COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications and Energy on its own motion pursuant to G.L. c. 159, §§ 12 and 16, into Verizon New England Inc., d/b/a Verizon Massachusetts' provision of Special Access Services.	D.T.E. 01-34

DIRECT TESTIMONY OF EILEEN HALLORAN

ON BEHALF OF AT&T COMMUNICATIONS OF NEW ENGLAND, INC.

February 6, 2002

I. INTRODUCTION, QUALIFICATIONS AND PURPOSE OF TESTIMONY

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Eileen Halloran. My business address is 32 Avenue of the Americas, New York, New York 10013.

Q. WHAT IS YOUR POSITION?

A. My present position is AT&T Division Manager for Local Services and Access Management in the Eastern Region.

Q. WOULD YOU PLEASE SUMMARIZE YOUR QUALIFICATIONS?

A. I have worked over 30 years in telecommunications for Bell Operating companies and AT&T. My assignments and responsibilities have included network planning and implementation, circuit design, interoffice facility planning and engineering and operations. Over the last 7 years my responsibilities have been focused on the business interface between AT&T and Verizon, including Interconnection Agreement negotiations, collaborative work on metrics and standards, and Verizon's supplier performance to AT&T.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to describe the poor performance AT&T receives from Verizon, as demonstrated by the data submitted by Verizon, in the provisioning and maintenance of special access circuits. I explain the detrimental

impact of this deficient service on AT&T, on its customers and on competition in Massachusetts.

Q. HOW IS YOUR TESTIMONY ORGANIZED?

A. Section II provides a description of special access and AT&T's use of special access circuits to serve its business customers. Section III describes the three determinants of Verizon's performance in provisioning and maintenance of special access services: (1) the market; (2) business to business relationships; and (3) regulation. In Section IV, I use the data provided by Verizon in this proceeding to show that (a) Verizon's special access provisioning and maintenance is generally poor; and (b) that its special access provisioning and maintenance is poorer for AT&T and other CLECs than the comparable service provided to Verizon retail end users. In other words, Verizon discriminates against CLECs in the provisioning and maintenance of special access. An explanation of how Verizon's deficient service harms carriers, customers and competition in Massachusetts is provided in Section V. Finally, in Section VI, I offer recommendations to the Department to remedy the poor performance of Verizon.

II. IMPORTANCE OF SPECIAL ACCESS TO AT&T AND OTHER CLECS.

Q. HOW DOES AT&T USE SPECIAL ACCESS CIRCUITS?

A. AT&T is heavily dependent upon special access circuits (generally DS1 and DS3 facilities) not only for long distance access, but also for the provision of many

local services, including much of the local service AT&T provides to large and mid-sized businesses. AT&T must secure service from Verizon under special access tariffs in part because of the Department's decision to permit Verizon to limit the manner in which CLECs may use UNEs.[1] Those same restrictions preclude CLECs from converting special access to UNEs.[2]

Q. OVER WHAT FACILITIES DOES VERIZON PROVISION SPECIAL ACCESS TO CLECS?

A. Special access services use the very same loop and transport facilities that are provided by Verizon as unbundled network elements ("UNEs"). Regardless of the differing nomenclature or tariff language – "transport" and "loops" in the case of UNEs versus "channel mileage" and "channel terminations" in the case of special access – the underlying infrastructure used to provide these functionalities is the same, *i.e.* local loops or outside plant ("OSP"), Central Office ("CO") equipment and interoffice facilities ("IOF").

[1] *Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariffs: M.D.T.E. Nos. 14 and 17, filed with the Department on August 27, 1999, to become effective on September 27, 1999, by Verizon New England, Inc. d/b/a Verizon-Massachusetts*, D.T.E. 98-57 – Phase I (September 7, 2000) at 33-37. In its decision, the Department permitted Verizon to restrict UNE usage to three different usage configurations adopted by the FCC in its June 2000, Supplemental Order Clarification of its November 1999 UNE Remand Order and Supplemental Order. The three usage configurations are now codified in Massachusetts D.T.E. Tariff 17, Section B. 13.1.1.D.

