COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS & ENERGY

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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 on May 5, 2000 to become) D.T.E. 98-57, Phase III

effective June 4 and June 6, 2000 by New)

England Telephone and Telegraph Company)

d/b/a Bell Atlantic - Massachusetts)

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REPLY BRIEF OF VERIZON MASSACHUSETTS

In this Reply Brief, Verizon Massachusetts ("Verizon MA") responds to statements by various competitive local exchange carriers ("CLECs")(1) regarding Verizon MA's Digital Subscriber Line ("DSL") Service and Line Sharing arrangements. Contrary to the CLECs' claims, Verizon MA has not overstated its rates. Verizon MA has properly assessed the work-time involved to provision the xDSL and line sharing services and developed appropriate forward-looking costs, using Department approved historical cost factors where applicable. Verizon MA has also appropriately used existing collocation-related rates and one-time provisioning charges where the same functions and activities are involved. Accordingly, there is no basis to re-litigate the Department's accepted TELRIC cost methodology at this time.

In their attempt to support their erroneous claims regarding Verizon MA's xDSL and line sharing services, the CLECs distort applicable federal law and ignore relevant state precedent. As was demonstrated in its Initial Brief, Verizon MA's proposed tariff fully complies with the requirements of the Telecommunications Act of 1996 ("Act") and the Federal Communications Commission's ("FCC") Line Sharing Order(2) and UNE Remand Order.(3) The Department should adopt Verizon MA's DSL and line sharing tariff with the terms, conditions and rates proposed by the Company, which are fully supported by costs developed in accordance with the Department's approved and well-established forward-looking, incremental cost methodology.

I. ARGUMENT

A. Tariff Definition Issues

Among the criticisms made by CLECs against Verizon MA's proposed tariff are that it restrict the types of unbundled loops that can be used to provision line sharing and that the provisions could permit Verizon MA to unilaterally terminate CLEC's service based on alleged interference. Rhythms Initial Brief, at 7; CLEC Alliance Initial Brief, at 3. As discussed below, their criticism is wrong.

1. Verizon MA's Tariff Definition of DSL Services Is Not Unduly Restrictive and Would Permit CLEC Deployment of Advanced Services.

Part B, Section 5.4.1.A of the proposed tariff defines an xDSL link as an unbundled loop that provides transmission technology capable of supporting ADSL, or HDSL. This is consistent with industry standards, as reflected in the FCC's Line Sharing Order. Line Sharing Order, at ¶197. Verizon MA's proposed tariff accurately and appropriately reflects the FCC's rules, and should be approved as filed.

Some CLECs disagree with the inclusion of specific transmission speeds and loop lengths for the digital links in the tariff. Rhythms Initial Brief, at 6; CLEC Alliance Initial Brief, at 3. These tariff specifications are not, however, arbitrary, as the CLECs allege, but are based on accepted industry standards that ensure that the loops will adequately support the data transmitted over them.

For example, the HDSL digital two-wire link is designed to work on loops up to 12,000 feet. The ADSL digital two-wire link has two variants, one for loops less than 12,000 feet and one for loops less than 18,000 feet. These parameters are technical limitations, not limits created by Verizon MA. Moreover, since all data service providers, including Verizon affiliates, would be subject to the same loop engineering standards, there is no competitive disadvantage for CLECs. Accordingly, there is no reasonable basis for eliminating these technical specifications in the tariff, and the proposed tariff provision should be approved as filed.

2. Verizon MA's Tariff Appropriately Promotes Advanced Services and Protects the Provision of Voice Services.

Some CLECs criticize Verizon MA's proposal to protect the voice service provided by the ILEC over the low frequency portion of the copper loop in a line sharing arrangement. CLEC Alliance Initial Brief, at 4-5; DBC Initial Brief, at 8-9. The tariff affirms Verizon MA's ability to restore promptly a customer's voice grade service in order to protect the integrity of the network. Line Sharing Order , at ¶ 211. However, nothing in the proposed tariff is meant to imply that Verizon MA will not comply with applicable FCC rules, as some CLECs suggest. Verizon MA will work cooperatively with CLECs in trouble-shooting, but ultimately the Department must decide whether to allow the Data CLEC or the end user whose voice service is affected adversely to direct Verizon MA to terminate the data service. Verizon MA could not meet its service obligations if it were forced to take direction from the Data CLEC, even on the voice portion of the line.

A. General Rate and Cost Issues

Several CLECs challenge the rates proposed by Verizon MA. They allege that the rates are too high, are discriminatory, not based on forward-looking incremental costs, or rely on historical cost factors. The CLECs also dispute Verizon MA's use of existing collocation and other related rates for xDSL and line sharing arrangements. They urge the Department to establish interim rates at an arbitrary 50 percent discount off the proposed tariff rates, and to order Verizon MA to resubmit a conforming TELRIC based cost study. Those requests should be rejected.

First, Verizon MA's proposed rates would apply equally to all providers of xDSL and line sharing services, including any affiliates of Verizon. Second, Verizon MA's costs fully comply with the Department approved TELRIC methodology in the Consolidated Arbitrations proceeding and are consistent with FCC requirements as set forth in the Local Competition Order and Line Sharing Order. Verizon MA's costs also appropriately reflect annual cost factors approved by the Department and routinely applied by Verizon MA, in accordance with the Consolidated Arbitrations decisions. Third, Verizon MA's proposal to use existing collocation and other service connection rates is reasonable because the same functions would be provided under line sharing arrangements, and logically the same rates should apply. To apply some other rate would be discriminatory.

What the CLECs really seek is an opportunity to re-litigate the TELRIC methodology approved by the Department in the Consolidated Arbitrations The CLECs also seek completely to eliminate some legitimate charges.. The Department should render a final decision on Verizon MA's proposed tariff based on the ample evidentiary record developed in this proceeding and adopt the rates as proposed.(4)

1. The Department Should Not Establish Interim Rates in This Proceeding.

The CLECs rely on the New York Public Service Commission's ("NYPSC") decision approving interim rates to support their argument that interim rates should be established by the Department in this proceeding. There is no need for the Department to defer a final decision on establishing rates for xDSL and line sharing in Massachusetts. An ample record has been developed through discovery, presentation and cross examination of witnesses and parties have had a full opportunity to participate in this proceeding.(5) The record thus developed fully supports approval of Verizon MA's proposed rates.(6)

Accordingly, the Department should set the rates at the levels proposed by Verizon MA in this filing. These rates are consistent with those contained in the May Agreements reached between Verizon and some CLECs, i.e., Rhythms and Covad, in Massachusetts, which are in effect on a contractual basis pending a Department decision in this proceeding. Exh. VZ-MA 7 & 8.

2. Verizon MA's Underlying Cost Methodology is Properly Forward Looking and Is Consistent with TELRIC Based Cost Methodologies

Verizon MA's proposed rates are a combination of existing rates that were already approved by the Department in the Consolidated Arbitrations proceeding, and new rates that were developed using the Department approved TELRIC-based, forward-looking, incremental cost methodology established in that same proceeding. CLECs argue that Verizon MA's underlying cost methodology is not based on a "forward-looking" data architecture, as required by the Department and the FCC, because it utilizes a copper (not fiber) based network. This is wrong.

As indicated in Verizon MA's Initial Brief, the line sharing arrangements defined by the FCC only relate to the copper portion of the loop, not to fiber transport systems or to DSLAMs located at remote terminals. Line Sharing Order, at ¶ 26. As noted by the FCC in the Local Competition Order,

…prices for interconnection and access to unbundled elements would be developed from a forward looking economic cost methodology based on the most efficient technology deployed in the incumbent LEC's current wire center locations. This approach mitigates incumbent LECs' concerns that a forward looking pricing methodology ignores existing network design, while basing prices on efficient, new technology that is compatible with the existing infrastructure. This benchmark of forward looking cost and existing network design most closely represents the incremental costs that incumbents actually expect to incur in making network elements available

to new entrants.

Local Competition Order, ¶ 685 (emphasis added).

Currently, line sharing does not occur on fiber loops anywhere in Verizon's network. Therefore, there is no requirement that a forward looking, incremental cost methodology be based strictly on a fiber-based architecture. The standard is that the network should reflect the incremental costs that the ILECs can expect to incur.

The xDSL technologies at issue in this proceeding are, by definition, copper-based: that is, they can only be utilized over copper cables. Therefore, the relevant costs should take into account the network that is being used. It is irrational to develop these costs on the network design (i.e., universal deployment of DLC technology with integrated switch/loop interfaces) that was assumed for the pricing of different types of loops, such as 2-wire analog loops as a surrogate for xDSL loops, considered in the Consolidated Arbitrations proceeding. Exh. VZ-MA 4, at 65. Nothing in the Department's orders or the FCC's decisions precludes the use of appropriate, forward looking, incremental costs for line sharing based on a reasonable assumption that a copper network will be used.

