

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts

D.T.E. 01-20

**MOTION OF AT&T COMMUNICATIONS OF NEW ENGLAND, INC.,  
TO STRIKE VERIZON'S PROPOSED "AC AMPS PER DC AMPS" RATE  
CONTAINED IN BOTH ITS INITIAL AND ERRATA REPLY TO RR-DTE-40  
OR, IN THE ALTERNATIVE, AT&T'S MOTION TO REOPEN THE RECORD**

AT&T Communications of New England, Inc. ("AT&T") respectfully urges the Department to strike Verizon's proposed "AC Amps per DC Amps" rate contained in its late-filed reply to RR-DTE-40 and its late-filed errata reply to RR-DTE-40. There are three reasons to strike Verizon's proposed rate. First, as explained in Section I, below, Verizon's attempt to propose this new rate is procedurally improper. Verizon's initial attempt to propose this new rate (in the initial response to RR-DTE-40) goes beyond the scope of the Department's record request and, therefore, represents affirmative new evidence presented after the close of the record, and its errata response to RR-DTE-40 comes after the filing of initial briefs and simultaneous with the filing of reply briefs. Second, as explained in Section II.A, below, Verizon's new rate purports to recover costs for which there is no record evidence. Third, as explained in Section II.B, below, even if the costs which Verizon's new rate purports to recover were real (which they are not), Verizon's new rate "recovers" more than the costs to which Verizon claims it is entitled.

(For example, in the metro zone, it recovers 3.8 times the amount of costs to which Verizon claims entitlement.)

If the Department decides not to strike Verizon's "AC Amps per DC Amps" rate, the Department should allow the parties in this proceeding to submit additional evidence to demonstrate the problems in Verizon's calculation of this new rate. Verizon's errata response comes with almost no explanation or support, "correcting" an earlier record request response which itself was improper in that Verizon introduced an entirely new power rate, for which Verizon likewise provided little support. The parties should be able to introduce expert testimony and or cross-examine Verizon on the "AC Amps per DC Amps" rate, if admitted by the Department, so that the Department can evaluate in a meaningful way the new evidence presented by Verizon.

### **Background.**

The Department issued RR-DTE-40 to Verizon's Dinnell Clark at the hearing on January 23, 2002. This request asked Verizon to provide the collocation DC Power Consumption rate calculated with the emergency engine in DC amps, rather than AC amps. Verizon did not provide its original response until February 26, 2002, four weeks late and one week before the initial brief due date. In its response, as requested, Verizon computed the DC Power Consumption rate with the emergency engine in DC amps. This resulted in a rate of \$15.88 (compared to \$22.79 as originally filed). Also in the February 26, 2002, original response, however, Verizon proposed, with little explanation as to its meaning and with no explanation as to how or when it would be applied, an entirely new monthly recurring rate element entitled "AC

Amps Per DC Amps” of \$4.83.<sup>1</sup> Verizon’s response went beyond the scope of the Department’s request in proposing this new rate.

In analyzing Verizon’s newly proposed rate, AT&T found numerous problems. However, because the new rate had been submitted after the close of the record and went beyond the scope of the record request, there was little record evidence that could be used to point out the problems in the new rate. Not surprisingly, a new rate raises issues that, for the most part, require new evidence to critique. In order to avoid the distraction of procedural objections and motions in the same week that initial briefs were due, AT&T limited its criticism of the new rate in its initial brief to the issue that could be addressed using evidence already in the record. AT&T pointed out that the new rate double-recovered the emergency engine investment. *See AT&T Initial Brief*, at 227. AT&T was able to make this criticism by pointing to the workpapers submitted by Verizon in its original reply to RR-DTE-40.

On March 29, 2002, over three weeks after initial briefs were filed and the very day that reply briefs were required to be filed, Verizon submitted an errata reply to RR-DTE-40 in response to “one error” in Verizon’s original February 26, 2002, reply. *Verizon Reply Brief*, at 233. Verizon states that it is filing this errata because AT&T pointed out in its initial brief that Verizon’s new rate element double recovers the cost of the emergency engine. *Id.* Specifically, Verizon claims that “[t]he emergency engine investment should have been multiplied for each central office by the percentage of the engine power in that office that is converted into DC

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<sup>1</sup> Verizon provides these two sentences as its entire explanation of the “AC Amps Per DC Amps, rate element: “Workpaper 2.0 shows the formula for determining the cost of the emergency engine’s provision of all of the AC amps that are not eventually converted to DC amps, but are instead fed directly to the environmental plant on a per-AC-amp basis, and provides the cost. This is the AC power element.” RR-DTE-40 (original reply) (Clark).

