

**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 the collocation security policies of Verizon New England Inc. d/b/a Verizon Massachusetts

D.T.E. 02-8

INITIAL BRIEF OF SPRINT COMMUNICATIONS COMPANY L.P.

Sprint Communications Company L.P. (“Sprint”) respectfully submits this initial brief pursuant to the Hearing Officer Memorandum Re: Procedural Schedule; Ground Rules; and Service List dated February 27, 2002 in this proceeding.

I. INTRODUCTION AND SUMMARY

As stated in the Department’s Notice, “[t]his investigation will determine whether Verizon’s security policies meet the statutory standard for “just, reasonable, safe, adequate and proper regulations and practices.” G.L.c. 159, § 16.¹ Specifically, the Department noted that this investigation will examine 1) the extent and nature of appropriate access by personnel of other carriers to Verizon’s central offices and other facilities for accessing collocation sites; 2) whether cageless collocation arrangements remain an acceptable security risk, 3) the adequacy of security measures implemented in Verizon’s central offices and other facilities, focusing on preventive, rather than “after-the-fact,” measures; and 4) any other related security issues.²

Sprint approaches the issues in this proceeding from the standpoint of both a

¹ D.T.E. 02-8, Notice of Investigation and Public Hearing, January 24, 2002 at 1.

² *Id.*

competitive local exchange company (“CLEC”) and an incumbent local exchange company (“ILEC”). Sprint Exhibit (“Ex.”) 1 at 2. Sprint operates as an ILEC in 18 states serving over 7 million access lines and also has hundreds of collocators in its central offices. Sprint Ex. 1 at 3. Sprint is therefore uniquely qualified to address Verizon’s proposals from both sides of these issues. *Id.* Sprint’s local division is taking prudent and responsible steps to improve security, without imposing any of the unreasonable burdens on collocators that Verizon is seeking here.

The evidence submitted in this proceeding overwhelmingly confirms that Verizon’s proposed security measures do not meet the statutory standard for just, reasonable, safe, adequate and proper regulations and practices. Verizon has not met its burden to show that any additional security measures provide a necessary security benefit to justify added costs imposed on the CLEC. Moreover, Verizon’s security proposals would, if approved, also violate the Telecommunications Act of 1996, the FCC’s collocation rules and Verizon’s own tariffs. The record also demonstrates that there is no need for Verizon’s security policies, and that adequate enforcement of Verizon’s existing security measures would be more than adequate to protect Verizon’s central offices (“COs”). Verizon’s proposed security measures would not have prevented the events of September 11th, which are no justification for such anti-competitive measures.

The FCC, through its Homeland Security Policy and Network Reliability and Interoperability Councils, is committed to working with industry to ensure the reliability and security of our nation’s communications infrastructure. Sprint Ex. 1 at 5; Qwest Ex. 1 at 4. These issues are best accomplished as national policy or through an industry task force, not through litigation in 50 states. *Id.*

Finally, Verizon's security proposals are unreasonable. Not only are they inconsistent with existing law and Verizon's interconnection agreements, they would unlawfully shift Verizon's unspecified costs of implementing these draconian measures to CLECs. Verizon has not quantified or estimated the actual construction, relocation and alteration costs associated with its proposal. AT&T Ex. 1 at 7. Verizon is looking for a blank check, potentially amounting to hundreds of thousands of dollars, from each collocator to fund Verizon's self-serving plan. Sprint Ex. 1 at 17. Verizon's collocation security proposals will also likely limit the amount of space available for physical collocation. *Id.* at 18.

No regulatory agency has approved and no other telecommunications carrier has proposed these or similar draconian security measures. Transcript ("TR") 218; Allegiance Ex. 1 at 12. The Department should reject Verizon's proposed security measures.

II. VERIZON'S PROPOSED SECURITY MEASURES ARE A TERRIBLE SOLUTION IN SEARCH OF A PROBLEM

A. Introduction

Verizon proposed the following security measures:

(1) the establishment of separate space with separate entrances and/or pathways for all forms of physical collocation (*i.e.*, caged and cageless) to secure and segregate collocators' equipment from Verizon MA's equipment and no commingling of collocators' equipment in the same rooms as Verizon MA's equipment without some reasonable means of physical separation (*e.g.*, partitioning) and secured access; (2) the relocation of existing *unsecured* cageless collocation arrangements to a secured and segregated area of the CO or the conversion of such arrangements to virtual collocation where secured CO space is unavailable; (3) the provision of reasonable access to shared facilities (*e.g.*, temporary staging areas, elevators, loading docks, restrooms, etc.) that are located outside the secured and segregated collocators' space either by partitioning Verizon MA's equipment, if feasible, or through the use of escorts at the collocated carrier's expense; (4) the requirement to provide virtual collocation and/or escorts at physically collocated remote terminal ("RT") sites; and (5) the development of more stringent measures in critical,

“high” security risk COs, *i.e.*, classify such COs as “virtual collocation only” sites.)³ (footnote omitted)

Verizon proposes to pass the costs of these security proposals to CLECs. Verizon Ex. 1 at 41. As demonstrated below, these security proposals are unwarranted, unreasonable, and unlawful. Verizon has failed to meet its burden of proof. The Department should summarily reject Verizon’s proposed security measures.

B. Verizon’s Data is Unreliable

The incident reports that Verizon produced in response to AG-VZ 1-1 are inaccurate and unreliable. They are the product of a database search of investigative reports that “included . . . the word ‘CLEC’ or the word ‘collocator.’” TR 627. The database does not include incidents that don’t involve CLECs or collocators. TR 636. Verizon therefore excluded its own employees and vendors from the search, so that if an aggrieved Verizon employee damaged CLEC equipment it would not show up in Verizon’s incident reports. Moreover, Verizon included an incident as a security breach or security violation in its report if the term “CLEC” or collocator was used anywhere in the incident details, regardless whether the CLEC or collocator was responsible for the alleged harm. TR 627. Indeed, CLECs were the victims, not perpetrators, of many of the reported incidents. For example, the attachment to RR-DTE-VZ 2 includes incidents such as:

Equipment taken from Collocator cage- 3 OC48 cards
Sabotage to collocation-fuse removed from bay panel
Collocator’s PC stolen from locked cage
Multiplexer stolen-cost between \$4000-\$16000

³ Verizon Exhibit (“Ex.”) 1 at 4-5.

CLEC's equip missing 1-30 Slam, etc
Collocator's tools stolen (multiple incidents)
Collocator's cage broken into (multiple incidents)
10 Circuit Cards allegedly stolen from CLEC at below location
CLEC Equipment theft
CLEC's equipment sabotaged-Cable connected to DSLAM removed
Router and HUB missing from Central Office⁴
3 Crossboxes vandalized

If a security breach in a CO did not include a CLEC or collocator reference, it was excluded from Verizon's response to AG-VZ-1-1. TR 629. Thus, security breaches by Verizon's employees, agents, vendors or contractors working on Verizon equipment would not have been included in Verizon's response if the report did not include the terms CLEC or collocator. TR 630. This is inconsistent with Verizon's response to Sprint-VZ 1-10, in which Verizon stated that "To the extent that any security violations were caused by Verizon certified vendors, they would be included in Verizon MA's Reply to AG 1-1." Either Verizon's discovery response to Sprint-VZ-1-4 is inaccurate or Verizon submitted false information to the Department under oath.

