

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE PETITION OF DIECA )  
COMMUNICATIONS INC., d/b/a COVAD COMMUNI- )  
CATIONS COMPANY, D-TEL LLC, SNIP LINK LLC, )  
XO COMMUNICATIONS SERVICES, INC., f/k/a )  
XO DELAWARE, INC., AND XTEL COMMUNICATIONS, )  
INC., FOR AN AMENDMENT TO INTERCONNECTION )  
AGREEMENTS WITH VERIZON DELAWARE INC., ) PSC DOCKET NO. 05-164  
PURSUANT TO SECTION 252(B) OF THE )  
COMMUNICATIONS ACT OF 1934, AS AMENDED, )  
THE *TRIENNIAL REVIEW ORDER* AND THE )  
*TRIENNIAL REVIEW REMAND ORDER* )  
(FILED MAY 16, 2005) )

IN THE MATTER OF THE APPLICATION OF )  
VERIZON DELAWARE INC., FOR ARBITRATION )  
OF AN AMENDMENT TO INTERCONNECTION AGREE- )  
MENTS WITH COMPETITIVE LOCAL EXCHANGE )  
CARRIERS AND COMMERCIAL MOBILE RADIO ) PSC DOCKET NO. 04-68  
SERVICE PROVIDERS IN DELAWARE PURSUANT TO )  
SECTION 252 OF THE COMMUNICATIONS ACT OF )  
1934, AS AMENDED, AND THE *TRIENNIAL REVIEW* )  
*ORDER* (FILED FEBRUARY 20, 2004) )

**ORDER NO. 7338**

**AND NOW**, this 8<sup>th</sup> day of January, 2008;

**WHEREAS**, on March 24, 2006, Ruth Ann Price, the Arbitrator in the captioned cases (consolidated), issued her 113-page Award resolving the disputes between Verizon Delaware LLC ("VZ-DE") and certain Delaware Competitive Local Exchange Carriers ("CLECs") regarding amendments to their interconnection agreements stemming from revised federal requirements obligating VZ-DE to unbundle its network elements;

**AND WHEREAS**, on September 19, 2006, after hearing oral argument, the Commission made three modifications to the Award, affirmed the

remaining terms and directed the parties to return within 30 days with contract language implementing the Award, as modified,

**AND WHEREAS,** instead of submitting contract language, the Competitive Carrier Group, US LEC and VZ-DE submitted briefs in November of 2006 containing new arguments regarding certain terms of the Award and raising disputes over the appropriate contract language to be used to conform with various terms from the Award;

**AND WHEREAS,** by PSC Order No. 7144 (Mar. 20, 2007), the Commission memorialized its earlier modification and approval of the March 24, 2006 Award and remanded to Ms. Price the newly surfaced disputes from the November 2006 briefs;

**AND WHEREAS,** on September 10, 2007, after receiving additional briefs and other materials regarding the remaining disputes, Ms. Price issued a 71-page Report with recommended resolutions to the remaining disputes and provided (as "Exhibit B" to the Report) a proposed Amendment to the interconnection agreements incorporating her recommendations;

**AND WHEREAS,** other than a small technical correction noted by VZ-DE, and incorporated by Ms. Price in her "Exhibit B," no party submitted written exceptions to the September 10, 2007 Report;

**AND WHEREAS,** the Commission, on November 6, 2007, voted to adopt Ms. Price's September 10, 2007 recommendations, which are attached to the original hereof as "Attachment A;" now, therefore,

**IT IS ORDERED:**

1. That, by and in accordance with the affirmative vote of a majority of the Commissioners, the Commission hereby adopts the

September 10, 2007 Findings and Recommendations of the Hearing Examiner, appended to the original hereto as "Attachment A," for the reasons set forth therein.

2. That the parties to the case should file amendments to their interconnection agreements, which conform to "Exhibit B" of the Hearing Examiner's September 10, 2007 Report, no later than January 31, 2008.

3. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae  
Chair

/s/ Joann T. Conaway  
Commissioner

/s/ Jaymes B. Lester  
Commissioner

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Commissioner

/s/ Jeffrey J. Clark  
Commissioner

ATTEST:

/s/ Karen J. Nickerson  
Secretary

A T T A C H M E N T "A"

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE PETITION OF DIECA )  
COMMUNICATIONS INC., d/b/a COVAD )  
COMMUNICATIONS COMPANY, D-TEL LLC, )  
SNIP LINK LLC, XO COMMUNICATIONS )  
SERVICES, INC., f/k/a XO DELAWARE, )  
INC., AND XTEL COMMUNICATIONS, INC., )  
FOR AN AMENDMENT TO INTERCONNECTION )  
AGREEMENTS WITH VERIZON DELAWARE INC., ) PSC DOCKET NO. 05-164  
(N/K/A VERIZON DELAWARE LLC) PURSUANT )  
TO SECTION 252(B) OF THE COMMUNI- )  
CATIONS ACT OF 1934, AS AMENDED, THE )  
TRIENNIAL REVIEW ORDER AND THE )  
TRIENNIAL REVIEW REMAND ORDER (FILED )  
MAY 16, 2005) )

IN THE MATTER OF THE APPLICATION OF )  
VERIZON DELAWARE INC. (n/k/a VERIZON )  
DELAWARE LLC) FOR ARBITRATION OF AN )  
AMENDMENT TO INTERCONNECTION )  
AGREEMENTS WITH COMPETITIVE LOCAL ) PSC DOCKET NO. 04-68  
EXCHANGE CARRIERS AND COMMERCIAL )  
MOBILE RADIO SERVICE PROVIDERS IN )  
DELAWARE PURSUANT TO SECTION 252 OF )  
THE COMMUNICATIONS ACT OF 1934, AS )  
AMENDED, AND THE TRIENNIAL REVIEW )  
ORDER (FILED FEBRUARY 20, 2004) )

FINDINGS AND RECOMMENDATIONS OF THE HEARING EXAMINER

Ruth Ann Price, duly appointed Hearing Examiner in this docket pursuant to 26 *Del. C.* § 502 and 29 *Del. C. ch.* 101, and by Commission Order No. 7144, dated March 20, 2007, reports to the Commission as follows:

**I. APPEARANCES**

On behalf of Petitioner, Verizon Delaware Inc. (n/k/a Verizon Delaware LLC) ("VZ-DE"):

LEIGH A. HYER, ESQUIRE, General Counsel- Mid-Atlantic South Region, Verizon Communications Inc.

SUZAN D. PAIVA, ESQUIRE, Assistant General Counsel, Verizon Communications Inc.

SHARI E. SMITH, Director of Regulatory Affairs, Verizon Delaware Inc. (n/k/a Verizon Delaware LLC)

On behalf of the Respondent, U S LEC of Pennsylvania Inc.:

TERRY J. ROMINE, ESQUIRE, Deputy General Counsel- Regulatory, U S LEC Corporation

WENDIE C. STABLER, ESQUIRE, Saul Ewing LLP

On behalf of the Respondents, DIECA Communications Inc., d/b/a Covad Communications Company, D-Tel LLC, SNiP LiNK LLC, XO Communications Services, Inc., and XTel Communications, Inc. (referred to herein as "the CLEC Parties"):

KELLEY DRYE & WARREN LLP

By: GENEVIEVE MORELLI, ESQUIRE

By: BRETT HEATHER FREEDSON, ESQUIRE

**II. BACKGROUND**

1. Pursuant to PSC Order No. 7144 (Mar. 20, 2007), the Commission directed this Hearing Examiner to resolve the "new" disputes raised by the parties since the Commission reviewed the original Arbitration Award<sup>1</sup> in September 2006. The Commission's goal in that Order was to conclude these matters so that it could approve amendments to the relevant interconnection agreements reflecting the new interconnection and unbundling standards promulgated by the

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<sup>1</sup>See Arbitration Award, dated March 24, 2006.

Federal Communications Commission in its Triennial Review Order ("TRO")<sup>2</sup> and its Triennial Review Remand Order ("TRRO").<sup>3</sup>

2. After the Arbitration Award was issued by the undersigned Hearing Examiner on March 26, 2006, only VZ-DE filed objections.<sup>4</sup> VZ-DE filed exceptions to four issues that focused on implementing details.

3. The Commission considered VZ-DE's exceptions during its public meeting on September 19, 2006. After careful deliberation of the arguments raised by VZ-DE and the local exchange carriers present at the hearing, including XO Communications Services Inc. ("XO"), the Commission made three modifications to the Arbitrator's Award.<sup>5</sup> In addition, the Commission declined to adopt one of VZ-DE's exceptions in favor of sustaining the terms in the Arbitration Award. Further, the Commission sustained all of the remaining unchallenged portions of the award. The Commission also ordered VZ-DE and the CLEC Parties to

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<sup>2</sup>In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Exchange Carriers, Report and Order and Order on Remand and Further NPRM, 18 FCC Rcd. 16978 (2003), vacated in part and remanded, United States Telecom. Ass'n v. FCC, 359 F.3d 554 (D.C.Cir. 2004) (subsequent certiorari history omitted).

<sup>3</sup>In the Matter of Unbundled Access to Network Elements, Order on Remand, 20 FCC Rcd. 2533 (2005), petitions for review denied, Covad Communications Co. v. FCC, 450 F.3d 528 (D.C. Cir. 2006).

<sup>4</sup>As noted in PSC Order No. 7144, the parties were directed to deviate from the usual process for reviewing the arbitration award stated in the Commission's "Guidelines for Negotiations, Mediation, Arbitration, and Approval of Agreements Between Local Exchange Telecommunications Carriers." Staff directed the parties to frame their objections to the Arbitrator's award in the nature of "exceptions" to a Hearing Examiner's Report and Recommendations. See B. Burcat, Exec. Dir., Memo. To Service List (Mar. 31, 2006).

<sup>5</sup>See Deliberations Transcript ("DTr.") (Sept. 19, 2006).

return within 30 days with contract language implementing the Arbitrator's award (as modified by the Commission).

4. The CLEC Parties, US LEC, and VZ-DE never filed the contract language envisioned at the public meeting on September 19, 2006. Rather, the parties requested, and received additional time to submit the implementing contract language. In late November 2006, the CLEC Parties and VZ-DE filed what has become known as "the dueling briefs" in which the parties argue over the contract language to be included in any amended or modified agreements.

### **III. DISPUTED CONTRACT LANGUAGE**

5. In this section, I will examine the claims of each party concerning the contested sections of the Amendment. I have included as Attachment "A" to this report a copy of the parties' black-lined Amendment containing both parties' proposed language. The text in regular font is language that has been agreed upon by VZ-DE and the CLEC Parties. Text shown in **bold non-underlined** is VZ-DE's language that the CLEC Parties dispute. The text in **bold, underlined** font is the CLEC Parties' proposed language that VZ-DE disputes. In addition, I have included as Attachment "B" a copy of the proposed Amendment with all of my recommendations as discussed herein.

#### **Sections 2.1 and 2.2**

6. VZ-DE contends that its proposed language in Section 2.1 of the Agreement acts only to clarify that "its obligations extend as far as, but not farther than, its obligations under federal law." VZ-DE Brief at 3. Similarly, in Section 2.2 VZ-DE has proposed language in bold that defines its obligations under the TRO and TRRO to provide

access to UNEs, UNE combinations, and UNEs commingled with wholesale services **"only to the extent required by the Federal Unbundling Rules."** Amendment § 2.2<sup>6</sup>. VZ-DE asserts that the proposed language is necessary because it thwarts unnecessary arguments about whether the parties "intended" to adopt provisions that are not imposed by federal law.

7. The CLEC Parties propose eliminating the language "Federal Unbundling Rules" or "only to the extent required by" from various sentences and eliminating certain whole sections (Section 2.2, VZ-DE's initial language of Section 2.3). The CLEC Parties contend that VZ-DE's proposed language prohibits them from obtaining access to network elements, combinations of network elements, and Section 251(c)(3) network elements commingled with wholesale services, on an unbundled basis "under applicable law other than 47 U.S.C. Sections 251 and 252.

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<sup>6</sup>The text of sections 2.1 and 2.2 are:

- 2.1 Except as permitted by the Amended Agreement **or the Federal Unbundling Rules**, Verizon shall not impose limitations, restrictions, or requirements on requests for, or the use of, unbundled network elements for the service **\*\*\*CLEC Acronym TXT\*\*\*** seeks to offer.
- 2.2 Notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT: (a) Verizon shall be obligated to provide access to unbundled Network Elements ("UNEs"), combinations of UNEs ("Combinations"), or UNEs commingled with wholesale services ("Commingling") to **\*\*\*CLEC Acronym TXT\*\*\*** under the terms of this Amendment only to the extent required by the Federal Unbundling Rules; and (b) Verizon may decline to provide access to UNEs, Combinations, or Commingling to **\*\*\*CLEC Acronym TXT\*\*\*** under the terms of this Amendment to the extent that provision of access to such UNEs, Combinations, or Commingling is not required by the Federal Unbundling Rules.

. . . or 47 C.F.R. Part 51." CLEC Brief at 3. The CLEC Parties note that the Arbitration Award stated it does "not seem sensible to assume that Congress and the FCC expected the state to adopt agreements that simply refer to 'applicable law' to determine the obligations they cover." CLEC Brief at 2 citing Arbitration Award ¶ 34. The CLEC Parties argue that the Amendment should reflect the agreement of the parties to establish an "orderly, stable, and predictable process for the acquisition of, use of, and payment of network elements and services offered by Verizon through these agreements." CLEC Brief at 2 citing Arbitration Award ¶ 32. The CLEC Parties state that should a dispute arise regarding the terms and conditions of the amended interconnection agreements, VZ-DE has the right to defend its position based upon the Federal Unbundling Rules. CLEC Brief at 2. The CLEC Parties view VZ-DE's proposed language as possibly permitting VZ-DE to impose unlawful restrictions and limitations on the rights of the CLEC Parties to obtain UNEs, subject to the terms and conditions of their amended interconnection agreements with VZ-DE. CLEC Brief at 3.

#### **Resolution**

8. The Arbitration Award concluded that the Amendment should only address the specific requirements of the TRO and TRRO and not use general language concerning unbundling obligations. Arbitration Award ¶ 34. VZ-DE's proposed language in this section, and as it appears in various places throughout the document, is not a specific reference to an obligation imposed by the TRO or TRRO. Rather, the proposed language is a broad, global reference to VZ-DE's obligations under the Federal Unbundling Rules that is not helpful in defining specific

obligations under those Rules. Further, should the CLEC Parties attempt to assert their right to purchase UNEs under an authority other than the Federal unbundling rules with which VZ-DE disagrees, VZ-DE can contest the matter at that time. Therefore, the Amendment should eliminate VZ-DE's contested language regarding "Federal Unbundling Rules" in Section 2 and "only to the extent required by" in Section 2.2. Generally, for the reasons stated here, this language regarding the federal unbundling rules will be exorcized where it appears throughout the Amendment; however, there are a few instances where it will be retained for clarity as shown on Exhibit B.

### Section 2.3

9. VZ-DE proposes in Section 2.3 entitled, Restrictions on \*\*\*CLEC Acronym TXT\*\*\*'s Use of UNEs, a provision that limits the use of UNEs. The provision as drafted by VZ-DE states:

**To the extent Verizon is required to provide a UNE, Combination, or Commingling under this Amendment, \*\*\*CLEC Acronym TXT\*\*\* may use such UNE, Combination or Commingling only for those purposes for which Verizon is required by Federal Unbundling Rules to provide such UNE, Combination or Commingling to \*\*\*CLEC Acronym TXT\*\*\*. By way of example and without limiting the foregoing, \*\*\*CLEC Acronym TXT\*\*\* may not access a UNE for the exclusive provision of Mobile Wireless Services or Interexchange Services.**

10. VZ-DE contends that federal law limits its obligations to furnish the CLEC Parties UNEs for provision of mobile services. Conversely, VZ-DE argues that federal law establishes the limits on the CLEC parties' rights under the Amendment to obtain UNEs for this purpose. Further, the parties agree that federal law imposes certain restrictions on the CLEC Parties' use of UNEs. VZ-DE and the CLEC Parties agree that the FCC has specifically determined that UNEs may

not be ordered for provision of mobile wireless services or interexchange services. See TRRO ¶ 5. However, VZ-DE further contends that Section 251(c)(3) of the 1996 Act provides that an ILEC is required to provide access to UNEs only "for the provision of a telecommunications service." 47 U.S.C. § 251(c)(3). VZ-DE asserts that its proposed language reflects the general rule that CLECs may use UNEs, UNE combinations, and UNEs commingled with wholesale services only for those purposes for which VZ-DE is required by federal law to provide those UNEs. VZ-DE Brief at 4-5.

11. The CLEC Parties contend that the contract language proposed by VZ-DE is overbroad, and improperly suggests an indefinite number of limitations on the use of UNEs by the CLEC Parties under Section 251(c)(3) of the 1996 Act and the FCC's unbundling rules. CLEC Brief at 4-5. The CLEC Parties contend that VZ-DE has not identified any additional limitations on the use of UNEs by the CLEC Parties. Further, the CLEC Parties assert that no such limitations exist under Section 251(c)(3) of the 1996 Act or the FCC's unbundling rules.

**RESOLUTION**

1.           12.           The crux of the CLEC Parties' argument is that the general duty of an ILEC to provide UNEs under the 1996 Telecommunications Act is limited only by the TRRO's restriction on providing UNEs exclusively for Mobile Wireless Services or interexchange services. Section 251(c)(3) of the 1996 Telecommunications Act is entitled, "Additional Obligations of

Incumbent Local Exchange Carriers." It provides in pertinent part:

2. In addition to the duties contained in subsection (b) of this section, each incumbent local exchange carrier has the following duties:

3.  
4. (c) Unbundled access

5.  
6. The duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252 of this title. An incumbent local exchange carrier shall provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.

7.  
8. The FCC made clear that UNEs could not be used in Mobile Wireless Services or interexchange services. As stated in 47 C. F. R. ¶ 51.309(b), "A requesting telecommunications carrier may not access an unbundled network element for the exclusive provision of mobile wireless services or interexchange services."

9. 13. VZ-DE's proposed language is attempting to state that UNEs must be used in accordance with Federal Unbundling Rules. However, the proposed language is too expansive, and unnecessarily equivocates and raises the specter of uncertainty in the contract language regarding VZ-DE's obligation to provide UNEs. More importantly, it is unnecessary. VZ-DE is capable of asserting that it has no obligation to provide UNEs when it believes that a CLEC's demand is unreasonable. Further, it is well settled that CLECs have an obligation to use UNEs in

accordance with Federal law and for only those purposes stated in the law. Therefore, VZ-DE's proposed language is overbroad, unnecessary, unclear, and fails to define the rights of the parties with regard to the use of UNEs and, consequently, should be rejected.

10. **Section 2.4 - Discontinued Facilities**

11. 14. VZ-DE proposes language in Section 2.4 to "make clear" that it has already provided the CLEC Parties with any notice of discontinued facilities and that it may cease providing such facilities if it has not already done so. VZ-DE Brief at 10. VZ-DE contends that if the CLEC Parties are not attempting to extend the mandatory TRRO transition periods of March 11 and September 10, 2006, there should be not be any reason why its language should be stricken from the Amendment. VZ-DE Brief at 11.

12. 15. The CLEC Parties contend that VZ-DE's proposed language exempts VZ-DE from complying with the proposed notification procedures established in the Commission-approved interconnection agreements between VZ-DE and the CLECs. CLEC Brief at 5.

13. **RESOLUTION**

14. 16. The Arbitration Award states that there is no need for a specific notice period in the Amendment. Arbitration Award at ¶ 70. However, this does not mean that VZ-DE can or should include language that acknowledges that whatever notice VZ-DE has already given of discontinued facilities is adequate. As the

Arbitration Award concluded, "Verizon is correct that it has provided ample notice to the CLECs of the discontinuation of the TRO and TRRO de-listed UNEs." Accordingly, the language proposed by VZ-DE is not necessary and only serves to burden the Amendment with unhelpful verbiage.

15.

16. Section 2.4.1 - Discontinued Facilities

17. VZ-DE contends that its proposed language clarifies that it may (but is not required to) disconnect Discontinued Facilities in two discrete circumstances. First, to the extent the CLEC fails to "secure from Verizon an alternative arrangement to replace the Discontinued Facility," then VZ-DE **"may disconnect the subject Discontinued Facility."** Amendment § 2.4.1. In addition, if VZ-DE puts in place an alternative arrangement to replace the Discontinued Facility (as the CLEC Parties agree it may do), then VZ-DE **"may disconnect the subject Discontinued Facility (or the replacement service to which the Discontinued Facility has been converted) if [the CLEC] fails to pay when due any applicable new rate or surcharge billed by Verizon."** *Id.* VZ-DE includes similar language in Section 3.9.1 (which references Section 2.4.1). VZ-DE Brief at 11.

18. VZ-DE asserts that if a CLEC has failed to cancel or order alternative arrangements for facilities that were de-listed in the *TRO* or *TRRO*, VZ-DE may disconnect or convert the facilities without further notice. VZ-DE reasons that this language is needed to protect it from escalating bad debt and disputes. *Id.*

19. VZ-DE notes that its proposed language was adopted by the parties and approved by the D.C. Public Service Commission.<sup>7</sup> VZ-DE cites Commission-approved arbitration awards in Texas, Florida, Massachusetts, California, and Rhode Island that acknowledge its right

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<sup>7</sup>See, e.g., Amendment No. 1 to the Interconnection Agreement between Verizon Washington, D.C., Inc. and ACN Communications Services, Inc., Docket TAC-19 (D.C. PSC filed Aug. 25, 2006).

to terminate facilities that have been de-listed. VZ-DE Brief at 12-13.

20. The CLEC Parties contend that the Amendment should not permit VZ-DE to disconnect any Discontinued Facility that it currently provides to a Delaware CLEC under Section 251(c)(3) of the 1996 Act. CLEC Brief at 7. They argue that VZ-DE has an obligation under the *TRRO* to make reasonable efforts to transition UNEs de-listed under Section 251(c)(3) of the 1996 Act without causing disruption of service to end-user customers that currently are served by competitive carriers. *Id.* The CLECs note that the contract language proposed by VZ-DE allows it to disconnect unilaterally Discontinued Facilities on the effective date of the Amendment, without prior notice to the CLEC Parties.<sup>8</sup> The CLEC Parties assert that VZ-DE's discontinuance of service could generate substantial and unforeseen service outages to telecommunications consumers within Delaware. *Id.*

17. **RESOLUTION**

21. By this time, CLECs have had ample time to secure replacement facilities for any de-listed UNEs. CLECs that have chosen not to seek alternative arrangements have only themselves to blame. The transition periods for de-listed UNEs have been copiously discussed and vetted. If nothing else, as stated previously, ¶ 70 of the Arbitration Award made clear that VZ-DE gave adequate notice of discontinued facilities. Therefore, I find that VZ-DE's language that

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<sup>8</sup>The CLECs maintain that there is already language in the interconnection agreements that address what happens if a carrier fails to pay bills making VZ-DE's proposed language unnecessary. However, the CLECs do not provide any reference for where such language can be found in the Agreement or in the proposed amendment submitted by the parties.

permits it to disconnect discontinued facilities is appropriate at this time.

22. With regard to VZ-DE's proposed language regarding billing disputes, it is in the best interests of the ratepayers as well as the companies who are parties to these interconnection agreements to foster the financial health of the telecommunications providers that serve Delaware ratepayers. I note that the parties to this case are familiar with, at least, the District of Columbia's Amendment, which employs language similar to that proposed by VZ-DE. *See, e.g.,* Amendment No. 1 to the Interconnection Agreement between Verizon Washington, D.C., Inc. and ACN Communications Services, Inc., Docket TAC-19 (D.C. PSC filed Aug. 25, 2006) (adopting VZ-DE language in section 2.4.1 allowing disconnection). Therefore, I find that the language of Section 2.4.1 regarding discontinuance for failure to pay is reasonable and in the best interests of the ratepayers in this circumstance. This provision will encourage CLECs to pay on time or to implement timely dispute arbitration mechanisms to object to a bill.

**Section 2.5. - Pre-Existing Discontinuance Rights<sup>9</sup>**

23. VZ-DE contends that the "agreed provisions" of this section clarify that the Amendment does not limit its pre-existing rights under the Agreement to discontinue providing Discontinued Facilities. VZ-DE Brief at 13. The CLECs object to insertion of the phrase "past or future" as it relates to VZ-DE's exercise of a pre-existing right. VZ-DE asserts that this language is necessary to make clear that its pre-existing discontinuance rights are not affected by the Amendment. VZ-DE Brief at fn. 21. Similarly, in Section 2.5.2, VZ-DE seeks to impose language that gives it the right to change rates at a future time in accordance with the Amendment's Pricing Attachment.

24. The CLEC Parties argue that in order to avoid the possibility that VZ-DE unilaterally discontinues providing network elements, facilities, or services that may at a future time become unavailable under Section 251(c)(3) UNEs, they require the protection of the contract language that states **"provided, however, that Verizon may cease providing unbundled access to elements and facilities that**

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<sup>9</sup>Section 2.5 is entitled, "Pre-Existing Discontinuance Rights" and reads as follows:

2.5.1 Verizon's rights as to discontinuance of Discontinued Facilities pursuant to this Amendment are in addition to, and not in limitation of, any rights Verizon may have under the Agreement as to discontinuance of Discontinued Facilities, and nothing contained herein shall be construed to prohibit, limit, or delay Verizon's **past or future** exercise of any pre-existing right it may have under the Agreement to cease providing unbundled access to elements and facilities that are or become Discontinued Facilities; **provided, however, that Verizon may cease providing unbundled access to elements and facilities that are or become Discontinued Facilities only in accordance with the applicable rules and orders of the FCC and the Commission.**

are or become Discontinued Facilities only in accordance with the applicable rules and orders of the FCC and the Commission."

**RESOLUTION**

25. I find that neither the language proposed by VZ-DE or by the CLEC Parties in Sections 2.5.1 and 2.5.2 is proper for this provision. Both parties' language is overbroad, confusing, and attempts to address circumstances and issues that are, at this point, theoretical and without foundation. The proposed language by the parties does not refine or more distinctly define the specific obligations of the parties. Rather, the language obfuscates the meaning of the provision, which is that VZ-DE's rights to discontinue facilities under the Amendment are in addition to, and not limited by, its rights to discontinue facilities under the Agreement. Further, I find that the proposed language is inconsistent with the principles of the Arbitration Award which held that any change of law provisions must conform to the parties' existing, Commission-approved, interconnection agreements. Arbitration Award at ¶¶ 32-33.

**Section 3.1.1 - New Builds**

26. VZ-DE contends that under the TRO CLECs are not nationally impaired without access to unbundled "loops consisting of fiber from the central office to the customer premises," known as fiber-to-the-premises ("FTTP") or fiber-to-the-home ("FTTH") loops. TRO ¶ 211. VZ-DE Brief at 11. The finding of no impairment also includes "fiber-to-the-curb" ("FTTC") loops, defined as "local loop[s] consisting of fiber optic cable connecting to a copper distribution plant that is not more than 500 feet from the customer's premises or, in the case of

predominantly residential MDUs, not more than 500 feet from the MDU's MPOE."<sup>10</sup> VZ-DE contends that its proposed Amendment properly provides that a CLEC "is not required to provide access to a FTTH or FTTC Loop, **or any segment thereof**, on an unbundled basis when Verizon deploys such a Loop to the customer premises of an end-user that has not been served by any [Verizon] Loop facility **other than a FTTH or FTTC Loop.**" Amendment § 3.1.1.

27. VZ-DE notes that the CLEC Parties object to the phrase "or any segment thereof," in the Amendment. VZ-DE maintains that the CLEC Parties have no lawful claim to any segment of the fiber loop. VZ-DE characterizes the CLEC Parties' objection as suggesting that its "or any segment thereof" language requires it to unbundle the copper segment of the loop in cases where VZ-DE builds a fiber loop that includes copper from the premises to the curb (and then fiber from the curb to the central office). VZ-DE Brief at 14-15. VZ-DE contends that the CLEC Parties' contention is contrary to the FCC's order. In support of its position, VZ-DE states that the point of the "*FTTC Reconsideration Order*" was to explain that the FCC's no-impairment finding as to fiber loops includes those loops that have copper distribution facilities leading from the premises to the curb."<sup>11</sup> VZ-DE Brief at 15 citing *FTTC Reconsideration Order* ¶ 10.

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<sup>10</sup>See 47 C.F.R. § 51.319(a)(3)(i)(B) (as modified by Order on Reconsideration, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 19 FCC Rcd 20293 (2004) ("*FTTC Reconsideration Order*"), App. B (Final Rules)).

<sup>11</sup>In addition, VZ-DE argues that if the CLEC parties are suggesting that they are entitled to FTTH *subloops*, their argument contravenes the FCC's orders. VZ-DE argues that the FCC's subloop rule applies only to "copper subloop[s]," which are "comprised entirely of copper wire or copper cable."

28. On the other hand, the CLEC Parties contend that VZ-DE's proposed language allows VZ-DE to deny CLECs access to copper facilities extending from the end-user's customer premises to the curb, where such facilities exist, solely based on VZ-DE's assertion that such facilities constitute a "segment" of an FTTC loop. CLEC Parties' Brief at 11-12. The CLEC Parties urge the Commission to reject VZ-DE's proposed language because it does not properly reflect the FCC's rule regarding unbundling of newly built FTTH and FTTC loops. CLEC Parties' Brief at 12.

29. The CLEC Parties note that the Commission directed the parties to this proceeding to include in the Amendment contract language addressing the parties' respective rights and obligations regarding unbundled access to Fiber-to-the Home ("FTTH") and Fiber-to-the-Curb ("FTTC") loops that closely follow the applicable FCC rule. CLEC Parties' Brief at 11, citing Arbitration Award ¶144.

#### **RESOLUTION**

30. The Arbitration Award regarding FTTH and FTTC loops cautioned the parties to closely follow the FCC's wording. The Arbitration Award states that "the definitions of such loops (FTTH and FTTC) should be the same as those used by the FCC in 47 C.F.R. § 51.319(a)(3)(i). Furthermore, to avoid confusion and provide clarity, the Amendment language concerning the rules for newly built FTTH and FTTC loops should follow as closely as possible the FCC rules for such situations in 47 C.F.R. § 51.319(a)(3)(ii)." Arbitration Award ¶ 144. In addition, the CLEC Parties contend that VZ-DE's

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See 47 C.F.R. § 51.319(b)(1). Consequently, since FITC or FTTC loops are fiber optic, they would not mandate unbundling under the FCC's orders.

proposed language would enable VZ-DE to deny CLECs access to copper facilities extending from the customer's premises to the curb by asserting that these facilities are a "segment" of an FTTC loop. CLEC Parties' Brief at 12.

31. While I do not divine any scurrilous motive behind VZ-DE's suggested language, I do find that the proposed language "or any segment thereof" does not appear in the FCC language regarding fiber-to-the-curb, new builds or overbuilds. See 47 C.F.R. §§ 51.319(a)(3)(i), 51.319(a)(3)(ii) and 51.319(a)(3)(iii). Furthermore, the phrase "other than a FTTH or FTTC loop" does not appear in 47 C.F.R. §§ 51.319(a)(3)(ii). As the above-quoted language from the Arbitration Award makes plain, the Amendment should follow the FCC's wording. Therefore, I find that the proposed language suggested by VZ-DE is not contained in the applicable sections of the FCC rules and should be not be included in the Amendment. I strongly suggest that if no other compromise can be reached, the parties should incorporate the verbatim language of the TRRO into the Amendment in order to avoid confusion and delay in completing the Amendment's provisions.

### **Section 3.1.2 - Overbuilds**

32. In this section, VZ-DE seeks to include language that states in pertinent part, "(c) if Verizon retires the copper loop pursuant to 47 C.F.R. § 51.319(a)(3)(iv), it shall provide nondiscriminatory access to a 64 kilobits per second TDM transmission path (or an equivalent transmission path using other technologies) capable of voice grade service over the FTTH or FTTC Loop (a 'Voice

Grade Transmission Path') on an unbundled basis." See Proposed Amendment, Section 3.1.2 - Overbuilds. The CLECs object to this provision, which addresses VZ-DE's obligations upon retiring a copper loop that was overbuilt with a FTTH or FTTC loop.

**RESOLUTION**

33. As in Section 3.1.1 - New Builds, the Commission-approved Arbitration Award stated, "the case of overbuilt fiber loops does not require any significantly different considerations from that of newly built loops." Arbitration Award ¶ 145. The Amendment for overbuilds should follow the FCC's language. The applicable FCC rule regarding ILECs, such as VZ-DE, that retire copper loops pursuant to 47 C.F.R. § 51.319(a)(3)(iii)(C) states "[a]n incumbent LEC that retires the copper loop pursuant to (a)(3)(iv) [regarding retirement of copper loops or copper subloops] of this section shall provide nondiscriminatory access to a 64 kilobits per second transmission path capable of voice grade service over the fiber-to-the home loop on an unbundled basis." See 47 C.F.R. § 51.319(a)(3)(iii)(C). The FCC rule is quite specific as it expressly provides for a 64 kilobit per second transmission path. Had the FCC intended to approve an equivalent transmission path for a 64 kilobit per second path, I am sure it would have done so. However, it did not. Accordingly, I find that VZ-DE's proposed parenthetical phrase, **(or an equivalent transmission path using other technologies)**, is not in the applicable FCC rule and, therefore, should be declined.

34. Further, the parties include language that references Attachment "A," the "Pricing Attachment to the TRO-TRRO Amendment."

For reasons stated in the section of this report regarding Attachment "A," *infra*, I recommend that all references to the Pricing Attachment be deleted in this section.

**Section 3.2.3 - Hybrid Loops for Narrowband Services**

35. In Section 3.2.3, VZ-DE proposes language to provide access "to a DS0 voice-grade transmission path between the main distribution frame (or equivalent) in the end-user's serving wire center and the end-user's customer premises." VZ-DE Brief at 17. The CLEC Parties propose language, to which VZ-DE objects, to require access "to the entire hybrid loop capable of voice grade service (i.e., equivalent to DS0 capacity)." See Attachment "A" at Section 3.2.3. VZ-DE maintains that its language more accurately reflects the technical arrangements it provides to customers in these situations. VZ-DE Brief at 17.

