CAPTION SHEET CASE MANAGEMENT SYSTEM

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DIRECTOR: :
SUPERVISOR: :
6. PERSON IN CHARGE: : 7. DATE FILED: 10/02/03
8. DOCKET NO: I-00030100 : 9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT:

RESPONDENT/APPLICANT: INCUMBENT LOCAL EXCHANGE CARRIERS

COMP/APP COUNTY: UTILITY CODE: 999999

ALLEGATION OR SUBJECT

INVESTIGATION INTO THE OBLIGATIONS OF INCUMBENT LOCAL EXCAHANGE CARRIERS TO UNBUNDLE LOCAL CIRCUIT SWITCHING FOR THE ENTERPRISE MARKET.....

DOCKETED
OCT 3 2003

DOCUMENT FOLDER

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

October 3, 2003

REFER TO OUR FILE
I-00030100
I-00030099
M-00031754

TO ALL PARTIES

DOCKETED
OCT 14 2003

Investigation Into The Obligations Of Incumbent Local Exchange Carriers To Unbundle Local Circuit Switching For The Enterprise Market

Investigation Into The Obligations of Incumbent Local Exchange Carriers To Unbundle Network Elements

Development Of An Efficient Loop Migration Process

DOCUMENT

To Whom It May Concern:

This is to advise you that a Procedural Order has been adopted by the Commission in Public Meeting on October 2, 2003 in the above entitled proceeding.

An Order has been enclosed for your records.

Very truly yours,

James J. McNulty
Secretary

Enclosure
Certified Mail
See Attached List
For additional parties

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg PA 17105-3265

Public Meeting held October 2, 2003

Commissioners Present:
Terrance J. Fitzpatrick, Chairman
Robert K. Bloom, Vice Chairman
Glen R. Thomas
Kim Pizzingrilli
Wendell F. Holland, Abstaining

DOCKETED
OCT 14 2003

Investigation into the Obligations of Incumbent Local Exchange Carriers to Unbundle Local Circuit Switching for for the Enterprise Market	Docket No. I-00030100
Investigation into the Obligations of Incumbent Local Exchange Carriers to Unbundle Network Elements	Docket No. I-00030099
Development of an Efficient Loop Migration Process	Docket No. M-00031754

PROCEDURAL ORDER

DOCUMENT

BY THE COMMISSION:

Background

In 1996, Congress adopted a national policy of promoting local telephone competition through the enactment of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), *codified at* 47 U.S.C. §§151, *et seq.* (TA-96).[1] TA-96 relies upon the dual regulatory efforts of the Federal Communications Commission

[1] In 1993, the Pennsylvania General Assembly amended the Public Utility Code by adding "Chapter 30," 66 Pa. C.S. §§3001-3009, which first introduced Pennsylvanians to competition in the provision of telecommunications services and flexibility in terms of pricing and profits.

(FCC) and its counterpart in each of the states, including this Commission, to foster competition in local telecommunications markets by establishing broad interconnection, resale, and network access requirements designed to facilitate multiple modes of entry. To this end, Section 251 of TA-96 requires, among other things, an Incumbent Local Exchange Carrier (ILEC) to provide Competitive Local Exchange Carriers (CLECs) with non-discriminatory access to its network elements on an unbundled basis.[2] *See* 47 U.S.C. §251(c)(3).

In determining what ILEC network elements are to be made available to CLECs on an unbundled basis, TA-96 provides that the FCC, at a minimum, must consider whether access to such unbundled network elements that are proprietary in nature is necessary and whether the failure to provide the unbundled network element would impair the ability of a CLEC to provide the retail services it seeks to offer. 47 U.S.C. §251(d)(2)(A) and (B). Initially, the FCC defined impairment so as to require unbundling if "taking into consideration the availability of alternative elements outside the incumbent's network, including self-provisioning by a requesting carrier or acquiring an alternative form from a third-party supplier, lack of access to that element materially diminishes a requesting carrier's ability to provide the services it seeks to offer." *Implementation of the Local Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 3696, 3725 (1999) (*UNE Remand Order*).

Under this "impairment" standard, the FCC required that an ILEC provide unbundled access to the following network elements on a nationwide basis in each geographic market: (1) loops (including dark fiber and high-capacity); (2) subloops; (3) network interface devices; (4) local circuit switching; (5) packet switching under certain

[2] The Commission previously opened a docket to implement the requirements of the TA-96. *See Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799, Order entered September 6, 1996, as reconsidered. *See also Joint Petition of Nextlink et. al. and Joint Petition of Bell Atlantic et al. and Joint Petition of Bell Atlantic et al.*, Docket Nos. P-00991648 and P-00991649, Opinion and Order entered September 30, 1999, *as clarified (Global Order).*

circumstances (6) interoffice transmission facilities (including dark fiber); (7) signaling networks and call-related databases; and (8) operations support systems. *UNE Remand Order*, 15 FCC Rcd at 3771-3890. The FCC then added the high frequency portion of the loop to this list of UNEs that an ILEC must offer. *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Provisions of the Telecommunications Act of 1996*, 14 FCC Rcd 20912 (1999) (*Line Sharing Order*).

The *UNE Remand Order* also established that the FCC would revisit these unbundling rules every three years. *UNE Remand Order*, 15 FCC Rcd at 3766. In December of, 2001, the FCC released a Notice of Proposed Rulemaking (*NPRM*) initiating its first triennial review of its policies regarding unbundled network elements. *Review of the Section 251 Unbundling Obligations of Local Exchange Carriers,* CC Docket No. 01-338, et al., Notice of Proposed Rulemaking, FCC 01-361 (rel. December 20, 2001).

Meanwhile, sundry ILECs and the United States Telecom Association (USTA)[3] filed an appeal of the FCC's *UNE Remand* and *Line Sharing* orders in the United States Court of Appeals for the District of Columbia Circuit. On May 24, 2002, the D.C. Circuit Court remanded the FCC's unbundling rules established in the *UNE Remand Order*. *United States Telecom Ass'n v. Fed. Communications Comm'n*, 290 F.3d 415 (D.C. Cir. 2002), *cert. denied*, *WorldCom, Inc. v. United States Telecom Ass'n*, 155 L. Ed. 2d 344, 123 Sup. Ct. 1571 (2003). However, because the *UNE Remand Order* was not vacated, the FCC's unbundling rules for network elements were to remain in effect

[3] USTA is a trade association representing service providers and suppliers for the telecom industry. USTA's 1,200 member companies offer a wide range of services, including local exchange, long distance, wireless, Internet and cable television service.

while the FCC re-examined its rules. In addition, the Court also vacated and remanded the FCC's *Line Sharing Order.*[4] *Id.*

On February 20, 2003, the FCC adopted new rules concerning an ILEC's obligation to make UNEs available to competing carriers. On August 21, 2003, the FCC released its long-awaited *Triennial Review Order* that it adopted six months earlier on February 20.[5] In the *Triennial Review Order*, the FCC adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of TA-96 and sets forth a new list of unbundled network elements (UNEs). Additionally, the FCC applies its unbundling analysis to individual elements in a more granular manner than before. Under this more granular approach, impairment varies by geographic location, customer class, and service, including a consideration of the type and capacity of the facilities to be used.