When Verizon finally expanded its search in response to the Department's record request, the results confirmed that CLECs are not the problem and do not justify Verizon's proposed draconian collocation measures. Verizon's response to RR-DTE-VZ 3 demonstrates that Verizon was the root cause of many service disruptions. For example, page 2 of Verizon's Final Service Outage Report dated December 8, 1999 lists the "Direct Cause" as "A Bell Atlantic procedural error during CNI growth activity caused this outage." Similarly, page 2 of the May 28, 1999 Final Service Outage Report to Mr. Hatfield regarding a DC power short causing the circuit breakers to trip states that

⁴ Apparently Sprint is not the only CLEC whose router was stolen. Sprint's router was stolen in October 2000, per Verizon. This incident occurred on January 24, 2002.

“This outage was caused by the failure of Bell Atlantic personnel to follow existing procedures related to the work operation being performed. The MOP failed to detail sufficiently the work being performed and did not indicate the required safety and equipment protection procedures required to ensure service continuity.”

Moreover, Verizon witness Jacobs had “no idea” of what percentage of the total security violations were provided to the Department. TR 630. Verizon also conducted no independent analysis of the actual need for its proposed security measures, their impact on CLECs and available collocation space,⁵ their costs, and whether they fit any need. Verizon response to Sprint-VZ 1-28. Verizon’s security proposals also do not take the age of the CO into account, even though older COs “usually had more glass in the first-floor area” than newer construction COs. TR 238. Verizon also didn’t analyze the proportions of times that security incidents resulted in service disruptions, or analyze the impact of its security proposals on the business operations of CLEC customers or operations. TR 42, 46-47. Verizon’s witnesses also had no knowledge of whether any assessment had been done of risks to E911 switches in Massachusetts. TR 165-66.

Verizon witness Shepherd conceded that Verizon Massachusetts has CLECs and IXCs collocated in Massachusetts COs, yet there is no record of Verizon’s data taking the security incidents of other collocators into account. *See* TR 754. Thus, Verizon’s response to Sprint-VZ-2-21, in which Verizon cites to its response to AL-VZ 1-1 and Conversant-VZ 1-1, is inaccurate. Yet those documents list only CLEC collocations, so

⁵ The following ten Massachusetts central offices are currently on the Verizon Physical Collocation Space Exhaust List: Auburn, Barnstable, East Douglas, Essex, Harvard, Meddleton, Princeton, Shirley, Sudbury and Westboro. Verizon response to Sprint-VZ 1-16.

either CLECs are the only collocators in Verizon's central offices or Verizon's data responses are inaccurate. If there are other carriers (*e.g.*, IXCs, CAPs, ALTs and CMRS providers) that have "foot traffic" in Verizon's COs, then many of them have not been represented in this proceeding.

Finally, Verizon's response to RR-DTE-VZ 2 shows that Verizon's security incidents report includes non-Massachusetts security breaches that are irrelevant to this inquiry. Only 28 (58%) of the 48 incidents listed in the attachment to RR-DTE-VZ 2 are marked with a handwritten "x" designating them as Massachusetts incidents. Thus, Verizon's data overstated the number of actual Massachusetts incidents.

C. Verizon's Proposed Security Measures Are Unnecessary and Unreasonable

In D.T.E. 98-57, Phase I-B, the Department required Verizon to include the following language in Verizon's Tariff 17 filing: "The Telephone Company has the burden to show that any additional security measures provide a necessary security benefit to justify added costs imposed on the CLEC."⁶ This language stands as a grim reminder that Verizon cannot impose additional security measures on CLECs without justifying their necessity and added costs. Verizon has failed to do so.

There is no demonstrated need for Verizon's proposed security measures. Verizon has not adequately described any specific security breaches that Verizon's proposal will eliminate, nor has Verizon quantified, by risk factor, how much each of its proposals will reduce these risks. Verizon responses to Sprint-VZ 2-4, 2-5, 2-6. Verizon

⁶ D.T.E. 98-57 (Phase I-B), *Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in revisions to M.D.T.E. No. 17 filed with the Department by Verizon New England, Inc. d/b/a Verizon-Massachusetts*, May 24, 2001 (*hereinafter* D.T.E. 98-57, Phase I-B Order) at 57.

has not assessed or quantified any potential network harm. VZ-MA response to Sprint-Verizon-1-4. In the past two years, no CLEC access cards have been confiscated or revoked in Massachusetts. TR 729-30. In fact, Verizon witness Reney testified that “around the end of 2000 CLECs started to terminate their arrangements and continued to do so through 2001 and into 2002.” TR 733. She also testified that:

[t]he number of tickets that my center is processing today is much less than we were in 2000. And I’m not saying just on security breaches; I’m talking about the number of calls to my center are less than they were in 2001 and much less than in 2000 . . . I have seen a drop-off in tickets related to all categories relative, very much so, to the number of collocation arrangements I have in my space, which tells me there are less people going in to find a problem, to report the problem.⁷

So much for Verizon’s claim that greater “foot traffic” in central offices potentially exposes the network infrastructure to greater risk. Based upon Ms. Reney’s testimony, there is less, not more, foot traffic given current economic conditions. Moreover, in response to Sprint’s request to provide all studies, analyses, documents and other support for the statement that greater foot traffic exposes the network infrastructure to greater risk, Verizon stated that “[n]o such documents exist.” Verizon response to Sprint-VZ 2-4.

Verizon has implemented several security measures since September 11th, including increasing company facility protection, 24 X 7 guard coverage at certain critical locations, upgraded guard force at critical locations, armed guards posted at critical locations, upgraded guard force supervision, Verizon Security assigned to critical buildings, strengthened/reinforced access control at Verizon facilities, enforcement of

⁷ TR 735.

visible Verizon ID badge policy, mail security guidelines, and response protocol.⁸ Verizon response to AL-VZ 1-24. Verizon has been making the exteriors of high priority central offices more difficult to penetrate through “site hardening” long before the events of September 11th. TR 236-28. Verizon provided no data regarding the extent of the risk and therefore no evidence regarding the value or benefit that would be obtained by implementing measures needed to prevent such risks. AT&T Ex. 1 at 9. Verizon didn’t analyze the proportions of times that security incidents resulted in service disruptions, or analyze the impact of its security proposals on the business operations of CLEC customers or operations. TR 42, 46-47. There is no record evidence indicating whether a Verizon technician is any more likely to commit a network-affecting unintentional act than a CLEC technician. TR 112-13. Nor is there any evidence that CLEC employees, agents or vendors are more likely to engage in conduct that would pose a threat to equipment located in Verizon central offices where the CLEC is collocated than they were before September 11, 2001. Verizon response to AL-VZ 1-25. Almost half of Verizon’s central offices in Massachusetts do not have a single competitor collocating equipment. Qwest Ex. 1 at 12; Verizon response to Qwest-VZ-1-4. Two-thirds of the remaining COs house equipment from five or less competitors, and a third of the remaining COs only have one collocator. *Id.* Verizon’s central offices are currently equipped with physical security devices that are more than adequate to do the job. AT&T Ex. 1 at 6, 25. The types of security risks that security experts are now considering are unlikely to be the types of risks that can or should be addressed by collocation rules.

