COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND

IN THE MATTER OF	
Verizon Virginia Inc.'s compliance with the conditions set forth in 47 U.S.C. § 271(c)	**CASE NO. PUC-2002-00046**

Declaration Of

Robert J. Kirchberger

Mohammed K. Kamal

And

E. Christopher Nurse

Concerning

Operations Support Systems

On Behalf Of

AT&T Communications of Virginia, LLC

May 3, 2002

I. INTRODUCTION

My name is Robert J. Kirchberger. I am a Law & Government Affairs Director in AT&T's Atlantic Division. I have 32 years of experience in the telecommunications industry – 10 years with New Jersey Bell and 22 years with AT&T. Over the years, I have held positions of increasing responsibility in a number of areas, including management of local repair service centers and local switching offices, development of technical and tariff support for pricing and marketing of both New Jersey Bell's and AT&T's services, and management of customized offerings. From 1995 to November, 1996, I had business management responsibility for the AT&T Atlantic Region Local Services Organization. In that capacity, I was actively involved in the AT&T-Bell Atlantic-Pennsylvania negotiations for a local interconnection agreement.

Over the last three years I have led the AT&T teams in the former Bell Atlantic-South footprint participating in the industry meetings on Operations Support Systems ("OSS") interfaces, performance standards, measures and self-executing remedies. I have led AT&T's efforts to monitor the KPMG third party tests of Verizon's OSS throughout the former Bell Atlantic-South footprint.

My name is Mohammed K. Kamal. My business address is 32 Avenue of the Americas, New York, New York. I am Manager for OSS Negotiation in AT&T's Local Network Services Organization. In my current position, I negotiate with Verizon's business team regarding OSS, including the upgrading of OSS interfaces. I am also responsible for negotiations involving, and coordination of, the billing systems required for AT&T to receive wholesale bills from Verizon. In addition, I monitor third party testing of Verizon's OSS in certain States where such testing is occurring.

Over the last three years, I have managed AT&T's testing to determine whether the OSS of various incumbent local exchange carriers ("ILECs") can support AT&T's entry into the local exchange service market. In that capacity, I have managed testing of the OSS of Verizon-New York, Verizon-Pennsylvania, Verizon-Massachusetts, Verizon-New Jersey, BellSouth-Georgia and SBC-Michigan. My responsibilities have included reviewing and coordinating AT&T's implementation of all of Verizon's business rules and processes so that AT&T can use the pre-ordering, ordering, provisioning, billing, and maintenance and repair functions of Verizon's OSS.

I have approximately nine years of experience in the telecommunications industry. I have served in various capacities within AT&T, including Directory Listings Product Management of AT&T's Digital Link Local Service, Regional Marketing Management of AT&T Consumer and Small Business Services, and sales in AT&T Business Markets. I hold a Master's degree in Economics from the University of Brussels, and am currently pursuing an M.B.A. degree at St. John's University, New York. I received a Bachelor's degree in Biology from the University of Dhaka and completed a Certification Program in Telecommunications from Columbia University.

My name is E. Christopher Nurse. I am a District Manager of Law & Government Affairs for AT&T. My business address is 3033 Chain Bridge Road, Oakton, Virginia 22185. I received a B.A. in Economics from the University of Massachusetts at Amherst. In 1996, I received a Masters in Business Administration from the Graduate School of Business at Southern New Hampshire University, in Manchester, New Hampshire. I have 20 years

experience in the telecommunications industry. I was promoted to my current position in September 1999, and previously was Manager of Government Affairs. Previously, I held the position of Manager of Regulatory and External Affairs for AT&T Local Services.

Prior to joining AT&T, I was employed in the same capacity by Teleport Communications Group Inc. ("TCG") beginning in February 1997.[1] Prior to my employment with TCG, I was a Telecommunications Analyst with the New Hampshire Public Utilities Commission from 1991 to February 1997, and was entrusted with a broad range of responsibilities. Assigned to the Engineering Department, I was the lead analyst on over 100 dockets, and a contributing analyst to nearly all telecommunications dockets before that Commission. Specifically, I routinely reviewed capital budget filings, service quality reports, service restoration procedures, and operations. This included conducting Staff investigations in response to consumer and competitor complaints, primarily from competitive pay phone providers and Internet Service Providers. As Staff Advocate, I participated in reviewing a host of new service introductions, tariff filings, cost studies, and traditional rate cases concerning Independent Telephone Companies.

In my current position I have participated extensively in proceedings, both formal and informal, pertaining to the development and testing of Verizon's OSS, in New York, New Jersey, Pennsylvania and Virginia, as well as other C&P states, including the monitoring of the KPMG tests of Verizon's OSS in New Jersey, Pennsylvania and Virginia.

[1] Effective July 24, 1998, Teleport Communications Group and its subsidiaries became wholly owned subsidiaries of AT&T Corp.

II. PURPOSE OF OUR TESTIMONY

We will address primarily the claims made by Verizon VA with respect to its obligation to provide non-discriminatory access to its OSS and the KPMG third-party test ("KPMG Test"). Contrary to Verizon VA's claims, the KPMG Test does not prove that Verizon VA provides nondiscriminatory access to its OSS. The KPMG Test does not, and does not claim to, replicate real-world commercial experience. Furthermore, a number of critical OSS functions were not part of the KPMG Test. For these functions, Verizon VA failed to provide any persuasive evidence that it provides nondiscriminatory access to its OSS. More importantly, as shown below, actual commercial experience demonstrates that Verizon VA is not satisfying this obligation. In fact, in the last quarter of 2001 and the first quarter of 2002 Verizon has paid almost $700,000 in connection with its failure to satisfy the performance requirements for Virginia set forth in the BA/GTE merger conditions.[2] The Commission should not conclude that Verizon VA has satisfied the Section 271 Checklist Item 2, access to unbundled network elements ("UNEs") with respect to OSS until (1) all OSS functions, *e.g.*, electronic billing, flow through performance and directory listings, have been tested and (2) there is a demonstration that Verizon's OSS does work as required when subjected to actual commercial experience.

III. BACKGROUND OF OSS

As is well established now, OSS form a critical link in Competitive Local Exchange Carriers' ("CLECs") ability to irreversibly enter the local market. If that link is weak or

[2] Verizon VA Response to AT&T I-85.

unstable, CLECs cannot successfully enter or remain in the local market on a meaningful scale. It is critical to distinguish between high volume business/urban end user customers, on whose behalf a CLEC might be economically able to absorb some considerable expenses in "hand holding," and small business and residential customers, where the narrow margins do not allow the luxury of excessive handling costs . We are here not to reassure ourselves that the OSS supports irreversible entry for merely the former, but we are here to determine that the OSS supports irreversible entry for the latter. At this point, the facts are inadequate to show that Verizon VA provides nondiscriminatory access to its OSS that will allow for sustainable competitive entry.

Operations Support Systems (OSS) are an unbundled network element under the Act and are the computer-based systems, supporting work centers, and databases that telecommunications carriers use to provide a number of essential customer care and business support functions, including:

(1) preordering (*e.g.*, accessing customer service records, determining the availability of services and features, address verification, telephone number selection and reservation, ascertaining the need for a site visit, and determining the due date for service installation),
(2) ordering (*e.g.*, establishing customer accounts and service installation),
(3) provisioning (*e.g.*, handling the installation of orders and tracking the status of installs),
(4) maintenance and repair, and
(5) billing for interconnection, collocation, and the sale of UNEs or resale of telecommunications services.

The development of operationally ready electronic interfaces between two OSS—Verizon VA's OSS and the CLECs' OSS-- requires not only the development of the necessary interfaces and the publication of interface specifications, but a showing that CLECs are actually

able to use the interfaces to obtain the information and functionalities contained in Verizon VA's OSS, including databases.

