D.T.E. 98-57-Phase III-A

Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in M.D.T.E. No. 17, filed with the Department by Verizon New England, Inc. d/b/a Verizon Massachusetts on May 5 and June 14, 2000, to become effective October 2, 2000.

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I. INTRODUCTION

On September 29, 2000, the Department of Telecommunications and Energy (ADepartment@) issued an Order in D.T.E. 98-57-Phase III (APhase III Order@), approving in part and denying in part Verizon New England, Inc.=s d/b/a Verizon Massachusetts= (AVerizon=s@) proposed line sharing and digital subscriber line (AxDSL@) tariff offerings. On October 19, 2000, the Department received motions for reconsideration from Digital Broadband Communications, Inc. (ADBC@); Rhythms Links Inc. (ARhythms@); Verizon; and WorldCom, Inc. (AWorldCom@). In addition, Verizon filed motions for clarification and extension of time, and requested an extension of the judicial appeal period and deferral for compliance.[1]

The Department requested and received comments on the various motions from AT&T Communications of New England, Inc. (AAT&T@); Covad Communications Company (ACovad@); DBC; the Massachusetts CLEC Alliance;[2] Rhythms; Verizon; and WorldCom. The following parties filed reply comments: DBC, Rhythms, Verizon, and WorldCom. Finally, on December 8, 2000, Rhythms filed a request to reexamine two provisions of Verizon=s compliance filings, which were approved by the Department as being in conformance with the directives of the Phase III Order.

II. STANDARD OF REVIEW FOR RECONSIDERATION

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 we take a fresh look at the record for the express purpose of substantively modifying a decision reached after review and deliberation. 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 impact 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); but see Western Massachusetts Electric Company, D.P.U. 86-280-A at 16-8 (1987). 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).

III. MOTIONS FOR RECONSIDERATION

A. DBC Motion

DBC=s motion for reconsideration concerns the Department=s decision not to require Verizon to provide competitive local exchange carriers (ACLECs@) with direct access to its Loop Facility Assignment and Control System (ALFACS@) database (DBC Motion at 1). According to DBC, federal rules require Verizon, and other incumbent local exchange carriers (AILECs@), to provide nondiscriminatory access to the ILEC=s operations support systems (AOSS@), which includes loop qualification information (id. at 3-4). This access, DBC argues, must be provided within the same time and manner that it is made available to Verizon personnel and must be of equal quality (id. at 4).

DBC contends that while the precise legal basis for the Department=s ruling on access to Verizon=s LFACS is unclear, it appears to DBC that this decision Amay be based on mistake or inadvertence with respect to applicable law regarding Verizon=s obligations@ (id. at 2). DBC states that Verizon=s two-step process[3] to gain access to loop information is discriminatory because Verizon itself does not follow it (id. at 6).

1. Positions of the Parties

Verizon was the only party that commented on DBC=s motion. Verizon disagrees with DBC=s assertion that the Department=s decision with respect to LFACS unnecessarily delays Verizon=s legal obligation to provide CLECs with access to LFACS, stating that

DBC=s argument is unfounded and contradicted by related Federal Communications Commission (AFCC@) decisions (Verizon Comments at 4-5). Verizon contends that it does not have a legal obligation to provide CLECs with direct, Areal-time@ access to the LFACS database because it does not provide such access to its own retail operations (id. at 6). In support of this position, Verizon cites the following FCC language from the UNE Remand Order:[(4)] A[t]o the extent such information is not normally provided to the [ILEC=s] retail personnel, but can be obtained by contacting incumbent back office personnel, it must be provided to requesting carriers within the same time frame that any incumbent personnel are able to obtain such information@ (id., citing UNE Remand Order at & 431).

Verizon asserts that it has met its UNE Remand Order obligations because access to loop information is available to Verizon and CLECs under the same terms and conditions (id. at 6). Moreover, Verizon notes that the loop qualification process used by CLECs will be followed by its separate data affiliate (id. n.6).

DBC responds to Verizon=s comments by stating that it is irrelevant that Verizon=s retail employees do not access LFACS directly (DBC Reply Comments at 2). Rather, DBC argues that Verizon cannot dispute that its personnel have access to, and use, LFACS, and that this inquiry is the appropriate one (id. at 2-3). DBC also notes that while ILECs are not required to Acategory, inventory, and make available to competitors loop qualification information through automated OSS even when it has no such information available to itself,@ the record is clear, according to DBC, that Verizon does have loop qualification information in its automated OSS and is refusing to make such access available to CLECs (id. at 3 n.9, citing UNE Remand Order at & 429). Finally, DBC urges the Department to disregard Verizon=s statement that LFACS does not contain 100 percent of loop activity because, according to DBC, LFACS is a important tool for whatever number of loops are populated in it (id. at 3).

2. Analysis and Findings

The Department denies DBC=s motion but, as we explain below, this ruling may soon have no practical effect. We are not persuaded that we have misinterpreted the FCC=s UNE Remand Order, as DBC contends. It is true that the UNE Remand Order does require Verizon to make available to requesting CLECs information contained in its OSS, including loop qualification information, in a nondiscriminatory manner; however, we disagree that direct CLEC access to LFACS is the only means by which this requirement can be fulfilled.[(5)] In fact, DBC seems to recognize this reality because it notes in both its motion and reply comments that Verizon must Aeither make LFACS or the information that is in LFACS, available in order to comply with its OSS obligations@ (DBC Motion at 6, emphasis in original) and that CLECs Ashould be granted the same access to the database itself or to the identical information, in the same time and manner as Verizon@ (DBC Reply Comments at 3). Finally, DBC notes that AThere is no legal basis for denying CLECs direct, unfiltered access to LFACS or, alternatively, to the data it contains@ (id. at 4).

It appears to the Department, and DBC seems to acknowledge as much, that under the FCC=s UNE Remand Order, an ILEC may fulfill its obligation to provide nondiscriminatory access to its OSS by making available the information contained in that OSS within the same amount of time as it is provided to the ILEC=s employees, in lieu of direct CLEC access to that OSS (see e.g., UNE Remand Order at & 431). In this Order, the FCC does state that it expects that ILECs Awill be updating their electronic database for their own xDSL deployment and, to the extent their employees have access to the information in an electronic format, that same format should be made available to new entrants via an electronic interface.@ UNE Remand Order at & 429. However, absent clearer FCC guidance, we do not interpret this statement to mean direct CLEC access to Verizon=s LFACS database but, rather, to Verizon=s enhanced loop qualification database. Specifically, Verizon=s uncontested statements in our record lead us to conclude that Verizon is not updating its LFACS database for its xDSL deployment but, instead, is making these updates to its loop qualification database, which will be used by its separate data affiliate as well (see Tr. at 488-95).

According to Verizon, LFACS is primarily a loop inventory system and, unlike its loop qualification database, was not created to provide loop make-up information. Moreover, this database is not updated on a consistent basis (see Exh. VZ-MA 2, at 22). That Verizon has updated its enhanced loop qualification database with information relevant to prospective xDSL providers is not disputed (see e.g., Exh. VZ-MA 2, at 15-6). Verizon=s unchallenged statements in the Phase III proceeding demonstrate that Verizon is not updating its LFACS database for its own xDSL deployment.

Our subsequent review of the UNE Remand Order only affirms that our decision not to direct Verizon to make direct access available to CLECs in our Phase III Order, but, instead, to allow CLECs participating in a regional OSS collaborative to decide the means to obtain additional loop make-up information from Verizon, was the correct one. Phase III Order

at 25. This decision was not premised on a misinterpretation of federal law as alleged by DBC. Our record is clear that, upon CLEC request, Verizon will make available to CLECs information contained in LFACS through both Verizon=s manual qualification and engineering query processes (see Exh. VZ-MA 2, at 18-24). Verizon=s choice to make this information available through a different means than that used by its back office personnel does not equal Afiltering@ or Adigesting@ the content of that information, which is prohibited by the UNE Remand Order. For the foregoing reasons and because DBC has not demonstrated that our earlier decision with respect to LFACS was premised on a mistake, the Department denies DBC=s motion.

On January 4, 2001, Verizon filed a letter with the Department in this docket stating that, later this month, it will propose an initiative in the New York regional collaborative that would provide CLECs with direct access to LFACS. According to Verizon, after CLEC concurrence and prioritization of this initiative, it will schedule the implementation of the proposal. As mentioned above with respect to future FCC action, should Verizon and CLECs agree on such a proposal (i.e., direct access to LFACS), the Department would require Verizon to file an amended tariff incorporating this decision in a timely manner. Awaiting the New York collaborative=s outcome is efficient; but, if that effort protracts unduly, the Department is prepared to act on its own. Short-term events will determine the course.

In its response to DBC=s motion, Verizon=s comments contained a statement that warrants discussion by the Department. Specifically, we disagree with Verizon=s assertion that it Adoes not have a legal obligation to provide CLECs with . . . ›real-time= access to the LFACS database because [Verizon] does not provide such access to its own retail operations@[6] (Verizon Comments at 6). Such a position conflicts with the clear language of the FCC=s UNE Remand Order. This Order unambiguously states that AIt would be unreasonable, for instance, if the requesting carrier had to wait several days to receive such information [i.e., loop qualification information] from the incumbent [if] the incumbent=s personnel have the ability to obtain such information in several hours.@ UNE Remand Order at & 431. The FCC makes no distinction between an ILEC=s retail and back office personnel. Thus, we agree with DBC that it is irrelevant that Verizon=s retail personnel do not use LFACS.

We cannot say, based upon the information in our Phase III record, how much time Verizon=s back office personnel require to access and extract requested information from LFACS; therefore, we are unable to say at this time that Verizon=s practice on this matter is discriminatory. The Department would find it unacceptable and inconsistent with FCC requirements if Verizon=s employees obtain the relevant information from LFACS in a matter of minutes but delay forwarding that information to the requesting CLEC for a day or more. Since we simply do not have a record upon which to make any conclusions, we will investigate this narrow issue as part of our continuing Phase III investigation. Should Verizon make direct access to LFACS available to CLECs before the conclusion of the next phase of the D.T.E. 98-57-Phase III docket, this issue would obviously be moot.