⁸ Verizon has not tracked the costs associated with these security measures, and has not sought to recover their costs from CLECs. VZ-MA response to AL-VZ 2-1.

AT&T Ex. 1 at 8; Covad Ex. 1 at 3. Verizon has failed to identify credible security threats or solutions to legitimate security problems. WorldCom Ex. 1 at 3.

Sprint's witness, Mr. Edward B. Fox, analyzed the data that Verizon produced in response to AG-VZ 1-1 and found that at least 80% of the security violations will not be cured if Verizon were to implement its security measures. Sprint Ex. 1 at 8. Only 19% of the security violations have anything to do with CLECs having access to the ILEC central office, and none of these incidents are network threatening. *Id.*; Sprint Supplemental Response to VZ-Sprint 1-13. Verizon admitted at page 22 of its April 5 Panel Testimony that it has not experienced serious security violations in Massachusetts to warrant the adoption of more stringent measures. Sprint Ex. 1 at 9; Allegiance Ex. 1 at 1; Covad Ex. 1 at 6. Moreover, less than half of the 27 CCOE arrangements are in unsecured central office area and only one of those cannot be relocated due to a lack of available separate and secured space. Verizon Ex. 1 at 34; Allegiance Ex. 1 at 4. Since 1999, Verizon has terminated no employees for accidentally causing damage in a central office, yet Verizon-selected employees and vendors pose a greater security risk to Verizon's and CLECs' networks than do CLEC employees and vendors. Allegiance Ex. 1 at 6; Verizon response to AL-VZ-16; Covad Ex. 1 at 14.

Nor has Verizon assessed or quantified any "potential network harm." *Id.* In short, Verizon's security proposals do not match any identifiable need. For example, there are currently no RT arrangements in Massachusetts, yet Verizon seeks to impose unnecessary RT collocation security requirements on CLECs. Covad Ex. 1 at 19. To the extent that there is any need to address collocation security, the FCC is addressing these issues through the Homeland Security Policy Council and Network Reliability and Operability

Councils. Sprint Ex. 1 at 18-19.

As noted in Mr. Fox's testimony, moving CLECs to secured areas is not a satisfactory preventative security measure to protect the telecommunications network infrastructure in Massachusetts. Sprint Ex. 1 at 14. If Verizon implemented everything it proposed, its network would be only marginally more secure than it is today and every bit as vulnerable to significant network tampering as it was before. *Id.* at 14-15. Verizon's flawed security solutions contain serious business and regulatory issues, including significant costs to CLECs with no measurable benefit, forced relocation, possible service interruptions to CLEC customers, relinquishing control of collocation facilities, restriction of physical collocation from critical offices, and discouraging physical collocation in favor of virtual collocation. *Id.* at 15.

Finally, except for the designation of critical COs, Verizon stated that "the other security requirements are for the most part already in place and followed today in Massachusetts."⁹ Ex. VZ-MA-2 at 7; TR 33. If this is accurate, the Department need do nothing and the FCC should investigate Verizon's violation of the FCC's collocation rules.

D. Verizon Should Enforce Its Existing Collocation Policies

Verizon's current collocation security procedures are adequate. In response to discovery, Verizon noted that:

All Verizon MA COs require authorized access credentials or identification for entry, and are secured either by a key lock or electronic access card reader system.

⁹ Verizon also stated that with the exception of the single cageless collocation arrangement in an unsecured, unseparated space in Hopkinton, MA, Verizon MA proposes no change to its current procedures in collocated COs unless the CO is declared a critical office by the Department. VZ- MA reply to Sprint-VZ 2-9.

Likewise, Verizon MA generally places appropriate signage, e.g., masking tape on the floor, to mark secured and separate means of ingress and egress for collocated carriers. Although most COs do not have assigned security guards, Verizon technicians are present in the collocated COs . . .”¹⁰

Verizon provided no credible reasons why existing or other security measures, individually or in combination, will not work. AT&T Ex. 1 at 12. Adequate enforcement of Verizon’s collocation policies in the first place would address Verizon’s collocation security concerns. Sprint Ex. 1 at 11; WorldCom Ex. 1 at 29. For example, clearly identifying all CLEC equipment with the CLEC’s name, emergency number, CLLI code and relay rack number pursuant to Verizon’s CCOE Tariff, D.T.E. Ma. No 17 ¶9.3.5 C would avoid confusion about who owns what equipment. Sprint Ex. 1 at 11. Similarly, if Verizon deployed CCTV systems into its 13 most populous collocated offices, it would be able to monitor approximately 40% of the collocation arrangements instead of only 1.4% of the arrangements being monitored with CCTV today. Sprint Ex. 1 at 13.

Adequate enforcement of Verizon’s existing collocation policies might have also prevented the theft of Sprint’s router from Verizon’s Revere office in the middle of the day as Verizon employees watched the theft. Sprint Ex. 1 at 4. Even worse, Verizon’s attachment to RR-Sprint-VZ 1 states that “Lorraine Mills called to advise a similiar [sic] incident happened at this C.O. with another CLEC . . . I asked her if the condition was safe, she did not know.” Thus, there were two similar equipment thefts at this CO, and Verizon still doesn’t know if the condition is “safe.” Moreover, at least three routers have been stolen at Verizon COs based upon Sprint’s review of Verizon’s record request responses: the router stolen at Verizon’s Revere CO on October 27, 2000; the referenced

¹⁰ Verizon response to AL-VZ 1-4. *See also* Verizon’s Security Guidelines provided in response to AL-VZ 1-1 (c).

similar incident at the Revere CO, and the January 24, 2002 incident of the missing router referenced in Verizon's response to RR-DTE-VZ 2. At a minimum, adequate enforcement might help avoid similar incidents in the future.

E. CLECs Are Overpaying for Existing Collocation Security

CLECs are overpaying Verizon for collocation security. If a CLEC has a small four bay arrangement, it will pay over \$9,400 a year for security.¹¹ Sprint Ex. 1 at 13. This is apparently of little, if any, value to CLECs in light of Verizon's position that cageless collocation is an unacceptable security risk. Having paid this to Verizon year after year, Verizon now proposes to relocate CLECs, at their expense, to secure areas. Sprint Ex. 1 at 13.

Sprint concurs with Allegiance that CLECs should not be required to pay any of the costs for converting physical collocation arrangements to virtual collocation. Allegiance, Ex. 1 at 11. CLECs should not be required to pay nonrecurring charges a second time for unjustified security concerns. *Id.*

F. Verizon Should Pay for its Security Proposals

Verizon's security proposals are not necessary as noted above. Verizon has failed to identify the need for its proposals or match them to the prevention of any identifiable harm. Given that Verizon is the cost causer of its proposals, it should bear the entire cost of their implementation. Sprint Ex. 1 at 17; AT&T Ex. 1 at 27. This is consistent with the FCC's rules, which require CLECs to only pay for the least expensive, effective and

¹¹ Sprint's ILEC division charges approximately \$115 per year for security costs consisting primarily of electronic locking and surveillance camera systems. Sprint Ex. 1 at 14.

reasonable security option that is viable for the space assigned.¹² Verizon's proposed rules are unnecessary and not the least expensive and effective security option available. *Id.*

For example, the cost of erecting partitions to sequester Verizon's own equipment should be borne solely by Verizon since its policies would be the sole cause of that cost. AT&T Ex. 1 at 27. Similarly, CLEC personnel are no more likely than Verizon personnel to engage in intentional acts of vandalism, so converting CLECs' physical collocation arrangements to virtual arrangements in critical central offices is unnecessary and amounts to unreasonable discrimination against CLEC personnel. *Id.* at 19. Likewise, segregating collocator's equipment from Verizon's equipment with separate entrances or pathways is not only unnecessary, but it is also anticompetitive because Verizon seeks to impose unnecessary costs on collocators that Verizon will not face. WorldCom Ex. 1 at 17.