The FCC "consistently has found that nondiscriminatory access to OSS is a prerequisite to the development of meaningful local competition."[3] AT&T and other CLECs entering the Virginia local market on a large scale are highly dependent upon their ability to efficiently obtain local services and unbundled network elements from Verizon VA, which depends in turn upon the efficient exchange of information between AT&T and Verizon VA relating to all the above-described OSS functions. This is particularly necessary as CLECs evaluate moving into the mass market and, of course, is critical in the segment of small one-line, two-line and three-line customers. Without nondiscriminatory access to Verizon VA's OSS, large-scale, broad-based entry by CLECs into the local market will be limited, delayed or foreclosed, and many consumers will be denied the benefits of competition in local telephone services -- choice, new services, and lower prices.

For this reason, the FCC has found that denial of nondiscriminatory access to the OSS of the incumbent LECs would present "a significant potential barrier to entry."[4] As the FCC explained:

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[3] Memorandum Opinion and Order, *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 Communications Act of 1996 to Provide In-Region, InterLATA Services in Texas,* CC Docket No. 00-65 (released June 30, 2000) ¶ 92; First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98 (released August 8, 1996) ("*Local Competition Order*"), ¶ 518. *See also id.*, ¶ 522 ("We find that such operations support systems functions are essential to the ability of competitors to provide services in a fully competitive local services market").

[4] *Local Competition Order*, ¶ 516 ("the massive operations support systems employed by incumbent LECs, and the information such systems maintain and update to administer telecommunications networks and services, represent a significant potential barrier to entry").

> [I]f competing carriers are unable to perform the functions of pre-ordering, ordering, provisioning, maintenance and repair, and billing for network elements and resale services in substantially the same time and manner that an incumbent can for itself, competing carriers will be severely disadvantaged, if not precluded altogether, from fairly competing. Thus providing nondiscriminatory access to these support systems functions, which would include access to the information such systems contain, is vital to creating opportunities for meaningful competition.[5]

The FCC has made clear that the duty to provide "nondiscriminatory access" means that the access provided to CLECs must be "the same" as,[6] "equal,"[7] or "equivalent to,"[8] the access that the Bell operating company ("BOC") provides to itself. In addition, consistent with "the 1996 Act's goal of promoting local exchange competition," the FCC has stated that where a BOC does not provide any analogous function or facility for itself, the BOC must provide access "under terms and conditions that would provide an efficient competitor with a meaningful opportunity to compete."[9]

Simply put, AT&T cannot further serve the local market in a sustained manner without appropriate access to Verizon VA's OSS, nor can any other CLEC. Customers demand and expect from new entrants at least the same level of service that they receive from Verizon VA

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5 *Id.*, ¶ 518. *See also* Second Order on Reconsideration, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98 (released December 13, 1996) ("*Second Order on Reconsideration*"), ¶ 11 (reaffirming that nondiscriminatory access to OSS functions "is a critical requirement for complying with section 251," and that "incumbent LECs that do not provide access to OSS functions, in accordance with the *First Report and Order*, are not in full compliance with Section 251"); Memorandum Opinion and Order, *Application of BellSouth Corp. Pursuant to Section 271 of the Communications Act of 1934, as amended, to Provide In-Region, InterLATA Services in South Carolina*, CC Docket No. 97-208 (released December 24, 1997) ("*BellSouth South Carolina Order*"), ¶ 82.

6 *See, e.g., Local Competition Order*, ¶¶ 518, 523, 316; *BellSouth South Carolina Order*, ¶¶ 98, 99, 104, 116, 132.

7 *See, e.g., Local Competition Order*, ¶ 315; *Second Order on Reconsideration*, ¶ 9.

8 *See, e.g., Second Order on Reconsideration*, ¶ 9; *BellSouth South Carolina Order*, ¶¶ 16, 88, 98, 102.

9 *Local Competition Order*, ¶ 315; *Ameritech Michigan Order*, ¶¶ 130, 141; *BellSouth South Carolina Order*, ¶¶ 98, 141.

today. The ordering process is frequently a customer's first and most significant interaction with a carrier, especially a new carrier or a carrier in a new market. If AT&T or any CLEC hopes to attract and keep customers, they cannot offer service inferior to that provided by Verizon VA or any ILEC. Customers will not tolerate such treatment and either will not switch providers or will return to the ILEC. Since Verizon VA starts out with essentially all the local customers, it has no ordinary, commercially rational incentive to make the OSS work effectively and efficiently. The better the OSS works, the easier it is for customers to leave Verizon VA.

It may well not be apparent to a CLEC's customers that OSS problems are caused by Verizon VA. For example, if a business customer's line listing appears incorrectly in the business pages and/or the yellow pages – or does not appear at all -- the problems are likely to be perceived as the fault of the CLEC. Perversely, rather than punishing Verizon VA by switching to a CLEC, it would be rational for the end user to return to Verizon VA, actually rewarding Verizon VA for its discrimination. Even if the customer is informed that the fault lies with Verizon VA, however, the fact that dealing with the CLEC was more troublesome, time-consuming and inefficient than remaining with Verizon VA will discourage customers from switching carriers, and induce them to switch back to Verizon VA.[10] It is well known that a dissatisfied consumer communicates that view much more frequently than a satisfied customer.

The importance of this customer interaction cannot be overstated, particularly in AT&T's case. AT&T has a large pre-existing customer base for long distance services that is already being served through fully automated OSS. In order to maintain its business reputation

[10] There is no effective way of communicating to end users that Verizon VA is responsible for such poor performance. CLECs either appear unable to manage their supplier or unwilling to be accountable for their performance.

and well-known brand in the market for providing quality service, AT&T must be prepared from the outset to serve large numbers of customers and to daily handle thousands of orders for local service at all levels of complexity, and to handle them as flawlessly (or near flawlessly) as are orders for toll service.

In order for AT&T to have this opportunity, Verizon VA must fulfill its statutory commitments and timely provide the required notifications and billing. Of course, even when operating as designed, the interface and OSS will be slower and less available for a CLEC than for Verizon VA's personnel, because of considerations such as extra transmission steps and security measures.

For example, customer problems are created when Verizon VA provides untimely billing or provisioning order completion notifications. Until it receives the provisioning completion notification (PCN) that an order has been physically completed, AT&T does not know that the customer is in service, and cannot reasonably engage the customer, such as addressing maintenance problems.[11] Similarly, until the CLEC receives the billing completion notification (BCN or BCM) it is unable to begin billing for the customer, or risks that its customer will receive an errant retail bill from Verizon VA as well as from the CLEC. This can happen under the SOAC SOP, which is still in use for a part of Verizon VA's process. Under Verizon VA's expressTRAK SOP, in which Verizon alleges the PCN and BCN are

[11] *See, e.g., BellSouth South Carolina Order*, ¶ 139 (timely receipt of the order completion notice is "particularly important" for the development of competition). We recognize that with the conversion to LSOG 5 PCNs become PCMs (provisioning completion messages), but retain the more familiar nomenclature for convenience.

simultaneously generated, there is the increased danger that neither notifier is sent, with even graver adverse consequences than if only one or the other of two notifiers is missing.

Further, until Verizon VA completes the CLEC's order in its billing system—until Verizon VA issues a BCN, Verizon VA will continue to treat its ex-customer as if it were still a retail customer. Verizon VA will continue to bill the customer for flat rated recurring monthly service components and, if applicable, collect and prepare for rating the CLEC customer's usage as if the CLEC's customer usage were retail usage. Depending on the tardiness of the BCN, Verizon VA can bill former customers for retail services that it did not provide. At the same time, Verizon VA will not supply the required wholesale unrated usage to the CLEC. Without the timely delivery of the unrated daily usage feed (DUF), the CLEC cannot render a correct and timely retail usage bill to the end user consumer.