[2] *See* Rebuttal Testimony of Deborah S. Waldbaum, D.T.E. 01-31 (August 24, 2001), a copy of which is attached as Exhibit C.

Q. WHY DOESN'T AT&T SIMPLY SELF-PROVISION SPECIAL ACCESS CIRCUITS OR OBTAIN THEM FROM THIRD PARTIES?

A. AT&T and other carriers are reliant on the use of special access facilities for both interoffice transport and connectivity to end-user customers. Much as AT&T would prefer to provide these facilities itself, or obtain them from non-incumbent sources, in the overwhelming majority of situations Verizon is the *only* source for these facilities.

In most cases, it is not feasible or economical for AT&T to build facilities directly to the end user's premises. Construction of new facilities as compared to incremental augments to existing facilities, is very time consuming and often requires cooperation from localities, other carriers, and building owners. Even more problematic, it can take months or even years to complete. Most end users are unwilling to deal with these delays. When AT&T's business customers want service, they generally want it *now*.[3]

Special access services from other sources (competitive access providers or other CLECs) are only available in limited circumstances. Thus, in the vast majority of cases, AT&T must use Verizon.

[3] AT&T's reliance on Verizon for connectivity to the customer derives from the difficulties and delays of constructing a second facility to an end user premises when Verizon already has one available. Those difficulties and delays are detailed in testimony that Mr. Anthony Fea of AT&T filed in D.T.E. 01-31 on pages 11-16. A copy of Mr. Fea's testimony is attachedas Exhibit D.

III. DETERMINANTS OF VERIZON'S PERFORMANCE IN PROVISIONING AND MAINTENANCE OF SPECIAL ACCESS CIRCUITS.

Q. WHAT ARE THE DRIVING FORCES BEHIND VERIZON'S PERFORMANCE IN PROVISIONING AND MAINTENANCE SPECIAL ACCESS CIRCUITS?

A. In my view, the three drivers of service quality are: (1) market alternatives (or lack thereof); (2) business to business relationships; and (3) interest and aggressiveness of regulators.

Q. HOW DOES THE MARKET AFFECT VERIZON'S PERFORMANCE IN PROVISIONING AND MAINTENANCE OF SPECIAL ACCESS?

A. If the market for special access services were competitive, such a competitive market would curtail poor performance and discriminatory behavior on the part of Verizon as the supplier of special access circuits. Thus, if AT&T had real alternatives such that Verizon would be concerned about losing AT&T's business, then Verizon would have the necessary incentive to improve and maintain its service quality.

However, because of Verizon's dominant position in the provision of special access facilities, no market forces exist to correct performance deficiencies. Compelling proof of Verizon's continuing market power is a recent ruling by the New York Public Service Commission ("NY PSC"). Even in what is generally regarded as *the most competitive market in the United States* (southern Manhattan), the NY PSC characterized Verizon as the "dominant" provider of special access services, based on close analysis of a detailed record

regarding route miles of fiber, numbers of buildings passed, and especially numbers of buildings actually connected to non-ILECs.[4]

Specifically, the NY PSC found that "Verizon's combined market share data demonstrate its *continued dominance in all geographic areas*…. In the 132 LATA, for example, Verizon has 8,311 miles of fiber compared to a few hundred for most competing carriers; Verizon has 7,364 buildings on a fiber network compared to less than 1000 for most competing carriers."[5] In New York City, Verizon's own data show that "a maximum of 900 buildings [are] served by individual competitors' fiber facilities," but New York City has "775,000 buildings in the entire city, over 220,000 of which are mixed use, commercial, industrial, or public institutions."[6]

