 Wire Center.

3.5.5.2 Tier 2 Wire Centers are those Verizon Wire Centers that are not Tier 1 Wire Centers, but contain at least 3 Fiber-Based Collocators, at least 24,000 Business Lines, or both. Once a Wire Center is or has been determined to be a Tier 2 Wire Center, that Wire Center is not subject to later reclassification as a Tier 3 Wire Center.

3.5.5.3 Tier 3 Wire Centers are those Verizon Wire Centers that do not meet the criteria for Tier 1 or Tier 2 Wire Centers.

3.6 Certification and Dispute Process for High Capacity Loops and Transport

3.6.1 CLEC Certification and Related Provisions.

3.6.1.1 Before requesting unbundled access to a DS1 Loop, a DS3 Loop, DS1 Dedicated Transport, DS3 Dedicated Transport, or Dark Fiber Transport **[pursuant to the Federal Unbundling Rules]**, including, but not limited to, any of the foregoing elements that constitute part of a Combination or that ***CLEC Acronym TXT*** seeks to convert from another wholesale service to an unbundled network element **[pursuant to the Federal Unbundling Rules]** (collectively, "TRRO Certification Elements"), ***CLEC Acronym TXT*** must undertake a reasonably diligent inquiry and, based on that inquiry, certify that, to the best of its knowledge, ***CLEC Acronym TXT***'s request is consistent with the requirements of the TRRO and that ***CLEC Acronym TXT*** is entitled to unbundled access to the subject element pursuant to section

251(c)(3) of the Act. ***CLEC Acronym TXT***'s reasonably diligent inquiry must include, at a minimum, consideration of any list of non-impaired Wire Centers that Verizon makes or has made available to ***CLEC Acronym TXT*** by notice and/or by publication on Verizon's wholesale website (the "Wire Center List") and any back-up data that Verizon provides or has provided to ***CLEC Acronym TXT*** under a non-disclosure agreement or that is otherwise in the possession of or reasonably available to ***CLEC Acronym TXT***.

3.6.1.2 The back-up data that Verizon provides to ***CLEC Acronym TXT*** under a non-disclosure agreement pursuant to Section 3.6.1.1 above may **[shall]** include data regarding the number of Business Lines and fiber-based collocators at non-impaired Wire Centers; provided, however, that Verizon may mask the identity of fiber-based collocators in order to prevent disclosure to ***CLEC Acronym TXT*** of other carriers' confidential or proprietary network information. Verizon will provide ***CLEC Acronym TXT*** with a translation code in order for ***CLEC Acronym TXT*** to identify its fiber-based collocation locations **[the number of (i) Business Lines and (ii) Fiber-Based Collocators in each Verizon serving wire center. Back-up data shall include, but not be limited to the definition of "wire center," used, the names of the fiber-based collocators counted in each wire center, line counts identified by line type, the date of each count of lines relied upon by Verizon, the methodology used to count Fiber-Based Collocators; the methodology used to derive the Business Line count and the original sources(s) of such data; all business rules and definitions used by Verizon, and any documents, orders, records or reports relied upon by Verizon for the assertions made. Verizon shall provide the back-up data required by this section no later than ten (10) business days following ***CLEC Acronym TXT***'s written request, but only if a non-nondisclosure agreement covering the back-up data is in effect between Verizon and ***CLEC Acronym TXT*** at that time. Upon ***CLEC Acronym TXT***'s request, Verizon shall update the back-up data to the month in which ***CLEC Acronym TXT*** requests the back-up data; provided, however, that Verizon need not provide the back-up data for a particular Wire Center for a date later than the original date on which the data must have been current to establish the level of non-impairment (e.g., Tier 2, etc.) that Verizon asserts as to that Wire Center].**

3.6.1.3 Since Verizon has now modified its electronic ordering system to include a method for ***CLEC Acronym TXT*** to provide the certification required by this section, ***CLEC Acronym TXT*** shall use such method, as updated from time to time in accordance with any Change Management requirements that may apply under the Agreement, to provide such certification.

3.6.2 Provision-then-Dispute Requirements.

3.6.2.1 Upon receiving a request from ***CLEC Acronym TXT*** for unbundled access to a TRRO Certification Element and the certification required by Section 3.6.1 above, and except as provided in Section 3.6.2.3 below, Verizon shall process the request in accordance with any applicable standard intervals. If Verizon wishes to challenge ***CLEC Acronym

TXT***'s right to obtain unbundled access to the subject element pursuant to 47 U.S.C. § 251(c)(3) **[or applicable state law]**, Verizon must provision the subject element as a UNE and then seek resolution of the dispute by the Commission or the FCC, **or through any dispute resolution process set forth in the Agreement that Verizon elects to invoke in the alternative.**

3.6.2.2 If a dispute pursuant to section 3.6.2.1 above is resolved in Verizon's favor, then ***CLEC Acronym TXT*** shall compensate Verizon for the additional charges that would apply if ***CLEC Acronym TXT*** had ordered the subject facility or service on a month-to-month **[or other]** term **[selected by ***CLEC Acronym TXT***]** under Verizon's interstate special access tariff (except as provided in section 3.6.2.2.1 below as to dark fiber) **and any other applicable charges, applicable back to the date of provisioning (including, but not limited to, late payment charges for the unpaid difference between UNE and access tariff rates).** The month-to-month rates shall apply until such time as ***CLEC Acronym TXT*** requests disconnection of the subject facility or an alternative term that Verizon offers under its interstate special access tariff for the subject facility or service.

3.6.2.2.1 In the case of Dark Fiber Transport (there being no analogous service under Verizon's access tariffs), the monthly recurring charges that Verizon may charge, and that ***CLEC Acronym TXT*** shall be obligated to pay, for each circuit shall be the charges for the commercial service that Verizon **[reasonably]** determines to be analogous to the subject Dark Fiber Transport and, unless otherwise required by an effective order of the Commission that is not stayed by a court of competent jurisdiction or agreed in writing by the Parties, Verizon may disconnect the subject dark fiber facility thirty (30) days after the date on which the dispute is resolved in Verizon's favor; provided however that in any case where ***CLEC Acronym TXT***, within thirty (30) days of the date on which the dispute is resolved in Verizon's favor, submits a valid ASR for a "lit" service to replace the subject Dark Fiber Transport facility and provides Verizon with information (including, but not limited to, circuit identification number(s)) in writing to enable Verizon to identify the Dark Fiber Transport Facility that the "lit" service is intended to replace, Verizon shall continue to provide the Dark Fiber Transport facility at the rates provided for above, but only until fifteen (15) days after the date on which Verizon activates the "lit" service and notifies ***CLEC Acronym TXT*** that it is available for ***CLEC Acronym TXT***'s use.

3.6.2.3 Notwithstanding any other provision of the Amended Agreement, **[but subject to Section 4.4 below,]** Verizon may reject a ***CLEC Acronym TXT*** order for a TRRO Certification Element without first seeking dispute resolution in any case where ***CLEC Acronym TXT***'s order conflicts with: (a) a non-impaired Wire Center designation **set forth in the Wire Center List that Verizon has made available to ***CLEC Acronym TXT*** by notice and/or by publication on Verizon's wholesale website as of the Amendment Effective Date (subsequent revisions to the Wire Center List being governed by Section 3.6.3 below),** (b) that the Commission or the FCC has ordered

or approved or that has otherwise been confirmed through previous dispute resolution, or (c) as otherwise permitted by the Commission or the FCC.

3.6.3 Verizon may revise its Wire Center List to add any new Wire Centers not listed as of the Amendment Effective Date or to upgrade ("upgrade" meaning movement to a higher level of non-impairment (e.g., from Tier 2 to Tier 1)) the non-impairment status of any Wire Center listed as of the Amendment Effective Date upon a Commission or FCC determination that the subject Wire Center's eligibility has changed (an "Eligibility Change Determination"). The following provisions shall apply upon such an Eligibility Change Determination:

3.6.3.1 ***CLEC Acronym TXT***s embedded base of TRRO Certification Elements that are or become Discontinued Elements by operation of any change in non-impairment status indicated in the Wire Center List (the "Newly-Discontinued Embedded Base") shall be treated as Discontinued Elements under Section 3.9.2 below effective as of **[eighteen (18) months for Dark Fiber Transport or]** twelve (12) months **[for all other Discontinued Elements]** after the date of the Eligibility Change Determination (the "Wire Center Update Effective Date"). For the avoidance of any doubt, for purposes of applying Section 3.9.2 in the foregoing circumstances, the Wire Center Update Effective Date shall apply in lieu of the March 11, 2006 and September 11, 2006 dates set forth in Section 3.9.2. During such **[eighteen- or]** twelve-month period, the Newly-Discontinued Embedded Base shall be priced at a rate equal to 115% of the rate ***CLEC Acronym TXT*** was obligated to pay for the subject element as of the date of the Eligibility Change Determination.

3.6.3.2 **Notwithstanding any other provision of the Amended Agreement,** Verizon, effective immediately upon an Eligibility Change Determination, may reject any new orders that conflict with the Eligibility Change Determination without first seeking dispute resolution. During the period from the date on which Verizon updates the Wire Center List as described in Section 3.6.3 above and the date of an Eligibility Change Determination, any new order ***CLEC Acronym TXT*** may place for a TRRO Certification Element shall be subject to the certification and provision-then-dispute provisions set forth in Sections 3.6.1 and 3.6.2 above.

3.6.3.3 The transition provisions set forth in this Section 3.6.3 shall apply until such time as the Commission or the FCC adopts different transition requirements that apply in cases where Verizon revises its Wire Center List to add any new Wire Centers not listed as of the Amendment Effective Date or to upgrade ("upgrade" meaning movement to a higher level of non-impairment (e.g., from Tier 2 to Tier 1)) the non-impairment status of any Wire Center listed as of the Amendment Effective Date, at which time such different Commission or FCC requirements shall apply for so long as they remain effective.

3.7 Mass Market Switching and Related Elements.

3.7.1 Effective as of March 11, 2005, and subject **[to Section 4.4 below and]** to the transition requirements set forth in Section 3.7.3 below, Verizon is not required to provide ***CLEC Acronym TXT*** with access to Mass Market Switching **[pursuant to the Federal Unbundling Rules]** (which, for purposes of this

Amendment, means local circuit switching that, if provided to ***CLEC Acronym TXT***, would be used for the purpose of serving end-user customers using DS-0 capacity loops, and does not include Four Line Carve Out Switching) on an unbundled basis.

3.7.2 ***CLEC Acronym TXT*** shall migrate its embedded end user customer base off of the Mass Market Switching element to an alternative arrangement no later than March 10, 2006.

3.7.3 Transition Requirements. For a 12-month period beginning on March 11, 2005, Verizon shall provide access to Mass Market Switching on an unbundled basis for ***CLEC Acronym TXT*** to serve its embedded end user customer base. The price for Mass Market Switching in combination with unbundled DSO capacity loops and Shared Transport obtained pursuant to this section shall be priced at transitional rates which shall be the higher of (a) the rate at which ***CLEC Acronym TXT*** obtained that combination of network elements on June 15, 2004 plus one dollar, or (b) the rate the Commission establishes or has established, if any, between June 16, 2004, and the effective date of the TRRO, for that combination of network elements, plus one dollar. ***CLEC Acronym TXT*** may not obtain new Mass Market Switching as an unbundled network element on or after March 11, 2005.

3.7.3.1 For purposes of Section 3.7.3 above, serving the ***CLEC Acronym TXT***'s embedded end user customer base means serving ***CLEC Acronym TXT***'s end user customers using a Mass Market Switching arrangement that was in service for that end user customer as of March 11, 2005, and:

3.7.3.1.1 includes performing repairs or maintenance of, or adding or changing features to, that end-user customer's existing arrangement;

3.7.3.1.2 does not include adding new Mass Market Switching arrangements, adding new lines to existing arrangements, or serving the embedded end user customer at a location different from the location at which that customer was served using the subject Mass Market Switching arrangement as of March 11, 2005.

