D.T.E. 01-20 July 30, 2002

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

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ORDER ON MOTIONS FILED BY VERIZON FOR EXTENSION OF COMPLIANCE FILING DATE AND TIME FOR FILING PETITIONS FOR RECONSIDERATION, AND TO EXTEND THE JUDICIAL APPEAL PERIOD; BY THE CLEC COALITION FOR EXTENSION OF TIME FOR FILING PETITIONS FOR RECONSIDERATION UNTIL AFTER VERIZON'S COMPLIANCE FILING AND LEAVE TO ELECTRONICALLY FILE ANY SUCH MOTIONS; AND BY WORLDCOM FOR THE IMMEDIATE ADOPTION OF INTERIM RATES

I. INTRODUCTION

On July 11, 2002, the Department of Telecommunications and Energy ("Department") issued its final Order in Part A of D.T.E. 01-20. In this Order, the Department directed Verizon New England, Inc. d/b/a Verizon Massachusetts ("Verizon") to submit, within 25 days of the Order (by August 5, 2002) its compliance filing using the input values approved by the Department. Pursuant to 220 C.M.R. § 1.11(10), the parties have 20 days from the date of the Order (by July 31, 2002) to submit petitions for reconsideration.

On July 23, 2002, Verizon filed a Motion for Extension of Compliance Filing Date and Time for Filing Petitions for Reconsideration ("Verizon Motion for Extension"), and a Motion to Extend the Judicial Appeal Period ("Verizon Judicial Appeal Period Motion"). In support of its Motion for Extension, Verizon submitted the Affidavit of Carmelo R. Curbelo, Executive Director within Verizon's Service Costs organization ("Curbelo Affidavit").

On July 24, 2002, the Hearing Officer issued a Notice to parties requesting comments on Verizon's Motions, and requested comments on the feasibility of filing estimated rates, and the feasibility of submission of the compliance filing on a staggered basis. On July 24, 2002, AT&T Communications of New England, Inc. ("AT&T") submitted comments opposing

Verizon's Motion for Extension ("AT&T Comments"). Also on July 24, 2002, Allegiance Telecom of Massachusetts, Inc., and Conversent Communications of Massachusetts, LLC (jointly "CLEC Coalition") filed comments supporting Verizon's request for additional time to file petitions for reconsideration and a Motion for Extension of Time for Filing Petitions for Reconsideration Until After Verizon's Compliance Filing and Leave to Electronically File Any Such Motions ("CLEC Coalition Motion and Comments"). On July 25, 2002, WorldCom, Inc. ("WorldCom") filed comments to Verizon's Motion for Extension and moved for the immediate adoption of interim rates ("WorldCom Motion and Comments"). Also on July 25, 2002, Verizon responded to the Hearing Officers' Notice, and to the AT&T Comments and the CLEC Coalition Motion and Comments ("Verizon Comments"). On July 26, 2002, the CLEC Coalition, WorldCom, and Verizon filed reply comments (respectively, "CLEC Coalition Reply," "WorldCom Reply," and "Verizon Reply").

II. POSITIONS OF THE PARTIES

A. Verizon

Verizon asserts that it cannot meet the compliance filing deadline established in the final Order because preparing the compliance filing is an "enormous task" that requires additional time to ensure that the filing is accurate and complete (Verizon Motion for Extension at 1-2). Carmelo Curbelo, Executive Director of Verizon's Service Cost organization, explains that there are "more than 50 recurring cost studies comprising over 225 rate elements that must be analyzed and re-run in compliance with the Department's Order" (Curbelo Affidavit at ¶ 5). Similarly, for nonrecurring costs, Mr. Curbelo indicates that there are over 130 studies that must be revised and, for each study, ten nonrecurring rate elements

are developed (id. at ¶ 6). The process to revise all of these cost studies, Verizon states, "requires careful coordination between groups within the Verizon Service Cost organization and time-consuming analyses of the revised inputs, studies, investment levels, and annual cost factors" (Verizon Motion for Extension at 2; Curbelo Affidavit at & 8).

