COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

In the matter of:)

Sprint Communications Company L.P.)

)

Petition for Arbitration Pursuant to Section 252(b) of) D.T.E. 00-54

the Telecommunications Act of 1996 to Establish a New)

Interconnection Agreement with Bell Atlantic-)

Massachusetts)

_____)

OPPOSITION OF VERIZON MASSACHUSETTS
TO MOTION FOR RECONSIDERATION

Verizon Massachusetts (Verizon MA) submits this Opposition to the Motion for Reconsideration filed by Sprint Communications Company L.P. ("Sprint") on January 2, 2001, in which it seeks reconsideration of virtually all issues decided by the Department in its December 11, 2000 Order in this proceeding (the "Arbitration Decision"). Sprint's Motion merely reargues issues addressed by the Department and is completely without merit. Accordingly, the Department should deny the Motion.

I. STANDARD OF REVIEW

The Department's procedural rule, 220 C.M.R. § 1.11 (10), authorizes a party to file a motion for reconsideration within twenty days of service of a final Department Order. The Department's policy on reconsideration is well settled. "Reconsideration of previously decided issues is granted only when extraordinary circumstances dictate that [the Department] take a fresh look at the record for the express purpose of substantively modifying a decision reached after review and deliberation." In the Matter of Eastern Enterprises

and Essex County Gas Company, D.T.E. 98-27-B (December 4, 1998), 1998 WL 1031986, *2; North Attleboro Gas Company, D.P.U. 94-130-B at 2 (1995); Boston Edison Company, D.P.U. 90-270-A at 2-3 (1991); Western Massachusetts Electric Company, D.P.U. 558-A at 2 (1987). A motion for reconsideration should bring to light previously unknown or undisclosed facts that would have a significant effect upon the decision already rendered. It should not attempt to reargue issues considered and decided in the main case. Commonwealth Electric Company, D.P.U. 92-3C-1A at 3-6 (1995); Boston Edison Company, D.P.U. 90-270-A at 3 (1991); Boston Edison Company, D.P.U. 1350-A at 4 (1983). The Department has denied reconsideration when the request rests on an issue or updated information presented for the first time in the motion for reconsideration. Western Massachusetts Electric Company, D.P.U. 85-270-C at 18-20 (1987); Western Massachusetts Electric Company, 86-280-A at 16-18 (1987); New England Telephone and Telegraph Company, D.P.U. 86-33-J at 2 (1989); Boston Edison Company, D.P.U. 1350-A at 5 (1983). Alternatively, a motion for reconsideration may be based on the argument that the Department's treatment of an issue was the result of mistake or inadvertence. Massachusetts Electric Company, D.P.U. 90-261-B at 7 (1991); New England Telephone and Telegraph Company, D.P.U. 86-33-J at 2 (1989); Boston Edison Company, D.P.U. 1350-A at 5 (1983).

II. ARGUMENT

A. There is No Basis for Sprint's Contention that The Department's Decision that Verizon MA is Not Required to Resell Vertical Features Separate From the Dial Tone Line Was Based On Mistake or Inadvertence.

Sprint is attempting through this proceeding to obtain vertical features on a stand-alone basis from Verizon MA, without obtaining the underlying telephone line, to create a unique service that Verizon MA does not offer at retail. Neither the Act nor the FCC's interpretation of the Act permits Sprint to do this. The FCC in its First Report and Order, CC Docket 96-98, clearly delineated the obligations of ILECs regarding resale:

The 1996 Act does not require an incumbent LEC to make a wholesale offering of any service that the incumbent LEC does not offer to retail customers. (Paragraph 872)

***

…section 251(c)(4) does not impose on incumbent LECs the obligation to disaggregate a retail service into more discrete retail services. The 1996 Act

merely requires that any retail services offered to customers be made available for resale. (Paragraph 877).

Despite the FCC's unequivocal interpretation of the Act, Sprint argued that the Department should require Verizon MA to disaggregate its basic telephone line and make available for resale separately, at a wholesale discount, the vertical features of the switch, in particular one feature--call forward/busy line/don't answer.