Because Verizon VA improperly retains this usage it may, depending on the retail billing cycle, bill its ex-customer *at Verizon VA's rates* for usage made on the CLEC's service. This can be particularly pronounces if the CLEC has a different retail rate structure or calling area than Verizon VA. Verizon VA will also bill its ex-customer for non-usage sensitive charges as well. Both of these errors obviously will cause the end user's Verizon VA bill to continue when it should not, and be improperly high, while the CLEC's bill (for the non-usage sensitive charges) will be incorrectly missing the usage charges because Verizon VA improperly withheld the wholesale usage data. The result is that Verizon VA's improper billing of ex-customers causes consumers to be double billed for at least the flat-rated monthly service elements. When the accumulated usage data finally "catches up" to the CLEC, the CLEC billing to the end

customer can be so delayed and so significant, as to create another "bad taste" in the consumers mouth.

Eventually, Verizon VA will (likely) clear the orders lost or delayed in limbo -- but then Verizon VA will whipsaw the CLEC and the end user by dumping all the end users' usage on the CLEC at once (rather than providing the *daily* usage on a *daily* basis). While at some point Verizon VA will credit its former end user's "final" retail bill, such credit will be not only for Verizon VA retail services but also for CLEC retail services that Verizon VA billed without authority. Depending on the bill cycles, the end user may receive the CLEC's retail bill with multiple months of usage before the consumer receives the credit on its Verizon VA final bill. Depending on the timing of Verizon VA's tardy completions and corrective actions, the end user's billing experience can be a Verizon VA-induced nightmare. The Commission's tolerance for this type of slamming by Verizon VA should be no more than its tolerance for the more traditional types of slamming.

Verizon VA is unable or unwilling to complete all service orders in a timely basis. Verizon VA makes no commitment to ever process 100% of a CLEC's orders regardless of the Service Order Processor ("SOP") used.[12] This has obvious impacts on AT&T's ability to compete because it increases costs, placed on AT&T because of Verizon VA's discriminatory performance, and erodes opportunity to profitably serve local consumers. Furthermore, what customer would choose a CLEC when Verizon VA could complete the customer's order in

[12] Moreover, Verizon VA does not affirmatively undertake responsibility to look for orders it loses, or loses track of, within its internal processes. Rather, Verizon VA foists such effort onto CLECs who are required to contact Verizon VA and open a trouble ticket for an overdue or lost order. Verizon VA could of course just as easily compare the date on which the BCN is due and proactively look for lost orders on its own initiative.

substantially less time or with less hassle? In addition, Verizon VA's inability to complete service orders on time affects AT&T's ability to complete other work effectively and cost effectively; both are required to be competitive.

The principal consequence is that each of these deficiencies increases a CLEC's costs of providing service, which cannot be recovered directly from end users, and degrades the quality and value of the service that can be provided. Verizon VA, of course, does not suffer the same costs or quality concerns. Indeed, Verizon *gains* because it has through its actions discouraged customer movement from Verizon to CLECs.

In light of the importance of OSS to a competitive local exchange market, the Commission must be assured that Verizon VA has complied with its OSS obligations as required by the § 271 competitive checklist. Unfortunately, that assurance is not forthcoming. First, the KPMG Test only provides limited assurances regarding OSS performance because it was limited in scope in critical respects. The absence of any testing regarding electronic billing and significant areas of metrics replication obviously precludes reliance on the test for these issues. Second, actual performance data on limited numbers of CLEC orders does not provide support for Verizon VA's claim of non-discriminatory performance. As we will show later in this Declaration, while the KPMG passed Verizon VA with flying colors on flow through performance, Verizon VA's actual flow through performance is so plainly discriminatory that the Commission cannot find it has satisfied this checklist item.

In contrast to other states such as Pennsylvania, the Commission did not establish a "commercial availability period," the results of which the Commission could use to validate the accuracy and reliability of the KPMG testing based on actual commercial usage. The

commercial availability period addresses the Catch 22: Without testing CLECs are reluctant to invest and blindly leap into Verizon VA's OSS, but without actual commercial usage there is no assurance that the test gave an accurate picture of the OSS. The commercial usage period reduces CLECs' risk by providing at least some assurance of the probative value of the third party test. It would also help the Commission to avoid the experience of the New York Commission, which had to deal with Verizon NY's OSS collapse after § 271 entry on an emergency basis.

Thus, due to the limited entry by CLECs into the Virginia local exchange market and the even more limited use of UNEs, the Commission has no competitively significant, reliable real-world or commercial data to determine if Verizon VA is capable of providing non-discriminatory access to its OSS for CLECs offering local service on a mass market basis using UNEs.

IV. THE KPMG TEST

KPMG conducted the third party test over the period February 17, 2000 through April 15, 2002, using a "military style" testing process, where deficiencies are to be fixed as they are encountered, and the fixes then retested to determine whether the underlying problem was in fact resolved. Despite over two tortuous years of remedial testing, Verizon VA is still unable to various test metrics without reliance on the promise of future fixes. In fact, even KPMG's limited test generated 72 Observations and 16 of the more serious Exceptions. The seriousness of issues that required resolution and the lenghth of time many of them remained unresolved is plainly inconsistent with an OSS that was purportedly satisfactorily tested by Verizon VA before third party testing by KPMG.

Although the KPMG Test process spanned over two years, testing did not occur continuously through the course of the testing period, in part because Verizon VA encountered problems that required KPMG to cease testing activities. Most notably, shortly after the test began it was suspended in the first quarter of 2000 when Verizon's (then Bell Atlantic's) New York Service crisis arose. In New York the Bell Atlantic OSS -- also tested by KPMG -- collapsed almost immediately upon 271 approval. Verizon VA requested KPMG to suspend testing activities until the New York OSS was stabilized and Verizon VA had an opportunity to assess whether any modifications to its Virginia OSS would be required. Third party testing resumed in Virginia in the summer of 2000. Once testing resumed it was again interrupted in August and September of 2000 because of the workforce stoppage of Verizon VA's union employees. Testing was also interrupted in the aftermath of the terrorist attacks of September 11, 2001.

In March 2001, KPMG submitted a draft report to the Commission that was followed by "on-the-record" workshops held on March 18-20, 2002. After the conclusion of the workshops, KPMG submitted its Final Report to the Commission on April 15, 2002.

While the Final Report states that all test criteria were "satisfied," this does not mean that KPMG has found that Verizon VA has satisfied the Section 271 checklist with respect to OSS. That is for the Commission to decide, as KPMG itself acknowledges.[13] And, it does not mean that Verizon VA is providing non-discriminatory OSS service as required by the Act. The Commission must be careful when making any conclusions based on the KPMG report to consider the expressed limitations and constraints of the test. The Commission must recognize

the KPMG Test for what it was and what it was not. Otherwise, it may be repeating the experience of New York, where KPMG's favorable report and Verizon NY's subsequent entry into the interLATA long distance market was quickly followed by an implosion of Verizon NY's OSS as CLECs began entering the local exchange market on a large scale.

V. DIFFERENCES BETWEEN THE THIRD PARTY TESTING METHODOLOGY AND COMMERCIAL EXPERIENCES USING VERIZON VA'S OSS

There are inherent limitations in any independent third party testing methodology of an ILEC's OSS that certainly apply to the Virginia OSS test. The test results, therefore, are not necessarily representative of a CLEC's actual commercial experience using Verizon VA's OSS, and in fact should be evaluated contextually according to CLECs' experience whenever possible. The FCC consistently has stated that actual commercial experience is the "most probative evidence."[14] At most, the third-party test will demonstrate that either (i) Verizon VA has failed to provide nondiscriminatory access to its OSS or (ii) only that it is *capable* of providing adequate OSS access in a controlled test environment. Even the best third party test is still just a third party test, based on artificial constructs and only lightly reflecting real world commercial experience.