Moreover, Verizon asserts that many of the Department's directives will require it to perform substantial new analysis and development of data (Verizon Motion for Extension at 2). Verizon explains that, in certain cases, such as collocation power, it must create and submit a new cost study, while in other instances, it must perform "laborious and time-intensive revisions," such as in the switching cost studies where information for each wire center must be entered manually (id.). Mr. Curbelo adds that the Department made significant and multiple changes to many of Verizon's studies, and that many of the changes are structural, involving substantial work aside from adjusting inputs (Curbelo Affidavit at ¶¶ 9, 15). Verizon states that "AT&T belittles this complex and time-intensive process . . . but offers no evidence to contradict the sworn testimony of Mr. Curbelo that the work Verizon MA is required to perform simply cannot be done within the established time period" (Verizon Comments at 3) (emphasis in original).

Verizon also argues that restructuring its tariffs will require substantial work that can be done only after the cost studies and annual cost factors are finalized (Verizon Motion for Extension at 2; Curbelo Affidavit at ¶ 19). Accordingly, Verizon requests that the Department extend, by 35 days, the date for submission of compliance cost studies to September 9, 2002 (Verizon Motion for Extension at 3; Curbelo Affidavit at ¶ 20). To preserve August 5, 2002 as the effective date for the new tariff, Verizon proposes to true-up its rates to the levels set

forth in the new tariff that it files on September 9, 2002 back to August 5, 2002 (Verizon Comments at 3). Verizon maintains that its true-up proposal will allow it the necessary time to complete the compliance file without harm to competitive local exchange carriers ("CLECs") because they will be paying the new rates as of August 5, 2002 (id.).

Verizon asserts that the filing of estimated rates, the submission of a staggered compliance filing or WorldCom's proposal to adopt New York rates on an interim basis are not feasible solutions (Verizon Comments at 3; Verizon Reply at 1). According to Verizon, estimated rates would result in further complication and involve a significant amount of guesswork, whereas a staggered compliance filing is not feasible given the interrelated nature of its cost studies (Verizon Comments at 3-4). With regard to WorldCom's proposal to adopt New York rates, Verizon argues that "the attempt to implement another state's rates and rate design for a one-month period is inappropriate . . . because the design of the rates is not identical with those in Massachusetts" and thus could not be imported to the Massachusetts billing structure without change (Verizon Reply at 1). Verizon, however, proposes to file on August 5, 2002 for immediate effect estimated switching rates that incorporate Department-ordered changes in the cost of switching investments only, subject to true-up to the levels in its September 9, 2002 compliance filing (id. at 2).

Next, Verizon requests that the Department extend the deadline for petitions for reconsideration of the Department's final Order (Verizon Motion for Extension at 1). Verizon argues that, until it fully reviews the Department's Order and begins to assess the impact on unbundled network element ("UNE") rates, it is not in a position to determine which issues to ask the Department to reconsider (id. at 2). Noting that, unlike other parties, it must also

commit substantial resources to revising its cost studies and tariff, Verizon points to the difficulty of preparing any petition for reconsideration at the same time as it prepares the compliance filing (id. at 2-3). Additionally, Verizon also agrees with the CLEC Coalition's proposal to extend the deadline for filing petitions for reconsideration until after submission of the compliance filing (Verizon Comments at 4). Verizon asserts that this approach will eliminate any concern that Verizon might have an advantage in preparing petitions for reconsideration and allow all parties to evaluate the impact of the Department's Order on all of Verizon's rates before deciding whether to request reconsideration of any particular issue (id.).

Lastly, Verizon requests that the Department extend the judicial appeal period pending ruling on post decision motions for reconsideration or clarification that may be filed in this matter (Verizon Judicial Appeal Period Motion at 1). By granting this request, Verizon argues, the Department preserves Verizon's rights to appeal to the Court should the Department deny the relief requested (id.).

B. AT&T

AT&T urges the Department to deny Verizon's requests to delay submission of its compliance filing and petition for reconsideration, but would not oppose a two-week extension for submission of a revised tariff (AT&T Comments at 1). Regarding the compliance filing, AT&T first notes the importance of beginning the review of Verizon's compliance filing as soon as possible so that new rates may be finalized as soon as possible (id.). AT&T then asserts that Verizon's extensive staff should have no difficultly completing the Department-ordered changes within the allotted time so long as Verizon directs them to do so (id. at 2). But, AT&T suggests, Verizon wishes to delay resolution of this case, preferring to devote its

resources elsewhere (id.). In support of this claim, AT&T points to Mr. Curbelo's statement that the need to prepare the compliance filing Acomes at a time when Verizon's resources are already strained by ongoing UNE proceedings in multiple states (id., quoting Curbelo Affidavit at ¶ 20).