The CLECs' claim that by using a copper-based network for line sharing, Verizon MA would overrecover its costs is unsubstantiated. The CLECs contend that this would occur because of a mismatch between the copper-based line sharing rates and the fiber-based loop rates. Rhythms Initial Brief, at 52; CLEC Alliance Initial Brief, at 10; Tr. 3:586. For example, Rhythms asserts that because of the lower recurring costs associated with a copper-based network design, Verizon MA would overstate its costs by using a fiber network to price its recurring UNE loops while using a copper network to establish non-recurring charges. Rhythms Initial Brief, at 52. This claim makes no sense and is directly contradicted by the facts.

As Ms. Stern stated, an underlying copper-based recurring monthly loop rate study filed by Verizon New York shows that the copper-based rate is nearly three times greater than a fiber-based rate. Tr. 3:594. More specifically, assuming an all-copper network, the New York monthly loop rate would be $33.20, as compared to $12 in a fiber environment. Tr. 3:764-64. This directly contradicts Rhythms' basic premise, and thus undercuts the CLECs'claims.

The CLEC's position that a fiber-based network must be used for forward-looking cost study purposes in this circumstance is also untenable because it would effectively negate the FCC's requirement that the ILECs be allowed to recover certain costs associated with providing line sharing. Tr. 3:594. The FCC acknowleged that when load coils and bridged taps are present on the copper loops, loop conditioning is required and the ILEC is entitled to recover the costs to remove the load coils to provision line sharing. Line Sharing Order, at ¶ 148. If a fiber-based network is assumed for cost development purposes, then the lines hypothetically would not be equipped with load coils and bridged taps, and the ILECs would not be able to recover their costs of removing them from the shared lines. Tr. 3:594. This is precisely the type of unfair and "fantasy" network scenario that the Eighth Circuit Court has said cannot be squared with the plain language of the Act. Verizon MA Initial Brief, at 19-20. Further, it is clearly not the result intended by the FCC in its Line Sharing Order. The Department should reject the CLECs' argument that line sharing rates must be based on a forward-looking, incremental cost methodology that assumes fiber technology.

1. Verizon MA Properly Applied Historical Cost Factors In Developing its Proposed Splitter-Related Charges

Contrary to CLECs' claims, Verizon MA correctly applied established historical cost factors in developing rates for splitter installation, splitter equipment and

support, and splitter administration and maintenance. Rhythms Initial Brief, at 53; Covad Initial Brief, at 29.The use of those factors is consistent with the Department's approved forward-looking incremental cost methodology.

For example, the splitter installation fee of $1215 (per 96 unit shelf) appropriately includes the Department approved EF&I (Engineer, Furnish and Install) factor under Option C (i.e., when the ILEC installs the splitter. Exh. DTE BA-MA 1-1 (Errata); Verizon MA Initial Brief, at 56-58. In this case, Verizon MA applied that installation factor to the splitter related investment in accordance with the methodology established in the Consolidated Arbitrations proceeding. In D.T.E. 98-57 (Phase I), the Department recently recognized Verizon MA's use of the EF&I factor as an appropriate means of determining installation costs for relay rack equipment in connection with virtual collocation. Verizon MA Initial Brief, at 58; DTE 98-57 Order, at 188 (2000). Likewise, the Department should approve the use of an installation factor in this proceeding.

The EF&I factor of 0.45 is an established means of capturing equipment related investment under the Department approved TELRIC methodology. Exh. VZ-MA 4, at 63-64. It represents a composite of various types of equipment that is installed and engineered in a central office ("CO"). That factor is designed to "smooth out" the allocation of installation costs over all Verizon MA's CO products and services over time. Tr. 3:716.

That approach eliminates the cumbersome and potentially contentious process of developing and validating the engineering, installation and other miscellaneous costs (e.g., shipping, warehousing, etc.) for every item of equipment included in a cost study. Exh. VZ-MA 4, at 64. To begin adjusting the EF&I factor to account for new technologies when any new product or service is introduced would necessitate frequent price and tariff changes. Further, it is economically inappropriate to selectively de-average only when it suits a CLEC's purpose, e.g., to lower the resulting rates, but not at other times, such as when the rates would increase.

Rhythms incorrectly argues that the application of the EF&I factor to determine the splitter installation costs is redundant because those costs are already recovered in collocation charges. Rhythms Initial Brief, at 54. This is incorrect. There are additional costs, such as additional warehousing, shipping, and engineering costs that will be incurred in a splitter installation job that are not included in a standard collocation cage project.(7)

Rhythms also contends that the EF&I factor used in developing all other UNE rates must be recalculated because line sharing installations cost less, and thus Verizon MA would overrecover its costs. The purpose of using an EF&I factor to calculate all rates is to apply an average factor to levelize those instances where installation costs may fluctuate. In light of this fact, it would be unreasonable to selectively de-average the EF&I factor for line sharing activities.(8)

Likewise, the annual carrying charge factor is a historically acceptable cost method for allocating common overheads to Verizon MA's various products and services based on the underlying investment. Tr. 3:641. As in the case of the EF&I Factor, the annual carrying charge factor was used in the forward-looking, incremental cost methodology established in the Consolidated Arbitrations proceeding. The CLECs have presented no justification for changing that costing principle.

In this proceeding, the annual carrying charge ("ACC") factor of 0.0806 is applied in the calculation of the "Administration and Support Charge" as a means of allocating administrative/wholesale marketing costs (e.g., product management), "other support" expenses, and common costs under both Options A and C. Tr. 3:641-42; Exh. VZ-MA 2, Workpaper, Sec. 1, p. 2 of 3. That charge applies per 96-unit shelf and ranges from $24.85 for Option A to $26.28 for Option C. Under Option C, the additional splitter maintenance costs (e.g., testing, repairs, moves, changes and upgrades) are also recovered.(9) On the other hand, the Splitter Equipment Support charge of $3.38 applies per 96-unit shelf to recover the monthly costs for floor space and equipment racking used by the CLEC when collocating its splitter in

Verizon MA's CO space under Option C. See Exh. DTE BA-MA 1-1 (Errata). Since some splitters are purchased in shelves, these recurring charges are appropriately developed on per shelf, not a per line, basis, as the CLECs erroneously suggest. Rhythms Initial Brief, at 94-95.

The annual carrying charge factor is specific to wholesale operations because all retail costs were removed in the development of that factor in the Consolidated Arbitrations proceeding. VZ-MA Reply to RLI-RR-9; Exh. RLI/CVD 61. As explained in detail by Ms. Stern, that factor captures and recovers the costs for a wide range of activities, including negotiating 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. Tr. 3:642. Just as that factor has been applied to all recurring collocation charges, it is appropriate for Verizon MA to apply that same factor to the splitter administration and support costs to derive the applicable recurring charges in this context. VZ-MA Reply to RLI-RR-10.

The CLECs argue that these administration/support charges should be drastically reduced or eliminated entirely. Rhythms Initial Brief, at 98; Covad Initial Brief, at 28. Clearly, these costs should be recovered from the CLECs as cost-causer. Indeed, it would be unfair and discriminatory not to recover such costs from CLECs under both Options A and C since non-line- sharing CLECs contribute to the recover of these wholesale marketing costs through the inclusion of the annual carrying charge factor in other rates. Similarly, the line sharing CLECs should bear their fair share of the costs for these activities. Thus, the cost recovery mechanism should be the same for line sharing arrangements and should be relatively neutral between Options A and C.

Accordingly, there is no basis for the CLECs' objections to the use of Department approved historical cost factors in the proposed tariff.

2. Certain General Collocation Rates and Non-Recurring Provisioning Charges Appropriately Apply to Line Sharing Arrangements.

Verizon MA proposes to use existing collocation-based charges under line sharing arrangements because the same work activity is required. They include the existing non-recurring application fee of $1,500 and "engineering and installation" fee of $1453.09 for collocation augments, as well as existing collocation cross-connect and tie-cable (or SAC) charges approved in the Consolidated Arbitrations proceeding. Tr. 3:566.

The collocation application and engineering/implementation fees would be assessed for the initial processing, design and planning of the connections to the line sharing arrangement. If multiple splitters of the same type are ordered on a single application for a central office, only one collocation application fee and engineering/implementation fee would apply. These are the same activities covered by the rates for other collocation applications, so the same charges should apply for line sharing.