B. Rhythms Motion

Rhythms requests that the Department reconsider its decision approving Verizon=s proposed recurring administration and support charge for Option A arrangements (Rhythms Motion at 1). In the Option A arrangement, the CLEC installs and maintains the splitter necessary for line sharing in the CLEC=s collocation cage.[7] Rhythms= motion is limited to the Department=s decision affecting just Option A scenarios.

According to Rhythms, the Department=s findings on this issue are not supported by the evidence and warrant a fresh look at the record for the purpose of modifying our decision on this limited point (id. at 4). Rhythms argues that the Department relied on factually unsupportable arguments made by Verizon when overlooking the fact that under the Option A scenario, the CLEC, not Verizon, incurs the costs for the administration and support of splitters located in the CLEC=s collocation cage (id. at 4-5).

Rhythms contends that the record does not support Verizon=s assertion that CLECs that own splitters should bear the cost covered by Verizon=s annual carrying charge factor (AACCF@), which includes the costs of Anegotiating CLEC agreements, developing new CLEC products and services, working to improve the CLECs= existing services, developing and updating CLEC handbooks, training materials and Web site information@ (id. at 5, quoting Verizon Reply Brief at 12). Rhythms argues that Verizon fails to explain why splitters are singled out among all equipment in a CLEC=s collocation area as the basis for a payment to Verizon (id. at 5).

In addition, Rhythms contends that CLECs should not be charged through existing services for Verizon to develop new CLEC products and services (id. at 6). Rather, according to Rhythms, those costs should be included and recovered through the cost of that new Verizon service offering (id.). Rhythms argues that a CLEC=s decision to own, maintain, and manage its own splitters in its collocation area does not cause Verizon to incur any Ainformation management, R&D or procurement costs@ and that the CLEC=s splitter suppliers -- not Verizon -- perform product management, advertising and customer interfacing with respect to that equipment (id.). These suppliers, Rhythms asserts, presumably recover for those functions as they see fit (id.).

While Rhythms agrees that the FCC=s Total Element Long-Run Incremental Cost (ATELRIC@) methodology permits ILECs to recover a reasonable allocation of forward-looking common costs, it argues that the Department was mistaken in its analysis when it failed to recognize that Verizon already recovers overhead costs through the rates it charges CLECs for the underlying collocation arrangement (id.). Also, Rhythms contends that the Department failed to consider that Verizon provided no evidence that, in fact, it incurs any additional cost as a result of a CLEC placing a splitter in its collocation arrangement (id.). Furthermore, while Verizon argues that the failure to apply a factor to all the Verizon investments would result in under-recovery, Rhythms asserts that, by that same logic, applying a factor to CLEC investments in addition to Verizon=s investments will result in over-recovery for Verizon (id. at 7). Finally, Rhythms recommends that the Department consider a recent decision of the New York Public Service Commission (ANYPSC@) denying Verizon=s request to assess a similar fee for Option A arrangements (id.).

1. Positions of the Parties

Only Verizon commented on Rhythms= motion for reconsideration. According to Verizon, Rhythms= motion provides no new evidence to support its claims and fails to satisfy the Department=s standard for reconsideration (Verizon Comments at 1-2). Instead, Verizon argues that Rhythms merely relies on a NYPSC decision (id. at 2).

Verizon states that, contrary to Rhythms= interpretation of the New York ruling, this NYPSC decision is not conclusive on this point, and that it merely upholds an earlier ruling, pending the outcome of another proceeding (id. at 2-3).

Verizon contends that Rhythms is incorrect when it argues that of all collocation equipment, splitters have been singled out as the basis of payment under the ACCF. Verizon asserts that the ACCF, developed in the Department=s Consolidated Arbitrations[(8)] proceeding, is specific to wholesale operations and that this factor-based approach for cost recovery is a longstanding Department practice for allocating common overheads (id. at 3). According to Verizon, it would be discriminatory to exempt line-sharing CLECs from bearing their fair share of costs incurred to support Verizon=s wholesale operations (id. at 4). Similarly, Verizon argues that there is no basis for exempting Option A CLECs from paying administration and support charges since the underlying costs are incurred to the same extent as CLECs selecting Option C (id.).

In response to Verizon=s comments, Rhythms again argues that under the Option A scenario, CLECs, not Verizon, will incur administrative costs (Rhythms Reply Comments at 8). Moreover, Rhythms argues that Verizon fails to address how splitters alone impose administrative costs upon Verizon (id.). Finally, Rhythms suggests that the Department did not intend for Verizon to recover costs that it does not incur while requiring CLECs to pay for the activities as well as to pay Verizon not to perform these activities (id.).

2. Analysis and Findings

The Department denies Rhythms= motion. Rhythms has not met the Department=s standard for reconsideration. In its Motion, Rhythms fails to present information that rises to the magnitude of Aextraordinary circumstances@ that would compel the Department to take a fresh look at the record for the purpose of substantively modifying our decision on this point.

In Phase 4 of the Consolidated Arbitrations, the Department approved Verizon=s ACCF for application to all UNEs, as a way to recover indirect, overhead costs associated specifically with the provision of wholesale services. Phase 4 Order at 59-60; see also Phase 2-B, 4-B Order at 3.[(9)] The ACCF is a factor. Rhythms is incorrect to say that it should not be applied to line sharing CLECs in an Option A environment because these CLECs do not add any additional costs. By definition, indirect, overhead costs are not additional costs related to any specific service or network element. If they were, they would be incremental costs B not overhead costs. And Rhythms also is incorrect in arguing that Verizon already recovers these costs in charges for collocation services. The ACCF is not a rate designed to recover a Arevenue requirement@ from a specified set of services B in fact, it is not a stand-alone rate element at all -- rather, it is a cost factor that is applied as a cost component of all UNEs and wholesale services.

C. Verizon Motion

Verizon requested that the Department reconsider several rulings in our Phase III Order. First, Verizon argues that the Department=s decision to shorten the collocation augmentation interval for line sharing to 40 business days was based on a mistaken interpretation of the evidentiary record (Verizon Motion for Partial Reconsideration at 1-2). Second, according to Verizon, the Department=s ruling on Verizon=s proposed charges for loop conditioning and qualification was in error because relevant federal rulings expressly permit ILECs to recover the costs of performing these activities (id. at 2). Third, Verizon requests that the Department reconsider its requirement that Verizon propose a Aplug and play@[10] tariffed option and, instead, permit Verizon to develop a service that satisfies the Department=s objectives, meets the needs of the CLECs, and takes into account Verizon=s network architecture (id. at 2-3).

1. Collocation Augmentation Interval

In its motion, Verizon argues that the Department acted arbitrarily and capriciously in imposing a 40 business-day collocation augmentation interval for line sharing arrangements (id. at 4). Verizon states that there is nothing in the record showing that this Department-adopted interval is reasonable or consistently attainable (id.). Specifically, Verizon argues that the Department inappropriately based its conclusion that less work and time are required for line sharing collocation augmentations on two Verizon record request responses, RR-DTE-11 and RR-CVD-6, Supp. (id. at 5). Verizon contends that it is unreasonable to compare the two responses, the former addressing line sharing collocation activities and the latter describing standard collocation provisioning activities, because of the differing levels of detail Verizon provided (id.).

Verizon also argues that, contrary to the Department=s statement, two site visits are normally required for a collocation job (id. at 6). According to Verizon, typically, the purpose of the first site visit is to assess whether the location can accommodate a collocation or line sharing arrangement, and the second visit is to perform the detailed engineering work (e.g., determine where the cable routing can be placed, whether cable can be reused or rearranged) (id.). Verizon asserts that since there is no practical distinction between the critical path activities that determine the intervals for new collocation and line sharing arrangements, it is unreasonable for the Department to apply a substantially shorter interval for the latter arrangement (id. at 6-7).

Similarly, Verizon asks that the Department reconsider its decision to direct Verizon to develop line sharing-specific cost studies to support the nonrecurring application augmentation fee and engineering implementation charges (id. at 8). According to Verizon, the Department based this directive on its earlier findings with respect to the line sharing collocation augmentation interval (i.e., Verizon performs fewer work activities) and that if the Department modifies the augmentation interval it should accordingly reverse its ruling on Verizon=s proposed charges and related cost studies (id. at 8-9, citing Phase III Order at 116).

a. Positions of the Parties

i. CLECs

The following parties filed comments opposing this part of Verizon=s motion for reconsideration: AT&T, Covad, DBC, the MA CLEC Alliance, Rhythms, and WorldCom. The commenting CLECs are unanimous in arguing that on the Department=s interval decision, Verizon failed to meet our standard for reconsideration. AT&T argues that Verizon=s motion merely reiterates assertions that the Department has already carefully analyzed and rejected (AT&T Comments at 4). Namely, AT&T disagrees with Verizon=s contention that nothing in the record supports the 40-day interval, arguing instead that the Department carefully analyzed each step of the augmentation job and detailed the extensive evidence demonstrating that a 40-day interval for cable and splitter augmentation is reasonable (id.). AT&T also notes that the NYPSC recently found a 45 business-day interval for line sharing collocation augmentation to be reasonable, thus providing independent confirmation that the Department=s ordered interval is readily achievable (id. at 4-5, citing NYPSC DSL Order at 9).[11]

In addition to the NYPSC DSL Order, Covad notes that several days after Verizon filed its motion, the Pennsylvania Public Utility Commission (APAPUC@) voted unanimously (with one abstention) to reduce the line sharing collocation augmentation interval to 30 business days (Covad Comments at 2, citing Motion of Commissioner Brownell (September 28, 2000), Docket Nos. A-310696F0002 and A-310698F0002, adopted by the PAPUC October 24, 2000). With the PAPUC ordering 30 business days, the NYPSC and the Maryland Commission both ordering 45 business days, Covad argues that the Department=s Order is in the middle of the pack, with an interval touching neither extreme (id. at 2-3).