Generally, the FCC requires that an ILEC provide unbundled access to the following network elements on a nationwide basis: (a) local loops at ¶¶ 197-342; (b) subloops at ¶¶ 343-358; (c) network interface device at ¶¶ 343-358; (d) local circuit switching at ¶¶ 419-532; related shared transport at ¶¶ 533-534; related signaling networks at ¶¶ 542-548; related call-related databases at ¶¶ 549-560; and related OS/DA (exception applies) at ¶ 560; (e) dedicated transport at ¶¶ 359-418; (f) 911 and E911 databases at ¶ 557; and (g) operations support systems at ¶¶ 561-568. OCn loops are removed, subject to a transition scheme at ¶¶ 315-319. Packet switching, including routers and DSLAMs, is removed entirely at ¶¶ 535-541.

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[4] On September 4, 2002, the D.C. Circuit Court granted a partial stay of the mandate, thereby staying the vacation of the *Line Sharing Order* in light of the pending completion of the FCC's triennial review decision. *United States Telecom Ass'n v. Fed. Communications Comm'n*, 2002 U.S. App. LEXIS 18823 (2002).

[5] *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003)(FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003. (hereinafter "*Triennial Review Order*" or "*TRO*").

In addition, as a separate matter, the FCC requires state commissions to establish an ILEC batch cut process or issue detailed findings explaining why such a batch cut process is unnecessary within 9 months of the effective date of the order. *TRO* ¶¶ 464-475, 486-492, and 527. This requirement is designed to alleviate impairment associated with switching for mass market customers.

As a preliminary matter, the Commission emphasizes that as this order is implemented, the terms of an interconnection agreement may prohibit an ILEC from unilaterally discontinuing the provision of service on the ground that there is a change of law.[6] Furthermore, the Commission underscores our recent order, *Petition of Verizon Pennsylvania, Inc. for a Determination That its Provision of Business Telecommunications Services to Customers Generating Less Than $10,000 in Annual Total Billed Revenue is a Competitive Service Under Chapter 30 of the Public Utility Code*; Docket No. P-00021973, Order entered August 13, 2003, wherein we stated that for any telecommunications service for which a Pennsylvania ILEC obtains competitive designation under Chapter 30, the ILEC is required, independent of federal requirements, to unbundle basic service functions used to provide that local service. *See* 66 Pa. C.S. §3005(e) (requiring unbundling of basic service functions); *see also* 47 U.S.C. § 271 (requiring Verizon PA to provide access to certain network elements).

Discussion

Not coincidentally, this Procedural Order is being adopted on the effective date of the FCC's *Triennial Review Order*, October 2, 2003. The purpose of this Procedural Order is to provide details regarding the process and procedure that will be used to

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[6] *See In the Matter of the Petition of MCI Telecommunications Corp. for Emergency Declaratory Ruling and Enforcement of Interconnection Agreement with Bell Atlantic-Pennsylvania, Inc.*, Docket No. A-310236F0002, Order entered December 11, 2001 (Verizon required to submit to contractual dispute resolution procedures prior to modifying or terminating the provision of UNE-P based on a change in applicable law).

implement the FCC's *Triennial Review Order*. This Procedural Order will serve as a guide by which the Commission will gather the information necessary to make its determination and set up the proceedings. The Commission also reserves the right to adjust the processes and procedures, as may be needed.

A. Investigation into the Obligations of Incumbent Local Exchange Carriers to Unbundle Local Circuit Switching for the Enterprise Market (90-day proceeding)

As of October 2, 2003, the Commission has 90 days to rebut a national finding of no impairment regarding unbundled switching for the enterprise market, absent any additional time granted by the FCC.[7] Pursuant to the *Triennial Review Order*, the FCC has made a presumptive finding that CLECs are not impaired without unbundled local circuit switching when serving the enterprise market. Under this framework, however, the FCC has provided state commissions 90 days to rebut this presumption, if the state commissions so choose. Thus, under the findings in the *Triennial Review Order*, an ILEC is not required to provide access to local circuit switching on an unbundled basis to requesting telecommunications carriers for the purpose of serving end-user customers using DS1 capacity or above loops. *TRO* at ¶¶ 451-458; 47 C.F.R. §51.319(d)(3). This FCC determination is based on record evidence that establishes that there are few barriers to deploying competitive switches to serve customers in the enterprise market at DS1 capacity and above, and therefore no operational or economic impairment on a national basis. *TRO* at ¶ 451.

Although the FCC found no impairment on a national basis, it recognized that a geographically specific analysis could possibly demonstrate that competitive carriers are

[7] We note that DSCI Corporation, InfoHighway Communications Corporation, and Manhattan Telecommunications Corporation d/b/a Metropolitan Telecommunications have already petitioned the FCC to stay the 90-day proceeding charging that the FCC severely limited UNE-P carriers sufficient time to present evidence showing impairment.

impaired without access to unbundled local circuit switching for DS1 enterprise customers in a particular market. *TRO* at ¶ 454. We agree with the FCC that a geographically specific analysis could possibly rebut the national finding of no impairment. This conclusion is based upon our review of the evidence cited in support of the national finding. Much of the evidence is a broad brush look at conditions nationally. There is evidence regarding Verizon generally, which would have some relevance to Pennsylvania, and an occasional reference to certain densely populated Pennsylvania localities such as Pittsburgh. There is also some aggregate data specific to Pennsylvania. But, we could find no evidence specific to much of the service territory served by Pennsylvania ILECs, including Verizon Pennsylvania Inc., especially the less densely populated areas.[8]

Our staff has been contacted by a handful of CLECs that believe they can demonstrate impairment if they do not have access to Verizon's local circuit switching for DS1 capacity and above. These CLECs have expressed an intent to present evidence that will show that the national finding of no impairment does not apply to particular geographic markets in Pennsylvania.

The FCC has encouraged these CLECs to come forward with their evidence by permitting state commissions to rebut the national finding of no impairment by undertaking a more granular analysis utilizing certain economic and operational criteria. *TRO* at ¶¶ 454-458; 47 C.F.R. §51.319(d)(3)(i). This undertaking must be completed in

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[8] We have recently acknowledged that a "one size fits all" approach is not appropriate when evaluating Verizon PA's service territory given the geographic differences that exist. *See Petition of Verizon Pennsylvania Inc. for a Determination That its Provision of Business Telecommunications Services to Customers Generating Less Than $10,000 in Annual Total Billed Revenue is a Competitive Service Under Chapter 30 of the Public Utility Code*, Docket No. P-00021973, Order entered August 13, 2003, reconsideration pending. (*Business Services Case*).

no more than 90 days from the effective date of the TRO, which calculates to December 31, 2003. *TRO* at ¶ 455. If the state commission fails to act, the FCC will issue a finding within 90 days of assuming responsibility. *TRO* at ¶ 190, n. 606[9].

The Commission appreciates the opportunity to conduct the geographic specific analysis required to avoid potentially harmful consequences on the viability of competition in various parts of Pennsylvania, especially the most rural areas. The Commission believes Pennsylvania CLECs wishing to present a case should be heard. Given the national finding of no impairment, we tentatively conclude there is no impairment in Pennsylvania. Therefore, any CLEC desiring to contest the presumption of nonimpairment must bear the burden of proving impairment. Any petition contesting impairment is due by October 15, 2003, for the Commission's consideration.

