

**COMMONWEALTH OF MASSACHUSETTS**  
**DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Complaint of Verizon Massachusetts Concerning  
Customer Transfer Charges Imposed by Teleport  
Communications Boston

DTE 03-74

**ANSWER OF AT&T COMMUNICATIONS OF  
NEW ENGLAND, INC. AND TELEPORT COMMUNICATIONS BOSTON**

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## **Introduction**

AT&T Communications of New England, Inc. and Teleport Communications Boston (collectively, "AT&T") hereby responds to the Complaint of Verizon Massachusetts Concerning Customer Transfer Charges Imposed by Teleport Communications Boston (the "Complaint"), filed with the Department of Telecommunications and Energy ("Department") on July 8, 2003.

As is demonstrated below, Verizon's Complaint against AT&T's Customer Transfer Charge ("CTC") tariff amendment is entirely without merit. The Tariff was duly and lawfully filed with the Department, and the Department permitted the tariff to become effective. Under principles of law well known to Verizon, AT&T not only can, but must enforce those provisions so long as they remain effective. As Verizon well knows, it is liable under an approved tariff for all charges incurred by it to date.

The CTC provisions at issue here allow AT&T to recover the costs of the work that AT&T performs when a customer served by a DS-0 or DS-1 loop facility leaves the AT&T network and transfers to Verizon or another CLEC. These charges recover for (1) functions in support of the customer transfer from AT&T's switch to another carrier, (2) revisions, supplements and/or changes to the carrier's order(s) and (3) requests to expedite orders as well as (4) for order cancellation. In all instances, AT&T's tariff charges are equal to or less than AT&T's costs or the Verizon rate for the same or a comparable service. AT&T's actual rate of \$18.90/line is substantially below AT&T's actual costs.

AT&T charges only for work that it performs and sets those charges at a rate that is equal to or less than the costs that it incurs. There is no doubt that AT&T performs such work -- which includes, but is not limited to, the numerous manual provisioning tasks necessary to complete a transfer order, in addition to the largely manual work to receive, analyze, document, and process

the wholesale orders from Verizon. Verizon attempts (Complaint, p. 13) to minimize, belittle – and in certain important respects to misrepresent – the work that AT&T must do when Verizon submits an order in connection with the transfer of a customer from AT&T's switch. Verizon is wrong in its estimates of the size of those costs. The actual magnitude of the costs associated with these functions exceeds the charges assessed. Such charges are, therefore, just and reasonable.

Verizon also attempts to make a distinction between costs that are incurred at the request of a competing carrier to effectuate a customer service transfer and costs that are incurred at the request of a competing carrier to effectuate the transfer of facilities for the benefit of the receiving CLEC. Verizon contends that costs incurred to transfer its facilities to a carrier seeking to use them should be recoverable, but the costs incurred to transfer the customer should not. Verizon cites no precedent for this distinction. Nevertheless, Verizon finds this distinction useful, because it transfers both the facilities and the customer at the same time and can contend that its costs are associated with the transfer of the facilities, whereas in the reverse CLECs transfer only the customer. In claiming that its costs are associated with the transfer of the facilities only, Verizon can make it appear as if it is not charging for the transfer of the customer, and then can argue that CLECs should not be allowed to do so either.

The Department should not be misled by Verizon's self-serving accounting allocations. In fact, as we will show in this case, most of the activities involved in processing an order for a customer transfer are precisely the same activities that are involved in the transfer of a loop that occurs at the same time as part of the same transaction. In other words, the costs that Verizon incurs to transfer the loop are joint and common with the costs incurred to transfer the customer. Verizon has simply made an accounting allocation of such costs to the transfer of the facility and allocated zero costs to the transfer of the customer. In the end, however, the economic reality is

that Verizon has in fact recovered its costs of transferring the customer, and has recovered such costs from the carrier that acquired the customer. AT&T does, and should be allowed to do, the same.