36. VZ-DE argues that to the extent the CLEC Parties use the language from the FCC's Rule 51.319(a)(2)(iii), they have omitted the final phrase of the rule, which is "using time division multiplexing technology." VZ-DE argues that if the Commission does not adopt VZ-DE's language, then it should adopt the language from Rule 51.319(a)(2)(iii), complete with that final phrase.

37. The CLEC Parties assert that VZ-DE's proposed language would allow it to "substitute a transmission path for an entire loop" which is not consistent with the FCC's rules. See CLEC Parties Brief at 13.

**RESOLUTION**

38. The applicable FCC section, Section 51.319(a)(2)(iii)(A) provides that:

18. (iii) Narrowband services. When a requesting carrier of telecommunications seeks access to a hybrid loop for the provision of narrowband services, the incumbent LEC may either:
  - 19.
  20. (A) Provide nondiscriminatory access, on an unbundled basis, to an entire hybrid loop capable of voice-grade service (i.e., equivalent to DS0 capacity), using time division multiplexing technology; or
  - 21.
  22. (B) Provide nondiscriminatory access to a spare home-run copper loop serving that customer on an unbundled basis.

39. As stated repeatedly, in order to avoid confusion and misunderstanding, the parties should use the language of the FCC's rules whenever possible. Arbitration Award ¶ 34. Therefore, consistent with this principle and my findings regarding the proposed language in Section 4.4 and its referring sections, I find that Section 3.2.3 should provide in its entirety as follows:

Narrowband Services. Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting Section 2 above, when \*\*\*CLEC Acronym TXT\*\*\* seeks access to a Hybrid Loop for the provision of "narrowband services," as such term is defined by the FCC, then in accordance with the Federal Unbundling Rules, Verizon shall, in its sole discretion, 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.

**Sections 3.2.4.1 and 3.2.4.2 - IDLC Hybrid Loops**

40. The disputed provisions in Section 3.2.4 provide as follows:

3.2.4 IDLC Hybrid Loops. Notwithstanding any other provision of the Amended Agreement

(but subject to and without limiting Section 2 and Section 4.4 below), if \*\*\*CLEC Acronym TXT\*\*\* requests, in order to provide narrowband services, unbundling of a 2-wire analog or 4-wire analog Loop currently provisioned via Integrated Digital Loop Carrier (over a Hybrid Loop), Verizon shall, **as and to the extent required in accordance with** the Federal Unbundling Rules, provide \*\*\*CLEC Acronym TXT\*\*\* unbundled access to a Loop capable of voice-grade service to the end-user customer served by the Hybrid Loop.

3.2.4.1 Verizon, in its sole discretion, will provide a Loop through an option that Verizon determines to be the most cost effective and technically feasible. Such options may include, but are not limited to, providing \*\*\*CLEC Acronym TXT\*\*\* with an existing copper Loop or a Loop served by existing Universal Digital Loop Carrier ("UDLC"), where either is available. Commission-approved [r][R]ecurring and non-recurring Loop charges and other recurring and non-recurring Loop charges as set forth in the Parties' Commission-approved Agreement (including, but not limited to, a line and station transfer charge in cases where Verizon performs a line and station transfer to provision a Loop under this section) will apply. Upon \*\*\*CLEC Acronym TXT\*\*\* request, Verizon shall also perform any routine network modifications that Verizon is required to perform under Section 3.12 below.

3.2.4.2 If neither a copper Loop nor a Loop served by UDLC is available, then Verizon must present to \*\*\*CLEC Acronym TXT\*\*\* the most cost-effective and technically feasible methods of unbundled access, including, without limitation, making available to \*\*\*CLEC Acronym TXT\*\*\* an unbundled copper Loop through Routine Network Modifications, under Section 3.12.1, or any other technically feasible option identified in note 855 of the TRO.

41. VZ-DE contends that its proposed language is consistent with the Arbitrator's Award which found that, "[w]ithout a complete

factual record, there is no basis for determining VZ-DE's available options in Delaware" for supplying an unbundled loop to a premises served by an IDLC loop, and further noted that "the method of access should be at Verizon's discretion, not that of the CLEC." Arbitration Award ¶ 161. Further, the Arbitration Award held that VZ-DE should be required to "provide the requesting CLEC with the most cost-effective alternatives available." *Id.*

42. VZ-DE asserts that its proposed language tracks the Arbitration Award by stating that "Verizon, in its sole discretion, will **provide a Loop through an option that Verizon determines to be the most cost-effective and technically feasible,**" including through a copper loop or a UDLC loop. Amendment § 3.2.4.1.

43. In contrast, the CLEC Parties have proposed language that does not include any reference to VZ-DE's discretion to choose a cost-effective method. In addition, the CLECs would require VZ-DE to provide unbundled access through one of the "**option[s] identified in note 855 of the TRO.**" *Id.* § 3.2.4.2. VZ-DE contends that that provision is inconsistent with the Arbitration Award because there is no basis for a determination that any particular method of unbundled access is feasible in Delaware. VZ-DE believes that this requirement is too narrow because situations may arise when there is no technically feasible option other than the construction of a new loop at the CLEC Parties' request. VZ-DE Brief at 18.

44. VZ-DE rejects the CLEC Parties' characterization that the new loop construction should be considered as "**Routine Network Modifications.**" *Id.* § 3.2.4.2. VZ-DE contends that Network

modifications apply only "where the facility has already been constructed." *Id.* § 3.12.1.1. VZ-DE states that in its proposed language in Section 3.12 of the Amendment, it has acknowledged its obligation to make a loop available through routine modifications of existing network facilities. See *Id.* 3.2.4.1 ("**Upon [the CLEC's] request, Verizon shall also perform any routine network modifications that Verizon is required to perform under Section 3.12 below.**")

45. VZ-DE's proposed language regarding payment for the IDLC hybrid loops states that any "**[R]ecurring and non-recurring Loop charges as set forth in the Parties' Commission-approved Agreement**" apply when VZ-DE makes available an alternative to an IDLC loop. VZ-DE Brief at 19 (emphasis added). VZ-DE contends that the charge it refers to is a Line and Station Transfer charge; a non-recurring charge approved by the Commission in Docket No. 96-324, Phase II, Opinion and Order 5967 (June 4, 2002). *Id.* A Line and Station Transfer charge applies where VZ-DE swaps facilities in order to provision a copper loop. The CLEC Parties contend that pursuant to the Arbitration Award VZ-DE can only assess charges approved by the Commission that are included in existing interconnection agreements. CLEC Brief at 15.

#### **RESOLUTION**

46. It is undisputed that the Arbitration Award held that VZ-DE, at its sole discretion, should configure the method of access for provisioning an unbundled loop to a premises served by an IDLC loop. Further, I find that VZ-DE's proposed language follows the spirit and the intent of the FCC rules, 47 C.F.R. ¶ 51.319(a)(2)(iii). VZ-DE's

language most closely tracks the Arbitration Award, and should be used as the language for the Amendment, including the elimination of the CLEC Parties' proposed Section 3.2.4.2. However, I find that the CLEC Parties' proposed language in Section 3.2.4.1 for imposing charges for provisioning services is reasonable and satisfies the requirements of the TRO.

**Sections 3.1.1 and 4.7.8 - Access to Distribution Sub-Loops**

47. VZ-DE's proposed language regarding "Distribution Sub-Loop Facility," in Section 4.7.8, includes the copper portion of a loop that is between **"the minimum point of entry ('MPOE') at an end-user customer premises and Verizon's feeder/distribution interface."** Amendment § 4.7.8. Conversely, the CLEC Parties propose language that defines such a sub-loop facility as running between **"any technically feasible point of access in Verizon's outside plant, including Inside Wire owned or controlled by Verizon, and an end-user customer premises."** *Id.* See VZ-DE Brief at 19-20; the CLEC Parties' Brief at 32. The parties raise much the same dispute in Section 3.3.1, where VZ-DE refers to a **"technically feasible access point located near a Verizon remote terminal equipment enclosure,"** while the CLEC Parties refer to such a point **"in Verizon's outside plant (i.e., outside Verizon's central office)."** See VZ-DE Brief at 19-20; the CLEC Parties' Brief at 15.

48. VZ-DE contends that the CLEC Parties' language is too broad. VZ-DE objects to the CLEC Parties' suggestion that they should be able to gain access to distribution subloops at any point "outside Verizon's central office." Amendment § 3.3.1. VZ-DE cautions that

this broad language could be misconstrued to encompass fiber feeder, which the FCC has held is not subject to unbundling, or other portions of the loop that do not meet the definition of distribution subloop. VZ-DE at 20. See TRO ¶ 253 (“we do not require incumbent LECs to provide access to their fiber feeder loop plant on an unbundled basis as a subloop UNE”).

#### **RESOLUTION**

49. While neither VZ-DE nor the CLEC Parties are using the complete FCC language in their proposed language for Section 3.3.1, it appears that VZ-DE’s language most closely adheres to the spirit of the applicable FCC provision. Indeed, VZ-DE’s complaint concerning the CLEC Parties’ overbroad language has some foundation in view of the phrase “in Verizon’s outside plant” which may lend itself to a construction requiring VZ-DE to provide inside wire despite the fact that the parties have agreed in Section 3.3.2.1 that such provisioning will be handled separately.<sup>12</sup>

50. Again, with regard to Section 4.7.8, neither of the parties uses the full FCC language. However, I find the CLEC Parties’ version is closer to the FCC’s language, and should be used as the language for the Amendment.

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<sup>12</sup>See Amendment § 3.3.2.1 (“If and at such time as [the CLEC] should request unbundled access to Inside Wire that Verizon is determined to own or control, the Parties shall negotiate the rates, terms, and conditions for such access in accordance with the Bona Fide Request (‘BFR’) provisions of the Agreement and the Federal Unbundling Rules.”).

**Sections 3.4 and 3.5 - Application of Volume Caps To Affiliates**<sup>13</sup>

23. 51. VZ-DE's proposed language in these sections is designed to establish that the FCC rule limiting a requesting carrier to 10 DSL loops to a single building or 10 DSL circuits on a single transport route is intended to apply to the CLEC "**and its Affiliates.**" Amendment §§ 3.4.1.1.2, 3.4.2.1.2, 3.5.1.1.2, 3.5.2.1.2. VZ-DE argues that this language is necessary to prohibit a company and its affiliates from circumventing the FCC's restriction on the maximum amount of loops or transport facilities specified in the relevant FCC rule. The CLEC Parties contend that VZ-DE's proposed language improperly modifies the caps set by the FCC for Section 251(c)(3) unbundled loops and dedicated transport facilities. The CLEC Parties' Brief at 16. Further, the CLEC Parties assert that the restriction against affiliates purchasing these circuits represents an impermissible expansion of the FCC's limited Section 251(c) relief. The CLEC Parties' Brief at 17.
24. 52. 47 C.F.R. § 51.319(a)(4)(ii) provides, "[a] requesting telecommunications carrier may obtain a maximum of ten unbundled DS1 loops to any single building in which DS1 loops are available as unbundled loops." Similarly, for DS3 loops, the FCC has stated, "A requesting telecommunications carrier may obtain a maximum of a single unbundled DS3 loop to any single building in

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<sup>13</sup>See also Amendment Sections 3.4.1.1.2; 3.4.1.2.1; 3.4.2; 3.4.2.1.2; 3.4.2.2; 3.4.3.1; 3.4.3.2; 3.5.1; 3.5.1.2; 3.5.2; 3.5.2.2; 3.5.3; 3.5.3.2; 3.5.4; 3.10; 4.4.

which DS3 loops are available as unbundled loops." See 47 C.F.R.  
§ 51.319(a)(5)(ii).

25.

26. **RESOLUTION**

27. 53. While I find that VZ-DE's argument is based upon common sense logic, I simply do not find any support in the *TRO* or *TRRO* for the conclusion that affiliates should not be allowed to purchase loops under the same terms and conditions as stated in 47 C.F.R. §§ 51.319(a)(4)(ii) and 51.319(a)(5)(ii) regarding DS1 and DS3 loops. My review of the *TRO* and *TRRO* reveals that the language of these sections does not reach the conclusion advanced by VZ-DE. Consequently, I find that VZ-DE's proposed language is not supported by any applicable legal authority and should be removed from the Amendment.

**Section 3.6.1.1/3.6.1.1.1/3.6.3.3 - CLEC CERTIFICATION AND RELATED PROVISIONS**

54. It appears the parties have a basic agreement that before a CLEC requests unbundled access to high-capacity facilities, the CLEC must undertake a reasonably diligent inquiry and then certify that, to the best of its knowledge, the request is consistent with the *TRRO*. See Amendment § 3.6.1.1. The parties disagree however on the scope of the CLEC Parties' responsibility to conduct a reasonably diligent inquiry and the timeframe within which CLECs must challenge VZ-DE's wire center designations. VZ-DE Brief at 22-25; the CLEC Parties' Brief at 17-20.

**Section 3.6.1.1**

55. The parties disagree on what information the CLEC Parties must review in order to satisfy the requirements of a "reasonably diligent inquiry;" a condition precedent under the *TRRO* before CLECs

can order unbundled access to DS1 Loops, DS3 Loops, DS1 Dedicated Transport, DS3 Dedicated Transport or Dark Fiber Transport. *Id.* The parties agree that at a minimum, CLECs must review any list of non-impaired wire centers that VZ-DE has made available to the CLEC and any back-up data VZ-DE has provided to the CLEC. See Attachment "A," Section 3.6.1.1. However, the parties dispute whether CLECs have an obligation to review data that is "otherwise reasonably available" to them before certifying that the *TRRO* requirements have been satisfied. *Id.* Conversely, the CLEC Parties would impose a more narrow investigation of information as they propose language that requires them to review information that the CLEC "otherwise possesses." *Id.*

#### **RESOLUTION**

56. In my view, the CLEC Parties' proposed language of "otherwise possesses" lends itself to a more definite measure within which to define the scope of materials and data that they must consider before certifying that the requirements of the *TRRO* have been satisfied. VZ-DE's proposed language raises questions of interpretation concerning what is reasonably available to the CLECs. Since the contract drafting process should attempt to create certainty and foster definiteness in delineating the rights and obligations of the parties, the CLEC Parties' language is more appropriate. The CLEC Parties' proposed language therefore should be adopted.

#### **Sections 3.6.1.1 and 3.6.1.1.1 (Wire Centers Designations)**

57. VZ-DE states that in compliance with the Arbitrator's decision (Arbitration Award ¶ 55), it has proposed language that requires a CLEC to challenge Verizon wire center designations within

30 days after they are provided to the CLEC. VZ-DE Brief at 18. The CLEC's failure to challenge that designation within the thirty-day timeframe waives the CLEC's right to assert such a challenge. VZ-DE may reject any CLEC order that is inconsistent with that designation. VZ-DE contends this procedure is necessary to avoid indefinite uncertainty and the possibility that CLECs will raise disputes in order to delay or to avoid complying with FCC de-listing determinations. VZ-DE Brief at 23.

28. 58. The CLEC Parties' proposed language regarding wire center designations (Amendments § 3.6.1.1.1/§ 3.6.3.3) permits CLECs to challenge wire center designations (both the initial designations and subsequent additions to the wire center list) at any time the CLEC believes a challenge is warranted.

29. **RESOLUTION**

30. 59. The notion that the CLECs should be given an unlimited time to challenge a wire center designation is not warranted by the *TRO* or the *TRRO*. Further, under Section 3.6.1.1.1, CLECs should have all the information they need to make a timely challenge to VZ-DE's designations. Therefore, I find that VZ-DE's thirty-day time period is reasonable and serves to delineate the respective obligations of the parties in a manner that is consistent with the principles of the *TRO* and *TRRO*. Consequently, I decline to accept the CLEC Parties' Section 3.6.1.1.1 or Section 3.6.3.3. However, modification of VZ-DE's language is necessary to foreclose VZ-DE's possible argument that the CLEC Parties' should have already objected to wire center

designations that have been previously certified. In order to care for this possibility, I recommend that the Commission approve the following language for Section 3.6.1.1.

Before requesting unbundled access to a DS1 Loop, a DS3 Loop, DS1 Dedicated Transport, DS3 Dedicated Transport, or Dark Fiber Transport, including, but not limited to, any of the foregoing elements that constitute part of a Combination or that \*\*\*CLEC Acronym TXT\*\*\* seeks to convert from another wholesale service to an unbundled network element (collectively, "TRRO Certification Elements"), \*\*\*CLEC Acronym TXT\*\*\* must undertake a reasonably diligent inquiry and, based on that inquiry, certify that, to the best of its knowledge, \*\*\*CLEC Acronym TXT\*\*\*'s request is consistent with the requirements of the TRRO and that \*\*\*CLEC Acronym TXT\*\*\* is entitled to unbundled access to the subject element pursuant to section 251(c)(3) of the Act. \*\*\*CLEC Acronym TXT\*\*\*'s reasonably diligent inquiry must include, at a minimum, consideration of any list of non-impaired Wire Centers that Verizon makes or has made available to \*\*\*CLEC Acronym TXT\*\*\* by notice and/or by publication on Verizon's wholesale website (the "Wire Center List") and any backup data that Verizon provides or has provided to \*\*\*CLEC Acronym TXT\*\*\* under a non-disclosure agreement or that \*\*\*CLEC Acronym TXT\*\*\* otherwise possesses. Notwithstanding any other provision of this Amendment, in no event may \*\*\*CLEC Acronym TXT\*\*\* dispute a non-impairment designation set forth in Verizon's Wire Center List if \*\*\*CLEC Acronym TXT\*\*\* failed to notify Verizon in writing of such dispute within thirty (30) days of the date on which Verizon provided the Wire Center List to \*\*\*CLEC Acronym TXT\*\*\* or no later than thirty (30) days after the effective date of this Amendment, whichever is later, and Verizon may reject any orders submitted in violation of this provision without first seeking dispute resolution.

31. The modification to the last sentence that I have suggested takes into consideration the timeframe for past and future wire center designation challenges.

32. **Section 3.6.1.2 (Identity of Collocators and Wire Center Data)**

60. In Section 3.6.1.2, VZ-DE and the CLEC Parties generally agree that VZ-DE may provide the CLECs with "data regarding the number of Business Lines and fiber-based collocators at non-impaired Wire Centers" under an appropriate non-disclosure agreement. VZ-DE's proposed language would allow it to provide the data and competitors' confidential data by "mask[ing] the identity of fiber-based collocators." Amendment § 3.6.1.2. The CLEC Parties propose alternative language that would require Verizon to produce "**the names of the Fiber-Based Collocators counted in each Wire Center, line counts identified by line type, the date of each count of lines relied upon by Verizon, . . . all business rules and definitions used by Verizon, and any documents, orders, records or reports relied upon by Verizon for the assertions made.**" Amendment § 3.6.1.2.

61. In addition, the CLEC Parties propose that, on a CLEC's request, "**Verizon shall update the backup data to the month in which [the CLEC] requests the backup data; provided, however, that Verizon need not provide the backup data for a particular Wire Center for a date later than the original date on which the data must have been current to establish . . . non-impairment.**" Amendment § 3.6.1.2. The CLEC Parties also propose that "**Verizon shall provide the backup data required by this section no later than ten (10) business days**"

after VZ-DE receives a written request for the information from a CLEC. Amendment § 3.6.1.2.

**RESOLUTION**

62. The CLEC Parties have not provided any credible reason why they need to know the identity of collocators. The nature of the collocators' identities is highly sensitive information. Further, VZ-DE owes a duty of care to its customers when disclosing confidential business data. The CLEC Parties have not established a justification for this competitively sensitive information that supersedes VZ-DE's need for confidentiality. Therefore, I believe that VZ-DE should be allowed to mask sensitive data to shield the identities of fiber-based collocators before backup information is provided to the CLEC Parties, even under a non-disclosure agreement. However, with the protection in place to mask collocators' identities, VZ-DE does not require the discretionary term "may" to safeguard the confidentiality of customers' proprietary information. Consequently, I recommend using the CLEC Parties' proposal that the data "shall include" this information rather than VZ-DE's "may include."

63. I find that it is reasonable for the CLECs to receive the updated supporting data for classification of the wire centers. VZ-DE's argument that there is no need to update the supporting data has merit to the extent once a wire center is classified as non-impaired that classification is irreversible. However, it is reasonable to provide such data if the CLECs want to challenge the original designation on the ground that it was initially supported by flawed data. Further, I find the 10-day timeframe for provision of this data

to be appropriate. As the CLEC Parties have argued, the contract language proposed by the CLEC Parties enforces the notion that VZ-DE must provision all Section 251(c)(3) UNEs so long as such provisioning is consistent with federal law.

33. **Sections 3.6.2.2 (Rates After UNE Challenge) and 3.6.2.3 - Notice and Retroactive Rate Application**

34.

35. 64. The dispute here concerns VZ-DE's intended imposition of true-up rates if a "provision-then-dispute" procedure, established by the FCC, is resolved in VZ-DE's favor. Paragraph 234 of the TRRO provides that in order for a CLEC to obtain dedicated transport and high-capacity loops from an ILEC, such as VZ-DE, it must undertake a reasonably diligent inquiry and then self-certify that to the best of its knowledge its request meets the requirement of the TRRO and that it is entitled to unbundled access to the particular network elements that it seeks under Section 251(c)(3). See TRRO ¶234. The ILEC must "immediately process" the request for access to a dedicated transport or high-capacity loop UNE. *Id.* If the ILEC seeks to challenge the order, it must raise the issue through the dispute resolution procedures contained in its interconnection agreements ("In other words, the incumbent LEC must provision the UNE and subsequently bring any dispute regarding access to that UNE before a state commission or other appropriate authority."). *Id.*

65. VZ-DE contends that the parties agree that the "provision-then-dispute" procedure is appropriate, but they disagree on the

remedy when a dispute is resolved in favor of VZ-DE.<sup>14</sup> VZ-DE alleges that the parties agree that if VZ-DE is successful in its challenge, it is entitled to retroactive compensation to reflect the difference between TELRIC rates for UNEs and otherwise available rates, such as month-to-month special interstate tariff access rates. VZ-DE Brief at 26. This rate, "the true-up rate," VZ-DE maintains, would remain in effect until the CLEC either requested that the facility be disconnected or requested an alternative arrangement under VZ-DE's access tariff. Amendment 3.6.2.2. The CLEC Parties' propose language that builds-in additional alternatives to the special access tariff rates or disconnection, such as "request[ing] the application of applicable

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<sup>14</sup>The section at issue here, Section 3.6.2.2, provides:

**Prospective Rate Application.** If a dispute pursuant to section 3.6.2.1 above is resolved in Verizon's favor, then \*\*\*CLEC Acronym TXT\*\*\* shall compensate Verizon for the additional charges that would apply if \*\*\*CLEC Acronym TXT\*\*\* had ordered the subject facility or service on a month-to-month term under Verizon's interstate special access tariff basis, subject to the month-to-month rates provided under the applicable Verizon access tariff, unless \*\*\*CLEC Acronym TXT\*\*\* is then subscribed to an applicable term/volume plan, or other special access arrangement, pursuant to which \*\*\*CLEC Acronym TXT\*\*\* would be entitled to a different rate (except as provided in section 3.6.2.2.1 below as to dark fiber transport) and any other applicable charges, applicable back to the date of provisioning (including, but not limited to, late payment charges for the unpaid difference between UNE and access tariff rates). The month-to-month foregoing rates shall apply until such time as \*\*\*CLEC Acronym TXT\*\*\*: (1) requests disconnection of the subject facility; (2) or requests an alternative term that Verizon offers under its interstate special access tariff for the subject facility or service; (3) requests the application of applicable term or volume discounts; or (4) negotiates a wholesale special access contract with Verizon for the subject facility or service; provided, however, that if \*\*\*CLEC Acronym TXT\*\*\* has an effective wholesale special access contract or other service arrangement with Verizon, the applicable rates under that contract or other service arrangement would apply.

term or volume discounts; or . . . negotiat[ing] a wholesale special access contract with Verizon" provided that the CLEC did not have a wholesale special access contract or other service arrangement with VZ-DE. *Id.* In that case, the rates for the wholesale special access contract or service arrangement would apply. *Id.*

66. Further, the CLEC Parties' propose language that allows them to claim the benefit of any special access term or volume discount plan "pursuant to which [the CLEC] would be entitled to a different rate" in calculating the "true-up" rate. *Id.*; see also *id.* § 3.6.2.3 (providing that if the Commission resolves a dispute in Verizon's favor, the CLEC should obtain "the lowest rate that [the CLEC] could have obtained in the first instance for the facility to be re-priced").

#### RESOLUTION

67. VZ-DE is correct that it would be irresponsible for the CLECs to ignore the self-certification process and order network elements that they know they are not entitled to under section 251(c)(3). However, I find there is no basis for turning a successful dispute into a windfall for VZ-DE. I see no cognizable reason why the CLECs should not be entitled to claim discounts or arrangements if such rate discounts do apply. The CLECs should receive the benefit of any wholesale special access contracts or other service arrangements that they already have in place with VZ-DE. For purposes of clarity, I find that Section 3.6.2.2, should be revised as follows:

**Prospective Rate Application.** If a dispute pursuant to Section 3.6.2.1 above is resolved in Verizon's favor, then \*\*\*CLEC Acronym TXT\*\*\* shall compensate Verizon for the

additional charges that would apply if \*\*\*CLEC Acronym TXT\*\*\* had ordered the subject facility or service on a month-to-month basis, subject to the month-to-month rates provided under the applicable Verizon access tariff, unless \*\*\*CLEC Acronym TXT\*\*\* is then subscribed to an applicable term/volume plan, or other special access arrangement, pursuant to which \*\*\*CLEC Acronym TXT\*\*\* would be entitled to a different rate (except as provided in Section 3.6.2.2.1 below as to dark fiber transport). The foregoing rates shall apply until such time as \*\*\*CLEC Acronym TXT\*\*\*: (1) requests disconnection of the subject facility; (2) or requests an alternative term that Verizon offers under its interstate special access tariff for the subject facility or service; (3) or requests the application of applicable term or volume discounts; or (4) negotiates a wholesale special access contract with Verizon for the subject facility or service.

The overriding principle is that the CLECs should receive the lowest rate for the network element that is applicable, taking into consideration such issues as quantity until such time as the service is disconnected.

68. In light of my findings regarding Section 3.6.2.2, I do not consider the language in Section 3.6.2.3 necessary to the Amendment. In addition, the CLEC Parties' proposed language in Section 3.6.2.3 would limit the CLECs' penalty for frivolous self-certifications. The matters covered by this section have been discussed above. I therefore recommend that the Commission approve deletion of Section 3.6.2.3 in its entirety.

#### **Section 3.6.2.4 - Exceptions to "Provision-then-Dispute"**

69. In Section 3.6.2.4, the parties agree that there may be instances where VZ-DE may reject orders for high-capacity facilities without submitting to dispute resolution; however, the CLEC Parties require an "affirmative" approval by this Commission or the FCC or a court of competent jurisdiction. VZ-DE Brief at 28-29. VZ-DE claims that the CLEC Parties want the "provision-then-dispute" process to

apply even when VZ-DE has made its non-impaired wire center list widely available for scrutiny by CLECs for many months. VZ-DE contends that its language allows it to refuse self-certifications for the initial list of wire centers *only*. *Id.* VZ-DE asserts that Section 3.6.2.4 provides that "subsequent revisions to the Wire Center List" will be "governed by Section 3.6.3" which, by its own terms, does not allow VZ-DE to cease processing orders immediately after updating its list. *Id.* at 29.

#### **RESOLUTION**

70. VZ-DE is correct that its list has been publicly available for months, but I believe that is not a sufficient reason to foreclose the CLEC Parties' "provision-then-dispute" right for the initial wire centers if they have not already exercised that right, as long as there is some limit placed on the time period available. Furthermore, I agree with VZ-DE that use of the term "affirmative" to condition regulatory or legal approvals is unnecessary and would open up the potential for disputes over interpretation. Therefore, I recommend that the Commission accept Section 3.6.2.4 to read:

Notwithstanding any other provision of the Amended Agreement, Verizon may reject a \*\*\*CLEC Acronym TXT\*\*\* order for a TRRO Certification Element without first seeking dispute resolution: **(a) in any case where \*\*\*CLEC Acronym TXT\*\*\*'s order conflicts with a non-impaired Wire Center designation set forth in the Wire Center List that Verizon has made available to \*\*\*CLEC Acronym TXT\*\*\* by notice and/or by publication on Verizon's wholesale website as of the Amendment Effective Date (subsequent revisions to the Wire Center List being governed by Section 3.6.3 below), except as to any particular Wire Center designation(s) with respect to which \*\*\*CLEC Acronym TXT\*\*\*, within thirty (30) days of the date on which Verizon provided the Wire Center List to \*\*\*CLEC Acronym TXT\*\*\* or no later than thirty (30) days after the Effective Date of this**

**Amendment, whichever time period is later, notified Verizon of a bona fide dispute in accordance with the requirements of Paragraph 234 of the TRRO;** (b) in any case where \*\*\*CLEC Acronym TXT\*\*\*'s order conflicts with a non-impaired Wire Center designation that the Commission, the FCC, or a court of competent jurisdiction has ordered or approved or that has otherwise been confirmed through previous dispute resolution; or (c) to the extent the Commission, the FCC, or a court of competent jurisdiction otherwise permits Verizon to reject orders for TRRO Certification Elements without first seeking dispute resolution.

### **Section 3.8 - Payment of Transition Charges**

71. VZ-DE suggests that the parties have agreed to language governing transition charges provided under the Amendment. VZ-DE Brief at 29. VZ-DE has included proposed prefatory language in Section 3.8 to clarify that transition charges authorized under pre-existing Agreements and the FCC's rules are not waived by the terms of this Amendment. VZ-DE contends that the CLEC Parties have agreed to this provision in other states.

72. Conversely, the CLEC Parties characterize this provision as an attempt by VZ-DE to re-price network elements, facilities, and services subject to FCC-approved transition rates established before the effective date of the Amendment. The CLEC Parties Brief at 24.

### **RESOLUTION**

73. Contrary to the CLEC Parties' assertion, VZ-DE is not seeking by this section to assert "unidentified pre-existing and independent rights." Further, I do not find that this provision operates to effectuate VZ-DE's unilateral re-price of network elements, facilities, and services. By its own terms, the provision is conditioned on the terms of the *existing Agreement and the TRRO*; therefore, the language does not violate the Arbitration Award. I

recommend that VZ-DE's proposed language in Section 3.8 be accepted as part of the Amendment.

**Section 3.9.1 - Discontinuance of TRRO Embedded Base at the Close of Transition Period.**

74. The CLEC Parties object to VZ-DE's proposed language because they construe it to require them to *complete* conversions of their embedded base of de-listed high capacity loops and dedicated transport facilities to alternative wholesale services offered by VZ-DE no later than the expiration date of the transition periods for those UNEs. The CLEC Parties' Brief at 25.

**RESOLUTION**

75. Consistent with the principles enunciated in this report and in the Arbitration Award, I have concluded that it would not be fair to hold the CLECs responsible for VZ-DE's completing its orders. However, the *TRRO's* transition periods have long since passed and the CLECs must take responsibility for either disconnecting or obtaining alternative services. Consequently, I find that Section 3.9.1 should be revised to read:

For the avoidance of any doubt, to the extent \*\*\*CLEC Acronym TXT\*\*\*, prior to the end of the applicable transition period set forth in the TRRO (i.e., for DS1 and DS3 Loops, DS1 and DS3 Dedicated Transport, March 10, 2006, or for Dark Fiber Loops and Dark Fiber Transport, September 10, 2006), failed to order disconnection of its embedded base, if any, of Discontinued Facilities that are subject to the transition periods set forth in this Section 3 and **to submit orders for alternative arrangements offered by Verizon** (e.g., any arrangement offered by Verizon pursuant to a separate commercial agreement, or a Verizon access tariff, or as Section 251(c)(4) resale), Verizon's obligation to provide unbundled access to such Discontinued Facilities ceased on March 10, 2006 (or, in the case of Dark Fiber Loops and Dark Fiber Transport, September 10, 2006). Accordingly, effective as of March 11, 2006 (or, in the case of Dark Fiber Loops and

Dark Fiber Transport, September 11, 2006), Verizon **was and remains entitled to disconnect, convert, and/or** reprice such Discontinued Facilities in accordance with Section 2.4.1 above **without further notice to \*\*\*CLEC Acronym TXT\*\*\*.**

This revision of the proposed language balances the obligation of the CLECs to complete the transition process as well as provides VZ-DE with the tools it needs to deal with any recalcitrant CLECs.

#### **Section 3.10A - Line Splitting**

76. As noted in the Arbitration Award, the line splitting provision was to be included in interconnection agreements that did not have such a provision already. Therefore, this provision will apply only to those CLECs whose Agreements do not address line splitting.<sup>15</sup> Section 3.10A is divided into three sections, 3.10A.1, 3.10A.2 and 3.10A.3, each of which I will discuss *seriatim*.

#### **Section 3.10A.1 - Line Splitting**

77. VZ-DE notes the CLEC Parties object to its proposed language that requires line splitting be accomplished using a splitter provided by the CLEC. VZ-DE Brief at 30. In support of this requirement, VZ-DE cites the TRO, which states, "existing rules require incumbent LECs to permit a competing carrier to engage in line splitting where a competing carrier purchases the whole loop *and provides its own splitter* to be collocated in the central office." *Id.*, citing TRO ¶ 251 (emphasis added).

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<sup>15</sup>VZ-DE contends that it has provided the CLECs with a list of the CLECs whose amendments will exclude line splitting terms and conditions. These CLECs already have underlying ICAs that include line splitting terms. VZ-DE asserts that two parties in this docket, Covad and XO (which are part of the CLEC parties) and three inactive parties, Sprint, AT&T, and its affiliate TCG, have line splitting terms in their ICAs.

78. Further, the CLEC Parties object to VZ-DE's requirement that line splitting "**be accomplished by prior negotiated arrangement**" between the CLECs, and the requirement that the CLECs "**give Verizon written notice of this arrangement.**" *Id.* VZ-DE contends that this requirement is already included in several Commission-approved interconnection agreements and it is important to ensure that agreements are in place with other CLECs before a CLEC orders a line-splitting arrangement. VZ-DE is wary that without agreements in place before the line-splitting arrangement is operational, disputes will arise between the two CLECs leaving VZ-DE with disputed charges that each CLEC claims is the other's responsibility. VZ-DE at 31. The CLEC Parties' proposed language for Section 3.10.1.1 does not address VZ-DE's request that agreements between the two CLECs be in place and the fact that VZ-DE requires written notice of this agreement. Amendment Section 3.10.A.1.1.

