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October 4, 2004

**BY HAND DELIVERY**

Ms. Blanca Bayó, Director  
Commission Clerk and Administrative Services  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Docket No. 040156-TP

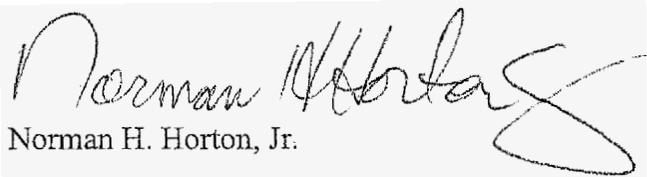
Dear Ms. Bayó:

Enclosed for filing on behalf of New South Communications Corporation, The Ultimate Connection L.C., D/B/A Daystar, Xspedius Management Co. Switched Services LLC and Xspedius Management Co. of Jacksonville LLC, ("Competitive Carrier Group") are an original and fifteen copies of their Response to Verizon's Petition for Arbitration in the above referenced docket.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely yours,



Norman H. Horton, Jr.

NHH/amb  
Enclosures  
cc: Parties of Record

DOCUMENT NUMBER-DATE

10669 OCT-4 04

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FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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PETITION OF VERIZON FLORIDA  
INC. FOR ARBITRATION OF AN  
AMENDMENT TO INTERCONNECTION  
AGREEMENTS WITH COMPETITIVE  
LOCAL EXCHANGE CARRIERS AND  
COMMERCIAL MOBILE RADIO  
SERVICE PROVIDERS IN FLORIDA

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DOCKET NO. 040156-TP

FILED: October 4, 2004

**ANSWER OF  
NEWSOUTH COMMUNICATIONS CORPORATION,  
THE ULTIMATE CONNECTION L.C., D/B/A DAYSTAR COMMUNICATIONS  
XSPEDIUS MANAGEMENT CO. SWITCHED SERVICES LLC  
AND XSPEDIUS MANAGEMENT CO. OF JACKSONVILLE LLC  
("COMPETITIVE CARRIER GROUP")**

NewSouth Communications Corporation, The Ultimate Connection L.C.,  
Xspedius Management Co. Switched Services LLC and Xspedius Management Co. of  
Jacksonville LLC, ("Competitive Carrier Group" or "CCG"), by their undersigned attorneys and  
pursuant to section 252 of the Communications Act of 1934, as amended ("Act"),<sup>1</sup> hereby  
provide their response to Verizon's latest Petition for Arbitration, in the above-captioned  
proceeding.

**INTRODUCTION AND SUMMARY**

On March 10, 2004 Verizon hastily petitioned this Commission to "initiate a  
consolidated arbitration proceeding to amend the interconnection agreement between Verizon"  
and competitors "to the extent that their current interconnection agreements provide for access to

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<sup>1</sup> 47 U.S.C. § 252. This response does not represent waiver of any right of any of the individual CLECs either pursuant to the Act or a particular interconnection agreement. Accordingly, each company that comprises the CCG expressly reserves all of its rights, including the right to seek an individual amendment to its individual interconnection agreement.

- .

unbundled network elements (“UNEs”).”<sup>2</sup> Verizon filed its original Petition without describing the status of interconnection agreements with individual CLECs, negotiations (or lack thereof) conducted with any individual CLEC, without regard to the change of law provision(s) of any individual interconnection agreement, and without adequately describing (yet alone defining) the list of issues that this Commission should consider.

At the time it filed the original Petition, Verizon had failed to respond to the amendment proposed by members of the CCG,<sup>3</sup> and failed to establish a negotiation schedule with CCG members, who had provided substantive responses to Verizon, despite ample time to do so before the arbitration petition deadline. Then, on March 19<sup>th</sup>, Verizon filed an update to its Petition, in which it attempted to appropriate the *USTA II* ruling for its sole benefit.<sup>4</sup>

The Commission granted Sprint’s Motion to Dismiss, without prejudice, by Order issued July 12, 2004, and Verizon ultimately filed a new Petition on September 9, 2004. Despite the numerous procedural and substantive deficiencies noted above and in the record, the Competitive Carrier Group believed “that this proceeding would provide an efficient vehicle for the resolution of – in one docket – the many outstanding issues that affect so many carriers,” and urged the Commission to establish procedures to address the Triennial Review Order, state law, and other federal law requirements in order to minimize duplication of effort and promote the

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<sup>2</sup> Original Verizon Petition at 1 (*citation omitted*).

<sup>3</sup> The amendment attached to the original CCG Answer, at Tab A, initially was prepared by some of the carriers that had joined in that Answer (that group included Advanced TelCom Group, Inc., BridgeCom International, Inc., Broadview Networks, Inc., Bullseye Telecom, Inc., Comcast Phone, LLC and its Subsidiaries, Conversent Communications, LLC, Cordia Corporation, Covad Communications Corporation and DIECA Communications, Inc., DSCI Corporation, Global Crossing Local Services, Inc. and Global Crossing Telemanagement, Inc., InfoHighway Communications Corporation, KMC Telecom III LLC, KMC Telecom V, Inc., KMC Data LLC, Metropolitan Telecommunications, Inc., VeraNet Solutions, and XO Communications, Inc.). Similarly, Tab B contained a proposal provided to Verizon by NewSouth.

<sup>4</sup> See Docket 040156-TP, Update to Petition for Arbitration of Verizon Florida, dated March 19, 2004 (“Verizon Update”).

most efficient use of the Commission's resources.<sup>5</sup> The CCG still believes it is appropriate to proceed with this arbitration.

At the outset, however, the Commission must recognize that Verizon's new Petition and amendment are inconsistent with its obligations under applicable federal and state law, including, but not in any way limited to, the Triennial Review Order and *USTA II* decision,<sup>6</sup> *Bell Atlantic/GTE Merger Order*,<sup>7</sup> and Florida law.

Accordingly, the CCG respectfully requests that the Commission take the following steps. First, the Commission should maintain this docket to assert its section 252 jurisdiction over all of the issues naturally related to the parties' interconnection agreements.<sup>8</sup> Second, the Commission should issue a standstill order that maintains the *status quo* (regarding access to the UNEs themselves) under existing interconnection agreements until such time as the Commission ultimately approves an interconnection agreement amendment that reflects all

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<sup>5</sup> Original Answer of Competitive Carrier Group.

<sup>6</sup> *See Review of the section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978, 17125-26, ¶ 242 (2003), *corrected by Errata*, 18 FCC Rcd 19020 (2003) (collectively "TRO"), *reversed and remanded, United States Telecom Ass'n v. FCC*, D.C. Cir. No. 00-1012 (and consolidated cases) (decided March 2, 2004).

<sup>7</sup> *GTE Corporation Transferor, and Bell Atlantic Corporation Transferee, for Consent to Transfer of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, CC Docket 98-184, Memorandum Opinion and Order, 15 FCC Rcd 14032, FCC 00-221, ¶316 (June 16, 2000). (*Verizon Merger Order*)

<sup>8</sup> These issues, as noted below, are much broader than the limited subset Verizon has attempted to frame in its Petition. Since the interconnection agreements contain terms and conditions for access to network elements on bases other than section 251(c)(3) (including, for example, access pursuant to state law and section 251(c)(2), any attempt to amend the terms must likewise include an assessment of those ongoing obligations. As this Commission is well aware, state law is a basis for requiring access to elements was specifically preserved by Congress when it amended the Act in 1996 (*see, e.g.*, 47 U.S.C. 251(d)(3)). Indeed, since one of the primary purposes of section 251 is to mandate access to network elements, it would be nearly impossible for action by this Commission requiring access to network elements to be declared inconsistent with that section. The very fact that this arbitration was brought by Verizon at the state level under the federal Act is tacit recognition of the federal-state partnership woven into the Act.

applicable law. Furthermore, the Commission should direct the parties to continue to negotiate to address these issues, with oversight by Commission Staff as appropriate. To the extent the parties cannot reach a negotiated agreement, the parties should submit to the Commission a jointly-developed issues list.

The Commission must, in the meantime, revisit the issues of routine network modifications and commingling. This Commission must order Verizon to comply with its preexisting and ongoing obligation to provide access to elements even where routine network modifications are required. The FCC's clarification of Verizon's obligations in this respect is not a change in law that must be incorporated into an amendment before it becomes binding. The FCC's justification for issuing that clarification was to prevent incumbents from delaying competitor access to facilities.<sup>9</sup> Thus, permitting Verizon to shirk its legal obligations by claiming that an amendment is necessary, would frustrate the intent of the rule and continue to severely limit competition.

Additionally, the Commission must require that Verizon comply with the clarified UNE commingling requirements. Similar to the FCC's clarification regarding network modifications noted above, the FCC also clarified the terms under which carriers may commingle elements and services, in order to avoid further confusion and delay. In fact, the FCC determined that "a restriction on commingling would constitute an 'unjust and unreasonable practice' under section 201 of the Act" and an "undue and unreasonable prejudice or advantage" under section 202, and would be violative of the "the nondiscrimination requirement in section 251(c)(3)."<sup>10</sup> The FCC specifically required ILECs to effectuate commingling immediately, through modifications of their interstate access tariffs -- noting even the penalties for

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<sup>9</sup> See, e.g., TRO at ¶ 639.

<sup>10</sup> TRO at ¶ 581.

noncompliance.<sup>11</sup> The Commission should likewise order that Verizon immediately comply with these requirements.

### **Issues in Arbitration**

Verizon's filing of this Petition for Arbitration eliminates the need for a carrier to file its own Petition for Arbitration. Under Section 252(b)(3) of the Communications Act, as amended,<sup>12</sup> the non-petitioning party has the right to provide additional information for the Commission to consider.<sup>13</sup> The Florida Commission is then required by the statute to consider any issues raised in the petition for arbitration *and* any response to the petition, and then "resolve each issue set forth in the petition and the **response[.]**"<sup>14</sup> The Competitive Carrier Group has provided additional information and identified additional issues for the Commission to consider and resolve, in this Answer and in the attached Amendment.

Verizon states that its proposed Amendment is "simple" and "makes clear that Verizon's unbundling obligations are governed exclusively by federal law."<sup>15</sup> While Verizon's approach may be simple, it is 100% wrong. There are, in fact, a multitude of sources of applicable law that govern Verizon's unbundling obligations that must be considered by the Commission. The Applicable Law definition in the NewSouth and Xspedius interconnection agreements with Verizon, for example, are about as broad as imaginable. They state that "Applicable Law shall mean all laws, statutes, common laws, regulations, ordinances, codes, rules, guidelines, orders, permits and approvals of any Governmental Authority[.]"<sup>16</sup> **Likewise,**

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<sup>11</sup> *Id.*, ¶ 581 and fn. 1791.

<sup>12</sup> 47 U.S.C. § 151, *et. seq.* ("Act").

<sup>13</sup> 47 U.S.C. § 252(b)(3).

<sup>14</sup> 47 U.S.C. § 252(b)(4)(A) & (C) (*emphasis added*).

<sup>15</sup> Petition at page 5.

<sup>16</sup> NewSouth and Xspedius Interconnection Agreements with GTE at Attachment 11, page 1.

Government Authority is defined equally as broad, encompassing “any federal, state, local, foreign or international court, government, department, commission, board, bureau, agency, official, or other regulatory, administrative, legislative or judicial authority with jurisdiction over GTE or AT&T.”<sup>17</sup> Therefore, Verizon’s legal obligations clearly encompass Florida state law, PSC decisions, applicable merger conditions and all other actions by governmental entities – and *cannot* be limited in the manner Verizon improperly suggests.

In the Act, Congress specifically preserves independent state authority to require unbundling. In section 251(d)(3), for example, Congress specifically provided that the FCC “shall not preclude the enforcement of any regulation, order, or policy of a State commission that establishes access and interconnection obligations,” and is consistent with and does not “substantially prevent” implementation of the requirements of section 251.<sup>18</sup> This Commission has the authority to act under Florida law, which authority is federally protected and provides that this Commission should promote the unbundling objectives of the statute – which continued access to unbundled elements undoubtedly does.

In addition, in section 252(e)(3) of the Act (entitled “preservation of authority”) Congress expressly provided that, in reviewing interconnection agreements state commission may “establish[] and enforce[] ... requirements of state law ....”<sup>19</sup> The above language demonstrates a clear Congressional intent to preserve independent state authority to establish access and interconnection obligations in order to facilitate and sustain telephone competition.

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<sup>17</sup> Attachment I1, at page 5.