AT&T further claims that Verizon provides no evidence that it cannot meet the August 5 deadline (AT&T Comments at 2). AT&T states that Verizon was ordered to revise inputs to its existing study, not to create a new cost study as Verizon falsely claims (id.). Moreover, AT&T argues that the "laborious" manual entry of data that Verizon points out is nothing more than the entry of line counts into the SCIS model to reflect the ordered revisions to feeder plant technology assumptions, an exercise that AT&T deems "relatively trivial" (id. at 2-3). Likewise, AT&T contends that Verizon provides no evidence that the revision of its annual cost factors as a result of development of a new forward-looking to current conversion factor is anything more than a simple matter of recalculation (id. at 3). Finally, AT&T contends that Verizon's attempt to justify its extension request by noting that it must propose a new tariff in addition to revising its cost studies only justifies an extension of the time for filing the new tariff, and AT&T would not oppose a two-week extension for filing only the new tariff (id.).

Next, AT&T maintains that Verizon's request for a two-week extension of the deadline to file petitions for reconsideration is improper (AT&T Comments at 4). AT&T claims that granting such an extension would give Verizon a "tactical advantage" by permitting Verizon to view a near-final, but not public, version of its compliance filing when crafting its reconsideration motion (id.). Thus, to prevent a results-driven outcome, AT&T insists that

Verizon's request be denied (id.). Alternatively, AT&T asks the Department to order Verizon to produce all documentation prepared by Verizon regarding the meaning and effect of the Department's final Order so that all parties may take this into account in deciding whether to seek reconsideration on particular issues (id.). Lastly, AT&T dismisses Verizon's reluctance about having to work on a motion for reconsideration and the compliance filing simultaneously, arguing that the motion for reconsideration will be the work product of Verizon attorneys whereas Verizon cost analysts will be preparing the compliance filing (AT&T Comments at 4-5).

C. CLEC Coalition

The CLEC Coalition supports Verizon's request for additional time to file petitions for reconsideration, but requests that the date for filing such petitions be extended to 20 days after Verizon files its compliance filing (CLEC Coalition Motion and Comments at 1). First, the CLEC Coalition agrees with Verizon that, given the complexity and length of the Order, as well as the importance of the matter, 20 days is insufficient for filing petitions for reconsideration (id. at 1-2). Additionally, because of vacation schedules and resource constraints, the CLEC Coalition states that not all of its personnel needed to work on the reconsideration are available during the current reconsideration period (id. at 2).

Second, the CLEC Coalition argues that it is unable to ascertain the overall impact the revisions will have on rates until Verizon submits its compliance filing (CLEC Coalition Comments at 2). The CLEC Coalition asserts that it does not have the resources to anticipate how Verizon will implement the Department's substantive changes or how those changes will affect final rates in the compliance filing, and, consequently, would be disadvantaged if it must

file a motion for reconsideration prior to Verizon's submission of its compliance filing (id.). According to the CLEC Coalition, Verizon has an advantage over CLECs with respect to filing a motion for reconsideration because it will know or have a good idea of the impact the revisions will have on its cost model and the resulting rates before filing a possible reconsideration motion (id. at 3). The CLEC Coalition notes that other state commissions have provided parties with UNE rates prior to the due date of reconsideration motions, and asserts that no party will be prejudiced by an extension of the reconsideration motion deadline to after the compliance filing (id.). Furthermore, if the compliance filing is submitted prior to motions for reconsideration, the CLEC Coalition argues this will narrow potential reconsideration issues and conserve resources Abecause parties will not want to waste their resources on issues that do not have a significant economic impact (id. at 3-4).

