JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
1	Should the Amendment include rates, terms, and conditions that do not arise from federal unbundling regulations pursuant to 47 U.S.C. sections 251 and 252, including issues asserted to arise under state law?	No. The purpose of this arbitration is to implement changes in unbundling obligations under Section 251 of the 1996 Act and the FCC's implementing rules (including currently effective rulings in the 16-month old *Triennial Review Order),* and that is what Verizon's Amendment does. Verizon does not have any obligation to provide unbundled access to network elements in the absence of lawful unbundling rules adopted by the *FCC* under section 251 of the 1996 Act. Any attempt to impose obligations to unbundle elements the FCC has "delisted" is inconsistent with the Act and preempted. *See, e.g., Triennial Review Order*, 18 FCC Rcd at 17096, 17101, ¶¶ 187, 195. Moreover, Section 251(c)(1) limits the duty to negotiate to the "duties described in [§ 251(b)(1)-(5) and § 251(c)]." An incumbent LEC need not negotiate with respect to *other* duties, such as the duties imposed by § 271 or elsewhere, as the Fifth Circuit has confirmed. *Coserv Ltd. Liab. Corp. v. Southwestern Bell Tel.*	**AT&T/CCG/RNK: Yes. (See AT&T proposed Amendment §§1.1 and 1.2).** Section 251(e)(3) of the Act provides that nothing shall prohibit states from establishing or enforcing other requirements of state law in ICAs. Additionally, network elements provided pursuant to state law are intrastate telecommunications services subject to the jurisdiction of this Commission; thus, the Commission has the discretion to include the terms and conditions of these UNEs in the ICA. Because this Commission is authorized to regulate UNEs within the guidelines set forth by the FCC**,** the Commission clearly has the authority to determine the manner by which such UNEs should be declassified and/or continue to be provided. Also, this is the first time that UNEs are being declassified, and this transition period is an extremely important time in the development of competition that should be scrutinized by the Commission to ensure that CLECs do not lose the competitive benefits gained over the past several years. The best way to monitor the

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
		Co., 350 F.3d 482, 487 (5th Cir. 2003) (emphasis in original). Thus, if an incumbent LEC declines to negotiate with respect to items that need not be unbundled pursuant to Section 251, state commissions may not arbitrate the issue. Finally, the FCC has sole jurisdiction to determine and enforce Verizon's obligations under Section 271, so such matters are not subject to negotiation or arbitration under the Act.	provision of these Declassified UNEs is to treat them on par with all other ICA matters and not to immediately flash-cut them out of the ICA. **Conversent:** Conversent concurs generally with AT&T's position throughout this statement of issues. In addition, Conversent sets forth additional comments with respect to certain specific issues, as set forth here and below. With respect to Issue No. 1, Conversent refers to **Amdmt. 1, § 2.1 and throughout; Amdmt. 2, § 2.1 and throughout.** For years, Verizon's interconnection agreements have required Verizon to provide interconnection and access in accordance with "Applicable Law." The definition of "Applicable Law" that has existed in Verizon's interconnection agreements for years is broad enough to encompass the potential exercise of state or § 271 unbundling authority. Nothing in the TRO suggests that the definition of "Applicable Law" in the underlying interconnection agreement shall be changed. The definition has created no problems in the past and should be retained. **WilTel:** WilTel adopts AT&T's

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
			position on Issue 1. **MCI:** Yes. Section 251(e)(3) of the Act provides that nothing shall prohibit states from establishing or enforcing other requirements of state law in ICAs. Additionally, network elements provided pursuant to state law are intrastate telecommunications services subject to the jurisdiction of this Department; thus, the Department has the discretion to include the terms and conditions of these UNEs in the ICA. **CCC**: Yes. *See, e.g.*, CCC's proposed Amendment TRO Attachment (hereinafter, "CCC §") at §§ 1.3.2, 1.4.3, 1.4.4, 1.5.4, 1.5.4 1.7.1.1, 2.1.2.8, 2.1, 3.1. Verizon has confused this proceeding with an arbitration to implement a new interconnection agreement. This proceeding actually arises from Verizon's invocation of the change of law provisions of the existing Agreement in order to seek implementation of the changes of law that occurred as a result of *TRO*, which became effective on October 2, 2003. In such a proceeding, a party can only obtain arbitration of a disputed issue directly related to the

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
			implementation of those laws that have changed. Verizon's proposal ignores this limitation, and instead proposes to eliminate any existing or future non-§251 obligation that Verizon deems inconsistent with §251. Nothing in the *TRO* changed the across-the-board legality of these other obligations. Therefore, Verizon cannot seek arbitration of such a restriction in this proceeding. But, even if it could, Verizon's proposal is unreasonable and unlawful because it directly conflicts with the numerous savings clauses of the Act that preserve independent state authority. Therefore, regardless of whether it is necessary to recognize the applicability or possibility of state law or other non-§251 requirements, Verizon's unnecessary proposal to amend the Agreement to disavow such obligations is unreasonable and inappropriate. The Amended Agreement should not alter Verizon's obligation to provide unbundled network elements or interconnection facilities that are required by any other provisions of Applicable Law, such as § 271 of the Telecom Act or terms and conditions related to UNEs established by state commissions pursuant to state or federal law.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
			CTC: Yes. CTC Concurs with CCC.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
2	What terms and conditions and/or rates regarding implementing changes in unbundling obligations or changes of law should be included in the Amendment to the parties' interconnection agreements?	Verizon is only obligated to provide unbundled access to network elements to the extent required by 47 U.S.C. § 251, 47 CFR Part 51. Except where the FCC prescribes different terms, Verizon should be able to discontinue providing delisted elements at TELRIC rates after 90 days' notice. Amendment 1, § 3.1. If, after the 90-day notice, a CLEC has not arranged to replace the Discontinued Facility (*e.g.*, though tariffed access service, resale, or commercial agreement) or to request disconnection, then Verizon may reprice the facilities at a rate equivalent to access, resale, or other analogous arrangement. Id., § 3.2.	**AT&T/CCG/RNK: (proposed Amendment, §3.9, Exhibit A)** The parties should negotiate (and arbitrate as necessary) any proposed changes to Verizon's unbundling obligations before Verizon may cease providing unbundled access to any UNE that was eliminated by the *TRO* (or that may be eliminated by a future ruling). Verizon may not unilaterally change the terms or obligations under its existing ICAs. Under AT&T's proposed Amendment, Verizon may provide AT&T with sufficient notice of its intent to discontinue providing a specific UNE that was declassified in the *TRO*. Upon receipt of adequate notice, AT&T must, within 120 days request disconnection or an alternative service arrangement It is not appropriate for this Amendment to address the hypothetical declassification of UNEs outside of the TRO, Interim Rules or Permanent Rules orders. **Sprint:** All functions being performed under the master ICA should be included in the Amendment consistent with the new FCC TRO Order. The Amendment should cover implementation of these changes

			consistent with the Federal Unbundling Rules/new FCC TRO Order. The Parties should be allowed to negotiate the changes. **WilTel:** WilTel adopts AT&T's position on Issue 2. Further, WilTel believes that the parties should mutually identify and implement legal obligations or the lack thereof under the Agreement (e.g. identifying a UNE no longer subject to unbundling obligations) through a written process established in the amendment consisting generally of notice requirements, negotiation (including resort to dispute resolution if necessary), and eventual amendment modifying any resulting inconsistent language in the Agreement. Change of law events related to unbundling obligations should be treated no differently from other change of law events, and Verizon has failed to present any compelling reason or justification for handling changes in law related to unbundling obligations any differently. A reasonable process for handling changes in law is beneficial to both parties, and negotiation is an essential element in defining the extent of the parties rights and obligations and then translating those into contract language.

			MCI: MCI has provided Verizon a red-lined markup of its proposed Amendment No. 1. ("MCI Redline") The parties should negotiate (and arbitrate as necessary) any proposed changes toVerizon's unbundling obligations before Verizon may cease providing unbundled access to any UNE that was eliminated by the *TRO* or the *TRRO*. Verizon may not unilaterally change the terms or obligations under its existing ICAs. **CCC**: As discussed under Issue 1, this proceeding is necessarily limited to implementation of the changes of law that occurred as a result of *TRO*, which became effective on October 2, 2003. Verizon instead proposes to amend the change of law provisions of the Agreements, even though there has been no change of law with respect to the terms on which carriers are to implement changes of law. The change of law provisions of the agreements should not be amended. The *TRO* and any future changes of law that occur while the parties are subject to their current Agreements should be implemented in accordance with the existing change of law terms that the Department approved when it adopted the current Agreements. Under these existing change of law

			provisions, the parties should negotiate (and arbitrate as necessary) any proposed changes to Verizon's unbundling obligations before Verizon may cease providing unbundled access to any UNE that was eliminated by the *TRO* (or that may be eliminated by a future ruling). When changes of law require that ICAs be amended, Verizon must comply with the change of law provisions in the ICAs. Verizon is apparently dissatisfied with these obligations established by the existing Agreements, and seeks to change the change of law process so that it may unilaterally incorporate changes in law into ICAs based on its one-sided interpretation of such changes. Even if Verizon were permitted to pursue an amendment to the change of law terms in this proceeding (which it is not, as explained above), Verizon's proposal should be rejected as unreasonable because it vests the authority to interpret applicable law with Verizon, rather than with state commissions as Congress intended. The current change of law provisions are appropriate because they allow parties to resolve any disputes over the interpretation of new regulations, either by negotiation or by submitting their disputes to the Department.

			CTC: Concurs with CCC.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
3	What obligations, if any, with respect to unbundled access to local circuit switching, including mass market and enterprise switching (including Four-Line Carve-Out switching), and tandem switching, should be included in the Amendment to the parties' interconnection agreements?	Verizon's Amendments tie its unbundling obligations to federal law. See Amendment 1, §§ 2 & 3; Amendment 2, § 3. The FCC has eliminated local circuit switching as a UNE, so the Amendment would not impose unbundling obligations with respect to switching. Verizon will, of course, comply with the FCC's mandatory transition plan imposed in the *Triennial Review Remand Order*.	**AT&T/CCG/RNK:** In light of the FCC's issuance of the Triennial Review Remand order on Friday, February 4, 2005, AT&T will propose language addressing this issue in the near future. The Commission should permit the parties to negotiate this issue now that the FCC has issued its Triennial Review Remand Order and then provide a revised issues matrix reflecting what issues, if any remain open. In no event should Verizon be permitted to unilaterally determine how the rules will be applied. **Sprint:** The terms & conditions should be consistent with the Federal Unbundling Rules/new FCC TRO Order. Local switching should remain available as an UNE until March 11, 2005 under current ICA or later if new FCC TRO Order so provides. **MCI:** See MCI Redline, §8. In light of the FCC's issuance of the *Triennial Review Remand Order* on February 4, 2005, MCI may propose additional language addressing this issue in the near future. **CCC**: The CCC proposal recognizes

			at §1.1.1 the elimination of Verizon's obligation to provided unbundled local switching in combination with loops of DS1 or greater capacity, and at § 1.1.3 the elimination of Verizon's obligation to provide unbundled access to Call-Related Databases, SS7 Signaling and Shared Transport other than in connection with CLEC's use of unbundled Local Switching purchased from Verizon. In addition, CCC's proposal also recognizes Verizon's obligation to provide local switching should be technology neutral. *See* CCC § 1.1.2. These are the only changes in the FCC's regulations with respect to unbundled switching that can be derived from the portions of the *TRO* that remain in effect. Any changes to Verizon's obligation to provide local switching in combination with loops of a capacity of less than a DS1 will be derived not from the TRO but (presumably) from the *Triennial Review Remand Order (TRRO)*, issued February 4, 2005, which has not yet taken effect. It would be inappropriate for the Department to arbitrate terms to implement the *TRRO* until the parties have engaged in negotiations for the period required by their Agreements