3.7.4 As set forth in 47 C.F.R. § 51.319(d)(4), Verizon shall provide ***CLEC Acronym TXT*** with non-discriminatory access to signaling, call-related databases and shared transport facilities on an unbundled basis in accordance with Section 251(c)(3) and 47 C.F.R Part 51, to the extent that Mass Market Switching is required to be made available pursuant to this Section 3.7, but only in connection with Verizon's provision of such Mass Market Switching.

3.8 Payment of Transition Charges. To the extent ***CLEC Acronym TXT***, by operation of the existing terms of the Agreement and the TRRO, was not already required to pay the transitional rate increases described in Section 3 of this Amendment, and without limiting any such existing terms, the following provisions shall apply:

3.8.1 Prospective Transition Charges. ***CLEC Acronym TXT*** shall, in accordance with the billing provisions of the Agreement, pay any transition charges described in section 3 of this Amendment that Verizon bills (or has billed) in invoices dated on or after the Amendment Effective Date. If ***CLEC Acronym TXT*** fails to pay such invoices within the period of time required to avoid late

payment charges or penalties under the billing provisions of the Agreement, any such late payment charges and penalties shall apply.

3.8.2 Retrospective Transition Charges.

3.8.2.1 Previously-Invoiced Charges. ***CLEC Acronym TXT***, within thirty (30) days of the Amendment Effective Date, shall pay any transitional charges described in section 3 of this Amendment that Verizon already billed to ***CLEC Acronym TXT*** in invoices dated prior to the Amendment Effective Date and that ***CLEC Acronym TXT*** has not already paid. Verizon may not charge late payment charges or penalties under billing provisions of the Agreement if ***CLEC Acronym TXT*** pays (or has paid) by the Amendment Effective Date any such invoices dated prior to the Amendment Effective Date.

3.8.2.2 Charges Not Previously Invoiced. Without limiting ***CLEC Acronym TXT***'s obligation to pay Verizon's invoices described in the foregoing provisions of this section 3.8, Verizon may, but shall not be required to, use a true up to recover from ***CLEC Acronym TXT*** any transitional rate increases described in section 3 of this Amendment that ***CLEC Acronym TXT*** has incurred but for which Verizon has not already billed to ***CLEC Acronym TXT***. Verizon may not charge late payments or penalties if ***CLEC Acronym TXT*** pays Verizon's true up bill within the period of time required to avoid late payments or penalties under the billing provisions of the Agreement.

[3.8.2.3 Any bills issued by Verizon that include either a transition rate charge or a true up charge, shall specifically identify the time period for which such transition rate or true up applies; the applicable transition rate or true up, and details that enable *CLEC Acronym TXT*** to identify the specific facilities to which the transition rate or true up amounts apply.]**

3.9 Discontinuance of TRRO Embedded Base at the Close of Transition Period.

3.9.1 If ***CLEC Acronym TXT*** wishes to replace ***CLEC Acronym TXT***'s embedded base, if any, of Discontinued Elements that are subject to the transition periods set forth in this Section 3 with alternative services that may be available from Verizon under a separate arrangement (e.g., a separate agreement at market-based rates, arrangement under a Verizon access tariff, or resale), ***CLEC Acronym TXT*** shall **[make commercially reasonable efforts to]** order such alternative services to become effective no later than a date that allows Verizon adequate time, taking account of any standard intervals that apply, order volumes, and any preparatory activities that ***CLEC Acronym TXT*** must have completed in advance in order to implement the conversion or migration, to convert or migrate the Discontinued Element to the replacement service by March 10, 2006 (or, in the case of dark fiber, by September 10, 2006). **[Upon ***CLEC Acronym TXT***'s request, Verizon shall defer the effectiveness of any such orders to a date no later than March 10, 2006 (or, in the case of dark fiber, September 10, 2006).]**

3.9.1.1 Repricing Pending Actual Conversion or Migration. The TRRO transition periods may result in many requests for Verizon to process a significant number of conversions and/or migrations

within a short time period. Accordingly, if [if] ***CLEC Acronym TXT*** places a timely order pursuant to Section 3.9.1 (taking account of any standard intervals that apply, order volumes, and any preparatory activities that ***CLEC Acronym TXT*** must have completed in advance) and Verizon does not complete the conversion or migration requested by ***CLEC Acronym TXT*** as of the date requested by ***CLEC Acronym TXT*** (such requested date being no later than the date required under Section 3.9.1), then Verizon, in its sole discretion, may reprice the subject Discontinued Element effective as of that date by application of the rate(s) that apply to the available replacement service requested by ***CLEC Acronym TXT*** until such time as Verizon completes the actual conversion or migration to that available replacement service. Because the repricing described in this Section 3.9.1.1 may inherently involve, on a temporary basis, the application of rates to a facility or service provisioned through a format for which Verizon's systems are not designed to apply such rates, Verizon, in its sole discretion, may effectuate such repricing by application of a surcharge to an existing rate(s) so as to be equivalent to the subject replacement service [which when added to the rate(s) Verizon is charging ***CLEC Acronym TXT*** for the Discontinued Element(s), is equal to the rate(s) that apply to the replacement service requested by ***CLEC Acronym TXT***].

3.9.2 Failure of **CLEC Acronym TXT*** to Request Disconnection or Replacement Service by the Required Date. If **CLEC Acronym TXT*** has not requested disconnection of the subject Discontinued Element and has not submitted a timely order for a replacement service in accordance with Section 3.9.1 above by the date required in that section (taking account of any standard intervals that apply, order volumes, and any preparatory activities that ***CLEC Acronym TXT*** must have completed in advance), then Verizon may, in its sole discretion, either: (a) disconnect the subject Discontinued Element on or at any time after March 11, 2006 (or, in the case of dark fiber, on or at any time after September 11, 2006), provided that Verizon has notified ***CLEC Acronym TXT*** in writing at least thirty (30) days in advance of the disconnection date, or (b) without further notice to ***CLEC Acronym TXT***, convert or migrate the subject Discontinued Element to an analogous access (month-to-month term), resale, or commercial arrangement that Verizon shall identify in writing to ***CLEC Acronym TXT*** [at least thirty (30) days in advance], and the rates, terms, and conditions of such arrangement shall apply and be binding upon ***CLEC Acronym TXT*** as of March 11, 2006 (or, in the case of dark fiber, September 11, 2006).

3.9.2.1 Repricing Pending Actual Conversion or Migration. If Verizon is unable to complete the conversion or migration described in Section 3.9.2 by the applicable date set forth therein, then Verizon may, but shall not be required to, reprice the subject Discontinued Element, effective as of March 11, 2006 (or in the case of dark fiber, September 11, 2006), by application of the rate(s) that apply to the analogous access, resale, or commercial arrangement until such time as Verizon completes the actual conversion or migration described in Section 3.9.2. Because such repricing may inherently involve, on a temporary basis, the application of rates to a facility or service provisioned through a format for which Verizon's systems are not designed to apply such rates, Verizon, in its sole discretion, may effectuate such repricing by application of a surcharge to an existing rate(s) so as to be equivalent to [which when added to the rate(s) Verizon is charging

*****CLEC Acronym TXT*** for the Discontinued Element(s), is equal to the rate(s) for** the applicable access, resale, or other analogous arrangement that Verizon identifies under section 3.9.2 above.

3.9.3 **Except as provided for in a Verizon tariff or as otherwise agreed by the Parties (including, but not limited to, in the Agreement), Verizon shall not charge ***CLEC Acronym TXT*** any fees for records-only changes (i.e., changes that do not require Verizon to perform any physical installation, disconnection, or similar activities) that are necessary to convert circuits that are already in service, or any fees for disconnection of a Discontinued Element other than the disconnection charge set forth in the Pricing Attachment to this Amendment **[Verizon shall not charge ***CLEC Acronym TXT*** any termination, re-connect or other non-recurring charges or fees associated with the conversion or migration of Discontinued Facilities to alternative arrangements]**.**

3.10 Line Sharing. Notwithstanding any other provision of the Amended Agreement (but subject to the conditions set forth in Section 2 above), Verizon shall provide access to Line Sharing in accordance with, but only to the extent required by, 47 C.F.R. § 51.319(a)(1)(i) and the Arbitration Orders. For the avoidance of any doubt, the FCC's transition rules set forth in 47 C.F.R. § 51.319(a)(1)(i) became effective independently of this Amendment prior to the Amendment Effective Date, and this Section 3.10 is only intended to memorialize such rules for the convenience of the Parties.

3.10A Line Splitting

3.10A.1 Subject to the conditions set forth in Section 2 above, Verizon shall provision Line Splitting arrangements under the Amended Agreement in accordance with, **but only to the extent required by, the Federal Unbundling Rules and the Arbitration Orders [the Federal Unbundling Rules, applicable state law, or the Arbitration Orders]**. Verizon shall enable ***CLEC Acronym TXT*** to engage in Line Splitting using a ***CLEC Acronym TXT***-provided splitter collocated at the central office. Verizon's standard rates and provisioning processes shall apply. Any Line Splitting between ***CLEC Acronym TXT*** and another CLEC shall be accomplished by prior negotiated arrangement between ***CLEC Acronym TXT*** and the other CLEC. ***CLEC Acronym TXT*** shall give Verizon written notice of this arrangement through the Verizon Wholesale Local Service Customer Profile Form on the Verizon Wholesale Website or another electronic notice mechanism that will be provided by Verizon, at least thirty (30) days prior to placing an order for a Line Splitting arrangement with such other CLEC.

3.10A.2 Except as noted in Section 3.10A.3, the provider of voice services in a line splitting arrangement will be billed for all charges associated with the UNEs and other Verizon services and facilities used in conjunction with the line splitting arrangement, regardless of which CLEC in the Line Splitting arrangement orders the UNEs or other Verizon services or facilities. These charges include, but are not limited to, applicable non-recurring charges and monthly recurring charges related to such Line Splitting arrangement, including but not limited to UNE loop, any switching and relate services obtained from Verizon under a separate agreement, testing, pre-qualification, OSS, line conditioning, CLEC account establishment and misdirected trouble charges.

3.10A.3 In order to facilitate ***CLEC Acronym TXT***'s engaging in Line Splitting pursuant to this section, ***CLEC Acronym TXT*** may order for use in a Line

Splitting arrangement those UNEs, Collocation arrangements, services, facilities, equipment and arrangements, appropriate for Line Splitting, that are offered to ***CLEC Acronym TXT*** by Verizon under other provisions of the Amended Agreement. Such UNEs, Collocation arrangements, services, facilities, equipment and arrangements, will be provided to ***CLEC Acronym TXT*** in accordance with, and subject to, the rates and charges and other provisions of the Amended Agreement and Verizon's applicable tariffs.