The purpose of the third party test, in KPMG's own words, was to "conduct an independent third-party test of the readiness of Verizon VA's Operational Support Systems (OSSs), interfaces, documentation and processes to support local market entry by the

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[13] KPMG Draft Final Report at 10; Workshop Transcript at 24.

[14] *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of New York*, Memorandum Opinion and Order, 15 FCC Rcd 3953, 3961-63, para. 89 (1999) (*New York 271 Order*).

CLECs."[15] KPMG's description of the limitations of the test confirm that the test could not simulate certain order types, troubles, and processes, such as orders with long time intervals (such as collocation); provisioning of large volumes of test transactions "that would exceed the manual capacity of Verizon VA's Work Centers," and execution of certain live tests that would disrupt service to Verizon VA or CLEC customers.[16] In each of these instances, KPMG attempted to use lesser surrogate means such as interviews, reviews of Verizon VA's documentation, and observations of live orders in process, rather than directly test Verizon VA's capabilities.

By necessity, the test was not designed to simulate every aspect of the real world experience of a CLEC using Verizon VA's OSS in a commercial production setting. For one, KPMG issued no billing claims for incorrect bills, as a CLEC would. Instead, KPMG opened Observations. With the opening of an Observation KPMG would only receive a verbal explanation from Verizon VA as to the cause of the billing problem. Because KPMG did not file billing claims forms, KPMG did not observe or test Verizon VA's billings claims process for timeliness, accuracy, completeness or efficiency.

For another, KPMG often "passed" Verizon VA in a piecemeal fashion where Verizon VA never satisfied the entirety of a requirement in a single month, but only satisfied the various parts over various months, and not necessarily in the correct sequence. KPMG then assumed that Verizon VA will in the future perform all the parts correctly and in the proper order each month – not necessarily a sound assumption.

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[15] KPMG Draft Final Report at 9.

[16] *Id.* at 16.

Similarly in New York, a full-scale volume test was not conducted of Verizon's OSS to evaluate whether the systems were scalable and capable of supporting expected volumes of commercial transactions. Following closely on the heels of Verizon's approval to enter the interLATA market in New York, Verizon's OSS failed badly, and did not return massive numbers of acknowledgments, order confirmations, reject responses, provisioning completion notification ("PCNs") and billing completion notifications ("BCNs"). This subjected CLEC end user customers to lost and/or delayed orders, causing grave customer service problems such as service interruptions and maintenance and repair delays. Notwithstanding satisfaction of KPMG's testing, Verizon NY's performance subsequently generated over $13 million in additional remedies payments.

The only way for this Commission to know if access to Verizon VA's OSS is nondiscriminatory is to evaluate how the OSS perform in the real world, at commercial volumes, under a commercial cross section of ordering scenarios. Review of Verizon VA's OSS in real world situations is even more important because Verizon VA utilizes two disparate Service Order Processors, only one of which was tested, and that one – expressTRAK -- has never been exposed to large commercial volumes in a production environment.

The other system – the SOAC legacy SOP -- was outside of the scope of the test, so there has been no test of that SOP. Verizon VA continues to claim that SOAC will soon be retired, but that has yet to happen. Verizon avoids any commitment as SOAC retirement. The failure to test one of two critical systems in Virginia was of Verizon's own making, and is unique to any of the jurisdictions in which Verizon has made § 271 applications.

A. Inherent Limitations Of The KPMG Test

The KPMG Test had at least two major limitations related to the nature of the third-party test: (1) it did not, and was not designed to, test the OSS process end-to-end and (2) it could not be a fully blind test.

The first inherent limitation is that the test does not evaluate how Verizon VA's OSS performs from end to end, that is, from the submission of a pre-order query for an order; submission of that order; provisioning of that order; billing of the services/facilities associated with that order; maintenance and repair of the services/facilities associated with that order; and reporting of Verizon VA's OSS performance in processing these various transactions in Verizon VA's monthly Carrier to Carrier ("C2C") performance reports. Instead, KPMG tested piecemeal certain components of Verizon VA's OSS and could not fully evaluate whether all of the linkages between the various components were integrated properly so that the OSS performs seamlessly in a manner comparable to Verizon VA's own retail experience. Additionally, examining the OSS in this manner, and applying a 95% performance standard at each step in the process, incorrectly leads one to believe that total end-to-end performance is at the 95% standard. In fact, 95% performance at each step of a multi-step process yields performance for the entire process that is substantially less than 95%. For example, a five-step process rated at a 95% standard at each step results in a total end-to-end "standard" of approximately 75% under KPMG's testing methods.

KPMG then further lowered the test level by relaxing the 95% benchmark standards with a p-value, effectively lowering the benchmark cutoff several more points, down to 92% or

93%.[17] While allowable under the MTP, such treatment was incorrect given the forgiveness already incorporated into the 5% leeway that produced the 95% benchmark in the first instance. The p-value was applied asymmetrically, so as only to help Verizon VA convert otherwise near failing scores into passing scores. It was not applied to consider the chance that Verizon VA may have eked out a barely passing score by random chance and convert that to a failing score.

The second inherent limitation is that no third-party test could be truly "blind" to Verizon VA, as KPMG itself recognizes.[18] Despite KPMG's concerted attempt to conduct the test in a manner that hid its "pseudo-CLEC" identify from Verizon VA, the fact is that Verizon VA could readily identify KPMG's pseudo-CLEC activities and accordingly had the opportunity as well as motive to provide KPMG with atypically exemplary service, rather than the typical quality of service offered to competitors. KPMG made inadequate efforts to detect and deter such favorable discrimination.

Verizon has been subject to similar KPMG tests in New York, Rhode Island, Pennsylvania and New Jersey, as well as Virginia. Over time Verizon presumably has gotten better at taking the tests. Of course, this does not necessarily produce a better OSS, just a better test score. Consequently, KPMG's positive experiences, as reported in the Final Report, may well not be representative of a typical CLEC's experience. KPMG did not consistently compare its test results against real CLEC results to identify and investigate discrepancies. For example, a CLEC must identify itself to Verizon VA when opening trouble tickets, and thus Verizon VA has the means, motive and opportunity to provide KPMG with

[17] See, for example, KPMG Draft Final Report at 274, TVV4-1.

[18] KPMG Draft Final Report at 14.

atypical enhanced attention. Notwithstanding the foregoing, there were instances where Verizon VA did manage to treat KPMG as badly as it treats CLECs.

It must also be noted that, notwithstanding attempts to convey that CLECs were full participants in the third party test,[19] the truth is that CLECs' involvement was limited. CLECs were permitted to provide input to KPMG and the Commission as to their own experiences using Verizon VA's OSS, but they were not permitted to actively participate in the conduct of the test or participate in decision-making that affected the scope and comprehensiveness of the test. For example during the weekly Observation and Exception calls, CLECs were only allowed to ask clarifying questions. In contrast, full participants such as Staff, KPMG and Verizon VA were not likewise constrained.