<sup>18</sup> 47 U.S.C. §251(d)(3).

<sup>19</sup> 47 U.S.C. § 253(e)(3). The state commissions similarly have express authority to define unbundled network elements pursuant section 251(d)(3) of the Act, 47 U.S.C. § 251(d)(3).

Accordingly, the Act preserves Florida's independent authority to require the continued access to elements.

Verizon is also required to continue to provide UNEs at TELRIC rates pursuant to the merger conditions established by the Bell Atlantic/GTE Merger Order. Bell Atlantic and GTE (now Verizon) voluntarily committed to certain Merger Conditions, and the FCC ultimately approved the merger of the two monopolists "subject to conditions designed to offset the public interest harms associated with the transactions."<sup>20</sup> In fact, the FCC deemed the public interest test satisfied only after "assuming [Verizon's] ongoing compliance with these conditions[.]"<sup>21</sup>

In one of the Merger Conditions, Verizon voluntarily committed to "continue to make available to telecommunications carriers, in accordance with [the FCC's *UNE Remand* and *Line Sharing Orders*], each UNE and combination of UNEs that is required under those orders, until the date of any final and non-appealable judicial decision that determines that Bell Atlantic/GTE is not required to provide the UNE or combination of UNEs in all or a portion of its operating territory."<sup>22</sup> Here, no "final and non-appealable" order meets the standard established in the *Verizon Merger Order*.<sup>23</sup> Verizon therefore remains obligated, pursuant to the Merger Conditions it voluntarily undertook, to provide access to unbundled network elements.

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<sup>20</sup> *Public Notice*, Common Carrier Bureau Seeks Comment on Letters Filed by Verizon and Birch Regarding Most-Favored Nation Condition of SBC/Ameritech and Bell Atlantic/GTE Orders, DA 01-722, at page 1 (March 30, 2001). ("*Merger Conditions Notice*")

<sup>21</sup> *Verizon Merger Order* at ¶ 247 (emphasis added). *See generally, Id.* at ¶¶ 3-4, 246-247 and Appendix D.

<sup>22</sup> *Id.* at ¶ 316.

<sup>23</sup> In *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) ("*USTA II*"), the D.C. Circuit Court vacated and remanded in part the *TRO*, which is still subject to ongoing appeal and review, *see Nat'l Ass'n of Regulatory Comm'rs, et al. v. United States Telecom Ass'n*, Nos. 04-12, 04-15 & 04-18, and *Unbundled Access to Network Elements, WC Docket No. 04-313, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338*, Order and Notice of Proposed Rulemaking, FCC 04-179 (released Aug. 20, 2004). Thus, the *TRO* cannot be considered a "final and non-appealable" order that meets the standard established in the *Verizon Merger Order*.

These issues are all validly raised by the Competitive Carrier Group herein and in the draft proposed amendment, and must be included in this arbitration. The proposed interconnection agreement amendment that is attached hereto and incorporated herein provides an additional and substantive point-by-point response to the issues raised in the Verizon Petition and its proposed Amendment. A redundant recital herein is unnecessary, particularly given the likelihood that an issues list will be created.<sup>24</sup>

### **Status Quo**

While the Commission arbitrates, under the federal statute, an interconnection agreement amendment that appropriately effectuates all applicable federal and state law, and applicable Orders such as the *Bell Atlantic/GTE Merger Order*, the Commission must issue a standstill order to preserve business arrangements under existing interconnection agreements. The Commission noted Verizon's intent to maintain the status quo for the duration of the proceeding.<sup>25</sup>

The FCC has recognized that unilateral changes by ILECs would be highly disruptive and against the public interest.<sup>26</sup> "This is a risk to the public interest too great to bear unheeded."<sup>27</sup> The FCC therefore issued a *status quo* order, similar to those promulgated in several state commission arbitration proceedings.

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<sup>24</sup> While Verizon has attached a draft Issues List to its Petition, it does not faithfully represent the positions of the members of the CCG.

<sup>25</sup> Florida PSC Order issued June 8, 2004, at page 6.

<sup>26</sup> *Unbundled Access to Network Elements, WC Docket No. 04-313, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, Order and Notice of Proposed Rulemaking, FCC 04-179* (released Aug. 20, 2004). (*Interim Order*) In the Interim Order, the FCC formally acted on the *USTA II* remand of the *TRO*.

<sup>27</sup> *Interim Order*, ¶18.

In the *Interim Order*, the FCC determined that, pending release of permanent rules, Verizon and other ILECs must continue to provide access to certain elements on the same rates, terms and conditions that prevailed on June 15, 2004. The FCC included as frozen ILEC obligations contained in interconnection agreements, statements of generally available terms, and state tariffs, and stated that these obligations apply “irrespective of whether an incumbent LEC has taken steps before or after this date to relieve itself of such obligations.”<sup>28</sup>

The FCC determined that “[t]he public interest is best served by clarity with regard to the rates, terms and conditions under which network elements must be made available to requesting carriers.”<sup>29</sup> As a result, the FCC stated that it would therefore act “consistent with our statutory mandate to protect the public interest” to promulgate the *Interim Order*.<sup>30</sup> Citing “credible evidence” that “at least one BOC [namely, Verizon] has announced its intention to withdraw certain UNE offerings immediately” and that such action “would likely have the effect of disrupting competitive provision of telecommunications services to millions of customers,”<sup>31</sup> the FCC determined that restoration of the June 15th *status quo* was appropriate.

Formalizing a state-specific standstill order pending completion of the arbitration and approval by the Commission of a lawful amendment would serve to minimize uncertainty and potential disruption, and promote an orderly transition to the new interconnection agreement terms that reflect all applicable law, including the TRO, state law and the requirements of the merger conditions. This will serve as an appropriate backstop to the FCC’s *Interim Order*.

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<sup>28</sup> *Interim Order*, at footnotes 5 and 6.

<sup>29</sup> *Id.* ¶18. While line sharing was not covered by the FCC’s Order, necessitating this Emergency Motion, the logic and reasoning clearly apply with equal force.

<sup>30</sup> *Id.* ¶17.

<sup>31</sup> *Id.*

### **Proposed Schedule**

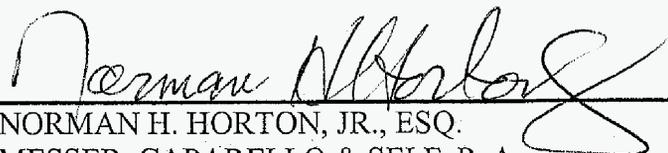
The Competitive Carrier Group does not agree with Verizon's proposed procedural schedule, in that it is not feasible to anticipate that good faith negotiations can possibly be accomplished within the thirty days proposed by Verizon – most of which has already been used. Since the CCG has proposed its own amendment and is now engaged in negotiations, there will be both overlapping as well as new issues raised by the two proposals. Therefore, the CCG recommends that the parties be given at least sixty days to negotiate the amendments. Moreover, Verizon's schedule is unnecessarily aggressive given the ambiguity surrounding the timing and substance of the FCC's final rules. The deadlines for briefs and reply briefs should be extended accordingly.

## CONCLUSION

Consistent with the foregoing, the CCG requests that the Commission should reject Verizon's amendment and instead:

- (1) Assert its jurisdiction over the matters at issue;
- (2) Issue a standstill order that maintains the UNE availability *status quo* until such time as the Commission approves an interconnection agreement amendment;
- (3) Direct the parties to negotiate terms agreement, with oversight by Commission Staff as appropriate, and submit to the Commission a jointly-developed issues list, including Verizon's merger condition and state law access and pricing obligations;
- (4) Immediately implement the FCC's clarifications that Verizon must perform routine network modifications to provision UNE orders and permit commingling of UNEs, and
- (5) Grant such other and further relief as may be just and reasonable.

Respectfully submitted,



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Counsel to the Competitive Carrier Group

Date: October 4, 2004

AMENDMENT NO. \_\_\_\_

to the

INTERCONNECTION AGREEMENT

between

[VERIZON LEGAL ENTITY]

and

[CLEC]

This Amendment No. [NUMBER] (the "Amendment") is made by and between Verizon [LEGAL ENTITY] ("Verizon"), a [STATE OF INCORPORATION] corporation with offices at [VERIZON STATE ADDRESS], and CLEC [LEGAL ENTITY], a [STATE OF INCORPORATION] corporation with offices at 32 Avenue of the Americas, New York, New York 10013 ("CLEC"), and shall become effective on \_\_\_\_\_ (the "Amendment Effective Date"). Verizon and CLEC 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 [STATE] (the "State").

WITNESSETH:

**[DELETE THIS FIRST WHEREAS ONLY IF CLEC'S AGREEMENT HAS USED AN ADOPTION LETTER]**

**WHEREAS**, Verizon and CLEC are Parties to an Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 dated [DATE] (the "Agreement"); and

**[INSERT THE FOLLOWING WHEREAS ONLY IF CLEC'S AGREEMENT HAS USED AN ADOPTION LETTER]**

**WHEREAS**, pursuant to an adoption letter dated [DATE] (the "Adoption Letter"), CLEC adopted in the [STATE], the interconnection agreement between [NAME OF UNDERLYING CLEC AGREEMENT] and Verizon (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. Circuit Court of Appeals for the District of Columbia Circuit (the "D.C. Circuit") issued a decision, which became effective on June 15, 2004, affirming in part and vacating in part the TRO (the "D.C. Circuit Decision"); and

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

**WHEREAS**, pursuant to Section 252(a)(1) of the [NOTE: IF CLEC'S AGREEMENT IS AN ADOPTION, REPLACE "Act" WITH: "the Communications Act of 1934, as amended (the "Act")] Act, the Parties wish to amend the Agreement in order to give contractual effect to the provisions of the TRO; as set forth herein; and

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

1. Scope of Amendment. The Parties agree that the Agreement should be amended by the addition of the terms and conditions set forth herein, in the TRO Attachment and any exhibits thereto ("collectively referred to as "Amendment"). The TRO Attachment (including Exhibits A, B, and C) are hereby incorporated by reference into this Amendment. Amendment shall apply notwithstanding any other provision of a Verizon tariff or a Verizon Statement of Generally Available Terms and Conditions ("SGAT") unless CLEC at CLEC's option, orders from a Verizon tariff or SGAT. As used herein, the Agreement, as revised and supplemented by this Amendment, shall be referred to as the "Amended Agreement."
2. Conflict between this Amendment and the Agreement. This Amendment shall be deemed to revise the terms and provisions of the Agreement only 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 2.
3. 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. 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.
5. Rights of Parties. Notwithstanding any contrary provision in the Agreement, this Amendment, or in any Verizon tariff or SGAT, nothing contained in the Agreement, this Amendment, or any Verizon tariff or SGAT shall limit the Parties' rights 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 Parties' obligations or rights under the Agreement, this Amendment, any Verizon tariff or SGAT, or Applicable Law.
6. [STATE] Proceedings. Nothing contained in this Amendment is intended to waive either Party's right to incorporate the [STATE] Commission's decisions resulting from its TRO, 271, State law or other proceedings. Any such decisions that materially affect any material terms of the Amended Agreement shall be considered a change in law and shall be subject to any change in law provisions of the Amended Agreement, if any.

**SIGNATURE PAGE**

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

**CLEC [CLEC Company Full Name]**

**VERIZON [Verizon Company Full Name]**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## TRO Attachment

### 1. General Conditions

- 1.1 Notwithstanding any other provision of the Agreement, this Amendment, the Amended Agreement, or any Verizon tariff or SGAT, and subject to the change of law provisions of this Amended Agreement and all other relevant provisions of this Amended Agreement, 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 under the terms of this Amended Agreement unless precluded by 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law as it exists at the time this Amendment is entered into.
- 1.2 Verizon reserves the right to argue in any proceeding before the Commission, the FCC or another governmental body of competent jurisdiction that an item identified in the Agreement or this Amendment as a Network Element (a) is not a Network Element under 47 U.S.C. § 251(c)(3) or other Applicable Law, (b) is not a Network Element Verizon is required by 47 U.S.C. § 251(c)(3) or other Applicable Law to provide to CLEC, or (c) is an item that Verizon is not required to offer to CLEC at the rates set forth in the Amended Agreement, provided, however, that Verizon comply with all requirements for access to Network Elements to the fullest extent required by the Agreement, this Amendment, and/or Applicable Law, including but not limited to change of law provisions, while Verizon asserts any such rights. CLEC reserves the right to argue in any proceeding before the Commission, the FCC or another governmental body of competent jurisdiction that an item not identified in the Agreement, this Amendment, or any Verizon tariff or SGAT (a) is a Network Element under 47 U.S.C. Sec. 251(c)(3) or other Applicable Law, (b) is a Network Element Verizon is required to provide by 47 U.S.C. Sec. 251(c)(3) or other Applicable Law to CLEC, or (c) is an item that Verizon is required to offer to CLEC at the rates set forth in the Amended Agreement.