- 3.10B Line Conditioning. Subject to the conditions set forth in Section 2 above, and in accordance with, but only to the extent required by, **the Federal Unbundling Rules and the Arbitration Orders, [the Federal Unbundling Rules, applicable state law, or the Arbitration Orders.]** Verizon shall condition a copper Loop at the request of ***CLEC Acronym TXT*** when ***CLEC Acronym TXT*** seeks access to a copper Loop or copper Sub-Loop that Verizon is required to provide to ***CLEC Acronym TXT*** on an unbundled basis under the Amended Agreement, to ensure that the copper Loop or copper Sub-Loop is suitable for providing xDSL services, 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 3.10B, to access the copper Loop or the copper Sub-Loop. Verizon's standard provisioning processes for line conditioning shall apply.
- 3.10B.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.
- 3.10.B.2 Verizon shall recover the costs of line conditioning from ***CLEC Acronym TXT*** at rates **provided for in the Pricing Attachment to this Amendment [established by the Commission]**.
- 3.10B.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.
- 3.10C Subject to the conditions set forth in Section 2 above, Verizon, in accordance with, but only to the extent required by, **the Federal Unbundling Rules and the Arbitration Orders, [Federal Unbundling Rules, applicable state law, or the Arbitration Orders.]** shall provide, on a nondiscriminatory basis, existing, in-place physical loop test access points to ***CLEC Acronym TXT*** at the splitter, through a cross-connection to ***CLEC Acronym TXT***'s collocation space, or through a standardized interface, such as intermediate distribution frame or a test access server, for the purpose of testing, maintaining, and repairing copper loops and copper subloops. Verizon's standard rates (or, in the absence of a standard rate, a negotiated rate) and provisioning processes shall apply.
- 3.11 Commingling and Combinations.
- 3.11.1 **Notwithstanding any other provision of the Amended Agreement (but subject [Subject] to and without limiting the conditions set forth in Section 2 above and in Section 3.11.2 below):**

- 3.11.1.1 Verizon will not prohibit the commingling of an unbundled Network Element or a combination of unbundled Network Elements obtained under the Amended Agreement pursuant to the Federal Unbundling Rules or **under a Verizon UNE tariff [applicable state law]**, with Wholesale Services obtained from Verizon under a Verizon access tariff or separate non-251 agreement ("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 the Federal Unbundling Rules. Moreover, to the extent and so long as required by the Federal Unbundling Rules**, Verizon shall, upon request of *****CLEC Acronym TXT*****, perform the functions necessary to commingle or combine UNEs with Wholesale Services. The rates, terms and conditions of the applicable access tariff or separate non-251 agreement will apply to the Wholesale Services, and the rates, terms and conditions of the Amended Agreement **or the Verizon UNE tariff, as applicable**, will apply to the UNEs.
- 3.11.1.2 Ratcheting, i.e., a pricing mechanism that involves billing a single circuit at multiple rates to develop a single, blended rate, shall not be required. UNEs that are commingled with Wholesale Services are not included in the shared use provisions of the applicable tariff, and are therefore not eligible for adjustment of charges under such provisions.
- 3.11.1.3 Limitations on Section 3.11.
- 3.11.1.3.1 Section 3.11 is intended only to address the Parties' rights and obligations as to combining and/or commingling of UNEs that Verizon is already required to provide to *****CLEC Acronym TXT***** under the Amended Agreement, 47 U.S.C. § 251(c)(3), and 47 C.F.R. Part 51. Nothing contained in Section 3.11.1 shall be deemed: to limit any right of Verizon under the Amended Agreement to cease providing a facility that is or becomes a Discontinued Element.
- 3.11.2 Service Eligibility Criteria for Certain Combinations and Commingled Facilities and Services. Notwithstanding any other provision of the Agreement or this Amendment (but subject [Subject] to the conditions set forth in Sections 2 and 3.11.1 above [and Section 4.4 below]):
- 3.11.2.1 Verizon shall not be obligated to provide:
- 3.11.2.1.1 an unbundled DS1 Loop in combination with unbundled DS1 or DS3 Dedicated Transport, or commingled with DS1 or DS3 access services;
- 3.11.2.1.2 an unbundled DS3 Loop in combination with unbundled DS3 Dedicated Transport, or commingled with DS3 access services;
- 3.11.2.1.3 unbundled DS1 Dedicated Transport commingled with DS1 channel termination access service;

3.11.2.1.4 unbundled DS3 Dedicated Transport commingled with DS1 channel termination access service; or

3.11.2.1.5 unbundled DS3 Dedicated Transport commingled with DS3 channel termination service,

(individually and collectively "High Capacity EELs") except to the extent Verizon is required by 47 C.F.R. § 51.318 **[or applicable state law]** to do so, and not unless and until ***CLEC Acronym TXT*** certifies in writing (i.e., ASR or LSR) to Verizon that each combined or commingled DS1 circuit or DS1 equivalent circuit of a High Capacity EEL satisfies each of the service eligibility criteria on a circuit-by-circuit basis as set forth in 47 C.F.R. § 51.318. ***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 commingled facilities and/or services from Verizon. The service eligibility criteria shall be applied to each combined or commingled DS1 circuit or DS1 equivalent circuit of a High Capacity EEL. If any combined or commingled DS1 circuit or DS1 equivalent circuit of a High Capacity EEL is, becomes, or is subsequently determined to be, noncompliant, the noncompliant High Capacity EEL circuit will be treated as described in Section 3.11.2.2 below. The foregoing shall apply whether the High Capacity EEL 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 High Capacity EEL circuits, in writing (i.e., letter or, as applicable, ASR or LSR) for each DS1 circuit or DS1 equivalent within thirty (30) days of the Amendment Effective Date. ***CLEC Acronym TXT*** must re-certify in writing (i.e., letter or, as applicable, ASR or LSR) for each DS1 circuit or DS1 equivalent within thirty (30) days of the Amendment Effective Date. Any existing High Capacity EEL circuits that ***CLEC Acronym TXT*** leased from Verizon as of the Amendment Effective Date that ***CLEC Acronym TXT*** fails to re-certify as required by Paragraph 3.11.2.1 by the end of such 30-day period shall be treated as a non-compliant circuit as described under Section 3.11.2.2 effective as of the Amendment Effective Date.

3.11.2.2 Without limiting any other right Verizon may have to cease providing circuits that are or become Discontinued Elements, if a High Capacity EEL circuit is or becomes noncompliant as described in this Section 3.11, and ***CLEC Acronym TXT*** has not submitted an LSR or ASR, as appropriate, to Verizon requesting disconnection of the noncompliant facility and has not separately secured from Verizon an alternative arrangement to replace the noncompliant High Capacity EEL circuit, then Verizon, to the extent it has not already done so prior to execution of this Amendment, shall reprice the subject High Capacity EEL circuit (or portion thereof that had been previously billed at UNE rates), effective beginning on the date on which the circuit became non-compliant, by application of a new rate (or, in Verizon's sole discretion, by application of a surcharge to an existing rate) so as to be equivalent to an analogous access service (i.e., month-to-month rate provided under an applicable access tariff, unless ***CLEC Acronym TXT*** is then subscribed to an applicable special access term/volume plan or other special access tariff arrangement, pursuant to which CLEC would be entitled to a different rate) or other

analogous arrangement that Verizon shall identify in a written notice to ***CLEC Acronym TXT***.

3.11.2.3 [INTENTIONALLY OMITTED]

3.11.2.4 Charges for records-only changes (i.e., changes that do not require Verizon to perform any physical installation, disconnection, or similar activities) that are necessary for conversions shall be limited to any order processing charges authorized by the Commission **[and], charges included in wholesale and interconnection tariffs (including, but not limited to, charges associated with ***CLEC Acronym TXT***'s early termination of a special access discount plan), and charges to which the Parties have otherwise agreed (including, but not limited to, in the Agreement).**

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

3.11.2.6 Each conversion request will be handled as a project. When submitting an ASR (or, as applicable, LSR) for a circuit for which certification under Section 3.11.2.1 above is required, ***CLEC Acronym TXT*** should follow Verizon's ordering guidelines and provide all specified supporting information on the ASR related to the circuit's eligibility, but at a minimum, ***CLEC Acronym TXT*** must include **the certification in the remarks section of the ASR as follows: "Certification: The circuit(s) requested in this ASR meet the eligibility criteria set forth in 47 C.F.R. 51.318(b)(2)." [a certification in the remarks section of the ASR that the ordered circuit(s) meet the FCC's eligibility criteria.]** The foregoing certification must be contained in the Remarks section of the ASR unless and until such time as provisions are made **[through the Change Management process]** to populate other fields on the ASR to capture this certification.

3.11.2.7 Verizon shall use commercially reasonable efforts to complete conversions required under this Section 3.11.2 in accordance with the following intervals: (a) where ***CLEC Acronym TXT*** is requesting conversion of only a single circuit, seven (7) business days from the date on which Verizon receives ***CLEC Acronym TXT***'s request (i.e., ASR or, as applicable, LSR), and (b) where ***CLEC Acronym TXT*** is requesting conversion of multiple circuits up to 100 circuits, fourteen (14) business days from the date on which Verizon receives ***CLEC Acronym TXT***'s request (i.e., ASR or, as applicable, LSR). Different intervals may apply by mutual agreement of the Parties or where reasonably necessary due to systems limitations or spikes in demand. New rates for converted circuits shall be effective upon completion of the conversion and shall be reflected in the next billing cycle after the conversion is complete.

3.11.2.8 When processing a conversion, Verizon shall not physically disconnect, separate, alter, or change the equipment and facilities use to provide the service being converted; provided, however, that Verizon shall contact ***CLEC Acronym TXT*** and obtain ***CLEC Acronym TXT***'s consent for Verizon to perform any such activities that Verizon may determine are necessary to process the conversion.

3.11.2.9 Once per calendar year, Verizon may obtain and pay for an independent auditor to audit ***CLEC Acronym TXT***'s compliance in all material respects with the service eligibility criteria applicable to High Capacity 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. **Verizon shall direct its auditor to provide a copy of its report to ***CLEC Acronym TXT*** at the same time it provides the report to Verizon.** To the extent the independent auditor's report concludes that ***CLEC Acronym TXT*** failed to comply with the service eligibility criteria, then (without limiting Verizon's rights under Section 3.11.2.2 above) ***CLEC Acronym TXT*** must convert all noncompliant circuits to the appropriate service, true up any difference in payments, and make the correct payments on a going-forward basis. To the extent the independent auditor's report concludes that ***CLEC Acronym TXT*** failed to comply in all material respects with the service eligibility criteria, then ***CLEC Acronym TXT*** must reimburse Verizon for the **[reasonable]** cost of the independent auditor within thirty (30) days after receiving a statement of such costs from Verizon. **If Verizon asserts ***CLEC Acronym TXT*** non-compliance with the service eligibility criteria based on the auditor's report pursuant to this Section, then Verizon, upon ***CLEC Acronym TXT***'s request, shall provide ***CLEC Acronym TXT*** a copy of the report (or portions related to the asserted non-compliance).** Should the independent auditor confirm ***CLEC Acronym TXT***'s compliance with the service eligibility criteria in all material respects, then ***CLEC Acronym TXT*** shall provide to the independent auditor for its verification a statement of ***CLEC Acronym TXT***'s reasonable **and verifiable** costs of complying with any requests of the independent auditor, and Verizon shall, within thirty (30) days of the date on which ***CLEC Acronym TXT*** submits such costs to the auditor, reimburse ***CLEC Acronym TXT*** for its reasonable **and verifiable** costs verified by the auditor. ***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.

3.12 Routine Network Modifications.

3.12.1 General Conditions. **In accordance with, but only to the extent required by, 47 C.F.R. §§ 51.319(a)(8) and (e)(5) and the Arbitration Orders, and subject to the conditions set forth in Section 2 above:**

3.12.1.1 Verizon shall make such routine network modifications as are necessary to permit access by ***CLEC Acronym TXT*** to the Loop, Dedicated Transport, or Dark Fiber Transport facilities available under the Amended Agreement (including DS1 Loops and DS1 Dedicated Transport, and DS3 Loops and DS3 Dedicated Transport), where the facility has already been constructed. Verizon shall perform routine network modifications in a nondiscriminatory fashion without regard to whether the facility being accessed was constructed on behalf of, or in accordance with the specifications of, any carrier. Routine

network modifications applicable to Loops or Transport are those modifications that Verizon regularly undertakes for its own customers and may include, but are not limited to: rearranging or splicing of in-place cable; adding an equipment case; adding a doubler or repeater; installing a repeater shelf; deploying a new multiplexer or reconfiguring an existing multiplexer; accessing manholes; and deploying bucket trucks to reach aerial cable. Routine network modifications applicable to Dark Fiber Transport are those modifications that Verizon regularly undertakes for its own customers and may include, but are not limited to, splicing of in-place dark fiber; accessing manholes; deploying bucket trucks to reach aerial cable; 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 facilities, trenching, the pulling of cable, the installation of new aerial, buried, or underground cable for a requesting telecommunications carrier, or the placement of new cable. Verizon shall not be required to build any time division multiplexing (TDM) capability into new packet-based networks or into existing packet-based networks that do not already have TDM capability.

- 3.12.2 Nothing contained in this Section 3.12 shall be deemed to require Verizon to provide on an unbundled basis any facility that the Amended Agreement does not otherwise require Verizon to provide on an unbundled basis.