			and Section 252. The members of the CCC are ready and willing to engage in such negotiations with Verizon, but have not yet been able to do so because the *TRRO* was only issued a few days ago. This phase of the arbitration should be limited to establishing an Amendment that implements only those portions of the *TRO* that were upheld. If the Department proceeds to arbitrate disputes arising from changes of law that may have occurred as a result of FCC orders other than the August 2003 *TRO*, the CCC reserves the right to submit additional contract terms, issues, and statements of position. It should be noted that the terms "mass market" and "enterprise" no longer have any relevant application to the switching analysis, since the *TRO* only results in a change for DS1 (and higher capacity) loops, while the *TRRO* will treat all sub-DS1 loops without any distinction between mass market and enterprise services.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
4	What obligations, if any, with respect to unbundled access to DS1 loops, DS3 loops, and dark fiber loops should be included in the Amendment to the parties' interconnection agreements?	Verizon's Amendment ties its unbundling obligations to federal law, so it would require Verizon to continue providing these loops under the amended agreement to the extent the FCC's Rules require Verizon to do so. *See* Amendment 1, §§ 2, 3, 4.7.3. Verizon will, of course, comply with the transition plan established in the *Triennial Review Remand Order*.	**AT&T/CCG/RNK:** See response to Issue 3. **Conversent:** The Remand Order has established that Verizon must unbundle DS1 and DS3 loops everywhere except in a limited number of wire centers that satisfy certain bright-line criteria. 47 C.F.R. § 51.319(a)(4)-(5); *Remand Order* ¶ 5. The Department should require Verizon to list the wire centers that it believes satisfy the FCC's criteria and, after review and verification by the Department and CLECs, incorporate the list into its interconnection agreements and Tariff No. 17. **Sprint:** The terms & conditions should be consistent with the Federal Unbundling Rules/new FCC TRO Order. High capacity loops should remain available as an UNE at least until March 11, 2005 under current ICA or later if new FCC Order so provides. **WilTel:** WilTel adopts AT&T's position on Issue 4. However, WilTel urges the Commission to nonetheless move forward with resolution of the other issues in this proceeding that

			have not been impacted by the *Triennial Review Remand Order* in order to avoid further delay in obtaining resolution on such issues (particularly Issue 2 pertaining to change of law obligations). **MCI:** See response to Issue 3. **CCC**: See response to Issue 3. Nothing in the effective portions of the *TRO* alters Verizon's obligation to unbundle these facilities. Therefore, this issue cannot be addressed in this arbitration proceeding at this time.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
5	What obligations, if any, with respect to unbundled access to dedicated transport, including dark fiber transport, should be included in the Amendment to the parties' interconnection agreements?	Verizon's Amendment ties its unbundling obligations to federal law, so it would require Verizon to continue providing unbundled access to dedicated transport under the amended agreement to the extent the FCC's Rules require Verizon to do so. *See* Amendment 1, §§ 2, 3, 4.7.3. Verizon will, of course, comply with the transition plan the FCC established in the *Triennial Review Remand Order*.	**AT&T/CCG/RNK:** See response to Issue 3. Yes, Verizon must continue to provide §251(c)(2) interconnection facilities at TELRIC rates. (AT&T proposed Amendment §§3.5, 3.6). **Conversent:** The Remand Order has established that Verizon must unbundle DS1, DS3, and dark fiber dedicated transport on all routes except a limited number of routes between wire centers that satisfy certain bright-line criteria. 47 C.F.R. § 51.319(e); *Remand Order* ¶ 5. The Department should require Verizon to list the wire centers that it believes satisfy the FCC's criteria and, after review and verification by the Department and CLECs, incorporate the list into its interconnection agreements and Tariff No. 17. **Sprint:** The terms & conditions should be consistent with the Federal Unbundling Rules/new FCC TRO Order. Interim facilities should remain available as a UNE at least until March 13, 2005 under current ICA or later if new FCC Order so provides.

			WilTel: See WilTel's response to Issue 4. **MCI:** See response to Issue 3. **CCC**: See response to Issue 3. Nothing in the effective portions of the *TRO* alters Verizon's obligation to unbundle these facilities. Therefore, this issue cannot be addressed in this arbitration proceeding at this time. CCC concurs with AT&T that Verizon must continue to provide §251(c)(2) interconnection facilities at TELRIC rates. *See* CCC § 1.8.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
6	Under what conditions, if any, is Verizon permitted to re-price existing arrangements which are no longer subject to unbundling under federal law?	Verizon may discontinue providing any UNE that it has no obligation to provide under section 251 and the FCC's implementing rules. Where the CLEC has not requested disconnection or arranged for a UNE replacement arrangement, Verizon will reprice the service at the tariff, resale, or other analogous arrangement instead of disconnecting the service. Amendment 1, § 3.2. Verizon will, of course, comply with the mandatory transition plan the FCC established in the *Triennial Review Remand Order*, including the rate increase provisions.	**AT&T/CCG/RNK**: (proposed Amendment **§§3.1.2, 3.1.8-3.1.13).** The rates currently prescribed in the ICA will remain in effect for any UNEs de-listed by the FCC at least until the effective date of the FCC order terminating that facility as a UNE. Verizon can only re-price those delisted UNEs in accordance with the terms of the FCC Order. Any rate increases and new charges that Verizon may attempt to impose as a result of the FCC Order should not be retroactive, and Verizon should not be able to impose any termination or non-recurring charges. **Sprint:** Verizon can only re-price those de-listed UNEs pursuant to the requirements of the new FCC TRO Order. **WilTel:** See WilTel's response to Issue 2. **CCC**: Verizon's obligations under the Agreement remain in effect until modified in accordance with the change of law provisions of the Agreement. Verizon's proposal to modify the change of law terms is unreasonable and inappropriate for this proceeding. *See* response to Issue

			2. As to the UNEs that the *TRO* determined were no longer required under § 251, CCC's proposed Amendment would allow Verizon immediately to discontinue its provision of these facilities at § 251 rates, except for certain provisions related to grandfathered line sharing. *But see* Issue 32. Subject to those conditions, Verizon must allow a CLEC to convert discontinued elements to tariffed services, if such services exist, at tariffed rates. **CTC**: Concurs with CCC.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
7	Should Verizon be permitted to provide notice of discontinuance in advance of the effective date of removal of unbundling requirements? Should the Amendment state that Verizon's obligations to provide notification of discontinuance have been satisfied?	Yes. Once Verizon has no legal obligation to provide a UNE, Verizon has the right to discontinue it. Therefore, Verizon's proposed Amendment recognizes that before the Amendment took effect, Verizon already provided written notices to the CLECs identifying arrangements that would replace certain Discontinued Facilities (if the CLEC does not make alternative arrangements), so Verizon may implement those arrangements without further notice. Amendment 1, § 3.1. Verizon has, in fact, previously issued such notices to CLECs (*e.g.*, notices of discontinuance of Four-Line Carve-Out Switching and DS1 Enterprise Switching).	**AT&T/CCG/RNK:** No. See response to Issue 2. **Sprint:** Notice and implementation timeframes should be consistent with the requirements of the Federal Unbundling Rules/ new FCC TRO Order. If timeframes aren't established, 120 days notice should be provided in advance of discontinuance. **WilTel:** See WilTel's response to Issue 2. **MCI**: No. **CCC**: No. See response to Issue 2. **CTC**: Concurs with CCC.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
8	Should Verizon be permitted to assess non-recurring charges when it changes a UNE arrangement to an alternative service? If so, what charges apply?	Verizon is entitled to recover any costs it incurs in changing a UNE arrangement to an alternative service. Although the cost of disconnecting UNE services are sometimes recovered as part of the up-front installation charges, these costs are sometimes recovered at the time of disconnection. Also, "alternative services" could include any number of commercial or tariffed services for which one-time charges legitimately apply.	**AT&T/CCG/RNK:** No. This is not a situation in which AT&T has imposed any non-recurring costs on Verizon. If anything, this is a situation in which Verizon is the cost-causer. Indeed, the disconnection of a UNE arrangement utilized by AT&T that occurs as a result of the elimination of Verizon's obligation to provide that arrangement as a UNE is an activity that Verizon has initiated. It is certainly not AT&T's decision to disconnect the UNE. To the contrary, AT&T would still utilize the UNE arrangement if Verizon agreed to make it available. As a result, in the unlikely event that there is even any cost incurred at all – or one that has not already been recovered through the non-recurring charges that Verizon assessed when AT&T first ordered the UNE -- it should be borne by the cost causer. In this case, that is Verizon. As noted, it is also unlikely that Verizon would incur any costs in this situation. For example, in the case in which Verizon is switching the CLEC's UNE-P customers over to an "alternative" resale arrangements, there is no technical work involved – the same loop, transport and switching facilities that were being used to

			provide UNE-P also would be used in this alternative arrangement. At most, the only "work" would simply involve a billing change. As the FCC found with respect to EELs conversions, "Converting between wholesale services and UNEs (or UNE combinations) is largely a billing function." *TRO*, ¶588. **Conversent:** Under no circumstances should Verizon impose a non-recurring charge for migrating a customer from a DS1, DS3, or dark fiber dedicated transport to a special access arrangement that uses the same circuit. **Sprint:** Yes, to the extent Verizon has any actual and necessary charges that are justified. Other changes that would require actual physical rearrangement work should be charged according to the Verizon tariff. **WilTel:** WilTel adopts AT&T's position on Issue 8. **MCI**: No. **CCC**: No. CCC concurs with AT&T's position on this Issue. **CTC**: No. CTC concurs with AT&T.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
9	What terms should be included in the Amendment's Definitions Section and how should those terms be defined?	The Commission should approve Verizon's proposed definitions, which comport with Section 251(c)(3) of the Act and the FCC's implementing rules. See Amendment 1, § 4.7; Amendment 2, § 4.7. The CLECs' proposed definitions often paraphrase the FCC's rules in a manner that unfairly favors the CLEC, or have not been updated to reflect FCC rule changes such as the FCC's August 9, 2004 ruling regarding fiber to the premises in MDU situations, or the FCC's October 18, 2004 fiber-to-the-curb ruling.	**AT&T/CCG/RNK:** The Commission should adopt the definitions proposed by AT&T in that they comport fully with the *TRO* and that are more complete and comprehensive than those proposed by Verizon. For example, the definition of FTTH loops proposed by AT&T reflects that those facilities do not include intermediate fiber in the loop architectures such as, fiber-to-the building or fiber-to-the node. AT&T's amendment makes clear that those types of loop architectures are properly defined as "hybrid loops." (§ 2.14 (FTTH loop) and § 2.16 (Hybrid loop)). Similarly, AT&T has crafted its definitions of dedicated transport and dark fiber transport (at §§ 2.6, 2.7) based on the plain language of the *TRO*. AT&T's amendment in Section 2.11 also includes the proper definition for Inside Wire Subloop (§ 2.17). AT&T's amendment also sets out a list of facilities or classes of facilities for which the TRO has made a general finding of non-impairment. This list is set forth in the amendment's definition of "Declassified Network Elements" at Section 2.6. AT&T also proposes definitions for

			"Line Conditioning" (Section 2.18) and "Line Splitting" (Section 2.20), two topics ignored by Verizon. Finally, AT&T proposes additional language to sharpen the definitions of "Subloop for Multiunit Premises Access" (Section 2.29)and "Loop Distribution" (Section 2.22). **Conversent: Amdmt. 1 § 4.7; Amdmt. 2, § 4.7.** Amplifying AT&T's comments above, the Department should not permit Verizon inappropriately to limit its unbundling obligations by crafting definitions that depart from FCC requirements. **Sprint:** *The definitions in both Amendments should be consistent and defined pursuant to the new FCC TRO Order. The Discontinued Facilities definition should be specifically defined in accordance with the Federal Unbundling Rules/new FCC TRO Order. *Federal Unbundling Rules definition should be defined to clarify changes in law and updated regulations and included in both Amendments. **WilTel:** WilTel adopts AT&T's position on Issue 9. And for purposes of clarification, any definition related to "Declassified Facilities" (or

			"Discontinued Facilities" in the case of Verizon's definition) must be subject to Issue 2 in that they should not be deemed "Discontinued" or "Declassified" until determined to be such through the change of law procedures. **MCI:** See MCI Redline, §9.7. **CCC**: *See* CCC § 5. The Commission should approve CCC's proposed definitions because they comport with the definitions established by the FCC in the *TRO*. Verizon's proposed definitions often paraphrase the FCC's rules in a manner that unfairly prejudices the CLECs and include terms that are not relevant to this Amendment. The Amendment need only include definitions of terms needed to implement the Amendment, which are Call-Related Databases (CCC § 5.1), Commingling (CCC § 5.2), Conversion (CCC § 5.3), Enterprise Customer (CCC § 5.4), Feeder (CCC § 5.5), FTTH loops (CCC § 5.6), House and Riser Cable ((CCC § 5.7), Hybrid Loop (CCC § 5.8), Line Sharing (CCC § 5.9), Line Splitting (CCC § 5.10), Local Switching (CCC § 5.11), Mass Market Customer (CCC § 5.12), Section 271 Network