In its Motion for Reconsideration, Sprint claims that "[t]hrough mistake or inadvertence, the Department failed to acknowledge that Verizon's vertical features and local service are separately tariffed offerings." Sprint contends that it is undisputed that it is technically feasible to offer vertical features separate from Verizon's local service. Sprint Motion at 3. Therefore, according to Sprint, Verizon MA's practice of making its vertical features available only with the purchase of its local service is a restriction on resale. Id.

Sprint's claims are without merit. First, Sprint's arguments in the Motion are identical to the arguments made throughout this proceeding and in its briefs submitted in this case. See Sprint Brief at 14-24; Sprint Reply at 5-14. Sprint's contention that the Department failed to "acknowledge" the issues raised by Sprint is simply wrong. The Department's Arbitration Decision specifically examined these arguments and did not accept Sprint's position. See Petition of Sprint Communications Company L.P., Pursuant to Section 252(b) of the Telecommunications Act of 1996, for Arbitration of an Interconnection Agreement Between Sprint and Verizon Massachusetts, D.T.E. 00-54 (December 11, 2000) ("Arbitration Decision"), at 19-21. Sprint's Motion does not establish any mistake or inadvertence by the Department but merely repeats claims that the Department considered and rejected.

As Verizon MA established in the case, and as the Department correctly concluded "[u]nder Section 251(c)(4)(A) of the Act, Verizon MA is only required 'to offer for resale at wholesale rates' those services it provides 'at retail.'" See Verizon Reply at 5. It is undisputed that Verizon MA does not provide Custom Calling Features (or vertical features generally) on a stand-alone basis to its retail customers and that such services are offered only in conjunction with the purchase of a basic dial tone line. See Arbitration Decision at 22; Verizon Brief at 4-8; Verizon Reply at 5-6; VZ MA DTE Tariff No. 10, Part A, Section 7, Page 2; VZ MA DTE Tariff No. 14, Resale Services, Section 2, Page 1. Therefore, the Department's conclusion that Verizon MA is not required to offer vertical features to Sprint at the

wholesale discount rate on a stand-alone basis is consistent with the Act and the applicable Department-approved tariffs.

Second, even if the requirement that Sprint purchase for resale the local exchange line in order to purchase for resale the vertical features could be viewed as a limitation, it is reasonable, non-discriminatory and narrowly tailored to comport with the requirements of section 251(c)(4) of the Act. Retail customer cannot obtain vertical features without the underlying exchange line because they cannot use feature without the line. Since the vertical service only works if the retail customer has Verizon MA's underlying exchange service, it cannot be unreasonable to not separate the basic telephone line from the vertical service.

Sprint's attempted reliance on recent decisions in California and Texas is misplaced. First, neither of the referenced decisions is binding on the Department, whose decision must be based on the record in this proceeding. In any event, as discussed in Verizon MA's Initial Brief, the Department should not rely on the California decision because the Arbitrator erroneously concluded that Pacific Bell sold vertical features on a stand-alone basis, at retail, by relying on sales to ESPs. See Verizon Brief at 6-7. The FCC has held that such sales are not at retail, and therefore, do not trigger the requirement under section 251(c)(4) to resell at a wholesale discount. See id. at 6 n.9; 7; Deployment of Wireline Services Offering Advanced Telecommunications Capability, Second Report and Order, CC Docket No. 98-147 (rel. Nov. 9, 1999), at ¶ 19. The FCC also amended its rules "to clarify that advanced services sold to Internet Service Providers as an input component to the Internet Service Provider's own retail Internet service offering are not subject to the discounted resale obligations of section 251(c)(4)." See Verizon Brief at 6, n.9 (citing Deployment of Wireline Services Offering Advanced Telecommunications Capability, Second Report and Order, CC Docket No. 98-147 (rel. Nov. 9, 1999), at ¶ 22 (emphasis added)). The Texas case cited by Sprint (Texas P.U.C. Docket Nos. 21425 and 21475)(1) is similarly flawed. See Sprint Motion at 3-5. The Department should reject Sprint's attempt to reargue this matter and reject its request for reconsideration.