The NY PSC further concluded that claims regarding "buildings passed" by competitors' facilities were virtually meaningless as evidence of a competitive market because "these data do not reflect how often fiber actually enters these buildings."[7] Overall, the NY PSC found that Verizon "continues to occupy the dominant position in the Special Services [Special Access] market, and its dominance is a controlling factor in that market. Because competitors rely on Verizon's facilities, particularly its local loops (OSP) and IOF, Verizon represents

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[4] *See* NY PSC Case 00-C-2051, *Proceeding on Motion of the Commission to Investigate Methods to Improve and Maintain High Quality Special Services Performance by Verizon New York Inc.*, Opinion and Order Modifying Special Services Guidelines for Verizon New York Inc., Conforming Tariff, and Requiring Additional Performance Reporting, at 6 (June 15, 2001) ("*NY PSC Special Services Order*").

[5] *Id*. at 7.

[6] *Id*. at 7-8.

[7] *Id*. at 9.

a bottleneck to the development of a healthy, competitive market for Special Services."[8]

Further proof of Verizon's special access market power lies in its poor special access performance. As described below, the dramatic decline experienced over the last several months is wholly inconsistent with the performance one would reasonably expect in a competitive market.

Q. HOW DO THE BUSINESS RELATIONSHIPS BETWEEN VERIZON AND CLECS DRIVE VERIZON'S PERFORMANCE IN PROVISIONING AND MAINTENANCE OF SPECIAL ACCESS?

A. AT&T prefers to achieve its service requirements from suppliers such as Verizon through business relationships with those suppliers and would rather not have to rely on the regulatory process. AT&T devotes considerable resources to enable Verizon to provide the best possible service to AT&T. In support of achieving that level of supplier performance from Verizon, AT&T engages with Verizon in end-to-end process defect analysis to determine what improvements can be made. AT&T has dedicated resources who interface with Verizon to gather, analyze and process data, determine and implement improvement initiatives, and track results to assure the intended service improvement. AT&T is not always able to achieve the performance it requires through the business process, as demonstrated by its petition to open this proceeding.

[8] *Id*.

Q. DOES REGULATION INFLUENCE VERIZON'S PROVISIONING AND MAINTENANCE OF SPECIAL ACCESS CIRCUITS?

A. I believe it is clear that Verizon does respond to regulatory oversight. Indeed, this case provides a good example of that. After the Department opened this docket, the data supplied by Verizon indicated a slight but discernable improvement in Verizon's provisioning and maintenance of special access circuits in Massachusetts. Despite the improvement, however, Verizon's performance is still inadequate and discriminatory, so that further sustained and more aggressive regulatory action is required.

IV. VERIZON'S DATA DEMONSTRATE DISCRIMINATORY PROVISIONING AND MAINTENANCE OF SPECIAL ACCESS CIRCUITS.

Q. WHAT DO THE VERIZON DATA SHOW?

A. The data finally extracted from Verizon during the course of this proceeding demonstrate that Verizon's performance for special access circuits is generally substandard and, importantly, the performance Verizon provides to its retail customers greatly exceeds Verizon's performance for circuits to wholesale customers. The disparity between Verizon's provisioning and maintenance to its retail customers and to its wholesale customers is repeated and systematic.

Q. CAN YOU POINT TO SPECIFIC DATA THAT DEMONSTRATE VERIZON'S DISCRIMINATORY CONDUCT?

A. Yes. Verizon's data confirms that its special access performance is unacceptable. Looking at the following measures – percent on time, average interval offered, average interval completed, and installation quality – it is clear that Verizon's performance is substandard and worse than what it provides for its retail end users. For ease of presentation, I will discuss data for DS1 circuits. Importantly, the data for other circuits are generally consistent with the DS1 results, demonstrating poor performance across all of special access provisioning. Indeed, in July 2001, it was 99% for Verizon's retail customers and 75% for wholesale customers.