			Elements (CCC § 5.13), Shared Transport (CCC § 5.14), Subloop for Multiunit Premises Access ((CCC § 5.15), Subloop Distribution Facility (CCC § 5.16), and Tandem Switching (CCC § 5.17). Given the limitations on this proceeding explained elsewhere in this Issues List, the Amendment need not define Dedicated Transport, Discontinued Facility, Entrance Facility, Federal Unbundling Rules, FTTP and FTTC Loops, and Mass Market Switching as proposed by Verizon. Of particular significance, Mass Market customer should be defined as an end user customer who is either (a) a residential customer or (b) a business customer whose premises are served by telecommunications facilities with an aggregate transmission capacity (regardless of the technology used) of less than four DS-0s. **CTC**: The Department should adopt CTC's proposed definitions.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
10	Should Verizon be required to follow the change of law and/or dispute resolution provisions in existing interconnection agreements if it seeks to discontinue the provisioning of UNEs under federal law? Should the establishment of UNE rates, terms and conditions for new UNEs, UNE combinations or commingling be subject to the change of law provisions of the parties' interconnection agreements?	All carriers must comply with the mandatory transition plan and the amendment process the FCC prescribed for discontinuation of UNEs in its *Triennial Review Remand Order* (see Verizon's position on Issue 11). Otherwise, discontinuation of UNEs should be governed by Verizon's Amendment, which provides for discontinuation upon 90 days' notice (*see* Verizon's position on Issue 4). The FCC has not established any "new UNEs," but if it does so in the future, they should be priced in accordance with Verizon's Amendment, which calls for tariffing or amendment of the contract. Amendment 1, § 2.3; Amendment 2, § 2.3.	**AT&T/CCG/RNK: Yes.** See response to Issue 2. **Sprint:** Yes, change of law & dispute resolution should be carried out under the existing interconnection agreement. **WilTel:** See WilTel's response to Issue 2. Additionally, for any "new UNEs" that may be established in the future, the rates, terms and conditions that should apply should be governed by an amendment to the agreement. Until such amendment is mutually agreed, then the requirements set forth in the new rules/regulations establishing such obligation should apply over any Verizon tariff. Only then, if more specifically addressed, should the terms of a Verizon tariff apply. **MCI**: Yes. **CCC**: Yes. *See* response to Issue 2. **CTC**: Concurs with CCC.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
11	How should rate increases and new charges established by the FCC in its final unbundling rules or elsewhere be implemented?	In its final rules, the FCC did, in fact, establish rate increases for items no longer subject to unbundling under its final rules, and those rate increases must be implemented in accordance with the FCC's mandatory transition plan.	**AT&T/CCG/RNK:** See responses to Issues 2 and 6. **Sprint:** Rate increases and new charges should be implemented in accordance with the new FCC TRO Order. Otherwise such increases and new charges should be handled through a Commission rate proceeding. **WilTel:** See WilTel's response to Issue 2. **MCI:** See response to Issue 10. **CCC**: In accordance with the change of law terms of the existing Agreements, any changes that result directly from the effective portions of the *TRO* should be implemented by the parties' proposed Amendments. Changes in law resulting from the *TRRO*, or other changes desired by a party, should not be part of this proceeding at this time. *See* response to Issue 3.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
12	How should the interconnection agreements be amended to address changes arising from the TRO with respect to commingling of UNEs or Combinations with wholesale services, EELs, and other combinations? Should Verizon be obligated to allow a CLEC to commingle and combine UNEs and Combinations with services that the CLEC obtains wholesale from Verizon?	In the *Triennial Review Order*, the FCC eliminated its previous restriction on commingling. 18 FCC Rcd at 17342-43, ¶ 579. It modified its rules "to affirmatively permit requesting carriers to commingle UNEs and combinations of UNEs with services (*e.g.*, switched and special access services offered pursuant to tariff), and to require incumbent LECs to perform the necessary functions to effectuate such commingling upon request." *Id.* The FCC did not, however, require ILECs to engage in "ratcheting," *i.e.*, creating a new pricing mechanism that would charge CLECs a single, blended rate for the commingled facilities. *Id.* at 17343, 17345-46, ¶¶ 580, 582. Consistent with the FCC's ruling, Verizon's language provides that Verizon (1) will not prohibit commingling (to the extent it is required under Section 251(c)(3) and the FCC's rules to permit commingling), and (2) will perform the functions necessary to allow CLECs to commingle any UNE or combination of UNEs with wholesale services that are	**AT&T/CCG/RNK: (proposed Amendment §3.7)** Yes. The *TRO* eliminated certain restrictions that the FCC previously had placed on the ability of competitive to "commingle" or combine "loops or loop-transport combinations with tariffed special access services." The FCC modified those rules to "affirmatively permit requesting carriers to commingle UNEs and combinations of UNEs with services (e.g. switched and special access services offered pursuant to tariff), and to require incumbent LECs to perform the necessary functions to effectuate such commingling upon request." *TRO*, ¶ 579. Thus, Verizon is now required to permit CLECs like AT&T to commingle UNEs or UNE combinations it obtains from Verizon with other wholesale facilities. According to the *TRO*, Verizon must permit commingling and conversion *upon the TRO's effective date* so long as the requesting carrier certifies that it has met certain eligibility criteria. *Id.*, ¶ 589; Rule 51.318. In light of this new rule, AT&T's proposed amendment makes clear that (1) as of October 2, 2003, Verizon is required to provide commingling and

		obtained under a Verizon access tariff or a separate non-§ 251 agreement with Verizon (again, to the extent Verizon is required under federal law to do so). *See* Amendment 2, § 3.4.	conversions unencumbered by additional processes or requirements (e.g., requests for unessential information) not specified in TRO (*Id.*, ¶ 586, 588, 623-624.); (2) AT&T is required to self-certify its compliance with any applicable eligibility criteria for high capacity EELs (and may do so by written or electronic request) and to permit an annual audit by Verizon to confirm its compliance (*Id.*, ¶¶ 623-624.); (3) Verizon's performance in connection with commingled facilities must be subject to standard provisioning intervals and performance measures (*Id.*, ¶ 586; Rule 51.316(b)); and (4) there will be no charges for conversion from wholesale to UNEs or UNE combinations (*Id.*, ¶ 587; Rule 51.316 (c)). In contrast, The manner in which Verizon is seeking to implement that change does not comply with the *TRO*, and in fact seeks to impose new and onerous obligations on the CLECs that will act to impede the competitor's ability to provide services through commingled facilities. In particular, Verizon contends that: (1) AT&T should be required to re-certify that it meets the *TRO*'s eligibility requirements for DS1 and DS1

			equivalent circuits on a circuit-by-circuit basis rather than through the use of a single written or electronic request; (2) Verizon's performance in connection with commingled facilities should not be subject to standard provisioning intervals and performance measures; and (3) it is entitled to apply a non-recurring charge for each circuit that AT&T requests to convert from a wholesale service to UNE or UNE combination, as well as other fees not contemplated by the *TRO* (for example, "retag fees"). Verizon also would require AT&T to reimburse Verizon for the entire cost of an audit where an auditor finds that AT&T failed to comply with the service eligibility criteria for any DS1 circuit. However, none of these contrived requirements finds any support in the *TRO*. **Sprint:** Commingling of UNEs and UNE combinations should be provided by Verizon to the extent required by the Federal Unbundling Rules/new FCC TRO Order. Also, wholesale services should include resale services. In addition, Verizon should continue to provide commingling for Interim Rules Facilities pursuant to the terms and conditions for Interim Rule

			Facilities that were in effect as of June 15, 2004. until March 11, 2005 or pursuant to the Federal Unbundling Rules/new FCC TRO Order. Sprint sugguested language: Section 3.4.1.1. "Verizon will not prohibit the commingling of an unbundled Network Element or a combination of unbundled Network Elements obtained under the Agreement or Amended Agreement pursuant to Federal Unbundling Rules, or under a Verizon UNE tariff ("Qualifying UNEs" as defined further in Section 3.4.1.2 below), with wholesale services obtained from Verizon under a Verizon access tariff, resold services, or separate non-251 agreement ("Qualifying 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 Federal Unbundling Rules. **WilTel:** WilTel adopts AT&T's position on Issue 12. Additionally, see WilTel position on Issue 2. (For example, Verizon should not be permitted to deny a conversion request

			based upon its unilateral determination that the particular element is no longer available as a UNE under law. The change of law processes must apply.) **MCI**: See MCI Redline, §4.1, 4.2, and 4.3. **CCC**: *See* CCC §§ 2.1, 5.2. The CCC generally concurs with AT&T's position on this Issue, but has proposed contract language that more directly implements the FCC's rules on these subjects. **CTC**: Concurs with CCC.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
13	Should the ICAs be amended to address changes or clarifications, if any, arising from the TRO with respect to: a) Line splitting; b) Newly built FTTP, FTTH or FTTC loops; c) Overbuilt FTTP, FTTH or FTTC loops; d) Access to hybrid loops for the provision of broadband services; e) Access to hybrid loops for the provision of narrowband services; f) Retirement of copper loops; g) Line conditioning; h) Packet switching; i) Network Interface Devices (NIDs); j) Line sharing? If so how?	No. Except for making clear that line sharing is no longer a UNE, there is no need to address item (a) or items (f) through (j). The purpose of Amendment 1 is to implement elimination of Verizon's unbundling obligations, where an amendment is necessary to effect such elimination. Moreover, the TRO did not change Verizon's obligations (or lack thereof) with regard to line splitting, line conditioning, packet switching, or network interface devices, and the underlying agreements already address these items, so there is no need to address them in the TRO Amendment. In addition, introduction of these issues will unduly and unnecessarily complicate this proceeding, because it would require consideration of extensive new language that has nothing to do with obligations imposed in the TRO. If the Commission were to determine that these or other non-TRO items should be addressed in the TRO Amendment, then Verizon must have an opportunity to propose such language,	**AT&T/CCG/RNK:** (a) -- Yes. At Section 3.3 of its proposed Amendment AT&T addresses the line splitting and line conditioning requirements of 47 C.F.R. 51.319(a)(1)(ii). Verizon's proposed amendments have no comparable provisions. AT&T's Amendment includes procedures consistent with the rule that requires Verizon to use a splitter collocated at the central office to enable AT&T to engage in line splitting and to condition a copper loop at no cost to AT&T where AT&T seeks access in order to ensure that the copper loop is suitable for providing digital subscriber line services. In addition, AT&T's Amendment sets out a procedure for Verizon's maintenance, repair and testing in connection with line splitting. (b)- Yes. While the *TRO* permits, under certain circumstances, the retirement of copper loops or subloops that have been replaced with fiber, except with respect to FTTH loops, it requires Verizon to follow certain network modification and disclosure requirements when retiring copper loops and subloops. AT&T's proposed Amendment (at Section 3.1)

		including applicable rates. (b) In the *Triennial Review Order*, the FCC held that "[i]ncumbent LECs do not have to offer unbundled access to newly deployed or 'greenfield' fiber loops. *Id.* at 17142, ¶ 273. Verizon's Amendment therefore provides that Verizon has no obligation to provide CLECs with UNE access to new FTTP loops. The FCC, in its orders issued August 9, 2004 (addressing FTTP in MDU situations) and October 18, 2004 (addressing fiber-to-the-curb) further clarified and limited Verizon's obligations as to FTTP loops, and Verizon's amendment has been updated to reflect these rulings. (c) As to "fiber loop overbuild situations" — that is, "where the incumbent LEC elects to retire existing copper loops" when it deploys fiber-to-the-home — the incumbent LEC must "offer unbundled access to those fiber loops . . . for narrowband services only." *TRO*, 18 FCC Rcd at 17142, ¶ 273. In accordance with the FCC's ruling, Verizon's Amendment 2	appropriately addresses these issues consistent with the treatment in the *TRO*. Verizon's proposed amendment inadequately addresses issues around retirement of copper loop. (c) **AT&T/CCG (proposed Amendment §3.2.2):** The parties' agreement should be amended to address changes arising from the TRO with respect to overbuilt FTTH or FTTC loops. AT&T acknowledges the limitations placed on access to FTTC/FTTH loops in the TRO. Verizon's proposed language is overbroad in that it would apply to more than just the mass market FTTC/FTTH customers bounded by the TRO and the FTTC Reconsideration Order. AT&T's proposed language appropriately implements the TRO requirements as to FTTC/FTTH loops. (d) AT&T (proposed Amendment §§3.2.3, 3.2.6, 3.2.7 and 3.2.8)): CLECs are entitled to access an entire unbundled loop, regardless of the telecommunications service that a carrier wishes to provide, and regardless of the underlying loop architecture Verizon uses to provide the loop functionality. Nothing in a

		provides that where Verizon has replaced a copper loop with FTTP and there are no other available copper or hybrid loops, Verizon will provide "non-discriminatory access on an un-bundled basis to a transmission path capable of carrying DS0 voice grade service from the main distribution frame (or its equivalent) in a Verizon wire center serving an end user to the demarcation point at the end user's customer premises." *Id*; Amendment 2, § 3.1. (d) In constructing modern loop systems, carriers often install "feeder plant" made of fiber. This fiber feeder carries traffic from the carrier's central office to a centralized location called a "remote terminal." From the remote terminal, traffic then travels over "distribution plant" (typically made of copper) to and from the actual customers. *Triennial Review Order*, 18 FCC Rcd at 17112, ¶ 216. The result is a "hybrid loop," *i.e.*, those "local loops consisting of both copper and fiber optic cable (and associated electronics, such as DLC systems)." *Id.* at 17149, ¶ 288 n.832.	NGDLC architecture changes the fact that the connection from the customer's premises to the central office is still a "loop." In addition, the electronics associated with the next-generation loop architecture should be considered part of the loop. Specifically, the line cards with DSLAM functionality and Optical Concentration Devices (OCDs) perform transmission-oriented functions when placed in next-generation loop architecture (*i.e.*, when transmission electronics are placed in the remote terminal that must work in conjunction with central office-deployed electronics). Moreover, even if physical, adjacent, and virtual collocation may be useful to some competitors in limited circumstances remote terminal collocation is not a practical mass-market solution and cannot provide a substitute for access to an entire loop. In addition to the many physical limitations that preclude physical collocation at the remote terminal, the economies and costs are clearly prohibitive for collocation at remote terminals that each serves only a few hundred customers, rather than the thousands reachable via central office collocation. Remote deployment of