The only distinction is that in the case of line sharing arrangements, two (not one) tie-cables are connected to the collocation node and, therefore, two Service Access Charges ("SACs") would apply. Tr. 3:566, 788-90. This is an appropriate modification that accurately reflects the actual service configuration of a voice and data line, and a separate data connection. Accordingly, the Department should allow the use of these approved collocation rates.

The CLECs contend that if the splitter is mounted on the Main Distribution Frame ("MDF") instead of the relay rack, this would reduce the required number of SACs or tie cables to the POT Bay. Tr. 3:780-81; Rhythms Initial Brief, at 93. As stated in Verizon MA's Initial Brief, the MDF mounted method is not required by the FCC, would not conserve space, and indeed is not feasible since there is no NEBS compliant equipment currently available. Tr. 3:784; Verizon MA Initial Brief at 60.

Accordingly, Verizon MA's applicable collocation charges based on a rack-mounted splitter configuration are reasonable, and the CLECs must bear the costs for their use of those facilities.

Some CLECs also contend that the collocation application-augment charges and engineering/implementation charges should not apply if the CLEC recycles spare cabling for line sharing purposes. That argument assumes, however, that the cables that the CLEC seeks to use are organized appropriately into binder groups, have test access units in place, and will not create interference problems if used for data services. Verizon Initial Brief, at 69. If all of these assumptions are not true, then the option of recycling the existing cable for splitter connections either would entail additional costs or would not be available at all.

Ms. Stern provided the following example of how additional charges could be avoided by a CLEC requesting line sharing:

If they [CLECs] had done their installation job when they applied for a collocation -- let's say they built a traditional physical collocation cage, placed their DSLAM in it and ran tie cables back to the MDF that were terminated with line sharing in mind, so the tie cables were wired for wide-band testing and were terminated on a terminal block in the configuration that we use for line sharing, which is the voice and the voice-and-data pair go right on top and bottom of each other on the cable block…. That's the kind of a standard operating procedure we adopted after working with Rhythms in New York, where we tried to reuse some existing cable, found we were running into all sorts of operational problems, so we agreed to go back and re-terminate onto clean blocks and start from scratch.

But if, knowing that…somebody was setting up a collocation arrangement today, knowing that configuration and the way we need to set up these blocks for collocation, they [would] set it up that way in the first place, they wouldn't have to do a rearrangement, and therefore they could use the existing facilities and the fee would not apply.

Tr. 3:627.

Based on Ms. Stern's explanation, it is clear that the collocation augment and implementation charges are valid and should apply unless prior planning and preparation obviated the need for cabling rearrangements when line sharing is introduced. For these reasons, the New York Commission accepted Verizon New York's full collocation rates as applicable to line sharing arrangements. Tr. 3:591. The Department should reach the same result in this proceeding.

In addition to the collocation-related rates, Verizon MA proposes that recurring and non-recurring charges previously approved by the Department in the Consolidated Arbitrations proceeding for two-wire analog loop rates apply to stand-alone (unbundled) xDSL loops. This is a reasonable method for pricing unbundled network elements ("UNEs") and should be adopted by the Department. Tr. 3:564-65.

The applicable line-related charges include all of the basic non-recurring functions related to the installation of a two-wire analog loop that apply regardless of whether a stand-alone xDSL loop is involved.(10) Although some tasks, such as central office wiring,(11) are more complex in a line sharing arrangement, the work is similar to installation of a two-wire analog line. Therefore, Verizon MA chose not to apply a differential rate for the line sharing work. Certainly, there is no basis for charging a lower rate as some CLECs assert.

3. The Loop Qualification and Loop Conditioning Charges Proposed by Verizon MA Are Based on Reasonable Work Time Estimates and Should be Approved.

The Department should approve Verizon MA's proposed new line-related charges for loop qualification and loop conditioning when a CLEC requests or uses both line sharing and stand-alone xDSL loops. Tr. 3:565. As discussed below, those new rates were developed using current work time estimates and labor rates, as well as Department accepted cost factors, where applicable. Tr. 3:570-71. This is consistent with the Department's recurring and non-recurring cost methods in the Consolidated Arbitrations proceeding (Phase 4-G Order).

Verizon MA proposes a $0.65 monthly charge for utilizing the loop qualification database.(12) The mechanized loop qualification charge applause when the information necessary for a loop qualification is found in the database (of which there is a 97.8% likelihood). If the information is not available, or if the CLEC wants more information than the mechanized loop qualification database provides, then the CLEC would incur a manual loop qualification charge of $113.67 and, if requested, an engineering query fee. Both one-time charges would apply on a non-discriminatory basis to Data CLECs and the separate Verizon data affiliate.

Verizon witness Mr. Bruce Meacham explained that work time estimates underlying these charges were developed from the very technicians and supervisors who perform the activities involved. Tr. 3:703. Those estimates were verified, adjusted to make them forward-looking, and then multiplied by Verizon labor rates. Tr. 3:705. There would be an additional charge for expedited work. Tr. 3:706.

Rhythms argues that because Verizon markets its own Infospeed DSL services to retail customers with loops that do not require conditioning, then the CLECs should be relieved of any loop qualification charges. Rhythms Initial Brief, at 79. That argument is absurd. Verizon MA does not sell to a customer if loop conditioning would be required to serve them. CLECs are free to similarly limit their DSL offerings. However, when CLECs benefit from using the mechanized loop qualification database, it is fair that they be charged for the costs of developing and maintaining that database. The Act does not entitle CLECs to a "free ride." Likewise, if they seek additional information regarding a particular loop, they should pay for that as well. Exh. VZ-MA 2, at 70.

In the alternative, Rhythms contends that loop qualification rates be set at $0.04 per month, based on recovering the costs over the life of the loop plant. This methodology is seriously flawed. Verizon MA properly used a 30-month amortization that reflects the forecasted, average life of the service. Exh. VZ-MA 2, at 69-70. Since loop plant changes, each new provider would have to do a new database query to ensure that the information on which they were relying was current. On the other hand, Rhythms' proposed method is inconsistent with the Department approved TELRIC methodology and would artificially lower rates to CLECs without any legitimate basis.

Rhythms' proposal to eliminate certain cost components relating to ongoing maintenance expenses for loop qualification is also unjustified. Contrary to Rhythms' claims, it is inappropriate to recover those costs across all loop-related services. Rhythms Initial Brief, at 81. The costs should be recovered from the cost-causer, i.e., the Data CLEC, not from all UNE customers. Thus, Verizon MA has properly allocated those costs to wholesale and retail loops forecasted to provide xDSL services. This ensures no over-recovery of costs. Exh. VZ-MA 2, at 70 Accordingly, all of Rhythms' proposed modifications to Verizon MA's proposed loop qualification rates should be rejected.

The loop conditioning charges challenged by some of the CLECs were based on estimated work times developed by the individuals responsible for performing those functions. Their estimates were then examined by a third party to ensure statistical precision. Exh. VZ-MA 2, at 73, 76. Appropriate work-times were then multiplied by applicable labor rates to derive the appropriate non-recurring charge. Higher, cost-based charges for expedited service requested by a CLEC would also apply where appropriate.

Contrary to CLECs unsubstantiated claims, there is no duplication of functions in

developing the loop conditioning and loop qualification charges. CLEC Alliance Initial Brief, at 11. For example, the "Engineering Work Order" entails discrete activities performed only by the Facilities Management Center when an order is placed to do custom-designed work on a loop. The "Engineering Query Process" reflects the work done by other groups when a CLEC requests information. Exh. VZ-MA 2, at 75. Nonrecurring charges were proposed for these two separate functions, and they are not redundant.

The CLECs grossly understate the amount of work involved in loop conditioning. See e.g., Rhythms Initial Brief, at 85-86. As Verizon witness John White explained, the work involved may be simple or complicated. First, a load test is conducted to determine if the loop has a load coil. If a load coil is found, then a "construction job" is requested. Tr. 1:145. The complexity of this job will vary depending on whether the loop in question is underground, aerial, or a combination of both. Verizon MA Initial Brief, at 52. Additional testing may also be required before the load coil units are removed and the wiring process can be completed. Tr. 1:146-47. Exh. VZ-MA 2, at 32-34.