Moreover, the CLEC Coalition is concerned that the coordinated hot cut charges may increase, and thus opposes Verizon's true-up proposal as it applies to the retroactive application of these hot cut charges back to August 5, 2002 (CLEC Coalition Reply at 1). The CLEC Coalition explains that because CLECs will not have the option of the less costly alternative process that the Department ordered to mitigate the impact of the new rates, CLECs will have to pay the higher coordinated hot cut rate, which will undermine the Department's directive to provide CLECs with the option of selecting a more economical method (id. at 2).

Finally, the CLEC Coalition requests leave to submit any motion for reconsideration it may file in electronic format on the due date established by the Department and to overnight hard copies for filing the following day (CLEC Coalition Motion and Comments at 4).

D. WorldCom

WorldCom does not oppose granting Verizon a brief extension for submission of its compliance filing, provided that WorldCom's cross-motion for the immediate adoption of interim rates is granted, and also supports the CLEC Coalition's suggestion to delay the deadline for filing motions for reconsideration until after the submission of the compliance filing (WorldCom Motion and Comments at 1). WorldCom agrees with AT&T that getting lower UNE rates in place as soon as possible is of paramount importance, and, consistent with the CLEC Coalition's contentions, WorldCom argues it make little sense for CLECs to commit limited resources to fighting issues without knowing whether the issues actually have "a material impact on their bottom line" (id. at 3).

WorldCom anticipates that UNE rates in Massachusetts will decrease as a result of the Department's Order in this docket, but notes that Verizon's Motion for Extension will result in WorldCom waiting longer before knowing precisely what the new rates are, and before realizing the benefits of the lower UNE rates (WorldCom Motion and Comments at 4). WorldCom further states that continued delay in the implementation of new, lower rates harms WorldCom by: (1) requiring WorldCom to continue to pay Verizon's current rates; and (2) prevents WorldCom from contemplating the expansion of its service territory in the Commonwealth (id. at 5). Moreover, WorldCom insists that disputes regarding the compliance filing are inevitable and, therefore, the delay is likely to last beyond the requested 35-day extension (id.).

Accordingly, to avoid the unfair and anticompetitive result of further delaying lower rates, WorldCom asks the Department to order Verizon to immediately file interim rates,

consistent with the Department Chairman's publicly stated expectations that UNE rates will be closer to those in New York; WorldCom suggests that these interim rates be effective as of August 5, 2002, and subject to true-up (WorldCom Motion and Comments at 5-6). Specifically, WorldCom recommends that the Department adopt the rates for Verizon's major UNEs decided on by the New York Public Service Commission ("NYPSC") in its January 28, 2002 UNE Order in Case No. 98-C-1357 and listed in Appendix A of the NYPSC's February 27, 2002 Order in Case No. 00-C-1945 (id. at 6).[1] Additionally, WorldCom notes that adopting the New York rates on an interim basis is administratively easier than establishing "estimated" rates (id. at 9).

WorldCom opposes Verizon's proposal to true-up its UNE rates back to August 5, 2002 (WorldCom Reply at 1). WorldCom argues that "allowing a rate to remain in effect is an implicit statement that the rate is both 'just and reasonable' under state law and TELRIC-compliant under the 1996 Act" (id. at 2) (emphasis in original). Moreover, WorldCom further contends that after-the-fact true-up does not alter the fact that CLECs would still be paying non-compliant UNE rates (id.). Even though under WorldCom's proposal to adopt New York's rates on an interim basis would also be subject to true-up, WorldCom argues that the amounts paid would be less than if the current rates were to remain in place (id.). WorldCom also notes that Verizon has proposed true-up between its current rates and the rates it will propose on September 9, 2002, which, according to WorldCom, would need to be trued-up again after review of the compliance filing (id.). In contrast, WorldCom states that its

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[1] The major UNEs are switching, port, transport and loop rates.

proposal to adopt the lower New York rates on an interim basis subject to true-up against the final rates set by the Department after review of the compliance filing and all motions for reconsideration accomplishes what the Department ordered (id. at 2-3).

Should the Department adopt interim rates as WorldCom recommends, WorldCom agrees that an extension for the filing of reconsideration motions is warranted, and that such motions should be filed after the compliance filing (WorldCom Motion and Comments at 7). WorldCom asserts that if the Department structures the schedule so that motions for reconsideration are filed subsequent to Verizon's initial compliance filing, the parties could better assess what aspects of the Department's Order are of economic significance (id.). Regarding Verizon's request for an extension to submit its compliance filing, WorldCom objects absent adoption of the proposed interim rates (id. at 8). Additionally, WorldCom advises against allowing Verizon to submit a "staggered" compliance filing which WorldCom believes would perpetuate uncertainty regarding the rates to be applied in Massachusetts (id. at 9).