G. Verizon Failed to Consider Less Onerous Alternatives

Verizon did not consider less expensive but effective security options. Verizon conducted no cost studies regarding thumb print scanner costs. Verizon response to Sprint-VZ 1-24. Verizon has not estimated the costs associated with real-time monitoring of collocated COs. Verizon response to AL-VZ 1-5. Verizon has no idea of the number of access cards issued to CLECs in Massachusetts. Verizon response to AL-VZ 1-6.

Verizon is still considering other alternatives, such as expansion of electronic

¹² 47 C.F.R. 51.323(i); AT&T Ex. 1 at 28.

surveillance (*i.e.*, card reader access systems),¹³ so it would be premature for the Department to act on Verizon's security proposals until other, less expensive and onerous alternatives have been explored.

H. Verizon's Proposals Are Unjust, Unreasonable and Improper

If the Department determines that the regulations, practices, equipment, appliances or service of any common carrier are unjust, unreasonable, unsafe, improper or inadequate, the Department shall determine the just, reasonable, safe, adequate and proper regulations and practices to be used. G.L.c. 159, § 16. The Department must consider the relative importance and necessity of the changes in any specific regulations, practices, equipment and appliances proposed, the financial ability of the carrier to comply with the requirements of the order, and the effect of the carrier's compliance upon its financial ability to make other changes that the Department may deem of greater importance and necessity in the performance of the service that the carrier renders to the public. *Id.* Although the Department has broad power to prescribe safety regulations, it must act within its statutory authority, without invasion of federal exclusive jurisdiction, and upon some substantial showing that proposed regulations are reasonable and appropriate. *Penn. Cent. Co. v. Department of Public Utilities*, 253 N.E.2d 339, 356 Mass. 478 (1969).

As noted above, Verizon failed to meet its burden of demonstrating that its proposed security measures are just, reasonable and proper because it has identified no need for them. Moreover, Verizon did not prepare a cost study for its proposed security

¹³ Verizon response to AL-VZ 1-12.

measures, and it failed to consider the cost of implementing them or their impact on CLECs. Sprint Ex. 1 at 4. Verizon also failed to identify its so-called “critical” central offices for which Verizon proposes to be virtual only collocation sites, and “has not developed a plan for how the Department will determine which central offices are to be designated as ‘critical.’” Verizon-MA Supplemental Reply to AL-VZ 1-20. Although Verizon conceded that any consideration of critical customers should include CLECs’ customers, Verizon failed to perform such an analysis. TR 260-62. There is therefore no way to determine the level of impact of Verizon’s proposals on CLECs and their customers, or their degree of unreasonableness.

III. VERIZON’S SECURITY PROPOSALS ARE INCONSISTENT WITH THE TELECOMMUNICATIONS ACT OF 1996

State Commissions may regulate collocation transactions and associated disputes in a way that supplements but does not conflict with the FCC’s rules or Orders, or with the Act.¹⁴ As noted below, Verizon’s security proposals conflict with the FCC’s rules, Orders, and the Act.

Implementation of Verizon’s security proposals would literally require an act of Congress to amend the Telecommunications Act of 1996. Covad Ex. 1 at 14. Verizon has a statutory obligation under the Act to provide physical collocation “at the premise of the local exchange carrier” unless it demonstrates to the state commission that physical

¹⁴ D.T.E. 98-58, *Petition of Teleport Communications Group Inc., pursuant to 220 C.M.R. § 1.04, requesting the Department of Telecommunications and Energy to establish rules regarding collocation requests made to the incumbent local exchange carrier by a competitive local exchange carrier*, Order at 9 (1999).

collocation is not practical for technical reasons or because of space limitations.¹⁵ Verizon has not demonstrated that physical collocation is not practical for technical reasons or because of space limitations. The fact that Verizon is attempting to move *existing* physical collocation arrangements shows that physical collocation is technically feasible and there are no space limitations. To the extent that Verizon's security proposals would interfere with existing physical collocation arrangements with no demonstrated technical feasibility or space limitation issues, they violate the Telecommunications Act of 1996.

Verizon's suggestion that unknown and undefined potential security risks demonstrate lack of space or technical feasibility is wrong. *See* TR 240-43. As correctly noted in AT&T's testimony, the FCC's rules permit an ILEC to implement reasonable security arrangements to protect its equipment but ILECs may not use security risks to circumvent their statutory requirement to provide physical collocation. AT&T Ex. 1 at 20. Only technical or space constraints may prevent a collocating carrier from entering into a physical collocation arrangement with the ILEC. *Id.* The FCC's rules clarify what is technically feasible as follows:

Interconnection, access to unbundled network elements, collocation, and other methods of achieving interconnection or access to unbundled network elements at a point in the network shall be deemed technically feasible absent technical or operational concerns that prevent the fulfillment of a request by a telecommunications carrier for such interconnection, access, or methods. A determination of technical feasibility does not include consideration of economic, accounting, billing, space, or site concerns, except that space and site concerns may be considered in circumstances where there is no possibility of expanding the space available. The fact that an incumbent LEC must modify its facilities or equipment to respond to such request does not determine whether satisfying such request is technically feasible. An incumbent LEC that claims that it cannot

¹⁵ 47 U.S.C. § 251(c)(6). *See* AT&T Exhibit 1 at 19.

satisfy such request because of adverse network reliability impacts must prove to the state commission by clear and convincing evidence that such interconnection, access, or methods would result in specific and significant adverse network reliability impacts.¹⁶

Verizon's unidentified and speculative security concerns do not involve technical or operational considerations. Indeed, they are site concerns that are expressly excluded from technical feasibility consideration.

As the Department stated in its D.T.E. 98-57, Phase I Order, "security concerns cannot be a reflexively accepted excuse for encumbering and impeding competitors, in whose commercial success the public also has some interest."¹⁷ Although the Department determined in D.T.E. 98-57, Phase I-B that network security is an aspect of technical feasibility based upon the Department's reading of the FCC's UNE Remand Order, the Department was not persuaded by Verizon's network security concerns and refused to require collocated CLECs to construct a telecommunications carrier outside plant interconnection cabinet ("TOPIC").¹⁸ The Department ruled that "Verizon is not, however, free to require collocated CLECs to secure what is essentially a second collocation merely for the purpose of housing a cross-connect panel."¹⁹

The FCC concluded that Section 251(c)(6) of the Act allows interconnecting carriers to collocate any equipment necessary for interconnecting with the ILEC at a level equal in quality to that which the ILEC obtains within its own network or the ILEC

¹⁶ 47 C.F.R. § 51.5.

