Verizon's Responses to Specific Allegations

This sets forth Verizon's responses to various allegations raised by commenters in this proceeding. These allegations are completely unrelated to this merger, and, for the most part, merely rehash arguments that competitors have raised elsewhere. Most of these allegations are being or have been addressed in other proceedings before the Commission, before state regulatory agencies, or before federal or state courts. There is no basis for the Commission to consider them in this proceeding. Moreover, as detailed below, these allegations are without merit, and thus do not under any circumstances affect the Commission's analysis of the proposed merger.

Commenters' allegations fall into two broad categories: UNEs and interconnection and the separate affiliate structure of the new NorthPoint.

A. UNES AND INTERCONNECTION

1. Line Sharing

Covad (at 2-3) alleges that Verizon has not complied with its commitments to provide line sharing in Massachusetts.

Response: Verizon's provisioning of line sharing in Massachusetts has nothing to do with this transaction. In any event, Verizon demonstrated in its application to provide long-distance service in Massachusetts that it is complying fully with the Commission's line-sharing rules. *See* Application by Verizon New England for Authorization to Provide In-Region, InterLATA Services in Massachusetts at 27-30, CC Docket No. 00-176 (FCC, filed Sept. 22, 2000). And Covad recently made the same erroneous claims in that proceeding, where they will be addressed fully. *See* Comments of Covad Communications Co. at 28-37, CC Docket No. 00-176 (FCC filed Oct. 16, 2000).

2. Line Splitting

AT&T (at 21) alleges that Verizon has delayed attempts by CLECs to engage in line splitting.

Response: AT&T's real complaint on this issue is with the scope of the line splitting requirement first articulated by the Commission in its SBC-271 *Texas Order*. This merger proceeding is not the appropriate proceeding in which to challenge the scope of those requirements. *See, e.g., AT&T/TCI Order* ¶ 43; *Bell Atlantic/NYNEX Order* ¶ 210. Moreover, AT&T already has raised the same basic issue in a petition for reconsideration of the *UNE Remand Order*, which is now pending. *See* Petition of AT&T Corp. for Expedited Clarification or, in the Alternative, for Reconsideration, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket 98-147 (FCC filed Feb. 9, 2000).

In any event, Verizon already permits CLECs to engage in line splitting as defined by the Commission. Consistent with the Commission's requirements, a CLEC with a UNE platform

arrangement that seeks to line split may "order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment and unbundled switching combined with shared transport to replace its UNE-P." *Texas Order* ¶ 325. Moreover, the Massachusetts Department of Telecommunications and Energy recently confirmed that Verizon is complying with the Commission's line splitting requirements. *See Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in M.D.T.E. No. 17, filed with the Department by Verizon New England, Inc. d/b/a Verizon Massachusetts on May 5 and June 14, 2000, to become effective October 2, 2000*, DTE 98-57 Phase III, Sept. 29, 2000 .

3. National Performance Standards

Covad (at 8-12) claims that the Commission should adopt national provisioning intervals and performance metrics with respect to loops, line-sharing, and OSS.

Response: This merger proceeding clearly is not the appropriate forum to consider national performance standards. *See AT&T/TCI Order* ¶ 43; *Bell Atlantic/NYNEX* ¶ 210. Moreover, the Commission has found that there is no basis at this time to develop national standards because "states are considering performance standards" and because the Commission has not "developed a sufficient record to consider proposing performance standards." *Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance*, Notice of Proposed Rulemaking, 13 FCC Rcd 12817, ¶ 125 (1998). And Verizon already is subject to extensive performance reporting requirements, both under the terms of existing state requirements and under the terms of the Bell Atlantic/GTE Merger Conditions. *See Bell Atlatnic/GTE Order* ¶¶ 279-84.

4. Non-Discriminatory Access to OSS

Covad (at 13-14) claims that the Commission should require Verizon to provide competitors access to the same OSS features, functions, and capabilities that it provides to the new NorthPoint. It also says (at 15) that the Commission should "establish firm deadlines for Verizon's EDI capability." AT&T (at 37) argues that Verizon has not developed OSS to support UNE-P orders with DSL, while Covad (at 13) and Cavalier Telephone (at 2) claim that Verizon should provide unspecified additional loop-qualification data to competitors.

Response: As an initial matter, the only one of these various claims that even arguably relates to this transaction is the claim that other carriers should have access to the same OSS capabilities as the new NorthPoint. Because the new NorthPoint will be operated as a separate affiliate of Verizon that provides advanced services, however, Verizon is already required under the terms of the *Bell Atlantic/GTE Order* to do precisely that. *See Bell Atlatnic/GTE Order* ¶¶ 260-272.