Finally, WorldCom supports, and moves for, an extension of the judicial appeal period for a period of 20 days after the Department issues its decision on the motions for reconsideration of the Department's Order, and argues that its motion for stay is supported by good cause (WorldCom Motion and Comments at 9-10). WorldCom argues that it intends to seek reconsideration on certain issues and therefore seeks this stay of the judicial appeal period to avoid burdening the Supreme Judicial Court with an appeal that might be avoided by further proceedings at the Department (id. at 10).

III. ANALYSIS AND FINDINGS

For good cause shown, the Department has discretion to extend time limits prescribed or allowed by its Procedural Rules. See 220 C.M.R. § 1.02(5). The Department's "good cause" standard provides that:

> Good cause is a relative term and it depends on the circumstances of an individual case. Good cause is determined in the context of any underlying statutory or regulatory requirement, and is based on a balancing of the public interest, the interest of the party seeking an exception, and the interests of any other affected party.

Nunnally d/b/a L & R Enterprises, D.P.U. 92-34-A at 3 (1993), citing Boston Edison Company, D.P.U. 90-335-A at 4 (1992).

We first address Verizon's request for a 35-day extension of the compliance filing date to September 9, 2002. The submission of a consistent and accurate compliance filing is in the interest of the Department and all parties, which weighs in favor of granting an extension. Moreover, given the length and complexity of our Order, complying with our directives is a significant task, a task that Mr. Curbelo describes in detail. This also provides good cause for an extension. On the other hand, the Department acknowledges the concerns expressed by commenters that granting this extension would delay the finalization of new rates. However, given the scope of our Order, we conclude that Verizon's request is reasonable and will permit a 35-day extension, until September 9, 2002, for the submission of the compliance filing.

Additionally, we accept Verizon's proposal to retroactively true-up its new tariffed rates back to August 5, 2002. We find that this proposal eliminates any possible adverse impact of the extension granted while still providing Verizon with the additional time to comply with our lengthy final Order. Because of WorldCom's specific concerns with the

current switching rates,[2] we also accept Verizon's proposal to submit estimated switching rates for immediate effect, which will further diminish any possible adverse impact of the 35-day extension we grant today.[3]

Furthermore, we refuse to adopt the New York rates on an interim basis for two reasons. First, in May, 2002, we rejected adoption of interim UNE rates, stating that "the adjudicatory process for establishing new UNE rates should be allowed to run its course, particularly (but not only) where we are very close to a final decision [in D.T.E. 01-20]." D.T.E. 02-26 Letter Order at 6. The Department further stated that we "very rarely [ ] allow interim rates to take effect on the very verge of issuing a dispositive final order in the same matter." Id. The final Order in this proceeding has been issued, and we are on the verge of reviewing and approving the actual rates. Thus, we must allow the process to "run its course."

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[2] See In the Matter of WorldCom, Inc. v. Verizon New England, Inc., et al., FCC File No. EB-02-MD-017. The FCC, however, dismissed WorldCom's complaint. In the Matter of WorldCom, Inc. v. Verizon New England, Inc., et al., FCC File No. EB-02-MD-017, Memorandum Opinion and Order, FCC 02-219 (rel. July 23, 2002).

[3] With regard to rates other than switching, we disagree with the assertion that these rates are no longer "just and reasonable" or TELRIC-compliant. Our current rates are both "just and reasonable" and TELRIC-compliant; our final Order in this proceeding regarding new TELRIC rates to be implemented on a going-forward basis does not render the existing rates unjust. Our investigation in this proceeding was "part of a scheduled, five-year review of UNE rates, and [was] not based upon a conclusion that Verizon's current rates are no longer in compliance with TELRIC." D.T.E. 02-26 Letter Order at 4 (May 9, 2002). Rather, it is our approval and implementation of new rates, after review of Verizon's compliance filing, that renders the existing rates no longer appropriate. "This is standard ratemaking: lawful rates remain in effect, whether under G.L. c. 159, § 14, or under G.L. c. 164, § 94." Id. at 5.