79. The CLEC Parties contend that they have proposed language that conforms to the Arbitration Award and the FCC's rules applicable to line splitting, 47 C.F.R. § 51.319(a)(1)(ii). The CLEC Parties' Brief at 26, citing Arbitration Award ¶ 143.

80. VZ-DE urges the Commission to reject the CLEC Parties' provision, Section 3.10.A.1.1, contending that it does not accurately reflect the language of the regulation or the current state of the law. VZ-DE Brief at 32. The FCC's rules provide that an ILEC's obligation to allow a requesting carrier to engage in line splitting applies "whether the carrier providing voice service provides its own switching or obtains local circuit switching as an unbundled network

element." See 47 C.F.R. § 51.319(a)(1)(ii)(A). VZ-DE argues that local circuit switching is not available anymore as an unbundled network element and, therefore, the FCC's regulations require an ILEC to permit line splitting when the voice service provider "provides its own switching." *Id.* VZ-DE notes that the CLEC Parties' proposed language in Section 3.10A.1.1 pertains to a CLEC that "**obtains local circuit switching as an unbundled network element, pursuant to the Amendment.**" *Id.*, citing Amendment § 3.10A.1.1. VZ-DE asserts that CLECs are now prohibited from obtaining local circuit switching as an unbundled network element under federal law; therefore, the CLEC Parties' proposed language should be stricken. *Id.* Second, the CLEC Parties' proposed language refers to a CLEC obtaining switching "**pursuant to . . . a Verizon tariff or other agreement.**" *Id.* VZ-DE encourages the Commission to reject the CLEC Parties' proposed language because it is not in the FCC's regulation and it is contrary to federal law. *Id.* VZ-DE summarizes its argument against the CLEC Parties' proposed language as "[it has] no obligation to permit line splitting when it makes local circuit switching available on a commercial basis (or under tariff) in combination with local loops." *Id.*

#### **RESOLUTION**

81. In keeping with the Commission-approved Arbitration Award on this issue, it is appropriate for the Amendment to reflect the FCC's line splitting-specific rules. The FCC's rules on line splitting provide:

36. (ii) Line splitting. An incumbent LEC shall provide a requesting telecommunications carrier that obtains an unbundled copper loop from the incumbent LEC with the ability to engage in line splitting arrangements with another competitive LEC using a splitter collocated at the central office where the loop terminates into a distribution frame or its equivalent. Line splitting is 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.
- 37.
38. (A) An incumbent LEC's obligation, under paragraph (a)(1)(ii) of this section, to provide a requesting telecommunications carrier 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 paragraph (d) of this section.
39. (B) An incumbent LEC must 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. See 47 C.F.R. § 51.319(a)(1)(ii).

82. As the above-quoted FCC rules reflect, the requirements proposed by VZ-DE go beyond the FCC rules. There is no requirement in the FCC rules for the CLECs to provide the line splitter or that the CLECs have a written agreement in place before ordering services. However, VZ-DE is correct that local circuit switching is no longer available as an unbundled network element. Therefore, as noted above, the portion of the FCC rules that refer to unbundled local circuit switching should be removed to reflect the current status of federal law.

**Section 3.10A.2. - Billing for line splitting arrangements and Section 3.10A.3. - Other Facilities for Line Splitting**

83. VZ-DE complains that the CLECs' objection to its proposed language in Sections 3.10A.2 and 3.10A.3 is groundless. VZ-DE Brief at 31. Under Section 3.10A.2, VZ-DE may bill the provider of voice services in a line splitting arrangement all charges associated with the UNEs and VZ-DE services and facilities used for the line-splitting arrangement. VZ-DE argues that this billing mechanism is important as its operations support systems ("OSS") are set up to bill the provider of voice services. *Id.* Further, VZ-DE contends that it would be too expensive to customize its OSS to bill separate services to different CLECs. *Id.*

84. VZ-DE states that it included Section 3.10A.3 to make clear that a CLEC may order other facilities and services under the Amended Agreement to facilitate line splitting. *Id.* The provision allows CLECs to order permitted UNEs, collocation arrangements, services and facilities, equipment and arrangements for purposes of supporting

their line splitting arrangement. *Id.* By this provision, VZ-DE attempts to clarify that line splitting is a service arrangement, and the service arrangement itself may not include all of the facilities required to complete line splitting. *Id.*

85. VZ-DE asserts that "simply plugging the language of the [FCC] regulations into the Agreement does not address the operational requirements" and issues that are pertinent in provisioning line splitting. VZ-DE Brief at 32. Thus, VZ-DE maintains that the language of the FCC's rules do not provide a "substitute" for its proposed provisions. *Id.*

#### **RESOLUTION**

86. In reviewing Section 3.10A in its entirety, I recognize that a more practical approach to the terms and conditions of the Amendment is required because of the passage of time. Therefore, I first employ our fundamental principle which is to include, when possible, the language of the FCC's rules in the Amendment's terms and conditions. Therefore, in Section 3.10A.1, I recommend that the Commission decline to accept those terms which are not contained in the applicable FCC rule, 47 C.F.R. § 51.319(a)(1)(ii). Accordingly, I recommend that the Commission approve Section 3.10A.1 as revised as follows:

Subject to the conditions set forth in Section 2 above, Verizon shall provision Line Splitting arrangements under the Amended Agreement in accordance with the Federal Unbundling Rules. Verizon shall enable \*\*\*CLEC Acronym TXT\*\*\* to engage in Line Splitting using a splitter collocated at the central office where the Loop terminates into a distribution frame or its equivalent. Verizon's standard provisioning

processes shall apply, and rates shall apply in accordance with the terms of the Amended Agreement.

The FCC rule does not mandate that the CLEC provide the splitter and, consequently, there is no basis for VZ-DE's proposed language in the Amendment. Further, the FCC rule does not mandate negotiated contracts between the CLEC in a line splitting arrangement, although it may be prudent and advisable, therefore, this language should be deleted.

87. VZ-DE is correct that in Section 3.10A.1.1 there is no basis for CLECs to obtain local circuit switching as an unbundled network element. See 47 C.F.R. § 51.319(a)(1)(ii)(A). Therefore, this section is contrary to the current state of the law, and for that reason, I recommend that the Commission decline to include Section 10A.1.1.

88. Section 3.10A.1.2 states the current law as provided in 47 C.F.R. § 51.319(a)(1)(ii)(B). It is the ILEC's responsibility to perform all the necessary network modifications to support line splitting arrangements. *Id.* Consequently, I recommend to the Commission that this provision be included in the terms and conditions.

89. While the precise terms stated in Sections 3.10A.2 and 3.10A.3 are terms that are not specifically stated in the FCC's rules, I find that at this point they are useful conditions that merely provide overall guidelines for billing but they do not specifically provides rates to be charged for the network elements. Therefore, for the smooth administration of line splitting arrangements, I recommend

that the Commission accept these two provisions as part of the Amendment's terms and conditions.

**Section 3.10B - Line Conditioning**

90. Pursuant to the Arbitration Award, terms and conditions regarding line conditioning are applicable only to those interconnection agreements that currently do not have them. VZ-DE states that its proposed language on line conditioning closely mirrors the "relevant" line conditioning provision of the FCC's regulations, 47 C.F.R. § 51.319(a)(1)(iii). VZ-DE Brief at 33. VZ-DE's proposed language is far less extensive than the editions that the CLEC Parties have proposed. However, the principal objection that the CLEC Parties' have with VZ-DE's proposed language is its statement that **"[c]harges shall apply in accordance with the Pricing Attachment to this Amendment."** See *Id.* citing Amendment § 3.10B.1.

91. VZ-DE further proposes language (which it asserts is taken from the FCC's rule § 51.319(a)(1)(iii)) that provides a requesting carrier the option to decline to accept line conditioning rather than pay the charges. See *Id.* § 51.319(a)(1)(iii). VZ-DE has further proposed language in Amendment § 3.10B.1 that provides: **"Verizon's standard ordering and provisioning processes and intervals for line conditioning shall apply."** *Id.*

92. The CLEC Parties have proposed three sections, with subparts: Sections 3.10B2, 3.10B3, 3.10B3(a), 3.10B3(b), and 3.10B4 to supplement the terms of Section 3.10B1. Section 3.10B2 is obligated to perform testing and reporting for all features of conditioned high frequency copper loops, not restricted to voice transmission. Under

proposed Section 3.10B3, the CLEC Parties impose upon VZ-DE the obligation, where conditioning would significantly degrade voice services, to provide another suitable copper loop (Section 3.10B3(a)) or demonstrate to the Commission that the original copper loop cannot be conditioned with degrading the voiceband services and that there is not an adjacent or alternative loop available (Section 3.10B3(b)).

93. In response to the CLEC Parties' proposed language in Sections 3.10B2, 3.10B3, 3.10B3(a), 3.10B3(b) and 3.10B4, VZ-DE argues that the CLEC Parties' proposed language regarding line conditioning is inappropriate because it refers to the situation where a CLEC seeks access to "the high frequency portion of a copper Loop." VZ-DE Brief at 33 citing Amendment § 3.10B.1, § 3.10B.3 and § 3.10B.4. VZ-DE asserts that it is not obligated to provide the high frequency portion of a copper Loop - *i.e.*, line sharing - as an unbundled network element under federal law. *Id.* Therefore, VZ-DE line conditioning as it relates to line sharing is not required by the FCC rules and other federal law. Consequently, VZ-DE urges the Commission to decline to adopt the CLEC Parties' proposed language. *Id.*

#### **RESOLUTION**

94. Under the FCC rules, the high frequency portion of the copper loop is not available to the CLECs after October 2, 2006.<sup>16</sup> See TRO ¶¶ 264-269. Therefore, any proposed language regarding Section 3.10.B and its subparts that refer to the high frequency copper loops

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<sup>16</sup>Under the TRO, the high frequency portion of the loop was available to CLECs on an unbundled basis for three years after the effective date of the TRO. The TRO was effective on October 2, 2003 requiring that by October 2, 2006 all CLECs in Delaware had to obtain other arrangements for this service. See TRO ¶¶ 264-269.

must be stricken. I recommend that Section 3.10B should be revised as follows to reflect the unavailability of the high frequency portion of copper loops as well as to incorporate other recommendations made in this Report that are applicable to this section:

3.10B **[THIS SECTION TO BE INCLUDED ONLY IN AMENDMENTS FOR CERTAIN ICAS THAT DO NOT ALREADY CONTAIN LINE CONDITIONING PROVISIONS]** Line Conditioning. Subject to the conditions set forth in Section 2 above and in accordance with the Federal Unbundling Rules:

3.10B.1 Verizon shall condition a copper Loop at the request of \*\*\*CLEC Acronym TXT\*\*\* when \*\*\*CLEC Acronym TXT\*\*\* seeks access to a copper Loop\_or a copper Sub-Loop **that Verizon is required to provide to \*\*\*CLEC Acronym TXT\*\*\* on an unbundled basis under the Amended Agreement**, to ensure that the copper Loop or copper Sub-Loop is suitable for providing xDSL services, whether or not Verizon offers advanced services to the end-user customer on that copper Loop or copper Sub-Loop.

**3.10B.2 Insofar as it is technically feasible, Verizon shall test and report troubles for all the features, functions, and capabilities of conditioned copper lines.**

This revision removes the language regarding the high frequency portion of the loop which is unavailable to CLECs on an unbundled basis under current federal law.

#### **Section 3.11.1.1 - Commingling**

95. VZ-DE and the CLEC Parties have generally agreed to the terms describing VZ-DE's obligation to allow CLECs to commingle unbundled network elements purchased under the Amendment Agreement with other wholesale services. VZ-DE at 34; see also TRO ¶ 581. However, the CLEC Parties include the phrase "**non-251(c)(3) services**" to describe the other wholesale services included in the commingling

obligation, while VZ-DE's language would restrict the other services to either access services or 251(c)(4) resale services.

96. The CLEC Parties explain that under the TRO wholesale services that a CLEC may commingle with Section 251(c)(3) UNEs or a combination of Section 251(c)(3) UNEs to include, but are not limited to, tariffed switched and special access services, wholesale services that VZ-DE is obligated to provide pursuant to Section 271 of the 1996 Act, and "any services offered for resale pursuant to Section 251(c)(4) of the Act." CLEC Brief at 27.

**RESOLUTION**

97. The TRO contemplates commingling occurring with any wholesale services that are not Section 251(c)(3) UNEs. See TRO ¶ 579. Therefore, I recommend that Section 3.11.1.1 be revised to read:

Verizon will not prohibit the commingling of an unbundled Network Element or a combination of unbundled Network Elements obtained under the Amended Agreement pursuant to the Federal Unbundling Rules ("Qualifying UNEs"), with any non-Section 251(c)(3) wholesale services and facilities obtained from Verizon, including but not limited to such services or facilities offered by Verizon under a Verizon access tariff or other agreement, or as resale pursuant to the Section 251(c)(4) ("Wholesale Services"). Moreover, in accordance with the Federal Unbundling Rules (subject to Section 3.11.1.3 below), Verizon shall, upon request of \*\*\*CLEC Acronym TXT\*\*, perform the functions necessary to commingle or combine Qualifying UNEs with Wholesale Services obtained from Verizon. The rates, terms and conditions of the applicable access tariff or other agreement, or the applicable Section 251(c)(4) resale provisions of the Agreement, will apply to the Wholesale Services, and the rates, terms and conditions of the Amended Agreement or the Verizon UNE tariff, as applicable, will apply to the Qualifying UNEs.

Accordingly, I suggest that the Commission adopt the above language for Section 3.11.1.1.

**Section 3.11.2.1 - Certification**

98. VZ-DE proposes that CLECs be required to certify existing EEL circuits within thirty (30) days of the effective date of the Amendment. VZ-DE Brief at 34. The CLEC Parties argue that they require sixty (60) days to submit the required certification. The CLEC Parties' Brief at 27. VZ-DE argues that its language is appropriate since the CLECs have been aware that they would have to certify eligibility for more than three years.

**RESOLUTION**

99. Given the fact that all the parties have known about this certification for an extended period of time, VZ-DE's proposed language requiring thirty days for certification is reasonable and should be adopted.

**Section 3.11.2.2 - Repricing of Noncompliant EEL Circuits**

100. The parties have agreed that for noncompliant high capacity EEL circuits VZ-DE has the right to reprice the circuit retroactive to the date the EEL became noncompliant by charging a new rate, or by applying a surcharge to the existing rate to be equal to an alternative access service or other arrangement. The CLEC Parties want to add to this provision the language, "**subject to any special access term/volume plan or other special access arrangement to which \*\*\*CLEC Acronym TX\*\*\* subscribed during the period of noncompliance.**"

101. This language is the same as the CLEC Parties' proposed in Section 3.6.2.2. providing that the new rate would be "**subject to any**

special access term/volume plan or other special access arrangement to which [the CLEC] subscribed during the period of noncompliance.” VZ-DE Brief at 35. VZ-DE contends that CLECs should not be given the benefit of any discount when re-pricing is necessary because they have created the need for re-pricing by having improperly obtained an EEL or failing to request disconnection. *Id.* VZ-DE contends that the CLECs should not be able to profit from their derelict behavior. Discounts, VZ-DE argues, should only be available to CLECs when they have properly requested services. *Id.* VZ-DE further asserts that to adopt the CLEC Parties’ language encourages them to seek EELs when their entitlement to them is “questionable.” *Id.* In addition, VZ-DE maintains that providing the CLECs’ discounts in this situation empowers them to be irresponsible when they should have requested disconnection or requested an alternate arrangement. *Id.*

#### RESOLUTION

102. The discussion regarding the philosophy of my resolution of the dispute language in this section is the same as that provided in Section 3.6.2.2 above. Therefore, I recommend using the proposed CLEC Parties’ language in Section 3.11.2.2. This language reflects the overriding principle that CLECs should be provided services from VZ-DE at the lowest applicable rate.

#### Section 3.11.2.8 - High Capacity EEL Audits - Dispute Resolution

103. Generally, the parties agree that the recommendations in the Arbitrator’s Award at ¶¶ 194,195 are appropriate for EEL audits. The CLEC Parties seek to include a provision that if “Verizon or [the] CLEC disputes all or any portion of the audit, it may dispute the

audit under the dispute resolution procedures contained in the Agreement." VZ-DE contends that the FCC requires that the auditor be "independent."

**RESOLUTION**

104. The protection that the CLEC Parties seek with their proposed language is unnecessary. The auditor must be independent and must conduct the audit in accordance with acceptable professional standards. Further, the FCC did not prescribe any mechanism to challenge the auditor's findings.

**Section 3.12.3 - Charges for Routine Network Modifications**

105. The CLEC Parties' proposed language states that there are no existing Commission-approved charges for network modifications. The CLEC Parties' Brief at 28. VZ-DE observes that the Amendment does not purport to impose any non-Commission-approved charges for routine network modifications. VZ-DE Brief at 36.

**RESOLUTION**

106. To be clear, the Arbitration Award states that the Amendment "should not address" rates for routine network modifications. Arbitration Award ¶ 200. It is inappropriate to conclude that the Amendment must expressly state that there are no rates for routine network modifications.<sup>17</sup> I recommend therefore that Section 3.12.3 be omitted from the Amendment.

**Section 4.4**

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<sup>17</sup>In fact, I suspect there are effective rates (albeit dusty and shelf-worn) previously-approved by the Commission that are applicable to routine network modifications.

107. VZ-DE complains that throughout the Amendment,<sup>18</sup> such as in Section 2.4, the CLEC Parties' propose language referring to the scope of the amendment, i.e. proposed Section 4.4.<sup>19</sup> Specifically, VZ-DE contends that it is improper for the CLEC Parties to propose language referring to Section 251, including language referring to "rights and obligations under applicable law contained in the Agreement, other than those Section 251 rights and obligations specifically addressed in this Amendment." See Amendment Section 4.4. VZ-DE states that this reference is improper and should be rejected because as the Arbitrator noted, the parties stipulated to eliminate any issue involving "rates, terms, and conditions that do not arise from federal unbundling regulations pursuant to 47 U.S.C. sections 251 and 252." Arbitration Award at 21. VZ-DE asserts that just as commissions have held in the District of Columbia, Texas, California, and Florida,

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<sup>18</sup>The disputed language is also found in Sections 2.4; 3.1.1; 3.1.2; 3.2.1; 3.2.2; 3.2.3; 3.2.4; 3.3.1; 3.3.2; 3.6.2.4; 3.10; 3.10.A.1; 3.10.B; 3.11.1; 3.11.2; and 3.12.1.

<sup>19</sup>Section 4.4 states in its entirety:

4.4 Scope of Amendment. This Amendment shall amend, modify and revise the Agreement only to the extent set forth expressly herein. As used herein, the Agreement, as revised and supplemented by this Amendment, shall be referred to as the "Amended Agreement." Nothing in this Amendment shall be deemed to amend or extend the term of the Agreement, or to affect the right of a Party to exercise any right of termination it may have under the Agreement. This Amendment does not alter, modify or revise any rights and obligations under applicable law contained in the Agreement, other than those Section 251 rights and obligations specifically addressed in this Amendment. Furthermore, \*\*\*CLEC Acronym TXT\*\*\*'s execution of this Amendment shall not be construed as a waiver with respect to whether Verizon, prior to the Amendment Effective Date, was obligated under the Agreement to perform certain functions required by the TRO.

there is no reason for the Amendment to address any purported "rights and obligations under" other sources of law.<sup>20</sup> VZ-DE Brief at 5.

108. VZ-DE asserts that the CLEC Parties similarly seek to inject issues outside the scope of this arbitration by seeking to insert the qualifier "Section 251(c)(3)" before terms including "DS1 loops" (Section 3.4.1); "DS3 loops" (Section 3.4.2); "unbundled loops" (Sections 3.4.1.1.2/3.4.2.1.2); "unbundled network elements," (Sections 3.4.1.2.1/3.4.2.2/3.4.3.2/3.5.1.2/3.5.2.2); "Dark Fiber Loop" (Section 3.4.3.1); "DS1 Dedicated Transport" (Section 3.5.1); "DS3 Dedicated Transport" (Section 3.5.2); "Dark Fiber Transport" (Sections 3.5.3/3.5.3.2); "Entrance Facilities" (Section 3.5.4); and "Line Sharing" (Section 3.10). VZ-DE contends that the CLEC Parties' purpose in insisting on this language is to preserve the argument that other sources of law may impose, under this Amendment, additional obligations other than those imposed under federal law. VZ-DE Brief at 7. VZ-DE also notes that the foregoing capitalized terms are terms defined in the Amendment itself. *Id.* VZ-DE observes that this is a Section 252 arbitration and, therefore, the CLEC Parties added language is redundant.<sup>21</sup>

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<sup>20</sup>VZ-DE notes in its brief that other jurisdictions, such as the District of Columbia, Texas, the State of Washington and California, have also removed language that refers to other statutes. See VZ-DE Brief at 5 and fns. 7-13.

<sup>21</sup> VZ-DE notes that the Florida Commission spoke to this same issue in its arbitration proceeding stating: "Since this is a section 252 arbitration that is only dealing with elements provided pursuant to section 251, the modifier is superfluous and shall be deleted." See Florida Conforming Language Order at 4.

109. VZ-DE further argues that the CLEC Parties may assert that the Arbitration Award in this case sanctioned the reference to Section 251 when it held that "it would be appropriate for the Amendment to contain language clarifying that it is not intended to affect obligations that arise under other sources." Arbitration Award ¶ 204. VZ-DE argues that the CLEC Parties' language specifically refers to "rights and obligations under applicable law contained in the Agreement" and goes beyond the intent of the Arbitrator's Award. Amendment § 4.4 (emphasis added). VZ-DE asserts that the CLEC Parties' language is an attempt to leave open an argument that, even with regard to the matters governed by the Amendment, CLECs can continue to claim additional rights under the Agreement arising from some unidentified other source of law. VZ-DE at 7.

110. VZ-DE contends that the CLEC Parties' sponsored language in Section 4.4, "execution of this Amendment shall not be construed as a waiver with respect to whether Verizon, prior to the Amendment Effective Date, was obligated under the Agreement to perform certain functions required by the TRO" should be prohibited. VZ-DE Brief at 8. VZ-DE views this language as the CLEC Parties attempt to preserve the claim they asserted in the main case that the ICAs require VZ-DE to implement the FCC's new rules on commingling and conversions as of the effective date of the TRO in October of 2003. *Id.* VZ-DE contends that this issue is settled as the Arbitrator in this case has already rejected that notion, holding that "the TRO clearly did change the

commingling rules, making ICA amendments necessary." Arbitration Award § 124. See VZ-DE Brief at 8.<sup>22</sup>

111. In support of their proposed language the CLEC Parties contend that the Amendment must expressly state that contract provisions implementing the TRO and the TRRO are intended to modify only those specific unbundling rights and obligations, under Section 251(c)(3), that are affected by the FCC's orders. The CLEC Parties' Brief at 29, citing Arbitration Award § 220. The CLEC Parties cite the Arbitration Award itself at § 210 to argue that the contract language should not limit or impact any unbundling rights or obligations under applicable law as set forth in the parties' existing interconnection agreements, including those rights and obligations imposed by Section 271 of the 1996 Act.<sup>23</sup>

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<sup>22</sup>In its brief, VZ-DE also cites for support the Massachusetts Arbitration Order at 135 ("We agree with Verizon that the FCC's new rules for conversions and commingling constitute a change of law."), see Arbitration Order, *Petition of Verizon New England, Inc. d/b/a Verizon Massachusetts for Arbitration of Interconnection Agreements*, Docket D.T.E. 04-33 (Mass. D.T.E. July 14, 2005; D.C. Final Order at ¶ 50 ("The TRO makes it clear that the commingling and conversion rules are new rules, not merely clarifications of existing rules."), see *Petition of Verizon Washington, DC Inc. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996*, TAC-19 (D.C. PSC Dec. 15, 2005) ("D.C. Final Order"); Washington Arbitration Report at 107 ("In the Triennial Review Order, the FCC eliminated a restriction against commingling that it earlier imposed in its Supplemental Order Clarification and applied to stand-alone loops and EELs."), see Order No. 17, Arbitrator's Report and Decision, *Petition for Arbitration of an Amendment to Interconnection Agreements of Verizon Northwest Inc.*, Docket No. UT-043013 (Wash. UTC July 8, 2005) ("Wash. Arb. Report"); Penn. Recommended Decision at 98 (holding that commingling and conversion were a "change of law"), *aff'd* Penn. Final Order at 73, see Recommended Decision, *Petition of Verizon Pennsylvania Inc. and Verizon North Inc. for Arbitration of an Amendment to Interconnection Agreements*, Docket No. P-00042092 (Pa. PUC Aug. 31, 2005).

<sup>23</sup>The CLEC parties cite with approval the Arbitration Award at ¶ 210 ("...there should be no language in the Amendment that could be interpreted as enlarging or diminishing any entitlements that a CLEC may have under § 271.").

Resolution

112. With regard to the first sentence, "This Amendment does not alter, modify or revise any rights and obligations under applicable law contained in the Agreement, other than those Section 251 rights and obligations specifically addressed in this Amendment," I find that this language does not enlarge or diminish any rights that the parties have under federal law. Consequently, it has no negative impact on the provisions of the Amendment and should be allowed to remain.

113. However, with regard to the second sentence of the proposed amendment, "Furthermore, \*\*\*CLEC Acronym TXT\*\*\*'s execution of this Amendment shall not be construed as a waiver with respect to whether Verizon, prior to the Amendment Effective Date, was obligated under the Agreement to perform certain functions required by the TRO" is overbroad and seeks to unnecessarily revisit issues prior to the Amendment's effective date. The proposed language does not clarify the obligations of the parties. Rather, the language opens the door to possible misinterpretation and argument concerning the respective past obligations of the parties. Therefore, this language does not assist the parties to understand their respective obligations under the present Amendment and should be rejected.

114. In addition, the Amendment should remove the CLEC Parties' references to § 4.4 and the additional qualifying reference language to "Section 251/or(c)(3)" in Sections 2.4; 3.1.1; 3.1.2; 3.2.1; 3.2.2; 3.2.3; 3.2.4; 3.3.1; 3.3.2; 3.4.1/3.4.1.1.2; 3.4.1.2.1; 3.4.2; 3.4.2.1.2; 3.4.2.2; 3.4.3.1; 3.4.3.2; 3.5.1; 3.5.1.2; 3.5.2; 3.5.2.2; 3.5.3; 3.5.3.2; 3.5.4; 3.6.2.4; 3.10; 3.10.A.1/3.10.B; 3.11.1; 3.11.2;

3.12.1 as it is overbroad, cumbersome, and does not clarify or assist in understanding the parties' obligations in these sections.

**Section 4.7.3 - Definition of Commingling**

115. The parties' dispute involves whether to quote the FCC provision or to refer to the applicable FCC section defining "commingling," 47 C.F.R. § 51.5. The CLEC Parties' Brief at 29-30; VZ-DE Brief at 37.

**RESOLUTION**

116. The Arbitration Award advised the parties to use the applicable FCC language whenever possible. Accordingly, in order to resolve the thorny problem, I recommend the following wording that more faithfully tracks Section 51.5 of the FCC's rules:

Commingling. The connecting, attaching, or otherwise linking of an Unbundled Network Element or a combination of Unbundled Network Elements, to one or more facilities or services that \*\*\*CLEC Acronym TXT\*\*\* has obtained at wholesale from Verizon, or the combining of an Unbundled Network Element, or a combination of Unbundled Network Elements, with one or more such facilities or services. "Commingle" means the act of Commingling.

**Section 4.7.3.A - Definition of Conversion**

117. The CLEC Parties' propose to add a definition of "Conversion" to the terms of the Amendment. VZ-DE contends that the CLEC Parties have waived inclusion of this definition by failing to raise the definition previously. VZ-DE Brief at 37. Further, VZ-DE argues that the proposed definition is not so much a definition as an attempt to impose obligations on VZ-DE that have no legal basis. *Id.* The section disputed by VZ-DE provides:

Conversion. Conversion means all procedures, processes and functions that Verizon and \*\*\*CLEC Acronym TXT\*\*\* must follow to Convert any Verizon facility or service other than a UNE (e.g., special access services) or group of Verizon facilities or services to the equivalent UNE or Combination, or the reverse. When a wholesale service or group of wholesale services is converted to a UNE or Combination, or the reverse, Verizon shall not physically disconnect, separate, alter or change in any fashion equipment and facilities employed by \*\*\*CLEC Acronym TEXT\*\*\* to provide service, except at the request of \*\*\*CLEC Acronym TXT\*\*\*.

"Convert" means that act of Conversion.

The CLEC Parties support the appropriateness of their definition by observing the Amendment that includes detailed terms and conditions that articulate VZ-DE's obligation to perform conversions of UNEs or a combination of UNEs to a wholesale service or group of wholesale services, as well as to perform conversions of a wholesale service or group of wholesale services to a UNE or combination of UNEs. The CLEC Parties' Brief at 30. Consequently, the CLEC Parties believe it is reasonable to include a definition that they maintain is consistent with the FCC's unbundling rules but also describes the process and functions that constitute conversions. *Id.*

**RESOLUTION**

118. The CLEC Parties' inclusion of this provision is untimely. At no time before or during the Arbitration proceeding was this issue raised. Further, the TRO reference, ¶ 586, and FCC citation, 47 C.F.R. § 51.316, do not provide a definition of conversion. The TRO states generally that carriers may convert UNEs and UNE combinations to wholesale services and, alternatively, wholesale services can be converted to UNEs and UNE combinations. TRO ¶ 586. The definition that the CLEC Parties now propose is prescriptive and goes farther in describing the process of conversion than the dictates of either the TRO or FCC rules have stated. I recommend that the Commission decline to include the proposed language of Section 4.7.3.A.

**Sections 4.7.5 (Dark Fiber Transport) and 4.7.6 (Dedicated Transport)**

119. In its definitions of dark fiber transport and dedicated transport, VZ-DE proposes to include the phrase "within a LATA" in each of the definitions. VZ-DE seeks to make clear that dark fiber transport and dedicated transport include only transmission facilities that are "within a LATA." VZ-DE cites as support for inclusion of its proposed phrase the FCC's TRO language (TRO ¶ 365 and TRO ¶ 365, n.1111) that approves LATA boundaries as a reasonable limitation on the BOCs' obligations to unbundle transport. VZ-DE Brief at 38-39.

120. The CLEC Parties contend that they have been faithful to the Arbitration Award by including the FCC's language which does not include the phrase "within a LATA" in the definitional terminology. See 47 C.F.R § 51.319(e)(1). The CLEC Parties' Brief at 30-31. The Arbitration Award noted that the TRRO changed the FCC's rules and

directed the parties to include the definition in 47 C.F.R § 51.319(e)(1). Arbitration Award ¶ 85.

**RESOLUTION**

121. The parties have liberally relied on the Arbitration Award at various points in this proceeding to support their positions. In this instance, despite the CLEC Parties' reliance on the dictates of the Arbitration Award directing that the parties use the FCC's language, I note that, except for the insertion of "within a LATA" in both sections, the CLEC Parties agreed to language in Sections 4.7.5 and 4.7.6 that deviates from the exact language of the FCC Part 51 rules. Therefore, since the parties have already concurred in deviating from the strict FCC language and VZ-DE is correct that the TRO intended dark fiber transport and dedicated transport be contained within a LATA, I recommend that the Commission approve language including the phrase "within a LATA" in both sections.

**Section 4.7.6 - Dedicated Transport**

122. In addition to the phrase "within a LATA" discussed above, VZ-DE proposes including a second sentence to this section, which reads, "For the avoidance of any doubt, this Section 4.7.6 is subject to other provisions of this Amendment, and shall not be construed to require Verizon to provide unbundled access to Entrance Facilities or any other Discontinued Facility." The CLEC Parties argue that VZ-DE's language is intended to limit VZ-DE's obligations to provide CLECs dedicated transport facilities on an unbundled basis pursuant to Section 251(c)(3) of the TRO. VZ-DE argues that the FCC has determined that ILECs are not required to provide access to entrance

facilities. VZ-DE Brief at 39 (citing TRO ¶ 366 n. 1116; TRRO ¶ 66). VZ-DE concludes that the CLEC Parties have no legitimate reason for objecting to this language.

**RESOLUTION**

123. VZ-DE's proposed language is not consistent with the FCC's definition of dedicated transport as stated in 47 C.F.R §51.319(e)(1). In the TRRO (¶ 137), the FCC specifically reinstated the definition of dedicated transport to include entrance facilities in response to a court order while at the same time finding that requesting carriers are not impaired without unbundled access to entrance facilities. Therefore, I recommend that the Commission decline inclusion of VZ-DE's proposed language.

124. Further, I find that VZ-DE's proposed language regarding entrance facilities and discontinued facilities to be cumbersome and unnecessary. The law is clear that VZ-DE does not have to provide unbundled entrance access or facilities that have been discontinued to CLECs. In fact, Section 3.5.4 specifically addresses this issue for entrance facilities and Section 4.7.7 exclusively addresses discontinued facilities. Consequently, there is no cognizable reason that VZ-DE's proposed language is appropriate at this point in the Amendment.

**Section 4.7.7 - Discontinued Facility**

125. The CLEC Parties assert that VZ-DE's proposed contract language, "By way of example and not by way of limitation," injects unnecessary ambiguity and uncertainty into the definition of Discontinued Facility. The CLEC Parties maintain that this section,

which lists the facilities that VZ-DE is no longer obligated to provide under Section 251(c)(3), should be precise and as finite as possible. The CLEC Parties' Brief at 31. The CLEC Parties view VZ-DE's proposed language as an "attempt by Verizon to preserve its opportunity to include any future de-listings of Section 251(c)(3) UNEs into this Amendment and, thereby, to circumvent the existing change-of-law processes set forth in the Commission-approved interconnection agreements between Verizon and the CLEC Parties, in violation of the Arbitration Award." *Id.* at 31 (citing Arbitration Award ¶¶ 33, 112).

126. Further, VZ-DE proposes to insert the phrase "the Agreement or a Verizon tariff" in the section to refer to the source of its offer to provide the now discontinued facilities delineated in the section.