B. The Department Correctly Determined that Sprint Should Be Required To Pay Verizon Access Charges Where Sprint Transports Calls That Originate And Terminate On Verizon MA's Network (Arbitration Issue No. 17)

Sprint erroneously contends that in the Arbitration Decision the Department held that Sprint is required to pay Verizon MA exchange access rates instead of reciprocal compensation for terminating local calls over access trunks.

Sprint Motion at 5. In fact, the Arbitration Decision addressed a much narrower issue--the appropriate charges for local calls transported over access trunks that originate and terminate on Verizon MA's network. See Arbitration Decision at 11. The Department reasonably concluded that since "Sprint is not the originating carrier for calls between two Verizon customers who use a Sprint dial-around mechanism" the calls in dispute do not "fall within the limits of reciprocal compensation as defined by the FCC". See Arbitration Decision at 11.(2)

Sprint is wrong when it asserts that the FCC rules concerning reciprocal compensation do not require Sprint to be the originating carrier in the arrangement at issue in this arbitration. The issue here is not whether the traffic is local, but whether it is local traffic eligible for reciprocal compensation. While Sprint cites FCC rules §§51.701(a) and (b) in support of its view that the definition of "local traffic", that definition must be read in conjunction with §51.701(e) which specifically describes what constitutes a reciprocal compensation arrangement eligible for such compensation.

[A] reciprocal compensation arrangement between two carriers is one in which each of the two carriers receives compensation from the other carrier for the transport and termination on each carrier's network facilities of local telecommunications traffic that originates on the network facilities of the other carrier.

47 C.F.R. § 51.701(e). There is no dispute in this record that the dial-around calls that Sprint contends are eligible for reciprocal compensation both originate and terminate on Verizon MA's network facilities. Therefore, the Department's conclusion with respect to this issue is completely consistent with the FCC's rules and supported by the record in this proceeding. See Verizon Brief at 14-15; Verizon Reply at 11-12.(3) As with its claim concerning the resale of stand-alone vertical features, Sprint's Motion simply reargues claims Sprint made during the case, which the Department considered and rejected. Sprint's Motion utterly fails to establish grounds for reconsideration and should be denied.

C. Reciprocal Compensation (Arbitration Issue No. 15)

With respect to this issue, Sprint again presents the identical argument it made during the case that the Department considered and rejected. First, Sprint suggests that the Department "mistakenly" accepted Verizon MA's definition for "local traffic" which excludes traffic to ISPs. This claim is clearly without merit. First, the Department's Arbitration Decision is

consistent with the Act and Department's previous rulings in which it has held that ISP-bound traffic is not local, but interstate, for purposes of the Act's reciprocal compensation provisions. See e.g., Petition of Greater Media Telephone, Inc. For Arbitration, Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish An Interconnection Agreement With New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts, D.T.E. 99-52 (September 24, 1999), at 8. Thus the Department correctly held that "the definition of 'local traffic' that states that ISP-bound traffic is not local, but interstate, for purposes of the Act's reciprocal compensation provisions is reasonable" and adopted Verizon MA's proposed language. See Arbitration Decision at 4-5.

With respect to the issue of including language that reflects the Department's findings in the MCI WorldCom Order, D.T.E. 97-116-C (1999), concerning the 2:1 traffic ratio and the ability of the parties to negotiate their own mechanism for ISP-bound traffic, Verizon has no objection to including such language consistent with the Department's directive in Greater Media, D.T.E. 99-52 (September 24, 1999) at 9. In fact, Verizon MA has already proposed language that is completely consistent with this aspect of the Department's decision in Greater Media. Part V, Section 2.7.5 of Verizon MA's proposed interconnection agreement provides that:

To the extent required by DTE 99-42/43 and DTE 99-52: if the amount of traffic VERIZON terminates to SPRINT exceeds twice the amount of traffic that SPRINT terminates to VERIZON as Local Traffic ("2:1 ratio"), then (a) the amount of traffic in excess of such 2:1 ratio shall be presumed to be Internet Traffic and shall not be subject to Reciprocal Compensation unless and until the Parties agree otherwise or the DTE determines that such traffic, or a portion of such traffic, is Local Traffic; and (b) traffic equal to or under the 2:1 ratio above shall be presumed to be Local Traffic and shall be subject to Reciprocal Compensation unless and until the Parties agree otherwise or the DTE determines that such traffic, or a portion of such traffic, is not Local Traffic.