Thus, while AT&T was allowed to observe the OSS third party test, its participation was primarily limited to monitoring the progress of the test. Unlike in Pennsylvania, CLECs were not permitted to submit written responses to Exceptions, on a par with Verizon. In Virginia, AT&T did not have any right to be heard during the course of the test, as the proceeding was not a formal, on-the-record docket. Within these constraints, AT&T tried to constructively participate and bring forward its concerns on a timely basis, but had no real way of knowing whether its concerns would be addressed until KPMG issued its written report. For example, repeatedly during the test when Verizon VA's documentation did not match Verizon VA actual practice, KPMG simply allowed Verizon VA to revise, or "dumb down" its documentation to be consistent with its otherwise failing performance. AT&T repeatedly sought to establish Verizon's affirmative obligations to correct retrospective errors, to search for

known errors, and to affirmatively disclose to other CLECs errors that were detected first by one CLEC. These attempts were not successful.

Furthermore, following the KPMG process was so resource-intensive that the involvement of most CLECs was minimal. AT&T itself found it difficult to devote adequate resources to the task year after year. Indeed, Cavalier withdrew entirely, believing the test to be worthless.

B. The KPMG Test Was Limited In Scope.

In addition to these inherent limitations the KPMG Test also was overly limited in its scope. In other words, KPMG did not test certain functions of Verizon VA's OSS and therefore the Commission has no independent data available to evaluate Verizon VA's compliance with the checklist for those functions. The functions not tested by KPMG include: (1) electronic billing; (2) full compliance with the Carrier to Carrier Guidelines; (3) verification and ratification of metrics change control; (4) actual provisioning of orders as would occur in the real world; (5) billing claims and the posting of billing credits; (6) directory assistance publications; and (7) validation of the correctness and stability of the metrics retail analogs for the parity metrics.

1. Electronic Billing

Timely and accurate wholesale UNE bills are a critical component of a competitive local exchange market.[20] When Verizon VA fails to provide timely and accurate wholesale bills, a

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[19] See, *e.g.*, KPMG Draft Final Report at 10, 12, and 14.

[20] *See*, e.g., *In the Matter of Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, Memorandum Opinion and Order, CC Docket No.

CLEC is forced to expend considerable resources auditing, evaluating and correcting inaccuracies. Moreover, relatively small percentage increases in a CLEC's wholesale costs as a portion of revenues – including the costs of bill validation and dispute resolution -- or decreases in retail revenues can materially reduce a CLEC's profitability and therefore its ability to enter or remain in the local exchange market. For example, if the CLEC's net margin is 5% of sales, a one point increase in costs or decrease in revenues represents a 20% decrease in profitability.

As of this date Verizon VA does not offer a BOS/BDT version of the wholesale bill as the bill of record.[21] Rather, the CLECs must rely on a cumbersome paper wholesale bills as the official bill of record. At the same time, Verizon VA provides electronic versions of its retail bills to its retail customers, including the very same large business customers for whom it is competing with the CLECs.

As a result of Verizon VA's failure to provide an electronic bill of record, the KPMG Test did not include any test as to the timeliness or accuracy of the electronic bill. Instead, KPMG evaluated only the wholesale paper bill. This aspect of the test is essentially worthless and certainly is irrelevant, particularly since the creation of the billing test bed was specially handled by Verizon VA and was accomplished by establishing new, pristine accounts, which unrealistically were not contaminated with any prior account history and accordingly were far less prone to error.

Any CLEC with a meaningful amount of local customers served using UNEs cannot use a paper bill. A paper wholesale UNE bill would result in many boxes of paper, as WorldCom

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01-038 (September 19, 2001) at ¶ 23.

[21] That is a CABS BOS/BDT bill: Carrier Access Billing System, Bill Output Specification, Bill Data Tape.

demonstrated in Pennsylvania, where its witnesses described the impossibility of contending with over a hundred boxes of paper bills each month, boxes WorldCom barely had time to open much less audit for accuracy (notably, the boxes of bills contained no summary pages). WorldCom's experiences, and those of other CLECs, prove that it is virtually impossible, and prohibitively expensive, for the CLEC to review or audit the accuracy of those bills.

There is a lag property with the KPMG Billing Accuracy metric, because the auditing of paper bills and the discovery of any errors substantially lags the bill, and therefore there initially are no claims and credits. While bill adjustments reflect credits for bill errors, such credits lag behind the underlying billing. In contrast, KPMG calculated what it believed its wholesale bill should have been and then compared that to the actual amount billed. KPMG essentially did not test billing disputes with its CLEC paper bill (just as it did not test long lead-time provisioning, such as collocation).[22]

KPMG did not test the electronic bill although AT&T requested such a test almost a year ago. That request was denied by the Project Leader because Verizon VA contended that the BOS/BOT bill was not yet ready for testing, and the Project Leader did not wish to delay the test until it was ready.[23] However, the Project Leader also found that "Verizon bears the burden of proof in its 271 proceeding …. If Verizon is willing to risk a negative 271 finding by this Commission or the FCC because it failed to subject its electronic bills to third-party testing,

[22] Workshop Transcript at 231.

[23] AT&T Petition (June 13, 2001), Project Leader Ruling (August 10, 2001).

then it should be allowed to assume such risk."[24] To this date, Verizon has not stepped up to its burden of proof with respect to electronic billing.

The Commission should be concerned that Verizon VA has not made the electronic bill available to its wholesale customers as the bill of record until ***after*** the completion of testing by KPMG. The KPMG Test concluded by April 15, 2002 and Verizon VA has yet to announce to CLECs and resellers that electronic billing will be available as the bill of record for wholesale billing by Verizon VA. In this manner, Verizon VA has successfully maneuvered to put a test of the electronic bill outside the scope of the KPMG test. Instead, it appears that the electronic bill will be merely "attested" to by PricewaterhouseCoopers ("PwC"), an attestation of dubious probative worth.

Meanwhile, Verizon VA offers electronic billing to its large and small retail customers. Wholesale customers have the right to expect billing treatment that is at parity with the treatment that Verizon provides to itself for services its provides to its retail customers. Section 251 of the Act prohibits Verizon from discriminating between its wholesale and retail customers. In contrast to its treatment of wholesale customers, Verizon currently provides its own retail customers with retail bills in electronic format (CD ROM, EDI, Internet access and magnetic tape). Verizon's own web site extols the benefits of electronic billing for its large retail customers.[25] The benefits include the customer's ability to manipulate the billing data and tailor

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[24] Project Leader Ruling at 5.

[25] Verizon offers e-bills to its retail large business customers, as it advertises at the following link: https://www22.verizon.com/enterprisesolutions/Default/Index.jsp. Verizon also offers e-billing to its retail customers in connection with expressTRAK, the system implemented in Virginia. Furthermore, Verizon makes available a CD-ROM media version to retail customers. The CD-ROM media currently is not available to wholesale customers at all. Verizon makes similar claims of e-bill benefits for small business customers.

it to generate customized reports. These are the same tools that CLECs will want to use to manage their operations when or if Verizon ever successfully implements an accurate and reliable electronic bill for CLECs. Accordingly, Verizon VA has discriminatorily deprived its wholesale competitors from receiving electronic billing.

2. Metrics Replication Was Not Fully Tested

For a great number of performance metrics Verizon VA must provide CLECs service that is at parity with the service Verizon VA provides to itself (or its affiliates) to serve retail customers. Failure to provide "parity with retail" demonstrates discriminatory treatment of CLECs. It is, therefore, critical that the appropriate retail functions are identified and measured. Yet, this apparently was beyond the scope of the KPMG Test. Verizon VA offered no evidence demonstrating that the appropriate retail functions are being measured and are being measured accurately and consistently month-over-month. Instead, the Commission is being asked to accept Verizon VA's unverified and unverifiable representations on faith. The Commission must not do so in this instance.