Verizon is able to recover its costs of transferring the customer under the label of transferring the facilities in almost all instances, because it has a monopoly over loop facilities. It entered the new multi-carrier, competitive world with a ubiquitous set of loops already connected to customers. In a word, it inherited those loops from a company that constructed them and put them in place under government protection and government guarantee of ratepayer funds sufficient to earn an acceptable rate of return on its loop investment. It now wants to use its control over the loop as a basis for claiming that all of the costs that it incurs when the customer is transferred are “really” costs associated with the transfer of the loop. On this basis, it justifies its right to charge non-recurring charges when customers migrate to CLECs (after all, the acquiring CLEC will almost always need a loop), while at the same time opposing CLEC attempts to charge for the same activities when the customer migrates back.

The basic problem is that, in a multi-carrier world, all carriers will incur cost to effectuate the transfer of a customer seamlessly – that is, with no disruption of the customer’s service. Certain activities must be undertaken by the carrier that loses the customer to ensure that the departing customer does not continue to receive bills, continues to receive phone calls directed to her number, and continues to have available E-911 service. All such activities ultimately inure to the benefit of the acquiring carrier, whose marketing and customer acquisition efforts are made considerably easier by the seamless transfer of the customer. One can also consider such costs to be costs of doing business in a multi-carrier world, and each carrier should bear its own costs. That is why AT&T does not charge such costs to carriers that do not charge AT&T. Verizon, however, does charge for such costs when it loses a customer to AT&T. Hence, AT&T

imposes a cost recovery mechanism, reciprocally, on Verizon. This is entirely appropriate because it is not competitively neutral, and not sustainable if one carrier can charge all other carriers for such costs, while all other carriers must recover their own costs (as well as the costs of the one carrier entitled to charge other carriers) from their retail customers. Verizon is taking the position that, because it owns the loop (never mind that it inherited the loop from a ratepayer funded “trust fund”), it is entitled to charge other carriers for the costs of doing business in a multi-carrier world, but carriers without their own loop are not entitled to do so. Such a position is patently anti-competitive.

AT&T seeks only to recover the costs that Verizon itself seeks to recover when one of its customers migrates. The CTC functions are, in fact, comparable to over 90% of Verizon hot cut functions, with as much manual processing as reflected in the Verizon hot cut cost study and with a higher AT&T fall out rate than Verizon demonstrated in its cost study. Using those principles (and, of course, allowing for the fact that AT&T incurs no central office wiring related costs), AT&T’s analysis could support a cost-based CTC charge in the neighborhood of Verizon’s total nonrecurring cost for an initial hot cut of \$87.81.<sup>1</sup> However, given the fact that at the time AT&T’s CTC tariff amendment was filed Verizon charged CLECs \$15.26/line, AT&T capped its cost CTC recovery at \$18.90, well below its costs and, as noted above, AT&T has structured the charge to allow carriers that do not impose a comparable charge on AT&T to avoid this charge. This is essentially a “bill and keep” option that is entirely within accepted industry practice. It is, we would note, an option available to Verizon should it wish to pursue it.

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<sup>1</sup> See, May 29, 2003 Verizon – Massachusetts Wholesale NRC Model, Tab 3 (Two Wire Hotcut Initial), in D.T.E. 01-20 (“Verizon Hot Cut Study”).

Finally, at the outset it cannot be emphasized enough that the activities for which AT&T seeks recovery are absolutely necessary for Verizon to acquire the customer without service disruption and other customer affecting risks. Without such work by AT&T undertaken at Verizon's request, the customer would be double-billed by both carriers. Moreover, after the customer migrates, he would no longer receive calls from telephone numbers resident on the AT&T switch from which he was migrated. Thirdly, Verizon would not be able to update his E911 information if he were to move or change the name of his business after becoming a Verizon customer. To enable Verizon to take this customer seamlessly, without such problems, AT&T must perform the provisioning work, the costs for which AT&T seeks to recover in its CTC.

While Verizon sets forth a litany of alleged misdeeds in the Complaint, Verizon does not identify or number specific allegations of fact or law. To aid the Department in deciphering and ultimately dismissing the Complaint, AT&T hereafter sets forth its specific responses to Verizon's assertions of fact and of law in the following Counter-Statement of Facts and Counter-Statements of Law.

