

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
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September 17, 2007

Agenda ID # 6991

TO PARTIES OF RECORD IN RULEMAKING 93-04-003  
and INVESTIGATION 93-04-002

This is the proposed decision of Administrative Law Judge (ALJ) Duda. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov). Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed either electronically pursuant to Resolution ALJ-188 or with the Commission's Docket Office. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Duda at [dot@cpuc.ca.gov](mailto:dot@cpuc.ca.gov) and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov).

/s/ ANGELA K. MINKIN  
Angela K. Minkin, Chief  
Administrative Law Judge

ANG:avs

Attachment

Decision PROPOSED DECISION OF ALJ DUDA (Mailed 9/17/2007)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Rulemaking on the Commission's Own Motion to Govern Open Access to Bottleneck Services and Establish a Framework for network Architecture Development of Dominant Carrier Networks.

Rulemaking 93-04-003  
(Filed April 7, 1993)

Investigation on the Commission's Own Motion Into Open Access and Network Architecture Development of Dominant Carrier Networks.

Investigation 93-04-002  
(Filed April 7, 1993)

**DECISION GRANTING, IN PART, THE PETITIONS OF  
VERIZON CALIFORNIA INC. (VERIZON) AND VERIZON/COVAD  
COMMUNICATIONS COMPANY TO MODIFY D.06-03-025**

**1. Summary**

We grant Verizon California Inc's (Verizon's) request to restructure the rates for switching, multiplexing and dark fiber to reflect how Verizon currently provisions and bills for those elements. We clarify that the rate adopted for the Integrated Services Digital Network (ISDN) option is in addition to the deaveraged loop rate. We reject Verizon's request to place delisted elements in a separate appendix, but have included footnotes in Appendix A to show which elements are no longer UNEs. We have eliminated a few elements that Verizon says it does not provide. We also grant Verizon and Covad Communications Company's (Covad) Joint Petition to price xDSL copper loops at the same rates as those adopted for two-wire and four-wire geographically deaveraged copper loops.

## **2. Background**

In Decision (D.) 06-03-025, we established final unbundled network element (UNE) rates for Verizon. The rates adopted in D.06-03-025 replace interim rates adopted previously. Those interim rates are subject to true-up once the permanent rates have been established.

In adopting the permanent UNE rates, the Commission evaluated two cost models. Verizon proposed UNE rates based on a model known as VzCost that it had recently developed to use in UNE costing proceedings. The Joint Commentors proposed UNE rates based on the latest version of the HAI Model, known as HM 5.3. After careful review of the competing cost models, the Commission found that although both models contain flaws, the Verizon model is not forward-looking because it attempts to replicate Verizon's embedded network configuration and fails to efficiently size and deploy current technology. With regard to HM 5.3, the Commission found that the method it uses to model various elements is reasonable. Moreover, the Commission was able to modify most inputs and assumptions. Thus, the Commission modified many inputs and assumptions in HM 5.3 and then used the modified model run to set Verizon's UNE rates.

## **3. The Petitions for Modification**

On September 1, 2006, Verizon filed its Petition to Modify D.06-03-025. In its petition, Verizon states that it is evident from objections interposed to several Advice Letters Verizon filed on April 14, 2006 in compliance with that decision, that there is uncertainty and ambiguity within the industry as a result of certain parts of the decision, as well as additional practical concerns that Verizon has identified in attempting its implementation.

Verizon proposes changes in three areas as follows:

1. The UNEs delisted by the Federal Communications Commission (FCC) in its Triennial Review Order (*TRO*) and the Triennial Review Remand Order (*TRRO*) should not appear in D.06-03-025, Appendix A or Verizon's Interconnection Agreements;
2. The Commission should modify or restate rates for tandem switching and interoffice switching, multiplexing and dark fiber, and
3. Additional issues require clarification or modification.

No party filed in opposition to Verizon's Petition to Modify.

Also on September 1, 2006, Verizon filed a motion for leave to file confidential materials under seal, namely Exhibit D (Multiplexing and Dark Fiber Rate Restructure Workpaper).