		In the *Triennial Review Order*, the FCC "decline[d] to require incumbent LECs to unbundle the next-generation network, packetized capabilities of their hybrid loops to enable requesting carriers to provide broadband services to the mass market." *Id.* ¶ 288. Nor do ILECs have to provide "unbundled access to any electronics or other equipment used to transmit packetized information over hybrid loops, such as the xDSL-capable line cards installed in DLC systems or equipment used to provide passive optical networking (PON) capabilities to the mass market." *Id.* Verizon's language, therefore, makes clear that Verizon does not have to offer hybrid loops for purposes of packetized broadband services. Amendment 2, § 3.2. (e) Consistent with the FCC's access constraints for broadband services, the FCC limited unbundling obligations for narrowband services to the time division multiplexing ("TDM")-based features, functions, and capabilities of hybrid loops (that is, "features, functions, and	transmission-related electronics by competitive LECs is unlikely to occur in most areas. AT&T's proposed language is intended to ensure that Verizon is not able to impede AT&T's unbundled access to all of the TDM features and capabilities of Verizon's network assets under the guise of a network upgrade or by deeming loops 'sacred' by adding packet capabilities in a DLC that otherwise serves legacy, TDM loops. Therefore, pursuant to the FCC's definition, Verizon must provide access to subloops at any location where the loop switches from copper to fiber, regardless of whether such point is located at: (1) a remote terminal, (2) a feeder-distribution interface, (3) a neighborhood pole or pedestal, (4) a serving area interface ("SAI") point, (5) the minimum point of entry (for multiple dwelling units), (6) any other point expressly specified by the FCC, such as the Network Interface Device, or (7) any other technically feasible point. (e) See response to Issue (d). (f) Appropriate notice should be required. **CCG**: In the event that Verizon retires a copper loop or subloop, in

		capabilities of hybrid loops that are *not* used to transmit packetized information." *Id.* ¶ 289 (emphasis added). Incumbent LECs may elect to provide a homerun copper loop rather than a TDM-based narrowband pathway over their hybrid loop facilities if the ILEC has not removed such loop facilities. *Id.* at 17154, ¶ 296. In accordance with the *TRO*, Verizon's language states that it will provide either a "home-run copper loop" or a TDM pathway over a hybrid loop. Amendment 2, § 3.2.3. (f) No. Existing interconnection agreements already require Verizon to comply with the FCC's requirements regarding notice of network modifications. CLEC proposals on this issue inaccurately paraphrase the FCC rules or add conditions not required by the FCC.	accordance with the *TRO*, all services that previously were allowed on the retired copper loop should be allowed on any replacement loop. In particular, existing services on copper loops must be grandfathered. (g) **AT&T/CCG (proposed Amendment §**3.3(B))**:** AT&T's proposed language properly reflects the line conditioning requirements of 47 C.F.R. 51.319(a)(1)(ii). In particular AT&T's proposed language requires Verizon to condition a copper loop, at no cost, where AT&T seeks access to a copper loop, the high frequency portion of a copper loop, or a copper Subloop to ensure that the copper loop or copper Subloop is suitable for providing digital subscriber line services, including those provided over the high frequency portion of the copper loop or copper Subloop, whether or not Verizon offers advanced services to the end-user customer on that copper loop or copper Subloop. (h) – Yes. The ICA should be amended to reflect the proper definition of "packet switch" and packet switching". Other issues related to packet switching are

			encompassed in AT&T's proposed provisions concerning discontinued UNEs. (i) – Yes. See response to (d). (j) – Yes. While the *TRO* eliminates over time Verizon's obligation to provide line-sharing as a UNE under federal law, it requires Verizon to continue existing line-sharing arrangements for customer locations where AT&T began providing xDSL service using line sharing prior to October 2, 2003. *TRO*, ¶¶ 255-270. It also requires Verizon to provide new line sharing arrangements on a transitional basis pursuant to the rates, terms and conditions set out in 47 C.F.R. 51.319(a)(1)(i). These requirements are specified in AT&T's proposed Amendment. **CCG**: The *TRO* eliminates only Verizon's obligation to provide line sharing as a UNE under section 251 of the Act; however, does not limit Verizon's obligation to provide the same under section 271of the Act. The *TRO* also requires Verizon to continue existing line-sharing arrangements for customer locations where a CLEC began providing xDSL service using line sharing prior to

			October 2, 2003. **Sprint:** Yes – the amendment should explicitly address each requirement and if there are no obligations, the item should still be addressed if the Final Order specifies procedures involved with discontinuation of requirements. b) **Newly built FTTP loops (Section 3.3)** **Suggested language**: For the avoidance of doubt, in no event shall ***CLEC Acronym TXT*** be entitled to obtain access to an FTTP Loop (or any segment or functionality thereof) on an unbundled basis where Verizon has deployed such a Loop to the customer premises of an end user that previously was not served by any Verizon Loop other than an FTTP Loop. Any retirement of cooper Loops or sub-loops will comply with the network notification procedure contained in the Federal Unbundling Rules. c) **Overbuilt FTTP loops Section 3.2.** **Suggested Language**:

			Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting Section 2 above) or any Verizon tariff or SGAT, if (a) Verizon deploys an FTTP Loop to replace a copper Loop previously used to serve a particular end user's customer premises, and (b) Verizon retires that copper loop and there are no other available copper Loops or Hybrid Loops for ***CLEC Acronym TXT***'s provision of a voice grade service (64Kbps) to that end user's customer premises, then in accordance with, but only to the extent required by the Federal Unbundling Rules, , Verizon shall provide ***CLEC Acronym TXT*** with nondiscriminatory access on an unbundled basis to a transmission path <u>capable of providing DS0 (64 Kbps per second transmission path) voice grade service to that</u> end user's customer premises. d) Access to Hybrid Loops for the provision of Broadband, **Section 3.2.2.** Hybrid DS1 and DS3 broadband facilities are high-capacity loops and Interim Rules Facilities—now Final

			Order . VZ should provide access to high capacity loops until the earlier of March 11, 2005 or the effective date of the revised Final Rules. e) Access to hybrid loops for the provision of narrowband services **Section 3.2.3.** **Suggested language:** "Notwithstanding any other provision of the Amended Agreement (but subject to and without limiting Section 2 above) or any Verizon Tariff or SGAT, when ***CLEC Acronym TXT*** seeks access to a Hybrid Loop for the provision to its customer of "narrowband services," as such term is defined by the FCC, then in accordance with, but only to the extent required by Federal Unbundling Rules," f) Retirement of copper loops g) Line conditioning h) Packet switching i)Network Interface device j) Line Sharing

			WilTel: WilTel adopts AT&T's position on Issue 13. **MCI**: See MCI Redline, §6 and 7. **CCC:** (a) Yes. CCC § 1.5.2 reflects the line splitting requirements of 47 C.F.R. 51.319(a)(1)(ii). See also CCC § 5.10. Verizon's proposed amendments have no comparable provisions. (b) FTTH Loops only. *See* CCC §§ 1.3.1 and 5.6. Verizon's proposal fails to recognize that the *TRO* only relieved Verizon of offering FTTH loops to Mass Market Customers. Because the FCC did not draw the line between the Enterprise and Mass Markets, the Department will need to do so using the guidance from the TRO. The CCC has proposed to define Mass Market Customer as "an end user customer who is either (a) a residential customer or (b) a business customer whose premises are served by telecommunications facilities with an aggregate transmission capacity (regardless of the technology used) of less than four DS-0s." *See* CCC §§ 5.4, 5.12; *see also* CCC's response to Issue 9. CCC has not proposed terms related to FTTC loops because the FCC's rules with respect to such

			facilities were not adopted in the TRO and were not made part of Verizon's request for arbitration. *See* response to Issue 3. "FTTP Loop" is not a category for which the FCC has prescribed rules. (c) Yes. *See* CCC §§ 1.3.2, 5.4, 5.6, 5.12. *See also* CCC's response to Issues 9 and 13(b). CCC § 1.3.2 provides criteria that must be satisfied in order for Verizon to assert that a FTTH loop does not have to be provided on an unbundled basis. The language proposed is derived from ¶ 277 of the *TRO* and from FCC Rule 51.319(a)(3). (d) Yes. *See* CCC §§ 1.4.1, 1.4.2, 5.4, 5.8, and 5.12. Verizon's proposal fails to recognize that the *TRO* only relieved Verizon of offering Hybrid Loops to Mass Market Customers. *See also* CCC's response to Issues 9 and 13(b). CCC § 1.4.1 includes the definition of Packet Switching because this is the only section in the Amendment where the term "Packet Switching" is used. The Coalition has proposed its inclusion here so that it may note that it has agreed to this definition only because it was adopted by the FCC in 47 C.F.R. § 51.319(a)(2)(i). The Coalition

			believes that it is inappropriate to classify DSLAM functionality as "packet switching," and reserves its right to so argue in future proceedings. Section 1.4.2 of the CCC's proposed Amendment is consistent with FCC Rule 51.319(a)(2)(ii) that was established in the TRO. (e) Yes. *See* CCC §§ 1.4.3, 1.4.4, 5.4, 5.8 and 5.12. CCC's proposed Amendment is consistent with FCC Rule 51.319(a)(2)(iii) as established in the *TRO*. Verizon's proposal regarding a particular non-recurring charge should be rejected because the CCC's proposal already states that standard recurring and non-recurring Loop charges will apply. Verizon's proposal is not necessary unless the proposed charges are non-standard non-recurring charges, in which case Verizon has no basis to impose them on CLECs. The Coalition proposal is "just and reasonable" because it prevents Verizon from imposing unwarranted and unnecessary expenses on competitive carriers. In addition, Section 1.4.4, regarding IDLC Hybrid Loops, should require that Verizon provide unbundled access to hybrid loops served by IDLC systems by using a

			"hairpin" option, *i.e.*, configuring a semi-permanent path and disabling certain switching functions or any of the other options required by footnote 855 of the *TRO*. Unlike Verizon's proposal, the CCC proposal does not require CLECs to pay for charges that were not authorized by the *TRO*. Further, Verizon's language attempts to shield Verizon from provisioning intervals and performance measurement requirements. None of these proposed provisions are "just and reasonable" because they impose unlawful charges on competitive carriers and they protect Verizon from full compliance with its provisioning obligations. (f) Yes. *See* CCC § 1.5.4. The Coalition's proposal reflects Verizon's obligations pursuant to 47 C.F.R.§§ 51.325-51.335. In addition, the TRO explicitly recognized that state commissions could impose additional requirements with respect to copper retirement. CCC's proposal requires that reasonable and proper notice of any proposed retirement of copper loops or subloops be given before such facilities are retired. Its proposal also provides additional, reasonable safeguards where Verizon proposes to retire a copper loop that a CLEC is

			presently using to serve an end-user customer. (g) Verizon is obligated to perform line conditioning pursuant to its obligation to perform routine network modifications. See CCC Proposal at § 3. (h) *See* CCC's response to Issue 13(d). Also, Amended Agreement should reflect that the FCC's rules with respect to the unbundling of packet switching does not permit Verizon's to avoid its obligation to provide access to local switching where it replaces its circuit switch with a packet switch and uses the packet switch to perform local switching functionality. Instead, Verizon's obligation to provide local switching should be technology neutral. *See* CCC § 1.1.2. (i) CCC takes no position on this issue at this time. (j) Yes. *See* CCC § 1.5.1, which reflects Verizon's continued obligation to provide certain grandfathered line sharing arrangements. *See also* CCC § 5.9. **CTC**: Concurs with CCC on sub-issues (a), (f), (g) and (j).