Covad contends that Verizon=s motion simply reargues issues considered and decided in the main case, as demonstrated by a chart it created tracking arguments made in Verizon=s motion with statements Verizon made in its briefs (id. at 3-4). According to Covad, the Department should accord little or no weight to Verizon=s previously made and rejected arguments (id. at 4). Moreover, Covad disagrees with Verizon=s assertion that the Department mistakenly interpreted Verizon=s responses to record requests (id. at 5). Covad argues that Verizon makes no attempt in its motion to demonstrate that the enumeration of work steps in RR-CVD-6, Supp. (i.e., Verizon=s list of activities for all collocation arrangements) accurately portrays the work involved in augmenting line sharing collocation arrangements (id.). In its reply brief, Covad contends that it showed, and the Department agreed, that a number of tasks Verizon listed in this record request response were dramatically overstated and that Verizon has not contested the detailed conclusions underlying the Department=s analysis on this issue (id.).

On the related matter of the Department=s directive to Verizon to produce line sharing-specific cost studies to support its application augmentation and engineering implementation fees, Covad argues that the Department=s rejection of Verizon=s proposed charges was correct (id. at 6). According to Covad, the Department made considerable findings that many of the work steps listed in RR-CVD-6, Supp. were either overstated or unnecessary, and that it follows by extension that fees based on such work steps would not accurately reflect Verizon=s costs of performing line sharing collocation augmentations (id.). Finally, Covad states that Verizon=s motion does not even make any assertions to the contrary on this issue (id.).

DBC argues that Verizon=s contention that the Department rested this interval decision on a misinterpretation of two record request responses is clearly incorrect (DBC Comments at 2). DBC states that the Department carefully evaluated each step of the collocation augmentation process and scrutinized the proposed length of time required for each activity (id.). According to DBC, the fact that Verizon supplied two different responses, one of which was less detailed than the other, simply goes to the weight of the evidence and is not a basis for reconsideration (id.).

Like AT&T and Covad, DBC contends that, Verizon rehashes arguments about activities it performs during this interval -- arguments that the Department considered and rejected in its Order (id. at 3). DBC argues that after performing an in-depth analysis of arguments made by Verizon and CLECs, the Department correctly determined that a shorter interval was appropriate, a practice recognized by the FCC (id.). In sum, DBC asserts that Verizon presents no new evidence and highlights no mistake or inadvertence in the Department=s analysis, and that Verizon=s motion amounts to an improper effort to reargue positions already considered and rejected by the Department (id. at 3-4).

The MA CLEC Alliance also contends that in seeking reinstatement of its proposed 76 business-day interval, Verizon merely summarizes the same arguments it raised during the Phase III proceeding (MA CLEC Alliance Comments at 2). According to the MA CLEC Alliance, Verizon fails to demonstrate any Aunknown or undisclosed facts@ or any Amistake@ or Ainadvertence@ on the part of the Department in rendering its decision on this interval (id.).

Like Covad, Rhythms argues that Verizon fails to produce any additional facts to clarify or support its assertion that the Department=s comparison between Verizon=s two record request responses was inappropriate (Rhythms Comments at 3). According to Rhythms, Verizon had the opportunity to justify its contention that a collocation augmentation for line sharing requires the same work effort, yet the Department=s detailed and thorough analysis demonstrates that Verizon=s proposed 76-day interval is bloated (id. at 3-4). As noted by other commenters, Rhythms mentions that the Department=s ordered interval is not only consistent with, but exceeds, intervals in other Verizon states (id. at 4). Lastly, WorldCom states that the Department=s analysis of the interval issue belies Verizon=s bald assertion that nothing in the record supports the Department=s determination, and that simply disagreeing with this decision is not a basis for altering it (WorldCom Comments at 2-3).

ii. Verizon

Verizon responds to the various commenters by arguing that it has, in fact, met its burden of demonstrating that the Department=s interval decision was in error and that this error was based upon a misunderstanding of two key record request responses (Verizon Reply Comments at 1-2). Verizon argues that it is Atotally inappropriate for the Department to have relied on these responses . . . and then erroneously conclude that the collocation augment interval should be considerably shorter@ (id. at 2, emphasis in original). According to Verizon, at the Department=s request, it supplemented its reply to RR-CVD-6 to provide sub-intervals for the standard collocation provisioning arrangement, and the Department failed to request Verizon to supplement its response to RR-DTE-11 to provide the same level of detail for the standard line sharing collocation augmentation arrangement (id. at 2-3).

Verizon also argues that the Department=s ruling is in error because it ignores Verizon=s actual experience with collocation augmentations (id. at 3). Verizon notes that of the 233 augmentations it completed in the first half of 2000, Verizon=s average interval was 68 business days, with a range of 49 to 89 days (id. at 3-4). Verizon contends that no party disputed this data; thus, it constitutes the best evidence available to determine a reasonable and attainable standard interval (id. at 4).

In response to the CLECs= mention of intervals established by other state commissions, Verizon notes that it will likely file Aexceptions@ to the decisions reached in Pennsylvania and New York, as it has in Maryland (id.). Finally, Verizon reiterates its request that the Department reconsider its decision regarding the application augmentation and engineering implementation fees (id. at 4-5). According to Verizon, because the information relied on by the Department in setting the collocation augmentation interval does not support the conclusion that there is any practical distinction between the work required for collocation provisioning versus collocation augmentation, a cost difference would be unlikely (id. at 5).

b. Analysis and Findings

The Department grants Verizon=s request to reconsider our decision to establish a 40 business-day collocation augmentation interval for line sharing arrangements. Similarly, we agree to Verizon=s related request to reconsider our ruling on the application augmentation and engineering implementation fees. Upon review and consideration of the record, the Department determines that the Phase III parties and the Department would be best served by receiving additional information from Verizon (which, of course, the CLECs will be afforded the opportunity to challenge) specifically on the necessary activities for line sharing collocation augmentation requests and their associated sub-intervals. In the interim, Verizon shall complete line sharing collocation augmentation requests within 68 business days, which is Verizon=s average for completing all augmentation requests in Massachusetts for the first half of 2000 (Exh. VZ-MA 4, at 23).

While we remain unconvinced that Verizon requires 76 business days to complete a line sharing collocation augmentation,[(12)] we note that, of the augmentations Verizon reported for the first half of 2000, the shortest amount of time in which it was able to complete its collocation augmentation activities was 49 business days (RR-RLI-6). To be clear, in calculating this figure, Verizon included all requests for collocation augmentations, which, according to Verizon=s witness, Ausually@ include work beyond additional cabling, for example (Tr. at 370). Moreover, more recent data (e.g., the second half of 2000) may show that Verizon requires a shorter amount of time than 68 business days. Although during the Phase III proceeding, Verizon=s witness stated that Verizon does not track particular types of collocation augmentation requests (e.g., splitter or cable capacity augmentation requests, as opposed to a collocation augmentation request to expand an existing collocation cage),[(13)] the Department expects Verizon to supplement the record in the next phase of our investigation with precisely this information.

Although the Department agrees to investigate further the appropriate line sharing collocation augmentation interval, to be clear, the Department disagrees strongly with Verizon=s charge that our ruling, establishing a 40 business-day interval, was Aarbitrary and capricious.@ In leveling this allegation, Verizon neglects to acknowledge the analysis the Department performed (which, but for two examples, was notably not challenged by Verizon in either its motion or reply comments).[(14)] See Phase III Order at 59-73. During the next phase of this proceeding, the burden remains on Verizon to demonstrate that the Department=s extensive analysis of the record was incorrect.

In addition, the Department takes issue with Verizon=s assertion that our interval decision was based on an inappropriate comparison of the Anumber of activities@ listed in Verizon=s responses to RR-DTE-11 and RR-CVD-6, Supp. (Verizon Motion at 5, emphasis in original). If the Department had based its decision simply on the different number of activities listed in these two responses, our analysis and findings on this issue would have consisted of only a few sentences[(15)] and not the approximately thirteen pages of analysis and findings on this issue in our Order. See Phase III Order at 59-73. Had the Department acted in the manner suggested by Verizon, we might agree that such action was arbitrary and capricious. However, we did not.

Finally, we cannot agree with Verizon that the Department erred in failing to ask Verizon to supplement its response to RR-DTE-11 to provide the same level of detail for a line sharing collocation augmentation arrangement as it provided in its supplemental reply to RR-CVD-6 (Verizon Reply Comments at 2-3). The Department directed Verizon to supplement its response to RR-CVD-6 because the Department thought that the information Verizon initially produced was unresponsive to Covad=s record request. During the hearing, Covad asked Verizon whether the person managing collocation augmentations has Ainternal milestones or intervals for completing any of the work on the path toward a final completion of the augment@ (Tr. at 375). Specifically, counsel for

Covad requested Athe sub-intervals . . . that the project manager for collocation augments uses in managing the collocation augment to arrive at the 76 business-day interval@ (id.). Verizon responded with a list of activities, absent any Asub-intervals,@ a term that the Department understood to include the number of days associated with the task.

For RR-DTE-11, the Department asked Verizon to modify its response to Rhythms/Covad information request 1-91 (Exh. RLI/CVD-84) to indicate which of the listed activities Verizon performs simultaneously and which it performs sequentially. In this information request, Rhythms and Covad jointly asked Verizon to Astate and describe each step in the process of collocating a splitter@ for both Options A and C (Exh. RLI/CVD-84). The Department had no reason to believe that Verizon=s response to this information request was anything other than complete and fully responsive to Rhythms= and Covad=s request (i.e., to state and describe each step). The burden is on the respondent to provide information that is fully responsive to information and record requests.

On the matter of Verizon=s request to reconsider our ruling on the application augmentation and engineering implementation fees, since we grant Verizon=s motion to reconsider the 40 business-day interval for line sharing collocation augmentations, we also agree to reconsider our Phase III Order on the related fee issue (Verizon Motion at 8-9). In that Order, we found that the Awork activities that Verizon must perform to provision an augmentation request are not as numerous as those required to provision a new collocation arrangement;@ therefore, we directed Verizon to file a line-sharing specific cost study for these proposed charges. Phase III Order at 116. Based upon the further investigation that will be performed in the next phase of this proceeding, the Department=s findings on this matter may change. Therefore, in the interim, the Department will allow Verizon=s proposed non-recurring application augmentation and engineering implementation charges to go into effect, subject to true-up.