On July 10, 2007 Verizon and Covad together filed a Joint Petition to Modify D.06-03-025 to eliminate the "ADSL on Copper Loop" Adder set forth in Appendix A of D.06-03-025. In conjunction with the Joint Petition, Verizon withdrew the proposal made in its pending Petition for Modification of D.06-03-025, in which it requested that the Commission clarify that the \$6.74 "ADSL on Copper Loop" item in Appendix A was an adder to a copper loop for which ADSL service has been provisioned. Verizon states that in all other respects, its initial Petition for Modification remains pending. On August 9, 2007 the California Association of Competitive Telecommunications Companies (CALTEL) filed in support of the Joint Petition.

#### **4. Specific Modification Requests**

##### **A. Should delisted UNEs be included in D.06-03-025, Appendix A?**

According to Verizon, Appendix A of the decision includes items that Verizon is not required to provide as UNEs, and the decision should be modified to strike the inappropriate elements. Pursuant to Section 251(d) of the

Communications Act, the FCC is vested with sole authority to identify the elements of an incumbent carrier's network that must be made available to competitors at cost-based, Total Element Long Run Incremental Cost (TELRIC) rates. The FCC most recently exercised this authority in the *Triennial Review Remand Order*,<sup>1</sup> in which it explained:

Section 251(d)(2) authorizes the Commission [the FCC] to determine which elements are subject to unbundling, and directs the Commission to consider, "at a minimum," whether access to proprietary network elements is "necessary," and whether failure to provide a non-proprietary element on an unbundled basis would "impair" a requesting carrier's ability to provide service. Section 252, in turn, requires that those network elements that must be offered pursuant to section 252(c)(3) be made available at cost-based rates.

Verizon points out that the same authority to list UNEs encompasses the FCC's prerogative to delist them, that is, to determine that competitors are no longer impaired if they are not afforded access to a given UNE at TELRIC rates. In the *TRRO*, the FCC delisted several UNEs. While the Commission generally recognized the delisting effect of the *TRRO* in D.06-03-025, the Appendix includes several delisted UNEs. The Commission noted, "[T]here is no need to remove rate elements for UNEs Verizon no longer provides because the rate may be necessary for true-up purposes and the existence or absence of a price does not affect Verizon's obligations under federal law."<sup>2</sup>

Verizon concurs that the latter statement is true, namely that the presence of a price does not affect Verizon's obligations, but asserts the former is not; by

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<sup>1</sup> Order on Remand, In re: *Unbundled Access to Network Elements*, WC Docket No. 04-313, FCC 04-290 (rel. Feb. 4, 2005)(*TRRO*).

<sup>2</sup> D.06-03-025 at 141.

not removing the relevant rate elements (or at a minimum, not segregating them as included solely for true-up purposes), the Commission has created confusion in the industry. Verizon urges the Commission to correct D.06-03-025 Appendix A to exclude UNEs that have been delisted by the FCC; moreover, it should clarify that Verizon is not to include delisted UNEs that appear in Appendix A as UNEs in its interconnection agreement (ICA) amendments. Additionally, Verizon asserts that the Commission should modify the decision to affirm that services such as entrance facilities, transport facilities and Signaling System 7 (SS7) links to which Verizon may be required to provide access pursuant to D.06-02-035, are not UNEs and should therefore not be listed in Verizon's ICA amendments filed pursuant to D.06-03-025. Verizon suggests that omitting the delisted UNEs from Appendix A will have no effect on true-up or retrospective applications of the prescribed rates but will properly clarify Verizon's obligations pursuant to the *TRRO*.

We do not agree with Verizon's conclusion that omitting the delisted UNEs from Appendix A will have no impact on the true-up or Verizon's obligations under its ICAs. We need to adopt rates for those elements that will be subject to true-up, and it is appropriate that those rates appear in Appendix A. However, we see the value in adding a footnote specifying that those UNEs have been delisted and have revised Appendix A accordingly. Since the delisted UNEs were not available after March 15, 2006, there is no need to include those rates in the ICA amendments. We agree with Verizon that it could cause confusion if the rates are listed in the amendments.