127. In addition, the CLEC Parties' propose to include general references to the unbundling rules, 47 U.S.C. § 251 or 47 C.F.R Part 51. Additionally, the CLEC Parties' propose to interject a limitation, "as of the Amendment Effective Date," into the definition of discontinued facilities.

128. VZ-DE has proposed language to the list of discontinued facilities that states, "and (r) any other facility or class of facilities as to which the FCC has not made a finding of impairment that remains effective, or as to which the FCC has made a finding of non-impairment." The CLEC Parties view this language as another attempt by VZ-DE to avoid further amending the Amendment if there are

changed circumstances in the future that removes other facilities from the list of unbundled items. The CLEC Parties Brief at 31.

**RESOLUTION**

129. VZ-DE's proposed contract language, "By way of example and not by way of limitation," and "and (r) any other facility or class of facilities as to which the FCC has not made a finding of impairment that remains effective, or as to which the FCC has made a finding of non-impairment" does not add specificity to the definition of Discontinued Facilities and should be deleted. I find this language to be an attempt to obviate the need to amend the document in the future if other facilities are added to the list of items that VZ-DE does not have to provide on an unbundled basis. For purposes of this Amendment, the list of Discontinued Facilities that the parties have included is sufficiently clear and complete. There is no need to undermine the precision that the section already exhibits with language that is ambiguous and unnecessary.

130. The language, "the Agreement or a Verizon tariff," that VZ-DE proposes to include is also unnecessary. In the context of the section, it does not matter if it was a tariff or a contract that initially gave rise to VZ-DE's offer to provide or provision a discontinued facility. At this point, it only matters that VZ-DE can no longer offer the facility.

131. Further, as stated under Sections 2.1 and 2.2, the Arbitration Award held that the Amendment should only address the *specific* requirements of the TRO and TRRO. References to general language concerning unbundling obligations should be avoided.

Arbitration Award ¶ 34. Since the CLEC Parties' language here is a general reference to the unbundling rules, I recommend that the Commission decline to include it in Section 4.7.7 of the Amendment.

132. The CLEC Parties' proposed language, "as of the Amendment Effective Date" does not add clarity to the section. I view this language to be a response to VZ-DE's proposed self-executing language in this section. Since I recommend removal of the two phrases that operate to self-execute an amendment of the document without the need for negotiation or discussion, the CLEC Parties' proposed language regarding the Amendment's effective date should also be removed.

**Section. 4.7.17 - Fiber-Based Collocator**

133. The CLEC Parties' propose to include language at the end of this section that states: "For avoidance of doubt, carriers that are collocated in a Verizon Wire Center that do not own fiber or do not have it on an IRU basis out of that Wire Center shall not be counted as Fiber-Based Collocators." Section 4.7.17. The CLEC Parties contend that their language is critical to make sure that VZ-DE does not count as a collocator a carrier collocated at a VZ-DE wire center that uses fiber owned by another carrier that does not have an "indefeasible right of use ("IRU")." The CLEC Parties' Brief at 33. The CLEC Parties amplify their meaning by using the definition of indefeasible right of use as "a form of acquired capital in which the holder possesses an exclusive and irrevocable right to use fiber optic strands, circuitry, or bandwidth for all, or almost all, of the asset's useful life." The CLEC Parties' Brief at fn. 65. The CLEC Parties insist that in order to satisfy the TRRO and the FCC's unbundling

rules, fiber-based collocators must be carriers that have an "active" collocation arrangement and own fiber or operate fiber owned by another carrier on an IRU basis. The CLEC Parties' Brief at 33.

134. VZ-DE notes that under the proposed CLEC Parties' definition, fiber-based collocators would be required to "own" fiber. VZ-DE Brief at 40-41. VZ-DE maintains that under the CLEC Parties' proposed language, fiber-based collocators are carriers that use fiber in the provision of services. *Id.* Further, VZ-DE argues that under 47 C.F.R. § 51.5 there is no requirement that fiber-collocators obtain fiber "on an IRU basis." *Id.*

**RESOLUTION**

135. The CLEC Parties' proposed language is inapposite to clear terms of the FCC's rule, 47 C.F.R. § 51.5,<sup>24</sup> defining collocators.

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<sup>24</sup>See 47 C.F.R. § 51.5 provides in its entirety:

1. fiber-based collocator. A fiber-based collocator is any carrier, unaffiliated with the incumbent LEC, that maintains a collocation arrangement in an incumbent LEC wire center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that F
2.
  3. (1) Terminates at a collocation arrangement within the wire center;
  4. (2) Leaves the incumbent LEC wire center premises; and
  5. (3) Is owned by a party other than the incumbent LEC or any affiliate of the incumbent LEC, except as set forth in this paragraph.
- 6.
7. Dark fiber obtained from an incumbent LEC on an infeasible right of use basis shall be treated as non-incumbent LEC fiber-optic cable. Two or more affiliated fiber-based collocators in a single wire center shall collectively be counted as a single fiber-based collocator. For purposes of this paragraph, the term affiliate is defined by 47 U.S.C. 153(1) and any relevant interpretation in this Title.

Rule 51.5 does not contain any requirement that collocators own their fiber. The definition also does not mandate that collocators specifically use "fiber" rather than a "comparable transmission facility" for their services. Further, the definition does not require that collocators obtain fiber on an IRU basis. The CLEC Parties' language violates the established principle that the language of the Amendment should reflect as nearly as possible the FCC's language. I recommend that the Commission decline to incorporate the CLEC Parties' proposed language in this section.

**Section. 4.7.28 - Mass Market Switching**

136. VZ-DE seeks to include in its definitional section regarding mass market switching a sentence that provides, "Mass Market Switching does not include Four Line Carve-Out Switching." The TRRO directed CLECs to convert their mass market customers to an alternative service arrangement by March 11, 2006. TRRO ¶ 227. Further, the Arbitration Award ¶ 103 echoed the holding of the TRRO noting that the need for this term was unnecessary.

**RESOLUTION**

137. I recommend that VZ-DE's proposed language be excluded from the Amendment. It is curious that VZ-DE insisted upon including its proposed language, which appears to remove four-line, carve out switching from the definition of mass market switching. VZ-DE's proposed language could be construed as allowing it to reserve to itself the opportunity to provide four-line carve out switching outside of the definition of mass market switching; a service that it

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clearly has no obligation to provide on an unbundled basis. Further, mass market customers should have long ago converted to other service arrangements.

**PRICING ATTACHMENT to the TRO-TRRO Amendment (Exhibit A)**

138. VZ-DE's Amendment includes a Pricing Attachment, without any new rates and charges, for services and facilities to be provided under the Amendment. VZ-DE Brief at 44. VZ-DE states that "except as to line conditioning and line splitting ... charges for services under the Amendment shall be those set forth in the Amended Agreement (including any cross-references to applicable tariffs). Those charges will be superseded by any new charges that are required or allowed to go into effect by the Commission or the FCC, including a filed tariff." VZ-DE Brief at 44. VZ-DE also urges that the Commission approve its Pricing Attachment because "any charge that is later established 'shall not be retroactive absent a Commission or FCC decision to the contrary.'" *Id.*; Pricing Attachment § 1.3.

**RESOLUTION**

139. Despite VZ-DE's protestations that the stipulation entered into by the parties to this docket does not apply to the proposed Pricing Attachment, I note that this issue was considered in the Arbitrator's Award at p. 112. The pertinent portion provides:

**Issue 28: Should the Commission adopt Verizon's proposed new rates for the items specified in the Pricing Attachment to Amendment 2?**

222. The parties agreed by stipulation, dated June 10, 2005, to eliminate this issue from the arbitration. Subsequently, none of the Active Parties has introduced any further arguments concerning it.

140. In addition, the stipulation itself was memorialized in a letter from Anthony E. Gay, Assistant General Counsel, Verizon; Robert Barber, Attorney for AT&T Communications of Delaware, LLC; Terry Romine, Deputy General Counsel - Regulatory, US LEC of Pennsylvania Inc.; Genevieve Morelli, Esquire and Brett Heather Freedson, Esquire, counsel to the Competitive Carrier Group to Ruth Ann Price, Hearing Examiner, Delaware Public Service Commission, dated June 10, 2005.

141. Since VZ-DE was a party to this stipulation, it is well aware that the Pricing Amendment is not now before the Commission. I urge the Commission to decline consideration of the Pricing Amendment in this docket and to order all references to the document to be stricken from the Amendment. I further recommend to the Commission that it initiate a proceeding for the consideration of the rates and charges stated in the Pricing Amendment and encourage the parties to expeditiously begin discussions with a view to reaching a negotiated agreement on the proposed rates. Alternatively, if VZ-DE would like to wait until the FCC establishes rates and charges for the facilities and network elements listed in the Attachment, it can bring the matter to the Commission when those rates have been approved.

#### **IV. CONCLUSION**

142. For the reasons stated above, I recommend that the Commission direct the parties to incorporate the above recommendations into a final Amendment. I have included as Exhibit "A" a copy of VZ-DE's and the CLEC Parties' blacklined version of the Amendment. In addition, for purposes of convenience and ease of reference, I have included here as Exhibit "B," a version of the Amendment that

incorporates all of the recommendations made in this report and recommendation. The parties are advised that any objections to the determinations made in this report should be filed with the Commission as exceptions.

Respectfully submitted,

/s/ Ruth Ann Price  
Ruth Ann Price,  
Hearing Examiner

CONFIDENTIAL  
FOR SETTLEMENT DISCUSSIONS  
SUBJECT TO MODIFICATION  
CONTAINS PROVISIONS REQUIRED BY ARBITRATION ORDER

**AMENDMENT NO. \_\_**  
**to the**  
**INTERCONNECTION AGREEMENT**  
**between**  
**VERIZON DELAWARE LLC**  
**and**  
**[CLEC FULL NAME]**

This Amendment No. [NUMBER] (the "Amendment") is made by and between Verizon Delaware LLC, f/k/a Verizon Delaware Inc., f/k/a Bell Atlantic - Delaware, Inc. ("Verizon"), a corporation organized under the laws of the State of Delaware with offices at 901 Tatnall Street, Wilmington, DE 19801, and [CLEC FULL NAME], a [CORPORATION/PARTNERSHIP] with offices at [CLEC ADDRESS] ("\*\*CLEC Acronym TXT\*\*"), and, except as otherwise expressly provided herein with respect to particular provisions hereof, shall be deemed effective on [INSERT DATE CONTEMPORANEOUS WITH EXECUTION] (the "Amendment Effective Date"). Verizon and \*\*CLEC Acronym TXT\*\* are hereinafter referred to collectively as the "Parties" and individually as a "Party". This Amendment covers services in Verizon's service territory in the State of Delaware (the "State").

**WITNESSETH:**

**NOTE: DELETE THE FOLLOWING WHEREAS SECTION ONLY IF CLEC'S AGREEMENT HAS USED AN ADOPTION LETTER:**

[WHEREAS, Verizon and \*\*CLEC Acronym TXT\*\* are Parties to an Interconnection Agreement under Sections 251 and 252 of the Communications Act of 1934, as amended (the "Act") dated [INSERT DATE] (the "Agreement"); and

**NOTE: INSERT THE FOLLOWING WHEREAS SECTION ONLY IF CLEC'S AGREEMENT USED AN ADOPTION LETTER:**

[WHEREAS, pursuant to an adoption letter dated [INSERT DATE OF ACTUAL ADOPTION LETTER] (the "Adoption Letter"), \*\*CLEC Acronym TXT\*\* adopted in the State of Delaware, **[FOR INTRASTATE IN-REGION ADOPTIONS:** the interconnection agreement between [NAME OF UNDERLYING CLEC AGREEMENT] and Verizon] **[FOR INTERSTATE OR INTRASTATE OUT-OF-REGION ADOPTIONS:** the terms of the Interconnection Agreement between [UNDERLYING CLEC LEGAL ENTITY] and [VZ LEGAL ENTITY OF UNDERLYING AGREEMENT] that was approved by the [Underlying State Commission]] (such Adoption Letter and underlying adopted interconnection agreement referred to herein collectively as the "Agreement"); and]

**WHEREAS**, the Federal Communications Commission (the "FCC") released an order on August 21, 2003 in CC Docket Nos. 01-338, 96-98, and 98-147 (the "Triennial Review Order" or "TRO"), which became effective as of October 2, 2003; and

**WHEREAS**, on March 2, 2004, the U.S. Court of Appeals for the District of Columbia Circuit (the "D.C. Circuit") issued a decision affirming in part and vacating in part the TRO (the "D.C. Circuit Decision"), which became effective as of June 15, 2004; and

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

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

**WHEREAS**, on March 24, 2006, the Arbitrator assigned by the Delaware Public Service Commission (the "Commission") in Docket No. 05-164 issued an Arbitration Award regarding the amendment of certain interconnection agreements with respect to the TRO and TRRO (the "Arbitration Award"); and

**WHEREAS**, on September 19, 2006 the Commission ruled on Verizon's exceptions to the Arbitration Award and approved the Arbitration Award as modified by such rulings (the Arbitration Award, as modified and approved by the Commission, may hereinafter be referred to as the "Arbitration Order"); and

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

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

1. Amendment to Agreement. The Agreement is amended to include the following provisions and the Pricing Attachment to the TRO-TRRO Amendment [INSERT FOR CERTAIN AMENDMENTS THAT CONTAIN LINE CONDITIONING AND/OR LINE SPLITTING TERMS WHERE UNDERLYING AGREEMENT LACKS SUCH TERMS: (including Exhibit A)] attached hereto, all of which shall apply to and be a part of the Agreement notwithstanding any other provision of the Agreement.
2. General Conditions.
  - 2.1 Except as permitted by the Amended Agreement **or the Federal Unbundling Rules**, Verizon shall not impose limitations, restrictions, or requirements on requests for, or the use of, unbundled network elements for the service **\*\*\*CLEC Acronym TXT\*\*\*** seeks to offer.
  - 2.2 Notwithstanding any other provision of the Agreement, this Amendment, or any Verizon tariff or SGAT: (a) Verizon shall be obligated to provide access to unbundled Network Elements ("UNEs"), combinations of UNEs ("Combinations"), or UNEs commingled with wholesale services ("Commingling") to **\*\*\*CLEC Acronym TXT\*\*\*** under the terms of this Amendment only to the extent required by the Federal Unbundling Rules, and (b) Verizon may decline to provide access to UNEs, Combinations, or Commingling to **\*\*\*CLEC Acronym TXT\*\*\*** under the terms of this Amendment to the extent that provision of

access to such UNEs, Combinations, or Commingling is not required by the Federal Unbundling Rules.

- 2.3 Restrictions on \*\*\*CLEC Acronym TXT\*\*\*'s Use of UNEs. To the extent Verizon is required to provide a UNE, Combination, or Commingling under this Amendment, \*\*\*CLEC Acronym TXT\*\*\* may use such UNE, Combination, or Commingling only for those purposes for which Verizon is required by the Federal Unbundling Rules to provide such UNE, Combination, or Commingling to \*\*\*CLEC Acronym TXT\*\*\*. By way of example and without limiting the foregoing, \*\*\*CLEC Acronym TXT\*\*\* may not access a UNE for the exclusive provision of Mobile Wireless Services or Interexchange Services.
- 2.4 Discontinued Facilities. Notwithstanding any other provision of the Amended Agreement, but **subject to and without limiting Section 4.4 below, and** subject to the transition requirements associated with: (a) High Capacity Loops as set forth in Section 3.4, High Capacity Dedicated Transport as set forth in Section 3.5, and Mass Market Switching as set forth in Section 3.7 (provided, however, that nothing in this Section 2.4 is intended to reduce or enlarge the respective 12- and 18-month TRRO transition periods that began on March 11, 2005 as set forth in Sections 3.4, 3.5, and 3.7) and (b) updates to Verizon's Wire Center List as set forth in Section 3.6.3.1 below, Verizon may cease offering or providing access on an unbundled basis at rates prescribed under Section 251 of the Act to any facility that is a Discontinued Facility, whether as a stand-alone UNE, as part of a Combination, or otherwise. **The Parties further acknowledge that Verizon, prior to the Amendment Effective Date, has provided \*\*\*CLEC Acronym TXT\*\*\* with any required notices of discontinuance of certain Discontinued Facilities, and that Verizon, to the extent it has not already done so prior to the Amendment Effective Date, may, at any time and without further notice to \*\*\*CLEC Acronym TXT\*\*\*, cease providing any such Discontinued Facilities.**
- 2.4.1 Where Verizon is permitted to cease providing a Discontinued Facility pursuant to Section 2.4 above and \*\*\*CLEC Acronym TXT\*\*\* has not submitted an LSR or ASR, as appropriate, to Verizon requesting disconnection of the Discontinued Facility and has not separately secured from Verizon an alternative arrangement to replace the Discontinued Facility, then Verizon, **to the extent it has not already done so prior to execution of this Amendment, may disconnect the subject Discontinued Facility without further notice to \*\*\*CLEC Acronym TXT\*\*\*. In lieu of disconnecting the subject Discontinued Facility in the foregoing circumstances, Verizon, in its sole discretion,** may elect to: (a) convert the subject Discontinued Facility to an arrangement available under a Verizon access tariff (such arrangement shall be subject to the month-to-month rates provided under such applicable access tariff, unless \*\*\*CLEC Acronym TXT\*\*\* is then subscribed to an applicable special access term/volume plan or other special access arrangement pursuant to which \*\*\*CLEC Acronym TXT\*\*\* would be entitled to a different rate), a resale arrangement, or other wholesale arrangement that Verizon shall identify or has identified in writing to \*\*\*CLEC Acronym TXT\*\*\*, or (b) in lieu of such a conversion, reprice the subject Discontinued Facility by application of a new rate (or, in Verizon's sole discretion, by application of a surcharge to an existing rate) to be equivalent to an arrangement available under a Verizon access tariff (i.e., month-to-month rates provided under such applicable access tariff shall apply, unless \*\*\*CLEC Acronym TXT\*\*\* is then subscribed to an applicable special access term/volume plan or other special access arrangement pursuant to which \*\*\*CLEC Acronym TXT\*\*\* would be entitled to a different rate), a resale arrangement, or other wholesale arrangement that Verizon shall identify or has identified in writing to \*\*\*CLEC Acronym TXT\*\*\*; **provided, however, that Verizon may disconnect the subject Discontinued Facility (or the replacement service to which the**

**Discontinued Facility has been converted) if \*\*\*CLEC Acronym TXT\*\* fails to pay when due any applicable new rate or surcharge billed by Verizon. Verizon's election of any discontinuance option under this Section (e.g., repricing) shall in no way limit Verizon's right thereafter to elect another option (e.g., conversion or disconnection).**

2.4.2 With respect to facilities that are Discontinued Facilities by operation of the TRO, the rates, terms, and conditions of any arrangements described in Section 2.4.1 above shall apply and be binding upon \*\*\*CLEC Acronym TXT\*\*\* as of the Amendment Effective Date, except to the extent that an earlier effective date applies under any provision of the Amended Agreement (including, but not limited to, Sections 2.5 and 3 below), or other agreement between the Parties.

2.5 Pre-Existing Discontinuance Rights.

2.5.1 Verizon's rights as to discontinuance of Discontinued Facilities pursuant to this Amendment are in addition to, and not in limitation of, any rights Verizon may have under the Agreement as to discontinuance of Discontinued Facilities, and nothing contained herein shall be construed to prohibit, limit, or delay Verizon's **past or future** exercise of any pre-existing right it may have under the Agreement to cease providing unbundled access to elements and facilities that are or become Discontinued Facilities ; **provided, however, that Verizon may cease providing unbundled access to elements and facilities that are or become Discontinued Facilities only in accordance with the applicable rules and order of the FCC and the Commission.**

2.5.2 Without limiting Section 2.5.1 above, this Amendment itself is not intended to implement future changes in law regarding unbundling obligations (whether new affirmative unbundling obligations or cessation of existing unbundling obligations); provided, however, that, for the avoidance of any doubt, this Section 2.5.2 shall not be construed to limit Verizon's rights with respect to: (a) discontinuance of UNEs at wire centers (or on routes) that in the future become non-impaired based on the FCC's criteria referenced in Sections 3.4 and 3.5 below; (b) discontinuance of any loops or transport that in the future exceed the caps set forth in Sections 3.4 and 3.5 below; (c) Verizon's rejection of a \*\*\*CLEC Acronym TXT\*\*\* order for a TRRO Certification Element without first seeking dispute resolution under Section 3.6.2.3 below; (d) re-pricing or conversion of High Capacity EELs that are determined in the future to be non-compliant under Section 3.11.2.2 or 3.11.2.8 below; **or (e) future implementation of any rates or charges pursuant to the terms set forth in the Pricing Attachment to this Amendment.**

2.6 Limitation With Respect to Replacement Arrangements. Certain provisions of this Amendment refer to Verizon's provision of a facility, service, or arrangement to replace Discontinued Facilities. Any reference in this Amendment to Verizon's provision of a facility, service, or arrangement that Verizon is not required to provide under the Federal Unbundling Rules is solely for the convenience of the Parties and shall not be construed to require or permit application of any requirement of 47 U.S.C. § 252 (including but not limited to, arbitration under 47 U.S.C. § 252(b)) regarding the rates, terms or conditions upon which Verizon shall provide such facilities, services, or arrangements.

3. Verizon's Provision of Certain Network Elements and Related Services.

3.1 FTTH and FTTC Loops.

3.1.1 New Builds. Notwithstanding any other provision of the Amended Agreement, **but subject to and without limiting Section 4.4 below**, Verizon is not required to provide access to a FTTH or FTTC Loop, **or any segment thereof**, on an unbundled basis when Verizon deploys such a Loop to the customer premises of an end user that has not been served by any loop facility **other than a FTTH or FTTC Loop**.

3.1.2 Overbuilds. Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting Section 2 above **and Section 4.4 below**), Verizon is not required to provide access to an FTTH or FTTC Loop on an unbundled basis when Verizon has deployed such a loop parallel to, or in replacement of, an existing copper loop facility, except that, in accordance with, **but only to the extent required by**, the Federal Unbundling Rules: (a) Verizon must maintain the existing copper loop connected to the particular customer premises after deploying the FTTH or FTTC Loop and provide nondiscriminatory access to that copper loop on an unbundled basis unless Verizon retires the copper loop pursuant to paragraph 47 C.F.R. § 51.319(a)(3)(iv); (b) if Verizon maintains the existing copper loops pursuant to 47 C.F.R. § 51.319(a)(3)(iii)(A), it need not incur any expenses to ensure that the existing copper loop remains capable of transmitting signals prior to receiving a request for access pursuant to that paragraph, in which case Verizon shall restore the copper loop to serviceable condition upon request; and (c) if Verizon retires the copper loop pursuant to 47 C.F.R. § 51.319(a)(3)(iv), it shall provide nondiscriminatory access to a 64 kilobits per second TDM transmission path (**or an equivalent transmission path using other technologies**) capable of voice grade service over the FTTH or FTTC Loop (a "Voice Grade Transmission Path") on an unbundled basis. The rates for a Voice Grade Transmission Path under (c) above shall be the same rates applicable under the Amended Agreement to a DS0 loop to the same customer premises were such a loop available, unless and until such time as different rates for a Voice Grade Transmission Path are established **pursuant to the terms set forth in the Pricing Attachment to this Amendment by the Commission**, in which case such different rates shall **be incorporated into the Agreement by Amendment thereto, and those rates shall apply on a prospective basis, unless otherwise ordered by the Commission**.

3.1.2.1 In retiring a copper Loop or Subloop, Verizon shall comply with any effective and lawful requirements that apply to that copper Loop or Subloop under 47 C.F.R. § 51.319(a)(3)(iv), including but not limited to the network disclosure requirements set forth in Section 251 of the Act and 47 C.F.R. §§ 51.325-51.335; provided, however, that any such requirements shall not apply to retirement of copper feeder subloop.

## 3.2 Hybrid Loops.

3.2.1 Packet Switched Features, Functions, and Capabilities. Notwithstanding any other provision of the Amended Agreement, **but subject to and without limiting Section 4.4**, Verizon is not required to provide unbundled access to the packet switched features, functions, and capabilities of its Hybrid Loops. Packet switching capability is the routing or forwarding of packets, frames, cells, or other data units based on address or other routing information contained in the packets, frames, cells or other data units, and the functions that are performed by the digital subscriber line access multiplexers, including but not limited to the ability to terminate an end-user customer's copper loop (which includes both a low-band voice channel and a high-band data channel,

or solely a data channel); the ability to forward the voice channels, if present, to a circuit switch or multiple circuit switches; the ability to extract data units from the data channels on the loops; and the ability to combine data units from multiple loops onto one or more trunks connecting to a packet switch or packet switches. Verizon shall not be required to build any time division multiplexing (TDM) capability into new packet-based networks or into existing packet-based networks that do not already have TDM capability.

- 3.2.2 Broadband Services. Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting Section 2 above and Section 4.4 below), when \*\*\*CLEC Acronym TXT\*\*\* seeks access to a Hybrid Loop for the provision of "broadband services," as such term is defined by the FCC, then in accordance with, **but only to the extent required by**, the Federal Unbundling Rules, Verizon shall provide \*\*\*CLEC Acronym TXT\*\*\* with nondiscriminatory access under the Amended Agreement to the existing time division multiplexing features, functions, and capabilities of that Hybrid Loop, including DS1 or DS3 capacity (where impairment has been found to exist, which, for the avoidance of any doubt, does not include instances in which Verizon is not required to provide a DS1 Loop under Section 3.4.1 below or is not required to provide a DS3 Loop under Section 3.4.2 below) on an unbundled basis to establish a complete transmission path between the Verizon central office serving an end user and the end user's customer premises. This access shall include access to all features, functions, and capabilities of the Hybrid Loop that are not used to transmit packetized information.
- 3.2.3 Narrowband Services. Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting Section 2 above and Section 4.4 below), when \*\*\*CLEC Acronym TXT\*\*\* seeks access to a Hybrid Loop for the provision of "narrowband services," as such term is defined by the FCC, then in accordance with, **but only to the extent required by**, the Federal Unbundling Rules, Verizon shall, in its sole discretion, 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 a DS0 voice-grade transmission path between the main distribution frame (or equivalent) in the end user's serving wire center and the end user's customer premises to an entire Hybrid Loop capable of voice-grade service (i.e., equivalent to DS0 capacity)**, using existing time division multiplexing technology.
- 3.2.4 IDLC Hybrid Loops. Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting Section 2 and Section 4.4 below), if \*\*\*CLEC Acronym TXT\*\*\* requests, in order to provide narrowband services, unbundling of a 2 wire analog or 4 wire analog Loop currently provisioned via Integrated Digital Loop Carrier (over a Hybrid Loop), Verizon shall, **as and to the extent required by in accordance with** the Federal Unbundling Rules, provide \*\*\*CLEC Acronym TXT\*\*\* unbundled access to a Loop capable of voice-grade service to the end user customer served by the Hybrid Loop.
- 3.2.4.1 Verizon, in its sole discretion, will provide a Loop through an option that Verizon determines to be the most cost effective and technically feasible. Such options may include, but are not limited to, providing provide \*\*\*CLEC Acronym TXT\*\*\* with an existing copper Loop or a Loop served by existing Universal Digital Loop Carrier ("UDLC"),

where either is available. **Commission-approved [r][R]ecurring and non-recurring Loop charges and other recurring and non-recurring Loop charges as set forth in the Parties' Commission-approved Agreement (including, but not limited to, a line and station transfer charge in cases where Verizon performs a line and station transfer to provision a Loop under this section) will apply. Upon \*\*\*CLEC Acronym TXT\*\*\* request, Verizon shall also perform any routine network modifications that Verizon is required to perform under Section 3.12 below.**

3.2.4.2 **If neither a copper Loop nor a Loop served by UDLC is available, then Verizon must present to \*\*\*CLEC Acronym TXT\*\*\* the most cost-effective and technically feasible methods of unbundled access, including, without limitation, making available to \*\*CLEC Acronym TXT\*\* an unbundled copper Loop through Routine Network Modifications, under Section 3.12.1, or any other technically feasible option identified in note 855 of the TRO.**

### 3.3 Sub-Loop.

3.3.1 Distribution Sub-Loop Facility. Notwithstanding any other provision of the Amended Agreement (but subject to the conditions set forth in Section 2 above **and Section 4.4. below**), in accordance with, **but only to the extent required by**, the Federal Unbundling Rules, upon site-specific request, \*\*\*CLEC Acronym TXT\*\*\* may obtain nondiscriminatory access to the Distribution Sub-Loop Facility, on an unbundled basis, at a technically feasible access point located **near a Verizon remote terminal equipment enclosure in Verizon's outside plant (i.e., outside Verizon's central office)** at the rates and charges provided for Unbundled Sub-Loop Arrangements (or the Distribution Sub-Loop) in the Amended Agreement. It is not technically feasible to access the sub-loop distribution facility if a technician must access the facility by removing a splice case to reach the wiring within the cable.

3.3.2 Sub-Loop for Access to Multiunit Premises Wiring. All provisions in the Agreement governing \*\*\*CLEC Acronym TXT\*\*\* access to Inside Wire, House and Riser or House and Riser Cable are hereby deleted and replaced with this Section 3.3, which shall supersede any other provision in the Agreement. Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting Section 2 above **and Section 4.4. below**), upon request by \*\*\*CLEC Acronym TXT\*\*\*, Verizon shall provide to \*\*\*CLEC Acronym TXT\*\*\* nondiscriminatory access to the Sub-Loop for Access to Multiunit Premises Wiring, on an unbundled basis, regardless of the capacity level or type of loop that \*\*\*CLEC Acronym TXT\*\*\* seeks to provision for its customer, in accordance with, **but only to the extent required by**, the Federal Unbundling Rules. It is not technically feasible to access the Sub-Loop for Access to Multiunit Premises Wiring if a technician must access the facility by removing a splice case to reach the wiring within the cable.

3.3.2.1 Inside Wire. If and at such at time as \*\*\*CLEC Acronym TXT\*\*\* should request unbundled access to Inside Wire that Verizon is determined to own or control, the Parties shall negotiate the rates, terms, and conditions for such access in accordance with the Bona Fide Request ("BFR") provisions of the Agreement and the Federal Unbundling Rules.

3.3.2.2 Single Point of Interconnection. In accordance with, **but only to the extent required by**, the Federal Unbundling Rules, upon request by \*\*\*CLEC Acronym TXT\*\*\* and provided that the conditions set forth in Subsections 3.3.4.1 and 3.3.4.2 are satisfied, the Parties shall negotiate in good faith an amendment to the Amended Agreement memorializing the terms, conditions and rates under which Verizon will provide a single point of interconnection at a multiunit premises suitable for use by multiple carriers::

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

3.3.2.2.2 CLEC Acronym TXT\*\*\* certifies that it will place an order for access to an unbundled Sub-Loop network element pursuant to the Federal Unbundling Rules via the newly provided single point of interconnection.

If the Parties are unable to agree on the rates, terms and conditions under which Verizon will provide a SPOI, then either Party may, in accordance with Section 252 of the Act, petition the Commission to intercede and promote a resolution. For the avoidance of any doubt, once the Parties have executed an amendment setting forth the terms, conditions, and rates under which Verizon will provide a SPOI, disputes regarding implementation of such terms, conditions, and rates of such amendment shall be resolved pursuant to the applicable dispute resolution provisions of the Agreement. Verizon's obligations with respect to a SPOI under this section 3.3.4 are in addition to Verizon's obligations to provide nondiscriminatory access to a Subloop for Access to Multiunit Premises Wiring, including any Inside Wire under Section 3.3.2 above, at any technically feasible point, as set forth in the Amended Agreement.

#### 3.4 High Capacity Loops.

3.4.1 DS1 Loops. To the extent the Agreement otherwise requires Verizon to provide \*\*\*CLEC Acronym TXT\*\*\* with unbundled access to **Section 251(c)(3)** DS1 Loops (this section not being intended to create any such obligation in the first instance) the following provisions shall apply notwithstanding any such requirement:

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

3.4.1.1.1 Verizon shall provide \*\*\*CLEC Acronym TXT\*\*\* with nondiscriminatory access to a DS1 Loop on an unbundled basis to any building not served by a Wire Center with at least 60,000 Business Lines and at least four Fiber-Based Collocators. Once a Wire Center exceeds both of these thresholds, no future DS1 Loop unbundling will be required in that Wire Center.

3.4.1.1.2 \*\*\*CLEC Acronym TXT\*\*\* **and its Affiliates** may obtain a maximum of ten unbundled DS1 Loops to any single building in which DS1 Loops are available as **Section 251(c)(3)** unbundled loops.

3.4.1.2 Transition Period For DS1 Loops.

3.4.1.2.1 For a 12-month period beginning on March 11, 2005, any DS1 Loop UNEs that \*\*\*CLEC Acronym TXT\*\*\* leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.4.1.1 above, were available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate \*\*\*CLEC Acronym TXT\*\*\* paid for the loop element on June 15, 2004, or (b) 115% of the rate the Commission established, if any, between June 16, 2004, and March 11, 2005, for that loop element. Where Verizon is not required to provide unbundled DS1 Loops pursuant to Section 3.4.1.1, \*\*\*CLEC Acronym TXT\*\*\* may not obtain new DS1 Loops as **Section 251(c)(3)** unbundled network elements.

3.4.2 DS3 Loops. To the extent the Agreement otherwise requires Verizon to provide \*\*\*CLEC Acronym TXT\*\*\* with unbundled access to **Section 251(c)(3)** DS3 Loops (this section not being intended to create any such requirement in the first instance) the following provisions shall apply notwithstanding any such requirement:

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

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

3.4.2.1.2 \*\*\*CLEC Acronym TXT\*\*\* **and its Affiliates** may obtain a maximum of a single unbundled DS3 Loop to any single building in which DS3 Loops are available as **Section 251(c)(3)** unbundled loops.

3.4.2.2 Transition Period For DS3 Loops. For a 12-month period beginning on March 11, 2005, any DS3 Loop UNEs that \*\*\*CLEC Acronym TXT\*\*\* leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.4.2.1 above, were available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate \*\*\*CLEC Acronym TXT\*\*\* paid for the loop element on June 15, 2004, or (b) 115% of the rate the Commission established, if any, between June 16, 2004, and March 11, 2005, for that loop element. Where Verizon is not required to provide unbundled DS3 Loops pursuant to Section 3.4.2.1, \*\*\*CLEC Acronym TXT\*\*\* may not obtain new DS3 Loops as **Section 251(c)(3)** unbundled network elements.