In light of the fact that Verizon MA has already agreed to include this language in the interconnection agreement, there is no basis for Sprint's suggestion that the Department should adopt Sprint's proposed language. For all of the foregoing reasons, the Department should deny Sprint's motion for reconsideration of these issues.

D. Loop Query Information (Arbitration Issues No. 11, 12, and 18)

Sprint seeks reconsideration of the Department's rejection of Sprint's proposed language concerning parity access to DLC information, again arguing that the Department misread the FCC's UNE Remand Order.(4) Hoping it might prevail by asserting these arguments more stridently, Sprint simply reargues issues previously raised and directly addressed by the Department. See Arbitration Decision at 12-15; Verizon Brief at 15-20; Sprint Brief at 25-27. As Verizon MA discussed in its Initial Brief, and as the Department reasonably concluded, Verizon MA should not be required to include in the Sprint's overly broad language regarding parity access to digital line concentrator ("DLC") information--information that goes beyond what is required by the Act--in the interconnection agreement. See Arbitration Decision at 12-15; Verizon Brief. at 15-20.

First, neither the Act nor FCC rules require Verizon MA to provide Sprint with unfettered access to each and every piece of information that Verizon MA may have that is related to Verizon MA's digital loop carrier facilities. Rather, the focus of the Act, as interpreted by the FCC, is on the provision of "loop qualification information," information CLECs need to ascertain whether specific incumbent LEC facilities are suitable for an intended CLEC use. The FCC has stated:

An incumbent LEC, as part of its duty to provide access to the pre-ordering function, must provide the requesting carrier with non-discriminatory access to the same detailed information about the loop that is available to the incumbent LEC.

47 CFR § 51.319(g).

The FCC's order adopting this rule makes it clear that the "same detailed information" that must be provided by an incumbent LEC is "loop qualification" information:

We agree with ALTS, however, that the Commission should clarify that the preordering function includes access to loop qualification information. Loop qualification information identifies the physical attributes of the loop plant (such as loop length, the presence of analog load coils and bridge taps, and the presence and type of Digital Loop Carrier) that enable carriers to determine whether the loop is capable of supporting xDSL and other advanced technologies. This information is needed by carriers seeking to provide advanced services over these loops through the use of packet switches and DSLAMs.(5)

Verizon MA has included provisions in its proposed interconnection agreement with Sprint and its tariff D.T.E. MA No. 17 that meet the FCC's requirements and give Sprint information that Sprint will need to use Verizon MA's unbundled loops, including information about digital loop carrier facilities and the equipment enclosures that house such facilities. For instance, under proposed Part II, Section 1.2.9.6(a) through (c) pertaining to digital designed loops, Verizon MA will provide Sprint with the following information, including information on the "presence and location of digital loop carrier" on a loop:

"(a) In response to a Mechanized Loop Qualification query, BA shall indicate whether the unbundled digital Loop is qualified for ADSL/HDSL, and the total metallic Loop length (including bridged tap). After the Effective Date, at a time prior to the end of the year 2000 to be designated by BA, BA intends to provide additional information in response to the Mechanized Loop Qualification query. Such additional information shall indicate the presence of digital loop carrier, load coils, and spectrum interferers, as applicable to the specified Loop, and subject to the availability of accurate records.

(b) In response to a Manual Loop Qualification query, BA shall indicate whether the unbundled digital Loop is qualified for ADSL/HDSL, the total metallic Loop length (including bridged tap), and the presence of digital Loop carrier, load coils, and spectrum interferers, as applicable to the specified Loop, and subject to the availability of accurate records.