### **Counter-Statement of Facts**

#### **I. AT&T'S CTC IS A LEGITIMATE CHARGE FOR WORK THAT AT&T PERFORMS WHEN A CUSTOMER IS TRANSFERRED FROM ITS SWITCH TO ANOTHER CARRIER.**

As noted above, the CTC charge reflects work performed as a consequence of Verizon's submission to AT&T of a local service request ("LSR") to transfer a customer in a manner that minimizes service disruption, thereby making it easier for Verizon to acquire the customer. Although AT&T does not perform all the exact functions that Verizon performs when the migration is in the reverse - due to differences in network configuration, systems, methods and

procedures, among others - AT&T does perform many comparable functions and incurs the associated costs. In fact, AT&T's actual costs for performing many of these functions are substantially higher than Verizon's claimed costs for certain of the customer transfer activities.<sup>2</sup> However, AT&T has elected to charge either at or below its own costs, or at the Verizon rate.

Verizon's Petition takes issue with two specific AT&T rates; the \$18.90 customer transfer charge and the \$600 order expedite charge. As Verizon acknowledged in its complaint, the \$600 expedite charge for DS0 loops was an error. AT&T will file a tariff amendment to change it to \$59 per loop per day of expedite. As will be shown below, AT&T's charges are reasonable and fully comply with legal requirements.

**A. AT&T PERFORMS A DEFINED SET OF PROCEDURES TO TRANSFER CUSTOMERS FROM ITS SWITCH TO ANOTHER CARRIER AND RECOVERS THE COSTS OF THESE PROCEDURES THROUGH THE CTC THAT IS BASED UPON AT&T COSTS OR THE VERIZON RATE FOR A COMPARABLE SERVICE.**

As noted above, the AT&T CTC process has a significant number of steps comparable to the steps in the Verizon "hot cut" process. Using the Verizon Hot Cut Study, AT&T evaluated each Verizon step and determined whether AT&T performed a comparable function, as well as whether a specific Verizon function did not apply in the context of a customer line transfer from AT&T to Verizon. The result is a side-by-side comparison of the Verizon and AT&T process functions.<sup>3</sup> Where AT&T does not perform a comparable function, only the Verizon step appears, the costs for that step are not included in the AT&T cost analysis. When it became clear

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<sup>2</sup> AT&T has not experienced the volumes of outmigration that Verizon has, because Verizon began with all the customers. Because AT&T's volumes of outmigration have been low, it cannot justify the cost of automation. AT&T performs most of the migration activities manually.

<sup>3</sup> See Appendix A attached.



that AT&T's cost far exceeded Verizon's then existing hot cut rate of \$15.26, AT&T determined to apply only a marginally higher rate of \$18.90.

The following discussion of AT&T's analysis reflects the methodology used in the Verizon cost study analysis for its hot cut costs. It is divided into three major Verizon categories of cost, work associated with (1) the CO-frame, (2) provisioning and (3) the service order

During AT&T's analysis and in developing costs, all steps associated with CO-frame work were eliminated even though a small percentage of the time this physical work is required. Provisioning, however, represents a significant proportion of comparable work performed by AT&T as contained in the project management functions conducted by the Verizon RCCC and RCMC groups and approved in the Verizon UNE case. The vast majority of the provisioning functions occur most of the time when AT&T transfers a customer to another carrier. Those Verizon provisioning steps not required within the AT&T process, such as pre-customer transfer dial tone testing coordination and re-verification of service orders for any DD-1 changes due to such testing, were removed.

In the area of service orders, a significant amount of the Verizon service order functions are comparable to the functions performed in the CTC. The Verizon costs were revised to reflect the higher AT&T fall out rate as well as additional functions performed by AT&T in its process.

Based upon the Verizon cost study analysis and using Verizon's assigned costs for the AT&T comparable functions, AT&T's customer transfer costs easily exceed the \$18.90 rate reflected in the AT&T tariff. It is, therefore, completely reasonable that AT&T charges the \$18.90 rate – a rate that is only slightly higher than Verizon's \$15.26 rate.