1. Impairment Standard

In the Triennial Review Order, the FCC established that a requesting carrier is not impaired without access to local circuit switching to serve end users using DS1 capacity and above loops, unless a state commission can show the FCC that operational or economic barriers exist in a particular geographic market. In making this showing, state commissions must consider the following operational characteristics: ILEC performance in provisioning loops, difficulties associated with obtaining collocation space, and difficulties associated with obtaining cross-connects in the ILECs wire center. State commissions must also consider the following economic characteristics: cost of entry into a particular market; potential revenues; and prices carriers are likely to be able to charge based on consideration of the ILECs retail rates. *TRO* at ¶¶454-458; FCC Rule 51.319(d)(3)(i).

[9] FCC staff has informed us that there is some ambiguity in the FCC's *Triennial Review Order* concerning the FCC's willingness to assume responsibility. *TRO* at ¶455 (requiring state commissioners to petition the FCC to waive the finding of no impairment). Nevertheless, the Commission believes that the FCC has indicated it would accept responsibility. *TRO* at ¶190, n. 606; 47 C.F.R . §51.320 (specifically providing for assumption of responsibility); *see also MCI Telecom. Corp. v. Bell Atlantic-PA*, 271 F.3d 491, 511 (3d Cir. 2001) (holding that a state commission is free to accept or reject participation in the federal scheme.)

2. Procedural Rules

Any CLEC seeking to persuade the Commission to make a showing to rebut the national finding must file a Petition to Initiate Proceeding with the Commission's Secretary's Bureau in the 90-day proceeding Docket by October 15, 2003. Any filings should reference the above investigation caption and the assigned investigation docket number. The Petition to Initiate Proceedings should contain the names, telephone numbers, and e-mail addresses for (1) the company representative who will be the contact person for official Commission documents; (2) the point person for all discovery requests; and (3) any expert witnesses. The Petition to Initiate Proceeding should address applicable matters of law, policy, and facts, including the requirements of the *Triennial Review Order*. In addition, the Petition must explicitly establish standing by identifying the number of existing customers it has that are served using a combination of unbundled local circuit switching and unbundled DS1 capacity or above loops.

Any such petitions will be consolidated into a *single proceeding*. Upon the receipt of a Petition to Initiate Proceeding, an ALJ will be assigned to hold a hearing and otherwise develop the record for certification to the Commission.

The Commission directs that in addition to the regular manner of filing and service, one electronic copy of each Petition to Initiate should be submitted with the Secretary, with reference to the applicable docket number. Any Petition to Initiate Proceeding and Petition to Intervene should include all pertinent e-mail addresses to facilitate an electronic exchange of information during the proceeding.

Further, any petitioning CLEC must serve a copy of the Petition upon the subject ILEC via overnight mail (or in hand delivery) and electronic mail. Answers to any petition are due by October 20, 2003, and they must be served upon the petitioner by

overnight mail (or in hand delivery) and electronic mail. Petitions to Intervene are also due on October 20, 2003 and must be served as expeditiously as possible.

Given the condensed timeframe set forth in the *TRO*, we must necessarily truncate our normal processes. The assigned ALJ will not issue a recommended decision, rather he or she will preside over the development of the record and certify the record to the Commission on or before October 31, 2003. Thereafter, parties may file one brief for the Commission's consideration. Briefs are due November 17, 2003. In addition to the normal requirements, parties shall provide a copy of their briefs to the Law Bureau and the Bureau of Fixed Utilities. These bureaus shall recommend whether the Commission should make a showing to rebut the national finding. Their recommendation shall be made in the form of a public meeting order for consideration at our public meeting of December 18, 2003. If the Commission decides to rebut the national finding, staff will be directed to prepare and file the necessary filing before the FCC.

3. Procedural Schedule

We note that our decision regarding whether the failure to provide unbundled access to the above network elements meets the "impairment" standard during the 90-day proceeding will be an adjudication pursuant to the Administrative Agency Law, 2 Pa. C.S. §101 (defining "adjudication"). Accordingly, the same administrative rules and procedures that typically apply to an on-the-record, contested hearing before the Commission will also apply here. That is, *inter alia*, the Commission's *ex parte* rules, the Commission's rules governing proprietary information, and the Commission's rules of administrative practice and procedure will apply. Moreover, as a final adjudication, the parties will have the same appellate rights that accompany the issuance of any final Commission order.

Below is a timeline for the beginning and ending stages of the 90-day proceeding. The assigned ALJ will provide further guidance on due dates for any discovery,

testimony, and hearings, and shall otherwise regulate the conduct of this proceeding. Please be advised that the following is the Commission's schedule, and we reserve the right to suspend or revise it as may be necessary.

October 2, 2003	*Triennial Review Order* effective
October 15, 2003	Petitions to Initiate Proceedings due
October 20, 2003	Petitions to Intervene and Answers due
October 31, 2003	Last possible date for Hearing and Certification of the Record
November 17, 2003	Briefs due, including service upon Law Bureau and Bureau of Fixed Utility Services
December 18, 2003	Public meeting vote
December 31, 2003	Deadline for PA PUC petition to FCC, if necessary.

B. Investigation into the Obligations of Incumbent Local Exchange Carriers to Unbundle Network Elements (9-month proceeding)

In the *Triennial Review Order*, the FCC also provides that within 9 months of the effective date of the order (i.e., by June 2, 2004), state commissions may conduct a granular analysis to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Commission must determine whether ILECs in Pennsylvania must continue to provide competing carriers with access to: (1) mass market high-capacity loops; (2) mass market switching; and (3) dedicated transport.

1. Impairment Standard

In the *Triennial Review Order*, the FCC established specific criteria that states shall apply to determine, on a granular basis, whether economic and operation impairment exists in a particular market for the above referenced network elements.

According to the FCC, a requesting carrier is impaired when lack of access to an ILEC network element poses barriers to entry, including operation and economic barriers that are likely to make entry into a market uneconomic. Such barriers include scale economics, sunk costs, first-mover advantages, and barriers within the control of an ILEC. The FCC further notes that this unbundling analysis is to consider market-specific variations, including customer class, geography, and service.[10] As per the directions of the FCC, these are the standards that the Commission will use to make its determination.

Given the national findings of impairment, we tentatively conclude there is impairment in Pennsylvania. Therefore, any ILEC desiring to contest the presumption of impairment must bear the burden of proving non-impairment. The Commission offers this brief summary of the 9-month proceeding for interested parties; the full scope and nature of the necessary inquiry, however, shall be made in accordance with the rules set forth in Appendix B of the *Triennial Review Order* and its explanatory text.

a. LOOPS

i) DS1 Loops:

a) The Commission will find a requesting telecommunications carrier is not impaired without access to a DS1 loop if the evidence shows two or more non-affiliated competing providers have deployed their own DS1 facilities, offer wholesale access to their facilities, and the facilities reach entire customer location. *See* FCC Rule 319(a) and related *TRO* text.

ii) DS3 Loops:

a) The Commission will find a requesting telecommunications carrier is not impaired if the evidence shows two or more non-affiliated competing providers have deployed their own DS3 facilities, offer wholesale access to their facilities, and the facilities reach entire customer location.