## 2. Definitions

Notwithstanding any other provision in the Agreement or any Verizon tariff or SGAT, the following terms, as used in the Amended Agreement, shall have the meanings set forth below:

### 2.0 Applicable Law.

All laws, rules and regulations, including, but not limited to, the Act (including but not limited to 47 U.S.C. 251 and 47.U.S.C. 271), effective rules, regulations, decisions and orders of the FCC and the Commission, and all orders and decisions of courts of competent jurisdiction.

### 2.1 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.

### 2.2. Circuit Switch.

A device that performs, or has the capability of performing switching via circuit technology. The features, functions, and capabilities of the switch include the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks.

### 2.3 Combination.

The provision of unbundled Network Elements in combination with each other, including, but not limited to, the Loop and Switching Combinations and Shared Transport Combination (also known as Network Element Platform or UNE-P) and the Combination of Loops and Dedicated Transport (also known as an EEL).

### 2.4 Commingling.

The connecting, attaching or otherwise linking of a Network Element, or a Combination of Network Elements, to one or more facilities or services that CLEC has obtained at wholesale from Verizon pursuant to any other method other than unbundling under Section 251(c)(3) of the Act, or the combining of a Network Element, or a Combination of Network Elements, with one or more such facilities or services. "Commingling" means the act of Commingling.

Dark Fiber Loop?

### 2.5 Dark Fiber Transport.

An un-activated optical transmission facility within a LATA, without attached multiplexing, aggregation or other electronics, between Verizon switches or wire centers (including Verizon switching equipment located at CLEC's premises), that is provided on

an unbundled basis pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law.

2.6 Declassified Network Elements.

Any facility that Verizon was obligated to provide to CLEC on an unbundled basis pursuant to the Agreement or a Verizon tariff or SGAT, but which, except as otherwise provided in Section 3.9 below, Verizon is no longer obligated to provide on an unbundled basis under 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51. Declassified Network Elements include the following:(a) Enterprise Switching;(b) OCn Loops and OCn Dedicated Transport; (c) the Feeder portion of a Loop; and (d) Packet Switching (except when used to provide circuit-switching functionality).

2.7 Dedicated Transport.

A transmission facility between Verizon switches or wire centers, (including Verizon switching equipment located at CLEC's premises), within a LATA, that is dedicated to a particular end user or carrier and that is provided on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law.

2.8 DS1 Dedicated Transport.

Dedicated Transport having a total digital signal rate of 1.544 Mbps.

2.9 DS3 Dedicated Transport.

Dedicated Transport having a total digital signal rate of 44.736 Mbps.

2.10 DS1 Loop.

A digital transmission channel suitable for the transport of 1.544 Mbps digital signals that is provided on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law. A DS1 Loop includes the electronics necessary to provide the DS1 transmission rate.

2.11 DS3 Loop.

A digital transmission channel suitable for the transport of isochronous bipolar serial data at a rate of 44.736 Mbps (the equivalent of 28 DS1 channels) that is provided on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law. A DS3 Loop includes the electronics necessary to provide the DS3 transmission rate.

2.12 Enterprise Switching.

Local Switching or Tandem Switching that, if provided to CLEC, would be used for the purpose of serving CLEC's customers using DS1 or above capacity Loops .

2.13 Feeder.

The fiber optic cable (lit or unlit) or metallic portion of a Loop between a serving wire center and a remote terminal (if present) or feeder/distribution interface (if no remote terminal is present).

2.14 FTTH Loop.

A mass market Loop consisting entirely of fiber optic cable, whether dark or lit, between the main distribution frame (or its equivalent) in a wire center and the demarcation point at the end user's customer premises. FTTH Loops do not include such intermediate fiber-in-the-loop architectures as fiber-to-the-curb ("FTTC"), fiber-to-the-node ("FTTN"), and fiber-to-the-building ("FTTB").

2.15 Hot Cut.

The transfer of a loop from one carrier's switch to another carrier's switch.

2.16 Hybrid Loop.

Any local Loop composed of both fiber optic cable and copper wire or cable, including such intermediate fiber-in-the-loop architectures as FTTC, FTTN, and FTTB.

2.17 Inside Wire Subloop.

As set forth in FCC Rule 51.319(b), a Verizon-owned or controlled distribution facility in Verizon's network between the minimum point of entry ("MPOE") at a multiunit premises where an end user customer is located and the Demarcation Point for such facility.

2.18 Line Conditioning

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.

2.19 Line Sharing.

The process by which CLEC is providing 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 distribution frame (or its equivalent) in its Wire Center and the demarcation point at the end user's customer premises, and includes the high frequency portion of any inside wire (including any Inside Wire Subloop) owned or controlled by Verizon.

2.20 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

2.21 Local Circuit Switching.

Local Circuit Switching is a function provided by a Circuit Switch or Packet Switch and encompasses all line-side and trunk-side facilities, plus the features, functions, and capabilities of the switch. Local circuit switching includes all vertical features that the switch is capable of providing, including customer calling, custom local area signaling

services features, and Centrex, as well as any technically feasible customized routing functions. Specifically, this includes the line-side and trunk-side facilities associated with the line-side port on a circuit switch in Verizon's network, plus the features, functions, and capabilities of that switch, unbundled from loops and transmission facilities, including, but not limited to, (a) the line-side Port (including but not limited to the capability to connect a Loop termination and a switch line card, telephone number assignment, dial tone, one primary directory listing, pre-subscription, and access to 911); (b) line and line group features (including but not limited to all vertical features and line blocking options that the switch and its associated deployed switch software are capable of providing that are provided to Verizon's local exchange service Customers served by that switch); (c) usage (including but not limited to the connection of lines to lines, lines to trunks, trunks to lines, and trunks to trunks); and (d) trunk features (including but not limited to the connection between the trunk termination and a trunk card).

2.22 Loop Distribution.

The portion of a Loop in Verizon's network that is between the point of demarcation at an end user customer premises and Verizon's feeder/distribution interface. It is technically feasible to access any portion of a Loop at any terminal in Verizon's outside plant, or inside wire owned or controlled by Verizon, as long as a technician need not remove a splice case to access the wire or copper of the Subloop; provided, however, near Remote Terminal sites, Verizon shall, upon site-specific request by CLEC, provide access to a Subloop at a splice.

2.23 Mass Market Switching.

Local Switching or Tandem Switching that Verizon offers on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, and that is provided to CLEC to serve CLEC's end user customers over DS0 Loops.

2.24 Packet Switch.

A network device that performs switching functions primarily via packet technologies. Such a device may also provide other network functions (e.g., Circuit Switching). Circuit Switching, even if performed by a Packet Switch, is a network element that Verizon is obligated to provide on an Unbundled Network Element basis.

2.25 Packet Switching.

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, or 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.

2.26 Route.

For purposes of FCC Rule 51.319 (e)(1) through (e)(5), a transmission path between one of Verizon's wire centers or switches and another of Verizon's wire centers or switches within a LATA. A route between two points (e.g., wire center or switch "A" and wire center or switch "Z") may pass through one or more Verizon intermediate wire centers or switches (e.g., Verizon wire center or switch "X"). Transmission paths between identical end points (e.g., Verizon wire center or switch "A" and Verizon wire center or switch "Z") are the same "route", irrespective of whether they pass through the same intermediate Verizon wire centers or switches, if any.

2.27 Routine Network Modifications.

Routine Network Modifications are those prospective or reactive activities that Verizon is required to perform for CLEC and that are of the type that Verizon regularly undertakes when establishing or maintaining network connectivity for its own retail customers. Routine network modifications include, but are not limited to, rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that the incumbent LEC ordinarily attaches to a DS1 loop to activate such loop for its own customer. They also include activities needed to enable a requesting telecommunications carrier to obtain access to a dark fiber loop.

2.28 Signaling.

Signaling includes, but is not limited to, signaling links and signaling transfer points.

2.29 Subloop 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. For access to copper Subloops, it is technically feasible to access any portion of a Loop at any terminal in Verizon's outside plant, or inside wire owned or controlled by Verizon, as long as a technician need not remove a splice case to access the wire or copper of the Subloop; provided, however, near Remote Terminal sites, Verizon shall, upon site-specific request by CLEC, provide access to a Subloop at a splice.

2.30 Tandem Switching.

The trunk-connect facilities on a Verizon circuit switch that functions as a tandem switch, plus the functions that are centralized in that switch, including the basic switching function of connecting trunks to trunks, unbundled from and not contiguous with loops and transmission facilities. Tandem Switching creates a temporary transmission path between interoffice trunks that are interconnected at a Verizon tandem switch for the purpose of routing a call. A tandem switch does not provide basic functions such as dial tone service.

2.31 UNE-P.

UNE-P consists of a leased combination of the loop, local switching, and shared transport UNEs.

**3. UNE TRO/FCC Interim Rules Provisions**

- 3.1 During the Interim Period, Verizon shall not make any unilateral changes to (including any discontinuances of) its offering of Network Elements. Consistent with the Interim Order Verizon shall provide to CLEC access to mass market local circuit switching associated shared transport, DS1, DS3 and dark fiber loops and DS1, DS3 and dark fiber dedicated transport on all the same terms, conditions and rates in effect between Verizon and CLEC as of June 15, 2004, as set forth in [CITE the interconnection agreement between the Parties as of June 15, 2004] the "Interim Period Agreement" for the period described below in Section 3.1.2 below. The applicable provisions of the Interim Period Agreement shall include both the Network Elements sections specific to the provision of access to mass market local circuit switching and associated shared transport, DS1, DS3 and dark fiber loops and DS1, DS3 and dark fiber dedicated transport, as well as all the sections of generally applicable Network Elements terms and conditions. These obligations apply to both existing and new Network Elements (Network Elements ordered after the effective date of this Amendment) and apply to access to such Network Elements either singly or in any combination thereof, including EELs and UNE-P, as provided by said Interim Period Agreement. Notwithstanding any other provision in the Interim Period Agreement, including any scheduled expiration of the Interim Period Agreement, that agreement shall remain effective until a replacement interconnection agreement is implemented.
- 3.1.1 The terms, conditions and rates relating to access to other Network Elements (those elements not listed in Section 3.1 above) are unaffected by the terms of the Interim Order or this Amendment.
- 3.1.2 Subject to the provisions set forth in Sections 3.1.8 through 3.1.13 below regarding change in law, the obligations set forth in Section 3.1 above shall remain in place from the effective date of this Amendment until the earlier of the effective date of the final unbundling rules promulgated by the FCC in CC Docket No 04-313, or six months after Federal Register publication of the Interim Order ("Interim Period"), except to the extent that the obligations, in whole or in part, have been superceded by either a voluntary negotiated agreement between CLEC and Verizon; an intervening FCC Order affecting specific unbundling obligations implemented pursuant to the change in law section, Section \* , of the Interim Period Agreement ; or (with respect to rates only) a Commission order raising or reducing rates for the above listed Network Elements.
- 3.1.3 Transition Period – If not otherwise superceded as provided in Section 3.1.2 above, for six months following the end of the Interim Period (the "Transition Period"), and unless, during those six months, the FCC establishes different transition rules and/or time frames in its final rules in CC Docket No. 04-313; and/or in the absence of an FCC ruling that switching, and/or DS1/DS3 or dark fiber loops or DS1/DS3 or dark fiber dedicated transport must be made available pursuant to Section 251(c)(3); and/or absent any independent Commission ruling that access to such Network Elements must be made available pursuant to applicable federal or state law at rates different than those set forth in 3.1.4 and 3.1.5 below; Verizon may charge, on a prospective basis only, up to the following rates for CLEC's existing customer base.
- 3.1.4 For switching, Verizon's rates for local switching Network Elements when provided in combination with shared transport and loops (UNE-P) shall not exceed the higher of:
- 3.1.4.1 The TELRIC rate at which CLEC leased that combination of elements on June 15, 2004, plus one dollar; or
- 3.1.4.2 The TELRIC rate the Commission established, if any, between June 16, 2004, and six months after Federal Register publication of the Interim Order, plus one dollar.
- 3.1.5 For DS1, DS3 and dark fiber loops and dedicated transport, Verizon's rates shall not exceed

3.1.5.1 115% of the TELRIC rate CLEC paid for that element on June 15, 2004; or

3.1.5.2 115% of the TELRIC rate the Commission establishes, if any, between June 16, 2004 and six months after Federal Register publication of the Interim Order.