2. Loop Conditioning and Qualification Costs

Verizon argues that the Department=s ruling that Verizon=s proposed loop conditioning and qualification charges were inconsistent with the TELRIC study approved in the Consolidated Arbitrations was in error and must be reversed (Verizon Motion at 9). According to Verizon, xDSL-compatible loops were not even considered in Phase 4 of the Consolidated Arbitrations, but, rather, the studies considered in that phase of the proceeding assumed an all fiber feeder network for voice grade services only (id.). Thus, Verizon contends that the network assumptions used in the Phase 4 studies cannot be considered dispositive of the appropriate forward-looking technology for loops designed to support xDSL transmission (id. at 9-10).

According to Verizon, xDSL requires copper plant, a fact recognized by the FCC (id. at 10, citing UNE Remand Order at & 204 n.390). Because of this simple fact, Verizon argues that a separate TELRIC analysis is required for such loops Ato reflect the network that will actually be utilized for the services@ (id. at 10). Verizon argues that the most efficient technology currently available for xDSL technology consists of copper cable (id.). In addition, Verizon states that the FCC authorized the ILECs= recovery of loop conditioning charges, recognizing a link between the recovery of those costs and the characteristics of the existing copper plant (id.). Specifically, according to Verizon, the FCC ruled that conditioning costs would be recoverable even where Avoice-transmission enhancing devices,@ such as load coils, would not be required under current network standards (id.).

Verizon notes that in an earlier ruling, the NYPSC concluded that Verizon=s TELRIC study was properly forward-looking because the very nature of xDSL technology precludes it from being costed on the basis of the all fiber feeder network used in the approved TELRIC studies in New York (id. at 11, citing NYPSC Case 98-C-1357, Opinion No. 99-12, Opinion and Order Concerning DSL Charges, at 13 (issued December 17, 1999)). Likewise, Verizon urges the Department to recognize that the all fiber feeder construct is not the appropriate network assumption for xDSL technology (id.).

In addition, Verizon argues the Department mistakenly concluded that no loop qualification or loop conditioning would be required in an all fiber feeder network (id.). According to Verizon, CLEC testimony (that bridged taps would be present on the distribution cable regardless of whether the feeder cable is copper or fiber) contradicts this assumption (id., citing Tr. at 420-21). Verizon contends that since bridged taps can reduce transmission speeds, CLECs may request Verizon to remove excess bridged tap to improve the signal strength and transmission speed (id.). Moreover, CLECs may ask Verizon to install integrated services digital network (AISDN@) extensions on loops served over fiber feeder cable based on the length of the copper distribution cable (id.). Therefore, according to Verizon, the presence of bridged tap and ISDN additions are applicable in either network design, and Verizon is entitled to recover its loop conditioning costs (id. at 11-2).(16)

Verizon also argues that under a fiber feeder network, CLECs would still need to determine certain loop characteristics such as cable length, and presence and location of bridged tap. Verizon contends that this information would enable the CLECs to determine what xDSL service they could provide to a specific customer or location (id. at 12). Again, Verizon concludes that even if the Department assumes all fiber feeder, it must permit Verizon to recover charges for loop qualification (manual or mechanized), engineering queries (e.g., loop make-up) and loop conditioning, where applicable (id.). Verizon also asks that the Department permit it to charge the TELRIC costs of an xDSL-capable loop provisioned over fiber feeder, which is not technically equivalent to the unbundled two-wire or four-wire analog loops whose rates Verizon had proposed adopting for purposes of provisioning unbundled xDSL-capable loops or unbundled line sharing (id.).

Verizon argues that while it reserves the right to develop a forward-looking cost-based rate for unbundled xDSL loops on 100 percent fiber feeder, an appropriate surrogate would be the existing unbundled DS1 rate, less the $10.00 plain old telephone service rate, for an unbundled line-shared arrangement, or $90.00/month (id. at 13). According to Verizon, this rate ensures that it is able to recover its costs using the fiber-based cost methodology mandated by the Department (id.). Finally, Verizon argues that if the Department grants Verizon=s motion, the Department should allow Verizon to true-up applicable charges to CLECs for performing loop conditioning and qualification services while the motion was pending before the Department (id.).

a. Positions of the Parties

i. CLECs

AT&T argues that Verizon=s motion does not meet the Department=s standard for reconsideration. Specifically, according to AT&T, Verizon is simply unhappy with the result reached by the Department, and its sole response is to reargue the same points already considered and rejected by the Department in the Phase III Order (AT&T Comments at 5, citing Phase III Order at 106). Covad disagrees with Verizon=s contention that applicable FCC rules entitle it to recover the costs of loop conditioning (Covad Comments at 7). Covad argues that, to the contrary, the FCC rule at issue merely requires Verizon=s cost studies to comply with the FCC=s forward-looking pricing principles promulgated pursuant to ' 252(d)(1) of the Telecommunications Act of 1996 (AAct@) (id., citing 47 C.F.R. ' 51.319(a)(3)(ii)). Covad contends that the pricing principles of the Act require Verizon to assume the same network architecture for provisioning different types of loops. Moreover, if Verizon uses a fiber network for xDSL, there would be no load coils or bridged tap to remove from, and no equipment to add to, loops (id. at 7 n.3).

In addition, Covad argues that Verizon mentions an earlier NYPSC proceeding, in which the New York Commission accepted a copper network construct for costing xDSL loops, but neglects to note that the NYPSC is in the middle of a proceeding examining rates for xDSL and that Verizon itself has proposed a price according to the costs of an analog loop based on an all fiber feeder architecture (id. at 8, citing NYPSC Case 98-C-1357). Covad contends that other parties in this New York proceeding have advocated using a consistent network construct for both analog and xDSL loops. Thus, according to Covad, the NYPSC may follow the Department=s lead in rejecting Verizon=s use of inconsistent network constructs (id.). Covad also notes that the Department is not the only agency to reach this conclusion (i.e., that the same network assumptions should apply to analog and xDSL loops), citing opinions from California and Texas (id. at 9).

Lastly, Covad disagrees with Verizon=s assertion that in an all fiber feeder network, CLECs would still require bridged tap removal and loop qualification information, and, thus, Verizon should be permitted to recover those costs from CLECs (id. at 8). Covad argues that since there is no reason why Verizon would not deploy its facilities in accordance with the Carrier Serving Area (ACSA@), the amount of bridged tap present on loops would not impede xDSL services (id. at 9). Specifically, Covad states that the CSA standard requires Verizon to deploy no more than 2,500 feet in total bridged tap on each loop and no single bridged tap longer than 2,000 feet (id. at n.4, citing Exh. RLI/CVD-1, at 122). Covad argues that according to CLEC testimony, this amount of bridged tap would not disrupt xDSL services and that A[t]he high frequency, digital nature of DSL services prevent it from operating with more than 2,500 feet of bridged tap@ (id., citing Exh. RLI/CVD-1, at 119).

DBC argues that the Department=s rulings with respect to loop conditioning and qualification charges should be upheld because Verizon cites no new evidence or mistake on the Department=s part (DBC Comments at 4). DBC states that the Department reasonably concluded that an all fiber network would not require loop conditioning or qualification and that Verizon=s contention that bridged taps would exist in an all fiber network is simply a disagreement with a Department conclusion and does not warrant any reconsideration (id. at 5). Further, DBC asserts that it is improper for Verizon to argue for the first time in its motion that loop qualification would be necessary in an all fiber feeder network (id. at 5-6). Finally, DBC opposes Verizon=s suggested $90 monthly charge should the Department uphold its all fiber network analysis (id. at 6). According to DBC, there is no evidentiary support for Verizon=s proposed rate, which Verizon wants the Department to approve in its reconsideration ruling (id.).

The MA CLEC Alliance also contends that Verizon=s motion contains no new arguments or evidence to support its claims with respect to the Department=s rejection of Verizon=s proposed loop conditioning and qualification charges (MA CLEC Alliance Comments at 2). Rhythms shares the view of the MA CLEC Alliance and other commenting CLECs, in arguing that Verizon has provided no grounds on which the Department should reconsider its conclusion to prohibit Verizon from charging these fees (Rhythms Comments

at 7). According to Rhythms, Verizon=s argument that xDSL loops were not considered during Phase 4 of the Consolidated Arbitrations is irrelevant and should be rejected (id. at 6). Rhythms notes that in our Phase 4-L Order,[(17)] we stated that consistency between cost study assumptions must be maintained regardless of any changes in technology (id.). Thus, Rhythms argues, it does not matter whether xDSL-compatible loops were considered in Phase 4 (id.).

Rhythms urges the Department to reject Verizon=s statement that ILECs are entitled as a matter of federal law to recover the costs of conditioning loops to provide xDSL services (id., citing Verizon Motion at 9). According to Rhythms, the Department considered and rejected this argument, stating that this was not a correct interpretation of the UNE Remand Order (id. at 6-7, citing Phase III Order at 105). Rhythms contends that the FCC deferred to state commissions to determine whether loop conditioning charges are appropriate because such charges Amay constitute a barrier to offering xDSL services . . . . that the ILECs have an incentive to inflate@ (id. at 7, quoting UNE Remand Order at & 194). Finally, Rhythms agrees with the Department that it would be illogical for the FCC to mandate the recovery of costs that are relevant only to a network assumption that may not have been approved in a particular state (id., citing Phase III Order at 105-06).

WorldCom likewise opposes Verizon=s request to reconsider the Department=s ruling on loop conditioning charges (WorldCom Comments at 2). WorldCom argues that Verizon unsuccessfully shopped for the network architecture that would generate the greatest amount of revenue for its proposed nonrecurring and recurring charges (id.). According to WorldCom, it does not matter whether the forward-looking network model specifically contemplated the Aidiosyncracies and limitations@ of xDSL technology (id.). Rather, WorldCom argues that what is important is that this network contemplates the ability to utilize broadband services. WorldCom alleges that through recurring rates, Verizon is already charging CLECs for a network capable of handling vast amounts of data. Thus, using xDSL technology, CLECs are able to obtain a benefit they are already paying for, but which is dependent on a network that largely does not exist (id.). Permitting Verizon to charge CLECs for loop conditioning, WorldCom concludes, would lead to an improper double recovery (id.).

ii. Verizon

Verizon responds to the commenting CLECs arguing, among other things, that the Department=s error on this issue provides sufficient justification for reconsideration (Verizon Reply Comments at 5). Verizon repeats its contention that since the Department=s all fiber feeder ruling in the Consolidated Arbitrations only applied to voice grade services and did not contemplate xDSL service, the Department was incorrect in extrapolating its findings in that proceeding to the facts in the present proceeding (id. at 5-6).

