Affidavit of Scott J. Simon

I. Introduction

1. My name is Scott J. Simon. My business address is One South Station, Boston, MA 02110. I am currently a Telecommunications Policy Analyst with the Massachusetts Department of Telecommunications and Energy ("Department"). I have Bachelor's Degrees in Political Science and History from Northeastern University. I have been involved in the Department's review of Verizon Massachusetts' (VZ-MA's) § 271 application since November 1999. My role in that review focused primarily on evaluating VZ-MA's operations support systems ("OSS") offerings and performance measurement reporting, and on resolving factual disputes between CLECs and VZ-MA regarding the latter's provisioning of unbundled network elements. I was co-project manager for the Department's oversight of KPMG's OSS test in Massachusetts.

2. The purpose of my affidavit is to summarize the Department's efforts in resolving a factual dispute between VZ-MA and Digital Broadband Communications, Inc. ("DBC" or "Digital Broadband"). On behalf of the Department, I oversaw a data reconciliation effort between the parties related to two complaints raised by DBC in its comments to the FCC on the § 271 application VZ-MA filed last year. These complaints dealt with the accuracy of VZ-MA's mechanized loop qualification database ("LQD") and with the quality of VZ-MA's provisioning of unbundled xDSL loops.

II. Digital Broadband Data Reconciliation

3. On November 3, 2000, the Department submitted a request to VZ-MA and DBC to participate in a meeting for the purpose of resolving factual disputes raised by DBC in its October 16, 2000 comments filed with the FCC in CC Docket No. 00-176, VZ-MA's § 271 application.[1] As part of this request, the Department asked both VZ-MA and DBC to provide records related to DBC's xDSL Local Service Requests ("LSRs") for the month of July 2000. The Department further directed DBC to submit documentation in its possession that supported DBC's claims that VZ-MA's mechanized LQD information is inaccurate and that supported DBC's claim that approximately 20 percent of the xDSL loops provisioned by VZ-MA failed during DBC's installation after passing initial acceptance testing.

4. Requested documents were received from DBC on November 7, 2000 and from VZ-MA on November 14, 2000. On November 20, 2000, a meeting was held at the Department's offices between myself and both parties to discuss the two disputed issues. At the conclusion of the meeting, requests were made of both parties for supplemental documentation to support statements made during the course of the meeting. After receiving the requested information, I reviewed the totality of the available information to assess the accuracy of the specific claims raised by DBC. My analysis of each of the DBC claims is explained in detail below.

Loop Qualification Database Accuracy

5. DBC contended that VZ-MA's mechanized LQD inaccurately classifies a significant percentage of loops as not qualified to provide xDSL services. DBC argued that it was able to

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[1] See Appdx. 4 for a copy of this letter.

provision xDSL service for 42 percent of the loops for which it received a not qualified response from VZ-MA's LQD by requesting manual qualification of those loops.[2] To evaluate the accuracy of DBC's claim, I reviewed ordering data submitted by both parties for the month of July 2000.

6. DBC submitted to VZ-MA a total of **Begin Proprietary*** ***End Proprietary** individual orders in July 2000. Of these orders, DBC's records indicated that **Begin Proprietary*** ***End Proprietary** orders (60 percent) had been pre-qualified using VZ-MA's LQD, while the remaining **Begin Proprietary*** ***End Proprietary** orders (40 percent) had to be manually qualified. After reviewing data provided by both parties, I was able to determine that VZ-MA completed provisioning on **Begin Proprietary*** ***End Proprietary** (29 percent) of DBC's manually qualified orders. However, as explained below, the fact that VZ-MA provisioned xDSL loops on 29 percent of DBC's manually qualified orders does not indicate a systemic problem with the mechanized LQD.

7. In information presented at the November 20 meeting, VZ-MA provided the results of its investigation into DBC's manually qualified orders. VZ-MA identified **Begin Proprietary*** ***End Proprietary** (16 percent) of DBC's manually qualified orders as being correctly submitted for manual qualification. These loops had no qualification information in the LQD, and, therefore, could have been ordered only through a manual qualification. **Begin**

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[2] ALTS Comments, Exhibit A, Declaration of Steve Melanson at ¶ 9, filed in CC Docket No. 00-176 on October 16, 2000 ("Melanson Declaration").

Proprietary* ***End Proprietary** of these orders were provisioned by VZ-MA, representing 17 percent of the orders that VZ-MA was able to provision following manual qualification.