The remaining allegations, in contrast, do not even arguably relate to the NorthPoint transaction. In any event, the Commission's rules already require Verizon to provide non-discriminatory access to OSS. Neither Covad nor AT&T provides any evidence that Verizon is violating these rules, nor is it appropriate for the Commission to impose a condition on Verizon based on the unsubstantiated assumption that Verizon will violate these rules in the future. *See,*

e.g., *Bell Atlantic Mobile Systems, Inc. and NYNEX Mobile Communications Company Application for Transfer of Control of Eighty-two Cellular Radio Licenses to Cellco Partnership*, Order, 10 FCC Rcd 13368, ¶ 37 (1995) ("the proper forum for specific complaints against common carriers is a Section 208 complaint proceeding, not a license assignment/transfer of control proceeding"). Finally, AT&T has already raised its claims for OSS modifications elsewhere. *See* Ex Parte Letter from Frank S. Simone, AT&T, to Magalie Roman Salas, FCC, CC Docket Nos. 96-98 & 98-147, Attach. 8 at 1 (Aug. 4, 2000).

With respect to loop-qualification data, the Commission has found that Verizon makes available to CLECs the same loop data that is available to Verizon's retail representatives. *See New York Order* ¶ 140. CLECs have electronic access (through Verizon's pre-ordering interfaces) to Verizon's mechanized loop qualification database, and CLECs can also request a manual look-up for loops not yet included in the database, or request an engineering query if they want still further information. As for Covad's unsupported statement that the Commission has "ordered ILECs to provide CLECs unmediated, direct access to the 'raw' information" contained in Verizon's databases, that is incorrect. The Commission insists that an ILEC "allow[] competing carriers to acquire pre-ordering information using their own software programs or applications," *Texas Order* ¶ 149, but it has never suggested that such access cannot be provided through the ILEC's interfaces.

5. Alleged Collocation Delays

AT&T (at 27-28) alleges that Verizon delays and denies the ability of CLECs to collocate in Verizon's central offices, and further claims that the Commission's existing collocation rules are inadequate.

Response: As AT&T concedes, the adequacy of the Commission's collocation rules is the subject of a pending rulemaking. Likewise, if AT&T has specific complaints about Verizon's collocation practices, it can raise those elsewhere as well. In any event, Verizon's collocation performance speaks for itself: in the first seven months of this year, Verizon completed nearly 1,000 physical collocation arrangements and more than 2,700 cageless collocation arrangements in the former Bell Atlantic region alone. Moreover, as explained in the Public Interest Statement, throughout Verizon's footprint, at least two other Data CLECs have collocated in 97 percent of central offices where Verizon and NorthPoint both offer service, and at least three have collocated in 90 percent of those offices.

6. Access to Digital Loop Carriers

Covad (at 16-17) asks the Commission to require Verizon to provide the same broadband service offering that it permitted SBC to offer through its local telephone companies through a waiver of SBC's merger conditions, including the conditions imposed on that waiver with respect to "remote terminal collocation, spare copper preservation, [and] plug and play service availability." *See also* Cavalier at 2.

Response: Again, Covad's arguments have nothing to do with this transaction and cannot be considered here. In any event, Covad ignores the fact that the authority that the Commission granted SBC to provide a broadband service offering through its local telephone companies (and

the conditions that go with it) apply only when and where SBC chooses to provide service through integrated line cards in its remote terminals that are owned by the local telephone companies. *See Ameritech Corp., Transferor and SBC Communications, Inc. Transferee for Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules*, Second Memorandum Opinion and Order ¶ 5 (rel. Sept. 8, 2000). In addition, ILEC obligations with respect to loops provisioned over digital loop carrier are the subject of a recent notice of proposed rulemaking. *See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Fifth Notice of Proposed Rulemaking ¶ 118, CC Docket No. 96-98 (rel. Aug. 10, 2000).

7. Migration from Virtual to Cageless Collocation

Covad (at 17-18) argues that Verizon does not permit it to migrate its virtual collocation arrangements into cageless arrangements.

Response: As noted above, the Commission is currently evaluating the scope of its collocation rules in an ongoing rulemaking proceeding, and Covad has raised this very issue in that proceeding. Comments of Covad Communications Co. at 36-38, CC Docket Nos. 96-98 & 98-147 (FCC filed Oct. 12, 2000). As Covad concedes, the issue also has been considered by state commissions, such as the New York PSC. There is no basis for addressing it in this merger proceeding. *See AT&T/TCI Order* ¶ 43; *Bell Atlantic/NYNEX* ¶ 210.

8. Interconnection Agreements

Cavalier (at 1-2) claims that it has been unable to obtain reasonable terms from Verizon for digital loop costs and loop conditioning charges in Virginia.

Response: By Cavalier's own admission (at 2 n.3), its concerns have been brought before the Virginia SCC, and there is no reason to duplicate that commission's efforts here. In any case, Verizon already provides access to loops and loop conditioning to Cavlier through other CLEC Agreements that have been approved by the Virginia Commission. Verizon has on many occasions offered those same rates, terms, and conditions to Cavalier, and just two weeks ago Cavalier notified the Virginia Commission that it was considering whether to opt into one of those agreements.