¹⁷ D.T.E. 98-57 - Phase I, *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* at 17.

¹⁸ D.T.E. 98-57, Phase I-B Order at 34.

¹⁹ *Id.* at 35.

provides to any affiliate, subsidiary, or other party.²⁰ Verizon did not interview CLECs or conduct any analysis of the impact of its proposed security measures on CLECs or others who may have collocation lease arrangements with Verizon. TR 247; Sprint Ex. 1 at 6. It has therefore failed to meet its burden of proving that its proposed rules would allow CLECs to collocate any equipment at the same level of quality at which Verizon or its affiliates or subsidiaries do within Verizon's own network.

IV. VERIZON'S SECURITY PROPOSALS ARE UNREASONABLE AND INCONSISTENT WITH THE FCC'S AND THE DEPARTMENT'S COLLOCATION ORDERS AND RULES

A. Introduction

In its Local Competition Order, the FCC stated that ILECs "have the incentive and capability to impede competitive entry by minimizing the amount of space that is available for collocation by competitors."²¹ Verizon's security proposals are just another attempt to minimize the amount of available collocation space and disrupt CLEC operations.

Moving collocated CLEC equipment is disruptive, as Verizon, formerly Bell Atlantic, has acknowledged in other dockets. In its argument to the Department in support of treating a move from an existing cage to a different existing cage as a new installation, then Bell Atlantic indicated that it "does not believe that any CLEC would disrupt service to working customers by moving equipment to another location and re-

²⁰ CC Docket No. 98-147, *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability*, Fourth Report and Order, released August 8, 2001 (*hereinafter* "Fourth Report and Order"), ¶30.

²¹ *Local Competition Order*, 11 FCC Rcd 15499 at ¶ 585 (1996).

cabling and re-terminating all communications connections and DC power. Such an endeavor would only lead to lengthy service outages that would be unacceptable to any telecommunications provider.”²² The Department found that “refusing to allow in-place conversions under any circumstances would force a CLEC to experience the unacceptable situation Bell Atlantic describes, unless redundant facilities are built.”²³ Similarly, Verizon’s security proposals would disrupt existing collocation arrangements and cause CLECs to experience the unacceptable situation that Bell Atlantic described, including service disruptions and outages.

Verizon’s proposed security measures are one more attempt to limit Verizon’s statutory collocation obligations. After the D.C. Circuit Court of Appeals vacated the FCC’s first order implementing Section 251(c) (6) of the Act, the FCC issued its Fourth Report and Order that Verizon appealed.²⁴ Verizon argued that 1) the FCC’s standard for collocatable equipment was overly broad, 2) the FCC unlawfully allowed the placement of equipment unnecessary for interconnection or access to network elements, 3) the FCC lacked authority to order ILECs to physically connect collocating CLECs to each other, and 4) the FCC’s space assignment rules are unlawful.²⁵ The Court held that Verizon was “mischaracterizing” the FCC’s collocation order, which “established a presumption against” separate entrances and segregated facilities and “prohibited their use completely.”²⁶ Contrary to Verizon’s claims, “the Commission did not ignore ILEC

²² D.T.E. 98-57, Phase I-B Order at 85.

²³ *Id.*

²⁴ *Verizon Telephone Companies, et. al. v. FCC, et. al.*, 292 F.3d 903 (June 18, 2002) (hereinafter “*June 18, 2002 Decision*”) at 2. A copy of this Decision is attached at Tab 1.

²⁵ *Id.*

²⁶ *Id.* at 24.

security concerns; rather, it found 'insufficient evidence to support a finding that [those] concerns require physical separation of collocated equipment from the incumbent's own equipment in every instance."²⁷ That "policy judgment" was reasonable,²⁸ and the Court acknowledged the FCC's "high level of technical expertise in an area of rapidly changing technological and competitive circumstances."²⁹ In rejecting Verizon's arguments and upholding the Fourth Report and Order, the Court wrote:

As Verizon's brief makes clear, it prefers a rule that 'at a minimum, permits an incumbent, as a default, ...to determine where in its central office ... competitors may install their equipment and the path they may take through those buildings.' Pet'rs' Opening Br. at 40. But this is a policy judgment for the Commission; nothing in the statute mandates such a result or disallows the path the Commission here has chosen.³⁰

As Ronald Reagan often said, "there they go again." Verizon's proposals to limit physical collocation and separate CLEC equipment from Verizon's equipment are yet another Verizon attempt and bite at the apple "to determine where in its central office ... competitors may install their equipment and the path they may take through those buildings." The Court previously rejected Verizon's similar arguments; the Department should do the same.

The FCC's rules are clear. An ILEC "shall provide physical collocation and virtual collocation to requesting telecommunications carriers."³¹ ILECs must also "permit the collocation and use of any equipment necessary for interconnection or access to

²⁷ *Id.* at 25, *quoting* the FCC's Fourth Report and Order.

²⁸ *Id.* at 25.

²⁹ *Id.* at 14.

³⁰ *Id.* at 25.

³¹ 47 C.F.R. § 51.323(a).

unbundled network elements.”³² Equipment is necessary for interconnection if an inability to deploy that equipment would, as a practical, economic or operational matter, preclude the requesting carrier from obtaining interconnection with the ILEC at a level equal in quality to that which the ILEC obtains within its own network or the ILEC provides to any affiliate, subsidiary or other party.³³ Equipment is necessary for access to a UNE if an inability to deploy that equipment would, as a practical m, economic or operational matter, preclude the requesting carrier from obtaining nondiscriminatory access to that UNE, including any of its features, functions or capabilities.³⁴ As discussed in greater detail below, Verizon’s proposed collocation measures violate the FCC’s and the Department’s physical collocation and virtual collocation requirements.

ILEC’s space assignment policies and practices also must not materially increase a requesting carrier’s collocation costs or materially delay a requesting carrier’s occupation and use of the ILEC’s premises.³⁵ Sprint Ex. 1 at 16. Verizon’s security proposals would do both. They also must not reduce unreasonably the total space available for physical collocation or preclude physical collocation within the ILEC’s premises.³⁶ Verizon conducted no analysis of the impact of its security proposals on existing collocation space, and it provided no details on available space and whether CLECs can be accommodated. *Id.* at 18. Verizon’s collocation security proposals materially increase CLECs’ costs and will unreasonably reduce the total space available for physical collocation. *Id.*

³² 47 C.F.R. § 51.323(b).

³³ 47 C.F.R. § 51.323(b)(1).

³⁴ 47 C.F.R. § 51.323(b)(2).

³⁵ Fourth Report and Order, ¶93.

³⁶ Fourth Report and Order, ¶95.

Verizon's security proposals are also inconsistent with the FCC's requirement that security restrictions imposed on CLECs can only be as stringent as those that Verizon imposes on its own employees and vendors.³⁷ During cross examination Verizon's witnesses were unable to confirm that Verizon would comply with the same security measures that it proposes to impose on CLECs. TR 220-30. Rather, Verizon's witnesses were evasive, and instead offered novel and imaginative interpretations of the FCC's rules. *Id.*

An ILEC may require a collocating carrier to pay only for the least expensive, effective security option that is viable for the physical collocation space assigned.³⁸ Verizon has prepared no cost study or cost analysis of the feasibility of its security proposals³⁹ and has not demonstrated that its security proposals are viable for the collocation space assigned.