In addition, Verizon asks the Commission to affirm that services such as entrance facilities, transport facilities and SS7 links, which Verizon is required to provide for purposes of interconnection pursuant to D.06-02-035, are not UNEs

and should be not be listed in Verizon's interconnection amendments filed pursuant to D.06-03-025. We concur with Verizon's assertion that the services listed above are *not* UNEs and should not be listed as UNEs in the ICA amendments filed pursuant to D.06-03-025.

However, we note that those services *are* available to competitors for purposes of interconnection pursuant to D.06-02-035, which was issued in a separate proceeding, A.04-03-014. The rates for those services, are the UNE rates adopted in this decision.

Section 252(d) of the Telecommunications Act of 1996 requires that elements used for interconnection should be priced at cost-based rates, the same as UNEs. The rates to be charged for those services when used for purposes of interconnection with Verizon's network are as shown in Appendix A. Since these delisted services are no longer UNES, Verizon is not required to include them under UNEs in their ICA amendments.

**B. Rates for tandem switching and interoffice switching, multiplexing and dark fiber.**

Verizon states that it is neither practicable for Verizon, nor appropriate for the Competitive Local Exchange Carriers (CLECs) it serves, to make changes to longstanding provisioning standards. Verizon asserts that it does not seek a revisitation of the rates directed; rather, those rates should be applied as converted within the wholesale provisioning standards already in effect for Verizon, rather than through wasteful, confusing and unnecessary conversions to different measurements and units than those currently utilized. Each affected element is discussed independently below:

**a. Tandem switching and interoffice switching should be on a per minute of use basis.**

Verizon proposes that certain rates be restructured to be applied on per minute of use (MOU) basis. Verizon finds these modifications to be especially reasonable given that tandem switching and interoffice switching are no longer UNEs. The proposed per-MOU rate structures for tandem switching and interoffice switching are consistent with rate structures previously adopted by this Commission, including the interim rates ordered in D.03-03-033 and D.05-01-057. Verizon points out that Verizon used the same per MOU-based tandem switch rate to calculate the true-up amounts that it owed CLECs and that CLECs owed it in its June 27, 2006 UNE True-Up and Rate Re-Examination Proposals. No party objected to the use of Verizon’s per Minute of Use based tandem switch rate.

Verizon states that its methodology is easily explained. Verizon has assumed a 3.95 minute average call holding time to calculate a single per-MOU rate for each switching component.

<b>Appendix A</b>		Divided by	
<b>Tandem Switching</b>		Average	
		Hold Time	
Set Up Per Message	0.000217	3.95	0.000055
Holding Time Per MOU	0.000309		+0.000309
			<b>0.000364</b>

<b>Appendix B</b>		Divided by	
<b>Interoffice Switching</b>		Average	
<b>(Orig/Term)</b>		Hold Time	
Set Up Per Message	0.001293	3.95	0.000327
Holding Time Per MOU	0.001184		+ <u>0.001184</u>
			<b>0.001511</b>

To summarize, Verizon proposes replacing the ordered structure with the following

Switch usage	
Tandem Switching per MOU	\$ 0.000364
Interoffice Switching per MOU	\$ 0.001511

According to Verizon, implementing this change will not have a material effect on rates, as it chiefly effects a simpler per-MOU structure. If Verizon is required to apply the ordered set-up per call and holding time per minute of use charges, necessary billing system modifications may take up to 12 months to complete and implement.

We find it significant that Verizon presented its switch data in the true-up phase of this proceeding in the form described here, and no party took exception to the structure or the rates Verizon employed. Also, it makes no sense to reinvent the wheel and require extensive modifications to Verizon's billing system when a simpler solution is before us. Verizon's proposed per minute of use rates for tandem switching and interoffice switching are adopted and will be included in the revised version of Appendices A and B which are appended to this order.