B. SEPARATE AFFILIATE

1. Alleged Cost Shifting

NAS (at 2-4) argues that Section 6.5(a) of the Merger Agreement would permit Verizon to absorb the new NorthPoint's collocation costs, and (at 6) that Section 1.1(b), by excluding certain data and other assets from transferring to the new NorthPoint, could likewise lead to cost shifting.

Response: Section 6.5(a) involves NorthPoint's pre-merger sublease of certain collocation space from Verizon's existing affiliate. This arrangement cannot involve cost-

shifting, since the affiliate's collocation space has been leased pursuant to Verizon's publicly available tariffs. And in any event, NorthPoint will reimburse Verizon's affiliate for these subleases.

Section 1.1 likewise involves a transaction between NorthPoint (here, the new NorthPoint) and Verizon's existing affiliate, so it too cannot lead to cost-shifting. This section provides that assets used exclusively for Verizon's existing DSL business will be transferred to the new NorthPoint, and Section 1.1(b), about which NAS specifically complains, merely reinforces this by providing that assets not used exclusively for the DSL business will remain in the affiliate.

2. Post-Merger Lease Transfers

NAS (at 4-6) argues that Section 6.5(b) of the Merger Agreement, involving the transfer of leaseholds of non-central office space from Verizon's existing affiliate to the new NorthPoint, will give the new NorthPoint exclusive rights to occupy Verizon ILEC premises outside of the central office, and will allow Verizon to cross-subsidize collocation costs.

Response: By precluding transfers of leases that would trigger a nondiscrimination obligation, Section 6.5(b)(i) *prohibits* the transfer of leases of ILEC real estate, thereby avoiding precisely the type of claim that NAS makes. As for the alleged cross-subsidization of collocation space, this provision involves the transfer of non-central office space — general office space and the like — not collocation space. Moreover, the provision contemplates a transaction between the new NorthPoint and the existing affiliate, so it again cannot give rise to cost-shifting.

3. Nondiscrimination

NAS (at 4) suggests that the Commission should require assurances that the new NorthPoint will share rack space with a Verizon ILEC only to the extent that the new NorthPoint subscribes to the ILEC's virtual collocation offering. Covad (at 17) argues that the Commission must require Verizon to provide the same network planning services to competitors as it does to the new NorthPoint.

Response: The new NorthPoint has no plans to share rack space with a Verizon ILEC, and, were it to do so, it would be on nondiscriminatory terms pursuant to the merger conditions. As for network planning, the Commission concluded in the *Bell Atlantic/GTE Order* that Verizon could and should provide exclusive network planning for a brief transition period, in order to facilitate the creation of a separate advanced services affiliate. *Bell Atlantic/GTE Order* App. D ¶ 3.c.(3). Beyond that, of course, any network planning offered by Verizon ILECs to the new NorthPoint will be on a nondiscriminatory basis.

4. Fresh Look Period

Covad (at 20-21) requests that the Commission implement a "fresh look" period, wherein Verizon DSL customers will be given the opportunity to switch — with no charge, no penalty, and no service interruption — from Verizon DSL to another DSL service provider.

Response: The "fresh look" doctrine — which is premised on the existence of a dominant provider and its transition to a competitive environment — has no application here. *See, e.g., Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Physical Collocation for Special Access and Switched Transport*, Second Report and Order, 12 FCC Rcd 18730, ¶ 14 & n.42 (1997). Verizon is not a dominant provider of advanced services to either residential or business customers. And in any case, Verizon's customers are being transferred to a most separate affiliate, which was designed to divorce Verizon's advanced services business from any conceivable advantage Verizon might have by virtue of its status as an incumbent LEC.

5. Bell Atlantic/GTE Merger Conditions

CIX (at 8-9) and NAS (at 6) contend that this transaction will allow Verizon to avoid the separate affiliate condition imposed in the *Bell Atlantic/GTE Order*.

Response: The opposite is true. As a separate affiliate that provides advanced services, the new NorthPoint will have to comply with those conditions just as would any other advanced services affiliate. Indeed, the new NorthPoint will actually be more separate than those conditions require. In any event, neither CIX nor NAS provide any evidence to support the suggestion that Verizon will not comply with all conditions imposed in the *Bell Atlantic/GTE Order*, nor could they. Verizon is complying with those conditions, and it will continue to do so.

SERVICE LIST

I hereby certify that on this 17th day of October, I caused true and correct copies of the Reply Comments of NorthPoint and Verizon to be served by United States mail, postage prepaid, or by hand delivery (*) to the addresses shown below:

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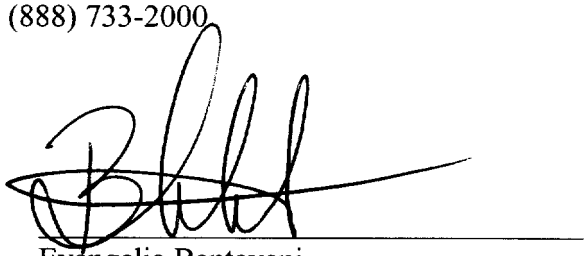

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