Verizon argues that no other state has required the elimination of loop conditioning and qualification charges, a ruling Verizon contends is confiscatory and in direct contravention of FCC rules (id. at 6). According to Verizon, Covad=s interpretation of the NYPSC proceeding is incorrect (id.). Specifically, Verizon argues that while Verizon-New York proposed to charge no more than the analog rate for a xDSL loop, that fact alone does not change Verizon-New York=s cost study, which was based on a copper loop construct (id. at 7, citing NYPSC Case 98-C-1357).

Verizon also repeats the argument made in its motion that even assuming an all fiber feeder network design, CLECs would need to obtain loop qualification information to determine certain loop characteristics (e.g., cable length, presence and location of bridged tap) affecting the type of xDSL service they might provide over a particular cable pair (id.). Moreover, it argues that since both bridged tap and ISDN additions are applicable in either a fiber or copper network design, the Department=s assumptions in the Phase III Order were erroneous (id.). Should the Department determine that Verizon is entitled to recover conditioning and qualification charges, Verizon repeats its request that the Department also allow Verizon to true-up these applicable charges (id. at 7-8 n.4).

Finally, Verizon contends that, contrary to DBC=s claims, it is not seeking approval of its existing unbundled DS1 rate as the surrogate rate for an all fiber feeder network design. Instead, Verizon argues that it merely presented this rate as a reasonable estimate (id. at

8). To ensure that it may recover its costs using a fiber-based cost methodology, Verizon states that it is seeking the ability to propose a rate for unbundled xDSL loops on 100 percent fiber feeder and, if necessary, to develop cost studies (id.). According to Verizon, these rates would include the TELRIC costs of an xDSL-capable loop provisioned over fiber feeder and would include loop conditioning (with the possible exception of load coil removal) and qualification (id. at n.5).

b. Analysis and Findings

The Department denies Verizon=s request to reconsider our ruling on loop conditioning and qualification charges. The commenting CLECs are correct that Verizon has failed to meet our standard for reconsideration. Despite Verizon assertions to the contrary, the Department did consider and reject Verizon=s argument that a copper-loop cost study must be used because xDSL service can only be provided over copper, not fiber-fed, loops (see Verizon Motion at 9, arguing that the Department ignored xDSL=s unique requirements). Verizon has failed to present new evidence or demonstrate that the Department=s ruling was based on mistake or inadvertence.

We found in our Phase 4 Order that the structure of Verizon=s proposed all fiber feeder model provides a good representation of Aa reconstructed local network [that] will employ the most efficient technology for reasonably foreseeable capacity requirements.@ Phase 4 Order at 16-7, quoting Local Competition First Report and Order at & 685.[(18)] Verizon would have us limit our previous TELRIC rulings to voiceband service. We will not do so because Phase 4 of the Consolidated Arbitrations proceeding resolved the issue of the appropriate network and cost model for pricing for UNEs. Phase 4 Order at 6-9. It would be inappropriate to limit the model we approved in that Order just to the UNEs that existed when that Order was issued, i.e., December 1996. Instead, a model that is truly forward-looking is designed to accommodate new network elements such as line sharing. Otherwise, as we noted in our Phase III Order, Verizon would be able to vary its network assumptions depending on which assumption produces the highest rate for any particular service or network element.

When the Department determined that Verizon=s fiber feeder model, approved in the Phase 4 Order, was the appropriate one, we noted that several parties argued that the use of fiber feeder in lengths of less than 9,000 feet constitutes a subsidy between narrowband and broadband services that Verizon will be offering in the future. Phase 4 Order at 15. The Department responded that, in reviewing Verizon=s retail rates, it had never made a determination that all fiber feeder was imprudent or represented an unwarranted subsidy of broadband services by narrowband telecommunications users. Id. at 16. Thus, it is simply incorrect for Verizon to argue that the issue of broadband was not contemplated when the Department approved Verizon=s proposed TELRIC model.

Verizon continues to ignore the Department=s stated goal in establishing the TELRIC methodology to be followed in Massachusetts, which is to Amodel a forward-looking telecommunications network.@ Phase 4-L Order at 19 (emphasis added). A

Atelecommunications network@ obviously encompasses advanced services, including xDSL service. As we noted in our Phase III Order, network assumptions that are inconsistent with assumptions we used in earlier Department Orders on the development of TELRIC rates must be rejected. Phase III Order at 104. To rule any other way invites Verizon to Acherry pick@ between copper and fiber network assumptions to propose the model design most advantageous to it, at the expense of competition.

Several arguments made in Verizon=s motion and reply comments regarding the need to obtain loop conditioning and qualification in an all fiber fed network warrant a Department response. Specifically, Verizon argues that under a fiber feeder network, CLECs would still need to know the cable length, and presence and location of bridged tap in order to determine what xDSL service they could provide to a particular customer or location (Verizon Motion at 12). As mentioned above, several CLECs dispute Verizon=s loop qualification argument. Covad argues that if Verizon followed CSA standards, it would not have deployed bridged tap in excess of a length that would affect xDSL service (Covad Comments at 9).

According to testimony filed by Verizon, CLECs do not need to know the actual length and gauge of a loop in provisioning xDSL because Verizon meets Aat a minimum, standard resistence design or in some case Carrier Serving Area Design Standards@ (Exh. VZ-MA 4, at 68). This testimony seems to contradict Verizon=s assertion, mentioned above, that CLECs would still need to know the cable length of a particular loop regardless of whether the network is fiber or copper. In addition, although in its motion Verizon argues that the presence of excess bridged tap will be a factor in a fiber-fed network, it states in its reply brief, AIf a fiber-based network is assumed for cost development purposes, then the lines hypothetically would not be equipped with load coils and bridged tap, and the ILECs would not be able to recover their costs of removing them from the shared lines@ (Verizon Reply Brief at 9). Again, statements made by Verizon earlier in this proceeding seem at odds with positions it takes in its reconsideration motion. Such contradictory statements cannot support a reversal of our decision on the propriety of loop conditioning and qualification charges.

Although Verizon states that it is seeking the Aability to propose a rate for unbundled DSL loops on 100 percent fiber feeder,@ the Department need not act on this request, nor will we adopt a Asurrogate@ rate as a Areasonable estimate@ in lieu of a cost study-supported rate that has been adjudicated before the Department (Verizon Reply Comments at 8). As mentioned in the Phase III Order, Verizon may file a proposed charge together with a supporting cost study at any time. Should it do so, the Department will investigate the proposed charge, and CLECs will be permitted to challenge the proposal. Phase III Order at 129. Lastly, since the Department denies Verizon=s request to reconsider our loop conditioning and qualification decision, we need not act at this time on Verizon=s related request to Atrue-up@ its charges on reconsideration (Verizon Reply Comments at 8 n.4).

3. Plug and Play Tariff Offering and Motion for Extension of Time

Verizon asks the Department to reconsider its decision directing Verizon to file a proposed tariff that Awould enable CLECs to place or have Verizon place CLEC-purchased line cards in Verizon=s DLC electronics at the RT@ (Verizon Motion at 13, quoting Phase III Order at 87). In this motion, Verizon requests that the Department permit it to develop a tariff offering that would enable CLECs to offer xDSL service over loops served by fiber feeder (id. at 14). Specifically, Verizon states that it may want to offer a packet switching-type of product similar to that offered by SBC Communications, Inc. (id. at 15). According to Verizon, this type of offering would enable Verizon to own, deploy, install and maintain the line cards at the RTs, as well as the rest of the packet switching service (id.). This option, Verizon argues, would eliminate possible inventory management problems, provisioning delays, and compatibility issues (id. at n.8).

Notwithstanding the Department=s ruling on Verizon=s plug and play reconsideration motion, Verizon asks the Department to grant it an extension of time to submit a proposed tariff filing (Verizon Extension of Time Motion at 2). According to Verizon, since it does not currently deploy line cards in DLC at RTS in Massachusetts, it must design the service offering, prepare a business plan, engineer the service, and develop service and technical descriptions (id.). In addition, Verizon argues that it must assess the potential demand for the service, prepare cost studies and establish appropriate prices (id.). These factors, Verizon alleges, warrant an extension of at least six months (id. at n.1).

Verizon also requests an extension that would enable it to coordinate this tariff filing with a possible FCC filing (id.). According to Verizon, should Verizon need to make a related federal filing to proceed with a proposed tariff offering in Massachusetts, it should be permitted to make the federal filing first (id. at 2-3). Finally, Verizon argues that it would agree to make available access to unbundled packet switching to all carriers, including its data affiliate, at the same time and subject to the same rates, terms and conditions (id. at 3). Should Verizon seek and obtain an FCC waiver prior to the establishment of a Verizon data affiliate, Verizon states that it will not utilize this offering on a retail basis until a wholesale offering is made available to all CLECs in Massachusetts (id.).

a. Positions of the Parties

i. CLECs

AT&T opposes this aspect of Verizon=s motion, arguing that Verizon fails to satisfy the stringent standards that apply to motions for reconsideration (AT&T Comments at 7). According to AT&T, Verizon=s request, to propose an alternative to the plug and play option, appears to be a means of delaying resolution of how to accommodate xDSL services on loops served using DLC feeder (id. at 6). AT&T concludes that the mere fact that Verizon may also wish to propose another alternative should not delay other carriers= ability to use available equipment and installation alternatives (id. at 7). Like AT&T, Covad argues that Verizon=s request amounts to a delay tactic (Covad Comments at 11). In addition, Covad argues that at no time during the Phase III proceeding did Verizon contend, as it did in its motion, that the plug and play option was technically infeasible (id. at 10, citing Verizon Motion at 15-6). Indeed, according to Covad, Verizon=s motion provides no citation to record evidence to support its infeasibility contention (id. at 10).