In a footnote, Verizon asserts that the Commission should strike the rates for reciprocal compensation and all references to reciprocal compensation found in the decision. According to Verizon, it is improper for the decision to prescribe a reciprocal compensation switching rate, derived from runs of HM 5.3, given the express exclusion of reciprocal compensation from the proceeding by the Assigned Administrative Law Judge (ALJ).

On November 3, 2003, Verizon filed its direct case-in-chief, which included reciprocal compensation rates. AT&T<sup>3</sup> moved to strike reciprocal compensation as outside the scope of the proceeding, and at a February 3, 2004, Law and Motion hearing, ALJ Duda granted AT&T's motion on this point. Verizon states that there were no further references to reciprocal compensation until the first Draft Decision issued on November 22, 2005. Verizon claims that its only opportunity to comment on the issue was after the Draft Decision was issued, which violates due process concerns associated with a rate-setting proceeding.

Verizon has not chosen the correct forum to revisit this issue. If Verizon believed that the Commission committed legal error by adopting rates for reciprocal compensation, Verizon should have included that issue in its Application for Rehearing of D.06-03-025. Verizon did not do so. It is not appropriate that the issue be raised, in a footnote, in this Petition to Modify.

As a point of clarification, the ALJ rejected Verizon's request for a *separate* cost study for reciprocal compensation, and instead ordered that the adopted UNE rates be used for reciprocal compensation purposes. At the Law and Motion hearing Verizon referenced, ALJ Duda made it clear that adopted UNEs would be used to set reciprocal compensation rates:

...as I understand it, in all of the other OANAD [Open Access and Network Architecture Development] decisions we have never taken up reciprocal compensation prices; we've...set the UNEs prices and ...let [them] apply to reciprocal comp....<sup>4</sup>

In other words, Verizon had notice that the Commission intended to apply adopted UNE rates to reciprocal compensation, in lieu of entertaining Verizon's

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<sup>3</sup> Premerger AT&T, a CLEC.

<sup>4</sup> TR at 16519, Law and Motion Hearing, February 3, 2004 (ALJ Duda).

separate cost study. We note that D.06-03-025 also states that this was the same outcome that we ordered in the Pacific Bell Telephone Company (then doing business as SBC California (SBC)) UNE case. Verizon's request to strike the rates for reciprocal compensation is denied.

**b. Multiplexing and Dark Fiber**

Verizon states that the adopted rate structure for dark fiber and for multiplexing is impracticable, without significant, costly and time-and resource-consuming changes to Verizon's billing systems. Due to the small number of these types of UNEs sold, the costly billing system changes required to implement the ordered rates are not warranted.

Specifically, Verizon states that multiplexing should be per-multiplexer (MUX), rather than per-channel. Verizon describes multiplexing as the attachment of electronic equipment to increase the carrying capacity of the facility. Appendix A prescribes "per DS0" and "per DS1" rates for multiplexing and "per channel" rates for Digital Cross Connect System (DCS) multiplexing. This is inconsistent with both Verizon's existing rate structure and its existing practices, in which it provisions – and bills--UNE interoffice transmission facilities on a per-multiplexer basis. These rates are appropriate because when multiplexing is ordered by a CLEC, Verizon dedicates an entire multiplexer to the CLEC, and does not share the equipment among multiple carriers.

Verizon proposes that rather than implement an inordinately costly change to its billing system, in a manner inconsistent with its provisioning practices, that the order be modified to reflect that a carrier requesting multiplexing be charged for the entire multiplexing unit. That carrier would, of course, continue to be offered the entire capacity of the MUX without additional

per-channel multiplexing charges. The proposed rates, converted to a per-MUX unit structure are:

**Multiplexing:**

DS1 to DS0 \$3.14 per DS0 x 24 DS0 channels = \$ 75.36 per MUX

DS3 to DS1 \$5.58 per DS1 x 28 DS1 channels = \$156.24 per MUX

**Digital Cross Connect System (DCS) Multiplexing**

DS1 to DS0 \$3.14 per channel x 24 DS0 channels = \$ 75.36 per MUX

DS3 to DS1 \$5.58 per channel x 28 DS1 channels = \$156.24 per MUX

We concur with Verizon that the rates for multiplexing will be changed to reflect the fact that a carrier requesting multiplexing will be charged for the entire multiplexing unit. This change reflects the way that the service is currently provisioned and billed.