**B. AT&T's CTC FOR DS0 AND DS1 EXPEDITED ORDERS ARE REASONABLE AND ARE BASED AT&T COSTS AND THE VERIZON RATE FOR A COMPARABLE SERVICE.**

The AT&T tariff to expedite the transfer of a customer's DS0 service from the AT&T switch to another carrier contains a clerical error. The expedite charge for a DS0 is \$59.00 per loop per day of expedite, not \$600.<sup>4</sup> The \$59 expedite charge reflects the need for substantial additional manual intervention needed to accomplish the tasks prior to the expiration of the standard interval.

As with the other AT&T CTCs, the DS1 expedite charge of \$600 to transfer a customer from the AT&T switch to another carrier is reasonable because the process of converting a DS1 circuit is substantially more complex than the process of converting a DS0 circuit. When Verizon or any other carrier requests that an order be expedited, none of the provisioning is electronic. AT&T must manually input information to adjust the local service order and billing. The AT&T MACD Center<sup>5</sup> must also contact the City Operations Group to handle the requested expedite separate from other orders. Further, the expedited order requires City Operations to dispatch a technician to do a truck roll to go out and physically re-wire for the customer transfer.

The aforementioned intensely manual and costly AT&T procedures comprise the \$600 rate to expedite a DS1 customer transfer. It is consistent with similar charges applied by Verizon.

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<sup>4</sup> Inclusion of the \$600 rate for a DS0 was a clerical error that will be corrected. To AT&T's knowledge, no carrier has been charged the \$600 rate for a DS0.

<sup>5</sup> The acronym refers to the AT&T center responsible for moves, adds, changes and disconnects.

**C. AT&T ASSESSES THE CTC ONLY WHEN IT PERFORMS CTC WORK.**

Although acknowledging that AT&T has made clear in a New York proceeding that the customer transfer charge section of the tariff applies only with respect to UNE-L arrangements, Verizon finds it “noteworthy that this purportedly cost-based tariff does not explicitly exclude transfers of UNE-P customers or customers using only Teleport’s facilities, but rather is based on the number of telephone numbers or lines that are ‘transferred.’”<sup>6</sup> As Verizon is aware, AT&T’s CTC applies only in the instance where a customer is being transferred from the AT&T switch to another carrier. Therefore, UNE-P transfers are not assessed a CTC. Verizon’s complaint does not assert that AT&T has ever attempted to assess such a charge and, to the best of our knowledge, we have not.

As quoted above, Verizon also comments that the AT&T rate is based on the number of lines transferred, rather than the “different types of arrangements that may be used to serve transferring customers.”<sup>7</sup> As far as we can tell, this is merely a reiteration of the claim that, perhaps, AT&T might be applying the CTC to UNE-P migrations. As stated above, AT&T does not, and the costs that form the basis of this charge apply in all circumstances when the charge is imposed under the tariff.

**II. VERIZON’S CHARACTERIZATION OF THE STEPS THAT AT&T UNDERTAKES TO TRANSFER A CUSTOMER IS INCOMPLETE AND INACCURATE.**

Verizon attempts to diminish the work performed by AT&T in transferring a customer from its switch to another carrier, by dismissing the AT&T functions performed as minor

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<sup>6</sup> *Complaint*, at 7.

<sup>7</sup> *Id.*, at 7.

ministerial and administrative tasks.<sup>8</sup> Yet, those steps are comparable to the tasks that Verizon itself models in its own hot cut cost study. In fact, in its recent hot cut filing in D.T.E. 01-20, Verizon based its \$87.81 hot cut cost on virtually the same steps. It is doubtful that Verizon views those steps as minor ministerial and administrative tasks when it is Verizon performing them.

Furthermore, Verizon is simply wrong concerning the inclusion of local number portability charges in the CTC.<sup>9</sup> LNP charges are not included in the AT&T CTC.

### **III. AT&T'S CTC INCLUDES PRICING RECIPROCITY BETWEEN AT&T AND THE CARRIER TO WHOM THE CUSTOMER IS TRANSFERRING.**

Verizon's purported confusion about the applicability of the tariff is plainly feigned. As explained above, the AT&T CTC rate is set either at or below AT&T cost or at the Verizon rate for a comparable service. However, the AT&T tariff provides another option to carriers. AT&T's tariff clearly states that, in lieu of the tariff rate, a carrier can receive reciprocal pricing. Reciprocal pricing effectively means a bill and keep arrangement between AT&T and the carrier to whom the customer is being transferred from the AT&T switch. For any carrier, including Verizon, that performs similar reciprocal functions, AT&T is prepared to replace the charge with a bill and keep arrangement.

