

John C. Peterson, Director  
Contract Performance and Administration  
Wholesale Markets



**Wholesale Markets**  
600 Hidden Ridge, HQE03D52  
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Phone 972-718-5988  
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October 12, 2004

David Hammock  
RVP-Carrier/Supplier Management  
Southwestern Bell Communications, Inc. d/b/a SBC Long Distance  
308 S. Akard, Room 1502  
Dallas, TX 75202

Re: Requested Adoption Under Section 252(i) of the TA96

Dear Mr. Hammock:

Verizon New England Inc., d/b/a Verizon Massachusetts ("Verizon"), a New York corporation, with principal place of business at 185 Franklin Street, Boston, Massachusetts 02110, has received your letter stating that, under Section 252(i) of the Telecommunications Act of 1996 (the "Act"), Southwestern Bell Communications, Inc. d/b/a SBC Long Distance ("SBCS"), a Delaware corporation, with principal place of business at 5850 W. Las Positas Blvd., Pleasanton, California 94588, wishes to adopt the terms of the Interconnection Agreement between Think 12 Corporation d/b/a Hello Depot ("Hello Depot") and Verizon that was approved by the Massachusetts Department of Telecommunications and Energy (the "Commission") as an effective agreement in the Commonwealth of Massachusetts, as such agreement exists on the date hereof (including any effective amendments thereto) after giving effect to operation of law (the "Terms"). I understand SBCS has a copy of the Terms. Please note the following with respect to SBCS' adoption of the Terms.

1. By SBCS' countersignature on this letter, SBCS hereby represents and agrees to the following six points:
  - A. SBCS adopts (and agrees to be bound by) the Terms of the Hello Depot/Verizon agreement for interconnection as it is in effect on the date hereof after giving effect to operation of law, and in applying the Terms,

agrees that SBCS shall be substituted in place of Think 12 Corporation d/b/a Hello Depot and Hello Depot in the Terms wherever appropriate.

- B. For avoidance of doubt, adoption of the Terms does not include adoption of any provision imposing an unbundling obligation on Verizon that no longer applies to Verizon under the Report and Order and Order on Remand (FCC 03-36) released by the Federal Communications Commission ("FCC") on August 21, 2003 in CC Docket Nos. 01-338, 96-98, 98-147 ("Triennial Review Order"), the decision of the U.S. Court of Appeals for the D.C. Circuit in its Opinion and Order in United States Telecom Association v. Federal Communications Commission, 359 F.3d 554 (D.C. Cir. 2004) ("USTA II"), or that is otherwise not required by both 47 U.S.C. Section 251(c)(3) and 47 C.F.R. Part 51. Moreover, Verizon, on February 20, 2004, filed a petition at the Commission to arbitrate amendments to interconnection agreements (including the Terms) with respect to the Triennial Review Order ("TRO Arbitration"). If Hello Depot is a party to the TRO Arbitration at the time the Commission issues an effective order approving an amendment with respect to the Triennial Review Order in the TRO Arbitration (an "Approved Amendment"): 1) the terms of such Approved Amendment shall be deemed to amend this adoption effective on the effective date of such Commission order, 2) SBCS agrees to be bound by the terms of such Approved Amendment effective on the effective date of such Commission order, and 3) Verizon and SBCS shall execute an amendment to this adoption to memorialize that this adoption is amended by the terms of such Approved Amendment effective on the effective date of such Commission order; provided, however, failure by either party to do so shall not be cited as a basis for contesting the effectiveness of the provisions in 1) and 2) above.
- C. Notice to SBCS and Verizon as may be required under the Terms shall be provided as follows:

To: Southwestern Bell Communications, Inc.  
d/b/a SBC Long Distance  
Attention: David Hammock  
RVP-Carrier/Supplier Management  
308 S. Akard, Room 1502  
Dallas, TX 75202  
Telephone Number: 214-858-3004  
Facsimile Number: 214-858-3082  
Internet Address: dh9096@sbc.com

with a copy to:

Southwestern Bell Communications, Inc.  
d/b/a SBC Long Distance  
Attention: Adam McKinney