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[10] It is our intent to develop the appropriate market definition for application in the 9-month proceeding based upon the record developed in the 9- month proceeding. Any markets definition developed in any 90-day

b) The Commission will find no impairment at a specific customer location if the evidence shows two or more non-affiliated competing providers have either: a) each deployed its own facilities at that location and is serving customers via those facilities at that location or b) each deployed DS3 facilities by attaching its own optronics to activate dark fiber transmission facilities obtained on a long-term indefeasible right-to-use (RTU) basis and is serving customers via those facilities at that location. *See* FCC Rule 319(a) and related *TRO* text.

iii) Dark Fiber Loops:

a) The Commission will find no impairment at specific customer location if the evidence shows two or more non-affiliated competing providers have deployed their own dark fiber facilities at that location on a long-term indefeasible RTU basis. For purposes of making this determination, a competing provider that has obtained those dark fiber facilities under a long-term indefeasible right of use shall be considered a competing provider with its own dark fiber facilities. Dark fiber purchased on an unbundled basis from the ILEC shall not be considered under this section. *See* FCC Rule 319(a) and related *TRO* text.

iv) General Inquiry

In formulating a position on these issues, interested parties should propose how the Commission should define "specific customer location" and whether the Commission has essentially adopted a "specific customer location" when it established a locational definitional for purposes of the availability of UNE-P on a total billed revenue basis. *See Further Pricing of Verizon Pennsylvania Inc.'s Unbundled Network Elements*, Order at 16 (entered May 1, 2003) at Docket No. R-00005261 and related decisions. Interested parties should consider what standards apply to determine whether intermodal providers of service provide service that is "comparable in quality to that of the incumbent LEC" and which, if any, of our existing service quality requirements should apply? *See e.g.,* Chapter 63 of Title 52 of the Pennsylvania Code (setting forth the telephone service standards). In addition, parties should address how relevant, if at all, is

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proceeding will not dictate the definition used in the 9-month proceeding.

the Form 477 data compiled semi-annually by the FCC to our review in any proceedings under the *Triennial Review Order*.[11]

b. SWITCHING

i) Local Switching:

a) The Commission will find a requesting telecommunications carrier is not impaired in a particular market if the evidence shows two or more non-affiliated competing providers have their own switches in that market and offer wholesale local switching service to customers serving DSO capacity loops.

b) The Commission will find no impairment in a particular market if the evidence shows three or more non-affiliated competing providers are serving mass market customers in the particular market with use of their own switches. *See* FCC Rule 319(d) and related *TRO* text.

ii) General Inquiry

In formulating comments and answering questions on this issue, interested parties should propose how the Commission should determine the "relevant geographic area to include in each market" when considering the mass market addressed in the *Triennial Review Order*. Parties should also address whether the Commission has already adopted an applicable market definition in either the *Global Order* at p. 90 (addressing UNE-P availability) or its recent Business Case under Chapter 30 and explain why or why not. *Business Services Case, supra*. Another issue to consider is whether there is a useful definition of geographic market suggested by a regulatory or court decision.[12]

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[11] The Commission has access to the Pennsylvania source data, pursuant to a data sharing agreement with the FCC. This data includes data collected from intermodal providers of service.

[12] *See, e.g., In the Applications of NYNEX Corp., Transferor, and Bell Atlantic Corp., Transferee, Memorandum Order and Opinion* (rel. Aug. 14, 1997), at FCC File No. NSD-L-96-10 (FCC 97-286), at ¶¶ 49-94 (discussing relevant markets and market participants).

c. **TRANSPORT**

i) **Dedicated DS1 Transport:**

a) The Commission will find a requesting telecommunications carrier is not impaired if the evidence shows two or more non-affiliated competing providers have developed their own transport facilities that are operationally ready to provide dedicated DS1 transport along the particular route, offer transport on widely available basis, the facilities terminate in a collocation arrangement, and reasonable non-discriminatory access is obtainable through a cross-connect of the collocation arrangement at each end of the transport route. *See* FCC Rule 319(e) and related *TRO* text.

ii) **Dedicated DS3 Transport:**

a) The Commission will find a requesting telecommunications carrier is not impaired if the evidence shows that two or more non-affiliated competing providers have deployed their own transport facilities that are operationally ready to provide dedicated DS3 transport along the particular route, offer dedicated DS3 transport along the particular route on a widely available basis, that the facilities terminate in a collocation arrangement, and that reasonable and non-discriminatory access is obtainable through a cross-connect to the collocation arrangement at each end of the transportation route.

b) The Commission will find no impairment along a particular route if the evidence shows three or more non-affiliated competing providers each has deployed its own transport facilities, is operationally ready to use those facilities to provide dedicated DS3 transport along the particular route, and the facilities terminate at a collocation arrangement at each end of the transport route. *See* FCC Rule 319(e) and related *TRO* text.

iii) **Dark Fiber Transport:**

a) The Commission will find a requesting telecommunications carrier is not impaired if the evidence shows two or more non-affiliated competing providers

have sufficient quantities of dark fiber available to satisfy current demand (optional), have deployed their own dark fiber that is operationally ready for lease or sale, provide on a widely available basis dark fiber along the particular route, which dark fiber terminates in a collocation arrangement, and reasonable and non access is obtainable through interconnect at each end of transport route.

b) The Commission will find no impairment along a particular route if the evidence shows three or more non-affiliated competing providers each has deployed its own dark fiber facilities obtained on a long-term indefeasible RTU basis, and the facilities terminate in a collocation arrangement at each end of the transportation route. *See* FCC Rule 319(e) and related *TRO* text.

iv) General Inquiry

Parties should propose how the Commission should identify the "particular routes" that are relevant to the impairment analysis.

2. Potential Deployment Analysis

We believe it may be most appropriate to consider potential deployment as part of any continuing review, if necessary. If the impairments triggers set forth by the FCC are not satisfied and an incumbent wishes to pursue relief under a "potential deployment analysis," the Commission suggests that such party file for appropriate relief upon the conclusion of our 9 month investigation. If the incumbent is unwilling to take this course, then the incumbent should propose to the ALJ a feasible way of accomplishing the potential deployment analysis within the 9-month proceeding.

In the event this analysis is necessary, the Commission provides the following guidelines.

1. DS3 Loops: The Commission will find no impairment at specific customer locations if other evidence shows that a requesting telecommunications carrier is not impaired without access to an unbundled DS3 Loop at a specific customer location. To make this determination, the Commission must consider the following factors: 1)

evidence of alternative loop development at that location; 2) local engineering costs of building and utilizing transmission facilities; 3) cost of underground or aerial laying of fiber or copper; 4) cost of equipment needed for transmission; 5) installation and other necessary costs involved in setting up service; 6) local topography such as hills and rivers; 7) availability of reasonable access to rights-of-way; 8) building access restrictions/costs; and 9) availability/feasibility of similar quality/reliability alternative transmission technologies at that particular location. *See* FCC Rule 319(a) and related *TRO* text.

2. **Dark Fiber Loops:** The Commission will find no impairment at specific customer locations if other evidence shows that a requesting telecommunications carrier is not impaired without access to an unbundled DS3 Loop at a specific customer location. To make this determination, the Commission must consider the following factors: 1) evidence of alternative loop development at that location; 2) local engineering costs of building and utilizing transmission facilities; 3) cost of underground or aerial laying of fiber or copper; 4) cost of equipment needed for transmission; 5) installation and other necessary costs involved in setting up service; 6) local topography such as hills and rivers; 7) availability of reasonable access to rights-of-way; 8) building access restrictions/costs; and 9) availability/feasibility of similar quality/reliability alternative transmission technologies at that particular location. *See* FCC Rule 319(a) and related *TRO* text.