4. Miscellaneous Provisions.

- 4.1 Conflict between this Amendment and the Agreement. This Amendment shall be deemed to revise the terms and provisions of the Agreement 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 4.1.
- 4.2 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.
- 4.3 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.
- 4.4 Scope of Amendment. This Amendment shall amend, modify and revise the Agreement only to the extent set forth expressly herein. 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. **[This Amendment does not alter, modify or revise any rights and obligations under Applicable Law contained in the Agreement, other than those Section 251 rights and obligations specifically addressed in this Amendment. Furthermore, **CLEC Acronym TXT***'s execution of this**

Amendment shall not be construed as a waiver with respect to whether Verizon, prior to the Amendment Effective Date, was obligated under the Agreement to perform certain functions required by the TRO.]

- 4.5 Reservation of Rights. Notwithstanding any contrary provision in the Amended Agreement, or any Verizon tariff, nothing contained in the Amended Agreement, or any Verizon tariff shall limit either Party's right to appeal, seek reconsideration of or otherwise seek to have stayed, modified, reversed or invalidated any order, rule, regulation, decision, ordinance or statute issued by the Commission, the FCC, any court or any other governmental authority related to, concerning or that may affect either Party's rights or obligations under the Amended Agreement, any Verizon tariff, or Applicable Law.
- 4.6 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.
- 4.7 Definitions. Notwithstanding any other provision in the Agreement or any Verizon tariff, the following terms, as used in the Amended Agreement, shall have the meanings set forth below:
- 4.7.1 Affiliate. For the purposes of this Amendment only, the term Affiliate is defined by 47 U.S.C. § 153(1) and any relevant interpretation in Title 47 of the Code of Federal Regulations.
- 4.7.2 Business Line. As set forth in 47 C.F.R. § 51.5, a "Business Line" is a Verizon-owned switched access line used to serve a business customer, whether by Verizon itself or by a competitive LEC that leases the line from Verizon. The number of business lines in a Wire Center shall equal the sum of all Verizon business switched access lines, plus the sum of all UNE loops connected to that Wire Center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, business line tallies (1) shall include only those access lines connecting end-user customers with Verizon end-offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line. For example, a DS1 line corresponds to 24 64 kbps-equivalents, and therefore to 24 "business lines".
- 4.7.3 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.
- 4.7.4 Commingling. Shall have the meaning as defined in 47 C.F.R. § 51.5. "Commingling" means the act of Commingling.
- 4.7.4 Conversion. "Conversion" means all procedures, processes and functions that Verizon and ***CLEC Acronym TXT*** must follow to Convert any Verizon facility or service other than an unbundled network element (e.g., special access services) or group of Verizon facilities or services to the equivalent UNEs or UNE Combinations, or the reverse. Convert means the act of Conversion.

- 4.7.5 Dark Fiber Loop. Consists of fiber optic strand(s) in a Verizon fiber optic cable between Verizon's accessible terminal, such as the fiber distribution frame, or its functional equivalent, located within a Verizon wire center, and Verizon's accessible terminal located in Verizon's main termination point at an end user customer premises, such as a fiber patch panel, and that Verizon has not activated through connection to electronics that "light" it and render it capable of carrying telecommunications services.
- 4.7.6 Dark Fiber Transport. An optical transmission facility within a LATA, that otherwise meets the definition of Dedicated Transport but which Verizon has not activated by attaching multiplexing, aggregation or other electronics.
- 4.7.7 Dedicated Transport. **Subject to Section 3.5.4 above**, Dedicated Transport includes Verizon transmission facilities between Verizon Wire Centers or switches (including Verizon switches with line-side functionality that terminate loops and are "reverse collocated" in non-Verizon collocation hotels), or between Verizon Wire Centers or switches and switches owned by requesting telecommunications carriers, including DS-1, DS3, and OCn-capacity level services as well as dark fiber, dedicated to a particular customer or carrier.
- 4.7.8 Discontinued Element. **Any facility that Verizon, at any time, has provided or offered to provide to ***CLEC Acronym TXT*** on an unbundled basis pursuant to the Agreement or a Verizon tariff, but which by operation of law has ceased [DELETE FROM AT&T AND ADOPTees INCLUDING MCI THAT HAVE NOT BEEN AMENDED TO INCLUDE AUTOMATIC UNE DISCONTINUANCE TERMS: or ceases]to be subject to an unbundling requirement under 47 U.S.C. § 251(c)(3) or 47 C.F.R. Part 51. [DELETE FROM AT&T AND ADOPTees INCLUDING MCI THAT HAVE NOT BEEN AMENDED TO INCLUDE AUTOMATIC UNE DISCONTINUANCE TERMS: By way of example and not by way of limitation,] Discontinued Elements [DELETE FROM AT&T AND ADOPTees INCLUDING MCI THAT HAVE NOT BEEN AMENDED TO INCLUDE AUTOMATIC UNE DISCONTINUANCE TERMS: as of the Amendment Effective Date] include [Discontinued Elements are] the following, whether as stand-alone facilities [elements]; or combined or commingled with other facilities [elements]: (a) any Entrance Facility ("lit or unlit"), subject to Section 3.5.4 above; (b) local circuit 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; (c) Mass Market Switching (subject to the transition provisions set forth herein for ***CLEC Acronym TXT***'s embedded end user customer base, if any, as of March 11, 2005); (d[b]) Four-Line Carve Out Switching; (e[c]) OCn Loops and OCn Dedicated Transport; (f) subject to Sections 3.4.1, 3.4.2, and 3.6 above, DS1 Loops or DS3 Loops out of any Wire Center that meets the FCC's non-impairment criteria addressed in section 3.4 of this Amendment; (g) Dark Fiber Loops (subject to the transition provisions set forth herein for ***CLEC Acronym TXT*** 's embedded base of Dark Fiber Loops, if any, as of March 11, 2005); (h) subject to Sections 3.4.1 and 3.4.2 above, any DS1 Loop or DS3 Loop that exceeds the maximum number of such Loops that Verizon is required to provide to ***CLEC Acronym TXT*** on an unbundled basis under section 3 of this Amendment; (i) subject to Sections 3.5.1, 3.5.2, and 3.6 above, DS1 Dedicated Transport, DS3 Dedicated Transport, or Dark Fiber Transport on any Route that meets the FCC's non-impairment criteria addressed in section 3.5 of this Amendment; (j) subject to Sections 3.5.1 and 3.5.2 above, any DS1 Dedicated Transport circuit or DS3 Dedicated Transport circuit that exceeds the number of such circuits that Verizon is**

required to provide to *CLEC Acronym TXT*** on an unbundled basis under section 3 of this Amendment; (k[d]) the Feeder portion of a Loop (as a sub-loop element; provided, however, that this definition is not intended to affect any right ***CLEC Acronym TXT*** may have to obtain unbundled access to an entire Loop that includes Feeder); (l[e]) Line Sharing, subject to the TRO transition period addressed herein; (m[f]) any Call-Related Database, other than the 911 and E911 databases (subject to the transition requirements set forth herein as to any Call-Related Databases used in connection with [that is not provisioned in connection with ***CLEC Acronym TXT*** 's use of Verizon's] Mass Market Switching for ***CLEC Acronym TXT*** 's embedded end user customer base for such switching, if any, as of March 11, 2005); (n[f]) Signaling (subject to the transition requirements set forth herein as to any Signaling used in connection with Mass Market Switching for ***CLEC Acronym TXT*** 's embedded end user customer base for such switching, if any, as of March 11, 2005); (o) [or] Shared Transport (subject to the transition requirements set forth herein as to any Shared Transport used in connection with Mass Market Switching for ***CLEC Acronym TXT*** 's embedded end user customer base for such switching, if any, as of March 11, 2005) [that is not provisioned in connection with ***CLEC Acronym TXT*** 's use of Verizon's Enterprise Switching]; (p[g]) FTTH Loops (lit or unlit), subject to Section 3.1.2 above; (q[h]) FTTC Loops (lit or unlit), subject to Section 3.1.2 above; [and] (r[i]) Hybrid Loops, subject to Section 3.2 above.**

- 4.7.9 Distribution Sub-Loop 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.
- 4.7.10 DS1 Dedicated Transport. Dedicated Transport having a total digital signal speed of 1.544 Mbps.
- 4.7.11 DS3 Dedicated Transport. Dedicated Transport having a total digital signal speed of 44.736 Mbps.
- 4.7.12 DS1 Loop. A digital transmission channel, between the main distribution frame (or its equivalent) in an end user's serving wire center and the demarcation point at the end user customer's premises, suitable for the transport of 1.544 Mbps digital signals. This loop type is more fully described in Verizon TR 72575, as revised from time to time. A DS1 Loop requires the electronics necessary to provide the DS1 transmission rate. DS1 Loops are sometimes also known as DS1 "Links".
- 4.7.13 DS3 Loop. A digital transmission channel, between the main distribution frame (or its equivalent) in an end user's serving wire center and the demarcation point at the end user customer's premises, suitable for the transport of isochronous bipolar serial data at a rate of 44.736 Mbps (the equivalent of 28 DS1 channels). This Loop type is more fully described in Verizon TR 72575, as revised from time to time. A DS3 Loop requires the electronics necessary to provide the DS3 transmission rate. DS3 Loops are sometimes also known as DS3 "Links".
- 4.7.14 Entrance Facility. **Dedicated Transport (lit or unlit) that does not connect a pair of Verizon Wire Centers [A transmission facility (lit or unlit) or service provided between (i) a Verizon Wire Center or switch and (ii) a switch or wire center of ***CLEC Acronym TXT*** or a third party. In accordance with Paragraph 140 of the Triennial Review Order, nothing in this Section nor the FCC's finding of non-impairment with respect to entrance facilities**

alters *CLEC Acronym TXT***'s right to obtain interconnection facilities pursuant to Section 251(c)(2) of the Act or to obtain access to such facilities at cost based rates]**

- 4.7.15 Feeder. The fiber optic cable (lit or unlit) or metallic portion of a Loop between a serving wire center and a remote terminal or feeder/distribution interface.
- 4.7.16 Federal Unbundling Rules. Any requirement to provide access to unbundled network elements that is imposed upon Verizon by the FCC pursuant to both 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51.
- 4.7.17 Fiber-Based Collocator. A fiber-based collocator is any carrier, unaffiliated with Verizon, that maintains a collocation arrangement in a Verizon Wire Center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a collocation arrangement within the Wire Center; (2) leaves the Verizon Wire Center premises; and (3) is owned by a party other than Verizon or any Affiliate of Verizon, except as set forth in 47 C.F.R. § 51.5.
- 4.7.18 Four-Line Carve Out Switching. Local circuit switching that, if provided to ***CLEC Acronym TXT***, would be used for the purpose of serving a ***CLEC Acronym TXT*** end user customer served by four or more DS0 Loops in Density Zone 1 in the top 50 MSAs.
- 4.7.19 FTTH Loop. A fiber-to-the-home loop (or "FTTH Loop") is a local loop consisting entirely of fiber optic cable, whether dark or lit, serving an end user's customer premises or, in the case of predominantly residential multiple dwelling units (MDUs), a fiber optic cable, whether dark or lit, that extends to the multiunit premises' minimum point of entry (MPOE). **FTTH Loops are not limited to those loops being used to provide service to "mass market" or residential customers.**
- 4.7.20 FTTC Loop. A fiber-to-the-curb loop (or "FTTC Loop") is a local loop consisting of fiber optic cable connecting to copper distribution plant that is not more than 500 feet from the customer's premises or, in the case of predominantly residential MDUs, not more than 500 feet from the MDU's MPOE. The fiber optic cable in a fiber-to-the-curb loop must connect to copper distribution plant at a serving area interface from which every other copper distribution subloop also is not more than 500 feet from the respective customer's premises. **FTTC loops are not limited to those loops being used to provide service to "mass market" or residential customers.**
- 4.7.21 Hybrid Loop. A **[Any]** local Loop composed of both fiber optic cable, **usually in feeder plant**, and copper wire or cable, **usually in the distribution plant**. **[including such intermediate fiber-to-the-loop architectures as Fiber-to-the-Node and Fiber-to-the Building.]** FTTH Loops and FTTC Loops are not Hybrid Loops.
- 4.7.22 Inside Wire Subloop. **As required by the Arbitration Orders**, "Inside Wire Subloop" means all loop plant owned or controlled by Verizon at a multiunit customer premises between the minimum point of entry ("MPOE") and the Demarcation Point of Verizon's network, other than FTTH or FTTC Loop.
- 4.7.23 Interexchange Service. Shall have the meaning as defined by the FCC.