Q. WHAT DOES THE VERIZON DATA SHOW IN REGARD TO PERCENT ON TIME?

A. The calculation of percent on time demonstrates Verizon's systematic discrimination in provisioning to non-affiliate wholesale carriers as opposed to Verizon's own retail customers. In order to arrive at percent on time, I did the following calculation: 1 minus the monthly data provided in response to WCOM/ATT 1-5a (circuits not on time for Verizon reasons) divided by the monthly data provided in response to WCOM/ATT 1-3 (total completed circuits). The result is multiplied by 100 to convert to a percentage.[9] As displayed in the summary chart of Verizon's performance for DS1s attached as Exhibit A to this

[9] This calculation of "percent on time" gives Verizon "on time" credit for due dates missed for non-Verizon reasons.

testimony, Verizon met the due date commitment to its retail end-user on average 99 percent of the time; while Verizon met the due date commitment to non-affiliated carriers on average only 83 percent of the time. Moreover, this significant difference in average on-time performance reflects a systematic and unvarying pattern. In *every* month analyzed, Verizon's on-time performance to its retail customers exceeded its on-time performance to its wholesale customers.

The experiences of AT&T customers per the feedback from AT&T salespeople confirm these percentages. The difference in service is unacceptable. Carriers cannot tolerate such poor provisioning and maintenance and still remain viable competitors of Verizon. Moreover, with such poor on-time performance, not only do competing carriers suffer, but the actual and potential level of competition in the Massachusetts special services market declines.

Q. WHAT DO THE DATA ON AVERAGE INTERVAL OFFERED AND AVERAGE INTERVAL COMPLETED INDICATE?

A. The data show that offered and completed intervals for all customers, both Verizon retail and wholesale non-affiliated carriers, are long. Monthly average intervals offered for retail customers range from 13 to 17 days. Monthly average intervals completed for retail customers range from 16 to 22 days. Such performance to all of the Commonwealth's customers cannot be tolerated. Companies which rely upon fast, reliable augments to their communications capacity (bandwidth) to conduct their business have told AT&T that they now consider where special access service is provided more reliably and more quickly.

Thus, these companies are forced to consider expanding or moving their business to other states.

In addition, the great disparity in the intervals offered and completed for Verizon end user customers as opposed to non-affiliated wholesale customers demonstrates yet again discriminatory conduct on the part of Verizon. Comparing the retail and wholesale intervals for the two months for which Verizon provided data,[10] Verizon offered to provide DS1 service to its end user customer in an average interval of 16.53 days in October 2001, while Verizon's non-affiliate carrier customers were offered an average interval of 27 days. The same comparison for retail to wholesale in November 2001 was 17.85 days to 22 days.

The average interval to actually complete the DS1 service for Verizon retail in October 2001 was 16.86 days, while non-affiliate wholesale customers waited an average of 32 days. This is consistent with the statistics that show that Verizon almost always meets its due date to its retail customers, while Verizon more frequently misses the due date to its wholesale customers. The statistics for November 2001 show that the average interval completed for Verizon retail was 21.75 days, while the average interval completed for non-affiliated wholesale customers was 29 days. Such discriminatory performance harms carriers, customers and competition in Massachusetts.

[10] In response to WCOM/ATT-VERIZON 1-18, Verizon states that the only available wholesale data for interval offered and interval completed are October and November 2001.

Q. WHAT OTHER MEASUREMENTS DEMONSTRATE VERIZON'S POOR PROVISIONING AND MAINTENANCE PERFORMANCE?

A. The trouble report rate for new installations measures the quality of Verizon's installation work by capturing the rate of trouble reports on new circuits within 30 calendar days of the installation. In order to arrive at this measure of installation quality, I used as the denominator the total number of circuits installed in a month, as reported in WCOM/ATT-VZ 2-3(a), and I used as the numerator the number of such circuits that had trouble reports within 30 days of installation, as reported in WCOM/ATT-VZ 2-3(b). I multiplied the result by 100 to convert to a percentage. The data demonstrate that, in every month analyzed, circuits installed for wholesale customers fail at a rate that is significantly higher than the failure rate of circuits installed for retail customers. Indeed, the monthly wholesale failure rate exceeds the monthly retail failure rate by factors that range up to and over 10 times.