3. **Local Switching:** The Commission will find no impairment in a particular market if other evidence shows that self-provisioning of local switching is economic based on the following criteria: (1) evidence of actual deployment, (2) operational barriers, (3) economic barriers, and (4) multi-line DSO end users. See FCC Rule 319(d) and related test.

4. **DS3 Transport:** The Commission will find no impairment if the evidence shows that a requesting telecommunications carrier is not impaired without access to unbundled dedicated DS3 transport along a particular route. To make this determination,

the Commission will consider: 1) local engineering costs of building and utilizing transmission facilities; 2) cost of underground or aerial laying of fiber or copper; 3) cost of equipment needed for transmission; 4) installation and other necessary costs involved in setting up service; 5) local topography such as hills and rivers; 6) availability of reasonable access to rights-of-way; 7) availability/feasibility of similar quality/reliability alternative transmission technologies along the particular route; 8) customer density or addressable market; and 9) existing facilities-based competition. *See* FCC Rule 319(e) and related *TRO* text.

5. **Dark Fiber Transport:** The Commission will find no impairment if the evidence shows that a requesting telecommunications carrier is not impaired without access to unbundled dark fiber transport along a particular route. To make this determination, the Commission will consider: 1) local engineering costs of building and utilizing transmission facilities; 2) cost of underground or aerial laying of fiber or copper; 3) cost of equipment needed for transmission; 4) installation and other necessary costs involved in setting up service; 5) local topography such as hills and rivers; 6) availability of reasonable access to rights of way; 7) availability/feasibility of similar quality/reliability alternative transmission technologies along the particular route; 8) customer density or addressable market; and 9) existing facilities-based competition. *See* FCC Rule 319(e) and related *TRO* text.

3. Procedural Rules

Any ILEC seeking review of its unbundling obligations must file a Petition to Initiate Proceeding with the Commission's Secretary's Bureau at the 9-month proceeding Docket by October 31, 2003.[13] Any filings should reference the above investigation caption and the assigned investigation docket number. The Petition to Initiate Proceedings should contain the names, telephone numbers, and e-mail addresses

[13] Due to the time constraints imposed by the *Triennial Review Order*, all petitions for a 9-month initial review must be filed by Oct. 31, 2003. Petitions for continuing review will be accepted no earlier than October 2, 2004, absent extraordinary circumstances.

for (1) the company representative who will be the contact person for official Commission documents; (2) the point person for all discovery requests; and (3) any expert witnesses. The Petition to Initiate Proceeding should address applicable matters of law, policy, and facts, including the requirements of the *Triennial Review Order*. In addition, the petition should answer the attached questions to this order at Appendix A. Any ILEC filing a Petition to Initiate Proceeding must serve the CLECs listed in footnote 14.

Any such petitions will be consolidated into a *single proceeding*, including any petition regarding loops, switching, and transport. Upon the receipt of a Petition to Initiate Proceeding, an ALJ will be assigned to develop the record and make a determination.

The Commission directs that in addition to the regular manner of filing and service, one electronic copy of each petition to initiate should be submitted with the Secretary, with reference to the applicable docket number. Any Petition to Initiate Proceeding , Answer or Petition to Intervene should include all pertinent e-mail addresses to facilitate an electronic exchange of information during the proceeding.

The Commission emphasizes that parties are not required to intervene. However, in order to fulfill the FCC's directive, certain information must be collected from CLECs, in order to evaluate Petitions. Consequently, pursuant to the Commission's authority under Sections 504, 505, and 506 of the Public Utility Code as well as the authority delegated by the FCC to conduct these proceedings, certain CLECs and Intervenors are instructed to answer the attached list of questions found in Appendix A.[14] Necessary

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[14] CLEC responses to questions are due on November 14, 2003. In order to reduce the burden on the community at large, the following limited list of CLECs must file responses to the attached questions found in Appendix A:

AT&T Communications of Pa., Inc.: Adelphia Business Solutions of Pa., Inc.; Allegiance Telecom of Pennsylvania, Inc.; ATX Licensing, Inc.; Cavalier Telephone Mid-Atlantic; CEI Networks, Inc.; Choice One

CLEC representatives may be called as witnesses under the Commission's subpoena power, if necessary. *See* 66 Pa. C.S. § 333(f) and (j). Any interested party must file a Petition to Intervene (if applicable) and Answer by November 14, 2003.

To the extent possible, the Commission will endeavor to access information already available to it and efficiently make use of its resources in an effort to avoid burdening other parties. Commission Prosecutory Staff will have access to portions of the current Local Exchange Routing Guide (LERG) free of charge. Carriers use the LERG to rate and route calls over the public switched network, therefore, it may prove helpful in state proceedings implementing the FCC's *Triennial Review Order*. Staff will also have access to FCC Form 477 in order to efficiently gather and collect data.

4. Procedural Schedule

We note that our decision regarding whether the failure to provide unbundled access to the above network elements meets the "impairment" standard during the 9-month proceeding will be an adjudication pursuant to the Administrative Agency Law, 2 Pa. C.S. §101 (defining "adjudication"). Accordingly, the same administrative rules and procedures that typically apply to an on-the-record, contested hearing before the Commission will also apply here. That is, *inter alia*, the Commission's *ex parte* rules, the Commission's rules governing proprietary information, and the Commission's rules of administrative practice and procedure will apply. Moreover, as a final adjudication, the parties will have the same appellate rights that accompany the issuance of any final Commission order.

Communications of Pa., Inc.; ComCast Phone of Pennsylvania; CTSI Incorporated, Inc.; CTC Communications Corp.; Focal Communications Corporation of Pa.; Intermedia Communications, Inc.; Level 3 Communications; MCI WorldCom Communications, Inc.; MCImetro Access Transmission Services, LLC; Metro Teleconnect Companies, Inc.; PECO Hyperion Telecommunications; Penn Telecom; RCN Telecom Services, Inc.; RCN Telecom of Phil.; Sprint Communications Company, LP; Talk America, Inc.; TCG Delaware Valley, Inc.; TCG Pittsburgh; XO Pennsylvania, Inc.;, and Z-Tel Communications Inc., LLC.

Below is a timeline for the beginning and ending stages of the 9-month impairment proceeding. The assigned ALJ will provide further guidance on due dates for any discovery, testimony, and hearings, and shall otherwise regulate the conduct of this proceeding. Please be advised that the following is the Commission's schedule, and we reserve the right to suspend or revise it as may be necessary.

October 2, 2003	*Triennial Review Order* effective
October 31, 2003	Petitions to Initiate Proceedings with accompanying ILEC responses due (*see* Appendix A)
November 14, 2003	Petitions to Intervene and Answers due CLEC's Response to Questions/Comments due (*see* Appendix A)
April 1, 2004	ALJ Recommended Decision
April 16, 2004	Exceptions
April 27, 2004	Reply Exceptions
May 27, 2004	Commission Decision

C. Development of an Efficient Loop Migration Process

We now turn to our discussion of the development of a batch cut process or other efficient loop migration process, e.g., electronic loop provisioning, for switching mass market customers from one carrier to another. The *Triennial Review Order* requires a determination on such a process in order to ensure that carriers can compete effectively in the market place.