Covad also argues that Verizon=s motion is completely unclear as to what kind of tariff Verizon is seeking permission to file (id.). Covad states that while Verizon indicates it will file a proposal absent the Aartificial constraints@ imposed by plug and play, Verizon fails to state what constraints it opposes and notes that if Verizon believes its plug and play proposal would require refinement, that work could take place in the subsequent proceeding (id. at 11 n.7). Moreover, Covad asserts that Verizon neglects to disclose how its alternate proposal would be more efficient and economic for CLECs, let alone point to supporting evidence in the record (id.). In sum, Covad contends, Verizon is requesting a carte blanche to create a new tariff that could bring the parties back to square one (id.).

The MA CLEC Alliance opposes Verizon=s requested extension of time to file a proposed plug and play offering (MA CLEC Alliance Comments at 4). According to the MA CLEC Alliance, such an extension would delay indefinitely any progress on the part of Verizon in developing the tariff rates, terms and conditions for plug and play (id.). The MA CLEC Alliance argues that while CLECs stand ready to bear the time and expense of working cooperatively with Verizon, the FCC decision noted by Verizon in its extension motion could be months or even as much as a year away (id.). Without a Department directive to the contrary, the MA CLEC Alliance contends that Verizon has every incentive to defer all efforts to provide expanded access by line sharing-CLECs to the fiber portion of the loop, thereby stalling the offering of competitive advanced services to small businesses and residential consumers (id. at 4-5).

Rhythms disputes Verizon=s contention that the Department=s decision to direct Verizon to file a plug and play tariff offering was Ainappropriate, premature and unproductive@ (Rhythms Comments at 8, quoting Verizon Motion at 14). To the contrary, Rhythms argues, the Department=s ruling was quite clear that it was not requiring Verizon to offer plug and play at this time; instead, the Department found that such a proposal warrants further investigation (id.). According to Rhythms, the Department was fulfilling its mandate to protect the public interest and its decision on this matter was a thoughtful, timely and prudent step toward ensuring that all Massachusetts consumers have access to competitively-provided advanced services (id.). In addition, Rhythms argues that Verizon=s motion fails to acknowledge the competitive concerns advanced by the Department in its ruling, namely that it would be fundamentally unfair to CLECs and consumers to allow Verizon=s data affiliate to deploy technology that would enable xDSL service to be provided over fiber loops and only then file a proposed tariff offering with the Department (id. at 8-9, citing Phase III Order at 88-9). Rhythms contends that Verizon attempts to side-step this point by stating that it would give all carriers access to these capabilities at the same time in an nondiscriminatory manner (id. at 9, citing Verizon Motion at 15). According to Rhythms, this assurance is insufficient because under Verizon=s proposal, as soon as its data affiliate accepted Verizon=s alternative offering, Verizon would have fulfilled its stated obligations (id.).

Rhythms argues that Verizon=s alternative is simply a resold advanced services offering, and that while Rhythms does not oppose such a service, it should not be to the exclusion of the Department-ordered plug and play (id.). According to Rhythms, unlike the proposed plug and play option, a resold advanced service would limit all CLECs to providing only the type of xDSL service that the ILEC has chosen for itself or its data affiliate (id. at 10). Moreover, Rhythms contends that the FCC recognized that such a resold service offers ILECs Alittle incentive to cooperate with competing carriers that wish to pursue different approaches@ (id., quoting Second SBC/Ameritech Merger Order at & 41).[19] Rhythms concludes that the Department recognized that CLECs should be able to take advantage of distinguishing themselves through facilities-based competition by offering plug and play and, thus, properly ordered Verizon to include this option in its tariffed offerings (id.).

WorldCom also opposes this aspect of Verizon=s reconsideration motion (WorldCom Comments at 2). WorldCom argues that Verizon=s motion amounts to foot-dragging and that nothing in the motion supports a legally sound basis for reconsideration (id.). That Verizon may simply disagree with the Department=s requested course of action, according to WorldCom, is not a basis for altering or delaying it (id. at 3).

ii. Verizon

Verizon disagrees with commenting CLECs that argue that a delay in filing a proposed tariff offering is not justified (Verizon Reply Comments at 9). According to Verizon, its proposed modification is reasonable and enables Verizon to develop an offering that takes into account its network architecture, and FCC and Department requirements (id.). Verizon argues that its proposal meets the Department=s objectives provided in the Phase III Order and that its request for additional time would not have a prejudicial effect on CLECs (id.). Specifically, Verizon contends that since it has no legal obligation to offer unbundled packet switching at this time, its requested extension cannot delay implementation of a proposed offering (id. at 9-10). Finally, Verizon repeats its pledge not to utilize unbundled packet switching on a retail basis until a wholesale offering is made available to all CLECs, and continues to assert that it cannot technically support plug and play (id.).

b. Analysis and Findings

The Department grants in part and denies in part Verizon=s motion to reconsider our plug and play decision and denies Verizon=s requested six-month extension to file such a proposed tariff. The Department grants Verizon=s request to file an alternative unbundled packet switching proposal (e.g., an SBC-type service in which Verizon would own, deploy, install, and maintain the line cards at RTs) (Verizon Motion at 15). However, we deny Verizon=s request to file this alternative in lieu of the plug and play option, as set forth in our Phase III Order. Phase III Order at 86-9. In addition, we modify our Phase III Order by directing Verizon to file these tariffs in our Phase III, and not Phase I, docket. When the Department issued its Phase III Order, on September 29, 2000, we determined that it would be most efficient to consider this proposal in our Phase I proceeding. Because Verizon=s motion for reconsideration on this ruling created a delay in the implementation of our directive, it no longer makes administrative sense to consider either Verizon=s unbundled packet switching proposal or the Phase III plug and play proposal in Phase I of D.T.E. 98-57.

We deny this aspect of Verizon=s reconsideration motion because it fails to demonstrate that the Department=s decision was based on error or inadvertence, or to produce any unknown or undisclosed fact that would warrant a reversal or modification of our ruling that Verizon file a plug and play tariff for further investigation. Indeed, while Verizon argues in its motion that the plug and play option is infeasible, Verizon neglects to cite to any document in the Phase III record or to provide any new information in support of this contention (Verizon Motion at 15; Verizon Reply Comments at 10).[(20)] The CLECs are correct that such a bald assertion cannot constitute grounds for Department reconsideration.

Similarly, we also reject Verizon=s request to forgo our investigation of Verizon=s proposals (i.e., plug and play and Verizon=s alternative) unless and until Verizon requests an FCC waiver or Verizon makes a similar filing with the FCC in connection with its Collocation Further Notice[(21)] ruling (Verizon Motion at 15; Verizon Extension of Time Motion at 2). As we noted in our Phase III Order, even on an accelerated schedule, approximately four and a half months elapsed from the time Verizon filed its proposed xDSL and line sharing tariff to the date we issued the Order. Phase III Order at 88 n.58. No party would disagree that tariff proceedings are time consuming. Therefore, we decline to delay our investigation of plug and play and, possibly, a Verizon-proposed alternative while waiting for events, which are outside of our control, to unfold.

Finally, we reject Verizon=s request for a minimum of six additional months to make its proposed plug and play filing. As mentioned above, the Department=s Phase III Order was issued on September 29, 2000. Verizon has had more than three months during which to develop an unbundled packet switching offering. We do not disagree with Verizon that the issues involved are complex; indeed, we stated as much in the Phase III Order. However, that the subject matter is difficult is an insufficient reason to delay our investigation for at least six months. To be clear, the Department=s requested tariff filing is a proposal. In recognition of the work activities Verizon must perform, we will permit Verizon up to 60 days from the date of the issuance of this reconsideration Order to file its plug and play proposal. Likewise, should Verizon decide to file an alternative to plug and play as well, we expect Verizon to file this alternative within 60 days of the date of this Order, and we will consider both proposals together.

D. WorldCom Motion

WorldCom requests that the Department reconsider its decisions to Areject[] the CLECs= request to permit a CLEC=s [UNE-Platform (AUNE-P@)] arrangement to remain intact after line splitting@ and that AVerizon is not obligated to provide line sharing between two

CLECs@ (WorldCom Motion at 1, quoting Phase III Order at 40). WorldCom argues that its motion meets the Department=s reconsideration standard because the Department erred in its interpretation of the FCC=s SBC Texas Order[22] (id. at 2).

According to WorldCom, the Department=s line splitting findings were based on a terminology distinction not made by the FCC (id.). Specifically, the Department determined that the term Aline splitting@ only applies to a single CLEC providing both voice and data over the same loop and that Aline sharing between two CLECs@ involves two CLECs, one providing voice service and the other providing data service over the same loop (id., citing Phase III Order at 36). However, WorldCom argues, this distinction is without a difference and that as defined by the FCC, the term Aline splitting@ contemplates both scenarios (id., citing SBC Texas Order at & 324).

In the SBC Texas Order, WorldCom notes that the FCC defined Aline splitting@ as the situation in which Aboth the voice and data service will be provided by competing carrier(s) over a single loop@ (id. at 5, quoting SBC Texas Order at & 324). WorldCom asserts that ending the word Acarrier@ with the letter As@ indicates that the FCC=s definition of line splitting is to apply regardless of whether one carrier provides both voice and data or whether two carriers combine to provide voice and data over a single line (id.).

WorldCom argues that in rejecting the so-called Aline sharing between two CLECs,@ the Department erroneously determined that the FCC, in its SBC Texas Order, did not address the subject and turned instead to the FCC=s Line Sharing Order for guidance (id. at 2-3). Whether the Department was correct in holding that the Line Sharing Order did not establish any ILEC obligations relating to the two-CLEC scenario for line splitting is moot, according to WorldCom, because the later-issued SBC Texas Order clearly did establish ILEC obligations (id. at 5-6 citing SBC Texas Order at && 324-25). Moreover, WorldCom argues that the Department=s omission of the term AUNE-P@ when it cited to paragraph 325 of the SBC Texas Order led to our conclusion to reject UNE-P line splitting (id. at 6-7, citing Phase III Order

at 39).