- 4.7.24 Line Conditioning. "Line Conditioning" means the removal from a copper loop or copper Subloop of any device that could diminish the capability of the loop or Subloop to deliver high-speed switched wireline telecommunications capability, including digital subscriber line service. Such devices include, but are not limited to, bridge taps, load coils, low pass filters, and range extenders.
- 4.7.25 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 main distribution frame (or its equivalent) in its serving Wire Center and the demarcation point at the end user's customer premises, and includes the high frequency portion of any inside wire other than FTTH Loop (including Inside Wire Subloop) owned or controlled by Verizon.
- 4.7.26 Line Splitting. The process in which one competitive LEC provides narrowband voice service over the low frequency portion of a copper loop and a second competitive LEC provides digital subscriber line service over the high frequency portion of that same loop.
- 4.7.27 Mobile Wireless Service. As set forth in 47 C.F.R. § 51.5, a mobile wireless service is any mobile wireless telecommunications service, including any commercial mobile radio service.
- 4.7.28 Route. As set forth in 47 C.F.R. § 51.319(e), a "Route" is a transmission path between one of Verizon's Wire Centers or switches and another of Verizon's Wire Centers or switches. A route between two points (e.g., Wire Center or switch "A" and Wire Center or switch "Z") may pass through one or more intermediate Wire Centers or switches (e.g., Wire Center or switch "X"). Transmission paths between identical end points (e.g., Wire Center or switch "A" and Wire Center or switch "Z") are the same "route," irrespective of whether they pass through the same intermediate Wire Centers or switches, if any.
- 4.7.29 Signaling. Signaling includes, but is not limited to, signaling links and signaling transfer points.
- 4.7.30 Sub-Loop for Multiunit Premises Access. Any portion of a Loop that is technically feasible to access at a terminal in Verizon's outside plant at or near a multiunit premises. 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.
- 4.7.31 Wire Center. **As set forth in 47 C.F.R. § 51.5**, a Wire Center is the location of a Verizon local switching facility containing one or more central offices, as defined in **the Appendix to Part 36 of Chapter 47 of the Code of Federal Regulations. [47 C.F.R. § 51.5.]** The Wire Center boundaries define the area in which all customers served by a given Wire Center are located.

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

[CLEC FULL NAME]

VERIZON NORTHWEST INC.

By: _____

By: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

Pricing Attachment to the TRO Amendment

1. General

1.1 As used in this 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 and in the Amended Agreement (including any cross references therein to applicable tariffs). The Charges stated in Exhibit A of this Pricing Attachment shall be automatically superseded by any new Charge(s) when such new Charge(s) are required by any order of the Commission or the FCC, approved by the Commission or the FCC, or otherwise allowed to go into effect by the Commission or the FCC (including, but not limited to, in a tariff that has been filed with the Commission or the FCC), provided such new Charge(s) are not subject to a stay issued by any court of competent jurisdiction.

1.3 If Section 1.2 does not provide for a Charge(s) for a Service and the Commission or the FCC approves or has approved or otherwise allows or has allowed a Charge(s) to go into effect (including, but not limited to, pursuant to a tariff that has been filed with the Commission or the FCC) (an "Established Charge(s)"), then the Established Charge(s) shall be the Charge(s) for Services provided under the Amendment Agreement as if set forth in Exhibit A hereto, provided such Established Charge(s) are not subject to a stay issued by any court of competent jurisdiction. Established Charges shall be effective automatically without further amendment of the Amended Agreement. Established Charges shall not be retroactive absent a Commission or FCC decision to the contrary.

1.4 For the avoidance of any doubt, Charges for Services that Verizon is required to provide under this Amendment shall apply as set forth in Sections 1.2 and 1.3 of this Pricing Attachment regardless of whether the text of the Amendment specifically states that a Charge applies for a particular Service.

[CLECS DISPUTE ENTIRE PRICING ATTACHMENT AND EXHIBIT A]

EXHIBIT A¹

WA NETWORK MODIFICATION - RATE ELEMENT	NON-RECURRING CHARGES
REMOVAL OF LOAD COILS - Initial - > 12K ft.	\$ 391.68*
REMOVAL OF LOAD COILS- Subsequent - > 12K ft.	\$ 391.68*
REMOVAL OF BRIDGED TAPS - One Occurrence - > 12K ft.	\$ 194.38*
REMOVAL OF BRIDGED TAPS- Multi-Occurrence - > 12K ft.	\$ 391.68*
REMOVAL OF BRIDGED TAP (One Occurrence) & LOAD COILS - > 12K ft.	\$ 506.77*
REMOVAL OF BRIDGED TAPS (Multi-Occurrence) & LOAD COILS - > 12K ft.	\$ 704.08*
Disconnection Charges	Per Verizon WUTC Tariff WN-U21
Other charges shall apply as provided for in Section 1 of the Pricing Attachment to this Amendment, including, but not limited to, charges set forth in Verizon WUTC Tariff WN-U21	

¹ This Exhibit may contain rates and charges for (and/or reference) services, facilities, arrangements and the like that Verizon does not have an obligation to provide under the Amended Agreement (e.g., services, facilities, arrangements and the like for which an unbundling requirement does not exist under 47 U.S.C. Section 251(c)(3)). Notwithstanding any such rates and/or charges (and/or references) and, for the avoidance of any doubt, nothing in this Exhibit shall be deemed to require Verizon to provide a service, facility, arrangement or the like that the Amended Agreement does not require Verizon to provide, or to provide a service, facility, arrangement or the like upon rates, terms or conditions other than those that may be required by the Amended Agreement.

* Washington State approved rates per approved tariff WN U-21, Section 5.

WA NETWORK MODIFICATION - RATE ELEMENT	NON-RECURRING CHARGES

EXHIBIT 2

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PETITION OF VERIZON-RHODE ISLAND :
FOR ARBITRATION OF AN AMENDMENT TO :
INTERCONNECTION AGREEMENTS WITH : DOCKET NO. 3588
COMPETITIVE LOCAL EXCHANGE CARRIERS :
AND COMMERCIAL MOBILE RADIO SERVICE :
PROVIDERS IN RHODE ISLAND TO IMPLEMENT :
THE TRIENNIAL REVIEW ORDER AND TRIENNIAL :
REVIEW REMAND ORDER :

SUPPLEMENTAL ARBITRATION DECISION

On November 23, 2005, Verizon-Rhode Island ("VZ-RI") filed with the Rhode Island Public Utilities Commission ("Commission") a motion for clarification of the Arbitration Decision regarding how competitive local exchange carriers ("CLECs") may certify that a requested high capacity EEL satisfies the FCC's service eligibility criteria. Specifically, VZ-RI requested that CLECs must utilize the electronic access service request ("ASR") form in order to certify their EELs.¹ No party to this proceeding raised an objection to this motion.² The motion indicated that CLECs are currently required to use the electronic ASR form to place orders for new DS1 and DS3 loops, dedicated transport and high capacity EELs.³ On December 13, 2005, VZ-RI responded in a letter indicating that its motion does not require the use of an electronic ASR form for re-certification of existing EELs.⁴ Because the FCC did "not specify the form for such a self-certification", VZ-RI's request for the mandatory use of an electronic ASR form for new requests of EELs appears reasonable and should be granted.⁵

¹ VZ-RI's Motion for Clarification

² Although not a party to this proceeding, Conversent noted that in Massachusetts, the ICA Amendments allow for CLECs to re-certify existing EELs by letter rather than by an ASR form.

³ VZ-RI's Motion for Clarification.

⁴ VZ-RI's letter of 12/13/05.

⁵ TRO para. 624.

Accordingly, it is

(18472) ORDERED:

1. Verizon-Rhode Island's Motion for Clarification is granted.

DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND ON DECEMBER 13,
2005.

Steven Frias, Arbitrator

EXHIBIT 3

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 12, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (P. Lee, Barrett, K. Kennedy, King, Marsh)
Office of the General Counsel (Fordham, Banks)

RE: Docket No. 040156-TP – Petition for arbitration of amendment to interconnection agreements with certain competitive local exchange carriers and commercial mobile radio service providers in Florida by Verizon Florida Inc.

AGENDA: 01/24/06 – Regular Agenda – Motions for Reconsideration - Oral Argument not Requested – Participation at the Discretion of the Commission (Rule 25-22.060(f), F.A.C.)

COMMISSIONERS ASSIGNED: Edgar

PREHEARING OFFICER: Edgar

CRITICAL DATES: Implementation must be completed by March 10, 2006, the end of the one-year transition period.

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\040156.RCM.DOC

Case Background

On August 21, 2003, the FCC released its TRO, promulgating various rules governing the scope of incumbent telecommunications service providers' obligations to provide competitors access to UNES; the Order became effective on October 2, 2003. On February 20, 2004, Verizon filed its Petition for Arbitration of Amendment to Interconnection Agreements with Certain Competitive Local Exchange Companies (CLECs) and Commercial Mobile Radio Service Providers (CMRS) in Florida to implement changes resulting from the TRO.

The TRO was subsequently appealed to the D.C. Circuit Court of Appeals. On March 2, 2004, the D.C. Circuit Court of Appeals, in USTA II, vacated and remanded certain provisions of the TRO, specifically regarding the impairment findings relating to mass market switching, high-capacity loops, and dedicated transport. Verizon filed an Update to Petition for Arbitration to reflect the USTA II decision on March 19, 2004. Subsequently, on June 16, 2004, the D.C. Circuit Court of Appeals issued its mandate.

On December 5, 2005, Final Order No. PSC-05-1200-FOF-TP (Order) was issued, setting forth the Commission's specific findings on the issues established for this Docket. On December 20, 2005, the following motions were filed:

Verizon-Florida, Inc. (Verizon) – Motion for Reconsideration of Issue 21(a) and for clarification of portions of Issues 9 and 21(b)(2).

Florida Digital Network, Inc. (FDN) – Motion for Reconsideration of Issue 5, and Motion for Temporary Relief from Enforcement.

CLEC Parties (CLECs) - Motion for Reconsideration of Issue 5

XO Communications Services, Inc. (XO) – Motion for Reconsideration and Clarification of Issues 3, 4, 5, 21, and 25.

On December 27, 2005, Verizon filed its Response to the Motions for Reconsideration and/or Clarification. Also, on December 27, 2005, FDN filed its Response to Verizon's Motion for Reconsideration and Clarification.

This recommendation addresses the Motions for Reconsideration and/or Clarification.

Discussion of Issues

ISSUE 1: Should the Commission grant the Motions for Reconsideration and Clarification filed by the parties?

RECOMMENDATION: The Motions for Reconsideration should be denied. None of the motions identify a mistake of fact or law in the Commission's decision. However, the Motions have identified certain aspects of the Order that should be clarified or amended, as set forth in staff's analysis. Accordingly, the Motions for Clarification should be granted to the extent recommended in staff's analysis. Other Clarifications should be made on the Commission's own motion. (Fordham, Banks, Barrett, K. Kennedy, Marsh)

STAFF ANALYSIS: As set forth in the Case Background, there have been four Motions filed asking this Commission to reconsider its findings in this case. Two of those Motions also contain a request for clarification. The specific arguments raised in each motion are separately addressed as outlined in the following analysis.