A mean time to restore ("MTTR") interval measures the promptness in restoring circuits to normal operating levels when a problem or trouble is referred to Verizon. Verizon, however, has not provided the retail data for MTTR and therefore I cannot make a comparison between Verizon's retail and wholesale MTTR performance.

Q. WHAT IS THE OVERALL PICTURE DISPLAYED BY THE COMPARATIVE DATA?

A. To summarize, the data demonstrate that Verizon's retail end user is promised (offered) and gets (completed) special access service sooner, and the due date is

almost certain to be met for a retail end user. In contrast, the non-affiliate carrier is likely to wait longer for the due date and not receive service until after the due date. Moreover, the data shows that a DS1 circuit installed for the retail end user customer is provisioned better that the DS1 installed for the wholesale customer.

Q. DO THE COMPARATIVE DATA PROVIDED BY VERIZON IN THIS PROCEEDING SURPRISE YOU?

A. No, as I explain below, the data here are consistent with the reports we receive from our sales people and from our customers. Moreover, I can say without hesitation that it has been AT&T's experience that the special access DS1 on-time provisioning performance for AT&T in Verizon North is worse than the performance for AT&T in any other part of Verizon and worse than the performance for AT&T by any other ILEC. This is particularly troubling given the fact that Verizon North charges AT&T the highest price in the country for DS1 special access circuits.

V. INADEQUATE SPECIAL ACCESS PERFORMANCE HARMS CARRIERS, CUSTOMERS, AND COMPETITION IN MASSACHUSETTS.

Q. WHAT IS THE EFFECT OF VERIZON'S POOR PROVISIONING AND MAINTENANCE PERFORMANCE ON CARRIERS AND CUSTOMERS?

A. Because Verizon's special access services are so often the only means by which AT&T can connect its own equipment and facilities to Verizon end offices and through Verizon end offices to customers, deficiencies in Verizon special access provisioning and maintenance compromise customers' perception of AT&T's and other CLECs' ability to offer quality services. The impact of Verizon's poor

performance on its competitors and, importantly, their business *customers* includes: lost revenue, diminished reputation, decreased productivity and unnecessary expense. Under these circumstances, AT&T and other CLECs cannot attract and retain customers effectively.

Q. WHAT EFFECT DOES VERIZON'S POOR PROVISIONING AND MAINTENANCE PERFORMANCE HAVE ON THE ECONOMIC HEALTH OF MASSACHUSETTS?

A. The New York PSC recognized that "[s]pecial services are vital to the economic viability of the state [of New York]."[11] Similarly, special access services, which are necessary for competitors to provide special services, are key components to the economic development of Massachusetts. Special access circuits connect a wide variety of Massachusetts businesses to their customers, data centers, and warehouses, and therefore contribute to commerce and competition in Massachusetts.

Jurisdictions where Verizon provisions special service circuits to its own end user customers and special access circuits to its wholesale carrier customers at an adequate level are more attractive to companies and firms which require quick, reliable augments in order to conduct business. For example, a national business which needs to site or sustain a data center will consider where it can obtain circuits faster and where correction of any problems with those circuits will occur almost instantaneously. Other states recognize the potential economic impact of Verizon's poor provisioning and maintenance performance. New York has issued

[11] *NY PSC Special Services Order*, at 12.

Special Access Service Guidelines and Maine is considering adoption of the New York standards and measures.

In addition, Verizon's discriminatory provisioning and maintenance contradicts the Department's commitment to the promotion of competition in Massachusetts. Carriers receiving on time performance in the range of 70-80% cannot effectively compete with the suite of services Verizon can now offer with Section 271 approval.

