

**COMMONWEALTH OF MASSACHUSETTS**

**DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Investigation by the Department on its own motion into the appropriate regulatory plan to succeed price cap regulation for Verizon New England, Inc. d/b/a Verizon Massachusetts' retail intrastate telecommunications services in the Commonwealth of Massachusetts

DTE 01-31- Phase II  
(Track B)

**AT&T'S OPPOSITION TO VERIZON'S INCLUSION OF PRICING FLEXIBILITY  
FOR PRIVATE LINE SERVICES IN ITS MAY 1, 2003, COMPLIANCE FILING**

**Introduction.**

In its Compliance Filing of May 1, 2003, Verizon makes yet another attempt to obtain pricing flexibility for its retail private line services, in violation of the Department's explicit directive to Verizon that "Verizon's rates for private line services will remain frozen until Verizon makes a showing of sufficient competition." *See* D.T.E. 01-31-Phase II Order (April 11, 2003), at 24 ("Phase II Order"). As explained below, the Department has held that the special access rates Verizon charges its competitors constitute a barrier to entry to the private line market, and that Verizon's rates for private line services must therefore remain frozen in the absence of reductions in special access rates to UNE levels. Verizon's attempt nonetheless to smuggle pricing flexibility for its private line services in through its Compliance Filing is improper. AT&T respectfully urges the Department to reject this aspect of the Compliance Filing.

### **Argument.**

In its Phase II Order, the Department determined that Verizon violated the Department's decision in its Phase I Order when Verizon proposed to raise, lower or restructure its private line services subject to a 15 percent annual cap. *See* Phase II Order, at 24. The Department disallowed such pricing flexibility of private line services because Verizon failed to prove the existence of sufficient competition for private line services. *Id.* The Department specifically held in its Phase II Order that:

Although Verizon stated in its Phase I Compliance Filing at 4, that private line services would remain subject to price regulation, we determine that Verizon's proposal to raise, lower or restructure private line services subject to 15 percent annual cap is, in effect, a second request for pricing flexibility and therefore not compliant with our conclusions in Phase I. Our Phase I Order contemplated that unless special access rates were reduced to UNE levels, there would be no pricing flexibility for private line services, and having denied pricing flexibility for private line services, Verizon's rates for private line services ***will remain frozen*** until Verizon makes a showing of sufficient competition.

Phase II Order, at 24 (emphasis added).

Despite the Department's rejection of Verizon's "second request for pricing flexibility" and the Department's explicit directive that Verizon may not change its rates for private line services, Verizon's May 1, 2003, Compliance Filing makes yet another inappropriate request for pricing flexibility of retail private line services. In its "Massachusetts Alternative Regulation Plan," Verizon proposes that it may "restructure," "reprice" and "*reduce*" rates for private line services. Specifically, Verizon states:

Retail Private Line Services – Rates for retail Private Line services will be regulated. Except as provided in paragraph N below, prices for these services shall not be increased. Private Line services can be restructured and repriced within the overall pricing restriction. Any reduction in prices must comply with the governing price floor requirements.

Verizon's Massachusetts Alternative Regulation Plan, at 2, § G. Verizon's proposal that it may change its rates for retail private line services directly violates the Department's Phase II Order

that such rates remain frozen and undermines the Department's long-standing policy of establishing conditions for effective competition in Massachusetts.

The Department rejected pricing flexibility for Verizon's retail private line services because the special access rates Verizon charges its competitors constitute a barrier to entry to the private line market. Given these supra-competitive prices that Verizon charges AT&T and other CLECs for the special access circuits they need to compete for private line services, Verizon's present request that it be allowed to reduce its rates for private line services could place AT&T and other CLECs at a distinct competitive disadvantage in obtaining end users in the private line market. The Department's Phase II Order is clear that, without a reduction of special access rates to UNE levels, Verizon may not have pricing flexibility of its retail private line services. Verizon's current proposal to restructure and reduce its private line rates directly violates this Department order.

### **Conclusion.**

For the reasons stated above, AT&T respectfully requests that the Department reject Verizon's proposal for the pricing of its retail private line services, as stated in its May 1, 2003, Compliance Filing, on the ground that it fails to comply with the Department's Phase II Order in this case. As ordered by the Department, Verizon's rates for these services should "remain frozen until Verizon makes a showing of sufficient competition."

Respectfully submitted,

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