A. Standard of Review

The standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which the Commission failed to consider in rendering its Order. See Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d 162 (Fla. 1st DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. Sherwood v. State, 111 So. 2d 96 (Fla. 3rd DCA 1959); citing State ex.rel. Jaytex Realty Co. v. Green, 105 So. 2d 817 (Fla. 1st DCA 1958). Furthermore, a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review." Stewart Bonded Warehouse, Inc., 294 So. 2d at 317.

B. Verizon Motion

The Verizon Motion requests reconsideration of Issue 21(a) and for clarification of portions of Issues 9 and 21(b)(2).

Issue 9

Verizon notes that the Commission added a number of definitions to those requested by Verizon. "Business Line" is one of those added definitions. Verizon requests that the Commission clarify and confirm that its definition of "Business Line" is intended to be the FCC's entire definition and only the FCC's definition, as set forth in the TRRO Appendix B, at 145, §51.5.

Recommendation

Staff recommends that the requested clarification of Issue 9 in this instance is warranted and should be granted. For the purposes herein, staff believes it was the intent of the Commission that the entire definition of "business line," as set forth in the TRRO Appendix B, at 145, be codified in its Order.

Issue 21(a)

Verizon requests that the Commission reconsider its finding in Issue 21(a). The Commission found that CLECs "shall be required to submit a letter, either manually or electronically," to certify their compliance with these criteria when they order or re-certify Enhanced Extended Links (EELs), or when they convert access services to EELs. Verizon asks the Commission to reconsider this decision to the extent it gives CLECs the option of choosing not to certify their EELs through the same electronic process they use to order those EELs.

Verizon notes that the Commission found that requiring electronic certification would be "discriminatory" because some CLECs may not have access to an electronic process. However, Verizon urges, the Commission overlooked or failed to consider that all CLECs have access to electronic EEL ordering, so the assumption grounding its decision is incorrect. Verizon continues that CLECs have long been required to use Verizon's electronic ordering system and the electronic Access Services Request (ASR) form, in particular to place orders for DS1 and DS3 loops, dedicated transport and high capacity EELs. Verizon argues that use of a separate certification letter would require Verizon to manually match each letter up to the proper ASR to ensure that each requested EEL has been duly certified.

Recommendation

Staff notes that Verizon's claim that all CLECs have access to the electronic EEL order processing was not included in the record. Moreover, none of the parties in this docket proffered testimony concerning this dispute. Staff attempted through discovery to determine the extent to which this dispute might be of concern. Verizon did indicate that it preferred the electronic medium, but did not claim that *all* CLECs currently use the electronic method. (EXH 6, p. 22) However, the Competitive Carrier Group (CCG) in its brief requested that the Commission allow the manual method as well. (CCG Brief at 49) The Commission in its Order, being bound to the existing record in formulating its decisions, recognized Verizon's objection, but dismissed it as discriminatory. (Order p. 111)

However, staff recognizes that the Order might warrant clarification regarding a CLEC's use of the electronic method for ordering, but using the manual method for certification purposes. Therefore, staff recommends that the Commission clarify that a CLEC should use the same method to submit EEL certifications as it does for ordering EELs. Moreover, for new orders or orders for conversions, staff believes the certification should accompany the order. Staff believes this clarification would alleviate Verizon's concerns. Therefore, staff believes this clarification would ensure the Commission's intent was preserved without harming either Verizon or the CLECs.

Issue 21(b)(2)

Verizon asks the Commission to clarify that it did not intend to eliminate any conversion-related rates it already established in the Verizon UNE case or elsewhere, or that may be in Verizon's existing interconnection agreements. Further, the Commission should clarify that it meant only to find that there was no need to rule on Verizon's proposed new rates for conversion-related items because Verizon withdrew those rates.

FDN's Response to Verizon's Request for Clarification of Issue 21(b)(2)

FDN responded only to this third point of Verizon's Motion, which FDN believes is not sufficiently clear in the relief sought. FDN believes that the Final Order (1) presently bars Verizon from assessing conversion charges and (2) does not preclude Verizon from charging pre-existing, approved charges for services other than conversions. If that belief is correct, then FDN states it would appear it has no disagreement with Verizon. However, it is unclear to FDN from Verizon's Motion whether Verizon asserts there are pre-existing, approved charges that do apply to conversions, let alone which conversions and which charges. Absent clarification from Verizon on the relief it seeks, FDN maintains that the Commission's Final Order speaks for itself, there is no need for clarification by the Commission and there are no charges for performing conversions.

Recommendation

Staff believes the Commission did not intend to override any terms of the parties' stipulation, nor to prohibit Verizon from charging any existing rates, but only to ensure that no new conversion-related rates were implemented without approval of the Commission. Staff notes that the stipulation states that it "does not affect Verizon's right to continue to apply any rates the Commission has already established . . . [or] the rates set forth in particular interconnection agreements." Staff believes this Commission never intended to override existing rates either approved previously by the Commission or included in an interconnection agreement between the parties. Therefore, staff believes Verizon's Request for Clarification should be granted.

B. FDN Motion

The FDN Motion requests that the Commission reconsider its findings regarding Issue 5. Also, FDN requests Temporary Relief from Enforcement of the Order in this matter. The request for Temporary Relief from Enforcement has been dealt with by the entry of procedural Order No. PSC-06-0018-PCO-TP and, therefore, will not be discussed in this recommendation.

Issue 5

The specific issue for which FDN seeks reconsideration is the Order's imposition of a cap of ten DS1 dedicated transport circuits on all routes between all Verizon wire centers, regardless of tier, rather than just those routes where DS3 dedicated transport is unimpaired. In deciding on a DS1 dedicated transport cap that applied universally, FDN alleges the Commission overlooked several points of law and failed to consider and to apply the rules of statutory construction and the FCC's intent in establishing the DS1 dedicated transport cap.

FDN urges that the Final Order effectively deletes critical language from the text of the TRRO and impermissibly rewrites the TRRO by applying the DS1 dedicated transport cap to all wire centers regardless of tier. Under the Final Order, FDN argues, the cap is improperly applied in all settings, even where it makes no net difference whatsoever to the impairment analysis. Further, the DS1 dedicated transport cap should apply consistently from ILEC to ILEC throughout the state, and in BellSouth territory, at least, the cap will only apply on routes where DS3 transport is unimpaired.¹

FDN cites ¶ 128 of the TRRO which states in pertinent part:

On routes for which we determine that there is no unbundling obligation for DS3 transport, but for which impairment exists for DS1 transport, we limit the number of DS1 transport circuits that each carrier may obtain on that route to 10 circuits. When a carrier aggregates sufficient traffic on DS1 facilities such that it effectively could use a DS3 facility, we find that our DS3 impairment conclusions apply.

However, in Appendix B to the TRRO, the new rule § 51.319(e)(2)(B) states in pertinent part:

A requesting telecommunications carrier may obtain a maximum of ten unbundled DS1 dedicated transport circuits on each route where DS1 dedicated transport is available on an unbundled basis.

Based on these two quoted provisions, the Final Order in the instant docket observes:

The language in the TRRO and the language in the rule can lead to different conclusions regarding the DS1 cap. However, we must look to the rule for guidance on this matter. If the parties believe the FCC's TRRO is not clear on this matter, they could seek clarification from the FCC.²

FDN argues the Commission failed to consider that applying the cap as the Order suggests (without a proviso for DS3 unimpaired routes) cannot be achieved unless one effectively deletes significant portions of ¶ 128. Paragraph 128 begins, "On routes for which we determine that there is no unbundling obligation for DS3 transport." According to FDN, this stated proviso, if the Order is not reconsidered, would be rendered superfluous and pointless, since the DS1 cap would apply whether DS3 impairment exists or not. Taking the argument a step further, states FDN, if the DS1 cap applied universally, there would be no reason for the FCC to also state at the end of ¶ 128, "we find that our DS3 impairment conclusions apply," because those impairment conclusions would be without effect should the DS1 cap apply to

¹ In the Prehearing Order in Docket No. 041269-TP, BellSouth's generic change of law proceeding, the parties did not dispute that the cap of 10 DS-1 dedicated transport circuits applied only on routes where DS-3 transport is unimpaired. Order No. PSC-05-1054-PHO-TP, issued October 31, 2005, p. 48. In addition, in Docket No. 041464-TP, an interconnection agreement arbitration case between FDN and Sprint, the staff recommendation provides that the cap of 10 DS-1 dedicated transport circuits should only apply on routes where DS-3 transport is unimpaired. The Commission approved that staff recommendation at the December 20, 2005 Agenda Conference.

² Order at p. 36.

every route. In short, urges FDN, one cannot reconcile the Order's interpretation of the DS1 cap with the terms of ¶ 128 unless the above language from ¶ 128 was deleted in its entirety.

In the TRRO, urges FDN, the FCC created three tiers of wire centers and linked the dedicated transport impairment analyses to those tiers. DS3 dedicated transport is unimpaired where the end points of the route are either Tier I or II, and both DS1 and DS3 dedicated transport are unimpaired where the end points of a route are both Tier I.³ FDN argues the crux of this dispute on reconsideration is with transport involving Tier III wire centers, because dedicated transport between a Tier I, II or III wire center and a Tier III wire center is, with very limited exception, always impaired.⁴ Notably, states FDN, the FCC did not make an explicit finding of nonimpairment as to DS1 dedicated transport where a Tier III wire center was involved, and the impairment analysis remanded to the FCC by the D.C. Court of Appeals is the focus of the TRRO.

FDN notes the FCC itself has held that its orders and the rules adopted thereby should be read in conjunction with one another and the FCC's other rules.⁵ In other words, one should not read an FCC rule by turning a blind eye to the orders which spawned and explicate the rule. This, urges FDN, the Final Order failed to consider. Indeed, according to FDN, the Commission recognized "different results" could be found by comparing ¶ 128 with § 51.319(e)(2)(B) and therefore the Commission should have invoked the rules of statutory construction to aide its interpretation. Two pillars of statutory construction of particular applicability here are (a) that one must read all provisions of a statute or rule together to give all of the words in the statute or rule meaning and (b) that all related statutes or rules must be read in *pari materia* to give effect to each part. See, e.g. Palm Beach County Canvassing Bd. v. Harris, 772 So.2d 1273 (Fla. 2000), and Forsythe v. Longboat Key Beach Erosion Control Dist., 604 So.2d 452, 455 (Fla. 1992).

Verizon's Response to FDN's Motion for Reconsideration of Issue 5

While FDN argued that the Commission erred in strictly applying the rule by imposing universal caps of ten DS1 dedicated transport circuits on all routes, regardless of tier, Verizon's response supported the Commission's findings and its basis for those findings. Verizon urges that the Commission, correctly, applied the plain meaning rule and, accordingly, reached a correct decision on this issue. According to Verizon's Response, when the rule is unambiguous on its face, as is the case with the rule which is the subject of this discussion, it would be impermissible under Florida law to inject the theory of statutory interpretation. Verizon further

³ Per Exhibit No. 10 (AFC-1), page 4, there are thirteen Tier I or Tier II wire centers in Verizon Florida territory, leaving all other Verizon wire centers in Florida as Tier III wire centers, by definition. 47 CFR § 319(e)(3)(iii).

⁴ The only exception, per Rule 47 CFR § 51.319(e)(2)(iii)(B), is the limit of 12 unbundled DS3 dedicated transport circuits on routes where DS3 transport is impaired. In effect, impairment for a particular carrier on a particular route stops at a particular volume of DS3 circuits, i.e. 12 DS3s.

⁵ *In the Matters of TSR Wireless, LLC, et al. v. U.S. West Communications, Inc.*, 2000 WL 796763 (FCC), 15 F.C.C.R. 11166.

noted that the majority of states which have interpreted the FCC rule reached the same conclusion as that of this Commission.

Additionally, Verizon urges the admonition in this Commission's Order that: "If the parties believe the FCC's TRRO is not clear on this matter, they could seek clarification from the FCC." Indeed, notes Verizon, a number of CLECs have already asked the FCC to eliminate or modify the ten DS1 transport cap. Accordingly, argues Verizon, even if the Commission could lawfully take on the task of modifying the FCC's DS1 cap rule (and it cannot), there would be no reason to do so.