The FCC found insufficient evidence to support a finding that ILECs' security concerns require physical separation of collocated equipment from the ILEC's own equipment in every instance.⁴⁰ Rather, the FCC found that installing security cameras or other monitoring systems, and to require CLEC personnel to use badges with computerized tracking systems while on the ILECs' premises provide sufficient security for an ILEC's equipment in most instances.⁴¹

The FCC's collocation security rules define the following "[r]easonable security measures that the incumbent LEC may adopt":

³⁷ 47 C.F.R. §51.323(i); Sprint Ex. 1 at 15; AT&T Ex. 1 at 20; Verizon Ex. 1 at 12.

³⁸ Fourth Report and Order, ¶103.

³⁹ Verizon-MA Supplemental Reply to AL-VZ 1-24.

⁴⁰ *Id.*, ¶101.

⁴¹ *Id.*

- 1) Installing security cameras or other monitoring systems; or
- 2) Requiring CLEC personnel to use badges with computerized tracking systems; or
- 3) Requiring CLEC employees to undergo the same level of security training, or its equivalent, that the ILEC's own employees or third party contractors providing similar functions, must undergo, provided CLECs may conduct their own training;
- 4) Restricting physical collocation to space separated from space housing the ILEC's equipment, provided that each of the following conditions is met:
 - i) Either legitimate security concerns, or operational constraints unrelated to the incumbent's or any of its affiliates' or subsidiaries competitive concerns, warrant such separation;
 - ii) Any physical collocation space assigned to an affiliate or subsidiary of the ILEC is separated from space housing the ILEC's equipment;
 - iii) The separated space will be available in the same time frame as, or a shorter time frame than, non-separated space.
- 5) Requiring the employees and contractors of collocating carriers to use a central or separate entrance to the ILEC's building, provided the ILEC's affiliates and subsidiaries are subject to the same separate entrance restriction;
- 6) Constructing or requiring the construction of a separate entrance to access physical collocation space, provided that each of the following conditions is met:
 - i) Construction of a separate entrance is technically feasible;
 - ii) Either legitimate security concerns, or operational constraints unrelated to the ILEC's or any of its affiliates' or subsidiaries competitive concerns, warrant such separation;
 - iii) Construction of a separate entrance will not artificially delay collocation provisioning; and
 - iv) Construction of a separate entrance will not materially increase the requesting carrier's costs.⁴²

Not only are many of Verizon's security proposals outside the realm of what the FCC has designated as reasonable security measures, but Verizon has failed to meet the conditions for imposing those that the FCC has authorized. *See* AT&T Ex. 1 at 20; WorldCom Ex. 1 at 15-22. Each of Verizon's security proposals is analyzed in detail below.

⁴² 47 C.F.R. § 51.323(i).

B. Separate Space/Entrances for All Forms of Physical Collocation Violates 47 C.F.R. §§ 51.323(i) and 51.323(k)

The FCC has already addressed ILEC's previous attempts to impose segregated collocation space and separate entrances upon competing carriers:

While we reject an interpretation of section 251(c)(6) that would allow incumbent LECs to require, without exception, that competitors use segregated collocation space and separate entrances, this does not mean an incumbent LEC may never make use of segregated collocation space and separate entrances. Separate entrance requirements will meet the 'just, reasonable, and nondiscriminatory' standard only where a separate entrance already exists that provides access to the collocation space at issue, or where construction of such an entrance is technically feasible, and will neither artificially delay collocation provisioning nor materially increase the requesting carrier's costs. In addition, an incumbent LEC may construct or require the construction of a separate entrance only where legitimate security concerns, or operational constraints unrelated to the incumbent LEC's affiliates and subsidiaries competitive concerns, warrant them. Similarly, where an incumbent LEC assigns separated space for collocation or requires requesting carriers to access their collocated equipment through a separate entrance, the incumbent LEC's affiliates and subsidiaries and their employees and contractors must also be subject to such restrictions. An incumbent LEC may require collocators to pay only for the least expensive, effective security option that is viable for the physical collocation space assigned. Otherwise, the incumbent would be providing collocation on unreasonable terms and conditions.⁴³

Verizon's proposed separate space/entrances for *all* forms of physical collocation includes no exceptions and, as noted below, doesn't address any of the FCC's conditions. WorldCom Ex. 1 at 15. It is therefore unreasonable and must be rejected.

During cross examination, Verizon witness Reney clarified that "CLECs are already in separate space, with the exception of Hopkinton, Massachusetts." TR 219, 245. She said that CLECs can't be separated in Hopkinton, and "would need to be converted to virtual collocation . . ." TR 245. "With the exception of a single cageless collocation arrangement in an unsecured, unseparated space in Hopkinton, MA, Verizon proposes no

⁴³Fourth Report and Order, ¶103.

change to its current procedures in collocated central offices (“COs”) unless the CO is declared a critical office by the Department.” Verizon response to Sprint-VZ 2-9. If CLECs are already in separate space except for Hopkinton, why is Verizon asking the Department to broadly impose this requirement on CLECs? Given Verizon’s desired goal of converting the Hopkinton CO to virtual collocation, why is this security measure even necessary if it would be covered by Verizon’s proposed fifth virtual collocation security measure?

To restrict physical collocation to space separated from space housing the ILEC’s equipment, the following five conditions must be met:

- i) either legitimate security concerns, or operational constraints unrelated to the incumbent’s or any of its affiliates’ or subsidiaries competitive concerns, warrant such separation;

- (ii) Any physical collocation space assigned to an affiliate or subsidiary of the incumbent LEC is separated from space housing the incumbent LEC’s equipment;

- (iii) The separated space will be available in the same time frame as, or a shorter time frame than, non-separated space;

- (iv) The cost of the separated space to the requesting carrier will not be materially higher than the cost of non-separated space; and

- (v) The separated space is comparable, from a technical and engineering standpoint, to non-separated space.⁴⁴

Verizon failed to satisfy the FCC’s conditions for restricting physical collocation to space separated from space housing the ILEC’s equipment. Specifically, Verizon has not demonstrated legitimate security concerns. WorldCom Ex. 1 at 17. As noted above, the data upon which Verizon relied is unreliable. Verizon has simply failed to demonstrate that its security proposals are necessary, or that they will address their intended purpose. Nor has Verizon demonstrated any operational constraints unrelated to

⁴⁴ 47 C.F.R. §51.323(i)(4).

its or its affiliates competitive concerns as justification for its security proposals. *Id.* at 17-18. Mr. Mattera stated during cross examination that security concerns themselves are operational constraints, yet there is no FCC or Department Order or rule that supports Verizon's self-serving interpretation. Moreover, the fact that CLECs are already physically collocated, together with the lack of any credible evidence of significant CLEC culpability, diminishes any operational constraint argument and demonstrates that common space is clearly technically feasible.