8. VZ-MA further stated in its presentation that **Begin Proprietary*** ***End Proprietary** (23 percent) of DBC's manual orders had information in the LQD that showed the loops to be qualified for xDSL services. This means that DBC submitted these orders for manual qualification even though it was not necessary. VZ-MA completed provisioning on **Begin Proprietary*** ***End Proprietary** of these orders, representing 44 percent of the manually qualified orders for which VZ-MA was able to provision service to DBC. These two subsets of orders do not reflect any problems with VZ-MA's LQD.

9. Additionally, VZ-MA was unable to provide any information regarding **Begin Proprietary*** ***End Proprietary** (18 percent) of DBC's manually qualified orders because the data provided by DBC for this data reconciliation either did not include the service address or the address provided by DBC was not found in the LQD. **Begin Proprietary*** ***End Proprietary** of these orders were ultimately provisioned by VZ-MA, representing 17 percent of DBC's manually qualified orders that were provisioned. However, because VZ-MA could not provide the LQD information for these orders, I was unable to determine whether they resulted from an inaccuracy in the LQD.

10. Finally, VZ-MA presented information regarding **Begin Proprietary*** ***End Proprietary** DBC manual orders, stating that the LQD showed that these loops did not qualify

for xDSL service, either because the loop length was beyond 18,000 feet or because of other disqualifying factors (e.g., load coils, excessive bridge tap). However, despite the LQD information stating these loops could not provide xDSL service, I was able to identify in DBC and VZ-MA's records **Begin Proprietary*** ***End Proprietary** orders in this category that VZ-MA was able to provision to DBC.

11. While this finding shows that some information in the LQD may be inaccurate, it does not show errors anywhere near the magnitude alleged by DBC (i.e., 42 percent of VZ-MA's LQD responses were "false negatives").[3] Rather, these orders constitute only 15 percent of the orders that VZ-MA indicated were not qualified for xDSL service, and represent only six percent of DBC's manually qualified orders for July 2000. Therefore, it is my conclusion on the issue of LQD accuracy that, while there is evidence that some information in VZ-MA's mechanized LQD is incorrect, this level of inaccuracy does not create any competitive disadvantage to CLECs in providing customers with xDSL service.[4]

Installation Failures

12. In its October 16, 2000 comments to the FCC, DBC argued that it had experienced installation failures during the months of August and September 2000 on **Begin Proprietary*****

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[3] Melanson Declaration at ¶ 9.

[4] The competitive significance of inaccuracies in VZ-MA's LQD is minimal because VZ-MA's retail representatives use the same mechanized LQD to obtain service information for prospective customers. Therefore, if the LQD inaccurately showed that a customer's line was not qualified for xDSL service, that response would be the same for both CLEC and VZ-MA personnel.

*****End Proprietary** loops that had passed initial cooperative acceptance testing with VZ-MA, representing approximately 20 percent of DBC's xDSL loop orders over that period. In assessing DBC's claim, I reviewed information provided by both parties, including initial documents provided by DBC identifying its failed installations for August and September 2000, information on the trouble histories of DBC's orders provided by VZ-MA at the November 20 meeting, and provisioning logs provided by DBC on December 4, 2000.

13. From DBC's initial list of **Begin Proprietary***** *****End Proprietary** orders, **Begin Proprietary***** *****End Proprietary** orders were excluded from analysis because they were not provisioned in Massachusetts, **Begin Proprietary***** *****End Proprietary** orders were excluded because they were not for xDSL loops, and **Begin Proprietary***** *****End Proprietary** orders were removed because they were listed multiple times on DBC's list. These exclusions left **Begin Proprietary***** *****End Proprietary** orders to be reviewed.

14. Of the orders remaining after the exclusions were made, VZ-MA acknowledged that **Begin Proprietary***** *****End Proprietary** orders had troubles attributable to VZ-MA. However, due to the timing of DBC's reporting of the troubles, only **Begin Proprietary***** *****End Proprietary** of the verified troubles were scored as installation-related I-codes (i.e., trouble reported within 30 days of installation), and the remaining loops were scored as general repair troubles. I was able to confirm VZ-MA's assessment of these orders with the information available in the provisioning logs provided by DBC.

15. Of the remaining **Begin Proprietary*** ***End Proprietary** orders in dispute, VZ-MA stated at the November 20 meeting that its records showed that **Begin Proprietary*** ***End Proprietary** orders had trouble tickets opened by DBC that were closed out as either No Trouble Found ("NTF") or Customer Premise Equipment ("CPE") trouble. I have reviewed DBC's provisioning logs for each of these orders and conclude that, based on the evidence available in those logs, **Begin Proprietary*** ***End Proprietary** have been accurately identified as orders without a trouble attributable to VZ-MA. However, DBC's provisioning logs for the remaining **Begin Proprietary*** ***End Proprietary** orders show that there were troubles on the loop, which I concluded were attributable to VZ-MA.