There is no reasonable basis to determine whether Verizon VA is implementing the C2C Guidelines correctly for three reasons, and accordingly KPMG's favorable findings with respect to metrics that use a "parity" standard are not sound. First, KPMG did not review and evaluate Verizon VA's compliance with the Metrics Business Rules. The Metrics Business Rules are the documentation containing the specific rules to be used by Verizon VA in the implementation of the C2C Guidelines. Indeed, KPMG did not even require Metrics Business Rules in Virginia, unlike its test in New Jersey.

Second, KPMG did not review Verizon VA's compliance with the C2C Guidelines in regard to documentation of the retail analogs reported for Verizon VA's own retail data. And third, KPMG did not test the accuracy of the reported retail systems data. KPMG acknowledged that it did not review any documentation of the "retail" analog to which the CLEC's measured results were compared. KPMG did not make any analysis of whether the retail analogs chosen by Verizon VA's unilateral interpretation of the metrics produced a reasonable standard – that is, an apples-to-apples comparison. Even if KPMG had reviewed Verizon VA's compliance with the C2C Guidelines in this regard, there is no process in Virginia to require Verizon to use the same interpretation or implementation of "parity with retail" from one month to the next. Thus, KPMG's favorable evaluation of nearly any metrics where the performance standard is "parity with retail" is open to serious question.

Third, KPMG did not attempt to validate the accuracy of the "retail" scores and the number of retail observations reported by Verizon VA. KPMG stated they had no ability to validate Verizon VA's retail data. The majority of the metrics are parity metrics. Again, this calls into question any KPMG favorable findings with respect to "parity with retail" metrics. By mathematical necessity, the Z-scores for all the parity metrics are tainted, because the Z-score, the measure of statistical significance, relies on the accurate reporting of, among other things, the Verizon VA retail performance level and the number of Verizon VA retail transactions.

Verizon VA must demonstrate that it has the proper policies and procedures to determine—and disclose--which retail activities are properly analogous to the wholesale services measured against a parity standard, and to notify CLECs of any changes, before it is permitted to enter the interLATA long distance market in Virginia.

3. There Were Significant Shortcomings In The Volume Testing.

The volume test did not examine Verizon VA's capabilities for actually provisioning orders, providing all relevant order notifiers on a timely basis, and updating its billing records on a timely basis. All of these components were outside the design of the volume test. And because the volume test was predominantly flow through orders, it did not test the Verizon VA work centers because the orders were stopped before provisioning. Consequently, the volume test results provide no assurance to the Commission that Verizon VA will provide CLEC customers with at least the same level of service that it provides to its own retail operations.

First, the volume test does not provide any assurance that Verizon VA will notify CLECs on a timely basis when it has completed the provisioning of an order and the updating of its billing records to reflect the service configuration that it provisioned. Without this information, CLECs and their customers have no way of knowing whether Verizon VA actually completed the work and whether the CLEC now has billing responsibility for the customer. CLECs are forced to resort to opening trouble tickets for each missing notifier and hope that Verizon VA has sufficient and qualified resources to work on and resolve the trouble tickets. In addition, Verizon's habit of "closing" rather than "resolving" trouble tickets means that the troubles closed may never be cured. Closing a trouble ticket is in many instances simply an acknowledgment that the trouble did exist, without fixing it. Yet Verizon claims equal credit for both in the C2C metrics.

Despite chronic problems delivering order notifiers (PCNs and BCNs) and much discussion on this very important topic, Verizon has failed to implement proactive systems that would affirmatively check for the delivery of appropriate notifiers. Rather, Verizon has chosen

to staff and invest in a trouble ticket "PON shop" to investigate CLEC complaints – a solution which amounts to the CLECs being required to provide Verizon's quality control. Moreover, Verizon makes no commitment to resolve 100% of the trouble tickets in any particular time frame, so there is the distinct possibility that some not insignificant percentage of troubles will never be resolved.

Second, the volume and stress tests also did not examine comprehensively Verizon VA's capabilities for manually processing orders. Indeed, KPMG explicitly tailored the volume test to the existing capabilities of Verizon VA's Work Centers, excluding "provisioning of large volumes of test transactions that would exceed the manual capacity" of those centers.[26] Given Verizon's conceded inability to meet flow through standards in Virginia, this is a clear shortcoming of the KPMG test. The volume test by design primarily included orders that are designed to flow through Verizon VA's OSS electronically without the need for manual intervention. These flow through orders were not examined beyond the delivery of the FOC, so the testing necessarily failed to examine, when exposed to large order volumes, the critical provisioning and billing systems associated with notifying the CLEC that the provisioning and billing work was properly and timely performed. Not even those orders that were designed to flow through but failed to do so were fully manually worked. Thus, Verizon VA's manual processes were not evaluated for sufficiency, accuracy or promptness. A CLEC will encounter considerable constraints in its ability to use Verizon VA's OSS effectively because of Verizon VA's failure to achieve commercially adequate flow through rates and any concomitant failure to sufficiently staff its wholesale customer service centers to handle workloads, particularly peak

workloads.

Verizon has argued that the FCC simply looks to whether manually handled orders are processed timely and accurately, on the theory that CLECs should be indifferent as to whether an order is fulfilled mechanically or manually. However, CLECs are not in fact indifferent to flow through rates. This is because manually handled orders have slower intervals and lesser accuracy. Therefore a high manual order handling rate means more CLEC customers experience delayed service. Moreover, peak ordering capability is degraded because unlike machines that are available almost 24x7, people only work certain business hours. Likewise, Verizon reps are less adept at processing order types that they experience infrequently and therefore may make mistakes, while machines can process all order types equally, even those infrequently submitted. Flow through should have been adequately tested by KPMG, but was not. Instead, the CLECs will become the guinea pigs as they gear up commercial mass market order volumes.

VI. VERIZON VA IS PROVIDING DISCRIMINATORY SERVICE TO CLECS

Providing nondiscriminatory service to CLECs should not be a difficult task (and, indeed, it would not be for a company committed to doing so). Yet, Verizon VA's own performance reports demonstrate that Verizon VA continues to discriminate against CLECs and does so in critical ways. Recent data establishes that Verizon VA does not process flow through orders in a nondiscriminatory fashion and also does not provision service in a nondiscriminatory fashion.

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[26] KPMG Draft Final Report at 16.

A. Flow through

Verizon VA's OSS handles orders in one of two ways. Certain specified orders are designed to flow through its system and be automatically processed without the need for human intervention. Other orders, by design, require manual processing by Verizon VA employees. These manual orders take longer and unavoidably are more error-prone. Orders that flow through generally are processed more quickly than manually processed orders. For example, the time frame for Verizon VA's transmission of an order confirmation (or order rejection for incorrect orders) on many flow through orders is two hours compared to a 24 to 48 hour interval for non-flow through orders. The faster a CLEC customer's order is processed, the more quickly the customer may be able to obtain the requested service that the customer ordered from the CLEC.

Verizon VA has developed systems that govern and documentation that describes the different types of orders that are supposed to flow through and not flow through. Orders that do not flow through, are, by definition, manually processed.[27] It is critical that orders flow through at a high proportion if there is to be mass market entry in Virginia. Measured against its sister companies' performance, Verizon VA's flow through performance is materially inferior.

For example, commercial experience in New York has shown that thousands of orders must be able to flow through and do so in an appropriate time frame. New York and Massachusetts also have adopted a Special Provision in their Performance Assurance Plan (PAP) for failure to meet flow through metrics. The New York PAP places $10 million at risk

[27] In addition, Verizon VA claims that some incorrectly submitted orders that would have been eligible to flow through if the orders had in fact contained accurate information are not rejected and instead are manually processed. Verizon VA OSS Declaration at ¶ 84.

annually on just the flow through special provision. Massachusetts places over $5 million on flow through performance.