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amps.” *Id.* Verizon’s newly submitted DC Power Consumption cost study (attached to the March 29, 2002 errata reply) now shows that Verizon is multiplying the unit investment per amp for the emergency engine by the (incorrect)<sup>2</sup> percent utilized for DC power (29 percent for the metro office). *See* RR-DTE-40 (errata reply) (attached Workpaper 1.0, line 27A).

**I. VERIZON’S POST-HEARING PROPOSAL OF A NEW RATE NOT BASED ON RECORD EVIDENCE IS PROCEDURALLY IMPROPER AND MUST BE STRUCK.**

Verizon has sought to introduce new evidence after the record has been closed. The record was closed on the last day of hearings on February 6, 2002, with the narrow exception of proper responses to record requests. Notwithstanding the closure of the record, Verizon filed a response to RR-DTE-40 that included material not requested. In particular, Verizon proposed a new “AC Amps per DC Amps” rate. Compounding its procedural violation, on March 29, 2002, Verizon filed an errata response to RR-DTE-40 after the filing of initial briefs and simultaneously with the filing of reply briefs. Verizon’s submission of material outside the scope of a record request after the record has closed, and its later submission of an errata after the initial briefs were filed, is highly inappropriate and explicitly prohibited by the Department’s procedural rules.

The rules on post-hearing procedure at 220 CMR 1.11(8) state that “[n]o person may present additional evidence after having rested nor may any hearing be reopened after having

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Verizon offers no explanation as to when this element would apply, to whom it would apply, or how Verizon would determine the AC amperage ordered since CLECs only specify the required DC amperage on a collocation application.

<sup>2</sup> AT&T explains the inaccuracy of this percentage in its Initial Brief at 224-225 and its Reply Brief at 152.

been closed, except upon motion and showing of good cause.” Verizon attempts to do just this. The March 29 submission of its errata is especially egregious. The only reason for Verizon’s submission of this response is to reduce the effect of a criticism made by AT&T in its initial brief. Certainly, good cause for reopening the record cannot include modification of that record in an attempt to deflect a criticism made in a post-hearing brief, especially when modification of the record would require acceptance of untested evidence to obviate criticisms pointed out on brief. Verizon should not be allowed to manipulate the record in this manner. The procedural rules are in place to prevent such abuse. Parties are called to brief the record. The record cannot be changed after the record is closed; *a fortiori* the record cannot be changed after briefs have been filed.

In addition to the fact that Verizon improperly files additional evidence in response to AT&T’s analysis of the record, Verizon compounds the impropriety of its response by waiting to file the errata until the deadline for submission of reply briefs. In that way, Verizon ensured that no party could respond to the new evidence, even in argument on brief. AT&T has attempted to address Verizon’s DC Power Consumption rate at each stage of its various transformations; yet, with the filing of this latest errata response, AT&T has run out of opportunities to respond. At some point, the parties must have confidence that the record is closed so that briefs based on record evidence do not become obsolete with the addition of new record evidence filed after or simultaneous with the last round of briefing.

For these reasons, Verizon’s new rate proposed in its initial and errata responses to RR-DTE-40 should be stricken.

**II. VERIZON'S IMPROPER ATTEMPT TO PROPOSE A NEW POWER RATE DURING THE BRIEFING PERIOD DISCLOSES THE WEAKNESS IN VERIZON'S CASE.**

**A. Verizon's Fails To Justify The Need For 1,069 AC Amps (Equivalent To 14,833 DC Amps) To Power Environmental Needs.**

In its February 26, 2002 original reply to RR-DTE-40, Verizon created the problem that its attempts to fix in the March 29, 2002 errata reply. In its original RR-DTE-40 response, Verizon filed a new power rate which went beyond the scope of the Department's record request. AT&T pointed out in its initial brief that, based on the workpapers attached to Verizon's original response, the "AC Amps per DC Amps" rate obviously double recovers the emergency engine investment by 71 percent. *AT&T's Initial Brief*, at 227. Verizon's workpapers showed that Verizon fully recovers the entire emergency engine investment in the DC Power Consumption Rate and then Verizon recovers another 71 percent of that same emergency engine investment in the "AC Amps Per DC Amps" rate. *See* RR-DTE-40 (original reply) (attached Workpapers 1.0 and 2.0). Based on this record evidence, AT&T was able to demonstrate one reason why Verizon's new power rate element is inappropriate.

Verizon now appears to claim that it has "corrected" the double recovery problem (pointed out in AT&T's initial brief) by multiplying by 29 percent the emergency engine investment used in its computation of the DC Power Consumption rate. Thus, Verizon is now, for the first time, computing a DC Power Consumption rate that does not recover the entire (oversized) emergency engine investment. At the same time, however, it seeks to recover fully the oversized engine with the "AC Amps per DC Amps" rate, which it uses to recover the other 71 percent of the oversized emergency engine. While AT&T has problems with the method

Verizon used to estimate the amps that make up the 29 percent (6,000 DC amps),<sup>3</sup> the big problem is the “method” (or lack thereof) that Verizon uses to estimate the number of amps that comprise the 71 percent.