3.4.3 Dark Fiber Loops.

3.4.3.1 Effective as of March 11, 2005, and subject to the transition requirements set forth in Section 3.4.3.2 below, Verizon is not

required to provide \*\*\*CLEC Acronym TXT\*\*\* with access to a **Section 251(c)(3)** Dark Fiber Loop on an unbundled basis.

3.4.3.2 **Transition Period For Dark Fiber Loops.** For an 18-month period beginning on March 11, 2005, any Dark Fiber Loop UNEs that \*\*\*CLEC Acronym TXT\*\*\* leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.4.3.1 above, were available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate \*\*\*CLEC Acronym TXT\*\*\* paid for the loop element on June 15, 2004, or (b) 115% of the rate the Commission established, if any, between June 16, 2004, and March 11, 2005, for that loop element. \*\*\*CLEC Acronym TXT\*\*\* may not obtain new Dark Fiber Loops as **Section 251(c)(3)** unbundled network elements.

### 3.5 **High Capacity Transport.**

3.5.1 **DS1 Dedicated Transport.** To the extent the Agreement otherwise requires Verizon to provide \*\*\*CLEC Acronym TXT\*\*\* with unbundled access to **Section 251(c)(3)** DS1 Dedicated Transport (this section not being intended to create any such requirement in the first instance) the following provisions shall apply notwithstanding any such requirement:

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

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

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

3.5.1.2 **Transition Period For DS1 Dedicated Transport.** For a 12-month period beginning on March 11, 2005, any DS1 Dedicated Transport UNEs that \*\*\*CLEC Acronym TXT\*\*\* leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.5.1.1 above, were available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate \*\*\*CLEC Acronym TXT\*\*\* paid for the dedicated transport element on June 15, 2004, or (b) 115% of the rate the Commission established, if any, between June 16, 2004, and March 11, 2005, for that dedicated transport element. Where Verizon is not required to provide unbundled DS1 Dedicated Transport pursuant to Section 3.5.1.1 above, \*\*\*CLEC Acronym TXT\*\*\* may not obtain new DS1 Dedicated Transport as **Section 251(c)(3)** unbundled network elements.

3.5.2 **DS3 Dedicated Transport.** To the extent the Agreement otherwise requires Verizon to provide \*\*\*CLEC Acronym TXT\*\*\* with unbundled access to

**Section 251(c)(3)** DS3 Dedicated Transport (this section not being intended to create any such requirement in the first instance) the following provisions shall apply notwithstanding any such requirement:

3.5.2.1 Effective as of March 11, 2005, and subject to the transition requirements set forth in Section 3.5.2.2 below:

3.5.2.1.1 Verizon shall unbundle DS3 Dedicated Transport between any pair of Verizon Wire Centers except where, through application of tier classifications described in Section 3.5.5 below, both Wire Centers defining the Route are either Tier 1 or Tier 2 Wire Centers. As such, Verizon must unbundle DS3 Dedicated Transport if a Wire Center on either end of a requested Route is a Tier 3 Wire Center.

3.5.2.1.2 \*\*\*CLEC Acronym TXT\*\*\* and its Affiliates may obtain a maximum of twelve unbundled DS3 Dedicated Transport circuits on each Route where DS3 Dedicated Transport is available on an unbundled basis.

3.5.2.2 Transition Period For DS3 Dedicated Transport. For a 12-month period beginning on March 11, 2005, any DS3 Dedicated Transport UNEs that \*\*\*CLEC Acronym TXT\*\*\* leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.5.2.1 above, were available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate \*\*\*CLEC Acronym TXT\*\*\* paid for the dedicated transport element on June 15, 2004, or (b) 115% of the rate the Commission established, if any, between June 16, 2004, and March 11, 2005, for that dedicated transport element. Where Verizon is not required to provide unbundled DS3 Dedicated Transport pursuant to Section 3.5.2.1 above, \*\*\*CLEC Acronym TXT\*\*\* may not obtain new DS3 Dedicated Transport as **Section 251(c)(3)** unbundled network elements.

3.5.3 Dark Fiber Transport. To the extent the Agreement otherwise requires Verizon to provide \*\*\*CLEC Acronym TXT\*\*\* with unbundled access to **Section 251(c)(3)** Dark Fiber Transport (this section not being intended to create any such requirement in the first instance) the following provisions shall apply notwithstanding any such requirement:

3.5.3.1 Effective as of March 11, 2005, and subject to the transition requirements set forth in section 3.5.3.2 below, Verizon shall unbundle Dark Fiber Dedicated Transport between any pair of Verizon Wire Centers except where, through application of tier classifications described in Section 3.5.5 below, both Wire Centers defining the Route are either Tier 1 or Tier 2 Wire Centers. As such, Verizon must unbundle Dark Fiber Transport if a Wire Center on either end of a requested Route is a Tier 3 Wire Center.

3.5.3.2 Transition Period For Dark Fiber Transport. For an 18-month period beginning on March 11, 2005, any Dark Fiber Transport UNEs that \*\*\*CLEC Acronym TXT\*\*\* leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.5.3.1 above, were available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate \*\*\*CLEC Acronym TXT\*\*\* paid

for the Dark Fiber Transport element on June 15, 2004, or (b) 115% of the rate the Commission established, if any, between June 16, 2004, and March 11, 2005, for that Dark Fiber Transport element. Where Verizon is not required to provide unbundled Dark Fiber Transport pursuant to Section 3.5.3.1 above, \*\*\*CLEC Acronym TXT\*\*\* may not obtain new **Section 251(c)(3)** Dark Fiber Transport as unbundled network elements.

3.5.4 Notwithstanding any other provision of the Amended Agreement, Verizon is not obligated to provide \*\*\*CLEC Acronym TXT\*\*\* with unbundled access to **Section 251(c)(3)** Entrance Facilities, and **such** Entrance Facilities are not subject to the transition provisions (including, but not limited to, transition rates) set forth in this Section 3. The discontinuation of unbundled Entrance Facilities as set forth in this Amendment does not alter any right \*\*\*CLEC Acronym TXT\*\*\* may have under the existing Agreement to obtain interconnection facilities that Verizon is required to provide for interconnection pursuant to Section 251(c)(2) of the Act; provided, however, that, for the avoidance of any doubt, this sentence by itself shall not be construed to establish any such right of \*\*\*CLEC Acronym TXT\*\*\*.

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

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

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

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

3.6 TRRO Certification and Dispute Process for High Capacity Loops and Transport.

3.6.1 CLEC Certification and Related Provisions.

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

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

**Notwithstanding any other provision of this Amendment, in no event may **\*\*\*CLEC Acronym TXT\*\*\*** dispute a non-impairment designation set forth in Verizon's Wire Center List if **\*\*\*CLEC Acronym TXT\*\*\*** failed to notify Verizon in writing of such dispute within thirty (30) days of the date on which Verizon provided the Wire Center List to **\*\*\*CLEC Acronym TXT\*\*\***, and Verizon may reject any orders submitted in violation of this provision without first seeking dispute resolution.**

- 3.6.1.1.1 Subject to the requirements of Section 3.6.1 and Section 3.6.2, nothing contained in this Section 3.6 shall in any way limit any right **\*\*\*CLEC Acronym TXT\*\*\*** may have to challenge Verizon's Wire Center List, including any designation of a Wire Center as Tier 1, Tier 2 or Tier 3, including with regard to those facilities that Verizon is obligated to provide to **\*\*\*CLEC Acronym TXT\*\*\*** during the Transition Periods, as set forth in Sections 3.4 and 3.5 above.
- 3.6.1.2 The back-up data that Verizon provides to **\*\*\*CLEC Acronym TXT\*\*\*** under a non-disclosure agreement pursuant to Section 3.6.1.1 above **may shall** include **[data regarding the number of Business Lines and fiber-based collocators at non-impaired Wire Centers; provided, however, that Verizon may mask the identity of fiber-based collocators in order to prevent disclosure to **\*\*\*CLEC Acronym TXT\*\*\*** of other carriers' confidential or proprietary network information. Verizon will provide **\*\*\*CLEC Acronym TXT\*\*\*** with a translation code in order for **\*\*\*CLEC Acronym TXT\*\*\*** to identify its fiber-based collocation locations.] the number of (i) Business Lines and (ii) Fiber-Based Collocators in each Verizon serving Wire Center. Back-up data shall include, but must not be limited to: the definition of "wire center" used by Verizon; the names of the Fiber-Based Collocators counted in each Wire Center; line counts, identified by line type; the date of each count of lines relied on by Verizon; the methodology used to derive the Business Line count, and the original source(s) of such data; all business rules and definitions used by Verizon; and any documents, orders, records or reports relied on by Verizon for the assertions made. Verizon shall provide the back-up data required by this Section no later than ten (10) business days following **\*\*\*CLEC Acronym TXT\*\*\***'s written request, but only if a non-disclosure agreement covering the back-up data is in effect between Verizon and **\*\*\*CLEC Acronym TXT\*\*\*** at that time. Upon **\*\*\*CLEC Acronym TXT\*\*\***'s request, Verizon shall update the back-up data to the month in which **\*\*\*CLEC Acronym TXT\*\*\*** requests the back-up data; provided, however, that Verizon need not provide the back-up**

**data for a particular Wire Center for a date later than the original date on which the data must have been current to establish the level of non-impairment (e.g., Tier 2, etc.) that Verizon asserts as to the Wire Center.**

3.6.1.3 Since Verizon has now modified its electronic ordering system to include a method for \*\*\*CLEC Acronym TXT\*\*\* to provide the certification required by this section, \*\*\*CLEC Acronym TXT\*\*\* shall use such method, as updated from time to time, to provide such certification.

3.6.2 Provision-then-Dispute Requirements.

3.6.2.1 Upon receiving a request from \*\*\*CLEC Acronym TXT\*\*\* for unbundled access to a TRRO Certification Element and the certification required by Section 3.6.1 above, and except as provided in Section 3.6.2.3 below, Verizon shall process the request in accordance with any applicable standard intervals, and for avoidance of doubt, shall not delay processing the request on the grounds that the request is for a TRRO Certification Element. If Verizon wishes to challenge \*\*\*CLEC Acronym TXT\*\*\*'s right to obtain unbundled access to the subject element pursuant to 47 U.S.C. § 251(c)(3), Verizon must provision the subject element as a UNE and then seek resolution of the dispute by the Commission or the FCC, or through any dispute resolution process set forth in the Agreement that Verizon elects to invoke in the alternative.

3.6.2.2 **Prospective Rate Application.** If a dispute pursuant to section 3.6.2.1 above is resolved in Verizon's favor, then \*\*\*CLEC Acronym TXT\*\*\* shall compensate Verizon for the additional charges that would apply if \*\*\*CLEC Acronym TXT\*\*\* had ordered the subject facility or service on a month-to-month **term under Verizon's interstate special access tariff basis, subject to the month-to-month rates provided under the applicable Verizon access tariff, unless \*\*\*CLEC Acronym TXT\*\*\* is then subscribed to an applicable term/volume plan, or other special access arrangement, pursuant to which \*\*\*CLEC Acronym TXT\*\*\* would be entitled to a different rate** (except as provided in section 3.6.2.2.1 below as to dark fiber transport) **and any other applicable charges, applicable back to the date of provisioning (including, but not limited to, late payment charges for the unpaid difference between UNE and access tariff rates).** The month-to-month **foregoing** rates shall apply until such time as \*\*\*CLEC Acronym TXT\*\*\*: **(1) requests disconnection of the subject facility; (2) or requests an alternative term that Verizon offers under its interstate special access tariff for the subject facility or service; (3) requests the application of applicable term or volume discounts; or (4) negotiates a wholesale special access contract with Verizon for the subject facility or service; provided, however, that if \*\*\*CLEC Acronym TXT\*\*\* has an effective wholesale special access contract or other service arrangement with Verizon, the applicable rates under that contract or other service arrangement would apply.**

3.6.2.2.1 In the case of Dark Fiber Transport (there being no analogous service under Verizon's access tariffs), the

monthly recurring charges that Verizon may charge, and that \*\*\*CLEC Acronym TXT\*\*\* shall be obligated to pay, for each circuit shall be the charges for the commercial service that Verizon, in its sole discretion, determines to be analogous to the subject Dark Fiber Transport and, unless otherwise agreed in writing by the Parties, Verizon may disconnect the subject dark fiber facility thirty (30) days after the date on which the dispute is resolved in Verizon's favor. In any case where \*\*\*CLEC Acronym TXT\*\*\*, within thirty (30) days of the date on which the dispute is resolved in Verizon's favor, submits a valid ASR for a "lit" service to replace the subject Dark Fiber Transport facility, Verizon shall continue to provide the Dark Fiber Transport facility at the rates provided for above, but only for the duration of the standard interval for installation of the "lit" service.

3.6.2.3 **Notice and Retroactive Rate Application. If Verizon intends to retroactively re-price a facility or service back to the date of provisioning, should Verizon prevail in a dispute, then Verizon, within thirty (30) days of the date on which it receives \*\*\*CLEC Acronym TXT\*\*\*'s certification under Section 3.6.1.1 above, must notify \*\*\*CLEC Acronym TXT\*\*\* that Verizon disputes the order. To the extent that it is determined by the Commission (or other authority having jurisdiction over such dispute) that Verizon is entitled to retroactive pricing, such re-pricing shall be at rates no greater than the lowest rate that \*\*\*CLEC Acronym TXT\*\*\* could have obtained in the first instance for the facility to be re-priced (i.e., subject to an applicable term/volume plan or other special access tariff or contract arrangement to which \*\*\*CLEC Acronym TXT\*\*\* subscribes) had \*\*\*CLEC Acronym TXT\*\*\* not ordered such facility as a UNE.**

3.6.2.4 Notwithstanding any other provision of the Amended Agreement, **but subject to and without limiting Section 4.4 below**, Verizon may reject a \*\*\*CLEC Acronym TXT\*\*\* order for a TRRO Certification Element without first seeking dispute resolution: (a) in any case where \*\*\*CLEC Acronym TXT\*\*\*'s order conflicts with a non-impaired Wire Center designation set forth in the Wire Center List that Verizon has made available to \*\*\*CLEC Acronym TXT\*\*\* by notice and/or by publication on Verizon's wholesale website as of the Amendment Effective Date (subsequent revisions to the Wire Center List being governed by Section 3.6.3 below), except as to any particular Wire Center designation(s) with respect to which \*\*\*CLEC Acronym TXT\*\*\*, within thirty (30) days of the date on which Verizon provided the Wire Center List to \*\*\*CLEC Acronym TXT\*\*\*, notified Verizon of a bona fide dispute in accordance with the requirements of Paragraph 234 of the TRRO; (b) in any case where \*\*\*CLEC Acronym TXT\*\*\*'s order conflicts with a non-impaired Wire Center designation that the Commission, the FCC, or a court of competent jurisdiction has ordered or **affirmatively** approved or that has otherwise been confirmed through previous dispute resolution; or (c) to the extent the Commission, the FCC, or a court of competent jurisdiction otherwise permits Verizon to reject orders for TRRO Certification Elements without first seeking dispute resolution.

3.6.3 If Verizon revises its Wire Center List to add any new Wire Centers not listed as of the Amendment Effective Date or to upgrade ("upgrade" meaning movement to a higher level of non-impairment (e.g., from Tier 2 to Tier 1)) the non-impairment status of any Wire Centers listed as of the Amendment Effective Date, then Verizon shall notify \*\*\*CLEC Acronym TXT\*\*\* in writing (by electronic mail or other written communication) of such changes ("Wire Center Update Notice") and the following provisions shall apply effective as of the date that Verizon provides \*\*\*CLEC Acronym TXT\*\*\* such Wire Center Update Notice (the "Wire Center Update Notice Effective Date"):

3.6.3.1 \*\*\*CLEC Acronym TXT\*\*\*'s embedded base of TRRO Certification Elements that are or become Discontinued Facilities by operation of any such change to the Wire Center List (the "Newly-Discontinued Embedded Base") shall be treated as Discontinued Facilities under Section 2.4.1 above effective as of one-hundred-eighty (180) days after the Wire Center Update Notice Effective Date. During such 180-day period, the Newly-Discontinued Embedded Base shall be priced at a rate equal to 115% of the rate \*\*\*CLEC Acronym TXT\*\*\* paid for the subject element as of the Wire Center Update Notice Effective Date.

3.6.3.2 For the avoidance of any doubt, the provisions set forth in Sections 3.6.1 and 3.6.2 (including, but not limited to, \*\*\*CLEC Acronym TXT\*\*\*'s certification obligation) shall apply as of the Wire Center Update Notice Effective Date as to any new requests for TRRO Certification Elements affected by the changes to the Wire Center List.

3.6.3.3 **Subject to Section 3.6.3.2 above, nothing contained in this Section 3.6.3 shall in any way limit any right \*\*\*CLEC Acronym TXT\*\*\* may have to challenge Verizon's revision of its Wire Center List, including any change in a Wire Center's designation as Tier 1, Tier 2 or Tier 3, including with regard to \*\*\*CLEC Acronym TXT\*\*\*'s Newly Discontinued Embedded Base.**

### 3.7 Mass Market Switching and Related Elements

3.7.1 Effective as of March 11, 2005, and subject to the transition requirements set forth in Section 3.7.3 below, Verizon is not required to provide \*\*\*CLEC Acronym TXT\*\*\* with access to Mass Market Switching on an unbundled basis.

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

3.7.3 Transition Requirements. For a 12-month period beginning on March 11, 2005, Verizon was required to provide access to Mass Market Switching on an unbundled basis for \*\*\*CLEC Acronym TXT\*\*\* to serve its embedded end user customer base. The price for Mass Market Switching in combination with unbundled DS0 capacity loops and Shared Transport obtained pursuant to this section was available at transitional rates equal to the higher of (a) the rate at which \*\*\*CLEC Acronym TXT\*\*\* obtained that combination of network elements on June 15, 2004 plus one dollar, or (b) the rate the Commission established, if any, between June 16, 2004, and the effective date of the

TRRO, for that combination of network elements, plus one dollar. \*\*\*CLEC Acronym TXT\*\*\* was not allowed to obtain new Mass Market Switching as an unbundled network element on or after March 11, 2005.

3.7.3.1 For purposes of Section 3.7.3 above, serving the \*\*\*CLEC Acronym TXT\*\*\*'s embedded end user customer base means serving \*\*\*CLEC Acronym TXT\*\*\*'s end user customers using a Mass Market Switching arrangement that was in service for that end user customer as of March 11, 2005, and does not include adding new Mass Market Switching arrangements, adding new lines to existing arrangements, or serving the embedded end user customer at a location different from the location at which that customer was served using the subject Mass Market Switching arrangement as of March 11, 2005; provided, however, that \*\*\*CLEC Acronym TXT\*\*\* could have obtained such additional lines or moves as resale under section 251(c)(4) of the Act (in accordance with the resale provisions of the Agreement) or pursuant to a separate commercial agreement.

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

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

3.8.2 **Retrospective Transition Charges.**

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

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

3.8.3 Any bills issued by Verizon that include either a transition rate charge or a true up charge shall enable \*\*\*CLEC Acronym TXT\*\*\* to determine: (1) the time period for which such transition rate charge or true up charges applies; (2) the applicable transition rate; and (3) the facilities to which the transition rate or true-up amounts apply; provided, however, that nothing herein shall require Verizon to change its customary billing formats. In the event that Verizon's billing format does not enable it to provide the information required by this section, Verizon shall provide such information separately from the billing in a manner that reasonably achieves the purposes of this section.

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

3.9.1 For the avoidance of any doubt, to the extent \*\*\*CLEC Acronym TXT\*\*\*, prior to the end of the applicable transition period set forth in the TRRO (i.e., for DS1 and DS3 Loops, DS1 and DS3 Dedicated Transport, March 10, 2006, or for Dark Fiber Loops and Dark Fiber Transport, September 10, 2006), failed to order disconnection of its embedded base, if any, of Discontinued Facilities that are subject to the transition periods set forth in this Section 3 and failed to **replace such embedded base with alternative services that were available from Verizon under a separate arrangement to submit orders for alternative arrangements offered by Verizon** (e.g., any arrangement offered by Verizon pursuant to a separate commercial agreement, or a Verizon access tariff, or as Section 251(c)(4) resale), Verizon's obligation to provide unbundled access to such Discontinued Facilities ceased on March 10, 2006 (or, in the case of Dark Fiber Loops and Dark Fiber Transport, September 10, 2006). Accordingly, effective as of March 11, 2006 (or, in the case of Dark Fiber Loops and Dark Fiber Transport, September 11, 2006), Verizon **was and remains entitled to disconnect, convert, and/or may** reprice such Discontinued Facilities in accordance with Section 2.4.1 above **without further notice to \*\*\*CLEC Acronym TXT\*\*\***.

3.10 Line Sharing. Notwithstanding any other provision of the Amended Agreement (but subject to the conditions set forth in Section 2 above **and Section 4.4 below**), Verizon shall provide access to **Section 251(c)(3)** Line Sharing on a transitional basis in accordance with, **but only to the extent required by**, the transitional rules set forth in 47 C.F.R. § 51.319(a)(1)(i). For the avoidance of any doubt, the FCC's transition rules set forth in 47 C.F.R. § 51.319(a)(1)(i) became effective independently of this Amendment prior to the Amendment Effective Date, and this Section 3.10 is only intended to memorialize such rules for the convenience of the Parties.

3.10A Line Splitting [THIS SECTION TO BE INCLUDED ONLY IN AMENDMENTS FOR CERTAIN ICAS THAT DO NOT ALREADY CONTAIN LINE SPLITTING PROVISIONS]

3.10A.1 Subject to the conditions set forth in Section 2 above **and Section 4.4 below**, Verizon shall provision Line Splitting arrangements under the Amended Agreement in accordance with, **but only to the extent required by**, the Federal Unbundling Rules. Verizon shall enable \*\*\*CLEC Acronym TXT\*\*\* to engage in Line Splitting using a **\*\*\*CLEC Acronym TXT\*\*\*-provided** splitter collocated at the central office **where the Loop terminates into a distribution frame or its equivalent**. Verizon's standard provisioning processes shall apply, and **Commission-approved** rates shall apply in accordance with the terms of the Amended Agreement. **Any Line Splitting between \*\*\*CLEC Acronym TXT\*\*\* and another CLEC shall be accomplished by prior negotiated arrangement between \*\*\*CLEC Acronym TXT\*\*\* and the other**

CLEC. **\*\*\*CLEC Acronym TXT\*\*\*** shall give Verizon written notice of this arrangement through the Verizon Wholesale Local Service Customer Profile Form on the Verizon Wholesale Website or another electronic notice mechanism that will be provided by Verizon, at least thirty (30) days prior to placing an order for a Line Splitting arrangement with such other CLEC.

**3.10.A.1.1** Verizon’s obligation to provide **\*\*\*CLEC Acronym TXT\*\*\*** with the ability to engage in Line Splitting applies regardless of whether the carrier providing voice services is providing its own switching or obtains local circuit switching as an unbundled network element, pursuant to the Amendment, a Verizon tariff or other agreement.

**3.10.A.1.2** 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.

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

**3.10A.3** In order to facilitate **\*\*\*CLEC Acronym TXT\*\*\*’s** engaging in Line Splitting pursuant to this section, **\*\*\*CLEC Acronym TXT\*\*\*** may order for use in a Line Splitting arrangement those UNEs, Collocation arrangements, services, facilities, equipment and arrangements, appropriate for Line Splitting, that are offered to **\*\*\*CLEC Acronym TXT\*\*\*** by Verizon under other provisions of the Amended Agreement. Such UNEs, Collocation arrangements, services, facilities, equipment and arrangements, will be provided to **\*\*\*CLEC Acronym TXT\*\*\*** in accordance with, and subject to, the rates and charges and other provisions of the Amended Agreement and Verizon’s applicable tariffs.

**3.10B** **[THIS SECTION TO BE INCLUDED ONLY IN AMENDMENTS FOR CERTAIN ICAS THAT DO NOT ALREADY CONTAIN LINE CONDITIONING PROVISIONS]** Line Conditioning. Subject to the conditions set forth in Section 2 above and Section 4.4 below, and in accordance with, **but only to the extent required by,** the Federal Unbundling Rules:

**3.10B.1** Verizon shall condition a copper Loop at the request of **\*\*\*CLEC Acronym TXT\*\*\*** when **\*\*\*CLEC Acronym TXT\*\*\*** seeks access to a copper Loop, **the high frequency portion of a copper Loop** or a copper Sub-Loop that **Verizon is required to provide to **\*\*\*CLEC Acronym TXT\*\*\*** on an unbundled basis under the Amended Agreement,** to ensure that the copper Loop or copper Sub-Loop is suitable for providing xDSL services, **including those services provided over the high frequency portion of the copper Loop or copper Sub-Loop,** whether or not Verizon offers advanced services to the end-user

customer on that copper Loop or copper Sub-Loop. **Charges shall apply in accordance with the Pricing Attachment to this Amendment. If Verizon seeks compensation from \*\*\*CLEC Acronym TXT\*\*\* for line conditioning, \*\*\*CLEC Acronym TXT\*\*\* has the option of refusing, in whole or in part, to have the line conditioned; and \*\*\*CLEC Acronym TXT\*\*\*'s refusal of some or all aspects of line conditioning will not diminish any right it may have to obtain unbundled access a non-conditioned copper Loop or copper Sub-Loop that Verizon is required to provide to \*\*\*CLEC Acronym TXT\*\*\* under the Amended Agreement. Verizon's standard ordering and provisioning processes and intervals for line conditioning shall apply.**

**3.10B.2 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.**

**3.10B.3 Where \*\*\*CLEC Acronym TXT\*\*\* seeks access to the high frequency portion of a copper Loop or copper Sub-Loop and Verizon claims that conditioning that loop or Subloop will significantly degrade, as defined in 47 C.F.R. § 51.233, the voiceband services that Verizon is currently providing over that loop or Subloop, Verizon must either:**

- (a) Locate another copper Loop or copper Sub-Loop that has been or can be conditioned, migrate Verizon's voiceband service to that Loop or Sub-Loop, and provide \*\*\*CLEC Acronym TXT\*\*\* with access to the high frequency portion of that alternative Loop or Sub-Loop; or**
- (b) Make a showing to the Commission that the original copper Loop or copper Sub-Loop cannot be conditioned without significantly degrading voiceband services on that Loop or Sub-Loop, as defined in 47 C.F.R § 51.233 of the FCC's rules, and that there is no adjacent or alternative copper Loop or copper Sub-Loop available that can be conditioned or to which the end-user customer's voiceband service can be moved to enable line sharing.**

**3.10B.4 If, after evaluating Verizon's showing under 47 C.F.R. Part 51, the Commission concludes that a copper Loop or copper Sub-Loop cannot be conditioned without significantly degrading the voiceband service, Verizon cannot then or subsequently condition that Loop or Sub-Loop to provide advanced services to its own customers without first making available to \*\*\*CLEC Acronym TXT\*\*\*the high frequency portion of the newly conditioned Loop or Sub-Loop.**

3.11 Commingling and Combinations.

3.11.1 Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting the conditions set forth in Section 2 above and in Section 3.11.2 and **Section 4.4** below):

3.11.1.1 Verizon will not prohibit the commingling of an unbundled Network Element or a combination of unbundled Network Elements obtained under the Amended Agreement pursuant to the Federal Unbundling Rules ("Qualifying UNEs"), with **any non-Section 251(c)(3)** wholesale services and facilities obtained from Verizon, **including but not limited to such services or facilities offered by Verizon** under a Verizon access tariff or **separate non-251 other** agreement,

or **as resale** pursuant to the Section 251(c)(4) **resale provisions of the Agreement** (“Wholesale Services”) **but only to the extent and so long as commingling and provision of such Network Element (or combination of Network Elements) is required by the Federal Unbundling Rules**. Moreover, **to the extent and so long as required by in accordance with** the Federal Unbundling Rules (subject to Section 3.11.1.3 below), Verizon shall, upon request of \*\*\*CLEC Acronym TXT\*\*\*, perform the functions necessary to commingle or combine Qualifying UNEs with Wholesale Services obtained from Verizon. The rates, terms and conditions of the applicable access tariff or **separate non-251 other** agreement, or the applicable Section 251(c)(4) resale provisions of the Agreement, will apply to the Wholesale Services, and the rates, terms and conditions of the Amended Agreement or the Verizon UNE tariff, as applicable, will apply to the Qualifying UNEs.

3.11.1.2 “Ratcheting,” as that term is defined by the FCC, shall not be required. Qualifying UNEs that are commingled with Wholesale Services are not included in the shared use provisions of the applicable tariff.

3.11.1.3 Limitations on Section 3.11.1. Nothing contained in Section 3.11.1 shall be deemed: (a) to establish any obligation of Verizon to provide \*\*\*CLEC Acronym TXT\*\*\* with access to any facility that Verizon is not otherwise required to provide to \*\*\*CLEC Acronym TXT\*\*\* on an unbundled basis under the Amended Agreement, or (b) to limit any right of Verizon under the Amended Agreement to cease providing a facility that is or becomes a Discontinued Facility.

3.11.2 Service Eligibility Criteria for Certain Combinations and Commingled Facilities and Services. Notwithstanding any other provision of the Agreement, this Amendment (but subject to the conditions set forth in Sections 2 and 3.11.1 above **and Section 4.4 below**):

3.11.2.1 Verizon shall not be obligated to provide:

3.11.2.1.1 an unbundled DS1 Loop in combination with unbundled DS1 or DS3 Dedicated Transport, or commingled with DS1 or DS3 access services;

3.11.2.1.2 an unbundled DS3 Loop in combination with unbundled DS3 Dedicated Transport, or commingled with DS3 access services;

3.11.2.1.3 unbundled DS1 Dedicated Transport commingled with DS1 channel termination access service;

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

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

(individually and collectively “High Capacity EELs”) except to the extent Verizon is required by the Federal Unbundling Rules to do so,

and not unless and until \*\*\*CLEC Acronym TXT\*\*\* certifies in the respective ASR (or, as applicable, LSR) to Verizon that each combined or commingled DS1 circuit or DS1 equivalent circuit of the High Capacity EEL satisfies the service eligibility criteria on a circuit-by-circuit basis as set forth in 47 C.F.R. § 51.318. \*\*\*CLEC Acronym TXT\*\*\* must remain in compliance with said service eligibility criteria for so long as \*\*\*CLEC Acronym TXT\*\*\* continues to receive the aforementioned combined or commingled facilities and/or services from Verizon. The service eligibility criteria shall be applied to each combined or commingled DS1 circuit or DS1 equivalent circuit of a High Capacity EEL. If any combined or commingled DS1 circuit or DS1 equivalent circuit of a High Capacity EEL is, becomes, or is subsequently determined to be noncompliant, the noncompliant circuit shall be treated as described in Section 3.11.2.2 below. The foregoing shall apply whether the High Capacity EEL circuits in question are being provisioned to establish a new circuit or to convert an existing wholesale service, or any part thereof, to unbundled network elements. For High Capacity EEL circuits existing as of the Amendment Effective Date, \*\*\*CLEC Acronym TXT\*\*\*, within **30 60 days** of the Amendment Effective Date, \*\*\*CLEC Acronym TXT\*\*\* must re-certify in writing using a letter or ASRs (or, as applicable, LSRs) that each combined or commingled DS1 circuit or DS1 equivalent circuit satisfies the service eligibility criteria on a circuit-by-circuit basis as set forth in 47 C.F.R. § 51.318. If \*\*\*CLEC Acronym TXT\*\*\* uses a letter to provide such re-certification, the letter must include an attached spreadsheet identifying each DS1 or DS1 equivalent circuit that \*\*\*CLEC Acronym TXT\*\*\* certifies to be in compliance with the service eligibility criteria set forth in 47 C.F.R. § 51.318. \*\*\*CLEC Acronym TXT\*\*\* must provide both an electronic copy and a paper copy of any such letter and attached spreadsheet, and the paper copy must be signed by a duly authorized officer of \*\*\*CLEC Acronym TXT\*\*\*. Any such existing circuits not re-certified within **30 60 days** of the Amendment Effective Date shall, effective as of **30 60 days** after the Amendment Effective Date, be treated as noncompliant circuits as described in Section 3.11.2.2 below.

3.11.2.2 Without limiting any other right Verizon may have to cease providing circuits that are or become Discontinued Facilities, if a High Capacity EEL circuit is or becomes noncompliant as described in this Section 3.11, and \*\*\*CLEC Acronym TXT\*\*\* has not submitted an LSR or ASR, as appropriate, to Verizon requesting disconnection of the noncompliant High Capacity EEL circuit and has not separately secured from Verizon an alternative arrangement to replace the noncompliant High Capacity EEL circuit, then Verizon shall reprice the subject High Capacity EEL circuit, effective beginning on the date on which the circuit became non-compliant, by application of a new rate (or, in Verizon's sole discretion, by application of a surcharge to an existing rate) to be equivalent to an alternative access service or other alternative arrangement that Verizon shall identify in a written notice to \*\*\*CLEC Acronym TXT\*\*\*: **subject to any special access term/volume plan or other special access arrangement to which \*\*\*CLEC Acronym TXT\*\*\* subscribed during the period of noncompliance.**

3.11.2.3 When submitting an ASR (or, as applicable, LSR) for a High Capacity EEL circuit for which certification under Section 3.11.2.1

above is required, \*\*\*CLEC Acronym TXT\*\*\* must include the certification in the remarks section of the ASR as follows: "Certification: The circuit(s) requested in this ASR meet the eligibility criteria set forth in 47 C.F.R. § 51.318(b)(2)." The foregoing certification must be contained in the Remarks section of the ASR unless and until such time as provisions are made to populate other fields on the ASR to capture this certification.

3.11.2.4 [Intentionally Left Blank]

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

3.11.2.6 All requests for conversions will be handled in accordance with Verizon's conversion guidelines and, subject to the terms of this Amendment, in a manner that is not inconsistent with the Arbitration Orders. Each request will be handled as a project, subject to this Section 3.11.2.6. Until such time as the Commission orders a different interval (at which time such different interval shall apply prospectively), new rates for converted circuits shall be effective no later than thirty (30) days after \*\*\*CLEC Acronym TXT\*\*\* submits its order (i.e. a valid ASR or, as applicable, LSR) that includes the certification set forth in Section 3.11.2.3 above.