16. VZ-MA initially identified an additional **Begin Proprietary*** ***End Proprietary** orders as having no trouble tickets on record. However, after conducting a further review of its records, VZ-MA reported that it had identified troubles on **Begin Proprietary*** ***End Proprietary** of these loops, including **Begin Proprietary*** ***End Proprietary** I-code troubles. Of the remaining loops for which VZ-MA reported it had no record of DBC opening any trouble tickets, I found no indication in DBC's provisioning logs of any troubles that were attributable to VZ-MA.

17. At the November 20 meeting, VZ-MA also identified **Begin Proprietary*** ***End Proprietary** DBC loops for which the order had either been canceled, had not yet been completed, or had a trouble ticket that was canceled by DBC. Because these orders were not in service, I found no evidence to conclude that any of these loops experienced troubles

attributable to VZ-MA.

18. Finally, VZ-MA was unable to provide any information on **Begin Proprietary*** ***End Proprietary** loops identified by DBC because DBC did not provide either a purchase order number ("PON") or a Circuit ID. Because I was presented with information from only DBC on these orders, I was unable to make any determination as to the accuracy of DBC's claims with these orders.

19. Through my review of all the information presented by both parties, I was able to conclude that a total of **Begin Proprietary*** ***End Proprietary** loops had troubles attributable to VZ-MA. This constitutes one-third of DBC's original claim of installation failures. However, only **Begin Proprietary*** ***End Proprietary** of these troubles occurred within 30 days of VZ-MA's provisioning completion and thus would be considered installation troubles under the C2C Guidelines. The remaining **Begin Proprietary*** ***End Proprietary** troubles, while submitted by DBC on its initial installation attempt, were not reported to VZ-MA until after the 30-day window had passed. In some instances, DBC did not perform its installation or report troubles on these loops until **Begin Proprietary*** ***End Proprietary** after VZ-MA had completed its provisioning of the loop. During this span of time between VZ-MA's provisioning and DBC's installation, any number of factors can cause a trouble to develop on a loop that was correctly provisioned by VZ-MA.[5]

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[5] One such potential factor is the reassignment of a portion of an xDSL loop to serve another order that was provisioned between the time of loop turn-up and DBC's installation. Though I

(continued...)

20. I further found in my analysis of the information provided by both VZ-MA and DBC that, of the **Begin Proprietary*** ***End Proprietary** loops I identified as being troubles attributable to VZ-MA, **Begin Proprietary*** ***End Proprietary** of those loops were either not subjected to cooperative acceptance testing or were of questionable use for providing xDSL services according to the acceptance testing results. **Begin Proprietary*** ***End Proprietary** troubles that I identified as I-codes fell into this group of loops for which cooperative testing was not completed. This leaves a total of **Begin Proprietary*** ***End Proprietary** loops that satisfy DBC's contention that VZ-MA has provisioned loops to DBC that pass initial acceptance testing but then fail upon installation. Therefore, based upon the totality of the evidence available to me, as described above, I conclude that DBC's claims regarding VZ-MA's inability to provision xDSL loops are unfounded.

IV. Conclusion

21. Based upon the totality of the evidence before me on each of these disputed claims, I find no evidence that VZ-MA's performance toward DBC has been discriminatory. While there are

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[5](...continued)
found no evidence of such practice occurring in the present instance, because DBC's loops were idle between VZ-MA's provisioning completion and DBC's end user installation, it is possible that a technician could have mistakenly reassigned a portion of that loop to another customer believing the facilities to have been available. In a letter to the Department dated January 4, 2001, VZ-MA acknowledged that this possibility existed, and stated that it was implementing a procedure in which xDSL loops provisioned to CLECs would be tagged at both the network interface device and the cross-connect box to prevent technicians from reassigning portions of a provisioned loop. See VZ-MA Supplemental Application, Appdx. A, Vol. 1, Tab 1, Attach. Q (Lacouture/Ruesterholz Supp. Decl.).

individual instances in which DBC's claims are verified by the information available, I find these instances to be anecdotal and not representative of a systemic failure by Verizon to provide competitors with nondiscriminatory access to xDSL loop information and quality xDSL loops.

22. This concludes my affidavit.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

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Scott J. Simon

Sworn to before me this ____ day of
February 2001

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Notary Public