- 3.1.6 Where the Transition Period takes effect and the rates set forth in Section 3.1.4 and/or 3.1.5 apply, the terms and conditions of access to these Network Elements shall remain unchanged and shall be provided consistent with the Interim Period Agreement, as revised by this Amendment.
- 3.1.7 Absent a Commission ruling that access to Network Elements set forth in 3.1 must be provided to new customers pursuant to applicable federal or state law at specific regulated rates, terms and conditions, the rates, terms and conditions of access for new customers are not subject to the rate caps set forth in 3.1.4 and 3.1.5 above. For purposes of this section, new customers are customers that are acquired by CLEC on or after either the beginning of the Transition Period, or the Amendment Effective Date, whichever is later. New customers do not include CLEC's existing customers at additional locations, or existing customers for which CLEC is providing additional or expanded services or facilities on or after the effective date of this Amendment, or for customers whose connectivity is changed (e.g. technology migration, hot cut, loop reconfiguration, UNE-P to UNE-L etc) on or after the effective date of this Amendment. CLEC will provide Verizon with the information necessary to identify new customers and Verizon shall apply its rate for new customers only to those orders identified by CLEC as orders relating to new customers. Absent Commission ruling that access to the Network Elements set forth in Section 3.1 must be provided to these new customers pursuant to applicable federal or state law at specific regulated rates, terms and conditions, the rates terms and conditions of access for these new customers will not be covered by the provisions of this Amendment.
- 3.1.8 If the FCC's final rules find there is no impairment for one or more of the Network Elements set forth in Sections 3.1 and the final rules incorporate, without change, the transition terms set forth in Sections 3.1.3 – 3.1.7 above for the applicable Network Elements, and the Commission has not issued a ruling that requires Verizon to provide access to such element(s) pursuant to federal or state law at specific regulated rates, terms and conditions, different than those set forth in Section 3.1, then the transition terms and conditions set forth in Sections 3.1.3 – 3.1.7 shall apply to those Network Elements for which there has been a finding of non-impairment upon the effective date of that FCC order.
- 3.1.9 Under no circumstances shall there be any retroactive application of price increases for any such Network Elements.
- 3.1.10 Upon expiration of the Transition Period, Verizon shall not impose any termination charges associated with the conversion or any discontinuance of any such Network Element(s) and the conversion of such Network Element(s) shall take place in a seamless manner without any customer disruptions or adverse affects to service quality. When a conversion of such Network Element(s) is to an analogous access service or alternative service arrangement, Verizon shall perform such conversion on a single order and shall not assess any non-recurring charges for such conversion even if managed as a project.
- 3.1.11 If the FCC's final rules find that there is impairment for one or more of the Network Elements set forth in Section 3.1, then Verizon shall provide CLEC access to those Network Elements consistent with that order upon the effective date of the rules. Pursuant to this requirement, and without limiting the foregoing, if there is a finding of impairment with respect to EELs, Verizon shall, without delay, accept and process all pending and new conversion requests for EELs. All other terms and conditions for access to any Network Element for which there was a finding of impairment shall continue to be governed by the terms of the currently effective Agreement .

between Verizon and CLEC.

3.1.12 If the FCC final rules address issues other than the impairment issues for the Network Elements set forth in Section 3.1, or if the final rules adopt transition rules that are different than the rules set forth in Sections 3.1.3 – 3.1.7, then, the Parties shall, if a change in law has occurred, incorporate those final rules into the Agreement pursuant to the change in law provisions of Section \*\* of the Interim Period Agreement.

3.1.13 Notwithstanding any other provision of this Amended Agreement, if the Commission issues any ruling, pursuant to federal or state law, requiring access to any of the Network Elements set forth in Section 3.1 after the expiration of the Interim Period, at rates terms and conditions different than those set forth in Sections 3.1.3 – 3.1.7, Verizon shall continue to provide such access consistent with the Commission order upon the effective date of that order.

3.2 **Loops.** Verizon shall provide nondiscriminatory access to stand-alone local loops comprised entirely of copper wire or cable, where available. Copper loops include two-wire and four-wire analog voice-grade copper loops, digital copper loops (e.g., DS0s and integrated services digital network lines), as well as two-wire and four-wire copper loops conditioned to transmit the digital signals needed to provide digital subscriber line services, regardless of whether the copper loops are in service or held as spares. The copper loop includes, at CLEC's option, attached electronics. Where CLEC is unable to take advantage of the full functionality of a 2-wire analog loop due to network configurations made by Verizon, Verizon must provide CLEC with UNE-P at TELRIC pricing.

3.2.1 **Hi-Cap Loops.** Notwithstanding any other provision of the Agreement or a Verizon tariff or SGAT and subject to the provisions of Section 3.1 above, as of the Amendment Effective Date:

3.2.1.1 **DS1 Loops.** Upon CLEC's request, Verizon shall provide CLEC with nondiscriminatory access to DS1 Loops on an unbundled basis under the Amended Agreement in accordance with Section 3.1 above, and 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law.

3.2.1.2 **DS3 Loops.** Upon CLEC's request, Verizon shall provide CLEC with nondiscriminatory access to DS3 Loops on an unbundled basis under the Amended Agreement in accordance with Section 3.1 above, 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law.

3.2.2 **FTTH Loops and Retirement of Copper Loops.**

3.2.2.1 **New Builds.** Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, Verizon shall not be required to provide nondiscriminatory access to a FTTH Loop on an unbundled basis where Verizon has deployed such a Loop to an end user's customer premises that previously has not been served by any Verizon Loop.

3.2.2.2 **Overbuilds.** Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT and subject to the conditions in this Section below, Verizon shall not be required to provide nondiscriminatory access to a FTTH 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:

- 3.2.2.3 Verizon shall maintain the existing copper Loop connected to the particular customer premises after deploying the FTTH Loop and provide nondiscriminatory access to that copper Loop on an unbundled basis unless Verizon retires the copper Loop pursuant to the terms of this Section 3.2.2.3.
- 3.2.2.4 If Verizon maintains the existing copper Loop pursuant to Section 3.2.2.3 above, until CLEC requests unbundled access to the loop, and such loop is to be placed back into service, Verizon need not incur any expenses to ensure that the existing copper Loop remains capable of transmitting signals. Upon receipt of such request, Verizon shall promptly restore the copper Loop to serviceable condition (as per Section 3.2.8 below).
- 3.2.2.5 If Verizon retires the copper Loop pursuant to Section 3.2.2.7 below, it shall provide nondiscriminatory access to 64 kilobits per second transmission paths capable of voice grade service over the FTTH Loop on an unbundled basis at TELRIC pricing.
- 3.2.2.6 Verizon shall not retire any copper Loop or copper Subloop and replace it with FTTH Loops unless it provides CLEC with notice of such retirement and that retirement has been approved consistent with the network disclosure requirements set forth in Section 3.2.2.7 below.
- 3.2.2.7 For retirement of copper Loops or copper Subloops that are replaced with FTTH Loops, Verizon shall file notice of such retirements with the FCC and CLEC at least 180 calendar days before the proposed retirement date. If the FCC approves the proposed retirement, and if the proposed retirement also meets any and all requirements of the Commission regarding the retirement of copper Loops, Verizon may proceed with the retirement consistent with Section 3.2.2.5 above. Notwithstanding the above, Verizon shall not retire any copper Loop or copper Subloop during the time that there is a pending Commission proceeding that is examining retirement rules. The requirements for the retirement of copper Loops also apply to the retirement of copper Subloops.
- 3.2.2.8 Verizon shall not make any changes to the underlying Loop architecture without providing notice of intent to make the change and notifying CLEC at least 180 calendar days before the actual change, and unless Verizon can demonstrate, in writing, if so requested by CLEC, that the proposed change will not, in any way, reduce the transmission capability of an unbundled Loop type employed by CLEC that would be affected by the change. In addition, Verizon shall not migrate CLEC copper Loops onto other network architectures without CLEC's prior approval.
- 3.2.2.9 Any approved network changes to the transmission characteristics of any Loop interface, including the retirement of a copper Loop or copper Subloop that have met the applicable

requirements of this Section 3.2.2, shall be implemented according to mutually agreeable change management procedures.

- 3.2.2.10 Verizon shall not engineer the transmission capabilities of its network in a manner, or engage in any policy, practice, or procedure, that disrupts or degrades CLEC's access to, or ability to tap the full capabilities of, a local loop or subloop. As such, Verizon's modification of loop plant (e.g., removing copper feeder facilities and stranding CLEC's access to distribution subloop) shall not limit or restrict CLEC's ability to access all of the loop features, functions and capabilities, including DSL capabilities, nor increase the price of any loop used by, or to be used by, CLEC. Furthermore, Verizon will not retire all or part of a copper loop facility or otherwise limit CLEC's access to copper loops unless Verizon has: (1) provided at least 180 days advance notice to CLEC of the planned modification; (2) offered alternative means for CLEC to serve affected and prospective customers with equivalent bandwidth and compatible protocol at no greater charge by Verizon had a copper loop remained available; and (3) received written acknowledgement from CLEC that the alternative is acceptable. In the event of a dispute, no change shall be implemented unless the Parties can resolve the dispute within 30 days, or, absent such resolution, the Commission approves the proposed change.

### 3.2.3 Hybrid Loops Generally.

3.2.3.1 **Broadband Services.** Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, as of the Amendment Effective Date, when CLEC 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, 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, Verizon shall provide CLEC with nondiscriminatory access under the Amended Agreement to the time division multiplexing features, functions, and capabilities of that Hybrid Loop, including DS1 or DS3 capacity (where impairment has been found to exist), on an unbundled basis, to establish a complete transmission path between the main distribution frame (or equivalent) in the end user's serving wire center 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.

3.2.3.2 **Narrowband Services.** Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, as of the Amendment Effective Date, when CLEC seeks access to a Hybrid Loop for the provision to its customer of "narrowband services," as such term is defined by the FCC, then in accordance with, but only to the extent required by, 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, Verizon may either (a) provide nondiscriminatory access under the Amended Agreement to a spare home-run copper Loop serving that customer on an unbundled basis, or (b) provide nondiscriminatory access under the Amended Agreement, on an unbundled basis, to an entire Hybrid Loop capable of voice-grade service (i.e., equivalent to DS0 capacity), using time division multiplexing technology. If CLEC specifies an unbundled copper loop in its order, Verizon shall provide an

unbundled copper loop, using Routine Network Modifications as necessary, unless no such facility can be made available via Routine Network Modifications.

3.2.3.3 Feeder. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, and subject to the provisions of Section 3.9 below, as of the Amendment Effective Date, Verizon shall not be required to provide access to the Feeder portion of a Loop on an unbundled, standalone basis.

#### 3.2.4 IDLC Hybrid Loops.

IDLC Hybrid Loops. Notwithstanding any other provision of the Agreement, Section 3.2.3 above, or any Verizon tariff or SGAT, as of the Amendment Effective Date, if CLEC 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) ("IDLC"), Verizon shall, unless precluded by 47 U.S.C. Section 251(c)(3), 47 C.F.R. Part 51, or other Applicable Law, provide CLEC unbundled access to a transmission path over Hybrid Loops served by IDLC systems, which shall be either through a spare copper facility or through the availability of Universal DLC systems. If neither of the aforementioned options is available, Verizon shall provide CLEC a technically feasible method of unbundled access. If CLEC specifies an unbundled copper loop in its order, Verizon shall provide an unbundled copper loop, using Routine Network Modifications as necessary, unless no such facility can be made available via Routine Network Modifications.

#### 3.2.5 Dark Fiber Loops.

Verizon shall continue to provide CLEC with nondiscriminatory access to dark fiber loops on an unbundled basis in accordance with Applicable Law.

#### 3.2.6 Network Interface Device

If CLEC requests access to a Loop, Network Interface Device ("NID") functionality shall be provided with such Loop and no additional NID charge shall be included.

3.2.7 Packet-based Loops. Where Verizon deploys a packet-based loop, Verizon must provide non-discriminatory access to at least 64 kbps loop connections that have software defined paths and performance parameters, and that meet service parameters (delay, sustained cell rate, call loss and peak cell rate) suitable for common telecommunication services and IP Enabled services.