VI. THE ROLE OF THE DEPARTMENT IN CURING VERIZON'S POOR PROVISIONING AND MAINTENANCE OF SPECIAL ACCESS.

Q. WHAT IS THE MOST EFFICIENT WAY FOR THE DEPARTMENT TO CURE VERIZON'S POOR PROVISIONING AND MAINTENANCE OF SPECIAL ACCESS?

A. The most efficient way for the Department to cure the current and persistent performance problems is to expand the rules for use of UNEs to provide bundled services to carriers' local customers, in full competition with Verizon. In so doing, the Department would in large part obviate the need for special access performance monitoring and enforcement. Expanded use of UNEs in Massachusetts places competitors on an equal footing with Verizon and allows the Department to ensure adequate provisioning and maintenance performance by Verizon in the Massachuetts local exchange marketplace.

In order to facilitate such CLEC use of UNEs, the Department should alter the language in Tariff 17: (1) by eliminating Section B.13.1.1.D, which codifies

the onerous usage restrictions, and (2) by modifying Section B.13.1.1.A as follows:

> EEL arrangements are provided to the extent technically feasible ~~and where facilities exist~~. EEL arrangements enable a CLEC to use combinations of unbundled links (provided under Part B, Section 5) and unbundled dedicated interoffice transport network elements, including unbundled multiplexers (provided under Part B, Sections 2 and 3) to provide ~~a significant amount of local exchange~~ **any telecommunications** service to an end user.

I am not a lawyer and will defer to the attorneys to explain on brief why the Department can do this.

However, if the Department mainatins that it is appropriate to allow Verizon to restrict the use of UNEs when used to provide local exchange service in certain circumstances, the Department should open up a proceeding as soon as possible to determine the right local use test for use of UNEs.

Q. ARE THERE ANY OTHER WAYS FOR THE DEPARTMENT TO ADDRESS THE PROBLEM OF POOR PROVISIONING AND MAINTENANCE THAT YOU DESCRIBE ABOVE?

A. Yes. The Department should establish metrics and standards to measure performance so that the inadequate provisioning and maintenance I described above no longer occurs. An effective set of performance measures and standards (and enforcement mechanisms, where legally permissible) must take into account the need to compare the quality of service that Verizon provides in provisioning and maintaining circuits to itself and its retail customers, versus its provisioning and maintaining of special access to CLECs. Just as Verizon is required to submit monthly reports under the carrier to carrier metrics, Verizon should be required to report its special access performance monthly to the Department. Otherwise,

Verizon will continue to be able to provide better service to itself, or to its retail customers, than to its wholesale customers – and there will be no reported statistics to reveal the discrepancies. Also, this proceeding has shown the need for the Department to be fully informed of the level of service provided by Verizon in Massachusetts. This is necessary so that over time, the Department can be alert to service deterioration and can act quickly to understand its cause and ensure corrective action. Needless to say, the nature of the customer (Verizon customer vs. Verizon competitor) or the label attached to the order (retail vs. special access) ought not to result in higher or lower standards of service.

Q. WHAT SPECIFIC METRICS ARE YOU RECOMMENDING?

A. The special access metrics and standards adopted by the New York PSC are an appropriate and comprehensive set of standards which already have been implemented and proven to remedy Verizon's poor provisioning and maintenance performance. I have attached a copy of these metrics as Exhibit B. As you can see, this set of standards measures: (1) percent on time ASR response;[12] (2) provisioning on time performance – met commitments; (3) average delay days on missed installation orders; (4) installation quality; (5) percent missed appointments due to a lack of facilities; (6) percent jeopardizes; (7) customer trouble report rate; (8) trouble duration intervals; and (9) installation intervals.

[12] For this percent on time metric, the DTE should order that Verizon provide a firm commitment (FOC) at day 3 and not allow an estimated due date (ECD) to be confirmed or changed later.

Because Verizon has been ordered to begin reporting under these metrics in New York, implementation of these metrics in Massachusetts will be swift and easy.