(c) In response to an Engineering Query, and subject to the availability of accurate records, BA shall indicate whether the unbundled digital Loop is qualified for ADSL/HDSL, the total metallic Loop length (including bridged tap), the presence and location of digital Loop carrier, the number and location of load coils, the presence of spectrum interferers, the amount and location of bridged tap, the wire gauge at specified locations, and the presence of pair gain devices or other electronics as applicable to the specified Loop."

Similarly, under Verizon MA's Tariff D.T.E. MA No. 17, Verizon MA undertakes to provide a CLEC such as Sprint with extensive information about its loop plant, including information about digital loop carrier facilities and the terminal equipment enclosures that house such facilities. Section 5.4 of the tariff, which addresses xDSL qualified and digital designed loops, contains language similar to that set out in Section 1.2.9.6(a) through (c) of the proposed interconnection agreement. Section 11.1.2 of the tariff, which discusses collocation at remote terminal equipment enclosures, states:

"A. Remote Terminal Serving Address Inquiry--Upon request of the CLEC, the Telephone Company will make available to the CLEC the identity of the FDIs [Feeder Distribution Interfaces] that subtend the RTEE [Remote Terminal Equipment Enclosure] and a range of customer addresses served by those FDIs.

B. Preliminary Engineering Records Review--Upon request of the CLEC, the Telephone Company will conduct a search of its records and identify the following information about a RTEE location:

1. Type of enclosure

2. Whether site is on private or public property

a. If the site is on private property, the Telephone Company will inform the CLEC whether the Telephone's rights under its easement for that location can be assigned to the CLEC for the purpose of the application request."

Section 18 of the tariff, which addresses unbundled sub-loop arrangements and provides CLECs with access to Verizon MA metallic distribution pairs and facilities at a Verizon MA feeder distribution interface, provides:

"2. The application will also include any optional requests for FDI Serving Address Inquiry or Preliminary Engineering Records Review.

a. FDI Serving Address Inquiry--Identifies the range of customer addresses served by an FDI location.

b. Preliminary Engineering Records Review--Provides information about an FDI location from Telephone Company records as to the type of enclosure and the number of distribution pairs that terminate at the FDI."

Thus, Verizon MA has already agreed to provide Sprint with the information it needs to determine whether Verizon MA's loops are qualified for Sprint's intended use. See Verizon Brief at 15-20. To the extent that Sprint is insisting on access to additional information, it appears this additional information is only necessary for Sprint to plan its marketing efforts, such as to identify where there are large concentrations of Verizon MA customers. The Act does not require Verizon MA to provide information to Sprint for this purpose.

Sprint also asserts that it provided "detailed information" to Verizon MA of the information that it seeks to secure through its proposed broad contract language and seems to suggest that Verizon MA had the obligation to present evidence in support of Sprint's position in this proceeding. See Sprint Motion at 19. Sprint seems to suggest that Verizon MA--not Sprint--was responsible for articulating to the Department the specific information it was seeking through its proposed language. This position is untenable. It is Sprint and Sprint alone that must tell Verizon MA and the Department what information it is seeking in this context. Moreover, to the extent Verizon MA has information in its possession that would help Sprint identify the specific information it seeks, Sprint had ample opportunity to identify this information through discovery.

Sprint seeks to correct its failure by now providing a list of specific information relating to DLC which it contends Verizon MA should be required to provide. Sprint Motion at 21-22. While conceding that most of the information sought by Sprint is already required to be provided by Verizon MA by the existing definition of preordering and ordering information that Verizon MA makes available to CLECs through its OSS systems pursuant to Section

51.319(g), Sprint now argues that this information must be made available apart from these systems. Sprint Motion at 22. Sprint contends that it needs this information even prior to preordering for purposes of determining whether to interconnect at a particular remote terminal. Id. at 22-23. However, the real issue here is not whether Sprint has offered examples of the information it seeks to obtain, but whether its proposed language is overly broad and would require Verizon MA to provide information which it is not obligated to provide under the Act. The answer to these questions is, as the Department properly concluded in its Arbitration Decision, "yes." None of Sprint's arguments provide a reason for the Department to reconsider its decision with respect to this issue.