Verizon claims that the 71 percent is the amount of power from the emergency engine used to power the environmental equipment in the central office, *i.e.*, lighting and air conditioning. The 71 percent figure is derived, however, directly from Verizon’s initial assumption of an oversized emergency engine. Verizon arrived at the 71 percent figure simply by subtracting from its initial size assumption for an emergency engine (1,505 AC amps, or 20,833 DC amps, or 1,000 kw )<sup>4</sup> the 6,000 DC amps that Verizon assumes necessary to support DC power to telecommunication equipment in a central office. *See* RR-DTE-40 (original reply) (attached Workpaper 3.0). In other words, Verizon began with an oversized generator which it assumed without any evidence, subtracted from it the amount of power needed for the telecommunications equipment,<sup>5</sup> and concluded that the rest of the capacity of the engine “must” be needed for ancillary, environmental needs. (In Verizon’s view, the balance of the engine capacity “must” be needed for environmental needs, because – otherwise – it has oversized its emergency engine.) As described in more detail below, the failure of Verizon to support 71 percent of its emergency engine (the cost of which is recovered in its “AC Amps per DC Amps” rate) was revealed in a story that unfolded with the filing of its responses to RR-DTE-40.

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<sup>3</sup> *See AT&T Initial Brief*, at 224-225; *AT&T Reply Brief*, at 152. *See also* Ex. ATT-16, Turner Rebuttal, at 45.

<sup>4</sup> All three amounts are equivalent given reasonable assumptions regarding voltage. *See* RR-DTE-40 (original reply) (attached Workpapers 4.0 and 5.0).

<sup>5</sup> AT&T does not agree that 6,000 DC amps is needed for telecommunications equipment in a central office. As Mr. Turner stated, 3,200 DC amps is an appropriate estimate. *See* Ex. ATT-16, Tumer Rebuttal, at 45.

In RR-DTE-40, the Department compelled Verizon to concede on the record that the emergency engine Verizon used to support its 6000-amp power requirement for a metro office was 1000 kw. *See* RR-DTE-40 (original reply) (attached Workpapers 4.0, line 2). Verizon was forced to reveal this fact so that Verizon could compute the DC amps that this 1000 kw engine produces (instead of the AC amps that Verizon used in its original DC Power Consumption cost study). In doing this calculation, Verizon showed that the 1000 kw engine produces 20,833 DC amps. *See* RR-DTE-40 (original reply) (attached Workpaper 4.0, line 5). But, as Verizon already had shown in its workpapers, Verizon is computing the cost per month to provide a 6000-amp capacity requirement. So in order to justify the total 20,833 DC amp capacity produced by the 1000 kw generator for a 6,000 DC amp requirement, Verizon stated that the remaining 14,833 DC amps were available to run the environmental equipment in the central office. *See* RR-DTE-40 (original reply) (attached Workpaper 3.0, line 5). Verizon then argues with great force how important it is to have backup generation for the ancillary needs – a point that is not in dispute – without ever providing evidence for why 1,069 AC amps (the equivalent of 14,833 DC amps) are needed for that purpose. *See* RR-DTE-40 (original reply), at 2.

Verizon's new "AC Amps per DC Amps" rate is designed to recover generating capacity that Verizon never proves is needed. There is not a single shred of evidence in the record that affirmatively states that the 1,069 AC amps (14,833 DC amps) is required for environmental needs in a central office. Verizon's 1,069 AC amps (14,833 DC amps) for environmental needs is simply a "balancing" number: it represents the difference between the 6000 DC amps Verizon affirmatively states is required (RR-DTE-40 (original reply), at 2-3), and the 20,833 DC amps that Verizon has assumed. In light of Mr. Turner's affirmative testimony demonstrating that environmental needs represent only a small portion (20 percent) of the overall power needs of a



central office, the Department should reject any rate that Verizon proposes to recover costs for generating capacity that Verizon does not prove is needed.

**B. Verizon's New Rate "Recovers" Many Times The Costs Of The Oversized Emergency Engines To Which It Claims It Is Entitled.**

Although Verizon does not state how the new "AC Amps per DC Amps" rate will be applied, we can assume that Verizon will charge CLECs on a DC amp basis as the name implies. The problem is that this is not how Verizon has developed the new rate. The rate is based on AC per AC Amps - not AC per DC Amps. This is the same problem that AT&T pointed out in its Initial Brief regarding the initial DC Power Consumption cost study filed by Verizon, namely Verizon incorrectly argues that an AC amp is the equivalent of a DC amp. *See AT&T Initial Brief* at 222-223. In proposing this new rate, Verizon has simply reintroduced the problem in a new form. The underlying metric for this rate element is the number of AC Amps used by the CLEC for environmental needs.