Recommendation

Staff recommends that, for the reasons set forth below, FDN's Motion for Reconsideration fails to meet the standard of review for a motion for reconsideration. None of the CLEC Motions for Reconsideration alleged or identified any point of fact or law that the Commission overlooked or failed to consider in rendering its Order. See Stewart Bonded Warehouse Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. w. King, 146 So. 2d 889 (Fla. 1962). The CLECs merely reargue matters that have already been considered, in an attempt to obtain a result more in their favor.

Staff believes the law is clear that when a statute or rule is clear and unambiguous on its face, it should be given that clear meaning rather than resorting to statutory construction in an effort to conclude a different meaning. "When the language of the statute is clear and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory interpretation and construction; the statute must be given its plain and obvious meaning." Holly v. Auld, 450 So. 2d 217, 219 (Fla. 1984). See also Lee County Elec. Coop., Inc. v. Jacobs, 820 So. 2d 297, 303 (Fla. 2002) ("When the statute is clear and unambiguous, courts will not look behind the statute's plain language for legislative intent or resort to rules of statutory construction to ascertain intent."); Verizon Fla. Inc. v. Jacobs, et al., 810 So. 2d 906, 908 (Fla. 2002). ("There is no need to resort to other rules of statutory construction when the language of the statute is unambiguous and conveys a clear and ordinary meaning.") In "ascertain[ing] the legislative intent implicit in a statute, the courts are bound by the plain and definite language of the statute and are not authorized to engage in semantic niceties or speculations." Tropical Coach Line, Inc. v. Carter, 121 So. 2d 779, 782 (Fla. 1960). "It is a settled rule of statutory construction that unambiguous language is not subject to judicial construction, however wise it may seem to alter the plain language." State v. Jett, 18 Fla. L. Weekly S591, S592 (Fla. Nov. 10, 1993). "Rules of statutory construction should never be used to create doubt, only remove it." Englewood Water Dist. v. Tate, 334 So. 2d 626, 628 (Fla. 2d DCA 1976). See also Star Tyme, Inc. v. Cohen, 659 So. 2d 1064 (Fla. 1995). Staff believes the Commission correctly applied these principles, concluding that "the DS1 cap must be applied as stated in the rule," without limiting it to routes where unbundled DS3 transport is unavailable. Order at 36. The CLEC Parties call the Commission's plain reading of the rule "exceptional," but it is, in fact, the same interpretation made by nearly all Commissions to have considered the issue.

Rule 51.319(e)(2)(ii)(B), adopted in the TRRO, states:

Cap on unbundled DS1 transport circuits. A requesting telecommunications carrier may obtain a maximum of ten unbundled DS1 dedicated transport circuits on each route where DS1 dedicated transport is available on an unbundled basis.

Based on that unambiguous rule, in its Final Order in this Docket, the Commission applied the plain meaning of the rule and found:

The language in the TRRO and the language in the rule can lead to different conclusions regarding the DS1 cap. However, we must look to the rule for guidance on this matter. If the parties believe the FCC's TRRO is not clear on this matter, they could seek clarification from the FCC. Therefore, for purposes of the amendment, the DS1 cap must be applied as stated in the rule, not the text of the TRRO.

Order at 36.

Thus, the Commission clearly indicates that it did, indeed, consider the text of the TRRO before making its ruling on this matter. The fact that the CLECs disagree with the Commission's conclusion is not a proper basis for reconsideration. The fact remains that the CLECs have raised no point of fact or law that the Commission overlooked.

Also, in its Order, the Commission advised that: "If the parties believe the FCC's TRRO is not clear on this matter, they could seek clarification from the FCC." (Order No. PSC-05-1234-FOF-TP, at 36) It appears that a number of CLECs have already asked the FCC to eliminate or modify the ten (10) DS1 transport cap. Therefore, even if the Commission could lawfully modify the FCC's DS1 cap rule, there would be no reason to do so. Although there are pending requests at the FCC to address the DS1 cap issue, FDN notes that the FCC "has been very slow in recent years to address reconsideration/clarification requests." However, the FCC's pace is not a legitimate reason for this Commission to usurp the FCC's exclusive authority to change or clarify its rule.

CLEC Parties' Motion

The CLEC Parties' Motion essentially makes the same substantive arguments as those detailed above in the FDN Motion. Accordingly, those arguments will not be repeated here.

In addition, the CLEC parties argue that the contract language proposed by the CLEC Parties to address the UNE DS1 Dedicated Transport cap is consistent with the general framework of the FCC's impairment analysis for high capacity transport facilities set forth in the Triennial Review Remand Order. Specifically, the FCC's impairment analysis for high capacity dedicated transport facilities focused on when it would make economic sense for a CLEC to construct a DS3 dedicated transport facility, or otherwise to acquire such DS3 dedicated transport from a carrier other than the incumbent LEC. The CLEC Parties point out that because DS3 facilities simply are larger digital capacity than DS1 facilities, there is some cross-over

point at which the level of demand is sufficient that a CLEC theoretically could be served equally by a DS3 transport facility, or by multiple DS1 transport facilities, depending in part on the relative pricing of UNE DS3 Dedicated Transport versus UNE DS1 Dedicated Transport. In the TRRO, the FCC found that a reasonable estimate of that cross-over point is ten (10) DS1 dedicated transport circuits. While a DS3 transport circuit can carry 28 DS1 transport circuits, the FCC estimated that it is economically efficient for a CLEC to move to a DS3 dedicated transport circuit at the ten (10) DS1 transport circuit level.

The CLEC Parties explain the capacity basis of the FCC's impairment standard for UNE Dedicated Transport, and the potential substitutability of multiple UNE DS1 Dedicated Transport circuits for a UNE DS3 Dedicated Transport facility led to a determination by the FCC that a 10-circuit cap on UNE DS1 Dedicated Transport is necessary to protect the efficacy of its "nonimpairment" findings for UNE DS3 Dedicated Transport. For example, urges the CLEC Parties, consider a transport route where the wire center on one end is Tier 1, and the wire center on the other end is Tier 2. Under the FCC's modified unbundling rules, no impairment exists for UNE DS3 Dedicated Transport - i.e., the incumbent LEC is no longer obligated to provide UNE DS3 Dedicated Transport on this route. If a CLEC has enough traffic to justify more than ten (10) UNE DS1 transport circuits on that route, the FCC's view is that the CLEC has enough traffic that it could substitute a DS3 capacity transport facility for multiple UNE DS1 Dedicated Transport circuits. However, on routes where the FCC found no impairment without UNE DS3 Dedicated Transport, that substitution would create a potential "hole" in the FCC's "non-impairment" finding - i.e., the CLEC could continue to meet its transport needs by obtaining multiple UNE DS1 Dedicated Transport circuits notwithstanding its demand for DS3 capacity facilities. This "hole" exists only on routes where the UNE DS3 Dedicated Transport no longer is available.

The CLEC Parties argue that the link between the UNE DS1 Dedicated Transport cap and the FCC's goal of protecting its impairment determinations under the Triennial Review Remand Order is made clear in the final sentence of paragraph 128 which states, "[w]hen a carrier aggregates sufficient traffic on DS1 facilities such that it effectively could use a DS3 facility, we find that our DS3 impairment conclusions should apply." The first sentence of paragraph 128 is unequivocal, urges the CLEC Parties, regarding the FCC's intent to limit the UNE DS1 Dedicated Transport cap to routes where incumbent LECs' obligation to provide UNE DS3 Dedicated Transport has been removed. Conversely, on routes where UNE DS3 Dedicated Transport remains available, there is no concern that a CLEC might circumvent the FCC's non-impairment findings for UNE DS3 Dedicated Transport by requesting multiple DS1 UNE Dedicated Transport circuits.

The CLEC Parties also argue that the Commission should interpret the UNE DS1 Dedicated Transport Cap consistent with the outcome of the BellSouth Generic UNE Docket. In that Docket, the parties recently agreed that the cap on UNE DS1 Dedicated Transport established by the FCC must be applied consistent with the Triennial Review Remand Order, as well as the FCC's modified unbundling rules. Specifically, according to the CLEC Parties, the parties stipulated that the interconnection agreement amendments executed by BellSouth and Florida CLECs will include the following contract language, which properly limits application of

the UNE DS1 Dedicated Transport cap to those routes where UNE DS3 Dedicated Transport no longer is available:

CLEC shall be entitled to obtain up to (10) DS1 UNE Dedicated Transport Circuits on each Route where there is no unbundling obligation for DS3 UNE Dedicated Transport. Where DS3 UNE Dedicated Transport is available as a UNE under Section 251(c)(3), no cap applies to the number of DS1 UNE Dedicated Transport Circuits CLEC can obtain.

CLEC Parties claim that Verizon has provided the Commission no legitimate reason to broadly apply the UNE DS1 Dedicated Transport cap in a manner inconsistent with the TRRO.

Recommendation

Staff recommends that, for the reasons set forth above under the Recommendation for the FDN Motion, the CLEC Parties' Motion for Reconsideration fails to meet the standard of review for a motion for reconsideration. Staff's analysis and recommendation would be the same as that in the FDN section, and need not be repeated here. Based on that same analysis, staff recommends the CLEC Parties' Motion for Reconsideration be denied.

XO Motion

De-Listed Section 251 UNEs Remain Subject to Transition Pricing Where No Physical Change to Existing Circuits is Required to Effectuate Commingling (Issues 3 and 5)

XO argues that the Commission should clarify its ruling to establish that commingling of de-listed section 251 UNEs, including DS1 and DS3 dedicated transport circuits, does not constitute a "change" to existing facilities that effectively would remove such facilities from the requesting CLEC's embedded base, and thus, would deny the requesting CLEC the opportunity to avail itself of the transition rates to which it otherwise is entitled for the affected circuits. According to XO, commingling does not constitute a change for purposes of the "no new adds" rule, as Verizon need not make any physical change to existing DS1 and DS3 dedicated transport circuits to effectuate the commingling obligations imposed by the Triennial Review Order and the FCC's modified unbundling rules.

In addition, claims XO, the assignment of new identification numbers to commingled arrangements is undertaken at Verizon's election, and solely for the purpose of Verizon's administrative ease. A contrary interpretation of the Order would subject Florida CLECs to higher wholesale rates where a de-listed section 251 UNE is commingled with a service or facility provided by Verizon. According to XO, these increased wholesale rates would be tantamount to a monetary penalty imposed on commingling. Therefore, XO requests the Commission clarify that commingling of a delisted section 251 UNE does not constitute a "change" where no physical change to the facility takes place, such as where Verizon, at its discretion, undertakes to assign a new circuit identification number.

Verizon's Response

Verizon responds that nothing in the Commission's analysis would prohibit transition pricing for de-listed, commingled facilities where there is no physical change to the commingled circuits. Nor would anything in Verizon's draft conforming amendment prohibit such transition pricing. Verizon believes XO prepared its request for clarification before it reviewed Verizon's conforming amendment. Because there is nothing in the Order or Verizon's proposed amendment that would prohibit transition pricing for de-listed facilities that are commingled without any physical changes, Verizon believes there is no need for the clarification XO seeks. If, however, the Commission does issue a clarification, Verizon asks that it to adhere closely to exactly the clarification XO seeks-that "commingling of a de-listed ... UNE does not constitute a 'change' *where no physical change to the facility takes place.*" In particular, urges Verizon, the Commission should avoid any broad statements suggesting that commingling never involves changes to existing facilities, because the CLEC might request changes in some cases. Such cases would not be covered by the clarification XO requests.