Rhythms and Covad wrongly claim that bridged taps and load coils can be removed from multiple pairs simultaneously.(13) Loop conditioning work is rarely requested for multiple loops at the same splice point at the same exact time. In order to behave as these CLECs suggest, Verizon MA would have to accumulate line sharing orders in large batches and only perform the loop conditioning work when a certain threshold of orders per area had been reached. Clearly such behavior would disadvantage individual CLECs and would be discriminatory. Instead, Verizon MA proposes to perform loop conditioning upon request, but the CLEC must bear the costs that they cause.(14)

4. Wideband Testing System Charges Are Appropriately Developed And Are Not "Optional"

Verizon MA proposes to incorporate Wideband Testing System ("WTS") on the line sharing arrangements to help reduce costs for trouble-shooting on shared loops. Exh. VZ-MA 2, at 42; Tr. 3:567. This enhanced capability allows Verizon MA to avoid costly technician dispatches and instead employ relatively inexpensive remote testing to isolate troubles. WTS minimizes the costs associated with detecting and isolating troubles and its use represents the most efficient and cost effective means available for providing access to the line sharing UNE.

Some CLECs ask the Department to reduce Verizon MA's proposed $1.90 monthly charge for WTS to only $0.55, less than one-third of the Verizon MA proposed rate. Rhythms' Initial Brief, at 77. The CLECs assert that the reduced rate is appropriate because of cost savings Verizon gained from a completely different retail service testing system.(15) There is no record support for reflecting those savings in these charges.

The CLECs further argue that WTS should be optional, based on the premise that CLECs will not benefit from WTS because they will not have direct access to the system or the test results.(16) Their arguments are meritless.

Verizon MA's proposed charge of $1.90 is reasonably based on cost studies for physical dispatches responding to problems in the data portion of a digital or shared loop. Those costs would be avoided if Verizon MA incorporates WTS into its line sharing arrangements. For ILECs and CLECS alike, the costs of a dispatch are greater than the smaller, upfront WTS charge. In addition, the $1.90 charge includes only the costs of functionalities used in a wholesale, line sharing environment.(17)

Without regard to whether the CLEC accesses WTS directly, or benefits from it indirectly, all line sharing CLECs should bear the costs of WTS since they are saving the costs of dispatches.(18)

Moreover, although the CLECs imply that they can perform their own testing, they still recognize and rely on Verizon MA's test systems, as evidenced in testimony in the recent 271 proceedings in Massachusetts.(19) Accordingly, it appears that the CLECs have no intention of relieving Verizon MA of its testing obligations, they would just prefer not to pay for it. That position is unreasonable.

In support of their recommendation that the WTS charge should be optional, some CLECs point to the NYPSC's decision in Case No. 98-C-1357. Rhythms Initial Brief, at 78. Contrary to the CLECs' claims, the NYPSC did not make WTS rates optional because of "access" issues. A CLEC that uses WTS must bear its share of the WTS costs because those system costs are a legitimate part of the forward-looking cost of line sharing. Nothing in the NYPSC order suggests otherwise.

In Case No. 98-C-1357, the NYPSC ruled that CLECs that choose not to order WTS must pay for each individual dispatch and subject Verizon New York to less stringent service metrics than CLECs that order WTS. The NYPSC held that a CLEC choosing the lesser service must, "recognize and bear the consequences of its decision."(20) Providing WTS as an option, as was done in New York, cannot reasonably protect the interests of Verizon MA. As noted in the Initial Brief, dispatch charges only recover the "primary" costs of a dispatch, but fail to include the "secondary" costs (e.g., costs of carrier and customer disputes, etc.) that cannot be readily measured and incorporated into a Department approved rate. Verizon Initial Brief, at 66. The ILEC, not the CLEC, will indirectly bear those costs that are caused by the CLEC's decisions to forego WTS. Verizon MA has concluded that incorporating a state of the art testing system that saves costs in the long run is the best means of providing line sharing services to CLECs as customers. Accordingly, Verizon MA urges the Department to accept that reasonable decision and reflect it in the line sharing rates.

In the alternative, if the Department finds in favor of an optional WTS, then the two mechanisms established by the NYPSC (i.e., charges per dispatch and lower performance standards) must also apply. Moreover, the WTS rate would need to be modified to reflect the fact that optional WTS will have a lower utilization level, and thus a higher unit cost, than a mandatory WTS. Absent that adjustment, an optional WTS rate would be unfair and unreasonable to Verizon MA.(21)

5. Verizon MA's Total Non-Recurring Charges for a Typical Line Sharing Arrangement Are Reasonable

Verizon MA has calculated an average non-recurring cost of $97.92 and $110.58 for Options A and C, respectively, for a typical line sharing arrangement. These charges can readily be derived from the proposed tariff and they reflect the charges contained in the Agreements with Rhythms and Covad that are now in effect. Exh. VZ-MA 7 and 8.

If the CLEC elects to pay on installments over a three-year period, a factor equivalent to the cost of capital (12.16 percent) approved by the Department, plus a two percent allowance for bad debt, would apply pursuant to D.T.E. Tariff No. 17, Part A, Section 4.2.1. This brings the total monthly non-recurring charge to approximately $3.35 for an average loop amortized over a three-year period under Option A, and $3.79 under Option C.(22) This amount is a small fraction of total monthly revenues charged to end users for ADSL services.(23) In addition, Verizon MA proposes a monthly recurring charge of approximately $3.35 per average loop for Option A and $3.40 for Option C, when amortized over the same three-year period.

The disputed non-recurring rates are: (1) manual intervention surcharge; (2) field installation dispatch; (3) trouble dispatch redirect; (4) manual loop qualification; and (5) cooperative testing. Rhythms arbitrarily applied a 20 percent factor to all of those rates to reflect its assumption that these charges would apply only 20 percent of the time. Rhythms Initial Brief, at 62. Rhythms apparently obtained that percentage from Verizon MA's "Field Installation Dispatch" charge,(24) and then

extrapolated it to the other non-recurring charges. However, Rhythms provided no rationale for why a 20 percent adjustment would be appropriate in all cases. Therefore, Verizon MA excluded them entirely from its calculations in DTE-RR-7.(25)

For example, the only circumstance in which the "Manual Intervention Surcharge" of $12.03 would apply is if the CLEC is unable to interface properly with the operating systems (e.g., EDI or Web GUI). Exh. VZ-MA 2, at 13; Tr. 3:589. Therefore, whether the "Manual Intervention Charge" applies is entirely within the CLEC's control and can be avoided if the CLEC sends complete and accurate orders to the ILEC for processing. The same is true of the "Engineering Query Charge" and "Service Work Order Charges", which only apply when the CLEC requests, or inquires about, a customized designed circuit. Exh. DTE BA-MA 1-37. Similarly, the "Trouble Dispatch Redirect" charge of $77.24 should not be included in the estimated monthly rate because it is not an installation-related charge and would only be applied when a CLEC improperly requests the ILEC to dispatch a repair technician to the wrong location on a repair/trouble ticket. As a result, Verizon MA appropriately included no charge for the above activities in quantifying the monthly rate for a "typical" line sharing arrangement.

The combined recurring and non-recurring shared loop rates proposed by Verizon MA are reasonable, affordable and cost-justified. The availability of an installment payment plan ensures that CLECs can enter the market with lower up-front costs. Moreover, these rates will apply equally to Verizon MA's data affiliate as well as to other Data CLECs.

There is no basis for changing the proposed non-recurring charges in Verizon MA's line sharing tariff and the Department should so affirm.

A. Operational Issues Relating to xDSL and Line Sharing Services

There are disputes between Verizon MA and the CLECs in this proceeding provisioning intervals, provisioning times for augments,, splitter ownership, line splitting, and access to fiber-fed loops. The record supports adoption of Verizon MA's proposed tariff on each of these disputed matters.

1. Verizon MA's Proposed Provisioning Intervals Are Reasonable

Verizon MA's proposed six-business day interval for the provisioning of line-shared lines is reasonable and the CLECs' suggestion that staggered intervals (3-2-1) should be mandated is not.

The FCC's Line Sharing Order states that "the most appropriate line interval to apply at the outset is the interval applicable to the ILEC's standard DSL loop offering." Line Sharing Order, at ¶171. That interval for Verizon MA is six-business days.. Exh. VZ-MA 3, at 6. A more stringent requirement cannot reasonably be met. While the FCC stated that state commissions are free to adopt "more accurate provisioning standards" for line sharing, the 3-2-1 interval proposed by the CLECs is not "more accurate." Instead, the evidence in this proceeding supports the retention of the six-business day interval for one to nine lines and the negotiated intervals for greater than nine lines until further experience is gained in the provisioning of these lines.