As to the second condition, Verizon has not shown that any physical collocation space assigned to an affiliate or subsidiary of the ILEC is separated from space housing the ILEC's equipment. Nor has Verizon demonstrated that the separated space will be available in the same time frame as, or a shorter time frame than, non-separated space. Indeed, based upon Verizon's evaluation the space cannot be separated so it would apparently be impossible (or at least not technically feasible) to provide separated space in the same or shorter time frame than non-separated space.

Verizon also failed to show that the cost of the separated space to the requesting carrier will not be materially higher than the cost of non-separated space. Not only has Verizon conducted no cost studies or analyses to support its security measures, it hasn't evaluated the impact of its security proposals on CLECs or other collocators. Sprint Ex. 1 at 18; Verizon response to Sprint-VZ 1-28.

Verizon has also not demonstrated that the separated space is comparable, from a technical and engineering standpoint, to non-separated space. Again, Verizon has no idea of the impact of its proposals on CLECs, and has not evaluated their impact on available collocation space. Sprint Ex. 1 at 18; Verizon response to Sprint-VZ 1-28.

Verizon's proposal to establish separate space for both caged and cageless collocators or prevent commingling of CLEC and Verizon equipment through separate space also violates the FCC's requirement that "ILECs must allow competitors to collocate without requiring the construction of a cage or similar structure."⁴⁵ Although Verizon has provided no details on converting CLECs to separate space, clearly requiring a cageless collocator to construct a cage or similar structure to separate it from Verizon's equipment would violate Verizon's obligation to allow competitors to collocate without requiring the construction of a cage or similar structure.

Verizon's first proposed security measure also violates the FCC's four conditions for constructing or requiring the construction of a separate entrance to access physical collocation space.⁴⁶ That is, constructing or requiring the construction of a separate entrance to access physical collocation space is only permissible if each of the following four conditions is met:

- (i) Construction of a separate entrance is technically feasible;
- (ii) Either legitimate security concerns, or operational constraints unrelated to the incumbent's or any of its affiliates' or subsidiaries competitive concerns, warrant such separation;
- (iii) Construction of a separate entrance will not artificially delay collocation provisioning; and
- (iv) Construction of a separate entrance will not materially increase the requesting carrier's costs.⁴⁷

As noted above, Verizon admitted that construction of a separate entrance at the Hopkinton central office is not technically feasible. TR 245. Again, except for Hopkinton, CLECs are already in separate space. TR 245. As to the second condition,

⁴⁵ 47 C.F.R. § 51.323(k)(2).

⁴⁶ See 47 C.F.R. §51.323(i)(6).

⁴⁷ 47 C.F.R. §51.323(i)(6).

again Verizon has demonstrated no legitimate security concerns or operational constraints unrelated to its or its affiliates' or subsidiaries' competitive concerns that warrant such separation. Nor has Verizon demonstrated that construction of a separate entrance will not artificially delay collocation provisioning. Again, Verizon has conducted no independent analysis of the impact of its security measures on CLECs or the availability of physical collocation space. TR 236. Finally, Verizon has conducted no cost studies, or any financial analysis of the cost of implementing its collocation security proposals. Sprint Ex. 1 at 17. Thus, CLECs and the Department have no idea whether construction of a separate entrance will not materially increase the requesting carrier's costs. Verizon's focus has the effect of driving up the cost and increasing the difficulty of doing business for competing carriers located in their buildings. Sprint Ex. 4 at 22.

Finally, an ILEC may only impose security arrangements that are as stringent as the security arrangements that it maintains at its own premises for its own employees or authorized contractors.⁴⁸ Verizon's witnesses admitted that Verizon couldn't provide space that's separate and secure for its own purposes, and that Verizon couldn't mandate the use of separate entrances for use by its employees, vendors, affiliates or anybody that Verizon would bring into a central office to work on Verizon equipment. TR 221-23. Verizon also admitted that it has no plans to establish separate entrances and pathways to protect CLEC facilities. TR 228-29.

Verizon failed to demonstrate that its first security proposal is necessary, especially since it only applies to the Hopkinton CO where Verizon is unable to establish

⁴⁸ 47 C.F.R. § 51.323(i); Sprint Ex. 1 at 15; AT&T Ex. 1 at 20; Verizon Ex. 1 at 12.

separate entrances for CLECs. Verizon has also failed to satisfy the FCC's conditions for separate entrances, or apply them as stringently to its own vendors, employees and affiliates as it would apply them to CLECs. Thus, even if the Department approved Verizon's request for separate entrances, Verizon could not implement it absent a waiver of the FCC's collocation security rules, which Verizon does not plan to do. TR 248-49.

Finally, aside from the obvious legal defects of Verizon's first security proposal, it is impractical. The reconfiguration and necessary construction in each Verizon central office to allow for separate entrances and pathways is not likely to be feasible in many instances due to zoning, set back and other municipal regulations. AT&T Ex. 1 at 26. Moreover, the relocating CLECs' facilities and cages would be extremely costly and disruptive, while creating stranded investment in the abandoned collocation areas. *Id.*

The Department should summarily reject Verizon's security proposal for separate entrances and pathways for all forms of physical collocation.

C. Relocating Unsecured Cageless Collocation Arrangements to a Secured Location or Converting Them to Virtual Collocation Violates 47 C.F.R. §51.323(k)

If cageless collocation were not an acceptable security risk, the FCC's rules would not expressly require it. Sprint Ex. 1 at 9. Just as Verizon's proposal for separate entrances and pathways for all forms of physical collocation violates the FCC rule that ILECs must allow competitors to collocate without requiring the construction of a cage or similar structure.⁴⁹ Verizon's proposal to relocate unsecured cageless collocation arrangements to a secured location or converting them to virtual collocation violates the same rule. That is, relocating unsecured cageless collocation arrangements to a secured

⁴⁹ 47 C.F.R. § 51.323(k)(2).

location at CLECs' expense could require CLECs to construct a cage or similar structure, although Verizon has provided no analysis of the impact of this or any of its other security proposals on CLECs. This security measure also suffers from the same relocation problems described above, such as service disruptions and burdensome costs. AT&T Ex. 1 at 27.

This security proposal also potentially violates Verizon's obligation to permit collocators to have direct access to their equipment, and to make cageless collocation space available in single-bay increments (*i.e.*, a competing carrier may purchase space in increments small enough to collocate a single rack, or bay, of equipment).⁵⁰ Again, Verizon hasn't shared any implementation details on this or any of its other security proposals, so the actual impact on CLECs is unknown.

Virtual collocation is risky and may result in very unsatisfactory customer service levels. Sprint Ex. 1 at 7. Verizon witness Mattera conceded that "there will be impact" to CLECs due to virtual collocation. TR 51. Many collocators shared their concerns and bad experiences with virtual collocation. *See* Sprint Ex. 1 at 7; Allegiance Ex. 1 at 9; WorldCom Ex. 1 at 18; AT&T Ex. 1 at 17-18; AT&T Response to RR-VZ-2. Virtual collocation forces collocators to be totally reliant on their largest competitor for telecommunications facilities and installation and service. Sprint Ex. 1 at 7. That is why 776 of Verizon's 781 total collocation arrangements are physical, with only five being virtual collocations. *Id.* The FCC determined that driving competitors to virtual collocation even though physical collocation is technically feasible frustrates the Act's

⁵⁰ 47 C.F.R. § 51.323(k)(2).

preference for physical collocation.⁵¹ Converting cageless collocation sites to virtual collocation also violates Verizon's statutory obligation to provide physical collocation "at the premise of the local exchange carrier."⁵² Again, Verizon has not demonstrated that physical collocation is impractical for technical reasons or because of space limitations.