E. Arbitration Issue No. 6 (Interconnection Rates for Access to Sprint's Facilities)

Sprint seeks reconsideration of the portion of the Department's decision providing that Sprint is required to either use Verizon MA's rates as a proxy, negotiate other rates, or file cost support for its proposed rates within 20 days. See Sprint Motion at 23. Sprint advances three arguments in support of its position. First, it argues that portions of the Act cited by the Department in its decision do not require the Department to determine the reasonableness of CLEC interconnection rates or that CLEC rates be cost justified. Id. at 24. Even if Sprint were correct on this point--and it is not--the Department still has independent authority under state law to take steps to assure that the rates charged by telecommunications carriers in the state are reasonable--a fact that Sprint does not dispute. See Arbitration Decision citing (M.G.L. c. 159, §§ 12, 14 and 17); Sprint Motion at 24-25.

Sprint's motion also reflects a misunderstanding of the Department's ruling with respect to this issue. Specifically, Sprint's arguments assume that the Arbitration Order imposes a "rate cap" on Sprint and that the Department has concluded that Sprint's rates are unreasonable. Neither of these is true. The Department gave Sprint various options: (1) agree to use Verizon MA's rates as proxy rates, (2) reach a negotiated agreement with Verizon MA on some rate other than Verizon MA's rates, or (3) file cost support with the Department to demonstrate that the rates it proposes to charge are reasonable. The Department has thus required Sprint to do nothing more than support charges which it proposes to impose on Verizon MA--just as Verizon MA must do with respect to its charges. Nothing in the Arbitration Decision suggests that the Department has already reached the conclusion that Sprint's proposed rates are unreasonable. As discussed in its briefs submitted in this proceeding, Verizon MA believes that Sprint's rates are unreasonable. If Sprint believes its rates

are reasonable, the requirement that it provide support for its position should not concern the company.

Finally, the Arbitration Decision does not impose a "rate cap" on Sprint, or any other carrier, as Sprint suggests. Again, the Department has required nothing more than that Sprint's rates be reasonable just as it requires all carriers rates to be reasonable in Massachusetts. Furthermore, Sprint's suggestion that this aspect of the Arbitration Decision violates Section 253 of the Act is specious. See Sprint Motion at 25. The Department's decision on this issue is competitively neutral since all telecommunications carriers in Massachusetts must charge reasonable rates. Furthermore, nothing in the Arbitration Decision "prohibits" or has the "effect of prohibiting" Sprint from providing any intrastate telecommunications service. For all of these reasons, the Department should deny Sprint's request for reconsideration of this issue.

F. Arbitration Issue No. 16 (Calling Party Number)

Sprint attributes error to the Department's conclusion that no "true-up" would be provided for where either party fails to transport CPN for at least 90 percent of the calls originating on its network, thus incurring switched access charges for the traffic for which this information was not provided. Sprint Motion at 27-28. Sprint contends that there is no record evidence to support the Department's conclusion that "requiring ether carrier to perform a manual review of alternate calling records when the other carrier fails to meet its CPN requirements is unduly burdensome." See Sprint Motion at 27-28; Arbitration Decision at 8. Sprint's argument is incorrect. Verizon MA clearly explained on the record the unreasonableness of Sprint's position that Verizon MA utilize a manual process in connection with CPN and the additional financial and administrative burdens that would impose on the company. See Verizon Brief at 13-14; Verizon Reply at 10-11. Sprint did not dispute that Verizon MA would experience these additional burdens if it is forced to utilize a manual process for purposes of determining true-up amounts. The Department's decision on this issue is reasonable and supported by the record. Sprint has failed to provide any reason why the Department should reconsider its position on this issue.