Line sharing provisioning often requires field dispatches in addition to central office work, for example, when the customer is served from an unmanned office(26) or where Verizon MA determines that a metallic test unit ("MTU") exists on the line. Tr. 1:32. Dispatches could also be required if a pair swap is required. In provisioning its own Infospeed DSL service, Verizon MA found that dispatches were required 20 to 25 percent of the time. Exh. VZ-MA 4, at 17; Exh. DTE BA-MA 2-9 (supplementals); Exh. RLI BA 1-2.

Line sharing provisioning may also require inside dispatch and adjustments to force

and load. Line sharing orders are handled through Verizon service centers and through OSS. There are numerous steps involved including, identification and verification of the assigned cable and pair; identification and verification of the tie cables to be used; inventory updates to process for maintenance and network management; retail records updating to reflect the shared use of the line, and e billing systems updates. Exh. VZ-MA 4, at 8. Throughout this process force-to-load considerations must be taken into account in the organizations that process these front-end functions.

Once those processes are concluded, the Work Force Administrator must assign a CO technician to perform the cross connect work in the central office. Part of that force-to-load balancing is an attempt to ensure that dispatches to unmanned offices are as efficient as possible by having as many jobs performed at one time by one dispatch rather than piecemeal, one-at-a-time jobs. Complicating this balancing process is the fact that demand for services like DSL is cyclical and can be influenced by service providers' marketing campaigns, thereby creating peaks and valleys in service demand. Marketing by the Data CLECs can also result in high demands during weekends or holidays.

Moreover, at any stage in this process mistakes can arise in terms of the information provided by the Data CLEC or the status of a particular line or facility relating to the request. Trouble-shooting to determine the source of the error and to fix it diverts the attention and ability of personnel to complete "clean" orders. It also delays the defective order. For example, Data CLECs can change the connection location (i.e., the facilities assignment) as to where work needs to be performed in the central office to complete the order.(27) If an error is detected, the service order "falls out" and must be manually fixed before the wiring and testing takes place. Thus, the fact that certain specific work activities may be completed within a specific period of time is not indicative of the full length of time it takes to provision an average order. A line sharing order is essentially "custom-made" because it involves the provisioning of line sharing over a loop that is currently serving an existing voice customer in a specific location, with all of the work force management planning which tailor-made ordering entails. In light of these variables, the CLECs' proposed 3-2-1 provisioning plan is unreasonable..

The Pennsylvania Public Utilities Commission ("PAPUC") reached the same conclusion in rejecting a Pennsylvania arbitrator's recommendation to adopt the CLECs' 3-2-1 proposal intervals. That Order states:

We shall direct that Verizon PA provision line sharing at a parity standard. We have consistently endorsed a parity standard as striking the appropriate balance between the incumbent's obligation to respond to the CLEC's request for operational support systems, and the need for the CLEC to provide service which, at minimum, is comparable to that of the ILEC . . . we are confident that requiring Verizon PA to provide line sharing at an interval comparable to the time in which it provisions its own retail DSL service is adequate . . . the CLEC Petitioners assert that the most comparable retail service is Verizon PA's Infospeed DSL. Therefore, we . . . direct that Verizon PA provision line sharing at parity with this service until modified by any future order of this Commission.(28)

Verizon MA's proposed six-business day interval for Massachusetts is in parity with the interval Verizon MA offers for its retail product. Accordingly, the Department should approve that interval, and reject the CLECs' claims.(29)

2. The Existing 76 Business Day Interval For Cabling And Splitter Capacity Augments Should Be Retained.

In D.T.E. 98-57 (Phase I), the Department reviewed the appropriate interval for collocation installations and determined that a 76-business day interval was appropriate for all forms of collocation (except adjacent), including additions to

collocation cages. D.T.E. 98-57, Order, at 73 (2000). That interval, which has been incorporated in the D.T.E. Tariff No. 17 (Part E, Sec. 1.1.2), applies both to initial collocation applications and to augments of existing collocation arrangements, and should likewise apply to line sharing.(30) The Engineering and Implementation Fee for virtual collocation, which includes Initial, Subsequent, Cage Expansion, Additional Cable, Additional Cabling and Power Augment Only charges, should also appropriately apply to line sharing. See D.T.E. Tariff No. 17, Part E, Section 3.5.3.

No party has presented substantial credible evidence that the 76 business day interval previously found reasonable by the Department, should be disturbed. This is the maximum time that is reasonable to complete such work, not the minimum. Therefore, there is no basis for assuming that Verizon MA is using this interval in an anticompetitive manner.

As Verizon witness Mr. Jamie Virga testified, not all collocation augments take the full 76 business days to provision, and Verizon MA does not wait until the 76 business day interval has elapsed before turning a collocation arrangement over to the customer. Tr. 2:340. As soon as Verizon MA completes a collocation arrangement, new install or augment, the arrangement is turned over to the customer.

The CLECs' contention that augment applications will require less work than a standard collocation application, is speculative. Rhythms Initial Brief, at 25; Covad Initial Brief, at 10. The record indicates that the work necessary to complete an augment application can be as much, if not more than, a standard new application.(31)

While some CLECs admit that the amount of time to complete a collocation augment will depend on the amount and type of work included in the application (Covad Initial Brief, at 26), they still assert shortened intervals are feasible. As Verizon MA indicated, the limited number of trained technicians available to do the collocation augment work, coupled with the space constraint in the central offices, were contributing factors in establishing the 76 business day interval. Exh. VZ-MA 4, at 23-24. For all of these reasons, the Department should reaffirm its earlier conclusion that a 76 business day interval was appropriate.(32)

3. ILECs Are Not Legally Obligated To Own Splitters For CLEC Benefit Nor Do Any Public Policy Concerns Dictate Such A Result.

In its Initial Brief, Verizon MA anticipated that the CLECs would argue that Verizon MA should be required to provide splitters for CLECs that order line sharing. As was demonstrated in that Initial Brief, there is no legal, policy or practical justification for this demand.

In fact, any such finding would be contrary to the sound public policy concerns that the FCC enunciated in the UNE Remand Order and the Line Sharing Order. Verizon MA Initial Brief, at 19. As anticipated, nothing the CLECs have raised in their initial briefs changes those conclusions. For example, none of the parties have even acknowledged the Eighth Circuit precedents or the requirements of Rule 317(b). Moreover, nowhere do the parties argue that they will be "impaired" if Verizon MA is not required to provide splitters for CLEC use on a line at-a-time basis.

WorldCom acknowledges that pursuant to the FCC's recent decision in the SBC 271 proceeding,(33) ILECs are not obligated to own splitters for CLEC benefit, but argues that under state law, the Department can require Verizon MA to own splitters. WorldCom Initial Brief, at 11. However, WorldCom fails to proffer any valid policy justification for seeking to impose this cost on Verizon MA, rather than bearing the cost itself.

By contrast, Covad ignores the FCC's decision in the SBC 271 proceeding and the applicable court precedents to argue that ILECs have an obligation to own splitters.

Covad Initial Brief, at 13. That argument is based entirely, and wrongly, on Covad's interpretation of Rule 319(h)(4), which was promulgated pursuant to the Line Sharing Order.

Under that FCC Rule 319(h)(4), the ILECs "may" maintain ownership and control over splitters and, when they do, they "shall provide" compatible loop and splitter functionality to comport with CLEC needs. To interpret this language as requiring ownership in all circumstances is absurd. Such an interpretation would vitiate the surrounding language in the Line Sharing Order, which explains why splitter ownership remains a discretionary option for the ILEC.(34) Recently, the Pennsylvania Commission rejected Covad's argument, stating that:

We find no basis in law to require the ILEC to purchase splitters. The FCC Line Sharing Order, when read in context clearly speaks in terms of a discretionary option for the ILEC. (See Line Sharing Order Para. 146, 447; 47 C.F.R. 51.319(h)(4l).)

See PAPUC Order, at 27.

Accordingly, Covad's tortured statutory construction argument should be rejected in this proceeding.

Contrary to some CLECs' claims, the Department does not have independent authority under state law to impose this obligation on the ILECs operating in this state.(35) WorldCom Initial Brief, at 10. As Verizon MA explained in its Initial Brief, the Act established a national framework whereby regulations promulgated by the FCC are binding on the states. Verizon MA Initial Brief, at 21, citing AT&T Corporation v. Iowa Utilities Board, 119 S. Ct. 721, 729-32 (1999). Under applicable federal court precedent and FCC rules, Verizon MA cannot be required to own splitters. Indeed, every state commission that has examined the issue of splitter ownership has concluded that the ILECs have no obligation to own splitters.