Second, we find that the system changes necessary for the adoption of the New York rates, given the different rate designs in New York and Massachusetts, also renders WorldCom's proposal inappropriate. We agree with Verizon that such systems changes, if made while attempting to implement new compliance rates less than a month later, could likely result in errors. Accordingly, we grant Verizon's request for a 35-day extension to September 9, 2002, of the compliance filing date, and direct Verizon to file, for immediate effect, estimated switching rates with the Department by August 5, 2002. In addition, we accept Verizon's proposal that the rates submitted in its compliance filing will be filed for effect as of August 5, 2002, and will be retroactively trued-up to that date, with the exception of the coordinated hot cut rate. We agree with the CLEC Coalition's concern that, because CLECs will not have the option of a less costly alternative as of August 5, 2002, the intent of the Department's directive that Verizon offer CLECs a less costly alternative to the hot cut process as expressed in the Order at 499-500, would be undermined if the Department permitted Verizon to retroactively true-up this rate.

We now turn to Verizon's request for a two-week extension for filing petitions for reconsideration. We are not convinced that preparation of a petition for reconsideration by attorneys and the preparation of the compliance filing by cost analysts occurs in a vacuum, as AT&T would have us believe. Rather, we conclude that some overlap between the two groups is the more likely scenario. For instance, cost analysts are likely to consult attorneys for assistance in interpreting the Department's directives, while attorneys may need to consult cost analysts to decipher the many technical aspects of our Order.

Moreover, given the complexity and the sheer number of issues ruled upon in the Order, we do not find a two-week extension to August 14, 2002, to be unreasonable. Although AT&T and the CLEC Coalition oppose such an extension, we are not persuaded by the argument that it provides Verizon with an advantage, tactical or otherwise. In our final Order, at 59, we noted that parties besides Verizon "have been able to re-run the [Loop Cost Analysis Model] with their proposed modifications." Thus, we conclude that parties also have the ability to re-run the models to assess the impact of our determinations on rates. Accordingly, we grant, for all parties, a two-week extension to August 14, 2002 for the filing of petitions for reconsideration.

With regard to the CLEC Coalition's proposal, supported by Verizon and WorldCom, to extend the deadline for petitions for reconsideration until after Verizon submits its compliance filing, this proposal is somewhat appealing in that it may narrow potential reconsideration issues. But, we determine that adopting such an approach would inappropriately shift the focus from the methodology we apply in the Order to the resulting rates. In our Order, we endeavored to reach decisions that were not outcome-driven. In fact, we made our objective clear:

> The Department's objective in this Order is to set UNE rates that most accurately reflect the TELRIC costs of particular UNEs. It is not to reach a biased outcome promoting either investment or UNE-based competition through either "high" or "low" UNE rates. Incremental cost-based rates, designed and implemented correctly, send the appropriate signals to both ILECs and CLECs about their investment and market entry decisions. We will not conclude that UNE rates are "wrong" or "illegal" if they do not provide a sufficient margin for market entry when compared to retail rates (which are <u>not</u> cost-based). Nor will we conclude that rates are wrong if CLECs decide that it is more efficient for them to enter the market using UNEs instead of building their own facilities. In addition, appropriately cost-based rates should compensate Verizon for its forward-looking

> costs, so that Verizon will have incentives to continue to invest in its network facilities.

Order at 20 (emphasis in original) (footnote omitted). To allow reconsideration motions to be filed after the compliance filing would shift the focus of any petition for reconsideration to the assessment of which aspects of our Order are of "economic significance," would undermine our stated objective, and would lead to results-driven outcomes. Accordingly, we grant only a two-week extension for the filing of petitions for reconsideration.

With respect to the CLEC Coalition's request for leave to file in electronic format only any motion for reconsideration on the August 14, 2002 due date, and to overnight hard copies to the Department the following day, we grant this request. Any party submitting a motion for reconsideration may choose to file in this manner, and thus no party is prejudiced.