1. Discussion

For the incumbent, connecting or disconnecting a customer is generally merely a matter of software change. *TRO* at ¶ 465. In contrast, a competitive carrier must overcome the economic and operational barriers associated with manual hot cuts. *TRO* at ¶ 465. The hot cut cost assessed by the incumbent is a non-recurring, per-line charge on competitive carriers that connect their own switches to unbundled loops. *TRO* at ¶ 470. Although hot cut costs vary among incumbents, the FCC found on a national level that these costs contribute to a significant barrier to entry. *TRO* at ¶ 470. Operationally, the FCC also found that it is unlikely that incumbents will be able to provision hot cuts in sufficient volumes absent unbundled local circuit switching in all markets. *TRO* at ¶ 468. For these reasons, and others discussed in the *Triennial Review Order,* the FCC concluded that the overall impact of the current hot cut process "raises competitors' costs, lowers their quality of service, and delays the provisioning of service, thereby preventing them from serving the mass market in the large majority of locations." *TRO* at ¶ 473.

In order to eliminate the operational and economic barriers arising from the existing hot cut process, the FCC has asked state commissioners to review and approve a batch cut migration process to be implemented by incumbents that will address the costs and timeliness of the existing hot cut process. *TRO* at ¶¶ 488-492; *see also* 47 C.F.R.§51.319(d)(2)(ii). The state commissioners may decline to institute a batch cut process so long as it details its reasons. Satisfactory reasons to decline may include the existence of electronic loop provisioning or the lack of a significant volume of customer migrations for a wire center. *TRO* at ¶¶ 487 n. 1517, 490 & 491. Generally, incumbent proposed Frame Due Time and project managed approaches would not be an adequate basis to decline. *TRO* at ¶ 474.

During our review of Verizon PA's Section 271 application, we concluded that Verizon PA is able to comply with its existing hot cut process, and is in fact, complying. Consultative Report of the PA PUC, filed June 26, 2001 with the FCC at CC Docket No.

01-138, pp. 131, 145-48, and Appendix D at pp. 12-14. Since then, Verizon has continued to adequately perform under the existing process, as demonstrated by data collected under our Performance Assurance Plan. Therefore, we take no issue with Verizon PA's hot cut performance.

Nevertheless, the Commission has long held a concern as to whether the process should remain unchanged. When the Commission decided to refrain from structurally separating Verizon PA, we conditioned our discussion, in part, upon Verizon's willingness to conduct a technical trial of electronic loop provisioning. *See Re: Structural Separation of Bell Atlantic-Pennsylvania, Inc. Retail and Wholesale Operations*, Docket No. M-00001353, Order entered April 11, 2001. Verizon agreed to the condition and has submitted a proposal for conducting the trial. *See* Letter from Julie Conover dated May 14, 2001. The time is now ripe for moving forward, especially in light of the FCC's release of the *Triennial Review Order*. We also note the FCC staff's comments on Verizon's hot cut process in the Virginia arbitration. The FCC staff found that "[w]ith an efficient OSS in place, there should be limited need for the types of manual coordination activities that Verizon claims are necessary." *In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, (FCC-DA 03-2738) released on August 29, 2003, at para. 604.

The Commission hereby directs staff to convene a technical conference to evaluate the feasibility of ELP. Staff shall report to the Commission on November 3, 2003, and provide such other reports as necessary. The Commission further directs staff to conduct a technical conference to develop a batch cut process in Pennsylvania. [15] Staff is

[15] We note that Verizon PA and Verizon North have a combined OSS obligations. *In re Application of GTE Corp., Transferor, and Bell Atlantic Corp., Transferee, Memorandum Opinion and Order* (rel. June 16, 2000), CC Docket No. 98-184 (FCC 00-221), at paras. 285-287 (requiring GTE and Bell Atlantic to establish a uniform enhanced OSS). Staff shall make use of the hot cut data collected from Verizon PA on a monthly basis to the extent

directed to recommend approval of an appropriate batch cut process or otherwise recommend why such a process is not necessary within 9 months of the effective date of the *Triennial Review Order*. FUS staff shall take the lead, assisted by Law Bureau and any other staff deemed appropriate by our Executive Director. Staff may consider combining the electronic loop and deployment of a batch cut process technical conferences, to the extent practicable. Staff may also accommodate any requests to proceed with the development of these very technical issues on a regional basis. Parties should also be cognizant of the Commission's ongoing efforts to develop carrier migration guidelines, to the extend there are common issues. See *Notice of Proposed Rulemaking Re: Changing Local Service Providers and Interfering Stations,* Docket No. L-00030163.

2. Procedural Rules

This technical proceeding will be conducted by FUS along with Law Bureau assistance, and other Bureaus as needed. FUS Staff will conduct a loop migration technical conference encompassing the previously ordered Verizon electronic loop provisioning trial and the development of a Verizon batch cut process. Interested parties are directed to contact the FUS Telecommunications Manager by October 31, 2003.[16] Thereafter, any filing should be addressed in the Miscellaneous Docket referenced on the first page of this Order.[17]

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the data is relevant, e.g., aggregate data on the volume of hot cuts performed by Verizon PA. The volume data is associated with metric PR-9-01-3520 in the denominator. According to the 6/1/03 report, Verizon PA performed 878 hot cuts in the relevant month with a 98.18% on time rate. The highest volume reported historically is on the 4/1/02 report, where Verizon PA reported 3,009 hot cuts in one month with a 98.47% on time rate.

[16] The Telecommunications Manager is Ms. Janet Tuzinski. She can be reached at (717)783-6175 or jtuzinski@state.pa.us.

[17] For the purposes of this technical conference, the proceeding will be limited to Verizon. If any interested parties believe that the Commission should develop a batch cut process within the *Triennial Review Order's* 9-month window for any other ILEC, please contact the FUS Telecommunications Director by October 13, 2003.

Verizon is directed to answer the attached questions to this order at Appendix B (Questions to Verizon). Other entities interested in participating in the technical conference should answer the questions attached to this order at Appendix B. (Questions for other participants). All Answers are due by October 31, 2003, and should be filed at the M Docket cited above with an electronic copy provided to the FUS Telecom Manager.

The Commission directs FUS to provide the Commission with periodic progress reports due on November 3, 2003, January 7, 2004, February 13, 2004, and April 15, 2004. These interim reports will be made available to the public and posted on the Commission's website. These interim reports should, *inter alia*, include a status report that will keep the Commission updated and informed as to the proceeding's progress. FUS shall provide a final recommendation reflecting a consensus to the Commission on or before May 13, 2004, for approval at Public Meeting.

If the parties are not making satisfactory progress toward a consensus recommendation, staff is directed to inform the Commission immediately. If no consensus is foreseeable, the Commission will take appropriate action to impose a process or otherwise meet the requirements of the FCC's *Triennial Review Order*.

D. Protective Order

In recognition that documents, information, and other materials submitted to the Commission and provided to the parties in the course of this proceeding may represent or contain proprietary or highly confidential information, the Commission will enter a Protective Order and will adopt a Form Confidentiality Agreement to ensure that such proprietary or confidential information is afforded protection from unwarranted disclosure, while permitting parties appropriate access to such information. The details of the Protective Order are found in a separate order issued concurrently this day.

THEREFORE,

IT IS ORDERED THAT:

1. Proceedings are hereby instituted to undertake the state commission analyses required and described in the FCC's *Triennial Review Order*.