Even if this Department had independent state jurisdiction to determine this issue (which it does not), Verizon MA has demonstrated that there are no public policy benefits to forced ILEC ownership of splitters. For example, it certainly will not be administratively efficient to require the ILECs to own and supply splitter so that the business plans of the CLECs can be advanced. This is especially true for Verizon MA since it does not currently have any splitters in its network.(36)

As the Pennsylvania Commission recently found, "the weight of policy considerations counsel against [ILEC splitter ownership] . . . [and Verizon PA] . . . should not be placed in the position . . . of financing and administering a changing array of splitter types for use by a plethora of CLECs when those CLECs are perfectly capable of determining their own needs and activity accordingly." PAPUC Order, at 28. Accordingly, the request that Verizon MA own and provide splitters to CLECs on a line-at-a-time basis should be rejected.

4. ILECs Have No Legal Obligation To Provide Line Sharing On UNE-P Or Resold Lines Or To Provide Line Splitting Via Verizon MA-Provided Splitters Over UNE-P Or Resold Lines.

At the outset of this proceeding, there was a dispute over whether Verizon MA had a legal obligation to provide "line sharing" over UNE-P and resold lines. That issue now has been conclusively resolved by the FCC in the SBC 271 proceeding. Verizon MA Initial Brief, at 36, citing SBC 271 Order, at ¶¶ 324-25. In that case, the FCC determined that ILECs have no such obligation.

Recognizing this legal precedent, AT&T and WorldCom(37) have attempted to restate the issue to address the ILEC's obligations when a CLEC wants to line split, i.e., provide both voice and data services over either a UNE-P or resold line purchased from the ILEC. Rhythms Initial Brief, at 48; AT&T Initial Brief, at 2. In addition,

these CLECs contend that it is technically feasible at this time to provide line splitting on UNE-P and resold lines in the same way that line sharing is provided over Verizon MA's voice lines. Rhythms Initial Brief, at 49; AT&T Initial Brief, at 2. For the reason set forth below, their arguments are wrong, and their requests should be denied.

First, AT&T and WorldCom argue vigorously that pursuant to the SBC 271 Order, Verizon MA is obligated to preserve all UNE-P arrangements when a CLEC wants to line split. AT&T Initial Brief, at 2; WorldCom Initial Brief, at 5.(38) They are wrong. While Verizon MA will not preclude CLECs using UNE-P from replacing that arrangement with a line splitting arrangement, as described in the FCC's SBC 271 Order, there is no obligation for Verizon to preserve the prior UNE-P arrangement once the CLEC migrates to line splitting.

AT&T and WorldCom cite the SBC 271 Order, in which the FCC stated that "[i]ncumbent LECs have an obligation to permit competing carriers to engage in line splitting over the UNE-P where the competing carrier purchases the entire loop and provides its own splitter." AT&T Initial Brief, at 4, citing SBC 271 Order, at ¶ 325. These CLEC parties interpret that language to mean that a UNE-P arrangement must remain intact (to the extent technically feasible) after the line splitting arrangement has been provisioned. A full reading of the SBC 271 Order however, does not support their claims.

When discussing how line splitting would be provisioned, the FCC stated:

[I]f a competing carrier is providing voice service over the UNE-P, it can order an unbundled xDSL-capable loop terminated to a collocated splitter and DSLAM equipment and unbundled switching combined with shared transport to replace its UNE-P with a configuration that allows provisioning of both data and voice service.

SBC 271 Order, at ¶ 325 (emphasis added).

The FCC did not envision that a UNE-P arrangement would remain in place after the provisioning of line splitting. Once there is a requirement to add a splitter to a UNE-P line, the UNE-P arrangement no longer exists.(39) AT&T's and WorldCom's argument that Verizon MA has a legal obligation to preserve UNE-P arrangements in conjunction with line splitting must be rejected.(40)

A. Digital Loop Carrier and Packet Switching Issues

Verizon MA has proposed Remote Terminal Collocation tariffs and subloop unbundling arrangements that comply fully with FCC requirements. However, Verizon MA has no obligation under the FCC rules to provide unbundled packet switching until all four FCC conditions are met, as outlined in Rule 319(c)(3)(B). Verizon Initial Brief, at 27.

1. Verizon MA's Subloop Unbundling and Remote Terminal Collocation Tariffs Comply With the UNE Remand Order.

Verizon MA's has filed tariffs for remote terminal collocation ("Collocation at Remote Terminal Enclosures," or "CRTEE") and for distribution subloops ("Unbundled Sub-Loop Arrangement," or "USLA") that provide CLECs with the ability to provide xDSL service on loop distribution where the feeder portion of the loop is served by fiber. See D.T.E. Tariff No. 17, Part E, Section 11; Part B, Section 18. The USLA portion of the tariff covers the distribution sub-loop that extends between the Feeder Distribution Interface ("FDI") and the end user's premises. The CRTEE portion of the tariff provides for the possible collocation of CLEC equipment with the Verizon MA Remote Terminal ("RT") Equipment Enclosure. Tr. 2:543, 545.

Some CLECs oppose the tariffs because Verizon MA will only provide access to RT equipment enclosures, rather than to any accessible terminal on the loop. Those

criticisms are not warranted.

Verizon MA recognizes that the FCC's subloop unbundling rule requires that it provide subloop "access" at any accessible terminal. See 47 C.F.R. § 51.319(a)(2). First, the CLECs confuse Verizon MA's obligation to provide space in or at RTs with its obligation to provide access to subloop elements. Second, what is not required is that such access be provided pursuant to tariff. Howver, the tariff does not permit the CLEC t request other capabilities that are not specifically delineated in the tarif. There are a wide variety of types of "accessible terminals" located in a wide variety of outside plant environments, each posing its own unique access problems. The diversity of outside plant environments is obviously far greater than the diversity of conditions encountered in central offices. Accordingly, Verizon MA has chosen to provide subloop access primarily through interconnection agreements, which provide greater flexibility for negotiating terms and conditions appropriate to the particular arrangements sought by a particular CLEC. Tr. 2:546-547.

Once there is sufficient demand for a particular type of subloop and standardization is possible, Verizon MA can develop a tariffed offering, as it has done for CRTEE and USLA. The Act and the FCC's regulations permit the approach that Verizon MA has taken.

Covad and Rhythms also object to Verizon MA's tariffs on the grounds that they would require the CLEC to construct a separate facility or "TOPIC" (TC Outside Plant Interconnection Cabinet) that places an undue burden on the CLEC. Covad Initial Brief, at 14. Their criticisms are unfounded.

Like a Point of Termination ("POT") Bay in a CO, a TOPIC provides an interconnection and termination point for Verizon MA's subloop and a demarcation point separating Verizon MA's and the CLEC's plant. Ms. Stern testified that:

[t]he tariff contemplates that [Verizon MA] will build the cable from the FDI to the TOPIC, or the interconnection point. From there on in, the CLEC will run the cable, because … they might be running the cable to their equipment that's collocated in the RT, or they might be running the cable to their own node … that contains equipment somewhere else.

Tr. 2:544.

This is consistent with the FCC's orders, whereas the CLECs' proposal (i.e., "Plug and Play" option) goes beyond the FCC's requirements. Tr. 2:445.

First, before Verizon MA could be required to provide a "Plug and Play" arrangement, the Department would have to find that Verizon MA is obligated to provide unbundled packet switching under Rule 319(c)(3)(3).(41) Second, the network infrastructure necessary to support the "Plug and Play" approach that Covad and Rhythms have advocated is simply not available in Massachusetts at this time. In the event Verizon MA were to deploy an infrastructure to support wholesale packet transport services from its RTs, it need not restrict itself to one type of deployment such as the "Plug and Play" approach Covad and Rhythms advocate.(42)

Recently, the Pennsylvania Commission rejected the "Plug and Play" approach because of the "difficulty in determining the specific legal, technical and operational parameters" of implementing that approach. PAPUC Order, at 47.(43)

In addition, the currently available infrastructure (even if it were deployed in the Massachusetts network) does not support the delivery of an integrated voice and data service at the CO when the voice and data originate at an end user location served from a RT. In such instances, the CLEC would receive two separate hand-offs at the CO. The first would be the wholesale broadband transport service provided through equipment in the RT and matching CO equipment, such as an ATM switch, and would provide a concentrated data hand-off to the CLEC. The other s would provide the

voice portion of the offering, which would be equivalent to an unbundled voice loop. The CLEC could then provide an integrated service offering to its end-user customer.

Accordingly, the Department should not order Verizon MA to provide "Plug and Play."