Lastly, pursuant to our authority under G.L. c. 25, § 5, we grant an extension of the judicial appeal period until twenty days after the Department issues its decision on any motions for reconsideration or clarification that may be filed. We find that allowing this extension could prevent an appeal that may be avoided by further proceedings at the Department.

IV. ORDER

Accordingly, after review and consideration, it is

ORDERED: That the Motion for Extension of Compliance Filing Date and Time for Filing Petitions for Reconsideration filed by Verizon New England, Inc. d/b/a Verizon Massachusetts is hereby granted; and it is

FURTHER ORDERED: That Verizon New England, Inc. d/b/a Verizon Massachusetts shall file with the Department its compliance filing on or before September 9, 2002; and it is

FURTHER ORDERED: That Verizon New England, Inc. d/b/a Verizon Massachusetts shall file with the Department estimated rates for switching on August 5, 2002, for immediate effect; and it is

FURTHER ORDERED: That Verizon New England, Inc. d/b/a Verizon Massachusetts shall retroactively true-up its current rates back to August 5, 2002 to the levels set forth in its September 9, 2002 filing, with the exception of the coordinated hot cut charge; and it is

FURTHER ORDERED: That the Motions for Extension of the Judicial Appeal Period filed by Verizon New England, Inc. d/b/a Verizon Massachusetts and WorldCom, Inc., is hereby granted; and it is

FURTHER ORDERED: That the Motion for the Immediate Adoption of Interim Rates filed by WorldCom, Inc., is hereby denied; and it is

FURTHER ORDERED: That the Motion for Extension of Time to File Petitions for Reconsideration Until After Verizon's Compliance Filing and Leave to Electronically File Any Such Motion filed jointly by Allegiance Telecom of Massachusetts, Inc., and Conversent Communications of Massachusetts, LLC, is denied, in part, and granted, in part; and it is

FURTHER ORDERED: That all parties comply with all other directives contained herein.

By Order of the Department,

/s/
Paul B. Vasington, Chairman

/s/
W. Robert Keating, Commissioner

/s/
Eugene J. Sullivan, Jr., Commissioner

/s/
Deirdre K. Manning, Commissioner

SUPPLEMENTAL COMMENTS OF JAMES CONNELLY

I differ on one point. The CLEC Coalition asks that the parties be given an additional twenty days, beyond Verizon's compliance filing date, to file motions for reconsideration of the 11 July 2002 Order. Although unsympathetic to procedural delay, I think granting this request would be eminently reasonable in a case of such complexity and duration. Granting such relief would be especially useful to smaller, aspiring local exchange carriers, for they may lack the modeling resources to anticipate the substance of Verizon's compliance filing–resources quite available to Verizon, to AT&T, and perhaps still to WorldCom. The 11 July Order (Executive Summary at i) was self-described as entailing a "myriad of cost issues" covering virtually all of Verizon's recurring and nonrecurring rates for unbundled network elements and interconnections to be charged to these very CLECs in pursuit of their business plans. Verizon itself has no objection to allowing its competitors that modest period of additional time to review the compliance filing. Granting that time would allow every party, despite its resources, to determine whether motions they might now make, if only just to protect their interests, can instead be safely forgone, if some legal point proves, post compliance filing, to be without practical economic consequence to their business. Despite all its resources and general command of information concerning its network elements, Verizon itself states that until it completes its review of the Department's five hundred page order and assesses its effects on UNE rates, it may not be able to identify all the issues on which it might seek reconsideration (Verizon Comments at 2). If this is true for Verizon, how much more so must it be for the members of the CLEC Coalition.

The Department and the parties will all be rather better informed once the compliance filing is in. You can never really tell what parties will do, of course; but pushing them into filing motions now just to protect their interests–when, post compliance filing, some of those motions might not be filed at all–seems gratuitously to invite avoidable motions practice and consequent, extra effort all around. It is really not very sound case-management, whether for the Department or for the litigants. Moreover, as to the argument that the sooner the motions are filed, the sooner the Department will be able to set to work ruling on them, one cannot help but wonder whether, in the ordinary course of things here at the Department, motions filed in August will not still be pending even after the compliance filing has been submitted. The investigation has been open since 12 January 2001: a little extra time can do no harm and might save time and, likely, would save effort in the end. This reasonable request should be granted.

_____/s/_____
James Connelly, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).