2. In regard to the 90-day proceeding, parties participating in this investigation shall follow the rules and procedures outlined in this Order including;

a. Filing any Petition to Initiate Proceeding by October 15, 2003;

b. A petitioning CLEC must serve the affected ILEC by overnight mail (or in hand); and

c. Filing any Petition to Intervene or Answer by October 20, 2003.

3. In regard to the 9-month proceeding, parties participating in this investigation shall follow the rules and procedures outlined in this order including:

a. Filing any Petition to Initiate Proceeding by October 31, 2003;

b. A petitioning ILEC must serve the CLECs in Ordering Paragraph No. 4, below, with a copy of the Petition to Initiate Proceeding on or before October 31, 2003; and

c. Filing any Petition to Intervene or Answer by November 14, 2003.

4. In regard to the 9-month proceeding, the following CLECs must file responses to the attached questions found in Appendix A by November 14, 2003: AT&T Communications of Pa., Inc.; Adelphia Business Solutions of Pa., Inc.; Allegiance Telecom of Pennsylvania, Inc.; ATX Licensing, Inc.; Cavalier Telephone Mid-Atlantic; CEI Networks, Inc.; Choice One Communications of Pa., Inc.; ComCast Phone of Pennsylvania; CTSI Incorporated, Inc.; CTC Communications Corp.; Focal

Communications Corporation of Pa.; Intermedia Communications, Inc.; Level 3 Communications; MCI WorldCom Communications, Inc.; MCImetro Access Transmission Services, LLC; Metro Teleconnect Companies, Inc.; PECO Hyperion Telecommunications; Penn Telecom; RCN Telecom Services, Inc.; RCN Telecom of Phil.; Sprint Communications Company, LP; Talk America, Inc.; TCG Delaware Valley, Inc.; TCG Pittsburgh; XO Pennsylvania, Inc.; and Z-Tel Communications Inc., LLC.

5. If a Pennsylvania ILEC wishes the Commission to undertake a potential deployment analysis for loops, switching, or transport within the initial 9-month period, then the ILEC shall propose to the ALJ a feasible way of accomplishing such analysis within the nine months.

6. The Office of Trial Staff is directed to participate in our 90-day and 9-month proceedings and to exercise its prosecutorial discretion in determining whether information available to it in the LERG or FCC Form 477 source data is relevant to the proceeding.

7. All participants in each of the above referenced dockets are bound by the Protective Order issued on this date.

8. The Secretary's Bureau is directed to assign all Petitions to Initiate Proceeding to the Office of Administrative Law Judge (ALJ) for action consistent with this Opinion and Order.

9. Verizon is directed to answer the questions attached to this order at Appendix B by October 31, 2003. Other interested parties to the technical conference are directed to contact the FUS Telecommunications Manager, Janet Tuzinski, by October 31, 2003, and to file their Answers to Appendix B questions by October 31, 2003.

10. The Bureau of Fixed Utility Services (FUS) is directed to convene technical conferences for the purpose of considering an electronic loop provisioning trial and the development of a batch cut process for Verizon. FUS shall provide the Commission with periodic progress reports on November 3, 2003, January 7, 2004, February 13, 2004, and April 15, 2004. FUS shall provide a final recommendation reflecting a consensus to the Commission by May 13, 2004. Staff is directed to inform the Commission immediately if a consensus is not foreseeable.

11. The Secretary's Bureau is directed to serve this Order upon all jurisdictional telecommunications carriers and in addition, the Pennsylvania Telephone Association, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff.

12. The Secretary's Bureau is directed to publish this Order in the *Pennsylvania Bulletin*.

BY THE COMMISSION

James J. McNulty

James J. McNulty

Secretary

(SEAL)

ORDER ADOPTED: October 2, 2003

ORDER ENTERED: OCT 0 3 2003

APPENDIX A

PRELIMINARY DISCOVERY REQUESTS

In the Investigation into the Obligations of Incumbent Local Exchange Carriers to Unbundle Network Elements

A. *Requests for Information submitted to CLECs in Response to* Petitioning ILEC

Switching

1. Provide a list of all switches that you currently use to provide a qualifying service (as defined in 47 C.F.R. § 51.5, as that section will be amended by the Final Rules issued by the FCC pursuant to the *Triennial Review Order*) anywhere in Pennsylvania, regardless of whether the switch itself is located in Pennsylvania. Do not include ILEC switches utilized by you on an unbundled basis in the ILEC's service territory or through the resale of the incumbent's services at wholesale rates.

2. Identify each ILEC wire center district (*i.e.*, the territory served by a wire center of the ILEC) in which you provide qualifying service to any end user customers utilizing any of the switches identified in your response to Question 1. Wire centers should be identified by providing their name, address, and CLLI code.

3. For each ILEC wire center identified in response to Question 2, identify the total number of voice-grade equivalent lines you are providing to customers in that wire center from your switch(es) identified in response to Question 1. For purposes of this question, "voice-grade equivalent lines" should be defined consistent with the FCC's use of the term. *See, e.g. FCC Form 477, Instructions for the Local Competition and Broadband Reporting Form.*

4. For each switch identified in response Question 1, identify the approximate capacity of the switch – that is, the maximum number of voice-grade equivalent lines it is capable of serving – based on that switch's existing configuration and component parts.

5. With respect to the voice-grade equivalent lines identified in response to Question 3, separately indicate the number being provided to (a) residential customers; (b) business customers to whom you provide only voice-grade or DS0 lines; and (c) business customers to whom you provide DS1, ISDN-PRI, or other high capacity lines. For purposes of this question, "high capacity" means DS1 or equivalent or higher capacity lines, including, but not limited to DS1, ISDN-PRI, DS3, OCn.

6. For each of the switches identified in your response to Question 1, state whether the switch is owned by you, or whether you have leased the switching capacity or otherwise obtained the right to use the switch on some non-ownership basis. If the facility is not owned by you, identify the entity owning the switch and (if different) the entity with which you entered into the lease or other arrangement, identify the nature of the arrangement, and state whether such entity or entities are affiliates of yours, in the sense defined in ¶ 408, footnote 1263 of the *Triennial Review Order*.

7. Provide a list of all switches from which you offer or provide switching capacity to another local service provider for use in providing qualifying service anywhere in Pennsylvania.

Transport

1. For each ILEC, Identify, by name, address, and CLLI code, each ILEC wire center (by the name, address, and CLLI code of that wire center) in which you have established a collocation arrangement or in which such arrangements have been ordered.

2. For each wire center identified in your response to Question 1, provide the number of arrangements by wire center, identify the transport facilities that currently serve such collocation arrangement (or that will serve such arrangement and that you are currently in the process of constructing, ordering, purchasing, or arranging for the use of). For purposes of this Question, "transport facilities" (a) does not include unbundled facilities obtained from the petitioning ILEC, and (b) does include dark fiber.

3. For each transport facility identified in the response to Question 2, identify the transport technology utilized (*e.g.*, fiber optic (specify whether dark or lit), microwave, radio, or coaxial cable), and the quantity/capacity of the facility deployed.

4. For each wire center and transport technology identified in the responses to Questions 1-3, identify the type of termination equipment utilized in the collocation arrangement.