2. Verizon MA Is Not Obligated To Unbundle Packet Switching.

Verizon MA demonstrated in its Initial Brief that all of the four conditions set forth under Rule 319(c)(3)(B) that would require it to unbundle packet switching have not yet been satisfied. Verizon Initial Brief, at 39-43. Thus, Verizon MA does not have the legal obligation to provide this UNE at this time. None of the parties claim that all four conditions have been met; rather they argue that conditions will be met at some point in the near future, and that the Department should rule now that Verizon MA must provide unbundled packet switching when the four conditions are met.(44) No basis exists for the Department to issue such a ruling. The FCC rule is clear that all four conditions must be satisfied before Verizon MA can be ordered to provide unbundled packet switching. The Department cannot ignore the requirements of this rule.(45)

IV. CONCLUSION

For the reasons set forth above, the recommendations outlined in the Initial Brief of Verizon MA should be adopted by the Department.

Respectfully submitted,

VERIZON MASSACHUSETTS

By its attorney,

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1. 1 The CLECs submitting initial briefs include the following: Rhythms Link ("Rhythm"), Covad Communications Company ("Covad"), AT&T Communications of New England, Inc. ("AT&T"), WorldCom, Inc. ("WorldCom"), Digital Broadband Communications, Inc. ("DBC"), Sprint Communications Company L.P. ("Sprint"), and Vitts Network, Inc. ("Vitts"). Initial briefs were also filed by the Massachusetts CLEC Alliance ("CLEC Alliance") and the Attorney General ("AG").

2.

2 See Third Report and Order in CC Docket 98-147 and Fourth Report and Order in CC Docket 96-98, released December 9, 1999 (hereinafter referred to as "Line Sharing Order").

3. 3 Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Notice of Proposed Rulemaking, FCC 99-238, CC Docket No. 96-98 (rel. Nov. 5, 1999) ("UNE Remand Order").

4.

4 CLECs argue that Verizon MA should be prohibited from proposing cost-based xDSL loop rates at a future time, or rates to recover the costs of OSS upgrades in connection with xDSL and line sharing provisioning. Rhythms Initial Brief, at 64; Vitts Initial Brief, at 6-7; WorldCom Initial Brief, at 19. Those arguments are absurd and must be rejected by the Department. Verizon MA is entitled to recover any costs that it can demonstrate are incurred by providing those services. It should also be noted that some state commissions (e.g., California) have approved a monthly rate for the xDSL loop. Likewise, the FCC specifically identified reasonable incremental OSS costs as appropriate for ILECs to recover from CLECs under line sharing arrangements. Line Sharing Order, at ¶ 144.

5. 5 It should be noted that when the NYPSC established interim line sharing rates for Verizon New York ("Verizon NY") in May 2000, it already had a schedule set for a permanent rate proceeding in September 2000. The same cost methodology is being used to support Verizon NY's proposed rates.

6. 6 Even if the Department is inclined to adopt interim rates, Verizon MA's proposed rates should not be discounted by 50 percent. That is an arbitrary figure not supported by any cost data presented in the case. Such a massive discount from the cost-justified rates proposed would unfairly shift the business risk of the CLECs to Verizon MA. Verizon MA already bears responsibility for making investments to support xDSL and line sharing services (e.g., training, equipment, maintenance of copper plant, etc.) that may be outdated if CLECS decide to opt for some new data access technology (e.g., cable or wireless). If the rates are set at a 50 percent discount, even on an interim basis, this would force Verizon MA to absorb potentially unrecoverable costs, while CLECS pay far less than the cost data demonstrates is appropriate.

7.

7 For example, equipment may be rearranged, new cards installed and multiple visits by technicians may be required, depending on when the CLEC has completed its work and when the CLEC places orders.

8.

8 Even if the installation factor were adjusted to reflect line sharing specific

costs, as the CLECs suggest, the total investment in plant specific to that service is not likely to assume a large enough portion of Verizon MA's annual capital expenditures to make a meaningful difference in the factor. This also dispels Rhythms' unsubstantiated comments that applying the EF&I factor to line sharing should not be permitted for cost recovery purposes under price cap regulations because it would fundamentally change Verizon MA's ability to "increase profits for reasons totally unrelated to its own productivity or efforts." Rhythms Initial Brief, at 56. As noted above, the effect would be minimal, and further, there is no such restriction on the use of EF&I factors for new services in either the Price Cap Regulation or Consolidated Arbitrations proceedings.

9.

9 Vitts erroneously claims that CLECs would pay $2600 per year to maintain and support splitter cards. Vitts Initial Brief, at 11. This is a gross overstatement. The fact is that under Verizon MA's Option C proposal, the annual cost to CLECs is $315.36, or an average loop cost of $0.27 per month for a 96-unit (line) shelf. See DTE-RR-7; see also Exh. DTE BA-MA 1-12.

10.

10 They are: (1) service order charges; (2) service connection - central office wiring charges; (3) service connection (installation) - other charges; (4) dispatch charges where a dispatch is required on an installation; (5) manual intervention surcharges, where required by the CLEC; and (6) trouble dispatch misdirect charges, where the CLEC misdirects the repair technician. Tr. 3:567. The last three of these charges would only apply on an "as occurred basis," as described later in this Reply Brief.

11. 11 CO wiring charges recover the cost of implementing cross connections to connect the voice and data services on the MDF. Exh. VZ-MA 2, at 56. In both Options A and C, two CO wiring charges would apply; one to connect the MDF appearances of the splitter voice port and the switch port, and one to connect the MDF appearances of the splitter voice/data port and the loop. Exh. VZ-MA 4, at Att. A.

12.

12 The loop qualification database is distinguishable from the LFACS database. The former contains information used to determine whether loop conditioning may be required (e.g., relating to loop length, presence of load coils, interferors, DLCs, DAMLs, etc.). LFACS contains more detailed loop make-up information, which is not required for loop qualification. Exh. VZ-MA 2, at 21; Exh. DTE BA-MA 1-33. Some of the CLECs appear to confuse the purpose of those two databases in arguing against the nature and application of any charges for CLEC use of those databases. CLEC Alliance Initial Brief, at 13; DBC Initial Brief, at 28.

13. 13 DBC is also mistaken that the length of the bridged taps should be deducted from the total in determining whether removal is required and loop conditioning charges applied. DBC Initial Brief, at 33. The proposed tariff clearly states that the standard industry lengths (e.g., 18,000 feet) are based on the "electrical length of the circuit," which is the total length the copper signal traverses (i.e., including bridged taps). D.T.E. Tariff No. 17, Part B, Sec. 5.4.2, at 7; Exh. VZ-MA 2, at 13; Exh. DTE BA-MA 2-14.

14. 14 Moreover, wide-scale loop conditioning should not be undertaken because random removal of load coils or bridged taps would severely affect service quality and, in some instances, disrupt service. Verizon-MA Initial Brief, at 53. Moreover, to deload loops before there is a specific request for xDSL would be costly and would effectively eliminate the ability to provide voice transmission on those loops.

15.

15 Contrary to Rhythms' claims, the partial contract refund of $11.2 million from Alcatel relates to Alcatel's failure to build the functionality of the actual test head (MTAU) into each Alcatel DSLAM. Since CLECs will provide their own DSLAMs, this refund has nothing to do with the costs for testing to provide the wholesale service using the Hekimian system, as reflected in Verizon MA's cost studies. Moreover, Verizon MA never purchased the Alcatel system, so there are no associated costs that the Company is seeking to recover, as Rhythms erroneously alleges. Rhythms Initial Brief, at 74. Nor has Verizon already recovered any testing costs through TELRIC because that involves voice grade - not MLT - testing. Rhythms Initial Brief, at 72. Thus, there is no basis for reducing Verizon MA's proposed rate to $0.55.

16.

16 Verizon MA assumes that in referring to "direct access," the CLECs seek the ability to perform a WTS test and to receive the results without any involvement on the part of Verizon MA.

17. 17 The WTS vendor, Hekimian, offers WTS with a variety of optional functionalities, some of which are intended primarily to meet the needs of retail service providers. Although Verizon MA had planned to implement a retail-oriented WTS capability when it still intended to be a retail provider of DSL-based services, those plans changed, as Mr. White explained. Tr. 3:597. Indeed, the system that Verizon MA has, in fact, implemented excludes the optional retail-oriented modules offered by Hekimian, and is focused on meeting the trouble-isolation requirements of a wholesale service provider. Tr. 3:597-98. In short, WTS, as implemented by Verizon MA, is a purely wholesale system.

18. 18 Although Verizon MA is willing to provide test results to the CLECs, direct third-party access to the WTS is not technically feasible at this time, as appropriate gateway systems and associated methods and procedures have not been developed. In the event that such gateway systems are developed, any Data CLEC (as well as the separate Verizon data affiliate) that wishes to utilize them would, of course, have to share in the costs of those systems. Moreover, contrary to Rhythms' assertion, Verizon's retail DSL unit has no direct access to WTS. Rhythms Initial Brief, at 34.