The PAP under consideration for Virginia also has a Special Provision for failure to meet flow through metrics, and those metrics standards are the same as in New York and Massachusetts. However, Verizon has so little confidence of meeting those standards in Virginia that it was forced to negotiate a "ramp up" provision *that does not lower the standards but simply mitigates its remedy payments* until January 1, 2003. This notwithstanding that the majority – but not all – of CLEC orders are processed using Verizon's most up-to-date new Service Order Processor ("SOP"), called expressTRAK. While Verizon's legacy SOP in New York is now capable of meeting the flow through standards, expressTRAK apparently is not.

Notwithstanding the ramp up provisions of the pending Virginia PAP, Verizon does not satisfy checklist item two so long as it does not meet the standards for flow through of UNE orders in metrics OR-5-01 or OR-5-03. Verizon may argue that it is meeting the debased flow through levels of the ramp up period that trigger remedies payments even during the ramp up period, that AT&T agreed to the ramp up, and that therefore Verizon should be given a pass. However, AT&T's acquiescence to the ramp up period was simply a practical accommodation to mitigate PAP payments for a short period of time, and most certainly was not an agreement to lower the flow through standards themselves. AT&T's position, that Verizon's failure to meet the 80% (OR-5-01) or the 95% (OR-5-03) metrics standards for UNE order flow through is a failure to meet checklist requirements regardless of the ramp up, was made clear

during the negotiations on the PAP, and was acknowledged by the Commission Staff and by Verizon's representatives.

Verizon VA's flow through performance shows that only about 60% of all UNE orders flow through, based on February and March 2002 C2C data. As indicated below, this is far less than the performance by Verizon in New York. It is also far below the 100% flow through results reported by KPMG in its test.[28] The fact that Verizon VA's flow through performance for CLECs has been unsatisfactory and unstable is readily demonstrable. The following chart provides Verizon VA's flow through performance for the last quarter of 2001 and the first quarter of 2002 as presented in its C2C Reports:

Verizon VA UNE Ordering
OR-5 - Percent Flow through
CLEC Aggregate – 2001-2002

	Oct	**Nov**	**Dec**	**Jan**	**Feb**	**Mar**
OR-5-01 % Flow Through - Total	49.43	53.43	51.24	45.35	59.14	60.51
OR-5-03 % Flow Through Achieved	67.42	73.42	69.71	62.41	81.38	85.45

Verizon VA's flow through performance is even more alarming when compared to what it provides in New York and Pennsylvania, as shown in the following charts:

Verizon PA OR-5 - Percent Flow through CLEC Aggregate – 2001-2002 (OR-5-03 is not reported)

	Oct	**Nov**	**Dec**	**Jan**	**Feb**	**Mar**
OR-5-01	73.96	80.84	80.84	78.55	76.21	80.58

[28] KPMG Draft Final Report at 202-203, TVV3-2, -3 and –4.

Verizon New York OR-5 - Percent Flow through CLEC Aggregate – 2001-2002						
	Oct	**Nov**	**Dec**	**Jan**	**Feb**	**Mar**
OR-5-01	90.01	89.62	87.74	89.88	90.46	89.73
OR-5-03	97.20	97.06	95.58	97.72	98.00	98.37

As this data shows, Verizon VA's performance does not support any claim that it can adequately flow through CLEC orders. To put Verizon VA's UNE flow through performance in perspective, if conditions allowed competitive entry in Virginia, and CLECs were migrating 50,000 end users to UNE-P in a month, approximately 20,000 of those orders would have to be manually processed by Verizon VA even though they should flow through. The manual processing, of course, introduces the opportunity for human error -- in fact the OR-6 metric allows a 5% error rate for manually processed orders. Thus, the 20,000 orders that would have been error free instead are allowed to produce 1000 errors and 1000 very unhappy customers, who will suffer more delay and an unsatisfactory experience that will be blamed on the CLEC.

There are no extenuating circumstances that Verizon VA can rely upon to explain away its flow through problems in Virginia. Indeed, given that almost three years have passed since Verizon became aware of its flow through problems in New York, and given that expressTRAK is a new and purportedly superior SOP, the flow through rates should be substantially higher at this point in Virginia, simply as a function of experience and advances in

Verizon's systems. Instead, it appears that Verizon has sat on its hands in Virginia. Verizon VA's own flow through measurements prove that it does not provide adequate flow through. Perhaps more alarming than Verizon VA's poor flow through performance is that it is occurring with relatively small order volumes and that Verizon VA does not believe it is a problem. If, as is the case to date, Verizon VA fails to correct this deficiency prior to any § 271 approval, it almost certainly will be even more reluctant to do so after § 271 approval.

There is no credible evidence to suggest that Verizon VA will be able to flow through orders at commercially significant volumes. KPMG did not test the flow through capability of Verizon VA's back-end OSS during the volume and stress tests. Further, Verizon's performance in other states cannot be relied upon to predict its performance in Virginia since the expressTRAK SOP is unique to the C&P states, with Virginia being the test bed for that SOP. KPMG concededly did not examine Verizon VA's back-end systems, which are inside a "black box" for KPMG's purposes.[29] KPMG only tested the interface. Consequently, there is no evidence that Verizon VA's OSS will be able to achieve a sufficient flow through rate when subjected to projected commercial volumes.

Verizon VA also concedes that in many cases its system is incapable of flowing through "supplemental" orders (e.g., orders where the customer makes a change in his or her service request – such as the install date -- before the initial order is completed). Supplemental orders are common in the real world. Instead of fixing its systems to permit these orders to flow through, as they should, Verizon VA instead tries to attribute this problem to the CLECs for

[29] Workshop Transcript at 299-300.

submitting these supplements in the first place.[30] It is obvious that in a consumer mass market out of millions of consumers some portion will change their orders. Instead of designing its interface to handle these readily foreseeable supplemental orders, Verizon VA blames its retail and wholesale customers. Ostensibly, these supplements "are routed to the NMC to ensure that the CLEC's change request is properly completed according to the revised request."[31]

While Verizon VA suggests that CLEC conduct is the cause of the low flow through rates in Virginia, it does not explain how CLECs get so much smarter when they take the shuttle to New York, where Verizon NY's flow through rate is over 95%. The reality of the marketplace is that customers can, and do, change their minds. Verizon VA's monopolist attitude -- that supplements should not be submitted if CLECs want to experience better flow through rates — should not be allowed to mask the fact that Verizon VA cannot properly flow through supplemental orders.

Verizon VA also ignores its own role in causing the need for supplements. In numerous instances, because Verizon VA did not properly process the original order -- such as returning the FOC/LSRC with a due date that inexplicably changes the customer requested due date -- the CLEC is forced to submit the supplement to revise the FOC/LSRC due date in accordance with the customer's original request. Verizon VA must enhance its system to permit more types of supplements to flow through. As in New York, Verizon VA should be held to the standard of at least 80% of all submitted UNE orders (OR-5-01) or 95% of all flow through eligible

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[30] Verizon VA OSS Declaration at ¶ 82.

[31] *Id*.

UNE orders (OR-5-03) before it is permitted to enter the interLATA long distance market in Virginia.

KPMG's limited consideration of staffing issues during the third party test in Virginia did not include any examination of the linkage between Verizon VA's flow through rate and its manual resource staffing plans. KPMG confirmed that it does not know whether Verizon VA's staffing plan assumes a certain percentage of transactions that will flow through.[32] Since all non-flow through orders must be processed manually by Verizon personnel, there is no question that if Verizon VA's OSS fails to achieve sufficient flow through levels, Verizon VA will be faced with mounting numbers of non-flow through orders that require human intervention and resources to process. The non-flow through orders potentially will inundate Verizon VA's work centers. Inadequate staffing of those work centers inevitably means that Verizon VA will not be able to keep up with the processing of those manual orders. Verizon VA will be unable to meet its required intervals for processing orders and sending notifiers to CLECs to advise that Verizon VA has in fact received the orders and is processing them. CLECs' failures to receive status notifiers will require CLECs to initiate trouble tickets with Verizon VA, which in turn will require more of Verizon VA's manual resources to address and resolve trouble tickets. Ultimately, timely processing of CLEC customers' orders will be impaired, all due to Verizon VA's inadequate OSS capabilities to process flow through orders and to handle the additional, unanticipated volumes of non-flow through orders that were supposed to flow through.