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<sup>8</sup> *Id.*, at 11-12.

<sup>9</sup> *Complaint*, at 13.

## Counter-Arguments of Law

### **I. THE CTC IS A LAWFUL RATE FOR SERVICES RENDERED BY AT&T THAT WAS DULY FILED WITH THE DEPARTMENT AND IS DEEMED TO BE JUST, REASONABLE, AND LAWFUL IN ALL RESPECTS.**

As Verizon concedes (Complaint, pp. 1, 4), in November 2002, AT&T duly filed with the Department tariff amendments providing for the assessment of the CTC. Pursuant to state statute and established process, the Department permitted the CTC tariff to go into effect thirty days from its filing. As a result the CTC tariff is deemed to be just, reasonable, and lawful in all respects.

Verizon appears to argue (Complaint, pp. 6-7) that the tariff amendments are vague or that the CTC does not apply to Verizon. These assertions are incorrect as a matter of law. As is evident from the face of the tariff, and from current industry practice, the CTC applies when AT&T transfers a customer served by a DS-0 or DS-1 loop facility off of the AT&T network and to another carrier, if the other carrier charges AT&T for performing comparable work when a customer transfers to AT&T. Verizon points to no instance in which AT&T has sought to apply the tariff according to any different meaning. The Department allowed the tariff to go into effect on December 1, 2002, and Verizon has shown nothing that has changed in the interim since then to render the tariff any less comprehensible.<sup>10</sup>

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<sup>10</sup> Moreover, the Complaint shows that Verizon clearly understands (i) that the CTC applies when a customer transfers from AT&T to another carrier such as Verizon (Complaint, pp. 2-3; 13-14) and (ii) that expedite charges apply when another carrier requests an interval shorter than AT&T's standard interval (*id.*, p. 3). Other claims of confusion (*e.g.*, the claim that the CTC could apply to a UNE-Platform customer) are simply a plain misreading of a clear and unambiguous tariff. Verizon's cite to an FCC decision regarding a reciprocal compensation tariff is inapposite. *See, In The Matter Of Bell Atlantic-Delaware, Inc. V. Global NAPS, Inc.*, File No. EB-00-MD-009, FCC 00-383, Memorandum Opinion and Order (the "Memorandum Opinion"), released October 26, 2000. The Memorandum Opinion addressed an FCC approved interstate tariff that imposed different charges for different services pursuant to language that bears no resemblance at all to the tariff language establishing the CTC. Memorandum Opinion, §§ 22-24. Most significant, the Memorandum Opinion deemed the FCC tariff at issue there unjust and unreasonable because that tariff relied and depended upon, among other things, decisions and agreements

(continued...)

**II. THE CTC DOES NOT RECOVER COSTS OVER WHICH THE FCC HAS EXCLUSIVE JURISDICTION BUT DOES RECOVER COSTS THAT ARE COMPARABLE TO COSTS THAT VERIZON RECOVERS THROUGH ITS INTRASTATE HOT CUT CHARGE.**

Verizon asserts (Complaint, pp. 13) that, through the CTC, AT&T recovers costs related to providing number portability that are within the exclusive jurisdiction of the FCC. This argument is incorrect as a matter of law. AT&T, through the CTC, recovers costs associated with the transfer of customers off of the AT&T network that are within the jurisdiction of this Department and recovers no costs through the CTC that are within the jurisdiction of the FCC. As shown above, through the CTC, AT&T recovers only costs (i) that are comparable to costs which Verizon recovers through Verizon's intrastate hot cut charge and (ii) that AT&T itself actually incurs when it transfers a customer. Verizon itself thus acknowledged that the costs recovered through the CTC are intrastate in nature when it filed its intrastate hot cut tariff with this Department.

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(continued...)

that were not incorporated into or even specifically identified by the interstate tariff. *Id.* §§ 22-23. No such ambiguity is asserted here, nor could it be.

**Conclusion**

For the reasons set forth above, the Department should dismiss the Complaint.

Respectfully submitted,

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