Verizon states that the situation with dark fiber is much the same as with multiplexing. According to Verizon, converting from one billing system to another would be resource-intensive, expensive, one not worth its substantial cost in light of the small number of dark fiber dedicated interoffice transmission facilities currently provisioned in California.

Verizon urges the Commission to modify the decision to reflect an appropriate conversion methodology as follows:

**ITF Dark Fiber per strand rate – Conversion to per pair, per mile rate**

$\$11.10 \times 2 \text{ strands} = \$22.20 \text{ per pair} \div 11 \text{ miles (longest existing ITF Dark Fiber circuit length)} = \$2.02 \text{ per pair, per mile}$

**ITF Dark Fiber per foot rate – Conversion to per pair, per mile rate**

$\$0.00017 \times 2 \text{ strands} \times 5280 \text{ feet} = \$1.80 \text{ per pair, per mile}$

Total per pair, per mile rate  $\$2.02 + \$1.80 = \$3.82 \text{ per pair, per mile.}$

In addition, Verizon asks that the Commission revise the reference to dark fiber “interoffice per strand” to read “interoffice IDT facility per pair, per mile,”

and similarly, “IOF to CO” should be revised to reflect “Interoffice IDT Termination per end.”

Verizon makes a compelling argument for changing the way that dark fiber is leased, to reflect the fact that Verizon bills on a per pair, per mile basis. It makes no sense to require significant changes to Verizon’s billing system, given the small number of dark fiber dedicated interoffice transmission facilities currently provisioned. Verizon’s proposal to change the way that dark fiber is billed as described above, is adopted, and Appendix A will be changed accordingly.

**C. Additional issues requiring clarification or modification**

**a. Statewide Average Rates**

Verizon states that by including the statewide average rates for certain loops in Appendix A, the Commission has created unnecessary confusion within the industry. This is because, although the statewide average is arithmetically correct, no party purchases an “average” priced loop; rather, the rates are broken into four geographic zones in accordance with federal law, and it is only those deaveraged rates that are actually available to competitors.

Because the statewide average rates are shown in Appendix A, it has caused some competitors to contend that Verizon is in violation of the decision because it has not included the “statewide average” loop rate as a valid price in the relevant portion of the compliance filings. Verizon suggests that the Commission remedy the problem by striking the Appendix A statewide average rates for UNEs that have been geographically deaveraged.

Verizon points out that the FCC requires that “State commissions shall establish different rates for elements in at least three defined geographic areas within the state to reflect geographic cost differences. 47 C.F.R. § 51.507(f).

Verizon suggests that Appendix A be corrected to reflect the Commission's extensive discussion of its deaveraging methodology.

We concur with Verizon's position that the FCC requires state commissions to adopt geographically deaveraged rates, and we adopted geographically deaveraged loop rates in D.06-03-025. We also agree with Verizon that the statewide average rates shown in Appendix A for UNEs that have been geographically deaveraged are not available to competitors. Only the deaveraged rates are available to competitors. However, we decline to delete the statewide average rates from Appendix A. Those rates may be needed for true-up purposes so it is important that the adopted rates be part of our decision. However, since those statewide average rates are not available to CLECs, those statewide average rates do not need to be included in the ICA amendments.

**b. ISDN option**

According to Verizon, the Commission's identification of an "ISDN option" rate requires clarification for implementation. Appendix A to the decision identifies the following line item:

**Loops**

ISDN Statewide Average	\$16.48
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According to Verizon, this listing, standing alone, and without further explanation, is ambiguous because like the loops on which it is provisioned, ISDN is not a service priced on a statewide average; rather, it is generally an enhanced function for a two-wire loop. This rate was portrayed in the SBC UNE order, D.05-05-031 as a rate *in addition to* the two-wire loop rate, and was presented by Verizon in its Advice Letter filings filed to implement this decision to be just that.