D. Partitioning Verizon MA's Equipment from CLECs or Mandating Escorts at the Collocated Carrier's Expense Violates §51.323(i)

Partitioning Verizon MA's equipment from CLECs or mandating escorts at the collocated carrier's expense suffers from many of the same defects noted above. That is, Verizon has made no commitment to impose these obligations upon its own employees, affiliates or vendors. Verizon has also not demonstrated that these procedures would "not materially increase a requesting carrier's collocation costs or materially delay a requesting carrier's occupation and use of the ILEC's premises."⁵³ Verizon has also not demonstrated these procedures will not reduce unreasonably the total space available for physical collocation, or unreasonably preclude physical collocation within Verizon's premises.⁵⁴ In fact, Mr. Mattera admitted that "Clearly, in one case, which is the Hopkinton central office, it [Verizon's proposed security measures] would reduce the amount of space available for physical collocation." TR 235-36.

ILECs must allow collocating parties to access their collocated equipment 24 hours a day, seven days a week, without requiring either a security escort of any kind or delaying a competitor's employees' entry into the ILEC's premises.⁵⁵ Verizon's

⁵¹ Fourth Report and Order, ¶93.

⁵² 47 U.S.C. § 251(c)(6).

⁵³ Fourth Report and Order, ¶93.

⁵⁴ 47 C.F.R. § 51.323(f)(7)(D).

⁵⁵ 47 C.F.R. § 51.323(i); AT&T Ex. 1 at 20.

mandated escorts proposal at CLEC's expense clearly violates this FCC rule. WorldCom Ex. 1 at 20.

E. Mandating Virtual Collocation and/or Escorts at Physically Collocated Remote Terminal ("RT") Sites Violates §51.323(i) and the Department's Orders

As noted in the Department's Order dated May 24, 2001 in D.T.E. 98-57 (Phase I-B), "[t]he FCC stated that 'ILECs must allow collocating parties to access their equipment 24 hours a day, seven days a week, without requiring a security escort of any kind.'"⁵⁶ Mandating escorts at physically collocated RT sites not only violates the FCC's rule prohibiting the requirement of a security escort of any kind,⁵⁷ it also violates the terms of the Verizon/Sprint interconnection contract and Verizon's Tariff 17. Page 61 of the Verizon/Sprint interconnection allows Sprint to collocate equipment in a Verizon RT equipment enclosure in accordance with the terms of Verizon's Tariff 17, which allows for physical collocation at the RT. TR 234-35.

Again, mandating virtual collocation frustrates the Act's preference for physical collocation⁵⁸ and violates Verizon's statutory obligation to provide physical collocation "at the premise of the local exchange carrier."⁵⁹ There is no exception in the regulations for RT collocation. WorldCom Ex. 1 at 20. Indeed, the Department struck Verizon's security escort requirement for RT collocation as inconsistent with the FCC's collocation

⁵⁶ D.T.E. 98-57, Phase I-B Order at 19, *citing* the FCC's Advanced Services Order, *In the Matters of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98147, First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-48 (rel. March 31, 1999) at ¶49.

⁵⁷ *Id.*

⁵⁸ Fourth Report and Order, ¶93.

⁵⁹ 47 U.S.C. § 251(c)(6).

rules.⁶⁰ WorldCom Ex. 1 at 21. Verizon has not demonstrated that physical collocation is impractical for technical reasons or because of space limitations.

F. Designating Unspecified High Security Central Offices as Virtual Only Collocation Sites Violates 47 C.F.R. §§ 51.323(i), 51.323(k) and 51.323(l)

In addition to the illegality of mandating virtual collocation as noted above, mandating virtual-only collocation sites is particularly problematic because Verizon hasn't identified the "critical" central offices where this security proposal would apply. Sprint Ex. 1 at 7; WorldCom Ex. 1 at 23; Verizon response to Sprint-VZ 2-11. The Department can therefore not assess the impact of this proposal on CLECs, its cost, or whether it is the least expensive and most viable alternative.

In addition to violating the FCC's mandatory physical collocation requirements noted above, this proposed security measure would also violate the ILEC's duty to offer to provide and provide all forms of physical collocation (*i.e.*, caged, cageless, shared, and adjacent) within ten days after receiving an application for physical collocation, unless it demonstrates that physical collocation is not practical for technical reasons or because of space limitations.⁶¹ Virtual collocation is not a form of physical collocation.

V. VERIZON'S SECURITY PROPOSALS ARE INCONSISTENT WITH THE VERIZON-MA/SPRINT INTERCONNECTION CONTRACT

Verizon's collocation security proposals, if implemented, would violate the terms of the Verizon/Sprint interconnection contract, and presumably similar terms of other

⁶⁰ D.T.E. 98-57 (Phase I-B) Order at 19.

⁶¹ 47 C.F.R. §51.323(l).

Verizon interconnection contracts. As noted above, Verizon's security proposals would violate the RT collocation provisions of the Verizon/Sprint interconnection contract. They would also violate Verizon's obligation under the Verizon/Sprint contract to provide collocation to Sprint for interconnection and access to UNEs to the extent required by applicable law. TR 234. Although interconnection agreements generally include change of law provisions, Verizon's security proposals would violate applicable law, and Verizon plans no waivers of the FCC's collocation rules. *See* Verizon's response to Sprint-VZ 2-19. Neither the contract nor existing law allows Verizon to impose its security proposals on Sprint or any other CLEC. Mr. Mattera admitted that no other regulatory agency has approved Verizon's security proposals. TR 218.

Verizon's interconnection agreements also provide for security measures and enforcement capabilities that could be effective without contravening the law. Qwest, Ex. 1 at 18. Again, existing security measures are adequate, if properly enforced.

VI. VERIZON'S SECURITY PROPOSALS WOULD STIFLE COMPETITION

Verizon's security proposals would undermine the development of facilities-based competition in areas of Massachusetts that are served by Verizon's so-called "high risk" central offices. AT&T Ex. 1 at 23. Any policy that requires facilities-based carriers to cede the installation and maintenance of their equipment to Verizon would undercut what it means to be facilities-based, and would limit CLECs to those standards or service that Verizon provides for its own customers. *Id.* Even worse, eliminating physical collocation in critical central offices could result in CLEC's inability to provide their customers with even the same quality service that Verizon can provide due to lack of

access to their equipment. WorldCom Ex. 1 at 24.

VII. CONCLUSION

No other regulatory agency has approved Verizon's security proposals and neither should the Department. For the foregoing reasons and those noted in the record in this proceeding, the Department should reject Verizon's proposed collocation security measures. If the Department does adopt any of Verizon's security proposals, Verizon should bear their full implementation costs. Finally, any collocation security proposals should be adopted as national policy through the Joint Board and/or the FCC's Homeland Security Policy and Network Reliability and Interoperability Councils. Alternatively, the Department should address collocation security through an industry collaborative effort with input from all interested parties.

Respectfully submitted,

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