3.2.8 Verizon must provide timely access to unbundled loops (i.e., the lesser of 3 days or the standard interval offered by Verizon to its retail customers). If Verizon is unable to provide timely access to unbundled loops (including causes due to lack of efficient processes or systems) and if Verizon has established, or can establish via Routine Network Modifications, broadband connectivity to the customer premise, then Verizon must provide timely access to a broadband loop (including all of the functions, features, and capabilities of the broadband loop) until such time as access to the requested unbundled loop is completed.

### 3.3 Line Sharing.

Notwithstanding any other provision in the Agreement or any Verizon tariff or SGAT, as of October 2, 2003:

3.3.1 Line Sharing.

- 1.1.1.1 Verizon shall provide nondiscriminatory access to Line Sharing on an unbundled basis pursuant Applicable Law.
- 1.1.1.2 The *Triennial Review Order* has no impact on the independent obligations on Verizon East pursuant to Section 271 of the Act, under which Verizon must provide Line Sharing on an unbundled basis, at just and reasonable Commission approved UNE rates.
- 1.1.1.3 Notwithstanding anything to the contrary, Line Sharing elements and facilities that are required to be unbundled pursuant to Applicable Law, and shall not be considered Nonconforming Facilities.
- 1.1.1.4 Pursuant to section 251(c)(3), Verizon shall also provision new Line Sharing arrangements under the Agreement. New Line Sharing arrangements means those arrangements serving end user customers acquired after October 2, 2003. Verizon shall provide new Line Sharing arrangements on a transitional basis pursuant to the rates, terms and conditions prescribed by the FCC in the *Triennial Review Order* and 47 C.F.R. Part 51, and as otherwise required by Applicable Law (including, but not limited to, 47 U.S.C. §271 and State Law).

3.3.1.2 Grandfathered Line Sharing. Any existing Line Sharing arrangement over a copper Loop or Subloop in place with an end user customer of CLEC will be grandfathered at existing rates, provided CLEC ordered xDSL service for that end user customer prior to October 2, 2003, and only so long as CLEC, or its successor or assign, has not ceased providing xDSL service to that end user customer at the same location.

3.3(A) Line Splitting

(a) Verizon shall provision Line Splitting arrangements under the Agreement pursuant to Applicable Law. Verizon shall enable CLEC to engage in line splitting using a splitter collocated at the Central Office.

(b) Verizon's obligation to provide CLEC with the ability to engage in line splitting applies regardless of whether the carrier providing voice service provides its own switching or obtains local circuit switching as an unbundled network element pursuant to Applicable Law.

(c) Verizon shall make all necessary network modifications, including providing nondiscriminatory access to operations support systems necessary for pre-ordering, ordering, provisioning, maintenance and repair, and billing for loops used in line splitting arrangements.

(d) CLEC may, at its option, utilize the LSR process to order line splitting.

### 3.3 (B) Line Conditioning

(a) Verizon shall condition a copper loop, at no cost, where CLEC seeks access to a copper loop, the high frequency portion of a copper loop, or a copper Subloop to ensure that the copper loop or copper Subloop is suitable for providing digital subscriber line services, including those provided over the high frequency portion of the copper loop or copper Subloop, whether or not Verizon offers advanced services to the end-user customer on that copper loop or copper Subloop.

(b) Insofar as it is technically feasible, Verizon shall test and report troubles for all the features, functions, and capabilities of conditioned copper lines, and may not restrict its testing to voice transmission only.

(c) Where CLEC seeks access to the high frequency portion of a copper loop or copper Subloop and Verizon claims that conditioning that loop or Subloop will significantly degrade, as defined in Section 51.233 of the FCC's rules, the voiceband services that Verizon is currently providing over that loop or Subloop, Verizon must either:

(i) Locate another copper loop or copper Subloop that has been or can be conditioned, migrate Verizon's voiceband service to that loop or Subloop, and provide CLEC with access to the high frequency portion of that alternative loop or Subloop; or

(ii) Make a showing to the Commission that the original copper loop or copper Subloop cannot be conditioned without significantly degrading voiceband services on that loop or Subloop, as defined in Section 51.233 of the FCC's rules, and that there is no adjacent or alternative copper loop or copper Subloop available that can be conditioned or to which the end-user customer's voiceband service can be moved to enable line sharing.

(d) If, after evaluating Verizon's showing under section 51.319(a)(I)(ii)(D)(2) of the FCC's rules, the Commission concludes that a copper loop or copper Subloop cannot be conditioned without significantly degrading the voiceband service, Verizon cannot then or subsequently condition that loop or Subloop to provide advanced services to its own customers without first making available to CLEC the high frequency portion of the newly conditioned loop or Subloop.

### 3.3(C) Maintenance, Repair, and Testing.

Verizon shall provide, on a nondiscriminatory basis, physical loop test access points to CLEC at the splitter, through a cross-connection to CLEC's collocation space, or through a standardized interface, such as an intermediate distribution frame or a test access server, for the purpose of testing, maintaining, and repairing copper loops and copper Subloops.

3.4 Subloop. Verizon shall provide CLEC with nondiscriminatory access to subloops on an unbundled basis at any technically feasible point (including at fiber distribution facilities) and pursuant to Section 251(c)(3) of the Act, Section 51.319(b) of the FCC's rules, and any other Applicable Law. One type of Subloop is Inside Wire Subloop, which is defined in Section 2.17 above. The subloop element shall include any and all the features, functions, and capabilities of the subloop, including, but not limited to: (i) loop concentration/multiplexing functionality, (ii) loop distribution, and (iii) on-premises wiring owned or controlled by Verizon. Verizon shall also provide any combination of subloop elements ordinarily combined in the Verizon network, and any pre-existing combination of subloop elements shall not be separated unless so directed by CLEC.

3.4.1 Copper Subloops. Verizon shall provide CLEC with nondiscriminatory access to a copper subloop on an unbundled basis. A copper subloop is a portion of a copper loop, or hybrid loop, comprised entirely of copper wire or copper cable that acts as transmission facility between any point of technically feasible access, as defined in Section 3.4.2 below, and the end-user customer premises. A copper subloop also includes all intermediate devices (including repeaters and load coils) used to establish a transmission path between a point of technically feasible access and the demarcation point at the end-user customer premises, and includes the features, functions, and capabilities of the copper loop. Copper subloops include two-wire and four-wire analog subloops as well as two-wire and four-wire subloops conditioned to transmit the digital signals needed to provide digital subscriber line services, regardless of whether the subloops are in service or held as spares

3.4.2 Point of Technically Feasible Access. A point of technically feasible access is any point in Verizon's outside plant owned or controlled by Verizon, or is at or near a multiunit premises, where it is technically feasible for a technician to access the wire or fiber within a cable without removing a splice case to reach the wire or fiber and thereby establish connectivity. Such points include, but are not limited to, a pole or pedestal, the serving area interface, the network interface device, the minimum point of entry, any remote terminal, the single point of interconnection, the feeder/distribution interface, and cross-connection panels deployed at the customer premises. Verizon shall upon a site-specific request by CLEC, provide access to a copper subloop at a splice near a remote terminal. Within thirty (30) days from the Amendment Effective Date, Verizon shall provide CLEC with a written proposal that describes in detail commercially viable methods that allow CLEC to access subloops in accordance with the terms of the Agreement, this Amendment and Applicable Law. Within ten (10) days of receipt of such proposal but in no case later than forty (40) days from the Amendment Effective Date, the Parties shall begin to negotiate mutually agreeable terms that effectuate commercially viable methods for CLEC to access subloops. The agreed upon methods shall be implemented within thirty (30) days after the Parties reach such agreement. Should the Parties not reach agreement within ninety (90) days from the Amendment Effective Date, either Party may pursue resolution of these issues pursuant to the dispute resolution provisions of the Amended Agreement and, to the extent they exist, the

expedited dispute resolution processes of such Agreement. Until these issues are resolved by the Parties, or during the pendency of any dispute resolution proceeding initiated by a Party to resolve these issues, Verizon shall, notwithstanding the terms in Section 3.1.3 above, provide CLEC with access to the full frequency/spectrum of copper/fiber Hybrid Loops.

- 3.4.3 Collocation. Access to the copper subloop shall be subject to sections 51.321 and 51.323 of the FCC's collocation rules; provided, however, no collocation requirement may be imposed by Verizon at a customer's premises when CLEC uses the same or similar space to access Inside Wire Subloops.
- 3.4.4 Access to Multiunit Premises Wiring. Verizon shall provide CLEC with nondiscriminatory access to Inside Wire Subloops for access to multiunit premises wiring on an unbundled basis regardless of the capacity or type of media (including, but not limited to copper, coax, radio and fiber) employed for the Inside Wire Subloop.
- 3.4.5 Single Point of Interconnection. Upon notification by CLEC that it requests interconnection and/or access to unbundled Inside Wire Subloops, at a multiunit premises and, if so requested by CLEC, Verizon shall provide a single point of interconnection (SPOI) that is suitable for use by multiple carriers. This obligation shall be in addition to Verizon's obligations, under section 51.319 (b) (2) of the FCC's rules, to provide nondiscriminatory access to a subloop for access to multiunit premises wiring, including any inside wire, at any technically feasible point and in any technically feasible manner (with Verizon having the burden of demonstrating infeasibility). Unless mutual agreement is reached with respect to completion of SPOI construction, Verizon shall complete the construction of the SPOI and provide CLEC with unrestricted access thereto not more than forty-five (45) days from receipt of a request by CLEC to construct a SPOI. Upon completion of the SPOI, Verizon agrees Verizon shall access all customers it serves at that location through the same SPOI. Verizon charges shall recover only total element long-run incremental cost for constructing any such SPOI. The charges for the SPOI shall be recovered in a nondiscriminatory manner from all carriers (including the portion used by Verizon) using the SPOI. If, within fifteen (15) days from Verizon's receipt of a request from CLEC to construct a SPOI, Verizon and CLEC are unable to negotiate rates, terms, and conditions under which Verizon will provide this single point of interconnection, then any issues in dispute regarding this obligation shall be resolved in state proceedings under Section 252 of the Act. Notwithstanding arbitration of the rates, if Verizon has not completed construction the SPOI and provided access to CLEC within forty-five (45) days of CLEC's request, CLEC may elect to deploy its own cross connection configuration and connect it to the existing Verizon access point with no further financial obligation to Verizon. If the Verizon SPOI is subsequently made operational and pricing resolved, then Verizon may re-terminate the CLEC cross-connections, without additional charge to CLEC provided that CLEC may obtain a mutually agreeable customer release schedule. Verizon may, at its own option and expense, deploy a multi-carrier SPOI but only if that deployment does not delay CLEC access to customers in the MTE.
- 3.4.6 Technical Feasibility. If Verizon and CLEC are unable to reach agreement through voluntary negotiations as to whether it is technically feasible, or whether sufficient space is available, to unbundle a copper subloop or subloop for access to multiunit premises wiring at the point where CLEC requests, Verizon shall have the burden of demonstrating to the state commission, in state proceedings under Section 252 of the Act, that there is not sufficient space

available, or that it is not technically feasible to unbundle the subloop at the point requested by CLEC.

- 3.4.7 Best Practices. Once one state commission has determined that it is technically feasible to unbundle subloops at a designated point, Verizon, in any state, shall have the burden of demonstrating to the state commission, in state proceedings under Section 252 of the Act, that it is not technically feasible, or that sufficient space is not available, to unbundle its own subloops at such a point.
- 3.4.8 Connection to Subloops. Connection to subloops (including the network interface device (NID), including but not limited to directly accessing the customer side or network side of the cross-connection device owned or controlled by Verizon, may be performed by CLEC technicians or its duly authorized agents, at its option, (i) without the presence of Verizon technicians, and (ii) at no additional charge by Verizon. Such connecting work performed by CLEC may include but is not limited to lifting and re-terminating of cross-connection or cross-connecting new terminations at accessible terminals used for subloop access. No supervision or oversight by Verizon personnel shall be required but Verizon may monitor the work, at its sole expense, provided Verizon does not delay or otherwise interfere with the work being performed by CLEC or its duly authorized agents.
- 3.4.9 Network Interface Device. Apart from its obligation to provide the NID functionality as part of an unbundled loop or subloop as set forth in Section 3.2.6 above, Verizon shall provide nondiscriminatory access to the NID on an unbundled basis. Verizon shall permit CLEC to connect its own loop facilities to on-premises wiring through Verizon's NID, or at any other technically feasible point.