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
14	What should be the effective date of the Amendment to the parties' agreements?	The amendment should take effect when it is executed.	**AT&T/CCG/RNK:** Although as a general matter the Amendment would be effective as of the date it was executed by the parties and/or approved by the Commission. However, as discussed in connection with Issue 11 on the Matrix for VZ Amendment 2, Verizon must permit commingling and conversions *upon the TRO's effective date* so long as the requesting carrier certifies that it has met certain eligibility criteria. *Id.*, ¶ 589; Rule 51.318. In light of this new rule, AT&T's proposed amendment (proposed Amendment §3.7) makes clear that (1) as of October 2, 2003, Verizon is required to provide commingling and conversions unencumbered by additional processes or requirements (e.g., requests for unessential information) not specified in TRO (*Id.*, ¶ 586, 588, 623-624.). AT&T proposes that it should receive pricing for new EELs/conversions as of the date it made its request to Verizon. **Sprint:** The date that the amendment is signed by the two parties or the date that is ordered by the commission. **WilTel:** WilTel adopts AT&T's

			position on Issue 14. **MCI**: The Amendment should be effective upon Department approval. **CCC**: The CCC concurs with AT&T's position on this Issue. **CTC**: Concurs with AT&T's position on this Issue.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
15	How should CLEC requests to provide narrowband services through unbundled access to a loop where the end user is served via Integrated Digital Loop Carrier (IDLC) be implemented? Should Verizon be permitted to recover its proposed charges (e.g., engineering query, construction, cancellation charges)?	Carriers use digital line carrier ("DLC") systems to aggregate the many copper subloops that are connected to a remote terminal location. At the remote terminal, a carrier multiplexes (*i.e.*, aggregates) such signals onto a fiber or copper feeder loop facility and transports the multiplexed signal to its central office. These DLC systems may be integrated directly into the carrier's switch (*i.e.*, Integrated DLC systems or "IDLC") or not (*i.e.*, Universal DLC systems or "UDLC"). *See Triennial Review Order*, 18 FCC Rcd at 17113, ¶ 217 n.667. Where the ILEC is required to unbundle a loop for an end user who is currently served over IDLC architecture, the FCC held that this should be done "either through a spare copper facility or through the availability of Universal DLC systems," but that, "if neither of these options is available, incumbent LECs must present requesting carriers a technically feasible method of unbundled access." *Id.* at 17154, ¶ 297.	**AT&T/CCG/RNK (proposed Amendment §3.2.4):** See 47 CFR 51.319(a)(2)(3). When AT&T seeks to order an unbundled loop to serve a retail customer currently being served by Verizon over IDLC, the *TRO* requires that Verizon provide this service "either through a spare copper facility or through the availability of Universal DLC systems" or, if neither is available, Verizon must provide AT&T with a "technically feasible method of unbundled access." *TRO*, Para. 297. AT&T is requesting access to the loop in place. The *TRO*, under the FCC's requirement for Verizon to provide access to Hybrid loops, specifically requires Verizon to provide access to the loop regardless of whether Verizon must use time division multiplexing to accomplish or provide a spare home run copper loop. AT&T's proposed language is fully consistent with Verizon's legal obligations under the *TRO*. The FCC held that the burden of unbundling loops, even if served by an IDLC, rests with the ILEC. It did not grant that the ILEC could bill the

		Accordingly, Verizon's language provides that, where a CLEC seeks an unbundled loop to serve a customer who currently receives service through IDLC, the CLEC can gain access to voice-grade service, *see* Amendment 2, § 3.2.4, through either a copper loop or a UDLC facility, *see id.* § 3.2.4.1. If neither a copper loop nor a UDLC facility is available, Verizon will construct one at the CLEC's request and expense. *See id.* § 3.2.4.2.	CLECs for the costs associated with such unbundling. Taking Verizon's proposed language to the extreme, Verizon could retire all of their UDLC systems, convert all of its loops to IDLC, and then buy CLECs under the cost of deploying new copper loops or in re-constructing UDLC facilities any time it wants to provide competing facilities-based service to a customer -- all in direct conflict with 51.319(a)(9), which precludes an ILEC from engineering "the transmission capabilities of its network in a manner, or engage in any policy, practice or procedure, that disrupts or degrades access to a local loop or subloop … for which a requesting carrier may obtain access." **Sprint:** VZ should follow the Final Federal Unbundling Rules. Also , it is Sprint's position that under the current Rules, language should be added to reflect that: "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, using time division multiplexing technology" Suggested Language: **Section 3.2.4.1.**

			Verizon will endeavor to provide ***CLEC Acronym TXT*** with an existing copper Loop, a Loop served by existing Universal Digital Loop Carrier ("UDLC") **or 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, using time division multiplexing technology**. Standard recurring and non-recurring Loop charges will apply. In addition, a non-recurring charge will apply whenever a line and station transfer is performed. **Section 3.2.4.2.** If neither a copper Loop, **TDM transmission path**, nor a Loop served by UDLC is available, Verizon shall, upon request of ***CLEC Acronym TXT***, construct the necessary copper Loop or UDLC facilities. In addition to the rates and charges payable in connection with any unbundled Loop so provisioned by Verizon. **MCI**: See MCI Redline, §7.2.2. **CCC**: *See* CCC's response to Issue 13(e). CCC concurs with AT&T's position on this Issue.

			CTC: *See* CTC's response to Issue 13(e). CTC concurs with AT&T's position on this Issue.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
16	Should Verizon be subject to standard provisioning intervals or performance measurements and potential remedy payments, if any, in the underlying Agreement or elsewhere, in connection with its provision of a) unbundled loops in response to CLEC requests for access to IDLC-served hybrid loops; b) Commingled arrangements; c) conversion of access circuits to UNEs d) Loops or Transport (including Dark Fiber Transport and Loops) for which Routine Network Modifications are required; **[Verizon objects to sub-issues (e) and (f), below, and states that they fall outside the scope of this proceeding and are not appropriate for resolution in this proceeding.]** e) batch hot cut, large job hot cut and individual hot cut processes? f) network elements made available under section 271 of the Act or under state law.	No. Existing standards were not intended to address these new services and activities required by the TRO. See Amendment 2, § 3.5.2.	**AT&T/CCG/RNK:** Yes. The amended ICA should appropriately reflect Verizon's obligation to comply with any applicable performance assurance plan, including metrics and penalties, for its provisioning of these wholesale services and unbundled network elements. **Conversent: Amdmt. 2, § 3.11.2.** Amplifying AT&T's statement, to the extent Verizon seeks to amend existing performance standards and/or performance assurance plans, it should use existing mechanisms such as the Carrier Working Group or PAP forums. **WilTel:** WilTel adopts AT&T's position on Issue 16. **MCI**: Yes. **CCC**: CCC concurs with AT&T's position on this Issue. **CTC**: Concurs with AT&T.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
17	How should the Amendment address sub-loop access under the TRO? Should the Amendment address access to the feeder portion of a loop? If so, how? Should the Amendment address the creation of a Single Point of Interconnection (SPOI)? If so, how? Should the Amendment address unbundled access to Inside Wire Subloop in a multi-tenant environment? If so, how?	In the *UNE Remand Order*, the FCC determined that CLECs would be impaired without access to the incumbent LECs' subloops. *UNE Remand Order*, 15 FCC Rcd at 3789, ¶ 205. The FCC also required incumbents to unbundle the network interface device ("NID"), which it defined to encompass any means of interconnection of the ILEC's distribution plant to customer premises wiring. Thus the FCC's rules require that ILECs permit a competitor to connect its own loop facilities to customer premises wiring through the ILEC's NID. *UNE Remand Order*, 15 FCC Rcd at 3802, ¶ 237; see also 47 C.F.R. § 51.319(a)(2). In the *Triennial Review Order*, the FCC generally required "incumbent LECs to provide unbundled access to their copper subloops, *i.e.*, the distribution plant consisting of the copper transmission facility between a remote terminal and the customer's premises." *Triennial Review Order*, 18 FCC Rcd at 17131, ¶ 253. But the FCC ruled that ILECs do not have to provide	**AT&T/CCG/RNK (proposed Amendment §3.4):** The *TRO* requires Verizon to provide AT&T with unbundled access to Verizon's copper subloops and Verizon's network interface devices ("NIDs"). These requirements encompass any means of interconnection of the Verizon distribution plant to customer premises wiring. *TRO*, ¶ 205. In addition, the FCC found that AT&T and other CLECs are impaired on a nationwide basis "without access to unbundled subloops used to access customers in multiunit premises." *Id.*, ¶ 348. As a result, the *TRO* requires Verizon to provide AT&T with access to any technically feasible access point located near a Verizon remote terminal for these subloop facilities. *Id.*, ¶ 343. AT&T's Amendment is consistent with and faithful to the *TRO*'s requirements on subloops. It sets out in detail the definitions of subloops and accessible terminals contained in the *TRO*. AT&T then provides detailed procedures for the connection of subloop elements to any technically feasible point both with respect to distribution subloop facilities and subloops in multi-tenant

		access to their fiber feeder loop plant as a standalone UNE, thereby limiting unbundling obligations to the distribution loop plant. *Id.* The FCC defined the copper subloop UNE as "the distribution portion of the copper loop that is technically feasible to access at terminals in the incumbent LEC's outside plant (*i.e.*, outside its central offices), including inside wire. We find that any point on the loop where technicians can access the cable without removing a splice case constitutes an accessible terminal." *Id.* at 17132, ¶ 254. With respect to distribution subloop facilities, Verizon's language allows CLECs to obtain access at a technically feasible access point located near a Verizon remote terminal. *See* Amendment 2, § 3.3.1. Verizon's language makes clear, however, that Verizon is not required to provide access by removing a splice case to reach the wiring. *Id.* Verizon's language reflects the FCC's determination that Verizon	environments. AT&T also sets forth the *TRO*'s requirements with respect to Inside Wire Subloops. In addition, AT&T provides detailed requirements covering Verizon's provision of a single point of interconnection ("SPOI") suitable for use by multiple carriers. Verizon's amendment merely provides that the parties will discuss the subject at a later time. **Sprint: Section 3.3.1.1.** **Sub-loop for access to Multunit Premises**. Sprint's position is that it should be provided by VZ to the extent required by the Federal Unbundling Rules/latest published FCC Order. In addition, VZ limits multiunit subloops to house and riser and cable and limits the access point to facilities between the MPOE and the point of demarcation. This is not consistent with 51.319(b)(2) and eliminates potential access points outside the MPOE but still close to the premises. Sprint's changes are intended to take that into account and therefore do not replace the House and Riser Cable language but supplements it. **Section 3.3.2.** **Distribution Sub-Loop Facility** Sprint's position is that it should be

		is not required to construct a single point of interconnection ("SPOI") at a multiunit premises unless: 1) Verizon has distribution facilities to the premises and owns and controls (or leases and controls) the house and riser cable at the premises, and 3) the CLEC commits that it will place an order for access to the subloop element via the newly-provided SPOI. Where these conditions are satisfied, Verizon's Amendment provides that the parties shall negotiate in good faith an amendment memorializing the terms, conditions, and rates under which Verizon will provide a SPOI. Construction of a SPOI is a substantial undertaking that must take account of facts and circumstances specific to each location, and the parties should not attempt to lock into the current amendment requirements that assume all cases are the same. See Amendment 2, § 3.3.1.2. Verizon's language correctly implements the FCC's rules establishing terms and conditions of subloop access, and should be adopted.	provided by VZ to the extent required by the Federal Unbundling Rules/latest published FCC Order. In addition, add language that specifies CLEC will obtain access to the Distribution Sub-Loop Facility at a technically feasible access point within Verizon's outside plant. **CCC**: *See* CCC §§ 1.7 and 5.7. The Department should reject Verizon's proposed subloop language because it has no basis in the *TRO*. Instead, the Coalition proposes more general language that requires Verizon to provide Subloops to the extent required by any applicable Verizon tariff or SGAT, and any applicable federal and state commission rules, regulations, and orders. Some state commissions, and in particular the New York Public Service Commission, have completed thorough proceedings regarding Subloops, especially regarding House and Riser facilities in multi-tenant buildings. Verizon's proposal would have the effect of rendering all of those proceedings irrelevant. Instead, Verizon should be required to return to those state commissions and seek whatever changes to those state commission requirements that may be necessary, if any, to make them