Q. SHOULD THESE METRICS MEASURE BOTH INTRASTATE AND INTERSTATE PERFORMANCE?

A. Yes. The metrics must measure both inter and intrastate performance if the Department is to be fully informed of Verizon's service in Massachusetts. The data submitted by Verizon in this proceeding shows that more DS1 service is provided to businesses in Massachusetts from the interstate tariffs than the intrastate.

Q. ARE YOU AWARE THAT THE DEPARTMENT HAS FOUND THAT IT DOES NOT HAVE JURISDICTION TO REGULATE VERIZON'S PROVISIONING AND MAINTENANCE OF INTERSTATE CIRCUITS?

A. Yes.

Q. ON WHAT BASIS, THEN, DO YOU RECOMMEND THAT THE DEPARTMENT REQUIRE VERIZON TO REPORT ITS INTERSTATE SPECIAL ACCESS PERFORMANCE?

A. I am not a lawyer. However, I understand that the Department has authority to require Verizon to report its interstate circuit provisioning and maintenance performance even if the Department does not have jurisdiction to regulate that performance.

Q. IS THERE A WAY FOR THE DEPARTMENT TO ENCOURAGE VERIZON TO IMPROVE ITS INTERSTATE ACCESS PROVISIONING AND MAINTENANCE EVEN IF IT DOES NOT HAVE JURISDICTION TO REGULATE SUCH PROVISIONING AND MAINTENANCE DIRECTLY?

A. Yes. I understand that in D.T.E. 01-31 Verizon has cited the competition that it faces from AT&T and other CLECs as justification for the Department granting it unprecedented pricing flexibility for its business retail services. As I discussed above, if the Department continues to permit Verizon to impose use restrictions on UNEs, AT&T and other CLECs will continue to be forced to purchase circuits out of the special access tariffs and Verizon will continue to hold an unwarranted competitive advantage over CLECs as a result of above-cost pricing of special access. At a minimum, promoting parity in the provisioning and maintenance of special access is necessary (though not sufficient)[13] for AT&T to compete in the local exchange market on equal footing with Verizon. Although I am not a lawyer, it seems to me that the Department does have the ability to ensure that Verizon cannot continue to hamper local competition by forcing CLECs to rely on expensive and poorly provisioned special access circuits, while at the same time citing such competition as grounds for deregulating its own retail pricing.

Furthermore, although the Department has found that it does not have jurisdiction to regulate Verizon's provisioning and maintenance performance of interstate special access circuits, I understand from counsel that the Department does have jurisdiction to deny Verizon's request in D.T.E. 01-31 for pricing

[13] Parity in provisioning does not solve the disparity in cost that Verizon and AT&T incur when AT&T is forced to purchase its connectivity to the customer out of a special access tariff.

flexibility in the absence of a showing by Verizon that there is a plan in place for parity in provisioning and maintenance of special access and that the plan is working. Indeed, only if there is such a plan in place, and this plan includes adequate enforcement mechanisms, can the Department have any reasonable grounds for finding that it can rely on competition to ensure that Verizon's rates meet the statutory requirement of just and reasonable. The Department should condition any grant of pricing flexibility in D.T.E. 01-31 on Verizon's voluntary compliance with a special access performance assurance plan that includes adequate enforcement mechanisms for both intrastate and interstate access.

Q. WHY IS AT&T PETITIONING THE DEPARTMENT FOR ASSISTANCE IN REMEDYING VERIZON'S POOR PROVISIONING AND MAINTENANCE WHEN AT&T HAS FILED COMMENTS AT THE FCC STATING THAT THE FCC HAS PRIMARY JURISDICTION OVER INTERSTATE ACCESS?