5. For each transport facility identified in your response to Question 2, state whether the facility is owned by you or whether you acquired rights to utilize it under a lease or other some other form of non-ownership arrangement. (If the facility was provisioned through the use of dark fiber that you acquired and subsequently "lit," answer separately for the fiber and the optronics utilized.) If the facility is not owned by you, identify the entity that owns the facility and (if different) the entity

with which you entered into the lease or other arrangement, identify the nature of the arrangement, and state whether such entity or entities are affiliates of yours, in the sense defined in ¶ 408, footnote 1263 of the *Triennial Review Order*.

6. Identify and describe any arrangements into which you have entered with another entity for such other entity's use of transport facilities in Pennsylvania that you own or control, on a lease or other basis.

7. Provide a list of all recurring and non-recurring rate elements and rates when a CLEC purchases UNE-Loop and special access, EEL, DS1, or DS3 transport from the ILEC rate center to the CLEC rate center.

B. Questions for Petitioning ILECs

1. For each wire center in your territory in Pennsylvania, please provide the number of business voice-grade equivalent lines that you directly serve.
2. For each wire center in your territory in Pennsylvania, please provide the number of business voice-grade equivalent lines that CLECs are serving through resale.
3 For each wire center in your territory in Pennsylvania, please provide the number of business voice-grade equivalent lines that CLECs are serving through UNE-P.
4. For each wire center in your territory in Pennsylvania, please provide the number of business voice grade equivalent lines that CLECs are serving through own facilities.
5. For each wire center in your territory in Pennsylvania, please provide the number of residential voice-grade equivalent lines that you directly serve.
6. For each wire center in your territory in Pennsylvania, please provide the number of residential voice-grade equivalent lines that CLECs are serving through resale.
7. For each wire center in your territory in Pennsylvania, please provide the number of residential voice-grade equivalent lines that CLECs are serving through UNE-P.
8. For each wire center in your territory in Pennsylvania, please provide the estimated number of residential lines that CLECs are serving through their own facilities (complete bypass).
9. For each wire center in your territory in Pennsylvania, please provide the number of in-service collocation arrangements that you have, and for each collocation arrangement, please indicate the type of collocation that you are providing.
10. For each wire center in your territory in Pennsylvania, please provide the number of provisioned collocation arrangements that you have in place that have yet to be

activated, and for each collocation arrangement, please indicate the type of collocation.

11. For each wire center in your territory in Pennsylvania, please provide the number of pending collocation arrangements that you have, and for each collocation arrangement, please indicate the type of collocation.

APPENDIX B

Requests for Information Regarding the Development of an Efficient Loop Migration Process

A. Questions for Verizon

1. For the period of time from January 1, 2000 through June 30, 2003, on a monthly basis for every wire center, provide, in an electronic format, the number of UNE-P lines at the beginning of the month, added during the month, disconnected during the month and at the end of the month.

2. For the period of time from December 31, 2000 through June 30, 2003, on a monthly basis for every wire center, provide, in an electronic format, the number of UNE-L lines at the beginning of the month, added during the month, disconnected during the month and at the end of the month.

3. Describe the hot cut process currently used to transfer lines from the ILEC switch to the CLEC facilities.

4. List each task that is part of the current process. Provide the average time it takes to complete the task, the typical occurrence of the task during the process, the labor rate for the task, and the common overhead loading associated with the labor rate. Indicate the source of the data; i.e., time/motion studies, SME analysis, etc.

5. Describe a batch hot cut process that Verizon would implement to meet the FCC's requirement to establish a batch hot cut process. Include an estimate of number of lines per batch.

6. List each task that is part of the batch hot cut process described in the answer to the above question regarding a batch process. Provide the average time it takes to complete the task, the typical occurrence of the task during the process, the labor rate for the task, and the common overhead loading associated with the labor rate. Indicate the source of the data; i.e., time/motion studies, SME analysis, etc.

7. List each task that is part of the batch hot cut process that is not included in the current hot cut process.

8. List each task that is part of the current hot cut process that is not included in the batch hot cut process.

9. For each wire center as of December 31, 2002 and June 30, 2003, provide the total number of residential lines served and the number of residential lines served using integrated digital line carriers. Provide separately for every wire center the number of Verizon retail residential lines, UNE served residential lines, and Wholesale served residential lines.

10. For each wire center as of December 31, 2002 and June 30, 2003, provide the total number of business mass-market lines served and the number of business mass-market lines served using integrated digital line carriers. Provide separately for every wire center the number of Verizon retail business mass-market lines, UNE served business mass-market lines, and Wholesale served business mass-market lines. Explain how Verizon determined which business lines were mass-market lines and which are enterprise lines.

11. If the tasks related to the hot cut process for lines served using integrated digital line carriers differs from the process used for other lines, discuss how the process is different and list the tasks that must be added specifically for the lines served using integrated digital line carriers. Include the time required to accomplish those tasks, the labor cost and loaded labor cost associated with those tasks.

12. On a monthly basis for the time period from January 2000 through June 2003, provide the average time a customer's service was disconnected due to the hot cut process.

13. On a monthly basis for the time period from January 2000 through June 2003, provide the number of technicians during each month who have transferred a line from an ILEC switch to the CLEC facility as part of the hot cut process. Count only those employees who perform the manual process.

14. On a monthly basis for the time period from January 2000 through June 2003, provide the number of technicians trained and capable of transferring a line from an ILEC switch to the CLEC facility as part of the hot cut process. Count only those employees who can perform the manual process. Do not include management or supervisory personnel who can perform these tasks but do not do so as part of their regular work effort.

15. For the period of time from January 1, 2000 through June 30, 2003, on a monthly basis for every wire center, provide, in an electronic format, the number of hot cuts performed.

16. Provide a list of all carriers with which Verizon has an interconnection agreement for the provision of local service in Pennsylvania.

17. Provide a list of all carriers to which Verizon has sold collocation services in Pennsylvania. For each carrier, list the wire centers where the carrier is collocated.

18. Provide a list of Verizon wire centers with indicators that identify whether the office is unstaffed, has a technician on duty but the technician can not perform hot cuts, or has a technician on duty and the technician can perform hot cuts. For unstaffed offices and offices where the technician can not perform hot cuts, specify the number of miles that the technician must drive and driving time to reach that office from the closest office where a technician who can perform hot cuts is normally on duty.

19. Compare and contrast electronic loop provisions (as contemplated by the *PA PUC's Functional Structural Separation Order*) and the batch cut process (contemplated by the *Triennial Review Order*).

20. If a batch cut process is developed, does that make it more or less likely that an electronic loop provisioning process will be implemented.

B. Questions for Other Participants

1. Describe the hot cut process currently used to transfer lines from the ILEC switch to the CLEC facilities.

2. List each task that is part of the current process. Provide the average time it takes to complete the task, the typical occurrence of the task during the process, the labor rate for the task, and the common overhead loading associated with the labor rate. Indicate the source of the data; i.e. time/motion studies, SME analysis, etc.

3. Describe a batch hot cut process that you would implement to meet the FCC's requirement to establish a batch hot cut process. Include an estimate of the maximum number of lines per batch.

4. List each task that is part of the batch hot cut process described in the answer to the preceding question. Provide the average time it takes to complete the task, the typical occurrence of the task during the process, the labor rate for the task, and the common overhead loading associated with the labor rate.

5. If UNE-P is no longer available, what monthly volumes of hot cuts would be required: (a) to migrate existing UNE-P customers to another form of service and (b) to connect new customers in the ordinary course of business. Provide supporting documentation for these volume estimates.