			consistent with state and federal law. As discussed above, Verizon is obligated to comply with any additional state law requirements or conditions imposed by state commissions in the course of an arbitration. Verizon's proposal would have the effect of avoiding these obligations. In addition, CCC § 1.6, Feeder, properly reflects that only fiber Feeder subloops to Mass Market Customers were affected by the *TRO*. The FCC's discussion of fiber Feeder subloops, ¶ 253, was limited to their provision to Mass Market Customers. Accordingly, the Coalition Proposal is consistent with the FCC regulations implementing section 251. **CTC**: Concurs with CCC.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
18	Where Verizon collocates local circuit switching equipment (as defined by the FCC's rules) in a CLEC facility/premises (i.e. reverse collocation), should the transmission path between that equipment and the Verizon serving wire center be treated as unbundled transport? If so, what revisions to the parties' agreements are needed?	In the *TRO* (at note 1126), the FCC stated that "to the extent that an incumbent LEC has local switching equipment, as defined by the Commission's rules, "reverse collocated" in a non-incumbent LEC premises, the transmission path from this point back to the incumbent LEC wire center shall be unbundled as transport between incumbent LEC switches or wire centers to the extent specified" in the FCC's Rules. The FCC refined this rule in its February 4, 2005 order (at note 251). To the best of Verizon's knowledge, the situation described in this issue does not exist anywhere in the real world, and in particular in Massachusetts. There is no instance where Verizon owns a local circuit switch installed at a CLEC premise, nor does Verizon intend to establish any such arrangement here at this time. It is therefore unnecessary for Verizon's Amendment to address this issue.	**AT&T/CCG/RNK:** Yes. AT&T's proposed definitions for Dark Fiber Transport (§2.5(B)) and Dedicated Transport (§2.7) clarify that the transmission path between Verizon switching equipment in CLEC space and the Verizon wire center should be treated as dedicated transport **CCC**: This issue does not arise from the effective portion of the *TRO*. To the extent that the issue contemplates implementation of the *TRRO* in this proceeding, see CCC's responses to Issues 3 and 5. Such issues could be addressed in a possible later phase of this arbitration proceeding after CLECs have had a sufficient opportunity to negotiate the related changes of law with Verizon.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
19	What obligations, if any, with respect to interconnection facilities should be included in the Amendment to the parties' interconnection agreements?	Verizon will comply with the FCC's regulations, which do not require an incumbent LEC to provide "unbundled access to dedicated transport that does not connect a pair of incumbent LEC wire centers," 47 C.F.R. § 51.319(e)(2)(i). The TRO did not purport to establish new rules regarding the terms upon which CLECs may obtain interconnection facilities under section 251(c)(2) for the transmission and routing of telephone exchange service and exchange access service. Parties' existing interconnection agreements contain negotiated (or arbitrated) terms regarding such interconnection architecture issues, and it would be inappropriate and extremely complex for the parties to attempt to renegotiate (or arbitrate) such issues here.	**AT&T/CCG/RNK:** See response to Issue 5. **Sprint: Interconnection facilities** included in the Amendment should be provided at cost-based rates pursuant to the new FCC TRO Order/Federal Unbundling Rules, para 140. **CCC**: Yes. *See* CCC § 1.8. CCC's language clarifies that Verizon must provide interconnection facilities at TELRIC, pursuant to 251(c)(2) and 252(d)(1), which includes transport facilities and equipment between CLEC switch and the Verizon tandem switch or other point of Interconnection designated by CLEC, used for the exchange of traffic between CLEC and Verizon. *See* CCC's response to Issue 5. **CTC**: Concurs with CCC.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
20	What obligations, if any, with respect to the conversion of wholesale services (e.g. special access circuits) to UNEs or UNE combinations (e.g. EELs), or vice versa ("Conversions"), should be included in the Amendment to the parties' interconnection agreements? a) What information should a CLEC be required to provide to Verizon (and in what form) as certification to satisfy the FCC's service eligibility criteria to (1) convert existing circuits/services to EELs or (2) order new EELs? b) Conversion of existing circuits/services: 1) Should Verizon be prohibited from physically disconnecting, separating, changing or altering the existing facilities when Verizon performs Conversions unless the CLEC requests such facilities alteration? 2) What type of charges, if any, and under what conditions, if any, can Verizon impose for Conversions?	a) For new EEL orders as well as conversions, Verizon's language requires the CLEC to certify in writing that, for each DS1 circuit, the CLEC is in compliance with the FCC's service eligibility criteria set forth in 47 C.F.R. § 51.318. The CLEC must remain in compliance with these criteria for as long as it continues to receive the EEL. Amendment 2, § 3.4.2. b) Verizon's Amendment does not provide for separation or other physical alteration of existing facilities when a CLEC requests an EEL conversion, so it is not clear why CLECs have raised this issue. In any event, while Verizon would not expect a standard conversion to require any physical alteration of the facilities used for wholesale services that may be converted to UNEs, a broad, one-size-fits-all prohibition on alterations might preclude alterations that Verizon may determine to be necessary to convert wholesale services to UNEs in particular instances. (2) Verizon is entitled to recover its costs of conversions, and the	**AT&T/CCG/RNK**: (**AT&T proposed Amendment §3.7):** Yes. The *TRO* eliminated certain restrictions that the FCC previously had placed on the ability of competitive to "commingle" or combine "loops or loop-transport combinations with tariffed special access services." The FCC modified those rules to "affirmatively permit requesting carriers to commingle UNEs and combinations of UNEs with services (e.g. switched and special access services offered pursuant to tariff), and to require incumbent LECs to perform the necessary functions to effectuate such commingling upon request." *TRO*, ¶ 579. Thus, Verizon is now required to permit CLECs like AT&T to commingle UNEs or UNE combinations it obtains from Verizon with other wholesale facilities. According to the *TRO*, Verizon must permit commingling and conversion *upon the TRO's effective date* so long as the requesting carrier certifies that it has met certain eligibility criteria. *Id.*, ¶ 589; Rule 51.318. In light of this new rule, AT&T's proposed amendment makes clear that (1) as of October 2, 2003, Verizon is required to provide commingling and

	3) Should EELs ordered by a CLEC prior to October 2, 2003, be required to meet the FCC's service eligibility criteria? 4) For conversion requests submitted by a CLEC prior to the effective date of the amendment, should CLECs be entitled to EELs/UNE pricing effective as of the date the CLEC submitted the request (but not earlier than October 2, 2003)? 5) When should a Conversion be deemed completed for purposes of billing? c) How should the Amendment address audits of CLEC compliance with the FCC's service eligibility criteria?	Commission should approve the rates Verizon will propose for this activity. The FCC's limits on conversion charges are not as broad as the blanket prohibitions proposed by CLECs. (3) Yes. See Verizon's response to subpart (a) of this issue. The certification criteria set forth in the TRO are now the law. Within 30 days after the amendment effective date, CLECs should be required to certify that existing EELs certified using the pre-TRO criteria meet the new criteria. (4) No. The new criteria do not take effect under particular interconnection agreements until they are amended to incorporate those criteria. The FCC did not require ILECs to apply UNE rates retroactively for EELs that do not qualify for certification under the terms of existing interconnection agreements. c) Consistent with the *TRO*, Verizon's language provides that once per calendar year, Verizon may obtain and pay for an independent auditor to audit the CLEC's compliance in all material	conversions unencumbered by additional processes or requirements (e.g., requests for unessential information) not specified in TRO (*Id.*, ¶ 586, 588, 623-624.); (2) AT&T is required to self-certify its compliance with any applicable eligibility criteria for high capacity EELs (and may do so by written or electronic request) and to permit an annual audit by Verizon to confirm its compliance (*Id.*, ¶¶ 623-624.); (3) Verizon's performance in connection with commingled facilities must be subject to standard provisioning intervals and performance measures (*Id.*, ¶ 586; Rule 51.316(b)); and (4) there will be no charges for conversion from wholesale to UNEs or UNE combinations (*Id.*, ¶ 587; Rule 51.316 (c)). In addition, the DTE should permit competitors to re-certify all prior conversions in one batch. Moreover, for future conversions requests, rather than requiring competitors to certify individual requests on a circuit-by-circuit basis, the DTE should permit competitors to submit orders for these as a batch In contrast, the manner in which Verizon is seeking to implement that change does not comply with the *TRO*, and in fact seeks to impose new and

		respects with the service eligibility criteria applicable to high capacity EELs. To the extent the independent auditor concludes that the CLEC failed to comply with the service eligibility criteria, then the CLEC would be required to convert all noncompliant circuits to the appropriate service, true up any difference in payments, make the correct payments on a going-forward basis, reimburse Verizon for the entire cost of the audit within 30 days after receiving a statement of such costs from Verizon. If the auditor confirms the CLEC's compliance with the service eligibility criteria, then Verizon would reimburse the CLEC for its out-of-pocket costs of complying with any requests of the auditor, upon the auditor's verification of the CLEC's statement of costs. Verizon would be required to reimburse the CLEC within 30 days of the auditor's verification. Verizon's language also requires the CLEC to maintain records adequate to show its compliance with the service eligibility criteria for at least 18 months after the service arrangement in question is terminated. *See* Amendment 2,	onerous obligations on the CLECs that will act to impede the competitor's ability to provide services through commingled facilities. In particular, Verizon contends that: (1) AT&T should be required to re-certify that it meets the *TRO*'s eligibility requirements for DS1 and DS1 equivalent circuits on a circuit-by-circuit basis rather than through the use of a single written or electronic request; (2) Verizon's performance in connection with commingled facilities should not be subject to standard provisioning intervals and performance measures; and (3) it is entitled to apply a non-recurring charge for each circuit that AT&T requests to convert from a wholesale service to UNE or UNE combination, as well as other fees not contemplated by the *TRO* (for example, "retag fees"). Verizon also would require AT&T to reimburse Verizon for the entire cost of an audit where an auditor finds that AT&T failed to comply with the service eligibility criteria for any DS1 circuit. However, none of these contrived requirements finds any support in the *TRO*. **Sprint:** All obligations & associated processes contained in the Final Federal Unbundling Rules should be

		§ 3.4.2.7.	included in the Amendment. **WilTel:** WilTel adopts AT&T's position on Issue 20. See also WilTel's position on Issue 12. Additionally, under any provision providing for auditing of CLEC compliance with the eligibility criteria for EELs: (i) Verizon should be required to provide thirty days advance written notice of its desire to perform an audit; (ii) the standard of noncompliance with the criteria should require "*material*" noncompliance before CLEC would pay auditing costs and/or have to convert the circuits and true up payments, etc.; and (iii) any true-up in payments should only date back to the first date of material non-compliance. **MCI**: See MCI Redline, §5. **CCC**: As of October 2, 2003, Verizon shall permit and shall perform the functions necessary for CLEC to Convert any facility or service, provided that the CLEC would be entitled to place a new order for the UNE, UNE Combination or other facility or service resulting from a Conversion.

			a) CCC concurs with AT&T's position on this Issue. *See* CCC § 2.2 and 2.3. Unlike CCC's proposed Amendment, Verizon's proposal is inconsistent with the *TRO* because it seeks to impose onerous eligibility requirements that a CLEC must satisfy before it may obtain EELs. Nothing in the *TRO* requires a CLEC to provide the sort of information demanded by Verizon. A CLEC is only required to certify that it satisfies the eligibility criteria of Rule 51.318(b). If Verizon seeks to contest the CLEC certification, it may exercise its audit rights. b)1) Yes. *See* CCC § 2.3.2. CCC generally concurs with AT&T's position on this Issue. 2) None. *See* CCC § 2.3. CCC concurs with AT&T's position on this Issue. Verizon seeks to impose a type of non-recurring charge that was specifically prohibited by paragraph 587 of the *TRO*. 3) No. *See* CCC § 2.2. CCC concurs with AT&T's position on this Issue. Indeed, EELs that were provided prior to October 2, 2003 are not required to satisfy the eligibility criteria established by the *TRO*.

			Paragraph 589 of the *TRO* makes clear that the FCC envisioned two tracks of EELs eligibility. 4) Yes. *See* Section 2.3.4.4 of CCC's proposed Amendment. CCC concurs with AT&T's position on this Issue. *See also* CCC's response to Issues 12 and 15. 5) Conversion orders shall be deemed to have been completed effective upon receipt by Verizon of the written or electronic request from CLEC, and recurring charges for the replacement facility or service shall apply as of such date. c) *See* CCC § 2.2.3. CCC concurs with AT&T's position on this Issue. Verizon is entitled only to one audit of a CLEC's books in a 12-month period, not once per calendar year as Verizon has proposed. The *TRO* refers to an "annual audit." *TRO* ¶ 626. In order for an audit to be considered "annual," a full year would have to elapse between audits. Under Verizon's proposal, Verizon could audit a CLEC's books in December, and then audit again in January of the following year. In that case, the two audits would be separated by a month, not by a year as the term "annual

			audit" requires. Second, Verizon's proposed allocation of responsibilities of payment for the auditor is not consistent with the *TRO*. Verizon's proposal is biased in Verizon's favor, and thus not just or reasonable. Third, Verizon's proposal that a CLEC keep books and records for a period of eighteen (18) months after an EEL arrangement is terminated is not supported by anything in the *TRO*. The proposed interval is unreasonably long and unduly burdensome. **CTC:** Concurs with CCC on sub-issues 20(a) and (b).