If Verizon charges the new rate element on a DC basis (as the rate element name implies) when the cost was developed on an AC basis, Verizon will overcharge CLECs by a factor of 13.84 (abstracting from any other considerations). This is simply a mathematical matter ( $20,833 \text{ DC amps} / 1,505 \text{ AC amps} = 13.84$ ). An AC amp costs more than a DC amp because the AC amp is a bigger unit. (See the ratio of kw to DC amps in Workpaper 4.0 attached to RR-DTE-40 and the ratio of kw to AC amps in Workpaper 5.0 attached to RR-DTE-40.) In other words, if Verizon were to express the proposed rate on a DC amp basis, the resulting rate would be \$0.35 per DC Amp - not \$4.83 per AC Amp ( $\$4.83 / 13.84 = \$0.35$ ).

Indeed, it can be shown using Verizon's workpapers that Verizon's new rate will over recover by a factor of many times the cost of the oversized emergency engine that Verizon assumes. For example, if Verizon were permitted to charge the \$4.83 per DC amp rate for the

6,000 DC amps that Verizon provides in a metro zone to collocators (Verizon's own assumption), it will "recover" as a matter of simple mathematics material costs of \$329,253.79.<sup>6</sup> Given that Verizon claims that the material costs for its emergency engines in the metro zone are \$121,700 (\$86,700 plus \$35,000), Verizon is recovering from the "AC Amps per DC Amps" rate alone, an amount that exceeds the total cost of the emergency engines by a factor of 2.71 ( $329,253.79 / 121,700$ ). It is worse than that, however. Recall that the "AC Amps per DC Amps" rate is suppose to recover only 71% of the total cost of the emergency engine, because 29% is recovered in Verizon's DC Power Consumption Rate. Thus, Verizon's "AC Amps per DC Amps" rate in the metro zone is suppose to recover 71% of \$121,700, or \$86,407. That means that Verizon's "AC Amps per DC Amps" rate in the metro zone will acutally recover 3.8 times the material costs to which Verizon claims entitlement ( $329,253.79 / 86,407$ ).

Thus, even if Verizon's completely unsupported assumption of oversized generators in each of the zones were correct, Verizon's proposed "AC Amps per DC Amps" would over-recover that the cost of the oversized generators by many times. Essentially Verizon's proposed "AC Amps per DC Amps" rate captures much of (though not all of) the effect of Verizon's original error: estimating costs on an AC amp basis and then applying that cost to DC amps. Accordingly, Verizon's "AC Amps per DC Amps" rate should be stricken.

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<sup>6</sup> The derivation for this number is included in the attached spreadsheet. The number is calculated by applying the \$4.83 per DC amp rate to 6,000, which generates a little over \$28,900 per month. The attached spreadsheet then reverses Verizon's various factors to produce the \$329,253.79 for the metro zone. The calculation for the other zones follows the same formula. The monthly revenue for the urban and suburban zones of \$12,547.83 "recovers" \$142,676.64 in material costs (compared to Verizon's assumed material costs of \$85,800 in the urban zone and \$70,600 in the suburban zone), and the monthly revenue of \$5,791.30 "recovers" \$65,850.76 in material costs for the rural zone (compared to Verizon's assumed material costs of \$48,000 in the rural zone).

**III. SHOULD THE DEPARTMENT NOT STRIKE THE “AC AMPS PER DC AMPS” RATE, THE OTHER PARTIES IN THIS PROCEEDING SHOULD BE ALLOWED THE OPPORTUNITY TO RESPOND.**

If the Department decides not to strike the new Verizon rate element, other parties should have an opportunity to submit additional evidence confined to the errors of Verizon’s “AC Amps per DC Amps” rate. Verizon’s failure of support for its new rate requires clarification if the Department allows this evidence in the record. The parties should be permitted to provide expert testimony and/or cross-examine Verizon on the inappropriateness of Verizon’s proposed “AC Amps per DC Amps” rate. Only with such testimony can the Department meaningfully evaluate the new evidence presented by Verizon.

**Conclusion.**

AT&T respectfully requests that the Department strike Verizon’s proposed “AC Amps per DC Amps” rate in its late-filed replies to RR-DTE-40 and leave in the record – as Verizon’s position on the DC Power Consumption rate calculation with the emergency engine in DC amps, rather than AC amps – the rate of \$15.88 per amp per month (corrected to \$15.58, in accord with Verizon’s errata response to WCOM-VZ 2-1, and corrected again in RR-DTE-40 (errata) to \$13.91). However, if the Department does not strike the new rate element, the other parties in this proceeding should have a similar opportunity to submit record evidence on the inaccuracy of Verizon’s proposed new rate.

Respectfully submitted,

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