The Commission Should Adopt a Process to Verify "Non-Impairment" Wire Center Designations by Verizon (Issues 4 and 5)

In its Order, notes XO, the Commission declined to adopt a process whereby it may review and verify that claims by Verizon for section 251(c)(3) loop and dedicated transport unbundling relief comply with the thresholds set forth in the TRRO. XO claims such a process is essential to ensure accuracy of future modifications to Verizon's list of claimed non-impaired wire center and route locations for which such unbundling relief is available. At a minimum, urges XO, the Commission must provide a forum to verify Verizon's application of the criteria for section 251 loop and dedicated transport unbundling relief, as directed by the TRRO and the FCC's unbundling rules. XO argues that to not do so would effectively deprive Florida CLECs any opportunity to access or undertake a meaningful review of the factual data supporting Verizon's claims that unbundling relief is available, and in turn, frustrate CLECs' diligent efforts to self-certify that a specified wire center or route location in fact does not exceed the thresholds for unbundling relief established by the FCC.

XO argues that the self-certification and dispute resolution process approved by the Commission does not, by itself, provide adequate regulatory certainty critical to the stability of CLECs' business plans within Florida. Indeed, claims XO, the possibility of future litigation initiated by Verizon, for the purpose of challenging a requesting carrier's self-certified order for UNEs that Verizon claims no longer are available under section 251(c)(3) of the Act, threatens to consume substantial CLEC resources, as may be necessary to defend each such unbundling order, on a case-by-case basis. Moreover, according to XO, in the event that Verizon prevails in challenging a self-certified CLEC order for "de-listed" UNE loops or UNE dedicated transport facilities, the requesting carrier will be subject to retroactive billing of higher wholesale rates. Therefore, urges XO, in order to avoid the burden and expense of multiple, successor proceedings, the Commission should approve contract language that provides a process to permit the parties to verify Verizon's initial designation of wire center and route locations that it claims exceed the thresholds set forth in the TRRO, as well as any subsequent modifications.

Verizon's Response

Verizon argues that the Order makes clear that the Commission has already considered and rejected XO's arguments not once, but at least twice. The Commission agreed with Verizon that its May 5, 2005, Order denying several CLECs' "emergency motions" to stay the TRRO's transition plan had already addressed the CLECs' disputes with respect to verification of ILEC wire centers. In its May 5 Order, the Commission confirmed that carriers must comply with TRRO paragraph 234 for ordering and provisioning high-capacity loops and transport. Verizon also urges that XO has improperly tried to introduce "evidence," for the first time on reconsideration.

Verizon also alleges that XO has failed to reveal that Verizon has already challenged XO's self certifications of a number of UNE dedicated transport circuits in Florida. On July 1, 2005, Verizon sent XO a notice to initiate dispute resolution, and the parties are in negotiations to try to resolve the matter through the dispute resolution provisions of their interconnection agreement. Accordingly, the process the FCC established in paragraph 234 of the TRRO is working just as the FCC intended, and just as this Commission expected it would. Verizon claims that if XO were genuinely concerned about needless consumption of CLEC resources and multiple proceedings, it would not be seeking to initiate a second proceeding to address wire center designations that are already the subject of the ongoing dispute resolution process.

The Commission Should Reverse its Ruling That Requires Circuit-by-Circuit Re-Certification of All Pre-Triennial Review Order EELs (Issues 21 and 25)

XO claims that under its Final Order, the Commission adopted contract language proposed by Verizon that requires Florida CLECs to re-certify that all currently provisioned EEL arrangements comply with the service eligibility criteria established by the FCC, and set forth in the FCC's unbundling rules. XO requests the Commission reconsider and reverse its decision to impose on Florida CLECs an obligation to submit to Verizon written re-certification of compliance for all embedded base EELs.

XO argues that neither the TRO, nor the FCC's unbundling rules promulgated thereunder, establish a "re-certification" process for EELs obtained by CLECs under the FCC's prior "safe harbor" rules that effectively would eliminate arrangements complying with the predecessor regulatory framework. Therefore, according to XO, the contract language proposed by Verizon, and approved in the Final Order, is inconsistent with the FCC's approach, and would impose on Florida CLECs additional burdens and expenses to re-certify existing EELs. Accordingly, XO requests the Commission must reverse the conclusion in the Final Order to incorporate in the Amendment a requirement that Florida CLECs re-certify, on a circuit-by-circuit basis, that all currently provisioned EELS comply with the service eligibility criteria set forth in the FCC's unbundling rules.

Verizon's Response

Verizon urges that the Commission's Order correctly states "that all [EEL] circuits must be recertified, as explained in 7589, 7614 and footnote 1875 of the TRO." Order at 110. The

Commission established a 60-day period, from the effective date of the Order, for a CLEC "to verify and document that its current EELs comply with the TRO eligibility criteria." Whether CLECs must re-certify pre-existing EELs under the TROs new eligibility criteria was not a focus in the proceeding because the parties agreed to withdraw the re-certification dispute that had originally been identified. On April 8, 2005, AT&T submitted a letter explaining that it no longer needed to pursue this issue, and there were no objections to withdrawing the re-certification issue. Verizon argues that XO cannot now resurrect withdrawn Issue 21(b)(3), and then brief that issue for the first time on reconsideration.

Verizon notes that the Commission's recognition of the re-certification obligation is well-grounded in the terms of the TRO. The FCC required that "each DSI EEL (or combination of DSI loop with DS3 transport) must satisfy the service eligibility criteria." In the TRO, the FCC made clear that "[t]he eligibility criteria we adopt in this Order supersede the safe harbors that applied to EEL conversions in the past." Thus, as the Massachusetts D.T.E. explained: "Because the new service eligibility criteria are significantly different from the requirements under the old rules, and because circuits that qualified under the former rules may not qualify under the new rules, it is only logical that the FCC would require re-certification." Mass. Arb. Order at 130. If the FCC had intended to grandfather pre-existing EELs, claims Verizon, it would have done so explicitly. The FCC's EEL eligibility rule (47 C.F.R. § 51.318(b)) does not state any distinction between EELs ordered before the effective date of the TRO and those ordered later, so this Commission cannot draw such a distinction, either - let alone on the basis of XO's improper motion for reconsideration.

Recommendation

Staff notes that, in none of the three subject areas argued by XO, did it allege or identify any point of fact or law that this Commission failed to consider in its Order. Therefore, for each of the issues argued in XO's Motion for Reconsideration, staff recommends that, for the reasons set forth above under the Recommendation for the FDN Motion, the XO Motion for Reconsideration fails to meet the standard of review for a motion for reconsideration. Also, regarding XO's first challenged area, staff believes that, because there is nothing in the Order or Verizon's proposed amendment that would prohibit transition pricing for de-listed facilities that are commingled without any physical changes, there is no need for the clarification XO seeks. The second challenge in the XO Motion, the verification of "non-impairment" wire center designations by Verizon, has been argued and rejected by the Commission earlier in these proceedings and need not be readdressed here. Finally, XO argues that neither the TRO, nor the FCC's rules, "establish a 're-certification' process for EELs obtained by CLECs under the FCC's prior 'safe harbor' rules that effectively would eliminate arrangements complying with the predecessor regulatory framework." (XO Motion, p. 6) However, this argument was not raised during the course of the proceeding. Staff notes that the Order recognized Verizon's claim that the amendments proposed by AT&T and CCG did not include any language regarding re-certification. (Order p. 109) Also, the Commission did consider whether re-certification was required and found that the TRO does require such. (Order p. 110) The fact that XO may not agree with the findings of the Commission is not a basis for reconsideration of the Commission's findings. Thus, staff recommends the Commission deny XO's Motion for reconsideration.

Docket No. 040156-TP

Date: January 12, 2006

ISSUE 2: Should the Commission require submission of the agreements within 15 days of the vote on this recommendation?

RECOMMENDATION: Yes. Because there is a very short turn-around time for all the activity which must occur by the end of the transition period, the agreements should be submitted to the Commission within 15 days of the Commission vote on this matter. (Fordham, Banks)

STAFF ANALYSIS: The TRRO established a 12-month transition period for unbundled local circuit switching and DS1 and DS3 loops and transport. That transition period ends March 10, 2006. The agreements must be submitted for review by staff and approval by the Commission prior to the expiration of that transition period. Accordingly, there is a very short turn-around time for all the activity which must occur by the end of the transition period.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. The Docket should remain open pending the submission and approval of the agreements. (Fordham, Banks)

STAFF ANALYSIS: Order No. PSC-05-1200-FOF-TP required that the agreements be submitted for approval by this Commission. Accordingly, the Docket should remain open pending the submission and approval of the agreements.

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

JANUARY 24, 2006

RE: Docket No. 040156-TP - Petition for arbitration of amendment to interconnection agreements with certain competitive local exchange carriers and commercial mobile radio service providers in Florida by Verizon Florida Inc.

Issue 1: Should the Commission grant the Motions for Reconsideration and Clarification filed by the parties?

Recommendation: The Motions for Reconsideration should be denied. None of the motions identify a mistake of fact or law in the Commission's decision. However, the Motions have identified certain aspects of the Order that should be clarified or amended, as set forth in the analysis portion of staff's January 12, 2006 memorandum. Accordingly, the Motions for Clarification should be granted to the extent recommended in staff's analysis. Other Clarifications should be made on the Commission's own motion.

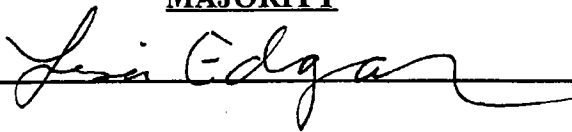
APPROVED

COMMISSIONERS ASSIGNED: Edgar

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING



REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

00677 JAN 24 8

EXHIBIT 4

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

JANUARY 24, 2006

RE: Docket No. 040156-TP - Petition for arbitration of amendment to interconnection agreements with certain competitive local exchange carriers and commercial mobile radio service providers in Florida by Verizon Florida Inc.

Issue 1: Should the Commission grant the Motions for Reconsideration and Clarification filed by the parties?

Recommendation: The Motions for Reconsideration should be denied. None of the motions identify a mistake of fact or law in the Commission's decision. However, the Motions have identified certain aspects of the Order that should be clarified or amended, as set forth in the analysis portion of staff's January 12, 2006 memorandum. Accordingly, the Motions for Clarification should be granted to the extent recommended in staff's analysis. Other Clarifications should be made on the Commission's own motion.

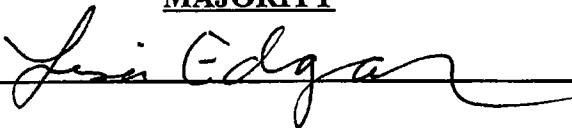
APPROVED

COMMISSIONERS ASSIGNED: Edgar

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING



REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

00677 JAN 24 06

VOTE SHEET

JANUARY 24, 2006

Docket No. 040156-TP - Petition for arbitration of amendment to interconnection agreements with certain competitive local exchange carriers and commercial mobile radio service providers in Florida by Verizon Florida Inc.

(Continued from previous page)

Issue 2: Should the Commission require submission of the agreements within 15 days of the vote on this recommendation?

Recommendation: Yes. Because there is a very short turn-around time for all the activity which must occur by the end of the transition period, the agreements should be submitted to the Commission within 15 days of the Commission vote on this matter.

APPROVED

Issue 3: Should this docket be closed?

Recommendation: No. The Docket should remain open pending the submission and approval of the agreements.

APPROVED

CERTIFICATE OF SERVICE

I hereby certify that I have this 31st day of January, 2006, served the true and correct original, along with the correct number of copies, of *Verizon's Brief on Conforming Language, Amendment to Interconnection Agreement* and *Certificate of Service* upon the WUTC, via the method(s) noted below, properly addressed as follows:

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I hereby certify that I have this 31st day of January, 2006, served a true and correct copies of the foregoing documents upon parties noted below via E-Mail and U.S. Mail:

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I hereby certify that I have on the 31st day of January, 2006, served true and correct copies of the foregoing documents upon parties noted below via U.S. Mail.

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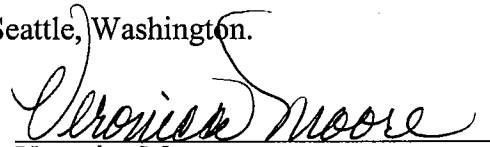
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I declare under penalty under the laws of the State of Washington that the foregoing is correct and true.

DATED this 31st day of January, 2006, at Seattle, Washington.


Veronica Moore