Senior Counsel  
311 S. Akard, Room 3004  
Dallas, TX 75202  
Telephone Number: 214-464-0209  
Facsimile Number: 214-464-5477  
Internet Address: am5439@txmail.sbc.com

To Verizon:

Director-Contract Performance & Administration  
Verizon Wholesale Markets  
600 Hidden Ridge  
HQEWMNOTICES  
Irving, TX 75038  
Telephone Number: 972-718-5988  
Facsimile Number: 972-719-1519  
Internet Address: wmnotices@verizon.com

with a copy to:

Vice President and Associate General Counsel  
Verizon Wholesale Markets  
1515 N. Court House Road  
Suite 500  
Arlington, VA 22201  
Facsimile: 703-351-3664

- D. SBCS represents and warrants that it is a certified provider of local telecommunications service in the Commonwealth of Massachusetts, and that its adoption of the Terms will cover services in the Commonwealth of Massachusetts only.
- E. In the event an interconnection agreement between Verizon and SBCS is currently in effect in the Commonwealth of Massachusetts (the "Original ICA"), this adoption shall be an amendment and restatement of the operating terms and conditions of the Original ICA, and shall replace in their entirety the terms of the Original ICA. This adoption is not intended to be, nor shall it be construed to create, a novation or accord and satisfaction with respect to the Original ICA. Any outstanding payment obligations of the parties that were incurred but not fully performed under the Original ICA shall constitute payment obligations of the parties under this adoption.
- F. Verizon's standard pricing schedule for interconnection agreements in the Commonwealth of Massachusetts (as such schedule may be amended from time to time) (attached as Appendix A hereto) shall apply to SBCS' adoption of the Terms. SBCS should note that the aforementioned pricing schedule may contain rates for certain services the terms for

which are not included in the Terms or that are otherwise not part of this adoption, and may include phrases or wording not identical to those utilized in the Terms. In an effort to expedite the adoption process, Verizon has not deleted such rates from the pricing schedule or attempted to customize the wording in the pricing schedule to match the Terms. However, the inclusion of such rates in no way obligates Verizon to provide the subject services and in no way waives Verizon's rights, and the use of slightly different wording or phrasing in the pricing schedule does not alter the obligations and rights set forth in the Terms.

2. SBCS' adoption of the Hello Depot Terms shall become effective on October 7, 2004. Verizon shall file this adoption letter with the Commission promptly upon receipt of an original of this letter countersigned by SBCS as to the points set out in paragraph one hereof. The term and termination provisions of the Hello Depot/Verizon agreement shall govern SBCS' adoption of the Terms. The adoption of the Terms is currently scheduled to expire on May 3, 2006.
3. As the Terms are being adopted by you pursuant to your statutory rights under section 252(i), Verizon does not provide the Terms to you as either a voluntary or negotiated agreement. The filing and performance by Verizon of the Terms does not in any way constitute a waiver by Verizon of any position as to the Terms or a portion thereof, nor does it constitute a waiver by Verizon of all rights and remedies it may have to seek review of the Terms, or to seek review in any way of any provisions included in these Terms as a result of SBCS' 252(i) election.
4. Nothing herein shall be construed as or is intended to be a concession or admission by Verizon that any provision in the Terms complies with the rights and duties imposed by the Act, the decisions of the FCC and the Commission, the decisions of the courts, or other law, and Verizon expressly reserves its full right to assert and pursue claims arising from or related to the Terms.
5. Verizon reserves the right to deny SBCS' adoption and/or application of the Terms, in whole or in part, at any time:
  - A. when the costs of providing the Terms to SBCS are greater than the costs of providing them to Hello Depot;
  - B. if the provision of the Terms to SBCS is not technically feasible; and/or
  - C. to the extent that Verizon otherwise is not required to make the Terms available to SBCS under applicable law.