3.11.2.7 [Intentionally Left Blank]

3.11.2.8 Once per calendar year, at intervals not less than a year, Verizon may obtain and pay for an independent auditor to audit \*\*\*CLEC Acronym TXT\*\*\*'s compliance in all material respects with the service eligibility criteria applicable to High Capacity EELs. Any such audit shall be performed in accordance with the standards established by the American Institute for Certified Public Accountants, and may include, at Verizon's discretion, the examination of a sample selected in accordance with the independent auditor's judgment. Verizon shall provide \*\*\*CLEC Acronym TXT\*\*\* with thirty (30) days advance notice of any such audit. To the extent the independent auditor's report concludes that \*\*\*CLEC Acronym TXT\*\*\* failed to comply with the service eligibility criteria for any DS1 or DS1 equivalent High Capacity EEL circuit, \*\*\*CLEC Acronym TXT\*\*\* must convert all non-compliant circuits to the appropriate service, true up any difference in payments, and make the correct payments on a going-forward basis. To the extent the independent auditor's report concludes that \*\*\*CLEC Acronym TXT\*\*\* failed to comply in all material respects with the service eligibility criteria, then (without limiting Verizon's rights under Section 3.11.2.2 above) \*\*\*CLEC Acronym TXT\*\*\* must 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 that \*\*\*CLEC Acronym TXT\*\*\* complied in all material respects with the service eligibility criteria, then \*\*\*CLEC Acronym TXT\*\*\* shall provide to the independent auditor for its verification a statement of \*\*\*CLEC Acronym TXT\*\*\*'s reasonable and verifiable costs of complying with any requests of the independent auditor, and Verizon shall, within sixty (60) days of the date on which \*\*\*CLEC Acronym TXT\*\*\* submits such costs to the auditor, reimburse \*\*\*CLEC Acronym TXT\*\*\* for its reasonable and

verifiable costs verified by the auditor. \*\*\*CLEC Acronym TXT\*\*\* shall maintain records adequate to support its compliance with the service eligibility criteria for each DS1 or DS1 equivalent circuit for at least eighteen (18) months after the service arrangement in question is terminated. **In the event that Verizon or \*\*\*CLEC Acronym TXT\*\*\* disputes all or any portion of the audit, it may dispute the audit under the dispute resolution procedures contained in the Agreement.**

3.12 Routine Network Modifications.

3.12.1 General Conditions. In accordance with, but only to the extent required by, 47 C.F.R. §§ 51.319(a)(8) and (e)(5), and subject to the conditions set forth in Section 2 above and **Section 4.4 below:**

3.12.1.1 Verizon shall make such routine network modifications as are necessary to permit access by \*\*\*CLEC Acronym TXT\*\*\* to the Loop, Dedicated Transport, or Dark Fiber Transport facilities available under the Amended Agreement (including DS1 Loops and DS1 Dedicated Transport, and DS3 Loops and DS3 Dedicated Transport) where the facility has already been constructed. Verizon shall perform routine network modifications in a nondiscriminatory fashion, without regard to whether the facility being accessed was constructed on behalf of, or in accordance with, the specifications of any carrier. Routine network modifications applicable to Loops or Transport are those modifications that Verizon regularly undertakes for its own customers and may include, but are not limited to: rearranging or splicing of in-place cable at existing splice points; adding an equipment case; adding a doubler or repeater; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that Verizon ordinarily attaches to a DS1 Loop to activate such loop for its own customer, and may also may entail activities such as accessing manholes; and deploying bucket trucks to reach aerial cable. Routine network modifications applicable to Dark Fiber Transport are those modifications that Verizon regularly undertakes for its own customers and may include, but are not limited to, splicing of in-place dark fiber at existing splice points; accessing manholes; deploying bucket trucks to reach aerial cable; and routine activities, if any, needed to enable \*\*\*CLEC Acronym TXT\*\*\* to light a Dark Fiber Transport facility that it has obtained from Verizon under the Amended Agreement. Routine network modifications do not include the construction of a new Loop or new Transport facilities, trenching, the pulling of cable, the installation of new aerial, buried, or underground cable for a requesting telecommunications carrier, or the placement of new cable. Verizon shall not be required to build any time division multiplexing (TDM) capability into new packet-based networks or into existing packet-based networks that do not already have TDM capability. Verizon shall not be required to perform any routine network modifications to any facility that is or becomes a Discontinued Facility. In the event the Parties disagree as to whether any activity constitutes a "routine network modification" pursuant to this Section 3.12, either Party may seek resolution of such dispute in accordance with the dispute resolution procedures set forth in the Agreement.

- 3.12.2 Nothing contained in this Section 3.12 shall be deemed to require Verizon to provide on an unbundled basis any facility that the Amended Agreement does not otherwise require Verizon to provide on an unbundled basis.
- 3.12.3 **For avoidance of doubt, there are no existing charges approved by the Commission that apply to routine network modifications, pursuant to this Section 3.12. Any charges applicable to routine network modifications that the Commission may establish in the future shall not be retroactive in effect, absent an explicit Commission order to the contrary.**

4. Miscellaneous Provisions.

- 4.1 Conflict between this Amendment and the Agreement. This Amendment shall be deemed to revise the terms and provisions of the Agreement to the extent necessary to give effect to the terms and provisions of this Amendment. In the event of a conflict between the terms and provisions of this Amendment and the terms and provisions of the Agreement this Amendment shall govern, provided, however, that the fact that a term or provision appears in this Amendment but not in the Agreement, or in the Agreement but not in this Amendment, shall not be interpreted as, or deemed grounds for finding, a conflict for purposes of this Section 4.1.
- 4.2 Counterparts. This Amendment may be executed in one or more counterparts, each of which when so executed and delivered shall be an original and all of which together shall constitute one and the same instrument.
- 4.3 Captions. The Parties acknowledge that the captions in this Amendment have been inserted solely for convenience of reference and in no way define or limit the scope or substance of any term or provision of this Amendment.
- 4.4 Scope of Amendment. This Amendment shall amend, modify and revise the Agreement only to the extent set forth expressly herein. As used herein, the Agreement, as revised and supplemented by this Amendment, shall be referred to as the "Amended Agreement". Nothing in this Amendment shall be deemed to amend or extend the term of the Agreement, or to affect the right of a Party to exercise any right of termination it may have under the Agreement. **This Amendment does not alter, modify or revise any rights and obligations under applicable law contained in the Agreement, other than those Section 251 rights and obligations specifically addressed in this Amendment. Furthermore, \*\*\*CLEC Acronym TXT\*\*\*'s execution of this Amendment shall not be construed as a waiver with respect to whether Verizon, prior to the Amendment Effective Date, was obligated under the Agreement to perform certain functions required by the TRO.**
- 4.5 Reservation of Rights. Notwithstanding any contrary provision in the Amended Agreement, or any Verizon tariff, nothing contained in the Amended Agreement, or any Verizon tariff shall limit either Party's right to appeal, seek reconsideration of or otherwise seek to have stayed, modified, reversed or invalidated any order, rule, regulation, decision, ordinance or statute issued by the Commission, the FCC, any court or any other governmental authority related to, concerning or that may affect either Party's rights or obligations under the Amended Agreement, any Verizon tariff, or applicable law.
- 4.6 Joint Work Product. This Amendment is a joint work product, and any ambiguities in this Amendment shall not be construed by operation of law against either Party.
- 4.7 Definitions. Notwithstanding any other provision in the Agreement or any Verizon tariff, the following terms, as used in the Amended Agreement, shall have the meanings set forth below:

- 4.7.1 Business Line. As set forth in 47 C.F.R. § 51.5, a "Business Line" is a Verizon-owned switched access line used to serve a business customer, whether by Verizon itself or by a competitive LEC that leases the line from Verizon. The number of business lines in a Wire Center shall equal the sum of all Verizon business switched access lines, plus the sum of all UNE loops connected to that Wire Center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, business line tallies (1) shall include only those access lines connecting end-user customers with Verizon end-offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line. For example, a DS1 line corresponds to 24 64 kbps-equivalents, and therefore to 24 "business lines".
- 4.7.2 Call-Related Databases. Databases, other than operations support systems, that are used in signaling networks for billing and collection, or the transmission, routing, or other provision of a telecommunications service. Call-related databases include, but are not limited to, the calling name database, 911 database, E911 database, line information database, toll free calling database, advanced intelligent network databases, and downstream number portability databases.
- 4.7.3 Commingling. **Shall have the meaning as defined in 47 C.F.R. § 51.5. The connecting, attaching, or otherwise linking of an Unbundled Network Element or a Combination of Unbundled Network Elements, to one or more facilities or services the \*\*\*CLEC Acronym TXT\*\*\* has obtained at wholesale from Verizon pursuant to any method other than unbundling under Section 253(c)(3) of the Act, or the combining of an Unbundled Network Element, or a Combination, with one or more such facilities or services.** "Commingling" means the act of Commingling.
- 4.7.3.A Conversion. Conversion means all procedures, processes and functions that Verizon and \*\*\*CLEC Acronym TXT\*\*\* must follow to Convert any Verizon facility or service other than a UNE (e.g., special access services) or group of Verizon facilities or services to the equivalent UNE or Combination, or the reverse. When a wholesale service or group of wholesale services is converted to a UNE or Combination, or the reverse, Verizon shall not physically disconnect, separate, alter or change in any fashion equipment and facilities employed by \*\*\*CLEC Acronym TEXT\*\*\* to provide service, except at the request of \*\*\*CLEC Acronym TXT\*\*\*. "Convert" means that act of Conversion.**
- 4.7.4 Dark Fiber Loop. Consists of fiber optic strand(s) in a Verizon fiber optic cable between Verizon's accessible terminal, such as the fiber distribution frame, or its functional equivalent, located within a Verizon wire center, and Verizon's accessible terminal located in Verizon's main termination point at an end user customer premises, such as a fiber patch panel, and that Verizon has not activated through connection to electronics that "light" it and render it capable of carrying telecommunications services.
- 4.7.5 Dark Fiber Transport. An optical transmission facility **within a LATA**, that otherwise meets the definition of Dedicated Transport but which Verizon has not activated by attaching multiplexing, aggregation or other electronics.
- 4.7.6 Dedicated Transport. Dedicated Transport includes Verizon transmission facilities, **within a LATA**, between Verizon Wire Centers or switches (including

Verizon switches with line-side functionality that terminate loops and are "reverse collocated" in non-Verizon collocation hotels), or between Verizon Wire Centers or switches and switches owned by requesting telecommunications carriers, including, but not limited to, DS1-, DS3-, and OCn-capacity level services, as well as dark fiber, dedicated to a particular customer or carrier. **For the avoidance of any doubt, this Section 4.7.6 is subject to other provisions of this Amendment, and shall not be construed to require Verizon to provide unbundled access to Entrance Facilities or any other Discontinued Facility.**

- 4.7.7 Discontinued Facility. Any facility that Verizon, at any time, has provided or offered to provide to \*\*\*CLEC Acronym TXT\*\*\* on an unbundled basis pursuant to **the Agreement or a Verizon tariff 47 U.S.C § 251 or 47 C.F.R. Part 51**, but which by operation of law has ceased to be subject to an unbundling requirement under 47 U.S.C. § 251(c)(3) or 47 C.F.R. Part 51. **By way of example and not by way of limitation, Discontinued Facilities, as of the Amendment Effective Date,** include the following, whether as stand-alone facilities or combined or commingled with other facilities: (a) any Entrance Facility; (b) Enterprise Switching; (c) Mass Market Switching, Four-Line Carve Out Switching, and any other form of switching (d) OCn Loops and OCn Dedicated Transport; (e) subject to Sections 3.4.1, 3.4.2 and 3.6 of this Amendment, DS1 Loops or DS3 Loops out of any Wire Center that meets the FCC's non-impairment criteria addressed in section 3.5 of this Amendment; (f) Dark Fiber Loops; (g) subject to Section 3.4.1 and 3.4.2 of this Amendment, any DS1 Loop or DS3 Loop that exceeds the maximum number of such Loops that Verizon is required to provide to \*\*\*CLEC Acronym TXT\*\*\* on an unbundled basis under section 3 of this Amendment; (h) subject to Sections 3.5.1, 3.5.2, and 3.6 of this Amendment, DS1 Dedicated Transport, DS3 Dedicated Transport, or Dark Fiber Transport on any Route that meets the FCC's non-impairment criteria addressed in section 3.5 of this Amendment; (i) subject to Sections 3.5.1 and 3.5.2 of this Amendment, any DS1 Dedicated Transport circuit or DS3 Dedicated Transport circuit that exceeds the number of such circuits that Verizon is required to provide to \*\*\*CLEC Acronym TXT\*\*\* on an unbundled basis under section 3 of this Amendment; (k) the Feeder portion of a Loop (as a sub-loop element; provided, however, that this definition is not intended to affect any right \*\*\*CLEC Acronym TXT\*\*\* may have to obtain unbundled access to an entire Loop that includes Feeder); (k) Line Sharing, subject to the TRO transition requirements addressed herein; (l) any Call-Related Database, other than the 911 and E911 databases; (m) Signaling; (n) Shared Transport; (o) FTTH Loops (lit or unlit), subject to Section 3.1.2 above; (p) FTTC Loops (lit or unlit), subject to Section 3.1.2 above; (q) Hybrid Loops, subject to Section 3.2 above; **and (r) any other facility or class of facilities as to which the FCC has not made a finding of impairment that remains effective, or as to which the FCC has made a finding of non-impairment.**
- 4.7.8 Distribution Sub-Loop Facility (Copper Subloop). The copper portion of a Loop in Verizon's network that is between the minimum point of entry ("MPOE") at an end user customer premises and Verizon's feeder/distribution interface any technically feasible point of access in Verizon's outside plant, including Inside Wire owned or controlled by Verizon, and an end user customer premises.
- 4.7.9 DS1 Dedicated Transport. Dedicated Transport having a total digital signal speed of 1.544 Mbps.

- 4.7.10 DS3 Dedicated Transport. Dedicated Transport having a total digital signal speed of 44.736 Mbps.
- 4.7.11 DS1 Loop. As set forth in 47 C.F.R. § 51.319(a), a DS1 Loop is a digital local loop having a total digital signal speed of 1.544 megabytes per second. DS1 Loops include, but are not limited to, two-wire and four-wire copper loops capable of providing high-bit rate digital subscriber line services, including T1 services.
- 4.7.12 DS3 Loop. As set forth in 47 C.F.R. § 51.319(a), a DS3 loop is a digital local loop having a total digital signal speed of 44.736 megabytes per second.
- 4.7.13 Enterprise Switching. Local Circuit Switching or Tandem Switching that, if provided to \*\*\*CLEC Acronym TXT\*\*\* would be used for the purpose of serving \*\*\*CLEC Acronym TXT\*\*\*'s customers using DS1 or above capacity Loops.
- 4.7.14 Entrance Facility. Dedicated Transport (lit or unlit) that does not connect a pair of Verizon Wire Centers.
- 4.7.15 Feeder. The fiber optic cable (lit or unlit) or metallic portion of a Loop between a serving wire center and a remote terminal or feeder/distribution interface.
- 4.7.16 Federal Unbundling Rules. Any requirement to provide access to unbundled network elements that is imposed upon Verizon **by the FCC** pursuant to **both** 47 U.S.C. § 251(c)(3) and/or 47 C.F.R. Part 51. Use of the term Federal Unbundling Rules, as defined in this Section 4.7.16, is not intended to deprive the Commission, the FCC or a court of competent jurisdiction of the right to use appropriate rules of statutory construction in interpreting the effect of the statutes and rules referenced herein.
- 4.7.17 Fiber-Based Collocator. A fiber-based collocator is any carrier, unaffiliated with Verizon, that maintains a collocation arrangement in a Verizon Wire Center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a collocation arrangement within the Wire Center; (2) leaves the Verizon Wire Center premises; and (3) is owned by a party other than Verizon or any Affiliate of Verizon, except as set forth in this section. Dark fiber obtained from Verizon on an indefeasible right of use basis shall be treated as non-Verizon fiber-optic cable. Two or more Affiliated Fiber-Based Collocators in a single Wire Center shall collectively be counted as a single Fiber-Based Collocator. For the purposes of this Amendment, the term Affiliate is defined by 47 U.S.C. § 153(1) and any relevant interpretation in Title 47 of the Code of Federal Regulations. For the avoidance of any doubt, if an entity was not an Affiliate of Verizon as of the date (on or after March 11, 2005) on which a Wire Center qualified for non-impairment under Section 3.4 or 3.5 of this Amendment, the non-impairment status of such Wire Center shall not be eliminated or downgraded (e.g., from Tier 1 to Tier 2) if the entity later becomes an Affiliate of Verizon; provided, however, that Verizon shall comply prospectively, from and after February 5, 2006, with Unbundled Network Element Condition No. 2 set forth in Appendix G to the FCC's Memorandum Opinion and Order, WC Docket No. 05-75, FCC 05-184 (rel. Nov. 17, 2005) effective as of February 5, 2006 and for so long as such condition is applicable. **For avoidance of doubt, carriers that are collocated in a Verizon Wire Center that do not own fiber or do not have it on an IRU basis out of that Wire Center shall not be counted as Fiber-Based Collocators.**

- 4.7.18 Four-Line Carve Out Switching. Local Circuit Switching or Tandem Switching that, if provided to \*\*\*CLEC Acronym TXT\*\*\*, would be used for the purpose of serving a \*\*\*CLEC Acronym TXT\*\*\* end user customer served by four or more DS0 Loops in Density Zone 1 in the top 50 MSAs.
- 4.7.19 FTTH Loop. A fiber-to-the-home loop (or "FTTH Loop") is a local loop consisting entirely of fiber optic cable, whether dark or lit, serving an end user's customer premises or, in the case of predominantly residential multiple dwelling units (MDUs), a fiber optic cable, whether dark or lit, that extends to the multiunit premises' minimum point of entry (MPOE). FTTH Loops are not limited to those loops being used to provide service to "mass market" or residential customers.
- 4.7.20 FTTC Loop. A fiber-to-the-curb loop (or "FTTC Loop") is a local loop consisting of fiber optic cable connecting to copper distribution plant that is not more than 500 feet from the customer's premises or, in the case of predominantly residential MDUs, not more than 500 feet from the MDU's MPOE. The fiber optic cable in a fiber-to-the-curb loop must connect to copper distribution plant at a serving area interface from which every other copper distribution subloop also is not more than 500 feet from the respective customer's premises. FTTC Loops are not limited to those loops being used to provide service to "mass market" or residential customers.
- 4.7.21 Hybrid Loop. A local Loop composed of both fiber optic cable, usually in feeder plant, and copper wire or cable, usually in the distribution plant. FTTH Loops and FTTC Loops are not Hybrid Loops.
- 4.7.22 Inside Wire. As set forth in 47 C.F.R. § 51.319(b)(2), Inside Wire is defined as all Loop plant owned or controlled by Verizon at a multiunit customer premises between the minimum point of entry (MPOE), as defined in 47 C.F.R. § 68.105 and the point of demarcation of Verizon's network, as defined in 47 C.F.R. § 68.3. Inside Wire does not include any portion of a FTTH Loop or FTTC Loop.
- 4.7.23 Interexchange Service. Shall have the meaning as defined by the FCC in footnote 98 of the TRRO.
- 4.7.24 [THIS SECTION TO BE INCLUDED ONLY IN AMENDMENTS FOR CERTAIN ICAS THAT DO NOT ALREADY CONTAIN LINE CONDITIONING PROVISIONS]Line Conditioning. As set forth in 47 C.F.R. § 51.319(b)(1)(iii), Line Conditioning is the removal from a copper loop or copper Subloop obtained from Verizon under the Amended Agreement 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 (e.g., bridge taps, load coils, low pass filters and range extenders).
- 4.7.25 Line Sharing. The process by which \*\*\*CLEC Acronym TXT\*\*\* provides xDSL service over the same copper Loop that Verizon uses to provide voice service by utilizing the frequency range on the copper loop above the range that carries analog circuit-switched voice transmissions (the High Frequency Portion of the Loop, or "HFPL"). The HFPL includes the features, functions, and capabilities of the copper Loop that are used to establish a complete transmission path between Verizon's main distribution frame (or its equivalent) in its serving Wire Center and the demarcation point at the end user's customer premises.

- 4.7.26 THIS SECTION TO BE INCLUDED ONLY IN AMENDMENTS FOR CERTAIN ICAS THAT DO NOT ALREADY CONTAIN LINE SPLITTING PROVISIONS, AND WHERE SECTION 3.10A ABOVE IS THEREFORE INCLUDED Line Splitting. As set forth in 47 C.F.R. § 51.319(b)(1)(ii), Line Splitting is the process in which one competitive LEC provides narrowband voice service over the low frequency portion of an unbundled copper loop obtained from Verizon under the Amended Agreement, and a second competitive LEC provides digital subscriber line services over the high frequency portion of that same loop.
- 4.7.27 Local Circuit Switching. As required by the Arbitration Order and as set forth in 47 C.F.R. §51.319(d)(1), Local Circuit Switching encompasses all line-side and trunk-side facilities, plus the features, functions and capabilities of the local circuit switch. The features, functions, and capabilities of the local circuit switch shall include the basic switching functions of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks. Local Circuit Switching includes all vertical features that the Local Circuit Switch is capable of providing, including custom calling, custom local area signaling services features, and Centrex, as well as any technically feasible customized routing function.
- 4.7.28 Mass Market Switching. Local Circuit Switching or Tandem Switching that, if provided to \*\*\*CLEC Acronym TXT\*\*\*, would be used for the purpose of serving end-user customers using DS0 capacity loops. **Mass Market Switching does not include Four Line Carve-Out Switching.**
- 4.7.29 Mobile Wireless Service. As set forth in 47 C.F.R. § 51.5, a mobile wireless service is any mobile wireless telecommunications service, including any commercial mobile radio service.
- 4.7.30 Route. As set forth in 47 C.F.R. § 51.319(e), a "Route" is a transmission path between one of Verizon's Wire Centers or switches and another of Verizon's Wire Centers or switches. A route between two points (e.g., Wire Center or switch "A" and Wire Center or switch "Z") may pass through one or more intermediate Wire Centers or switches (e.g., Wire Center or switch "X"). Transmission paths between identical end points (e.g., Wire Center or switch "A" and Wire Center or switch "Z") are the same "route," irrespective of whether they pass through the same intermediate Wire Centers or switches, if any.
- 4.7.31 Signaling. Signaling includes, but is not limited to, signaling links and signaling transfer points.
- 4.7.32 Subloop for Access to Multiunit Premises Wiring. As set forth in 47 C.F.R. § 51.319(b)(2), Subloop for Access to Multiunit Premises Wiring is any portion of the Loop that it is technically feasible to access at a terminal in Verizon's outside plant at or near a multiunit premises, including Inside Wire. Subloop for Access to Multiunit Premises Wiring does not include any portion of a FTTH Loop or FTTC Loop.
- 4.7.33 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.

- 4.7.34 Wire Center. As set forth in 47 C.F.R. § 51.5, a Wire Center is the location of a Verizon local switching facility containing one or more central offices, as defined in the Appendix to Part 36 of Chapter 1 of Title 47 of the Code of Federal Regulations. The Wire Center boundaries define the area in which all customers served by a given Wire Center are located.

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

**[CLEC FULL NAME]**

**VERIZON DELAWARE LLC**

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

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

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

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

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Pricing Attachment to the TRO-TRRO Amendment

### 1. General

#### 1.1 As used in this Attachment:

1.1.1 "Services" means and includes any Network Element or other service, facility, equipment or arrangement, provided pursuant to this Amendment; and,

1.1.2 "Charges" means the rates, fees, charges and prices for a Service.

1.2 Charges for Services provided under the Amended Agreement shall be those set forth **[INSERT FOR CERTAIN AMENDMENTS THAT CONTAIN LINE SHARING AND/OR LINE SPLITTING TERMS WHERE UNDERLYING AGREEMENT LACKS SUCH TERMS: in Exhibit A of this Pricing Attachment and in]** the Amended Agreement (including any cross references therein to applicable tariffs). Such Charges **[INSERT FOR CERTAIN AMENDMENTS THAT CONTAIN LINE SHARING AND/OR LINE SPLITTING TERMS WHERE UNDERLYING AGREEMENT LACKS SUCH TERMS: The Charges stated in Exhibit A of this Pricing Attachment]** shall be automatically superseded by any new Charge(s) when such new Charge(s) are required by any order of the Commission or the FCC, approved by the Commission or the FCC, or otherwise allowed to go into effect by the Commission or the FCC (including, but not limited to, in a tariff that has been filed with the Commission or the FCC), provided such new Charge(s) are not subject to a stay issued by any court of competent jurisdiction.

1.3 If Section 1.2 does not provide for a Charge(s) for a Service and the Commission or the FCC approves or has approved or otherwise allows or has allowed a Charge(s) to go into effect (including, but not limited to, pursuant to a tariff that has been filed with the Commission or the FCC) (an "Established Charge(s)"), then the Established Charge(s) shall be the Charge(s) for Services provided under the Amendment Agreement **[INSERT FOR CERTAIN AMENDMENTS THAT CONTAIN LINE CONDITIONING AND/OR LINE SPLITTING TERMS WHERE UNDERLYING AGREEMENT LACKS SUCH TERMS: as if set forth in Exhibit A hereto]**, provided such Established Charge(s) are not subject to a stay issued by any court of competent jurisdiction. Established Charges shall be effective automatically without further amendment of the Amended Agreement. Established Charges shall not be retroactive absent a Commission or FCC decision to the contrary.

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

**[INSERT EXHIBIT A WHERE APPLICABLE FOR AMENDMENTS CONTAINING LINE CONDITIONING AND/OR LINE SPLITTING]**

**EXHIBIT A TO THE PRICING ATTACHMENT<sup>1,2</sup>**

<u>Service or Element Description</u>	<u>Monthly Recurring Charges</u>	<u>Non Recurring Charges - Connect</u>	<u>Non Recurring Charges - Disconnect</u>
<b>I. Conditioning &amp; Qualification</b>			
<b>Mechanized Loop Qualification / Loop</b>	<b>\$0.20</b>		
<b>Manual Loop Qualification</b>		<b>\$80.37</b>	<b>\$2.31</b>
<b>Engineering Query / Loop</b>		<b>\$105.43</b>	<b>\$2.31</b>
<b>Engineering Work Order / Loop</b>		<b>\$431.71</b>	<b>\$0.00</b>
<b>Remove Bridged Tap (One Occurrence)</b>		<b>\$187.84</b>	<b>\$0.00</b>
<b>Remove Bridged Taps Multiple Occurrence</b>		<b>\$456.52</b>	<b>\$0.00</b>
<b>Remove Load Coils (21k ft.) / Loop</b>		<b>\$825.35</b>	<b>\$0.00</b>
<b>Remove Load Coils (27k ft.) / Loop</b>		<b>\$1,096.11</b>	<b>\$0.00</b>
<b>Cooperative Testing / Loop</b>		<b>\$25.25</b>	<b>\$0.00</b>
<b>Add Electronics (Repeater)/Loop (not available in loop sharing arrangements)</b>		<b>\$1,093.06</b>	
<b>Line and Station Transfer<sup>3</sup></b>	<b>N/A</b>	<b>\$140.27/Loop</b>	<b>\$0.00</b>

<sup>1</sup>Different and/or additional charges may apply pursuant to the terms of the attached Amendment. This Exhibit may contain rates for (and/or reference) services, facilities, arrangements and the like that Verizon does not have an obligation to provide under the Agreement (e.g., services, facilities, arrangements and the like that Verizon is not required to provide under Section 251 of the Act). Notwithstanding any such rates (and/or references) and, for the avoidance of any doubt, nothing in this Exhibit shall be deemed to require Verizon to provide a service, facility, arrangement or the like that the Agreement does not require Verizon to provide, or to provide a service, facility, arrangement or the like upon rates, terms or conditions other than those that may be required by the Agreement.

<sup>2</sup>Commission-approved rates per Docket 96-324 II, Opinion and Order 5967.

<sup>3</sup>Line and Station Transfer applies where Verizon swaps facilities in order to provision a Copper Facility.



<b>Service or Element Description:</b>	<b>Recurring Charges:</b>	<b>Non-Recurring Charges:</b>
<b>C. Line Splitting<sup>5</sup> ★</b>	<b>Per applicable rates including, but not limited to, rates for Collocation, Loops</b>	<b>Per applicable rates including, but not limited to, rates for Collocation, Loops</b>
<b>D. Shared Collocation Rate Elements for Splitter Arrangements<sup>6</sup></b>		
<b>Application Fee</b>	<b>Not Applicable</b>	<b>Option A</b> As applicable per Verizon DE Schedule of Collocation Interconnection Services as amended from time to time  <b>Option C</b> As applicable per Verizon DE Schedule of Collocation Interconnection Services as amended from time to time
<b>Engineering &amp; Implementation/Administration Fee</b>	<b>Not Applicable</b>	<b>Option A</b> As applicable per Verizon DE Schedule of Collocation Interconnection Services as amended from time to time  <b>Option C</b> As applicable per Verizon DE Schedule of Collocation Interconnection Services as amended from time to time

<sup>5</sup> Option A: A \*\*\*CLEC Acronym TXT\*\*\*-provided splitter shall be provided, installed and maintained by \*\*\*CLEC Acronym TXT\*\*\* in its own Collocation arrangement. Rearrangements are the responsibility of \*\*\*CLEC Acronym TXT\*\*\*. Verizon dial tone is routed through the splitter in the \*\*\*CLEC Acronym TXT\*\*\* Collocation area.

Option C: Verizon will install, inventory and maintain \*\*\*CLEC Acronym TXT\*\*\*-provided splitter in Verizon space within the Serving Central Office of the lines being provided. Verizon will have control of the splitter and will direct any required activity.

★ Both Option A and Option C assume there is an existing \*\*\*CLEC Acronym TXT\*\*\* Collocation arrangement.

<sup>6</sup> NOTE: Other applicable Collocation rates apply, as required.

<b>Service or Element Description:</b>	<b>Recurring Charges:</b>	<b>Non-Recurring Charges:</b>
<b>Collocation Cross-Connect per 100 VG</b>	<p>Two 100 pair increment charges apply per 100 Line Splitting lines</p> <p><b>Option A</b> As applicable per Verizon DE Schedule of Collocation Interconnection Services as amended from time to time</p> <p><b>Option C</b> As applicable per Verizon DE Schedule of Collocation Interconnection Services as amended from time to time</p>	<p>Two 100 pair increment charges apply per 100 Line Splitting lines</p> <p><b>Option A</b> As applicable per Verizon DE Schedule of Collocation Interconnection Services as amended from time to time</p> <p><b>Option C</b> As applicable per Verizon DE Schedule of Collocation Interconnection Services as amended from time to time</p>
<b>SPOT Bay Frame &amp; Terminations per 100 VG</b>	<p>Two 100 pair increment charges apply per 100 Line Splitting lines for Physical/SCOPE/CCOE</p> <p><b>Option A</b> As applicable per Verizon DE Schedule of Collocation Interconnection Services as amended from time to time</p> <p><b>Option C</b> Not Applicable</p>	<p>Two 100 pair increment charges apply per 100 Line Splitting lines for Physical/SCOPE/CCOE</p> <p><b>Option A</b> As applicable per Verizon DE Schedule of Collocation Interconnection Services as amended from time to time</p> <p><b>Option C</b> Not Applicable</p>
<b>E. Unique Collocation Splitter Arrangement Rate Elements<sup>7</sup></b>		
<b>Splitter Installation per shelf</b>	<b>Not Applicable</b>	<p><b>Option A</b> Not Applicable (unless Verizon installs)</p> <p><b>Option C (when Verizon Installs)</b> \$1,454.58 per shelf</p>
<b>Option A Administration and Support of Splitter per shelf<sup>8</sup></b>	<p><b>Option A</b> \$15.07</p> <p><b>Option C</b> Not Applicable</p>	<b>Not Applicable</b>

<sup>7</sup> The “per shelf” references refer to increments of 100 splitter ports (equivalent to 200 Voice Grade pair terminations).

<sup>8</sup> The rate for Splitter Equipment assumes that each relay rack contains 14 splitter shelves, the rate applies only to the shelves that CLEC actually uses in a given relay rack.

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
Option C Administration and Support of Splitter per shelf	Option A Not Applicable  Option C \$19.55	Not Applicable
Splitter Equipment and Support per shelf	Option A Not Applicable  Option C \$3.66	Not Applicable
F. Individual Line Rate Elements	\$0.76/line	<p><b><u>Connect</u></b>  <b>Initial</b>  <b>Service Order: \$2.99</b>  <b>Installation w/o visit: \$39.22</b>  <b>Installation w/visit: \$149.24</b>  <b>Manual Surcharge: \$5.62</b></p> <p><b>Additional</b>  <b>Service Order: \$0.00</b>  <b>Installation w/o visit: \$35.88</b>  <b>Installation w/visit: \$70.16</b></p> <p><b><u>Disconnect</u></b>  <b>Initial</b>  <b>Service Order: \$2.99</b>  <b>Installation w/ and w/o visit: \$17.26</b></p> <p><b>Additional</b>  <b>Service Order: \$0.00</b>  <b>Installation w/ and w/o visit: \$8.63</b></p>

CONFIDENTIAL  
FOR SETTLEMENT DISCUSSIONS  
SUBJECT TO MODIFICATION  
CONTAINS PROVISIONS REQUIRED BY ARBITRATION ORDER

**AMENDMENT NO. \_\_\_\_**  
**to the**  
**INTERCONNECTION AGREEMENT**  
**between**  
**VERIZON DELAWARE LLC**  
**and**  
**[CLEC FULL NAME]**

This Amendment No. [NUMBER] (the "Amendment") is made by and between Verizon Delaware LLC, f/k/a Verizon Delaware Inc., f/k/a Bell Atlantic - Delaware, Inc. ("Verizon"), a corporation organized under the laws of the State of Delaware with offices at 901 Tatnall Street, Wilmington, DE 19801, and [CLEC FULL NAME], a [CORPORATION/PARTNERSHIP] with offices at [CLEC ADDRESS] ("\*\*\*CLEC Acronym TXT\*\*\*"), and, except as otherwise expressly provided herein with respect to particular provisions hereof, shall be deemed effective on [INSERT DATE CONTEMPORANEOUS WITH EXECUTION] (the "Amendment Effective Date"). Verizon and \*\*\*CLEC Acronym TXT\*\*\* are hereinafter referred to collectively as the "Parties" and individually as a "Party". This Amendment covers services in Verizon's service territory in the State of Delaware (the "State").