In addition, WorldCom argues that the Department=s ruling with respect to the single-CLEC version of line splitting appears to be based on the fact that the act of provisioning xDSL service results in the CLEC=s pre-existing UNE-P configuration to no longer remain intact (id. at 7, citing Phase III Order at 39-40). Regarding this finding, WorldCom asserts that while the Department may be correct that the pre-existing UNE-P configuration does not remain physically intact following the provisioning of xDSL service, the pre-existing UNE-P arrangement remains functionally intact after the split has been provisioned (id.). The Department=s ruling fails to take this into account (i.e., a CLEC still has the ability to provide its end-user customer with circuit-switched voice service) and that the correct analysis would be to review what is the make-up and functionality of the post-provisioning configuration (id. at 3, 9).

According to WorldCom, basing the analysis on whether the network architecture remains intact after the commencement of line splitting is flawed because it leads to inconsistent results (id. at 9). Specifically, had the Department applied this analysis to Aline sharing between two CLECs@ rather than finding that this scenario did not fall within the FCC=s definition of Aline splitting,@ WorldCom contends that the Department would have had to reconcile its physically intact holding with the fact that the network would remain in place if a voice CLEC were permitted to migrate electronically the voice service of an end-user customer engaging in line sharing (id.). Under the one-CLEC line splitting scenario, WorldCom also argues that the Department=s analysis fails using the following example: If a CLEC providing xDSL service to an ILEC voice customer acquires the customer=s voice business, it is technically possible for the CLEC to lease the UNE-P from the ILEC, thus acquiring responsibility for both the voice and data services, without altering the configuration of the network (id. at 10). WorldCom argues that this example could be considered UNE-P line splitting and does not run afoul of our implicit determination that UNE-P line splitting can only apply when the network configuration remains intact (id.).

Finally, WorldCom asserts that if the Department were to affirm its line splitting findings, it would have a chilling effect on UNE-based competition (id.). According to WorldCom, as of today, the Department=s rulings permit Verizon voice customers a choice of xDSL providers but not CLEC voice customers (id.). Also, Verizon voice customers with CLEC xDSL service would be forced to surrender their xDSL service if they migrate their voice service to a voice CLEC (id. at 11). WorldCom concludes that the practical import of these rulings is that Verizon will continue to dominate the marketplace (id.).

1. Positions of the Parties

a. Verizon

Verizon opposes WorldCom=s motion and argues that the Department=s findings are consistent with FCC decisions and must be upheld (Verizon Comments at 7). According to Verizon, WorldCom=s motion is based on the argument that the Department misconstrued the terms Aline splitting@ and Aline sharing,@ an argument Verizon argues is a pointless exercise in semantics and ignores the clear language of the FCC on this issue (id.). Namely, Verizon argues that WorldCom=s Afunctionally@ intact argument directly contradicts the FCC=s findings and WorldCom=s motion omits the relevant portion of paragraph 325 of the SBC Texas Order (id. at 7-8).

Verizon contends that in language omitted by WorldCom, the FCC determined that ILECs are obligated to Afacilitate CLECs= line splitting by replacing the UNE-P with separate components (e.g., loop, port, and other applicable piece parts) to enable the CLEC to provide voice and data over a single line@ (id. at 8). However, Verizon asserts, the ILEC is not obligated to maintain a Afictitious@ UNE-P once it is physically disassembled (id.). Indeed, Verizon contends that WorldCom is requesting a new UNE combination that includes voice and data on the same loop, which Verizon is not legally obligated to provide (id. at n.9).

In addition, Verizon argues that since it is not required to provide line sharing when it is not the voice provider, WorldCom=s motion must be rejected (id. at 9, citing Line Sharing Order at & 72). Moreover, Verizon states that the FCC upheld this ruling in its SBC Texas Order, which is also reiterated in FCC regulations (id. at 9-10, citing SBC Texas Order

at & 324 and 47 C.F.R. ' 319(h)(3)). In its reply comments, Verizon also contends that further action by the Department is unnecessary because of ongoing discussions by the newly-formed line splitting OSS working group in New York to reach a resolution to deploy a form of line splitting, the result of which would be implemented in Massachusetts (Verizon Reply Comments at 11).

b. CLECs

AT&T supports WorldCom=s motion, arguing that because the NYPSC ordered Verizon-New York to make available line splitting in connection with a UNE-P arrangement no later than March 2001, Verizon must offer this arrangement in Massachusetts (AT&T Comments at 2-3). According to AT&T, the Department determined that any line splitting or sharing arrangement provided by Verizon in New York must also be provided to CLECs in Massachusetts; thus, the Department=s findings on line splitting are no longer determinative (id. at 3, citing Phase III Order at 41). Rhythms agrees with both WorldCom and AT&T that line sharing in a line splitting environment is technically feasible and should be permitted (Rhythms Reply Comments at 9). According to Rhythms, the NYPSC found that line splitting will promote competition and will make advanced services available to customers of all LECs, thereby raising the possibility of less regulation (id., citing NYPSC DSL Order at 16). In sum, Rhythms argues that allowing Verizon to deny line sharing in a line splitting situation would subject CLECs to undue and unreasonable discrimination (id.).

In its comments, WorldCom notes that in its NYPSC DSL Order, the NYPSC found that the Aengineering processes entailed in splitting a line for a UNE-P voice customer and sharing a line for a Verizon voice customer are identical: there is no physical difference@ (WorldCom Comments at 1, quoting NYPSC DSL Order at 11). WorldCom argues that the Department failed to reach this issue because is mistakenly defined Aline sharing between CLECs@ out of the definition of line splitting (id. at 2). Should the Department determine that Aline sharing between two CLECs@ really is Aline splitting,@ then, WorldCom argues, it is only logical that the Department recognize that a restriction on line splitting would unreasonably hinder the deployment of advanced services to consumers and would discriminate against CLECs (id., citing NYPSC DSL Order at 14).

WorldCom responds to Verizon=s criticism of WorldCom=s motion by noting that Verizon devotes one page of its filing refuting an argument WorldCom did not make (WorldCom Reply Comments at 1). According to WorldCom, Verizon=s comments argue that it is not required to provide line sharing when it is not the voice provider (id. at 1-2, citing Verizon Comments at 9). WorldCom replies that not only does Verizon=s argument not demonstrate why WorldCom=s motion must be rejected, but merely confirms that Aline sharing@ is not at issue here (id. at 2). WorldCom argues that the FCC=s SBC Texas Order picks up where its Line Sharing Order left off and makes clear that the term Aline splitting@ is appropriate when a CLEC is the voice provider (id. at 2-3).

By not attempting to interpret the FCC=s definition of Aline splitting,@ WorldCom argues that Verizon has, in essence, conceded that what the Department termed Aline sharing between CLECs@ is actually a form of line splitting (id. at 3-4). WorldCom also notes that Verizon=s data affiliate in New York supports this position when it argued in the NYPSC DSL Order that Adata providers should be able to provide data services over loops used by other CLECs to provide voice services@ (id. at 4 n.2, quoting NYPSC DSL Order at 13). In addition, WorldCom contends that Verizon ignores the FCC=s explicit directive to ILECs to permit CLECs to Aengage in line splitting over the UNE-P,@ a clear command that is rendered meaningless by the Department=s result (id. at 4). WorldCom disagrees with Verizon=s assertion that WorldCom is seeking a new UNE combination (id. at 5). WorldCom argues that there is nothing Afictitious@ about UNE-P line splitting, which combines the same elements that are combined for UNE-P voice service (i.e., loop, switching, and transport) (id.).

2. Analysis and Findings

The Department grants WorldCom=s motion. Upon further analysis of the SBC Texas Order, we find that we incorrectly interpreted that Order, and we now conclude that Verizon is required to keep the UNE-P arrangement intact when CLECs use line splitting to provide voice and data services to customers over the same, VerizonBleased line. While the FCC=s intentions in its SBC Texas Order could be clearer, a careful second review of this Order, and particularly paragraph 330, convinces us that we erred in our original interpretation. The dispute here is not whether Verizon must offer line splitting, but whether the FCC requires ILECs to keep the UNE-P intact for CLEC line splitting. In the SBC Texas Order at paragraph 330, the FCC states that Aas described above, a UNE-P carrier has the right to engage in line splitting on its loop. As a result, a UNE-P carrier can compete with [the ILEC=s] combined voice and data offering on the same loop by providing a customer with line splitting voice and data service over the UNE-P in the same manner@ (emphasis added). The use of the term Ain the same manner@ suggests to us that the FCC determined that from a technical and operational standpoint, there should be no difference between how CLECs provide UNE-P line splitting from how an ILEC provides its combined voice and data offering. See also NYPSC DSL Order at 11 (finding that the engineering processes for splitting a line for a UNE-P voice customer and sharing a line for a Verizon voice customer are identical). Therefore, we modify our earlier ruling accordingly.

IV. MOTION FOR CLARIFICATION

In addition to its motions for reconsideration, Verizon filed a motion for clarification of language contained in the Phase III Order on Verizon=s site survey requirements (Verizon Clarification Motion at 1). According to Verizon, in this Order, the Department implies that the ten calendar-day requirement for site survey reports, established in the Phase I Order,[23] extends to Verizon=s response to specific collocation application requests (id. at 2, citing Phase III Order at 69). Verizon argues that such an interpretation is inconsistent with the Department=s Phase I directives, which only apply to requested CLEC site surveys and not to Verizon=s required collocation space availability response (id. at 2-3). Verizon contends that such a result was clearly not intended by the Department and, therefore, should be clarified (id. at 4).

The MA CLEC Alliance argues that Verizon=s clarification motion should be denied (MA CLEC Alliance Comments at 3). According to the MA CLEC Alliance, the ten calendar-day interval for collocation augmentation applications comports with the record evidence regarding the necessary work to process such application. Moreover, it argues that the Department=s previously approved interval for Afull-blown applications for grass roots collocation@ is irrelevant to the Department=s decision in the Phase III proceeding (id.).

A. Standard of Review for Clarification

Clarification of previously issued Orders may be granted when an Order is silent as to the disposition of a specific issue requiring determination in the Order, or when the Order contains language that is sufficiently ambiguous to leave doubt as to its meaning. Boston Edison Company, D.P.U. 92-1A-B at 4 (1993); Whitinsville Water Company, D.P.U. 89-67-A at 1-2 (1989). Clarification does not involve reexamining the record for the purpose of substantively modifying a decision. Boston Edison Company, D.P.U. 90-335-A at 3 (1992), citing Fitchburg Gas & Electric Light Company, D.P.U. 18296/18297, at 2 (1976).