A. First, AT&T has a strong interest in the correction of the intrastate process. Investigation and correction of Verizon's intrastate service deficiencies will have a beneficial effect on Verizon's provisioning and maintenance performance at the interstate level, as Verizon has said that it cannot and does not distinguish between a carrier's interstate and intrastate order. It has been my experience that the state public service commission is the agency with responsibility for ensuring adequate provisioning and maintenance of intrastate circuits. Thus, while improvement in the intrastate provisioning and maintenance process will have the collateral effect of improving the interstate process, it is to the Department that we must petition for nondiscriminatory intrastate provisioning and maintenance.

Second, the Department has a strong interest in encouraging improved and non-discriminatory provisioning and maintenance performance of both intrastate and interstate circuits. Correcting the process for intrastate circuits will have an important beneficial impact on state interests for three reasons: (1) intrastate circuits in and of themselves are very important to state economic development; (2) remedying the inadequacies of the process for intrastate circuits will have the incidental effect of correcting the process for interstate circuits which are even more important for state economic development; and (3) per the Verizon data provided, more business service reliant upon DS1 circuits from Verizon is provided in Massachusetts via interstate tariffs than intrastate tariffs.

Q. THE DEPARTMENT ASKED IN ITS MARCH 14, 2001 ORDER OPENING THIS DOCKET: "WHAT STEPS…SHOULD [VERIZON] BE REQUIRED TO TAKE TO IMPROVE ITS SPECIAL ACCESS SERVICES." DO YOU HAVE ANY RECOMMENDATIONS?

A. Yes. The Department should investigate the root causes of Verizon's deficient service and determine if any of Verizon's performance problems are the result of insufficient Verizon infrastructure, resources and training in Massachusetts. Such an investigation should follow an order in this phase of the proceeding that Verizon must report the reasons for missed due dates, late FOCs and long intervals with sufficient detail. On the basis of that information, the Department can conduct a second phase of the proceeding to understand whether the problems identified in this phase stem from a lack of interoffice facilities, insufficient central office equipment, lack of outside plant or other inadequate facilities or insufficient personnel and training. Should such an investigation reveal

deficiencies in Verizon's equipment, staffing or training, Verizon should be required to increase its investment in Massachusetts.

Although the appropriate remedy should follow that phase of the proceeding, the Department could now require Verizon to report its expenditures on infrastructure, personnel and training by major category until Verizon demonstrates consistent, adequate and nondiscriminatory provisioning and maintenance performance. This may turn out to be important given recent press releases that Verizon is cutting back on investments in its infrastructure. Such a cut would be particularly troublesome in light of Verizon's Service Improvement Plan described in Verizon's May 24, 2001 Report on IntraLATA Special Access Services which is based in part on increased infrastructure investment to improve performance.

Q. WHAT IS NEEDED IN ORDER FOR THE DEPARTMENT AND THE PARTIES TO DRAW VALID CONCLUSIONS FROM THE DATA PROVIDED BY VERIZON?

In order to be confident that the data provided by Verizon is accurate and, therefore, that the root cause analysis described above will produce reliable results, the Department should order an audit of Verizon's special access and retail special services measurements, rules, data collection, analysis and reporting procedures and processes. Such a review should be performed by an independent auditor.

The uncertainty of relying on Verizon-provided data, without any independent verification, is demonstrated by the sea change in some of the retail

numbers reported under the C2C metrics between March 2001 and April 2001. In fact, this reporting change has been raised and is being worked in the New York Carrier Working Group. The same problem can be found in the Verizon Massachusetts C2C reporting.

The Department has ordered an independent audit of Verizon's data and reporting under the Performance Assurance Plan. *See Performance Assurance Plan, Verizon Massachusetts* (May 18,2001) at 25. Pursuant to the PAP, the Department will select an independent auditor through a competitive bidding process and Verizon will pay for the audit. *Id*. The first audit will include an examination of data reliability issues and subsequent audits will include an examination of data reliability issues at the Department's discretion. *Id*. Just such an independent audit of Verizon's reporting of its special access performance is needed so that the Department can be assured of accurate data and valid conclusions.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.