19.

19 See e.g., D.T.E. 99-271, Tr. 2583 (August 17, 2000), in which Rhythms' witness testified that "under DSL and digital, … the CLEC gets to test the loop and refer a trouble ticket to Verizon. It is then up to Verizon techs to use their own technical capability, their own tools and skills to find the trouble that's been referred over."

20. 20 Verizon NY has sought reconsideration of this aspect of the NYPSC decision.

21.

21 It should also be noted that if Verizon MA is required to offer additional service options, the costs of OSS development for line sharing will increase as well, and would need to be reflected accordingly.

22. 22 See Attachment I to this Reply Brief. In RR-DTE-7, Verizon MA recognized that there would additional charges for installment payments, but that they would be nominal. This is substantiated in Attachment I, which shows the derivation of the cost per first loop, additional loop and average loop for Options A and C.

23. 23 For example, Mr. White testified that he paid approximately $39 per month for Infospeed Service itself in New York, in addition to his monthly POTS charges. Tr. 3:737.

24. 24 Verizon MA calculates an average charge per line of $5.66 for "Field

Installation Dispatch" on a typical line sharing arrangement based on actual outside dispatch records for DSL services, which show that the "Field Installation Dispatch" charge of $28.31 would only apply 20 percent of the time.

25. 25 A correction to Rhythms' calculations is appended to this Reply Brief. In addition to the corrections identified above, Verizon MA has reflected that the "Manual Loop Qualification" rate may apply in some circumstances, i.e., approximately 2.2 percent of the time (not 20 percent of the time, as Rhythms erroneously states). The 2.2 percent factor is fully supported by the fact that 93 percent of Verizon MA's central offices ("CO") in Massachusetts are included in the loop qualification database, and that approximately 97.8 percent of the lines are served by those COs. Exh. DTE-BA-MA 1-2. Accordingly, Verizon MA has recalculated its monthly rate for a typical line sharing arrangement to include a per loop charge of $2.50, which reflects the fact that for 97.8 percent of the time, the loop qualification database will contain the necessary data, and no manual charge will apply.

26.

26 Over 46 percent of Verizon MA's offices are unmanned. Exh. RLI BA 1-10.

27.

27 Examples of other types of problems include situations where the telephone number cannot be found in Verizon MA's system, the cable and pair cannot be found, the slot on the splitter that the Data CLEC requested be used is already taken, or the loop is found to be not qualified, even though it was listed as qualified on the LSR.

28. 28 Petition of Covad Communications Company for an Arbitration Award Against Bell Atlantic-Pennsylvania, Inc., Implementing the Line Sharing Unbundling Network Element, Docket No. A-310696F0002; Petition of Rhythms Links, Inc. for an Expedited Arbitration Award Implementing Line Sharing, Docket No. A-310698F0002, Opinion and Order (August 17, 2000), at 14-15 (hereinafter "PAPUC Order").

29. 29 Covad and Rhythms also argue that the interval for conditioning should be substantially shorter (i.e., five days) than the 15-day interval Verizon MA proposes. Covad Initial Brief, at 5. Covad and Rhythms, however, have not supplied any evidence that the 15-day conditioning interval is inappropriate, or that their substantial shortened intervals are achievable. By contrast, Verizon MA described in detail the work required for loop conditioning, which fully supports the proposed time interval. Exh. DTE BA-MA 1-5.

30. 30 This is consistent with the outcome of the Carrier-to Carrier Collaborative in New York (Case 97-C-0139), in which this issue was examined, and it was agreed that augments should have the same interval as new applications. (See C2C Guidelines, NP-2 - Collocation Performance, which indicates that the "Products" for this metric include both "New Applications" and "Augment Applications.")

31.

31 See CVD-RR-6 (Supplemental). For example, Mr. White explained that installation of cabling is "probably the least understood," and the most time-consuming element of an initial collocation installation, whether new or augments. Tr. 2:342. Each job is engineered because the route must be surveyed, designed and in some cases built. Tr. 2:343. In addition, sometimes existing equipment or cabling must be removed or rearranged to make room for new cabling in the CO space. Tr. 2:338-39, 342-43.

32.

32 The CLECs relied heavily on the fact that the Texas and Pennsylvania Commissions allegedly determined that intervals shorter than 76 business days should be applied. Rhythms Initial Brief, at 30; DBC Initial Brief, at 21. The PAPUC overturned the arbitrator's Recommended Decision, which would have adopted a 30-calendar day

interval, and instead adopted an interim interval of 45 business days pending completion of the collocation investigation instituted in another proceeding. See PAPUC Order, at 22-23. However, there was no evidence in the Pennsylvania proceeding that 45 business days is an appropriate interval. Rather, this appears to be an interim compromise position pending completion of the collocation proceeding. The Department should not follow a similar course. Instead, substantial evidence in the record warrants retention of the 76 business day interval to year-end.

33.

33 See In the Matter of 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) (hereinafter "SBC 271 Order").

34.

34 In addition, such an interpretation would be contrary to the well-settled principle of statutory construction that one phrase of a provision cannot negate the direct intent of another phrase of the provision. In this case, if Covad's interpretation were adopted, the "may" maintain ownership language would be meaningless since ownership would be required by the "shall provide" phrase.

35. 35 Likewise, any ruling regarding splitter ownership should apply equally to all ILECs operating in Massachusetts.

36.

36 ILEC ownership of splitters can also impede the technological innovation. Verizon Initial Brief, at 28; Tr. 1:212-17.

37.

37 Despite the definitive ruling in the SBC 271 Order that an ILEC does not have to provide "line sharing" over UNE-P, Rhythms incorrectly argues that whether or not this is true under federal law, the Department has the power under state law to require "line sharing" for UNE-P and resale voice customers. Rhythms Initial Brief, at 32. As discussed above, the Department does not have any independent authority under state law to issue a ruling inconsistent with the FCC's pronouncements.

38.

38 AT&T appears to have dropped its contention that the definitions of line splitting includes an ILEC owned splitter.

39. 39 This is not to say that in some line splitting scenarios, the work order cannot be processed totally electronically.

40. 40 AT&T's and WorldCom's disingenuous argument that that UNE-P can remain in place in a line splitting configuration ignores the significant OSS-related systems changes necessary to accommodate line splitting that would preclude processing of a UNE-P order in the manner that AT&T and WorldCom envision. In particular, substantial OSS wok would be required to provide ordering, provisioning, billing, maintenance, inventory and repair functions. Tr. 1:225. This would be in addition to the OSS upgrades for line sharing, which Verizon witness Mr. David Kelly testified would not be in place until the end of the first quarter 2001, even under the aggressive schedule negotiated between Telcordia and Verizon. Tr. 2:478-81, 485-86. Therefore, it would be virtually impossible to develop OSS upgrades for line splitting in this time frame under any circumstances.

41. 41 "Plug and Play" is simply a variant of unbundled packet switching, albeit without all the necessary elements to make the provision of advanced services for RT

served customers a reality.

42. 42 Although the "Plug and Play" option sounds simple, it can actually be quite difficult and costly to implement depending on the particular site. Tr. 2:443. Not only would substantial OSS work be required (Tr. 2:445), but Verizon MA would also need to identify all the ancillary UNEs, upgrade software at the RTs, and equip its COs with hardware necessary to support that approach.

43.

43 It should also be noted that Verizon MA is currently prohibited under the Bell Atlantic/GTE Merger Order from owning and operating some of that hardware, such as the ATM switches required in COs to support "Plug and Play."

44. 44 AT&T claims that the third conditions has been satisfied because it is allegedly uneconomically and impractical to collocate at RTs. AT&T's argument is meritless. The third condition has no such requirements. In any case, the rule clearly contemplates that such a showing would have to be made on a site by site basis.

45. 45 WorldCom takes a slightly different approach and argues that since Verizon MA has failed to provide access to the fiber feeder subloop from the RT to the CO in its tariff filing, it should be required to unbundle packet switching. WorldCom Initial Brief, at 16. First, the conditions to unbundle packet switching do not include any reference to the fiber feeder loops. Second, Verizon MA has indicated that CLECs can obtain access to these subloops through negotiation under Interconnection Agreements. Furthermore, the fact that Verizon MA has analyzed the options related to providing advanced services from RTs and a separate affiliate has trialed certain DSL/DLC technology does not negate the four conditions of Rule 319(c)(3)(B), as WorldCom implies.

P