### 3.5 Unbundled Local Switching.

- 3.5.1 Unbundled Local Circuit Switching. Verizon shall provide CLEC with non-discriminatory access to Local Circuit Switching, including Tandem Switching, and all Signaling and Call-Related Databases associated with such Local Circuit and Tandem switching, on an unbundled basis, in accordance with Applicable Law.
- 3.5.1.1 Mass Market Switching. Verizon shall provide Mass Market Switching to CLEC under the Amended Agreement. Such Mass Market Switching will be provided on a nondiscriminatory, unbundled basis, in accordance with 47 U.S.C. 251(c)(3), 47 C.F.R. Part 51, Section 3.1 (including but not limited to Section 3.1.13) above or other Applicable Law.
- 3.5.1.2 Enterprise Switching. Verizon shall be obligated to provide CLEC with nondiscriminatory access to Enterprise Switching where the Commission has ordered Verizon to provide Enterprise Switching under state law or pursuant to Section 271 (applicable where Verizon is an RBOC).

3.5.2 End-User Transition. Except as set forth in Section 3.1.8 above, the Parties agree to implement the FCC's final rules with respect to Local Circuit Switching in accordance with an operational plan agreed to by the Parties. To the extent that the Parties are unable to agree to such a plan within 60 days from the effective date of the final rules, the dispute shall be resolved in accordance with the Dispute Resolution provisions of the Parties' Agreement.

3.5.3 Signaling and Call-Related Databases. Verizon shall provide access to Signaling and Call-related Databases under the Amended Agreement in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law. Specifically, notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, as of the Amendment Effective Date, Verizon shall provide Signaling and Call-Related Databases only in conjunction with the provision of Local Switching or Tandem Switching that Verizon is otherwise obligated to make available to CLEC under the Amended Agreement; *provided, however*, that Verizon shall continue to provide nondiscriminatory access to the 911 and E911 Call-Related Databases in accordance with, unless precluded by, 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law. Where Local Switching or Tandem Switching associated with a particular Signaling facility or Call-Related Database is or becomes a Declassified Network Element, the associated Signaling facility or Call-Related Database associated with that Local Switching or Tandem Switching facility shall also be subject to the same transitional provisions in Section 3.9 (except for the 911 and E911 Call-Related Databases, as noted above).

3.6 Unbundled Interoffice Facilities.

3.6.1 **[INTENTIONALLY OMITTED]**

3.6.2 Dedicated Transport. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT and subject to the provisions of Section 3.1 above, and in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law:

3.6.2.1 Upon CLEC's request, Verizon shall provide CLEC with nondiscriminatory access to DS1 Dedicated Transport and DS3 Dedicated Transport on an unbundled basis pursuant to the Amended Agreement. For the avoidance of doubt: (a) a transmission facility or service that uses an OCn interface is a Declassified Network Element; and (b) Dedicated Transport includes transport between a Verizon wire center or switch and Verizon's facilities located at a CLEC's premises.

3.6.2.2 Section 251(c)(2) Interconnection Facilities. Interconnection facilities and equipment provided pursuant to 47 U.S.C. Section 251(c)(2) ("Interconnection Facilities") are not unbundled Network Elements provided pursuant to 47 U.S.C. Section 251(c)(3) and nothing in this Amendment is intended to impair or limit in any way CLEC's rights to obtain access to 251(c)(2) Interconnection Facilities. Interconnection Facilities include, but are not limited to, transport facilities and equipment between the CLEC switch and the Verizon Tandem Switch, or other Point of Interconnection designated by CLEC, used for the exchange of traffic between CLEC and Verizon. Interconnection Facilities are to be provided by Verizon to CLEC at rates consistent with the TELRIC pricing principles established by the FCC and the Commission.

3.6.3 Dark Fiber Transport. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT and subject to the provisions of Section 3.1 above, and in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, upon CLEC's request Verizon shall provide CLEC with nondiscriminatory access to Dark Fiber Transport on an unbundled basis pursuant to the Amended Agreement.

3.7 Commingling, Conversions, and Combinations.

3.7.1 Commingling and Conversions. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, and subject to the conditions set forth in the following Section 3.7.2, as of October 2, 2003 Verizon shall permit CLEC to commingle a Network Element or Combination or Declassified Network Elements with wholesale services obtained from Verizon, and to also convert wholesale services to a UNE or Combination. Commingling is defined as set forth in FCC Rule 51.5. Verizon shall, upon request of CLEC, perform the functions necessary to commingle a Network Element or Combination with one or more facilities or services or inputs that CLEC has obtained at wholesale from Verizon. Verizon shall not impose any policy or practice related to commingling that imposes an unreasonable or undue prejudice or disadvantage upon CLEC, and in no event shall Verizon impose any policy or practice relating to commingling that is inconsistent with Section 3.7.2 below. Subject to Section 3.7.2.2, the rates, terms and conditions of the applicable access tariff will apply to wholesale services, and the rates, terms and conditions of this Amended Agreement or the Verizon UNE tariff, as applicable, will apply to Network Elements or Combinations or to the Declassified Network Elements as set forth in Exhibit A to this Amended Agreement. "Ratcheting," as that term is defined by the FCC, shall not be required. In addition, Verizon shall cooperate fully with CLEC to ensure that operational policies and procedures implemented to effect Commingled arrangements shall be handled in such a manner as to not operationally or practically impair or impede CLEC's ability to implement new Commingled arrangements and convert existing arrangements to Commingled arrangements in a timely and efficient manner and in a manner that does not affect service quality, availability, or performance from the end user's perspective. For the avoidance of doubt, Verizon acknowledges and agrees that the language of this Amendment complies with and satisfies the requirements of Verizon's wholesale and access tariffs with respect to Commingling. Verizon shall not change its wholesale and access tariffs in any fashion that impacts the availability or provision of Commingling under this Amendment or the Agreement, unless Verizon and CLEC have amended this Amendment and the Agreement in advance to address Verizon's proposed tariff changes.

3.7.2 Service Eligibility Criteria for Certain Combinations, Conversions and Commingled Facilities and Services. CLEC and Verizon agree to comply with the requirements for use of Network Elements as set forth in the TRO, including the service eligibility criteria established by the TRO and set forth in Rule 51.318, for high capacity loop and transport combinations known as EELs. For the avoidance of any doubt, to the extent that commingling restrictions applied prior to the TRO, such restrictions applied to EELs only.

3.7.2.1 To the extent the service eligibility criteria for high capacity EELs apply, CLEC shall be permitted to self certify its compliance with these criteria. CLEC may elect to self-certify using a written or electronic notification sent to Verizon. CLEC must remain in compliance with said service eligibility criteria for so long as CLEC continues to receive the aforementioned combined, converted, or commingled facilities and/or services from Verizon. The service eligibility criteria shall be applied to

each DS1 circuit or DS1 equivalent circuit. The foregoing shall apply whether the 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.

3.7.2.2 There will be no charges for conversion from wholesale to Network Elements or UNE combinations, unless a specific tariff charge has been approved for that purpose.

3.7.2.3 Any substitution of Network Elements for wholesale services shall be subject to all of the requirements of the Agreement applicable to the purchase of Network Elements and Combinations, and shall include without limitation the following:

3.7.2.4. When a wholesale service employed by CLEC is replaced with Network Elements, Verizon shall not physically disconnect, separate, alter or change in any other fashion equipment and facilities employed to provide the wholesale service, except at the request of CLEC.

3.7.2.5 Verizon shall process expeditiously all conversions requested by CLEC without adversely affecting the service quality perceived by CLEC's end user customer.

3.7.2.6 Until such time as Verizon implements its ASR-driven conversion process in the East, conversion of access circuits to unbundled Network Elements will be performed manually pursuant to Verizon's conversion guidelines. CLEC may request conversions of any existing service or group of services to Network Elements by submitting a written or electronic request. Except where CLEC specifically requests that Verizon physically disconnect, separate, alter or change the equipment and facilities employed to provide the wholesale service being replaced, the conversion order shall be deemed to have been completed effective upon receipt by Verizon of the written or electronic request from CLEC, and recurring charges for Network Elements set forth in Verizon's applicable tariffs shall apply as of such date. For the avoidance of any doubt, conversion requests issued after the effective date of the TRO, but before the effective date of this Amendment ("Pending Requests"), shall be deemed to have been completed on the Effective Date of this Amendment. For these pending requests, retroactive adjustments between the applicable Network Element charges and the previously applicable charges shall be calculated back to the date that Verizon received notice from CLEC of the Pending Request. The Network Element charges for all conversion requests (including any retroactive adjustments) shall be reflected in the first billing cycle following the effective date of the conversion. If that bill does not reflect the appropriate charges, CLEC is nevertheless obligated to pay no more than the applicable Network Element rate.

Pricing changes for conversion requests submitted after the Amendment Effective Date shall become effective upon receipt by Verizon of CLEC's request and shall be made by Verizon in

the first billing cycle after such request. If that bill does not reflect the appropriate charge adjustment, CLEC may withhold payment in an amount that reflects the amount of the adjustment that should have been made on the bill for the applicable conversions. Where CLEC specifically requests that Verizon physically disconnect, separate, alter or change the equipment and facilities employed to provide the wholesale service, recurring charges set forth in Verizon's applicable tariffs and applicable to Network Elements shall apply effective upon the earlier of (a) the date on which Verizon completes the requested work or (b) the standard interval for completing such work (in no event to exceed 30 days), regardless of whether Verizon has in fact completed such work. Verizon shall bill CLEC pro rata for the wholesale service through the date prior to the date on which billing at Network Element rates commences pursuant to this Section. The effective bill date for conversions is the first of the month following Verizon's receipt of an accurate and complete ASR or electronic request for conversion pursuant to Verizon's conversion guidelines.

- 3.7.2.7 All ASR-driven conversion requests will result in a change in circuit identification (circuit ID) from access to UNE or UNE to access.
  
- 3.7.2.8 On an annual basis (i.e., one 12-month period), Verizon may, pursuant to the terms and conditions of this section, obtain and pay for an independent auditor to audit CLEC's compliance in all material respects with the service eligibility criteria applicable to EELs. Such annual audit will be initiated only to the extent reasonably necessary to determine CLEC's compliance with Applicable Law. CLEC and the FCC shall each be given thirty (30) days' written notice of a scheduled audit. 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 at the same time it provides the report to Verizon. To the extent the independent auditor's report concludes that CLEC failed to comply in all material respects with the service eligibility criteria, then CLEC will promptly take action to correct the noncompliance and true up any difference in payments and reimburse Verizon for the cost of the independent auditor within thirty (30) days after receiving a statement of such costs from Verizon. Should the independent auditor confirm CLEC's compliance in all material respects with the service eligibility criteria, then CLEC shall provide to the independent auditor a statement of CLEC's costs of complying with any requests of the independent auditor, and Verizon shall then reimburse CLEC for its costs associated with the audit within thirty (30) days after receiving CLEC's statement. CLEC shall maintain records adequate to support its compliance with the service eligibility criteria for each DS1 or DS1 equivalent circuit.

3.8 Routine Network Modifications.

3.8.1 General Conditions. Routine Network Modifications are those prospective or reactive activities that Verizon regularly undertakes when establishing or maintaining network connectivity for its own retail customers. Determination of whether a modification is “routine” shall be based on the tasks associated with the modification, not on the end-user service that the modification is intended to enable. In accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, Verizon shall make such Routine Network Modifications in a nondiscriminatory fashion as are necessary to permit access by CLEC to the Loop (including Dark Fiber Loops), Dedicated Transport, and Dark Fiber Transport facilities available under the Amended Agreement, including DS1 Loops and DS1 Dedicated Transport, and DS3 Loops and DS3 Dedicated Transport. Where facilities are unavailable, Routine Network Modifications do not include trenching, the pulling of cable, the construction of new Loops or Transport or the installation of new aerial or buried cable to provision an order of CLEC. Verizon shall perform Routine Network Modifications without regard to whether the facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier. Routine Network Modifications applicable to Loops or Transport may include, but are not limited to: rearranging or splicing of in-place cable; adding an equipment case; adding a doubler or repeater; line conditioning; adding a smart jack; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; accessing manholes; attaching electronic and other equipment that Verizon ordinarily attaches to a DS1 Loop to activate such Loop for its own customer; and deploying bucket trucks to reach aerial cable. Routine Network Modifications applicable to Dark Fiber Transport may include, but are not limited to, splicing of in-place dark fiber; accessing manholes; deploying bucket trucks to reach aerial cable; installing equipment casings; and routine activities, if any, needed to enable CLEC to light a Dark Fiber Transport facility that it has obtained from Verizon under the Amended Agreement. **The costs for these Routine Network Modifications are already included in the existing rates for the unbundled Network Elements as set forth in the Agreement.**

3.8.2 Performance. Verizon’s performance in connection with the provisioning of unbundled Network Elements for which Routine Network Modifications are necessary remains subject to standard provisioning intervals, and to performance measures and remedies, if any, contained in the Amended Agreement or under Applicable Law. Routine Network Modifications must be completed by Verizon within the same timeframe applicable to similar network modifications made by Verizon to provide comparable functionality to its own retail customer.