G. Arbitration Issue No. 18 (Other Unbundled Network Elements)

Sprint argues that the Department should include certain language from the UNE Remand Order in the interconnection agreement. As Verizon MA explained in its reply brief, the inclusion of this language is completely unnecessary. See Verizon Reply at 12-13. Sprint argued in this proceeding that Verizon MA "failed to acknowledge" the FCC's UNE Remand and Line Sharing Orders because it has not agreed to include language proposed by Sprint. Sprint Brief at 33-34. Based on Sprint's reasoning, if there are provisions of any applicable

statute that are covered in the agreement, those provisions must be recited in the agreement. This is absurd since it would clearly make for an unwieldy and voluminous agreement. It is also contrary to established practice. Verizon MA has a requirement to comply with applicable law, including FCC and Department rulings, concerning the network elements and other arrangements it must offer to CLEC. Verizon MA has agreed to provide Sprint with UNEs in accordance with applicable law. See Verizon's Proposed Agreement at Part II, Section 1 (attached to Verizon MA's Response to Petition). That proposal more than protects Sprint's interests without forcing Verizon MA to adopt language that misrepresents its obligations under law. The language proposed by Sprint is simply unnecessary.

Furthermore, as discussed in its response to Sprint's Petition for Arbitration, the terms, conditions and limitations under which Verizon MA must provide UNEs have been extensively addressed by the FCC and the Department. For instance, the Department has addressed in the Consolidated Arbitrations the terms under which Verizon MA must provide access to dark fiber and House and Riser cable. Sprint was a party to that proceeding and should be bound by the Department's rulings in that case. There is no reason for the Department to relitigate those issues in this arbitration. Likewise, the Department has also addressed other elements or arrangements noted in the Sprint Petition, such as subloops and line conditioning. In its Phase III Order of September 29, 2000 in D.T.E. 98-57, the Department resolved the terms for line sharing. It also approved the terms for subloops on an interim basis in D.T.E. 98-57 Phase I and is continuing to investigate this arrangement. See Hearing Officer Memorandum Regarding Procedural Matters dated September 14, 2000. Sprint has participated in each phase of D.T.E 98-57 and should be bound by the Department's rulings in that docket. Sprint should not be permitted to relitigate these issues in this arbitration or to include provisions in the agreement that define terms and issues that have been ruled on or are

currently being considered by the Department. The Department should reject Sprint's proposed language.

III. CONCLUSION

For all of the foregoing reasons, the Department should deny Sprint's Motion for Reconsideration.

Respectfully submitted,

VERIZON NEW ENGLAND INC.,

d/b/a VERIZON MASSACHUSETTS

By its attorneys,

Bruce P. Beausejour

Keefe B. Clemons

185 Franklin Street, Room 1403

Boston, Massachusetts 02110-1585

(617) 743-2445

Of Counsel:

David K. Hall

1320 N. Court House Road

Arlington, VA 22201

(703) 974-2804

Dated: January 31, 2001

1.

1 A copy of the Texas decision is attached as Exhibit 1 to Sprint's Motion.

2.

2 Sprint argues that it was through mistake or inadvertance that the Department found that the issue before the Department affects only a small percentage of calls because the only support in the record was an assertion by Verizon MA's counsel in its Final Position Statement. Assuming for the sake of argument that this was the only basis in the record supporting this conclusion, Sprint provided no evidence to the contrary and did not rebut this assertion despite having the opportunity to do so in its Reply Brief. In any event, the number of calls is completely irrelevant to the issue decided by the Department and played no role in the Department's conclusion that the calls at issue were not properly subject to reciprocal compensation, but instead should be subject to access charges. Sprint's focus on this is simply a "red herring."

3.

3 Contrary to Sprint's characterization of the issue, the issue is not whether the traffic originates and terminates within a given local calling area, but whether it is traffic that is eligible for reciprocal compensation under the Act. As the foregoing arguments make clear, traffic that both originates and terminates on Verizon MA's network is not eligible for reciprocal compensation. Moreover, the DC Circuit's decision addressing reciprocal compensation cited by Sprint did not address this issue or alter the scope of reciprocal compensation's application. See Sprint Motion at 9 & n. 25 (citing Bell Atlantic Cos. v. F.C.C., 206 F.3d 1 (D.C. Cir. 2000).

4.

4 See Sprint Brief at 17.

5.

5 In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, ¶¶ 426-427 (11/5/99). See also, 47 CFR § 51.5.