**WITNESSETH:**

**NOTE: DELETE THE FOLLOWING WHEREAS SECTION ONLY IF CLEC'S AGREEMENT HAS USED AN ADOPTION LETTER:**

[WHEREAS, Verizon and \*\*\*CLEC Acronym TXT\*\*\* are Parties to an Interconnection Agreement under Sections 251 and 252 of the Communications Act of 1934, as amended (the "Act") dated [INSERT DATE] (the "Agreement"); and]

**NOTE: INSERT THE FOLLOWING WHEREAS SECTION ONLY IF CLEC'S AGREEMENT USED AN ADOPTION LETTER:**

[WHEREAS, pursuant to an adoption letter dated [INSERT DATE OF ACTUAL ADOPTION LETTER] (the "Adoption Letter"), \*\*\*CLEC Acronym TXT\*\*\* adopted in the State of Delaware, **[FOR INTRASTATE IN-REGION ADOPTIONS:** the interconnection agreement between [NAME OF UNDERLYING CLEC AGREEMENT] and Verizon] **[FOR INTERSTATE OR INTRASTATE OUT-OF-REGION ADOPTIONS:** the terms of the Interconnection Agreement between [UNDERLYING CLEC LEGAL ENTITY] and [VZ LEGAL ENTITY OF UNDERLYING AGREEMENT] that was approved by the

[Underlying State Commission]] (such Adoption Letter and underlying adopted interconnection agreement referred to herein collectively as the "Agreement"); and]

**WHEREAS**, the Federal Communications Commission (the "FCC") released an order on August 21, 2003 in CC Docket Nos. 01-338, 96-98, and 98-147 (the "Triennial Review Order" or "TRO"), which became effective as of October 2, 2003; and

**WHEREAS**, on March 2, 2004, the U.S. Court of Appeals for the District of Columbia Circuit (the "D.C. Circuit") issued a decision affirming in part and vacating in part the TRO (the "D.C. Circuit Decision"), which became effective as of June 15, 2004; and

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

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

**WHEREAS**, on March 24, 2006, the Arbitrator assigned by the Delaware Public Service Commission (the "Commission") in Docket No. 05-164 issued an Arbitration Award regarding the amendment of certain interconnection agreements with respect to the TRO and TRRO (the "Arbitration Award"); and

**WHEREAS**, on September 19, 2006 the Commission ruled on Verizon's exceptions to the Arbitration Award and approved the Arbitration Award as modified by such rulings (the Arbitration Award, as modified and approved by the Commission, may hereinafter be referred to as the "Arbitration Order"); and

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

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

1. Amendment to Agreement. The Agreement is amended to include the following provisions and the Pricing Attachment to the TRO-TRRO Amendment [INSERT FOR CERTAIN AMENDMENTS THAT CONTAIN LINE CONDITIONING AND/OR LINE SPLITTING TERMS WHERE UNDERLYING AGREEMENT LACKS SUCH TERMS: (including Exhibit A)] attached hereto, all of which shall apply to and be a part of the Agreement notwithstanding any other provision of the Agreement.
2. General Conditions.
  - 2.1 Except as permitted by the Amended Agreement, Verizon shall not impose limitations, restrictions, or requirements on requests for, or the use of, unbundled network elements for the service \*\*\*CLEC Acronym TXT\*\*\* seeks to offer.
  - 2.2 [Intentionally Left Blank]
  - 2.3 Restrictions on \*\*\*CLEC Acronym TXT\*\*\*'s Use of UNEs. \*\*\*CLEC Acronym TXT\*\*\* may not access a UNE for the exclusive provision of Mobile Wireless Services or Interexchange Services.
  - 2.4 Discontinued Facilities. Notwithstanding any other provision of the Amended Agreement, but subject to the transition requirements associated with: (a) High Capacity Loops as set

forth in Section 3.4, High Capacity Dedicated Transport as set forth in Section 3.5, and Mass Market Switching as set forth in Section 3.7 (provided, however, that nothing in this Section 2.4 is intended to reduce or enlarge the respective 12- and 18-month TRRO transition periods that began on March 11, 2005 as set forth in Sections 3.4, 3.5, and 3.7) and (b) updates to Verizon's Wire Center List as set forth in Section 3.6.3.1 below, Verizon may cease offering or providing access on an unbundled basis at rates prescribed under Section 251 of the Act to any facility that is a Discontinued Facility, whether as a stand-alone UNE, as part of a Combination, or otherwise.

2.4.1 Where Verizon is permitted to cease providing a Discontinued Facility pursuant to Section 2.4 above and \*\*\*CLEC Acronym TXT\*\*\* has not submitted an LSR or ASR, as appropriate, to Verizon requesting disconnection of the Discontinued Facility and has not separately secured from Verizon an alternative arrangement to replace the Discontinued Facility, then Verizon, **to the extent it has not already done so prior to execution of this Amendment, may disconnect the subject Discontinued Facility without further notice to \*\*\*CLEC Acronym TXT\*\*\*. In lieu of disconnecting the subject Discontinued Facility in the foregoing circumstances, Verizon, in its sole discretion,** may elect to: (a) convert the subject Discontinued Facility to an arrangement available under a Verizon access tariff (such arrangement shall be subject to the month-to-month rates provided under such applicable access tariff, unless \*\*\*CLEC Acronym TXT\*\*\* is then subscribed to an applicable special access term/volume plan or other special access arrangement pursuant to which \*\*\*CLEC Acronym TXT\*\*\* would be entitled to a different rate), a resale arrangement, or other wholesale arrangement that Verizon shall identify or has identified in writing to \*\*\*CLEC Acronym TXT\*\*\*, or (b) in lieu of such a conversion, reprice the subject Discontinued Facility by application of a new rate (or, in Verizon's sole discretion, by application of a surcharge to an existing rate) to be equivalent to an arrangement available under a Verizon access tariff (i.e., month-to-month rates provided under such applicable access tariff shall apply, unless \*\*\*CLEC Acronym TXT\*\*\* is then subscribed to an applicable special access term/volume plan or other special access arrangement pursuant to which \*\*\*CLEC Acronym TXT\*\*\* would be entitled to a different rate), a resale arrangement, or other wholesale arrangement that Verizon shall identify or has identified in writing to \*\*\*CLEC Acronym TXT\*\*\*; **provided, however, that Verizon may disconnect the subject Discontinued Facility (or the replacement service to which the Discontinued Facility has been converted) if \*\*\*CLEC Acronym TXT\*\* fails to pay when due any applicable new rate or surcharge billed by Verizon. Verizon's election of any discontinuance option under this Section (e.g., repricing) shall in no way limit Verizon's right thereafter to elect another option (e.g., conversion or disconnection).**

2.4.2 With respect to facilities that are Discontinued Facilities by operation of the TRO, the rates, terms, and conditions of any arrangements described in Section 2.4.1 above shall apply and be binding upon \*\*\*CLEC Acronym TXT\*\*\* as of the Amendment Effective Date, except to the extent that an earlier effective date applies under any provision of the Amended Agreement (including, but not limited to, Sections 2.5 and 3 below), or other agreement between the Parties.

## 2.5 Pre-Existing Discontinuance Rights.

2.5.1 Verizon's rights as to discontinuance of Discontinued Facilities pursuant to this Amendment are in addition to, and not in limitation of, any rights Verizon may have under the Agreement as to discontinuance of Discontinued Facilities, and nothing contained herein shall be construed to prohibit, limit, or delay Verizon's

exercise of any pre-existing right it may have under the Agreement to cease providing unbundled access to elements and facilities that are or become Discontinued Facilities.

2.5.2 Without limiting Section 2.5.1 above, this Amendment itself is not intended to implement future changes in law regarding unbundling obligations (whether new affirmative unbundling obligations or cessation of existing unbundling obligations); provided, however, that, for the avoidance of any doubt, this Section 2.5.2 shall not be construed to limit Verizon's rights with respect to: (a) discontinuance of UNEs at wire centers (or on routes) that in the future become non-impaired based on the FCC's criteria referenced in Sections 3.4 and 3.5 below; (b) discontinuance of any loops or transport that in the future exceed the caps set forth in Sections 3.4 and 3.5 below; (c) Verizon's rejection of a \*\*\*CLEC Acronym TXT\*\*\* order for a TRRO Certification Element without first seeking dispute resolution under Section 3.6.2.3 below; (d) re-pricing or conversion of High Capacity EELs that are determined in the future to be non-compliant under Section 3.11.2.2 or 3.11.2.8 below.

2.6 Limitation With Respect to Replacement Arrangements. Certain provisions of this Amendment refer to Verizon's provision of a facility, service, or arrangement to replace Discontinued Facilities. Any reference in this Amendment to Verizon's provision of a facility, service, or arrangement that Verizon is not required to provide under the Federal Unbundling Rules is solely for the convenience of the Parties and shall not be construed to require or permit application of any requirement of 47 U.S.C. § 252 (including but not limited to, arbitration under 47 U.S.C. § 252(b)) regarding the rates, terms or conditions upon which Verizon shall provide such facilities, services, or arrangements.

### 3. Verizon's Provision of Certain Network Elements and Related Services.

#### 3.1 FTTH and FTTC Loops.

3.1.1 New Builds. Notwithstanding any other provision of the Amended Agreement, Verizon is not required to provide access to a FTTH or FTTC Loop on an unbundled basis when Verizon deploys such a Loop to the customer premises of an end user that has not been served by any loop facility.

3.1.2 Overbuilds. Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting Section 2 above), Verizon is not required to provide access to an FTTH or FTTC Loop on an unbundled basis when Verizon has deployed such a loop parallel to, or in replacement of, an existing copper loop facility, except that, in accordance with the Federal Unbundling Rules: (a) Verizon must maintain the existing copper loop connected to the particular customer premises after deploying the FTTH or FTTC Loop and provide nondiscriminatory access to that copper loop on an unbundled basis unless Verizon retires the copper loop pursuant to paragraph 47 C.F.R. § 51.319(a)(3)(iv); (b) if Verizon maintains the existing copper loops pursuant to 47 C.F.R. § 51.319(a)(3)(iii)(A), it need not incur any expenses to ensure that the existing copper loop remains capable of transmitting signals prior to receiving a request for access pursuant to that paragraph, in which case Verizon shall restore the copper loop to serviceable condition upon request; and (c) if Verizon retires the copper loop pursuant to 47 C.F.R. § 51.319(a)(3)(iv), it shall provide nondiscriminatory access to a 64 kilobits per second TDM transmission path capable of voice grade service over the FTTH or FTTC Loop (a "Voice Grade Transmission Path") on an unbundled basis. The rates for a Voice Grade Transmission Path under (c) above shall be the same rates applicable under the Amended Agreement to a DS0 loop to the same customer premises were such a loop available, unless and until such

time as different rates for a Voice Grade Transmission Path are established, in which case such different rates shall apply.

3.1.2.1 In retiring a copper Loop or Subloop, Verizon shall comply with any effective and lawful requirements that apply to that copper Loop or Subloop under 47 C.F.R. § 51.319(a)(3)(iv), including but not limited to the network disclosure requirements set forth in Section 251 of the Act and 47 C.F.R. §§ 51.325-51.335; provided, however, that any such requirements shall not apply to retirement of copper feeder subloop.

## 3.2 Hybrid Loops.

3.2.1 Packet Switched Features, Functions, and Capabilities. Notwithstanding any other provision of the Amended Agreement, Verizon is not required to provide unbundled access to the packet switched features, functions, and capabilities of its Hybrid Loops. Packet switching capability is the routing or forwarding of packets, frames, cells, or other data units based on address or other routing information contained in the packets, frames, cells or other data units, and the functions that are performed by the digital subscriber line access multiplexers, including but not limited to the ability to terminate an end-user customer's copper loop (which includes both a low-band voice channel and a high-band data channel, or solely a data channel); the ability to forward the voice channels, if present, to a circuit switch or multiple circuit switches; the ability to extract data units from the data channels on the loops; and the ability to combine data units from multiple loops onto one or more trunks connecting to a packet switch or packet switches. Verizon shall not be required to build any time division multiplexing (TDM) capability into new packet-based networks or into existing packet-based networks that do not already have TDM capability.

3.2.2 Broadband Services. Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting Section 2 above), when \*\*\*CLEC Acronym TXT\*\*\* seeks access to a Hybrid Loop for the provision of "broadband services," as such term is defined by the FCC, then in accordance with the Federal Unbundling Rules, Verizon shall provide \*\*\*CLEC Acronym TXT\*\*\* with nondiscriminatory access under the Amended Agreement to the existing time division multiplexing features, functions, and capabilities of that Hybrid Loop, including DS1 or DS3 capacity (where impairment has been found to exist, which, for the avoidance of any doubt, does not include instances in which Verizon is not required to provide a DS1 Loop under Section 3.4.1 below or is not required to provide a DS3 Loop under Section 3.4.2 below) on an unbundled basis to establish a complete transmission path between the Verizon central office serving an end user and the end user's customer premises. This access shall include access to all features, functions, and capabilities of the Hybrid Loop that are not used to transmit packetized information.

3.2.3 Narrowband Services. Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting Section 2 above), when \*\*\*CLEC Acronym TXT\*\*\* seeks access to a Hybrid Loop for the provision of "narrowband services," as such term is defined by the FCC, then in accordance with the Federal Unbundling Rules, Verizon shall, in its sole discretion, 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.

3.2.4 **IDLC Hybrid Loops**. Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting Section 2 ), if \*\*\*CLEC Acronym TXT\*\*\* requests, in order to provide narrowband services, unbundling of a 2 wire analog or 4 wire analog Loop currently provisioned via Integrated Digital Loop Carrier (over a Hybrid Loop), Verizon shall **in accordance with** the Federal Unbundling Rules, provide \*\*\*CLEC Acronym TXT\*\*\* unbundled access to a Loop capable of voice-grade service to the end user customer served by the Hybrid Loop.

3.2.4.1 Verizon, in its sole discretion, will provide a Loop through an option that Verizon determines to be the most cost effective and technically feasible. Such options may include, but are not limited to, providing \*\*\*CLEC Acronym TXT\*\*\* with an existing copper Loop or a Loop served by existing Universal Digital Loop Carrier (“UDLC”), where either is available. Commission-approved recurring and non-recurring Loop charges will apply.

### 3.3 **Sub-Loop**.

3.3.1 **Distribution Sub-Loop Facility**. Notwithstanding any other provision of the Amended Agreement (but subject to the conditions set forth in Section 2 above), in accordance with the Federal Unbundling Rules, upon site-specific request, \*\*\*CLEC Acronym TXT\*\*\* may obtain nondiscriminatory access to the Distribution Sub-Loop Facility, on an unbundled basis, at a technically feasible access point located **near a Verizon remote terminal equipment enclosure** at the rates and charges provided for Unbundled Sub-Loop Arrangements (or the Distribution Sub-Loop) in the Amended Agreement. It is not technically feasible to access the sub-loop distribution facility if a technician must access the facility by removing a splice case to reach the wiring within the cable.

3.3.2 **Sub-Loop for Access to Multiunit Premises Wiring**. All provisions in the Agreement governing \*\*\*CLEC Acronym TXT\*\*\* access to Inside Wire, House and Riser or House and Riser Cable are hereby deleted and replaced with this Section 3.3, which shall supersede any other provision in the Agreement. Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting Section 2 above), upon request by \*\*\*CLEC Acronym TXT\*\*\*, Verizon shall provide to \*\*\*CLEC Acronym TXT\*\*\* nondiscriminatory access to the Sub-Loop for Access to Multiunit Premises Wiring, on an unbundled basis, regardless of the capacity level or type of loop that \*\*\*CLEC Acronym TXT\*\*\* seeks to provision for its customer, in accordance with the Federal Unbundling Rules. It is not technically feasible to access the Sub-Loop for Access to Multiunit Premises Wiring if a technician must access the facility by removing a splice case to reach the wiring within the cable.

3.3.2.1 **Inside Wire**. If and at such at time as \*\*\*CLEC Acronym TXT\*\*\* should request unbundled access to Inside Wire that Verizon is determined to own or control, the Parties shall negotiate the rates, terms, and conditions for such access in accordance with the Bona Fide Request (“BFR”) provisions of the Agreement and the Federal Unbundling Rules.

3.3.2.2 **Single Point of Interconnection**. In accordance with the Federal Unbundling Rules, upon request by \*\*\*CLEC Acronym TXT\*\*\* and provided that the conditions set forth in Subsections 3.3.4.1 and

3.3.4.2 are satisfied, the Parties shall negotiate in good faith an amendment to the Amended Agreement memorializing the terms, conditions and rates under which Verizon will provide a single point of interconnection at a multiunit premises suitable for use by multiple carriers::

- 3.3.2.2.1 Verizon has distribution facilities to the multiunit premises, and either owns, controls, or leases the Inside Wire at the multiunit premises; and
- 3.3.2.2.2 CLEC Acronym TXT\*\*\* certifies that it will place an order for access to an unbundled Sub-Loop network element pursuant to the Federal Unbundling Rules via the newly provided single point of interconnection.

If the Parties are unable to agree on the rates, terms and conditions under which Verizon will provide a SPOI, then either Party may, in accordance with Section 252 of the Act, petition the Commission to intercede and promote a resolution. For the avoidance of any doubt, once the Parties have executed an amendment setting forth the terms, conditions, and rates under which Verizon will provide a SPOI, disputes regarding implementation of such terms, conditions, and rates of such amendment shall be resolved pursuant to the applicable dispute resolution provisions of the Agreement. Verizon's obligations with respect to a SPOI under this section 3.3.4 are in addition to Verizon's obligations to provide nondiscriminatory access to a Subloop for Access to Multiunit Premises Wiring, including any Inside Wire under Section 3.3.2 above, at any technically feasible point, as set forth in the Amended Agreement.

#### 3.4 High Capacity Loops.

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

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

3.4.1.1.1 Verizon shall provide \*\*\*CLEC Acronym TXT\*\*\* with nondiscriminatory access to a DS1 Loop on an unbundled basis to any building not served by a Wire Center with at least 60,000 Business Lines and at least four Fiber-Based Collocators. Once a Wire Center exceeds both of these thresholds, no future DS1 Loop unbundling will be required in that Wire Center.

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

3.4.1.2 Transition Period For DS1 Loops.

3.4.1.2.1 For a 12-month period beginning on March 11, 2005, any DS1 Loop UNEs that \*\*\*CLEC Acronym TXT\*\*\* leased from Verizon as of that date, but which Verizon is

not obligated to unbundle pursuant to Section 3.4.1.1 above, were available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate \*\*\*CLEC Acronym TXT\*\*\* paid for the loop element on June 15, 2004, or (b) 115% of the rate the Commission established, if any, between June 16, 2004, and March 11, 2005, for that loop element. Where Verizon is not required to provide unbundled DS1 Loops pursuant to Section 3.4.1.1, \*\*\*CLEC Acronym TXT\*\*\* may not obtain new DS1 Loops as unbundled network elements.

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

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

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

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

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

3.4.3 Dark Fiber Loops.

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

3.4.3.2 Transition Period For Dark Fiber Loops. For an 18-month period beginning on March 11, 2005, any Dark Fiber Loop UNEs that \*\*\*CLEC Acronym TXT\*\*\* leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.4.3.1 above, were available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate \*\*\*CLEC Acronym TXT\*\*\* paid

for the loop element on June 15, 2004, or (b) 115% of the rate the Commission established, if any, between June 16, 2004, and March 11, 2005, for that loop element. \*\*\*CLEC Acronym TXT\*\*\* may not obtain new Dark Fiber Loops as unbundled network elements.

### 3.5 High Capacity Transport.

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

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

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

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

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

3.5.2 DS3 Dedicated Transport. To the extent the Agreement otherwise requires Verizon to provide \*\*\*CLEC Acronym TXT\*\*\* with unbundled access to DS3 Dedicated Transport (this section not being intended to create any such requirement in the first instance) the following provisions shall apply notwithstanding any such requirement:

3.5.2.1 Effective as of March 11, 2005, and subject to the transition requirements set forth in Section 3.5.2.2 below:

3.5.2.1.1 Verizon shall unbundle DS3 Dedicated Transport between any pair of Verizon Wire Centers except where, through application of tier classifications described in Section 3.5.5 below, both Wire Centers defining the

Route are either Tier 1 or Tier 2 Wire Centers. As such, Verizon must unbundle DS3 Dedicated Transport if a Wire Center on either end of a requested Route is a Tier 3 Wire Center.

3.5.2.1.2 \*\*\*CLEC Acronym TXT\*\*\* may obtain a maximum of twelve unbundled DS3 Dedicated Transport circuits on each Route where DS3 Dedicated Transport is available on an unbundled basis.

3.5.2.2 Transition Period For DS3 Dedicated Transport. For a 12-month period beginning on March 11, 2005, any DS3 Dedicated Transport UNEs that \*\*\*CLEC Acronym TXT\*\*\* leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.5.2.1 above, were available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate \*\*\*CLEC Acronym TXT\*\*\* paid for the dedicated transport element on June 15, 2004, or (b) 115% of the rate the Commission established, if any, between June 16, 2004, and March 11, 2005, for that dedicated transport element. Where Verizon is not required to provide unbundled DS3 Dedicated Transport pursuant to Section 3.5.2.1 above, \*\*\*CLEC Acronym TXT\*\*\* may not obtain new DS3 Dedicated Transport unbundled network elements.

3.5.3 Dark Fiber Transport. To the extent the Agreement otherwise requires Verizon to provide \*\*\*CLEC Acronym TXT\*\*\* with unbundled access to Dark Fiber Transport (this section not being intended to create any such requirement in the first instance) the following provisions shall apply notwithstanding any such requirement:

3.5.3.1 Effective as of March 11, 2005, and subject to the transition requirements set forth in section 3.5.3.2 below, Verizon shall unbundle Dark Fiber Dedicated Transport between any pair of Verizon Wire Centers except where, through application of tier classifications described in Section 3.5.5 below, both Wire Centers defining the Route are either Tier 1 or Tier 2 Wire Centers. As such, Verizon must unbundle Dark Fiber Transport if a Wire Center on either end of a requested Route is a Tier 3 Wire Center.

3.5.3.2 Transition Period For Dark Fiber Transport. For an 18-month period beginning on March 11, 2005, any Dark Fiber Transport UNEs that \*\*\*CLEC Acronym TXT\*\*\* leased from Verizon as of that date, but which Verizon is not obligated to unbundle pursuant to Section 3.5.3.1 above, were available for lease from Verizon at a rate equal to the higher of (a) 115% of the rate \*\*\*CLEC Acronym TXT\*\*\* paid for the Dark Fiber Transport element on June 15, 2004, or (b) 115% of the rate the Commission established, if any, between June 16, 2004, and March 11, 2005, for that Dark Fiber Transport element. Where Verizon is not required to provide unbundled Dark Fiber Transport pursuant to Section 3.5.3.1 above, \*\*\*CLEC Acronym TXT\*\*\* may not obtain new Dark Fiber Transport as unbundled network elements.

3.5.4 Notwithstanding any other provision of the Amended Agreement, Verizon is not obligated to provide \*\*\*CLEC Acronym TXT\*\*\* with unbundled access to Entrance Facilities, and Entrance Facilities are not subject to the transition provisions (including, but not limited to, transition rates) set forth in this Section

3. The discontinuation of unbundled Entrance Facilities as set forth in this Amendment does not alter any right \*\*\*CLEC Acronym TXT\*\*\* may have under the existing Agreement to obtain interconnection facilities that Verizon is required to provide for interconnection pursuant to Section 251(c)(2) of the Act; provided, however, that, for the avoidance of any doubt, this sentence by itself shall not be construed to establish any such right of \*\*\*CLEC Acronym TXT\*\*\*.

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

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

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

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

3.6 TRRO Certification and Dispute Process for High Capacity Loops and Transport.

3.6.1 CLEC Certification and Related Provisions.

3.6.1.1 Before requesting unbundled access to a DS1 Loop, a DS3 Loop, DS1 Dedicated Transport, DS3 Dedicated Transport, or Dark Fiber Transport, including, but not limited to, any of the foregoing elements that constitute part of a Combination or that \*\*\*CLEC Acronym TXT\*\*\* seeks to convert from another wholesale service to an unbundled network element (collectively, "TRRO Certification Elements"), \*\*\*CLEC Acronym TXT\*\*\* must undertake a reasonably diligent inquiry and, based on that inquiry, certify that, to the best of its knowledge, \*\*\*CLEC Acronym TXT\*\*\*'s request is consistent with the requirements of the TRRO and that \*\*\*CLEC Acronym TXT\*\*\* is entitled to unbundled access to the subject element pursuant to section 251(c)(3) of the Act. \*\*\*CLEC Acronym TXT\*\*\*'s reasonably diligent inquiry must include, at a minimum, consideration of any list of non-impaired Wire Centers that Verizon makes or has made available to \*\*\*CLEC Acronym TXT\*\*\* by notice and/or by publication on Verizon's wholesale website (the "Wire Center List") and any back-up data that Verizon provides or has provided to \*\*\*CLEC Acronym TXT\*\*\* under a non-disclosure agreement or that **\*\*\*CLEC Acronym TXT\*\*\* otherwise possesses.** **Notwithstanding any other provision of this Amendment, in no event may \*\*\*CLEC Acronym TXT\*\*\* dispute a non-impairment designation set forth in Verizon's Wire Center List if \*\*\*CLEC Acronym TXT\*\*\* failed to notify Verizon in writing of such dispute within thirty (30) days of the date on which Verizon provided the Wire Center List to \*\*\*CLEC Acronym TXT\*\*\*, or before (30) days after the**

**effective date of this Amendment, whichever is later, and Verizon may reject any orders submitted in violation of this provision without first seeking dispute resolution.**

3.6.1.2 The back-up data that Verizon provides to \*\*\*CLEC Acronym TXT\*\*\* under a non-disclosure agreement pursuant to Section 3.6.1.1 above **shall include data regarding the number of Business Lines and fiber-based collocators at non-impaired Wire Centers; provided, however, that Verizon may mask the identity of fiber-based collocators in order to prevent disclosure to \*\*\*CLEC Acronym TXT\*\*\* of other carriers' confidential or proprietary network information. Verizon will provide \*\*\*CLEC Acronym TXT\*\*\* with a translation code in order for \*\*\*CLEC Acronym TXT\*\*\* to identify its fiber-based collocation locations. Verizon shall provide the back-up data required by this Section no later than ten (10) business days following \*\*\*CLEC Acronym TXT\*\*\*'s written request, but only if a non-disclosure agreement covering the back-up data is in effect between Verizon and \*\*\*CLEC Acronym TXT\*\*\* at that time. Upon \*\*\*CLEC Acronym TXT\*\*\*'s request, Verizon shall update the back-up data to the month in which \*\*\*CLEC Acronym TXT\*\*\* requests the back-up data; provided, however, that Verizon need not provide the back-up data for a particular Wire Center for a date later than the original date on which the data must have been current to establish the level of non-impairment (e.g., Tier 2, etc.) that Verizon asserts as to the Wire Center.**

3.6.1.3 Since Verizon has now modified its electronic ordering system to include a method for \*\*\*CLEC Acronym TXT\*\*\* to provide the certification required by this section, \*\*\*CLEC Acronym TXT\*\*\* shall use such method, as updated from time to time, to provide such certification.

3.6.2 Provision-then-Dispute Requirements.

3.6.2.1 Upon receiving a request from \*\*\*CLEC Acronym TXT\*\*\* for unbundled access to a TRRO Certification Element and the certification required by Section 3.6.1 above, and except as provided in Section 3.6.2.4 below, Verizon shall process the request in accordance with any applicable standard intervals, and for avoidance of doubt, shall not delay processing the request on the grounds that the request is for a TRRO Certification Element. If Verizon wishes to challenge \*\*\*CLEC Acronym TXT\*\*\*'s right to obtain unbundled access to the subject element pursuant to 47 U.S.C. § 251(c)(3), Verizon must provision the subject element as a UNE and then seek resolution of the dispute by the Commission or the FCC, or through any dispute resolution process set forth in the Agreement that Verizon elects to invoke in the alternative.

3.6.2.2 **Prospective Rate Application.** If a dispute pursuant to section 3.6.2.1 above is resolved in Verizon's favor, then \*\*\*CLEC Acronym TXT\*\*\* shall compensate Verizon for the additional charges that would apply if \*\*\*CLEC Acronym TXT\*\*\* had ordered the subject facility or service on a month-to-month **basis, subject to the month-to-month rates provided under the applicable Verizon access tariff, unless \*\*\*CLEC Acronym TXT\*\*\* is then subscribed to an applicable term/volume plan, or other special access**

**arrangement, pursuant to which \*\*\*CLEC Acronym TXT\*\*\* would be entitled to a different rate** (except as provided in section 3.6.2.2.1 below as to dark fiber transport). The **foregoing** rates shall apply until such time as \*\*\*CLEC Acronym TXT\*\*\*: **(1) requests** disconnection of the subject facility; **(2) requests** an alternative term that Verizon offers under its interstate special access tariff for the subject facility or service; **(3) requests the application of applicable term or volume discounts; or (4) negotiates a wholesale special access contract with Verizon for the subject facility or service.**

3.6.2.2.1 In the case of Dark Fiber Transport (there being no analogous service under Verizon's access tariffs), the monthly recurring charges that Verizon may charge, and that \*\*\*CLEC Acronym TXT\*\*\* shall be obligated to pay, for each circuit shall be the charges for the commercial service that Verizon, in its sole discretion, determines to be analogous to the subject Dark Fiber Transport and, unless otherwise agreed in writing by the Parties, Verizon may disconnect the subject dark fiber facility thirty (30) days after the date on which the dispute is resolved in Verizon's favor. In any case where \*\*\*CLEC Acronym TXT\*\*\*, within thirty (30) days of the date on which the dispute is resolved in Verizon's favor, submits a valid ASR for a "lit" service to replace the subject Dark Fiber Transport facility, Verizon shall continue to provide the Dark Fiber Transport facility at the rates provided for above, but only for the duration of the standard interval for installation of the "lit" service.

3.6.2.3 [Intentionally Left Blank]

3.6.2.4 Notwithstanding any other provision of the Amended Agreement, Verizon may reject a \*\*\*CLEC Acronym TXT\*\*\* order for a TRRO Certification Element without first seeking dispute resolution: **(a) in any case where \*\*\*CLEC Acronym TXT\*\*\*'s order conflicts with a non-impaired Wire Center designation set forth in the Wire Center List that Verizon has made available to \*\*\*CLEC Acronym TXT\*\*\* by notice and/or by publication on Verizon's wholesale website as of the Amendment Effective Date (subsequent revisions to the Wire Center List being governed by Section 3.6.3 below), except as to any particular Wire Center designation(s) with respect to which \*\*\*CLEC Acronym TXT\*\*\*, within thirty (30) days of the date on which Verizon provided the Wire Center List to \*\*\*CLEC Acronym TXT\*\*\*, or before (30) days after the effective date of this Amendment, whichever is later, notified Verizon of a bona fide dispute in accordance with the requirements of Paragraph 234 of the TRRO;** (b) in any case where \*\*\*CLEC Acronym TXT\*\*\*'s order conflicts with a non-impaired Wire Center designation that the Commission, the FCC, or a court of competent jurisdiction has ordered or approved or that has otherwise been confirmed through previous dispute resolution; or (c) to the extent the Commission, the FCC, or a court of competent jurisdiction otherwise permits Verizon to reject orders for TRRO Certification Elements without first seeking dispute resolution.

3.6.3 If Verizon revises its Wire Center List to add any new Wire Centers not listed as of the Amendment Effective Date or to upgrade ("upgrade" meaning movement to a higher level of non-impairment (e.g., from Tier 2 to Tier 1)) the non-impairment status of any Wire Centers listed as of the Amendment Effective Date, then Verizon shall notify \*\*\*CLEC Acronym TXT\*\*\* in writing (by electronic mail or other written communication) of such changes ("Wire Center Update Notice") and the following provisions shall apply effective as of the date that Verizon provides \*\*\*CLEC Acronym TXT\*\*\* such Wire Center Update Notice (the "Wire Center Update Notice Effective Date"):

3.6.3.1 \*\*\*CLEC Acronym TXT\*\*\*'s embedded base of TRRO Certification Elements that are or become Discontinued Facilities by operation of any such change to the Wire Center List (the "Newly-Discontinued Embedded Base") shall be treated as Discontinued Facilities under Section 2.4.1 above effective as of one-hundred-eighty (180) days after the Wire Center Update Notice Effective Date. During such 180-day period, the Newly-Discontinued Embedded Base shall be priced at a rate equal to 115% of the rate \*\*\*CLEC Acronym TXT\*\*\* paid for the subject element as of the Wire Center Update Notice Effective Date.

3.6.3.2 For the avoidance of any doubt, the provisions set forth in Sections 3.6.1 and 3.6.2 (including, but not limited to, \*\*\*CLEC Acronym TXT\*\*\*'s certification obligation) shall apply as of the Wire Center Update Notice Effective Date as to any new requests for TRRO Certification Elements affected by the changes to the Wire Center List.

### 3.7 Mass Market Switching and Related Elements

3.7.1 Effective as of March 11, 2005, and subject to the transition requirements set forth in Section 3.7.3 below, Verizon is not required to provide \*\*\*CLEC Acronym TXT\*\*\* with access to Mass Market Switching on an unbundled basis.

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

3.7.3 Transition Requirements. For a 12-month period beginning on March 11, 2005, Verizon was required to provide access to Mass Market Switching on an unbundled basis for \*\*\*CLEC Acronym TXT\*\*\* to serve its embedded end user customer base. The price for Mass Market Switching in combination with unbundled DS0 capacity loops and Shared Transport obtained pursuant to this section was available at transitional rates equal to the higher of (a) the rate at which \*\*\*CLEC Acronym TXT\*\*\* obtained that combination of network elements on June 15, 2004 plus one dollar, or (b) the rate the Commission established, if any, between June 16, 2004, and the effective date of the TRRO, for that combination of network elements, plus one dollar. \*\*\*CLEC Acronym TXT\*\*\* was not allowed to obtain new Mass Market Switching as an unbundled network element on or after March 11, 2005.