6. For avoidance of doubt, please note that adoption of the Terms will not result in reciprocal compensation payments for Internet traffic. Verizon has always taken the position that reciprocal compensation was not due to be paid for Internet traffic under section 251(b)(5) of the Act. Verizon's position that reciprocal compensation is not to be paid for Internet traffic was confirmed by the FCC in the Order on Remand and Report and Order adopted on April 18, 2001 ("*FCC Internet Order*"), which held that Internet traffic constitutes "information access" outside the scope of the reciprocal compensation obligations set forth in section 251(b)(5) of the Act.<sup>1</sup> Accordingly, any compensation to be paid for Internet traffic will be handled pursuant to the terms of the *FCC Internet Order*, not pursuant to adoption of the Terms.<sup>2</sup> Moreover, in light of the *FCC Internet Order*, even if the Terms include provisions invoking an intercarrier compensation mechanism for Internet traffic, any reasonable amount of time permitted for adopting such provisions has expired under the FCC's rules implementing section 252(i) of the Act.<sup>3</sup> In fact, the *FCC Internet Order* made clear that carriers may not adopt provisions of an existing interconnection agreement to the extent that such provisions provide compensation for Internet traffic.<sup>4</sup>
7. Should SBCS attempt to apply the Terms in a manner that conflicts with paragraphs 3-6 above, Verizon reserves its rights to seek appropriate legal and/or equitable relief.
8. In the event that a voluntary or involuntary petition has been or is in the future filed against SBCS under bankruptcy or insolvency laws, or any law relating to the relief of debtors, readjustment of indebtedness, debtor reorganization or composition or extension of debt (any such proceeding, an "Insolvency Proceeding"), then: (i) all rights of Verizon under such laws, including, without limitation, all rights of Verizon under 11 U.S.C. § 366, shall be preserved, and SBCS' adoption of the Verizon Terms shall in no way impair such rights of Verizon; and (ii) all rights of SBCS resulting from SBCS' adoption of the Verizon terms shall be subject to and modified by any Stipulations and Orders entered in the Insolvency Proceeding, including, without limitation, any Stipulation or Order providing adequate assurance of payment to Verizon pursuant to 11 U.S.C. § 366.

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<sup>1</sup> Order on Remand and Report and Order, In the Matters of: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68 (rel. April 27, 2001) ("*FCC Remand Order*") ¶44, remanded, *WorldCom, Inc. v. FCC*, No. 01-1218 (D.C. Cir. May 3, 2002). Although the D.C. Circuit remanded the *FCC Remand Order* to permit the FCC to clarify its reasoning, it left the order in place as governing federal law. See *WorldCom, Inc. v. FCC*, No. 01-1218, slip op. at 5 (D.C. Cir. May 3, 2002).

<sup>2</sup> For your convenience, an industry letter distributed by Verizon explaining its plans to implement the *FCC Internet Order* can be viewed at Verizon's Customer Support Website at URL [www.verizon.com/wise](http://www.verizon.com/wise) (select Verizon East Customer Support, Business Resources, Customer Documentation, Resources, Industry Letters, CLEC, May 21, 2001 Order on Remand).

<sup>3</sup> See, e.g., 47 C.F.R. Section 51.809(c).

<sup>4</sup> *FCC Internet Order* ¶ 82.

## SIGNATURE PAGE

Please arrange for a duly authorized representative of SBCS to sign this letter in the space provided below and return it to Verizon.

Sincerely,

VERIZON NEW ENGLAND INC.,  
D/B/A VERIZON MASSACHUSETTS

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John C. Peterson, Director  
Contract Performance and Administration

Reviewed and agreed as to points A, B, C, D, E and F of paragraph 1. SBCS does not necessarily agree with Verizon's positions in their entirety as stated in paragraphs 2 through 8 above. SBCS asserts that to the extent paragraphs 2 through 8 are not contained in the agreement SBCS is adopting via its statutory rights under section 252(i), those paragraphs may reflect the Verizon position, but are not binding on SBCS:

SOUTHWESTERN BELL COMMUNICATIONS, INC.  
D/B/A SBC LONG DISTANCE

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David Hammock  
RVP-Carrier/Supplier Management

c: M. Miller – Verizon