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
21	How should the Amendment reflect an obligation that Verizon perform routine network modifications necessary to permit access to loops, dedicated transport, or dark fiber transport facilities where Verizon is required to provide unbundled access to those facilities under 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51? May Verizon impose separate charges for Routine Network Modifications?	In the *Triennial Review Order*, the FCC required ILECs, such as Verizon, to "make routine network modifications to unbundled transmission facilities used by requesting carriers where the requested transmission facility has already been constructed." 18 FCC Rcd at 17371-72, ¶ 632. "Routine network modifications" include "those activities that incumbent LECs regularly undertake for their own customers." *Id.* Examples include "rearrangement or splicing of cable; adding a doubler or repeater; adding an equipment case; adding a smart jack; installing a repeater shelf; adding a line card; and deploying a new multiplexer or reconfiguring an existing multiplexer." *Id.* at 17372-73, ¶ 634 (footnotes omitted). "Routine modifications, however, do not include the construction of new wires (*i.e.*, installation of new aerial or buried cable) for a requesting carrier." *Id.* at 17372, ¶ 632. Verizon's proposed language requires it to provide routine network modifications as	**AT&T/CCG/RNK (proposed Amendment Section 3.8.1):** Routine Network modifications should be defined in the ICA in the same manner as the FCC did in the *TRO*, with the determination of whether a modification is "routine" hinging on whether the tasks associated with the modification are routinely performed by Verizon in serving its own customers. For example, to clarify the extent of Verizon's obligations the *TRO* listed examples of such necessary loop modifications as including "rearrangement or splicing of cable; adding a doubler or repeater; adding an equipment case; adding a smart jack; installing a repeater shelf; adding a line card; and deploying a new multiplexer or reconfiguring an existing multiplexer." *Id.*, ¶ 634 Similarly, AT&T's proposed amendment, at Paragraph 3.8.1, specifies that routine network modifications "include but are not limited to": rearranging or splicing of cable; adding an equipment case; adding a doubler or repeater; adding a smart jack; installing a repeater shelf; and deploying a new multiplexer or reconfiguring an existing multiplexer. Consistent with the FCC's approach,

		necessary to permit access to loop, dedicated transport, or dark fiber facilities (where access is othewise required under sectino 251(c)(3) and the FCC's rules).. Amendment 2, § 3.5.1. Routine network modifications include the activities specified in the FCC's order. Where facilities are unavailable, Verizon will not perform trenching, pull cable, construct new loops or transport or install new aerial, buried, or underground cable, because such activities do not qualify as "routine network modifications" under the FCC's rules. Verizon's § 3.5.3 also makes clear that the routine network modification provision does not create any independent unbundling obligations as to the underlying elements involved.	AT&T's proposed language also states that the determination of whether a modification is routine should be based on the nature of the tasks associated with the modification, not on the end-user service that the modification is intended to enable The specific services that AT&T intends to provide over the UNE after it has been modified are irrelevant in the determination of whether the tasks are routine. To rule otherwise would effectively constrain AT&T to offering only those services that exactly replicate a Verizon end-user offering. It is AT&T's intent to offer unique and differentiable services by coupling UNEs with AT&T-deployed new technologies. Verizon's language limits routine network modifications to only those that support services that mimic a Verizon end-user service offering, and only to the exact same degree that Verizon would do for its own customers. Thus, the determination of whether a modification is "routine" should be based on the tasks associated with the modification, not on the end-user service that the modification is intended to enable. Verizon is not entitled to impose

			additional charges on AT&T for routine network modifications. The *TRO* itself is quite clear that AT&T shall not be obligated to pay separate fees for routine network modifications to any UNE or UNE combination unless Verizon demonstrates that such costs are not already recovered from monthly recurring rates for the applicable UNE(s) or from another cost recovery mechanism. *Id.*, ¶ 640. In this case, Verizon has done no more than submit a Pricing Attachment and claim an entitlement to those rates. It has not made any attempt to prove that the alleged costs of routine network modifications are not already captured in its existing recurring and nonrecurring rates. Stated another way, Verizon has not shown that it excluded these costs from the assumptions and inputs that were used to develop its current rates. Thus, Verizon should not be permitted to impose these charges on AT&T for routine network modifications without a determination by this Commission of whether the activities for which the rates have been proposed are already included in the non-recurring or recurring rates for the unbundled element in question and, if not, without a review and approval of underlying cost studies supporting the

			charges to be imposed **Conversent: Amdt. No. 2, § 3.11.** Verizon's definition of routine network modifications is inappropriately narrow. Further, supplementing AT&T's statement, Conversent cites the recent order of the NY PSC, Case No. 02-C-1233 (Feb. 10, 2005), directing Verizon to perform routine network modifications without additional charges or amendment of interconnection agreements. **Sprint:** No, Verizon may not impose separate changes for Routine Network Modifications. **WilTel:** WilTel adopts AT&T's position on Issue 21. **MCI:** Routine network modifications should be defined in the Agreement in the same manner as the FCC did in the *TRO*. Verizon is not entitled to impose additional charges on MCI for routine network modifications. **CCC**: *See* CCC § 3.1. The Coalition proposes more detailed terms that fully and properly implement the

			requirements of the Act as reemphasized by the *TRO*. Verizon's well-established record of evasion of its obligations, which the FCC explicitly condemned in the *TRO*, necessitates more detailed rules to enable verification and enforcement of Verizon's obligations. *See TRO* at n.1940, finding Verizon's policy "discriminatory on its face." In addition, Verizon should not be permitted to assess charges for performing routine network modifications. While the *TRO* permits Verizon to recover its costs, it recognizes that these costs are often already recovered by an ILEC's recurring UNE rates, and such is the case with Verizon's UNE rates in Massachusetts. **CTC**: Concurs with CCC.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
22	Should the parties retain their pre-Amendment rights arising under the Agreement and tariffs?	Yes. Verizon filed its arbitration petition to eliminate any doubt regarding its right to cease providing unbundled access to facilities as to which its unbundling obligation under Section 251 of the Act has been removed. Verizon cannot lawfully be required under any interconnection contract to continue providing unbundled access to facilities that are no longer UNEs under Section 251. Moreover, certain agreements (or tariffs or SGATs where applicable) already contain provisions that clearly authorize Verizon to cease providing at least some discontinued UNEs. Accordingly, Verizon's arbitration petition specifically reserved any existing rights that Verizon has to cease providing discontinued UNEs. Section 3.4 of the amendment appropriately acknowledges that Verizon's rights to cease providing discontinued UNEs are in addition to, and not in limitation of, any rights Verizon may already have under the Agreement, a Verizon tariff or SGAT, or otherwise.	**AT&T/CCG/RNK:** Verizon's proposed language should be rejected as superfluous, unnecessary, ambiguous, and a potential source of confusion. To the extent that a CLEC is ordering UNEs, facilities or services out of its ICA with Verizon, the provisions of the ICA regarding discontinuance of facilities should govern. Verizon should not be allowed to attempt to preserve and use some unidentified and unrelated rights external to the ICA. Verizon does identify with specificity any tariffs that might be implicated. The inclusion of such vague and ambiguous language in the ICA can only cause confusion as to the parties' rights and obligations. Accordingly, it should not be included in the agreement. **Conversent:** Conversent concurs that Verizon's § 3.4 should be eliminated, on alternative grounds. Verizon's obligations are (and should be) governed by "Applicable Law," which includes tariffs and other sources of authority. To the extent tariffs or other Applicable Law grant Verizon discontinuance rights, Verizon retains such rights. On the other hand, if tariffs or other Applicable Law restrict

			Verizon's ability to discontinue providing UNEs or other services, or impose procedural requirements such as tariff amendment procedures, then Verizon is obligated to comply. Verizon's § 3.4, which purports to retain discontinuance rights but does not impose any restrictions or procedural requirements on Verizon, is incomplete, one-sided, and inappropriate. **WilTel:** WilTel adopts AT&T's position on Issue 22. **MCI**: Where MCI orders UNEs out of its ICA with Verizon, the ICA is the exclusive source of contract rights between MCI and Verizon. **CCC**: CCC concurs with AT&T's Position on this Issue. **CTC**: Concurs with AT&T.

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
23	Should the Amendment set forth a process to address the potential effect on the CLECs' customers' services when a UNE is discontinued?	No. Verizon has a right to discontinue items that are no longer UNEs and will reprice them to avoid service disruptions. Verizon will also comply with the mandatory transition plan the FCC has imposed to avoid potential disruption to customers from discontinuation of delisted UNEs. But Verizon has no duty, under section 251, to negotiate provisions to address any effects on CLEC end users when UNEs are discontinued, so the Commission cannot impose any such provisions. The CLECs are, of course, free to take measures they deem appropriate to address potential effects on their own end users' services. They will have plenty of time to do so, because the FCC has imposed a twelve-month transition period for delisted mass-market switching, loops, and transport, and an eighteen-month period for dark fiber loops and transport.	**AT&T/CCG/RNK (proposed Amendment §3.9):** See response to Issue 2. In addition, in the event Verizon's obligation to provide a particular unbundled network element has been eliminated by the FCC in its rules and the Interconnection Agreement has been amended to reflect that Verizon no longer has such an obligation, Verizon should be required to provide AT&T with notice in writing specifying the unbundled network facility, functionality or service that it intends to cease providing. The Notice should provide sufficient information that will permit AT&T to identify the facilities functionality or services being discontinued so that AT&T can make its decision as to alternative arrangements to serve its Delaware customers. Under AT&T's proposal, after AT&T has received the notice from Verizon, but no later than 90 days, AT&T should be obligated to either request disconnection, submit an order for an analogous tariffed or alternative service or indicate its objection to Verizon's withdrawal of the facility or service. If AT&T does not respond to

			the Notice within 90 days, then Verizon should continue to provide the service but be permitted to charge a different, but just and reasonable, rate. **Sprint:** Yes, there should be a clear transition plan in the Amendment for de-listed UNEs that protects the CLEC's customers' service. **WilTel:** See WilTel's response to Issue 2. **MCI**: Yes. See MCI Redline, §8. **CCC**: This issue is addressed in the CCC's contract provisions relating to Conversions; if a UNE is discontinued, CLECs must be able to convert it without disruption or impairment of service to a tariffed service where one exists. **CTC**: Concurs with CCC.

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
24	How should the Amendment implement the FCC's service eligibility criteria for combinations and commingled facilities and services that may be required under 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51?	Under the FCC's eligibility criteria for combinations, the CLEC must have a state certification of authority to provide local voice service. *Id.* at 17354, 17356, ¶¶ 597, 601. The CLEC must also show that it has at least one local number assigned to each circuit and must provide 911 or E911 capability to each circuit. *Id.* ¶¶ 597, 602. In addition, each circuit must terminate into a collocation governed by § 251(c)(6) at an incumbent LEC central office within the same LATA as the customer premises; each circuit must be served by an interconnection trunk in the same LATA as the customer premises served by the EEL for the meaningful exchange of local traffic, and for every 24 DS1 EELs or the equivalent, the requesting carrier must maintain at least one active DS1 local service interconnection trunk; and each circuit must be served by a Class 5 switch or other switch capable of providing local voice traffic. *Id.* at 17354, 17356-61, ¶¶ 597, 603-611. Under Verizon's Amendment 2, CLECs may obtain EELs only	**AT&T/CCG/RNK (proposed Amendment §3.7.2):** See response to Issue 21. In addition, the Commission should permit competitors to re-certify all prior conversions in one batch. Moreover, for future conversions requests, rather than requiring competitors to certify individual requests on a circuit-by-circuit basis, the Commission should permit competitors to submit orders for these as a batch **Sprint:** The service eligibility criteria for EELs only applies when one of the components is a network element. Sprint proposes the following clarifying language: **Section 3.4.2.1.** "To be clear, the service eligibility criterion contained in 47 C.F.R. § 51.318 does not apply to DS1 channel terminations combined with DS1 or DS3 access service." **WilTel:** WilTel adopts AT&T's response to Issue 24. **MCI**: See MCI Redline, §4. **CCC**: *See* CCC § 2.2. CCC concurs

		where the CLEC certifies that the FCC's eligibility criteria are met. *See id.* § 3.4.2. Verizon's language regarding certification (*id.* § 3.4.2.3) mirrors the FCC's criteria (*Triennial Review Order*, 18 FCC Rcd at 17354, ¶ 597).	with AT&T's position on this Issue. *See also* CCC's response to Issues 12, 20(a), and 20(b)(3).