Even if Verizon VA's systems achieve an adequate level of flow through under current conditions of relatively small order volumes, there can be no comfort from the KPMG test that

Verizon VA has sufficient staffing to handle the timely and accurate processing of expected levels of non-flow through transactions at anticipated commercial volumes. Verizon VA's intervals for processing non-flow through orders are longer than flow through intervals, and it is intuitively obvious that Verizon VA's processing of non-flow through orders is more likely to generate provisioning errors.

The bottom line is that Verizon VA's OSS is not capable of handling anticipated commercial volumes across its footprint, and therefore fails to meet checklist requirements, unless and until Verizon VA resolves two critically related issues. First, Verizon VA's OSS must attain a higher flow through performance with a remedy to incent compliance. The incentives for compliance are substantially lessened until the ramp up expires on January 1, 2003, and therefore Verizon does not qualify for § 271 authority in Virginia. Notwithstanding Verizon VA's finger pointing back to the CLECs, Verizon VA can and must analyze its systems to determine what problems are impeding its flow through performance in Virginia, compared to its performance in other states, and apply the appropriate resources to fix those problems.

Second, Verizon VA must devote sufficient staff that is properly trained and versed in handling manual orders and CLEC trouble tickets so that the discrepancy between Verizon VA's handling of orders that flow through and those that are manually processed is eliminated**.** Frequently during the KPMG test Verizon VA claimed that problems were the result of "Rep Error" and purportedly undertook to do retraining. This is simply a way to deny the problem without fixing it. KPMG typically did not retest in such circumstances but instead accepted

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[32] Workshop Transcript at 368.

Verizon VA's representations. Such retraining should not be necessary on a frequent basis if adequate training was performed initially and on an ongoing basis.

B. Directory Listings

KPMG did not test Directory Listings to see if they actually appeared in the printed directories – either white pages or yellow pages -- because all of KPMG's listings were unpublished numbers. Rather, KPMG simply checked the directory assistance database to see whether its numbers showed up as unlisted. Given the empirical evidence of failures in the publication of directory listings as demonstrated by other CLECs in the Collaborative Committee and the Directory Listing Workshop, this shortcoming is especially egregious.

Directory listing errors have a severe impact on consumers. If directory listing information for a consumer is omitted or is listed incorrectly, there is no practical means to correct the error short of re-publishing the entire directory. As a practical reality, the consumer must usually endure the error and wait until the next directory a year later; loose-leaf errata directory sheets are no substitute for a correct listing in the directory. In CLECs' experience in Virginia, with which the Commission is only too familiar, a substantial number of directory listing errors occur when Verizon omits the customer's information from the directory entirely. For instance, a CLEC might send Verizon 100 directory listing orders, but 20 of the orders are somehow lost. No matter how many completed orders Verizon samples and compares to the LSR, the metric will never capture the 20 missing orders. Thus, KPMG's failure to test directory listings is a serious omission that should be rectified before the Commission rules on Verizon § 271 application.

C. There Is No Evidence That Verizon VA Can Provide Timely Provisioning Completion Notifications With Commercial Volumes.

After Verizon VA transmits a FOC/LSRC that advises the CLEC when Verizon VA will provision the CLEC's order, the next step is for Verizon VA to perform the provisioning and notify the CLEC that the provisioning has been completed. This notification takes the form of a Provisioning Completion Notification ("PCN"). According to Verizon, the expressTRAK SOP – which processes most but not all orders in Virginia -- also generates a Billing Completion Notification ("BCN") at the same time.

Verizon VA is required to transmit 97% of PCNs by the next business day after the order completion is reflected in Verizon VA's SOP. When provisioning work is completed, the workforce administration ("WFA") database is first updated, and then the SOP is supposed to be updated by noon of the next business day. Only when the SOP has been updated does Verizon VA transmit a PCN. If there is a delay in updating the SOP from the WFA database, or if there is a malfunction that precludes the SOP from receiving work order updates from the WFA, Verizon VA's failures are not captured or reported in the applicable performance standard, OR-4-02. For this reason, the C2C metrics may fail to capture the true customer experience with respect to delivery of PCNs. Verizon VA has failed to meet the 97% standard by a large margin in all three of the months cited by Verizon in support of its application.

In the absence of receiving a PCN or a BCN, a CLEC has no automated way of knowing whether its order has been provisioned. The late or missing PCN may mean that the order has not been provisioned according to the time frame ("due date") that Verizon VA committed to in its FOC, or it may mean the work has been done but Verizon VA has failed to

notify the CLEC. In either case, the CLEC is completely in the dark about the status of the order and is unable to respond to any customers' inquiries about the status of the order or any service problems the customer may report. Further until the PCN is issued, Verizon VA's retail customer service representatives are able to manipulate the customer's account.[33]

Just as importantly, the CLEC cannot start billing until it receives the PCN or BCN. If the provisioning has been completed but the PCN or BCN is late or missing, the CLEC will be paying Verizon VA for UNEs but will be unable to bill the customer for service. In other words, the CLEC will be incurring costs, but because of Verizon VA's failures, will not be generating revenues to recover those costs. Each one-day delay would ordinarily cause another 5% of the customers to be billed an entire month late.

Verizon VA's performance in sending PCNs does not demonstrate that it can satisfy this standard when handling commercial volumes. In November and December 2001 and January 2002, the three months reported by Verizon VA, Verizon VA failed to meet the 97% standard because it provided on-time notices only 84.62%, 86.32% and 85.14% of the time, respectively.[34] That is, Verizon VA missed over three times the allowable number of late PCNs. This was for 22,356 observations. In contrast, in New York, for a measurement in August 2001, there were 304,920 observations and 99.73% of the notifiers were provided on-time for all CLECs. Verizon VA failed significantly while Verizon New York passed easily.

AT&T and its customers are at a severe disadvantage when Verizon VA does not either provision AT&T customers on time or notify AT&T on a timely basis when the work has

[33] After issuance of the PCN security restrictions will block the retail representative's access and only allow the wholesale representatives, such as in Verizon VA's NMC, access.

been done.[35] As the New York experience demonstrates, Verizon VA could substantially improve its performance.

VII. CONCLUSION

Verizon VA's rosy picture of its OSS performance does not bear up under close scrutiny when evaluated according to CLECs' actual commercial experience. Its OSS lacks the capability to provide CLECs with nondiscriminatory access at a level that is comparable to the service that Verizon VA's own retail operations obtain. CLEC orders that are supposed to be automatically processed are processed manually, more slowly and with greater error, provisioning processes are not satisfactorily performed and billing is totally unworkable so long as the bill of record remains the paper bill, and so long as the e-bill, once it becomes the bill of record, remains untested. Verizon VA must be required to fix the problems identified before it is permitted to enter the interLATA long distance market in Virginia.

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[34] Verizon VA Measurements Declaration, Attachment 401 at 19.

[35] Based on Verizon VA's data, there were between 62,200 and 64,000 local service requests transmitted each month. Verizon VA OSS Declaration at ¶ 81. If Verizon VA failed to transmit 6% or 3700 provisioning completion notices, this puts the onus back on CLECs to track down the status of each order and to initiate trouble tickets.