B. Analysis and Findings

The Department grants Verizon=s motion for clarification. Verizon is correct that the directive in the Phase I Order, to change ten business days to ten calendar days in compliance with a recently-issued FCC Order, only applies to the requested site survey. Phase I Order at 66. This requested site survey is outside of the collocation application process. It was not our intention to extend this ruling to the space availability inspection Verizon is required to perform within ten business days of receipt of a CLEC collocation application. While the Department would not oppose such a modification for all collocation applications, not merely collocation augmentation applications, we simply do not have the record in the Phase III proceeding to find this change is reasonable and warranted at this time.

V. REQUEST TO REEXAMINE PHASE III COMPLIANCE FILING

Rhythms requests that the Department revisit two provisions of Verizon=s approved tariff filings made in compliance with the Phase III Order (Rhythms Compliance Request at 1). Specifically, Rhythms asks that Part B, Section 5.4.3.B, Responsibility of the Telephone Company, be modified to make clear that Verizon may not unilaterally terminate a CLEC=s xDSL service absent a Department ruling (id. at 2, citing Phase III Order at 19). Rhythms suggests that the Department make several specific modifications to bring Verizon=s tariff language in compliance with the Phase III Order.

Upon review, the Department finds that Rhythms= suggestions for Part B, Section 5.4.3.B accurately represent the Department=s intent, as set forth in the Phase III Order. Further, we find that Rhythms proposed modifications do not substantively alter Verizon=s obligations but, rather, serve to clarify Verizon=s responsibilities. The Department directs Verizon to submit a revised Section 5.4.3.B incorporating all three of Rhythms= proposals.

The second tariff provision that is the subject of Rhythms= request is Part B, Section 5.4.1.A.5, Description of xDSL Qualified Links. Rhythms is concerned that the tariff=s inclusion of the following phrase in this section is restrictive: Awhich include twisted pair copper loop plant@ (id.). According to Rhythms, this phrase limits xDSL loops only to copper plant (id.). Such a restriction, Rhythms argues, is inconsistent with industry standards, which recognize the presence of fiber-based DLC systems (id. at 3).

While the Department reads the phrase quoted above as requiring Verizon to provide xDSL loops capable of supporting xDSL technologies that require some, as opposed to all, copper loop plant, the Department agrees that this phrase can be deleted without modifying Verizon=s xDSL obligations. Therefore, to remove any ambiguity surrounding Verizon=s responsibilities, we direct Verizon to make a compliance filing striking that phrase from Section 5.4.1.A.5.

VI. MOTION FOR EXTENSION OF JUDICIAL APPEAL PERIOD

A. Standard of Review

Section 5 of G.L. c. 25 provides, in pertinent part, that an appeal of a Department final order must be filed with the Department no later than 20 days after service of the order Aor within such further time as the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said . . . decision or ruling.@ See also 220 C.M.R. ' 1.11(11).

The 20-day appeal deadline indicates a clear intention on the part of the legislature and the Department to ensure that the decision of an aggrieved party to appeal a final order of the Department be made expeditiously. Swift judicial review benefits both the appealing party and other parties, and serves the public interest by promoting the finality of Department orders. Nunnally, D.P.U. 92-34-A at 4 (1993).

The Department=s procedural rules state that reasonable extensions of the appeal period shall be granted upon a showing of good cause. 220 C.M.R. ' 1.11(11). In regards to determining what constitutes good cause, the Department has stated:

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

Boston Edison Company, D.P.U. 90-355-A at 4 (1992).

2. Analysis and Findings

We find that a 20-day extension of the judicial appeal at this time is warranted. It will not unreasonably delay the finality of this proceeding nor prejudice any parties. Therefore, we grant Verizon=s motion for an extension of the judicial appeal period.

VII. ORDER

Based on the foregoing, it is

ORDERED: That Digital Broadband Communications, Inc.=s Motion for Reconsideration is hereby DENIED; and it is

FURTHER ORDERED: That Rhythms Links, Inc.=s Motion for Reconsideration is hereby DENIED; and it is

FURTHER ORDERED: That Verizon Massachusetts= Motion for Reconsideration is hereby GRANTED in part and DENIED in part; and it is

FURTHER ORDERED: That WorldCom Inc.=s Motion for Reconsideration is hereby GRANTED; and it is

FURTHER ORDERED: That Verizon Massachusetts= Motion for Clarification is hereby GRANTED; and it is

FURTHER ORDERED: That Verizon Massachusetts' Motion for an Extension of Time is hereby DENIED; and it is

FURTHER ORDERED: That Verizon Massachusetts' Motion for an Extension of the Judicial Appeal Period is hereby GRANTED; and it is

FURTHER ORDERED: That, unless expressly noted otherwise, Verizon shall file, within three weeks of the date of this Order, a compliance tariff consistent with the findings herein; and it is

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

By Order of the Department,

____

James Connelly, Chairman

____

W. Robert Keating, Commissioner

____

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).

1. [1] On October 25, 2000, Verizon submitted to the Department a request for a one-week extension to file its proposed unbundled feeder subloop tariff, in accordance with the Department=s Phase III Order. The hearing officer granted this request in an October 26, 2000 ruling.

2. [2] The Massachusetts CLEC Alliance (AMA CLEC Alliance@) consists of Adelphia Business Solutions Operations, Inc.; CoreComm Massachusetts, Inc.; MGC Communications, Inc. d/b/a Mpower Communications Corp.; and Vitts Networks, Inc. (MA CLEC Alliance Comments at 1 n.1).

3. [3] According to DBC, in order for a CLEC to obtain information contained in LFACS, it must first use Verizon=s mechanized loop qualification database, which does not include access to LFACS, before it may request a manual process, which does include access to the information that is in LFACS (DBC Motion at 6).

4. [4] Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 99-238 (rel. Nov. 5, 1999) (AUNE Remand Order@).

5. [5] It is the Department=s understanding that the UNE Remand Order is the subject of reconsideration at the FCC. Should the FCC require ILECs to make direct access to LFACS available to CLECs, the Department would direct Verizon to file an amended tariff complying with this new FCC directive in a timely fashion.

6. [6] If Verizon=s statement was made only in the context of direct CLEC access to LFACS, we continue to voice our agreement with Verizon=s position.

7. [7] In an Option C arrangement, Verizon would install and maintain a CLEC-purchased splitter in Verizon=s central office space. See Phase III Order at 26.

8. [8] Consolidated Arbitrations, D.P.U. 96-73/74, 96-75, 96-80/81, 96-83, 96-94.

9. [9] Consolidated Arbitrations, D.P.U. 96-73/74, 96-75, 96-80/81, 96-83, 96-94-Phase 4 (December 4, 1996) (APhase 4 Order@); Consolidated Arbitrations, D.P.U. 96-73/74, 96-75, 96-80/81, 96-83, 96-94-Phase 2-B, 4-B (May 2, 1997) (APhase 2-B, 4-B Order@). See also Verizon=s cost study filings made in compliance with the Phase 2-B, 4-B Order, on February 14 and March 14, 1997.

10. [10] APlug and play@ is a means by which a carrier may offer xDSL service to a customer served by fiber. Generally speaking, plug and play would allow a carrier to place line cards in Verizon=s digital loop carrier (ADLC@) electronics at remote terminals (ARTs@) that would perform an integrated digital subscriber line access multiplexer (ADSLAM@) and

splitter function for the entire line-shared loop purchased by the CLEC. See Phase III Order at 86.

11. [11] NYPSC Case 00-C-0127, Proceeding on Motion of the Commission to Examine Issues Concerning the Provision of Digital Subscriber Line Service, Opinion and Order Concerning Verizon=s Wholesale Provision of DSL Capabilities (issued October 31, 2000) (ANYPSC DSL Order@).

12. [12] Indeed, in its reply comments, Verizon states that AThis data [i.e., the 68-day average interval and the range of 49 to 89 days] clearly reflects [sic] the best evidence available for the Department to determine a reasonable and attainable standard interval@ (Verizon Reply Comments at 4).

13. [13] See Tr. at 370.

14. [14] In its motion, Verizon states that Acontrary to the Department=s statement, two site visits are normally required@ (Verizon Motion at 6, emphasis added) and that its verification of Network Equipment and Building Specifications compliance is performed simultaneously with processing the CLEC=s application fee (id. at 7 n.5, citing Phase III Order at 67 n.35).

15. [15] In fact, a simple comparison of activities would have resulted in an even shorter interval than that ordered by the Department. Verizon indicates that it must perform approximately 21 activities to complete a line sharing collocation augmentation request. In contrast, a standard collocation augmentation request has over 100 associated activities. Therefore, since a line sharing request has one-fifth the activities, we would have reduced Verizon=s interval to 15 days, or one-fifth of 76 days, if, as Verizon suggests, we relied on a simple comparison of numbers to support our findings.

16. [16] Verizon notes that Aa case may be made that load coils probably would not be necessary in a forward-looking fiber feeder network@ (Verizon Motion at 11-2).

17. [17] Consolidated Arbitrations, D.P.U. 96-73/74, 96-75, 96-80/81, 96-83, 96-94-Phase 4-L (October 14, 1999) (APhase 4-L Order@).

18. [18] Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996) (ALocal Competition First Report and Order@) (further citations omitted).

19. [19] Ameritech Corp., Transferor, and SBC Communications, Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95, and 101 of the Commission Rules, CC Docket No. 98-141, Second Memorandum Opinion and Order, FCC 00-336 (rel. Sept. 8, 2000) (ASecond SBC/Ameritech Merger Order@).

20. [20] At most, Verizon argues that plug and play Acould@ result in administrative problems, provisioning delays, and compatibility issues (Verizon Motion at 15 n.8). The Department cannot rely on such hypothetical problems that have no support in the record.

21. [21] Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket Nos. 98-147, and 96-98, Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 96-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, FCC 00-297 (rel. Aug. 10, 2000) (ACollocation Further Notice@).

22. [22] Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas, CC Docket No. 00-65, Memorandum Opinion and Order (rel. June 30, 2000) (ASBC Texas Order@).

23. [23] D.T.E. 98-57-Phase I, at 65-6 (September 7, 2000) (APhase I Order@).