3.7.3.1 For purposes of Section 3.7.3 above, serving the \*\*\*CLEC Acronym TXT\*\*\*'s embedded end user customer base means serving \*\*\*CLEC Acronym TXT\*\*\*'s end user customers using a Mass Market Switching arrangement that was in service for that end user customer as of March 11, 2005, and does not include adding new

Mass Market Switching arrangements, adding new lines to existing arrangements, or serving the embedded end user customer at a location different from the location at which that customer was served using the subject Mass Market Switching arrangement as of March 11, 2005; provided, however, that \*\*\*CLEC Acronym TXT\*\*\* could have obtained such additional lines or moves as resale under section 251(c)(4) of the Act (in accordance with the resale provisions of the Agreement) or pursuant to a separate commercial agreement.

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

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

3.8.2 Retrospective Transition Charges.

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

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

3.8.3 Any bills issued by Verizon that include either a transition rate charge or a true up charge shall enable \*\*\*CLEC Acronym TXT\*\*\* to determine: (1) the time period for which such transition rate charge or true up charges applies; (2) the applicable transition rate; and (3) the facilities to which the transition rate or true-up amounts apply; provided, however, that nothing herein shall require Verizon to change its customary billing formats. In the event that Verizon's billing format does not enable it to provide the information required by this section, Verizon shall provide such information separately from the billing in a manner that reasonably achieves the purposes of this section.

- 3.9 Discontinuance of TRRO Embedded Base at the Close of Transition Period.
- 3.9.1 For the avoidance of any doubt, to the extent **\*\*\*CLEC Acronym TXT\*\*\***, prior to the end of the applicable transition period set forth in the TRRO (i.e., for DS1 and DS3 Loops, DS1 and DS3 Dedicated Transport, March 10, 2006, or for Dark Fiber Loops and Dark Fiber Transport, September 10, 2006), failed to order disconnection of its embedded base, if any, of Discontinued Facilities that are subject to the transition periods set forth in this Section 3 and failed **to submit orders for alternative arrangements offered by Verizon** (e.g., any arrangement offered by Verizon pursuant to a separate commercial agreement, or a Verizon access tariff, or as Section 251(c)(4) resale), Verizon's obligation to provide unbundled access to such Discontinued Facilities ceased on March 10, 2006 (or, in the case of Dark Fiber Loops and Dark Fiber Transport, September 10, 2006). Accordingly, effective as of March 11, 2006 (or, in the case of Dark Fiber Loops and Dark Fiber Transport, September 11, 2006), Verizon **was and remains entitled to disconnect, convert, and/or** reprice such Discontinued Facilities in accordance with Section 2.4.1 above **without further notice to **\*\*\*CLEC Acronym TXT\*\*\*****.
- 3.10 Line Sharing. Notwithstanding any other provision of the Amended Agreement (but subject to the conditions set forth in Section 2 above), Verizon shall provide access to Line Sharing on a transitional basis in accordance with the transitional rules set forth in 47 C.F.R. § 51.319(a)(1)(i). For the avoidance of any doubt, the FCC's transition rules set forth in 47 C.F.R. § 51.319(a)(1)(i) became effective independently of this Amendment prior to the Amendment Effective Date, and this Section 3.10 is only intended to memorialize such rules for the convenience of the Parties.
- 3.10A Line Splitting **[THIS SECTION TO BE INCLUDED ONLY IN AMENDMENTS FOR CERTAIN ICAS THAT DO NOT ALREADY CONTAIN LINE SPLITTING PROVISIONS]**
- 3.10A.1 Subject to the conditions set forth in Section 2 above, Verizon shall provision Line Splitting arrangements under the Amended Agreement in accordance with the Federal Unbundling Rules. Verizon shall enable **\*\*\*CLEC Acronym TXT\*\*\*** to engage in Line Splitting using a splitter collocated at the central office **where the Loop terminates into a distribution frame or its equivalent**. Verizon's standard provisioning processes shall apply, and **Commission-approved** rates shall apply in accordance with the terms of the Amended Agreement.
- 3.10.A.1.1** [Intentionally Left Blank]
- 3.10.A.1.2** **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.**
- 3.10A.2 Except as noted in Section 3.10A.3, the provider of voice services in a line splitting arrangement will be billed for all charges associated with the UNEs and other Verizon services and facilities used in conjunction with the line splitting arrangement, regardless of which CLEC in the Line Splitting arrangement orders the UNEs or other Verizon services or facilities. These charges include, but are not limited to, applicable non-recurring charges and monthly recurring charges related to such Line Splitting arrangement, including but not limited to UNE loop, testing, pre-qualification, OSS, line conditioning, CLEC account establishment and misdirected trouble charges.

**3.10A.3 In order to facilitate \*\*\*CLEC Acronym TXT\*\*\*'s engaging in Line Splitting pursuant to this section, \*\*\*CLEC Acronym TXT\*\*\* may order for use in a Line Splitting arrangement those UNEs, Collocation arrangements, services, facilities, equipment and arrangements, appropriate for Line Splitting, that are offered to \*\*\*CLEC Acronym TXT\*\*\* by Verizon under other provisions of the Amended Agreement. Such UNEs, Collocation arrangements, services, facilities, equipment and arrangements, will be provided to \*\*\*CLEC Acronym TXT\*\*\* in accordance with, and subject to, the rates and charges and other provisions of the Amended Agreement and Verizon's applicable tariffs.**

3.10B **[THIS SECTION TO BE INCLUDED ONLY IN AMENDMENTS FOR CERTAIN ICAS THAT DO NOT ALREADY CONTAIN LINE CONDITIONING PROVISIONS]** Line Conditioning. Subject to the conditions set forth in Section 2 above, and in accordance with the Federal Unbundling Rules:

3.10B.1 Verizon shall condition a copper Loop at the request of \*\*\*CLEC Acronym TXT\*\*\* when \*\*\*CLEC Acronym TXT\*\*\* seeks access to a copper Loop or a copper Sub-Loop **that Verizon is required to provide to \*\*\*CLEC Acronym TXT\*\*\* on an unbundled basis under the Amended Agreement**, to ensure that the copper Loop or copper Sub-Loop is suitable for providing xDSL services, whether or not Verizon offers advanced services to the end-user customer on that copper Loop or copper Sub-Loop.

**3.10B.2 Insofar as it is technically feasible, Verizon shall test and report troubles for all the features, functions, and capabilities of conditioned copper lines.**

3.11 Commingling and Combinations.

3.11.1 Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting the conditions set forth in Section 2 above and in Section 3.11.2 below):

3.11.1.1 Verizon will not prohibit the commingling of an unbundled Network Element or a combination of unbundled Network Elements obtained under the Amended Agreement pursuant to the Federal Unbundling Rules ("Qualifying UNEs"), with **any non-Section 251(c)(3)** wholesale services and facilities obtained from Verizon, **including but not limited to such services or facilities offered by Verizon** under a Verizon access tariff or **other** agreement, or **as resale** pursuant to the Section 251(c)(4) ("Wholesale Services") Moreover, **in accordance with** the Federal Unbundling Rules (subject to Section 3.11.1.3 below), Verizon shall, upon request of \*\*\*CLEC Acronym TXT\*\*\*, perform the functions necessary to commingle or combine Qualifying UNEs with Wholesale Services obtained from Verizon. The rates, terms and conditions of the applicable access tariff or **other** agreement, or the applicable Section 251(c)(4) resale provisions of the Agreement, will apply to the Wholesale Services, and the rates, terms and conditions of the Amended Agreement or the Verizon UNE tariff, as applicable, will apply to the Qualifying UNEs.

3.11.1.2 "Ratcheting," as that term is defined by the FCC, shall not be required. Qualifying UNEs that are commingled with Wholesale Services are not included in the shared use provisions of the applicable tariff.

3.11.1.3 Limitations on Section 3.11.1. Nothing contained in Section 3.11.1 shall be deemed: (a) to establish any obligation of Verizon to provide \*\*\*CLEC Acronym TXT\*\*\* with access to any facility that Verizon is not otherwise required to provide to \*\*\*CLEC Acronym TXT\*\*\* on an unbundled basis under the Amended Agreement, or (b) to limit any right of Verizon under the Amended Agreement to cease providing a facility that is or becomes a Discontinued Facility.

3.11.2 Service Eligibility Criteria for Certain Combinations and Commingled Facilities and Services. Notwithstanding any other provision of the Agreement, this Amendment (but subject to the conditions set forth in Sections 2 and 3.11.1 above):

3.11.2.1 Verizon shall not be obligated to provide:

3.11.2.1.1 an unbundled DS1 Loop in combination with unbundled DS1 or DS3 Dedicated Transport, or commingled with DS1 or DS3 access services;

3.11.2.1.2 an unbundled DS3 Loop in combination with unbundled DS3 Dedicated Transport, or commingled with DS3 access services;

3.11.2.1.3 unbundled DS1 Dedicated Transport commingled with DS1 channel termination access service;

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

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

(individually and collectively “High Capacity EELs”) except to the extent Verizon is required by the Federal Unbundling Rules to do so, and not unless and until \*\*\*CLEC Acronym TXT\*\*\* certifies in the respective ASR (or, as applicable, LSR) to Verizon that each combined or commingled DS1 circuit or DS1 equivalent circuit of the High Capacity EEL satisfies the service eligibility criteria on a circuit-by-circuit basis as set forth in 47 C.F.R. § 51.318. \*\*\*CLEC Acronym TXT\*\*\* must remain in compliance with said service eligibility criteria for so long as \*\*\*CLEC Acronym TXT\*\*\* continues to receive the aforementioned combined or commingled facilities and/or services from Verizon. The service eligibility criteria shall be applied to each combined or commingled DS1 circuit or DS1 equivalent circuit of a High Capacity EEL. If any combined or commingled DS1 circuit or DS1 equivalent circuit of a High Capacity EEL is, becomes, or is subsequently determined to be noncompliant, the noncompliant circuit shall be treated as described in Section 3.11.2.2 below. The foregoing shall apply whether the High Capacity EEL circuits in question are being provisioned to establish a new circuit or to convert an existing wholesale service, or any part thereof, to unbundled network elements. For High Capacity EEL circuits existing as of the Amendment Effective Date, \*\*\*CLEC Acronym TXT\*\*\*, within **30 days** of the Amendment Effective Date, \*\*\*CLEC Acronym TXT\*\*\* must re-certify in writing using a letter or ASRs (or, as applicable, LSRs) that each combined or commingled DS1 circuit or DS1 equivalent circuit satisfies the service eligibility criteria on a circuit-by-

circuit basis as set forth in 47 C.F.R. § 51.318. If \*\*\*CLEC Acronym TXT\*\*\* uses a letter to provide such re-certification, the letter must include an attached spreadsheet identifying each DS1 or DS1 equivalent circuit that \*\*\*CLEC Acronym TXT\*\*\* certifies to be in compliance with the service eligibility criteria set forth in 47 C.F.R. § 51.318. \*\*\*CLEC Acronym TXT\*\*\* must provide both an electronic copy and a paper copy of any such letter and attached spreadsheet, and the paper copy must be signed by a duly authorized officer of \*\*\*CLEC Acronym TXT\*\*\*. Any such existing circuits not re-certified within **30** days of the Amendment Effective Date shall, effective as of **30** days after the Amendment Effective Date, be treated as noncompliant circuits as described in Section 3.11.2.2 below.

- 3.11.2.2 Without limiting any other right Verizon may have to cease providing circuits that are or become Discontinued Facilities, if a High Capacity EEL circuit is or becomes noncompliant as described in this Section 3.11, and \*\*\*CLEC Acronym TXT\*\*\* has not submitted an LSR or ASR, as appropriate, to Verizon requesting disconnection of the noncompliant High Capacity EEL circuit and has not separately secured from Verizon an alternative arrangement to replace the noncompliant High Capacity EEL circuit, then Verizon shall reprice the subject High Capacity EEL circuit, effective beginning on the date on which the circuit became non-compliant, by application of a new rate (or, in Verizon's sole discretion, by application of a surcharge to an existing rate) to be equivalent to an alternative access service or other alternative arrangement that Verizon shall identify in a written notice to \*\*\*CLEC Acronym TXT\*\*\*: **subject to any special access term/volume plan or other special access arrangement to which \*\*\*CLEC Acronym TXT\*\*\* subscribed during the period of noncompliance.**
- 3.11.2.3 When submitting an ASR (or, as applicable, LSR) for a High Capacity EEL circuit for which certification under Section 3.11.2.1 above is required, \*\*\*CLEC Acronym TXT\*\*\* must include the certification in the remarks section of the ASR as follows: "Certification: The circuit(s) requested in this ASR meet the eligibility criteria set forth in 47 C.F.R. § 51.318(b)(2)." The foregoing certification must be contained in the Remarks section of the ASR unless and until such time as provisions are made to populate other fields on the ASR to capture this certification.
- 3.11.2.4 [Intentionally Left Blank]
- 3.11.2.5 All ASR-driven conversion requests will result in a change in circuit identification (circuit ID) from access to UNE or UNE to access.
- 3.11.2.6 All requests for conversions will be handled in accordance with Verizon's conversion guidelines and, subject to the terms of this Amendment, in a manner that is not inconsistent with the Arbitration Orders. Each request will be handled as a project, subject to this Section 3.11.2.6. Until such time as the Commission orders a different interval (at which time such different interval shall apply prospectively), new rates for converted circuits shall be effective no later than thirty (30) days after \*\*\*CLEC Acronym TXT\*\*\* submits its order (i.e. a valid ASR or, as applicable, LSR) that includes the certification set forth in Section 3.11.2.3 above.

3.11.2.7 [Intentionally Left Blank]

3.11.2.8 Once per calendar year, at intervals not less than a year, Verizon may obtain and pay for an independent auditor to audit \*\*\*CLEC Acronym TXT\*\*\*'s compliance in all material respects with the service eligibility criteria applicable to High Capacity EELs. Any such audit shall be performed in accordance with the standards established by the American Institute for Certified Public Accountants, and may include, at Verizon's discretion, the examination of a sample selected in accordance with the independent auditor's judgment. Verizon shall provide \*\*\*CLEC Acronym TXT\*\*\* with thirty (30) days advance notice of any such audit. To the extent the independent auditor's report concludes that \*\*\*CLEC Acronym TXT\*\*\* failed to comply with the service eligibility criteria for any DS1 or DS1 equivalent High Capacity EEL circuit, \*\*\*CLEC Acronym TXT\*\*\* must convert all non-compliant circuits to the appropriate service, true up any difference in payments, and make the correct payments on a going-forward basis. To the extent the independent auditor's report concludes that \*\*\*CLEC Acronym TXT\*\*\* failed to comply in all material respects with the service eligibility criteria, then (without limiting Verizon's rights under Section 3.11.2.2 above) \*\*\*CLEC Acronym TXT\*\*\* must 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 that \*\*\*CLEC Acronym TXT\*\*\* complied in all material respects with the service eligibility criteria, then \*\*\*CLEC Acronym TXT\*\*\* shall provide to the independent auditor for its verification a statement of \*\*\*CLEC Acronym TXT\*\*\*'s reasonable and verifiable costs of complying with any requests of the independent auditor, and Verizon shall, within sixty (60) days of the date on which \*\*\*CLEC Acronym TXT\*\*\* submits such costs to the auditor, reimburse \*\*\*CLEC Acronym TXT\*\*\* for its reasonable and verifiable costs verified by the auditor. \*\*\*CLEC Acronym TXT\*\*\* shall maintain records adequate to support its compliance with the service eligibility criteria for each DS1 or DS1 equivalent circuit for at least eighteen (18) months after the service arrangement in question is terminated

3.12 Routine Network Modifications.

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

3.12.1.1 Verizon shall make such routine network modifications as are necessary to permit access by \*\*\*CLEC Acronym TXT\*\*\* to the Loop, Dedicated Transport, or Dark Fiber Transport facilities available under the Amended Agreement (including DS1 Loops and DS1 Dedicated Transport, and DS3 Loops and DS3 Dedicated Transport) where the facility has already been constructed. Verizon shall perform routine network modifications in a nondiscriminatory fashion, without regard to whether the facility being accessed was constructed on behalf of, or in accordance with, the specifications of any carrier. Routine network modifications applicable to Loops or Transport are those modifications that Verizon regularly undertakes for its own customers and may include, but are not limited to: rearranging or splicing of in-place cable at existing splice points;

adding an equipment case; adding a doubler or repeater; installing a repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that Verizon ordinarily attaches to a DS1 Loop to activate such loop for its own customer, and may also may entail activities such as accessing manholes; and deploying bucket trucks to reach aerial cable. Routine network modifications applicable to Dark Fiber Transport are those modifications that Verizon regularly undertakes for its own customers and may include, but are not limited to, splicing of in-place dark fiber at existing splice points; accessing manholes; deploying bucket trucks to reach aerial cable; and routine activities, if any, needed to enable \*\*\*CLEC Acronym TXT\*\*\* to light a Dark Fiber Transport facility that it has obtained from Verizon under the Amended Agreement. Routine network modifications do not include the construction of a new Loop or new Transport facilities, trenching, the pulling of cable, the installation of new aerial, buried, or underground cable for a requesting telecommunications carrier, or the placement of new cable. Verizon shall not be required to build any time division multiplexing (TDM) capability into new packet-based networks or into existing packet-based networks that do not already have TDM capability. Verizon shall not be required to perform any routine network modifications to any facility that is or becomes a Discontinued Facility. In the event the Parties disagree as to whether any activity constitutes a "routine network modification" pursuant to this Section 3.12, either Party may seek resolution of such dispute in accordance with the dispute resolution procedures set forth in the Agreement.

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

4. Miscellaneous Provisions.

- 4.1 Conflict between this Amendment and the Agreement. This Amendment shall be deemed to revise the terms and provisions of the Agreement to the extent necessary to give effect to the terms and provisions of this Amendment. In the event of a conflict between the terms and provisions of this Amendment and the terms and provisions of the Agreement this Amendment shall govern, provided, however, that the fact that a term or provision appears in this Amendment but not in the Agreement, or in the Agreement but not in this Amendment, shall not be interpreted as, or deemed grounds for finding, a conflict for purposes of this Section 4.1.
- 4.2 Counterparts. This Amendment may be executed in one or more counterparts, each of which when so executed and delivered shall be an original and all of which together shall constitute one and the same instrument.
- 4.3 Captions. The Parties acknowledge that the captions in this Amendment have been inserted solely for convenience of reference and in no way define or limit the scope or substance of any term or provision of this Amendment.
- 4.4 Scope of Amendment. This Amendment shall amend, modify and revise the Agreement only to the extent set forth expressly herein. As used herein, the Agreement, as revised and supplemented by this Amendment, shall be referred to as the "Amended Agreement". Nothing in this Amendment shall be deemed to amend or extend the term of the Agreement, or to affect the right of a Party to exercise any right of termination it may have under the Agreement. **This Amendment does not alter, modify or revise**

**any rights and obligations under applicable law contained in the Agreement, other than those Section 251 rights and obligations specifically addressed in this Amendment.**

- 4.5 Reservation of Rights. Notwithstanding any contrary provision in the Amended Agreement, or any Verizon tariff, nothing contained in the Amended Agreement, or any Verizon tariff shall limit either Party's right to appeal, seek reconsideration of or otherwise seek to have stayed, modified, reversed or invalidated any order, rule, regulation, decision, ordinance or statute issued by the Commission, the FCC, any court or any other governmental authority related to, concerning or that may affect either Party's rights or obligations under the Amended Agreement, any Verizon tariff, or applicable law.
- 4.6 Joint Work Product. This Amendment is a joint work product, and any ambiguities in this Amendment shall not be construed by operation of law against either Party.
- 4.7 Definitions. Notwithstanding any other provision in the Agreement or any Verizon tariff, the following terms, as used in the Amended Agreement, shall have the meanings set forth below:
- 4.7.1 Business Line. As set forth in 47 C.F.R. § 51.5, a "Business Line" is a Verizon-owned switched access line used to serve a business customer, whether by Verizon itself or by a competitive LEC that leases the line from Verizon. The number of business lines in a Wire Center shall equal the sum of all Verizon business switched access lines, plus the sum of all UNE loops connected to that Wire Center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, business line tallies (1) shall include only those access lines connecting end-user customers with Verizon end-offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line. For example, a DS1 line corresponds to 24 64 kbps-equivalents, and therefore to 24 "business lines".
- 4.7.2 Call-Related Databases. Databases, other than operations support systems, that are used in signaling networks for billing and collection, or the transmission, routing, or other provision of a telecommunications service. Call-related databases include, but are not limited to, the calling name database, 911 database, E911 database, line information database, toll free calling database, advanced intelligent network databases, and downstream number portability databases.
- 4.7.3 Commingling. The connecting, attaching, or otherwise linking of an Unbundled Network Element or a combination of Unbundled Network Elements, to one or more facilities or services that \*\*\*CLEC Acronym TXT\*\*\* has obtained at wholesale from Verizon, or the combining of an Unbundled Network Element, or a combination of Unbundled Network Elements, with one or more such facilities or services. "Commingling" means the act of Commingling.
- 4.7.4 Dark Fiber Loop. Consists of fiber optic strand(s) in a Verizon fiber optic cable between Verizon's accessible terminal, such as the fiber distribution frame, or its functional equivalent, located within a Verizon wire center, and Verizon's accessible terminal located in Verizon's main termination point at an end user customer premises, such as a fiber patch panel, and that Verizon has not activated through connection to electronics that "light" it and render it capable of carrying telecommunications services.

- 4.7.5 Dark Fiber Transport. An optical transmission facility **within a LATA**, that otherwise meets the definition of Dedicated Transport but which Verizon has not activated by attaching multiplexing, aggregation or other electronics.
- 4.7.6 Dedicated Transport. Dedicated Transport includes Verizon transmission facilities, **within a LATA**, between Verizon Wire Centers or switches (including Verizon switches with line-side functionality that terminate loops and are "reverse collocated" in non-Verizon collocation hotels), or between Verizon Wire Centers or switches and switches owned by requesting telecommunications carriers, including, but not limited to, DS1-, DS3-, and OCn-capacity level services, as well as dark fiber, dedicated to a particular customer or carrier.
- 4.7.7 Discontinued Facility. Any facility that Verizon, at any time, has provided or offered to provide to **\*\*\*CLEC Acronym TXT\*\*\*** on an unbundled basis, but which by operation of law has ceased to be subject to an unbundling requirement under 47 U.S.C. § 251(c)(3) or 47 C.F.R. Part 51. Discontinued Facilities include the following, whether as stand-alone facilities or combined or commingled with other facilities: (a) any Entrance Facility; (b) Enterprise Switching; (c) Mass Market Switching, Four-Line Carve Out Switching, and any other form of switching (d) OCn Loops and OCn Dedicated Transport; (e) subject to Sections 3.4.1, 3.4.2 and 3.6 of this Amendment, DS1 Loops or DS3 Loops out of any Wire Center that meets the FCC's non-impairment criteria addressed in section 3.5 of this Amendment; (f) Dark Fiber Loops; (g) subject to Section 3.4.1 and 3.4.2 of this Amendment, any DS1 Loop or DS3 Loop that exceeds the maximum number of such Loops that Verizon is required to provide to **\*\*\*CLEC Acronym TXT\*\*\*** on an unbundled basis under section 3 of this Amendment; (h) subject to Sections 3.5.1, 3.5.2, and 3.6 of this Amendment, DS1 Dedicated Transport, DS3 Dedicated Transport, or Dark Fiber Transport on any Route that meets the FCC's non-impairment criteria addressed in section 3.5 of this Amendment; (i) subject to Sections 3.5.1 and 3.5.2 of this Amendment, any DS1 Dedicated Transport circuit or DS3 Dedicated Transport circuit that exceeds the number of such circuits that Verizon is required to provide to **\*\*\*CLEC Acronym TXT\*\*\*** on an unbundled basis under section 3 of this Amendment; (k) the Feeder portion of a Loop (as a sub-loop element; provided, however, that this definition is not intended to affect any right **\*\*\*CLEC Acronym TXT\*\*\*** may have to obtain unbundled access to an entire Loop that includes Feeder); (k) Line Sharing, subject to the TRO transition requirements addressed herein; (l) any Call-Related Database, other than the 911 and E911 databases; (m) Signaling; (n) Shared Transport; (o) FTTH Loops (lit or unlit), subject to Section 3.1.2 above; (p) FTTC Loops (lit or unlit), subject to Section 3.1.2 above; (q) Hybrid Loops, subject to Section 3.2 above.
- 4.7.8 Distribution Sub-Loop Facility (Copper Subloop). The copper portion of a Loop in Verizon's network that is between any technically feasible point of access in Verizon's outside plant, including Inside Wire owned or controlled by Verizon, and an end user customer premises.
- 4.7.9 DS1 Dedicated Transport. Dedicated Transport having a total digital signal speed of 1.544 Mbps.
- 4.7.10 DS3 Dedicated Transport. Dedicated Transport having a total digital signal speed of 44.736 Mbps.
- 4.7.11 DS1 Loop. As set forth in 47 C.F.R. § 51.319(a), a DS1 Loop is a digital local loop having a total digital signal speed of 1.544 megabytes per second. DS1

Loops include, but are not limited to, two-wire and four-wire copper loops capable of providing high-bit rate digital subscriber line services, including T1 services.

- 4.7.12 DS3 Loop. As set forth in 47 C.F.R. § 51.319(a), a DS3 loop is a digital local loop having a total digital signal speed of 44.736 megabytes per second.
- 4.7.13 Enterprise Switching. Local Circuit Switching or Tandem Switching that, if provided to \*\*\*CLEC Acronym TXT\*\*\* would be used for the purpose of serving \*\*\*CLEC Acronym TXT\*\*\*'s customers using DS1 or above capacity Loops.
- 4.7.14 Entrance Facility. Dedicated Transport (lit or unlit) that does not connect a pair of Verizon Wire Centers.
- 4.7.15 Feeder. The fiber optic cable (lit or unlit) or metallic portion of a Loop between a serving wire center and a remote terminal or feeder/distribution interface.
- 4.7.16 Federal Unbundling Rules. Any requirement to provide access to unbundled network elements that is imposed upon Verizon **by the FCC** pursuant to **both** 47 U.S.C. § 251(c)(3) and/or 47 C.F.R. Part 51. Use of the term Federal Unbundling Rules, as defined in this Section 4.7.16, is not intended to deprive the Commission, the FCC or a court of competent jurisdiction of the right to use appropriate rules of statutory construction in interpreting the effect of the statutes and rules referenced herein.
- 4.7.17 Fiber-Based Collocator. A fiber-based collocator is any carrier, unaffiliated with Verizon, that maintains a collocation arrangement in a Verizon Wire Center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a collocation arrangement within the Wire Center; (2) leaves the Verizon Wire Center premises; and (3) is owned by a party other than Verizon or any Affiliate of Verizon, except as set forth in this section. Dark fiber obtained from Verizon on an indefeasible right of use basis shall be treated as non-Verizon fiber-optic cable. Two or more Affiliated Fiber-Based Collocators in a single Wire Center shall collectively be counted as a single Fiber-Based Collocator. For the purposes of this Amendment, the term Affiliate is defined by 47 U.S.C. § 153(1) and any relevant interpretation in Title 47 of the Code of Federal Regulations. For the avoidance of any doubt, if an entity was not an Affiliate of Verizon as of the date (on or after March 11, 2005) on which a Wire Center qualified for non-impairment under Section 3.4 or 3.5 of this Amendment, the non-impairment status of such Wire Center shall not be eliminated or downgraded (e.g., from Tier 1 to Tier 2) if the entity later becomes an Affiliate of Verizon; provided, however, that Verizon shall comply prospectively, from and after February 5, 2006, with Unbundled Network Element Condition No. 2 set forth in Appendix G to the FCC's Memorandum Opinion and Order, WC Docket No. 05-75, FCC 05-184 (rel. Nov. 17, 2005) effective as of February 5, 2006 and for so long as such condition is applicable.
- 4.7.18 Four-Line Carve Out Switching. Local Circuit Switching or Tandem Switching that, if provided to \*\*\*CLEC Acronym TXT\*\*\*, would be used for the purpose of serving a \*\*\*CLEC Acronym TXT\*\*\* end user customer served by four or more DS0 Loops in Density Zone 1 in the top 50 MSAs.
- 4.7.19 FTTH Loop. A fiber-to-the-home loop (or "FTTH Loop") is a local loop consisting entirely of fiber optic cable, whether dark or lit, serving an end user's customer premises or, in the case of predominantly residential multiple

dwelling units (MDUs), a fiber optic cable, whether dark or lit, that extends to the multiunit premises' minimum point of entry (MPOE). FTTH Loops are not limited to those loops being used to provide service to "mass market" or residential customers.

- 4.7.20 FTTC Loop. A fiber-to-the-curb loop (or "FTTC Loop") is a local loop consisting of fiber optic cable connecting to copper distribution plant that is not more than 500 feet from the customer's premises or, in the case of predominantly residential MDUs, not more than 500 feet from the MDU's MPOE. The fiber optic cable in a fiber-to-the-curb loop must connect to copper distribution plant at a serving area interface from which every other copper distribution subloop also is not more than 500 feet from the respective customer's premises. FTTC Loops are not limited to those loops being used to provide service to "mass market" or residential customers.
- 4.7.21 Hybrid Loop. A local Loop composed of both fiber optic cable, usually in feeder plant, and copper wire or cable, usually in the distribution plant. FTTH Loops and FTTC Loops are not Hybrid Loops.
- 4.7.22 Inside Wire. As set forth in 47 C.F.R. § 51.319(b)(2), Inside Wire is defined as all Loop plant owned or controlled by Verizon at a multiunit customer premises between the minimum point of entry (MPOE), as defined in 47 C.F.R. § 68.105 and the point of demarcation of Verizon's network, as defined in 47 C.F.R. § 68.3. Inside Wire does not include any portion of a FTTH Loop or FTTC Loop.
- 4.7.23 Interexchange Service. Shall have the meaning as defined by the FCC in footnote 98 of the TRRO.
- 4.7.24 [THIS SECTION TO BE INCLUDED ONLY IN AMENDMENTS FOR CERTAIN ICAS THAT DO NOT ALREADY CONTAIN LINE CONDITIONING PROVISIONS]Line Conditioning. As set forth in 47 C.F.R. § 51.319(b)(1)(iii), Line Conditioning is the removal from a copper loop or copper Subloop obtained from Verizon under the Amended Agreement 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 (e.g., bridge taps, load coils, low pass filters and range extenders).
- 4.7.25 Line Sharing. The process by which \*\*\*CLEC Acronym TXT\*\*\* provides xDSL service over the same copper Loop that Verizon uses to provide voice service by utilizing the frequency range on the copper loop above the range that carries analog circuit-switched voice transmissions (the High Frequency Portion of the Loop, or "HFPL"). The HFPL includes the features, functions, and capabilities of the copper Loop that are used to establish a complete transmission path between Verizon's main distribution frame (or its equivalent) in its serving Wire Center and the demarcation point at the end user's customer premises.
- 4.7.26 [THIS SECTION TO BE INCLUDED ONLY IN AMENDMENTS FOR CERTAIN ICAS THAT DO NOT ALREADY CONTAIN LINE SPLITTING PROVISIONS, AND WHERE SECTION 3.10A ABOVE IS THEREFORE INCLUDED] Line Splitting. As set forth in 47 C.F.R. § 51.319(b)(1)(ii), Line Splitting is the process in which one competitive LEC provides narrowband voice service over the low frequency portion of an unbundled copper loop obtained from Verizon under the Amended Agreement, and a second competitive LEC provides digital subscriber line services over the high frequency portion of that same loop.

- 4.7.27 Local Circuit Switching. As required by the Arbitration Order and as set forth in 47 C.F.R. §51.319(d)(1), Local Circuit Switching encompasses all line-side and trunk-side facilities, plus the features, functions and capabilities of the local circuit switch. The features, functions, and capabilities of the local circuit switch shall include the basic switching functions of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks. Local Circuit Switching includes all vertical features that the Local Circuit Switch is capable of providing, including custom calling, custom local area signaling services features, and Centrex, as well as any technically feasible customized routing function.
- 4.7.28 Mass Market Switching. Local Circuit Switching or Tandem Switching that, if provided to \*\*\*CLEC Acronym TXT\*\*\*, would be used for the purpose of serving end-user customers using DS0 capacity loops.
- 4.7.29 Mobile Wireless Service. As set forth in 47 C.F.R. § 51.5, a mobile wireless service is any mobile wireless telecommunications service, including any commercial mobile radio service.
- 4.7.30 Route. As set forth in 47 C.F.R. § 51.319(e), a "Route" is a transmission path between one of Verizon's Wire Centers or switches and another of Verizon's Wire Centers or switches. A route between two points (e.g., Wire Center or switch "A" and Wire Center or switch "Z") may pass through one or more intermediate Wire Centers or switches (e.g., Wire Center or switch "X"). Transmission paths between identical end points (e.g., Wire Center or switch "A" and Wire Center or switch "Z") are the same "route," irrespective of whether they pass through the same intermediate Wire Centers or switches, if any.
- 4.7.31 Signaling. Signaling includes, but is not limited to, signaling links and signaling transfer points.
- 4.7.32 Subloop for Access to Multiunit Premises Wiring. As set forth in 47 C.F.R. § 51.319(b)(2), Subloop for Access to Multiunit Premises Wiring is any portion of the Loop that it is technically feasible to access at a terminal in Verizon's outside plant at or near a multiunit premises, including Inside Wire. Subloop for Access to Multiunit Premises Wiring does not include any portion of a FTTH Loop or FTTC Loop.
- 4.7.33 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.
- 4.7.34 Wire Center. As set forth in 47 C.F.R. § 51.5, a Wire Center is the location of a Verizon local switching facility containing one or more central offices, as defined in the Appendix to Part 36 of Chapter 1 of Title 47 of the Code of Federal Regulations. The Wire Center boundaries define the area in which all customers served by a given Wire Center are located.

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

**[CLEC FULL NAME]**

**VERIZON DELAWARE LLC**

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

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

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

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

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_