### 3.9 Transitional Provisions for Declassified Network Elements.

In accordance with 47 U.S.C. Sec. 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, Verizon and CLEC will abide by the following transitional procedures with respect to the Declassified Network Elements identified in 3.9.1.

3.9.1 With respect to and including only the Enterprise Switching, OCn, Loops, OCn Dedicated Transport, Feeder Subloop and Packet Switching Declassified Network Elements, Verizon will notify CLEC in writing as to any particular unbundled facility previously made available to CLEC that is or has become a Declassified Network Element, as defined herein (“Identified Facility”). For purposes of the Agreement and this Amendment, such Identified Facilities shall be considered Declassified Network Elements. The notice shall include sufficient information to enable CLEC to identify the Identified Facility or Facilities. If the notice does not contain sufficient information to

enable CLEC to identify the Identified Facility, CLEC may, in writing, reject the notice and request additional information. For the avoidance of any doubt, Identified Facilities can only include the following: OCn Loops; OCn transport; Packet Switching; Local Switching that serves capacities of DS1 and above; and Feeder Subloop.

**3.9.2 For any Packet Switching or Feeder Subloop that Verizon notices as an Identified Facility,** Verizon shall continue to provide any such Identified Facility without change to CLEC on a transitional basis. At any time after CLEC receives notice from Verizon pursuant to Section 3.9.1 above, but no later than the end of 120 days from the date CLEC received notice, CLEC shall either request disconnection; submit a request for analogous access service; identify and request another alternative service arrangement, or object to the proposed declassification if the Identified Facility should not be declassified based on Applicable Law. If CLEC identifies an alternative service arrangement, or analogous access service, or if CLEC objects to the declassification of the Identified facility, and the Parties cannot agree to the applicable rates, terms and conditions of the Identified Facility within 60 days after CLEC's request or objection, either Party may submit a request to the Commission to resolve the issue. Until the issue is resolved by the Parties, or during the pendency of any Commission proceeding initiated by a Party to resolve the issue, Verizon shall continue to provide the Identified Facility without change.

**3.9.3 For OCn Loops, OCn transport, and Local Switching that serves capacities of DS1 and above that Verizon notices as an Identified Facility,** Verizon shall continue to provide any such Identified Facility without change to CLEC consistent with the provisions set forth herein. At any time after CLEC receives written notice from Verizon pursuant to Section 3.9.1 above, but no later than the end of the 120 days from the date CLEC received such notice, CLEC shall either request disconnection; submit a request for analogous access service; submit a request for an analogous Declassified Network Element pursuant to Exhibit A attached hereto and made a part hereof, identify another alternative service arrangement, or object to the proposed declassification if the Identified Facility should not be declassified based on Applicable Law. If CLEC identifies an alternative service arrangement, or analogous access service, or if CLEC objects to the declassification of the Identified facility, and the Parties cannot agree to the applicable rates, terms and conditions of the Identified Facility within 60 days after CLEC's request or objection, either Party may submit a request to the Commission to resolve the issue. Until the issue is resolved by the Parties or during the pendency of any Commission proceeding initiated by a Party to resolve the issue, Verizon shall continue to provide the Identified Facility without change.

**3.9.4 Verizon shall not impose any termination charges associated with the conversion or any discontinuance of any Identified Facility and the conversion shall take place in a seamless manner without any customer disruption or adverse effects to service quality.** When conversion is to an analogous access service or analogous Declassified Network Element, Verizon shall perform such conversion on a single order. Verizon shall not assess CLEC any non-recurring charges for such conversion.

**3.9.5 Notwithstanding any other provision of the Amended Agreement, for any Declassified Network Element that Verizon remains obligated to provide as an unbundled network element pursuant to 47 U.S.C. 271 or other Applicable Law, Verizon shall provide the Network Element without interruption pursuant to the terms and conditions set forth in the Agreement. Verizon shall provide the Network Elements at TELRIC under section 271 "just and reasonable" pricing standard.**

**3.10 Hot Cuts**

3.10.1 CLEC and Verizon shall perform Hot Cut processes in accordance with Exhibit B, annexed hereto.

3.10.2 The Parties shall amend the applicable performance metrics/standards/measurements and remedies provisions ("Metrics/Remedies Terms") of the Agreement in accordance with Exhibit C annexed hereto. They shall have thirty (30) days from the Amendment Effective Date to negotiate mutually agreeable terms that effectuate the concepts addressed in Exhibit C. If Metrics/Remedies Terms are not already included in the Agreement, the Parties shall utilize Exhibit C to amend the Agreement to include such terms for Hot Cuts. The agreed upon measures and remedies for Hot Cuts shall be implemented within thirty days thereafter. Should the Parties not reach agreement within thirty (30) days, either Party may pursue resolution of these issues pursuant to the Dispute Resolution provisions of the Amended Agreement.

In the case of any finding of non-impairment by the Commission, the FCC or any court of competent jurisdiction with respect to unbundled Mass Market Switching, Verizon will continue to provide CLEC access to unbundled Mass Market Switching under the same rates, terms and conditions as before any finding of non-impairment, until the later of (a) such time as Batch Hot Cut, Large Job Hot Cut and Individual Hot Cut Performance Metrics and Remedies have been adopted and implemented with stable performance as part of this Amended Agreement and in accordance with Exhibit C annexed hereto or (b) the transition period set forth by the Commission, the FCC or a court of competent jurisdiction for discontinuing the unbundling of Mass Market Switching.

**EXHIBIT A to Amendment No. \_\_\_\_**  
**to the Interconnection Agreement between**  
**[VERIZON LEGAL ENTITY] and [CLEC LEGAL ENTITY]**

**1.0 Introduction**

1.1 The following terms are applicable to those Network Elements that Verizon is no longer required to provide on an unbundled basis pursuant to the terms of the Agreement after Amendment Effective Date of the TRO. For any such network elements that also qualify as an Identified Facility pursuant to Section 3.9 of Amendment No. \_\_\_\_ to the Agreement, and for which CLEC has submitted a request for a Declassified Network Element, Verizon shall also comply with the transition requirements set forth in that section.

1.2 Upon request, Verizon shall make available to CLEC the following Declassified Network Elements under the rates, terms and conditions set forth in this Exhibit:

- OCn loops,
- OCn transport,
- local switching that serves capacities of DS1 and above,

**2.0 OCn Access**

Verizon shall provide OCn access as set forth in this Section. OCn is an optical interface designed to work with a Synchronous Optical Network (SONET). SONET is an optical interface standard for translating electronic communications signals into photonic signals for transmission across fiber optic facilities. Ideally, SONET transmission systems are laid out in a ring formation to provide redundancy. OCn transmission facilities are deployed as SONET channels having a bandwidth of typically 155.52 Mbps (OC3 or the equivalent capacity of 3 DS3s) and higher, e.g., OC12 (622.08 Mbps); OC48 (2.488 Gbps).

**2.1 Declassified OCn Loops**

2.1.1 Verizon shall provide access to a Declassified OCn Loop. The Declassified OCn Loop, is a transmission facility between a distribution frame, or its equivalent, in an incumbent LEC central office, and the loop demarcation point at the end user premises. The Declassified OCn Loop shall be terminated at an appropriate network interconnect device. Specifically, CLEC shall have access to the NID and any associated Inside Wire Subloop pursuant to the rates, terms and conditions of the Agreement. The Declassified OCn Loop also includes all features, functions, and capabilities of such transmission facility. Those features, functions, and capabilities include, but are not limited to, attached electronics (except those electronics used for the provision of advanced services). Access to the Declassified OCn Loop shall also include the use of all test access functionality, including without limitation, smart jacks, for both voice and data. The OCn loop includes the secondary or redundant transmission path between the loops end points (or diverse virtual path if a physical diverse path is not technically feasible). Notwithstanding the foregoing, when Verizon deploys such technology as Next Generation Digital Loop Carrier (NGDLC), the OCn loop may include one or more transmission facilities between one or more distribution frames, digital loop carriers (DLC) and remotely deployed DSLAM, owned or controlled by Verizon.

- 2.1.2. Declassified OCn Loops are subject to the transmission, transmission-related functionalities and other OCn requirements as set forth in the Agreement.
- 2.1.3 Declassified OCn Loops also shall be subject to the loop requirements set forth in the Agreement, and shall be provided at just and reasonable rates.

**2.2 Declassified OCn Dedicated Transport**

- 2.2.1 In addition to providing access to Declassified Dedicated Transport as set forth in the Agreement, Verizon will also provide access to the Declassified OCn Dedicated Transport, between any Verizon switch, serving wire center or other Verizon location, or between any Verizon switch, serving wire center or other Verizon location and an CLEC switch, serving wire center or other CLEC location at OC3 (155.520 Mbps) and OC12 (622.080 Mbps) interfaces. In addition, Verizon offers OC48 (2488.320 Mbps) bandwidth as an option for interoffice capacity. CLEC may request other interface options pursuant to the BFR process.
- 2.2.2 When Verizon provides Declassified OCn Dedicated Transport as a circuit or a system, the entire designated transmission circuit or system shall be dedicated to CLEC's use.
- 2.2.3 OCn Declassified Dedicated Transport shall meet the technical requirements set forth in the Agreement. Verizon also shall provide cross-office wiring up to a suitable Point of Termination (POT) between Declassified Dedicated Transport and CLEC designated equipment, and shall provide a fiber cross connect for optical signals for the physical POT.
- 2.2.4 OCn dedicated access shall be provided in accordance with the requirements set forth in the Agreement; and shall be provided at just and reasonable rates.

**3.0 Declassified Enterprise Local Switching**

- 3.1 Verizon shall provide access to Declassified Enterprise Local Switching, including Tandem Switching. Declassified Enterprise Local Switching is local switching, as that term is defined in the Agreement, that serves capacities of DS1 and above. Tandem Switching establishes a communications path between two switching offices through a third switching office.
- 3.2 Verizon agrees to provide Declassified Enterprise Local Switching under the same terms and conditions as set forth in the Agreement, and at just and reasonable rates.

5.3 Verizon shall provide the following interfaces with Declassified Enterprise Local Switching:

- DS1 (DID) trunk side associated with a PBX
- DS1 (IOF) trunk side, associated with Dedicated Transport

**4.0 Additional Requirements**

Verizon agrees to offer the Declassified Network Elements set forth in this Exhibit A consistent with the applicable cooperative testing requirements as may be set forth in the Agreement, and shall also comply with the commingling requirements in Section 3.7 of the Amendment, and the Routine Network Modification requirements in Section 3.8 of the Amendment.

**Exhibit B to Amendment No. \_\_\_**

**to the Interconnection Agreement**

**between [Verizon Legal Entity] and [CLEC Legal Entity]**

**HOT CUT PROCESSES**

**1.0 Hot Cuts shall be defined as the transfer of a loop from one carrier's switch to another carrier's switch.** The loop hot cut procedure shall be designed (and shall be modified from time to time as necessary) to ensure that Parties are able to transfer commercial volumes of customers from one Party's to the other Party's services on a timely basis and without perceptible disruption in service. A perceptible disruption in service shall be deemed to have occurred if the customer can notice a lack of dial tone, or if an existing call is disrupted or disconnected by the change. The process shall address acceptance/turnover process elements including but not limited to the following:

- order initiation and verification;
- order changes;
- dial tone and ANI check;
- no dial tone found at testing and resolution;
- Verizon and CLEC contact information;
- due date updates;
- cut complete and stop cut procedures;
- problem identification and status updates;
- service (facility/translation) restoration, explanation and verification;
- records/database updates;
- escalation procedures; and
- order completion, service verification and acceptance.