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
25	Should the Amendment reference or address commercial agreements that may be negotiated for services or facilities to which Verizon is not required to provide access as a Section 251 UNE?	Verizon has not agreed to negotiate terms and conditions of commercial agreements for replacement services for any of the Discontinued Facilities under the auspices of section 251 or 252 or as part of the negotiations over a *TRO* Amendment and the Amendment should specifically so state.	**AT&T/CCG/RNK:** No. See response to Issue 22. **Sprint:** No, separate commercial agreements should not be included in the Amendment. **CCC**: No, except that services provided under a commercial agreement should be subject to Commingling and Conversion to the same extent as tariffed services. **CTC**: A reference to other agreements, including any commercial agreement, is needed to specify which agreement would prevail in the event of a conflict.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
26	Should Verizon provide an access point for CLECs to engage in testing, maintaining and repairing copper loops and copper subloops?	Verizon objects to this issue on the same grounds as other non-TRO issues described above. The TRO did not change the rules with respect to this issue, and existing contracts already address it. If particular CLECs have pre-TRO "holes" in their agreements that they wish to fill, Verizon has offered to work with such CLECs separately to incorporate appropriate provisions. But it would be a waste of resources to complicate this proceeding by arbitrating provisions that have already been negotiated (or arbitrated) under existing contracts.	**AT&T/CCG/RNK (proposed Amendment §3.3.1):** Yes, the parties' agreement should be amended to address changes arising from the *TRO* with respect to line sharing, line splitting, line conditioning, and the maintenance, repair and testing of copper loops and subloops. Verizon's proposed language is overbroad. AT&T's proposed language appropriately implements the *TRO* requirements as to elements. **CCC**: Yes. *See* CCC § 1.5.3. CCC concurs with AT&T position on this issue. **CTC**: Concurs with CCC.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
27	What transitional provisions should apply in the event that Verizon no longer has a legal obligation to provide a UNE? Does Section 252 of the 1996 Act apply to replacement arrangements?	All carriers must comply with the mandatory transition plan the FCC imposed with respect to mass-market switching, dedicated transport, and high-capacity loops. Otherwise, the Amendment would allow discontinuation of delisted UNEs upon 90 days notice, except where such the FCC prescribes different conditions. *See* Amendment 1, § 3.1. Section 252 relates only to negotiation and arbitration of agreements to implement the obligations under section 251. Commercial negotiations and agreements for UNE replacement services do not implement any section 251 obligations. Therefore, section 252 does not apply to arrangements to replace UNEs. *See* Verizon's Position on Issue 1.	**AT&T/CCG/RNK:** See response to Issues 2-8, 10 and 23. **Conversent:** If there is an absence of federal unbundling rules, the Interconnection Agreement should permit the DTE to fill in the gap by issuing interim rules until there are federal rules. **Sprint:** Any transitional provisions must be consistent with the new FCC TRO Order/Federal Unbundling Rules. **WilTel:** WilTel adopts AT&T's response to Issue 27, and see WilTel's response to Issue 2. **MCI**: See MCI Redline, §8. **CCC**: The Agreement already sets forth provisions to govern changes in applicable law. See response to Issue 2. There is no basis at this time to revise those change of law provisions of the Agreements, as Verizon proposes to do. Of course, in the event of a change of law that eliminated a particular UNE, the parties would be free to negotiate transition terms for the UNEs affected by that change of law, and arbitration

			of such terms could be required to implement any transition terms that are found in the FCC's governing rules. With respect to the change of law effected by the *TRO*, the CCC has not sought transition terms other than the terms for line sharing that are set forth in the FCC's rules. When the parties negotiate amendments to incorporate future changes in law (*i.e.*, any changes based on the *TRRO*), the CCC reserves the right to propose transition terms with respect to affected UNEs in such future negotiations. *See* CCC's response to Issues 2, 3 and 6.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
28	Should Verizon be required to negotiate terms for service substitutions for UNEs that Verizon no longer is required to make available under section 251 of the Act?	No. Verizon cannot be required under Sections 251 and 252 to negotiate terms for UNE replacement services. *See* Verizon's Positions on Issues 1 and 28.	**AT&T/CCG/RNK**: See response to Issues 2-8, 10 and 23. **Sprint:** Yes, parties should still be able to negotiate terms for service substitution for de-listed UNEs. **CCC**: Such terms are unnecessary under CCC's proposal, which does not seek to amend the parties' existing change of law terms to encompass all future changes of law. CCC reserves the right to request such terms in the event that the Department adopts Verizon's proposal to amend the change of law provisions of the Agreements. *See* CCC's response to Issues 2, 3, 6, and 28. **CTC**: Concurs with CCC.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
29	Should the FCC's permanent unbundling rules apply and govern the parties' relationship when issued, or should the parties not become bound by the FCC order issuing the rules until such time as the parties negotiate an amendment to the ICA to implement them, or Verizon issues a tariff in accordance with them.	The *Triennial Review Remand Order*, by its terms, takes effect on March 11, 2005, and all parties must comply with it, including the transition plan it imposes.	**AT&T/CCG/RNK:** See response to Issues 2-8, 10 and 23. **Conversent:** See Conversent's remarks under Issue No. 1. Verizon's obligations after a change in law are governed by the applicable change of law provisions in the interconnection agreement. There is no reason to change that. **Sprint:** The new FCC TRO Order instructs the Parties to implement changes to their agreements and negotiate an amendment consistent with the Final Order. **WilTel:** See WilTel's response to Issue 2. **MCI:** The *TRRO* explicitly contemplates that the change of law provisions of interconnection agreements will be enforced. **CCC**: This issue appears irrelevant to Verizon's request to arbitrate an amendment to implement the TRO. To the extent that this issue refers to the *TRRO*, CCC objects to its inclusion here, and notes that the TRRO can only be implemented in accordance with the existing change of

			law terms of the Agreements. *See* CCC's response to Issue 2. **CTC**: Changes in law would be implemented in accordance with the change of law provisions of the parties' existing Agreements.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
30	Do Verizon's obligations to provide UNEs at TELRIC rates under applicable law differ depending upon whether such UNEs are used to serve the existing customer base or new customers? If so, how should the Amendment reflect that difference?	All carriers must comply with the mandatory transition plan the FCC imposed in its *Triennial Review Remand Order,* which does distinguish between the embedded base and new orders. For the embedded base, the FCC has established a twelve-month transition period for mass-market switching, dedicated transport, and high-capacity loops; and an eighteen-month transition period for dark fiber loops and transport. The FCC's transition plan does not permit CLECs to add new UNEs where the FCC has determined that no section 251(c) unbundling obligation exists. *Triennial Review Remand Order*, ¶¶ 5, 142, 195, 199, 227 Although Verizon's Amendment requires it to comply with the *Triennial Review Remand Order*, it does not otherwise distinguish between existing and new customers for purposes of providing UNEs at TELRIC rates. Once Verizon's obligation to provide a UNE has been eliminated, Verizon is not required to provide that item to any customer, new or existing.	**AT&T/CCG/RNK (proposed Amendment §3.1.7):** AT&T's proposed amendment addresses situations in which Verizon may seek to apply different rates for elements that are used to provide service to "new customers." In particular, the Amendment defines "new customers" for the purposes of applying the section, explicitly excluding from that term AT&T's existing customers at additional locations, or existing customers for which AT&T is providing additional or expanded services or facilities on or after the effective date of this Amendment, or for customers whose connectivity is changed (e.g. technology migration, hot cut, loop reconfiguration, UNE-P to UNE-L etc) on or after the effective date of the Amendment. The Amendment also provides that AT&T will provide Verizon with the information necessary to identify new customers and Verizon shall apply its rate for new customers only to those orders identified by AT&T as orders relating to new customers. **Sprint:** No, unless authorized differently by the Commission.

			CCC: Because this issue appears to refer to the *TRRO* and seeks to clarify whether the transitional rules of that order apply to new UNE-P customers or new UNE-P lines, it need not be addressed in this phase of the arbitration. *See* CCC's response to Issues 2, 3, 6 and 28.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
31	Should the Amendment address Verizon's Section 271 obligations to provide network elements that Verizon no longer is required to make available under section 251 of the Act? If so, how?	No. *See* Verizon's position on Issue 1.	**AT&T/CCG/RNK** (proposed Amendment §3.9.5): Yes. The Amendment should include language requiring Verizon to provide 271 UNEs under the same terms and conditions as it was providing them under the Agreement, and at rates that comply with Section 271's "just and reasonable" pricing standard. As regards Verizon's Section 271obligations, nowhere does Section 271 provide the FCC with exclusive authority to establish the rates, terms and conditions over services provided pursuant to the competitive checklist, nor does it preempt state commissions from exercising authority they otherwise have been granted under federal or state law. *See WorldCom, Inc. v. FCC*, 308 F.3d 1, 7 (D.C. Cir. 2002). There is no merit to the claim that Congress provided states only a consultative role under Section 271. In fact, its text demonstrates that Congress fully expected that state commissions would in the first instance set the rates, terms and conditions for Section 271 items. Specifically, under the terms of Section 271(c)(1)(A) and Section 271 (c)(2)(A), which is entitled "Agreement required," before

			Verizon can offer in-region interLATA services in a state, it must satisfy the express condition that it provide the competitive checklist items (listed in Section 271(c)(2)(B)) through "binding agreements that have been approved *under Section 252*." 47 U.S.C. 271(c)(1)(A), (2)(A)(emphasis supplied). Where negotiations fail, it is the state commission that must conduct arbitrations pursuant to Section 252 to form an interconnection agreement that can be approved "under section 252." A Bell company can thus comply with Section 271 duties *only* by entering into interconnection agreements "under Section 252" (Section 271(c)(1)(A)) that specify terms and conditions for Section 271's checklist items. In arbitrating interconnection agreements, state commissions plainly will in the first instance set the rates, terms and conditions for Section 271 checklist items. See Sprint Comm. Co. v. FCC, 274 F.3d 549, 552 (D.C. Cir. 2001) (noting that the competitive checklist requirements are "enforced by state regulatory commissions pursuant to Section 252"). **Conversent:** See Conversent's statement under Issue No. 1.

			WilTel: WilTel adopts AT&T's response to Issue 31. **MCI:** Yes. **CCC**: Yes. *See* CCC § 4. CCC has proposed terms to secure its rights under Section 271(c)(2)(B) of the Act with respect to facilities that Verizon is no longer required to offer under § 251. Inclusion of these terms in the Amendment is appropriate in the context of implementing the TRO because such terms were only made necessary by the TRO's elimination of certain UNEs from the FCC's § 251 regulations. CCC § 4.2 proposes the continued utilization of the TELRIC-based rates set forth in the parties' Agreement for network elements provided pursuant to Section 271. The Coalition is mindful of the FCC's determination in the *TRO* that state commissions are not required to apply the pricing standards of Section 252 to these facilities. However, Verizon has not proposed alternative rates in its Amendment, nor has it provided any cost support information to establish that different rates would be just and reasonable as required by the *TRO*.

			Finally, CCC § 4.3 and § 2.3 proposes that Verizon must combine and/or commingle Section 271 UNEs at CLECs' requests, provision routine network modifications, perform conversions to and from Section 271 UNEs and comply with all other provisions of this Agreement governing the nondiscriminatory provision of network elements to CLECs. Even if these elements are not subject to nondiscrimination standards of Section 251, they remain subject to the requirements of state law and of Sections 201 and 202. Any refusal to provide such combinations to CLECs, even as it performs them for its own affiliates and operations, would be unreasonable and discriminatory in violation of these applicable standards. **CTC:** Concurs with CCC.

JOINT MATRIX OF ISSUES TO BE ARBITRATED IN DOCKET 04-33

ISSUE	DESCRIPTION	VZ POSITION	CLEC POSITION
32	Should the Commission adopt Verizon's proposed new rates for the items specified in the Pricing Attachment to Amendment 2?	Yes. The FCC's new rules, particularly as to routine network modifications, require Verizon to provide services to requesting CLECs for which no prices have yet been established under existing interconnection agreements. Verizon has the right to be compensated for performing such services. Accordingly, Verizon's Amendment 2 includes a Pricing Attachment that sets the elements or services that Verizon is required to provide under the terms of the *Triennial Review Order*, including routine network modifications and various activities related to providing commingling arrangements. Verizon will submit a cost study and propose prices for these new items. For any elements or services not already contained in either Verizon's Amendment or in CLECs' existing agreements, Verizon's Amendment provides that prices should be those approved (or otherwise allowed to go into effect) by the Commission or by the FCC.	**AT&T/CCG/RNK**: No. See response to Issues 6, 8, 11, 15, 20 and 21 above. **Sprint:** No, not unless there is a specifically authorized rate provided in the new FCC TRO Order, or after full DTE rate review. **WilTel:** WilTel adopts AT&T's response to Issue 32. **MCI**: No. **CCC:** No. The CCC concurs with AT&T's position. **CTC:** Concurs with AT&T**.**