**2.0 Development and use of provisioning tracking system to permit exchange of status information between CLEC and Verizon**

Verizon shall give CLEC real time electronic notification of order status, testing status, and notification of individual loop cut completion. e.g., No dial tone, go-ahead for cut, cut completion, loop acceptance.

**3.0 Cross Connects**

Verizon shall conduct installation of cross-connects on MDF for purpose of provisioning UNE-L line splitting. Verizon shall permit, but not require, cage-to-cage cabling between data and voice CLECs.

**4.0 Concurrent development and implementation of batch hot cut process (see, Section 6.0)**

The process must enable CLEC to access necessary circuit id information from Verizon to facilitate CLEC to CLEC migration.

**5.0 Conversion Coordination Procedures**

The following coordination procedures shall apply to conversions of customers with active service to a service configuration where CLEC uses Loops provided by Verizon (hereinafter referred to as "hot cuts")

5.1 CLEC shall request unbundled Loops from Verizon by delivering to Verizon a valid Service Order using Verizon electronic ordering platform (as cooperatively designed and implemented to

meet the minimum requirements for information exchange needed to order and provision services to certified local exchange carriers and enhanced to support industry standards as developed for interconnection services) or another mutually agreed upon system. CLEC is not required to pre-qualify that a loop can be migrated. Within **XX** hours of Verizon's receipt of a Service Order, Verizon shall provide CLEC the firm order confirmation ("FOC") date according to the applicable Performance Interval Dates set forth in [ ] (Performance Standards, Measurements and Penalties) of this Agreement by which the Loop(s) covered by such Service Order will be installed. A FOC is both an acknowledgement of the receipt of a valid order as well as a commitment that the order will be worked as specified in the FOC and completed by the FOC date.

5.2 Verizon agrees to accept from CLEC at the time the service request is submitted for scheduled conversion of hot cut Loop orders, a desired date, including but not limited to weekend dates, and time (the "Scheduled Conversion Time") in the "A.M." (12:01 midnight to 12:00 noon) or "P.M." (12:01 noon to 12:00 midnight) (as applicable, the "Conversion Window") for the hot cut. Verizon shall promptly acknowledge receipt of CLEC's request for a Scheduled Conversion Time, and shall also promptly advise CLEC as to whether or not such Scheduled Conversion Time will be met by Verizon. If Verizon is unable to meet the Scheduled Conversion Time requested by CLEC, in its response to CLEC Verizon shall advise as to an appropriate Scheduled Conversion Time that Verizon will meet.

5.3 Verizon shall pre-wire the pending hot cut no later than two days (or 48 hours) hours prior to the scheduled conversion time. CLEC will establish dial-tone for the customer at least two (2) business days in advance of the scheduled port time. Verizon shall perform two (2) tests for ANI and dial tone. Verizon technicians will perform ANI and dial tone tests through the tie cable provisioned between Verizon's main distribution frame and the CLEC expanded interconnection point to ensure continuity and existing dial tone. In addition, Verizon will perform ANI and dial tone testing on the existing unbundled Loop to insure that Verizon has identified the correct facility and that it is working. Such testing shall be completed by Verizon no later than XX hours prior to the scheduled conversion time. If Verizon finds no dial tone, Verizon shall immediately notify CLEC of this finding and promptly seek to rectify the situation so that dial tone is provided by the scheduled conversion time.

5.4 Except as otherwise agreed by the Parties, the time interval for the hot cut shall be monitored and shall conform to the performance standards and consequences for failure to meet the specified standards as reflected in [ ] (Performance Standards, Measurements and Penalties) of this Agreement.

5.5 After receiving notification of completion of the hot cut by Verizon, CLEC will confirm operation of the loop[s]. In the event the loop[s] is not functional, CLEC may request that a loop be tested in the central office. Upon such a request, Verizon's Central Office Technician will check for dial-tone and ANI on the line at the CLEC POI. If no dial-tone is found at this point, the Central Office Technician will refer the trouble back to CLEC. If CLEC cannot isolate the trouble on its side of the network, CLEC will request a meeting between the CLEC Technician and Verizon Central Office Technician to resolve the problem.

If Verizon's Central Office Technician finds dial-tone at the CLEC POI, a second dial-tone and ANI test will be performed at the last test point within Verizon's Central Office. If a problem is found at this point, Verizon Central Office Technician will isolate the problem, review the cross connects at the main distribution frame, and correct the problem. If Verizon's Central Office Technician cannot isolate the problem with the dial tone leaving the central office, a dispatch of a field technician will be required.

Verizon's field technician shall then test for dial tone to any extended demarcation point at the customer's premises that may be associated with that order.

If Verizon cannot isolate and fix the problem in a timeframe acceptable to CLEC or the customer, CLEC will be able to request the restoral for the customer to service on Verizon network. Such restoration shall occur immediately, and shall be consistent with the time required to reconnect the customer's loop to

Verizon's network. Further, CLEC customers shall not be subjected to any Verizon process delay designed for new or returning customers.

5.6 Should the customer experience trouble within 24 hours of loop acceptance by CLEC, Verizon agrees to restore the customer to service on Verizon's switch within XX hours of receiving oral request from CLEC to return service to Verizon. CLEC shall reschedule migration of the customer's service to CLEC by issuing a supplement to the original local service request.

5.7 Verizon will ensure that it processes CLEC requests for cancellation of local service requests in a time frame that allows CLEC to accurately maintain its CFA records.

## **6.0 Batch Hot Cut Process**

A batch hot cut process shall comply with the process and requirements defined for individual hot cuts in Section 1.0 in addition shall comply with the terms as described below.

6.1 CLEC shall have access to UNE-P as a customer acquisition process in anticipation of application of batch conversion process.

6.2 Batch process must include all mass-market (residential and small business served at DS0 level) customers, all types of loops used to serve such customers, and all types of transfers between LECs including but not limited to:

retail to UNE-L

UNE-P to UNE-L (same local service provider)

migrations to and from DS0 EELs

Migrations to and from line-splitting

Migrations from line sharing

UNE-P to UNE-L (different local service provider [(CLEC to CLEC)])

UNE-L to UNE-L

UNE-P to TSR

UNE-P to DS0 EEL

In addition to existing UNE-P customers served over copper, UDLC and NGDLC, the process must apply to customers served over IDLC Loops

6.3 Batch Size Requirements (irrespective of loop type to be converted) are set forth below:

6.3.1 Batch shall include only migrations to CLEC.

6.3.2 CLEC shall be permitted to migrate up to 300 lines, per day, per central office. There shall be no other restrictions on number of lines to be converted per day (such as # of COs, etc.)

6.3.3 Minimum migration shall be 20 lines per hour.

6.4 Timing of Batch Conversions shall be as set forth below:

6.4.1 Batch migration shall have an interval of five days.

6.4.2 Verizon shall specify the order of the lines to be cut (i.e., the 20 line minimum.) within a specific one-hour window, and report such "line-up" back to CLEC via electronic tracking system described in section [2.8.1.13]. Verizon will cut over lines in sequence reported to CLEC. All (up to a maximum of 20) of an end-user's lines will be scheduled to be cut in same one-hour window.

6.5 Process Requirements shall include:

6.5.1 At CLEC's option, it may include multiple LSRs in a single batch (i.e., the ability to submit individual LSRs with a batch identifier).

6.5.2. Verizon shall provide OSS functionality equivalent to that available for UNE-P, including but not limited to:

6.5.2.1 **Electronic pre-ordering**, including but not limited to due date scheduling, and batch identifier assignment.

6.5.2.2 **Flow-through levels** for ordering and provisioning.

6.5.2.3 "As is" directory listings.

## **7.0 Cost of Batch Process**

7.1 Verizon will provide hot cuts to CLEC at rates that are cost effective and provide CLEC with a meaningful opportunity to compete. The TELRIC forward looking rate will be based on software defined solutions and should not exceed \$5.00 per line for individual hot cuts or \$3.00 per line for batch hot cuts (quantities of XX or more) Specific rates for batch hot cuts are set forth in pricing schedule Attachment XX.

7.2 Charges for migrations employing UNE-P as transition tool should be no greater than the direct hot cut charge. (Single migration charge for migration from other carrier to UNE-P to UNE-L).

## **8.0 Validation, Testing and Quality Assurance Requirements**

8.1 Verizon shall provide a third-party certification of adequacy, scalability and quality of batch process.

8.2 CLEC and Verizon shall work cooperatively to insure data base integrity is achieved between carrier CFA assignments. This cooperative effort will include at a minimum: CLEC ensuring that its processes support data base integrity, e.g., timely issuance of disconnects, proper assigning of facilities pending on canceled LSRs, and use of information provided by Verizon to allow CLEC to identify and synchronize such data base.

8.3 The Batch Process should have no negative impacts on related systems or processes, including but not limited to:

- E911 "unlocks"
- Number porting
- Availability of repair testing capabilities
- Repair databases
- Billing systems migrations
- **Provisioning systems** such as TIRKS (Trunks Integrated Records Keeping System)

**Exhibit C to Amendment No. \_\_\_**

**to the Interconnection Agreement**

**between [Verizon Legal Entity] and [CLEC Legal Entity]**

**FRAMEWORK FOR HOT CUTS METRICS/REMEDIES NEGOTIATIONS**

- Percentage of hot cuts completed on-time. Percentage of hot cuts completed on-time shall be adopted in the Amended Agreement to include performance for large submissions of Basic (or Individual) Hot Cuts, Bulk or Project Hot Cuts, and Batch Hot cuts. The performance standard shall be comparable to that experienced by consumers under UNE-P, 99% on time. The intervals shall be commensurate with UNE-P and Verizon's winback efforts; while the interval may reasonably be "stratified" or disaggregated to account for differences between large fully-staffed central office and remote, unstaffed manual offices, the batch interval shall not exceed the current interval for Basic Hot Cuts.
- Non-discriminatory average interval offered. Average interval offered and completed for all disaggregation of hot cuts shall be at parity with Verizon Retail offered and completed interval for addition of new lines with no dispatch.
- Percentage of hot cuts completed without a service disruption. Hot cut processes shall be structured so that all customer outages during a hot cut are captured in the I code metric. I code reporting shall be disaggregated for hot cuts. A very high Percentage of hot cuts must be completed without a service disruption, given the direct customer impact of a service disruption, consumer expectations from UNE-P, and Verizon's description of the ease of training craft. The performance standard for disaggregated hot

cuts (including Individual, Bulk and Batch Hot Cut) shall be <1%. This should span Basic, Bulk/Projects, and Batch cuts.

- Average duration of service interruption. The duration of a customer's outage shall be very short given the controlled central office environment. The performance standard shall be 95% I codes TTR < 15 minutes to provide a high availability rate.
- Percentage completed without timely notification. Under the Basic and Large Job hot cut processes, CLEC is responsible for activation of the ported number at NPAC following cutover of the loop. CLEC will not use the Batch process if it includes Verizon responsibility for this step. As a result, any process that CLEC uses will require Verizon to promptly notify CLEC following the loop cutover that the cutover is complete so that CLEC can activate the number at NPAC. Given the customer impact of CLEC not being able to complete the number portability transaction until it is notified by Verizon that the hot cut is complete, the performance standard for the notification shall be commensurately high: 99.5% of the notifications issued timely (within 15 minutes) after the completion (regardless of whether the hot cut was completed timely or not).
- Separating linked Hot Cut Metrics. Remedies associated with Hot Cut metrics (Basic, Bulk/Projects, and Batch Cuts) shall be calculated separately from the automatic bill credit remedies associated with other metrics.
- Minimum \$50 Million Remedy. Verizon shall potentially be subject to at least \$50 million in remedies under the Amended Agreement solely as the result of poor hot cut (Basic, Bulk/Projects, and Batch cuts) performance. These funds shall not be capped on a per month basis, meaning that Verizon could be liable for the full dollar amount in any

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Hand Delivery (\*) and/or U.S. Mail on this 4<sup>th</sup> day of October, 2004.

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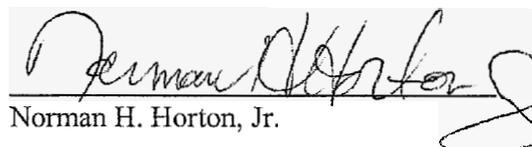
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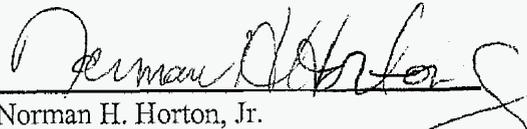
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