According to Verizon, the ISDN rate should not be added to the statewide average loop rate. Instead, Appendix A should be corrected to add the following ISDN loop rates (the sum of the two wire deaveraged loop rates + \$2.54):

**ISDN**

Zone 1	\$ 14.47
Zone 2	\$ 49.25
Zone 3	\$ 137.28
Zone 4	\$ 528.24

Several CLECs, namely Covad, U.S. Telepacific Corp., MPower Communications Corp., Arrival Communications, Inc., and Utility Telephone, Inc. (Joint Commenters) rebut Verizon's proposal for pricing ISDN loops, saying that the "ISDN Option" is an optional nonrecurring charge applied *only* in the event that the ISDN is provided over a fiber-fed loop. Joint Commentors explained that typically 2-wire loops are capable of being used to provide ISDN BRI services. However, in some situations, loop conditioning is required, and a rate was established to recover the costs for conditioning.

In cases where the loop plant includes a fiber feeder, a special plug-in card must be installed in the Digital Loop Carrier (DLC) remote terminal in order to provide the ISDN BRI services.<sup>5</sup> The monthly recurring cost for insertion of the special plug-in card in those limited situations is the "ISDN Option" (\$2.54). The ISDN Option was established to enable Verizon to recover the incremental additional costs for the plug-in card when the ISDN capable loop is provisioned over a fiber-fed loop.

Verizon responds to the CLECs stating that their proposal misrepresents the manner in which the \$2.54 charge was calculated. The charge is an average

of the investment associated with two technologies, and this averaging lowers the total cost per item, but the CLECs' comments argue that the resulting lowered recurring rate should only be applied when the more costly technology is utilized.

Verizon asserts that this is a misuse of an averaging method. Verizon states that the CLECs argue the BRI charge (a recurring \$2.54) should apply only to DLC-served BRI. According to Verizon, the HM 5.3 model uses the *total* ISDN line count (DLC and non-DLC) as the basis for its calculation, yielding a weighted average applicable to *all* ISDN BRI purchases, not merely those using a particular technology. According to Verizon, it properly applies the weighted average cost of each BRI facility on a technology-neutral basis.

We concur with Verizon's assertion that the \$2.54 should be assessed on all ISDN loops, not just fiber-fed loops. Verizon has made a convincing argument that the HM 5.3 model uses the total count of ISDN lines to calculate the \$2.54, so that amount should be assessed on *all* ISDN loops, not just fiber-fed loops. Also, we concur with Verizon that the \$2.54 should be added to the deaveraged loop rates, as Verizon described above. Appendix A has been modified accordingly.

**c. Other "UNEs"**

Finally, Verizon has a problem with three UNEs in Appendix A:

Coin Option - \$3.61

ADSL<sup>6</sup> on DLC loop - \$16.54

ADSL on copper loop - \$6.74

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<sup>5</sup> Mercer Declaration at ¶ 25, p. 15.

<sup>6</sup> Asymmetrical Digital Subscriber Line.

Verizon finds the “Coin Option” to be problematic because it is not a service that Verizon offers. Rather, loops for coin pay telephones are simply priced at the relevant loop price for the geographic zone. Verizon, therefore, requests that “Coin Option” be deleted.

We concur with Verizon’s request. Since Verizon does not offer a special Coin Option service, it is appropriate to delete that item from Appendix A.

According to Verizon “ADSL on DLC Loop” is not technically feasible. Verizon does not provision DSL services over digital loop carrier, and is not aware of any commercially practical way to do so. Verizon asks that this item be deleted because it does not exist.

We grant Verizon’s request to delete ADSL on DLC loop from the appendix since the service is not technically feasible and Verizon does not provision DSL services over digital loop carrier.

The xDSL<sup>7</sup> rate dispute centers around a single line item in Appendix A:  
ADSL on copper loop - \$6.74

As stated in Verizon’s September 1, 2006 Petition for Modification, this element is somewhat ambiguous. However, Verizon’s request for clarification led to a dispute regarding the nature of this rate: whether the “ADSL on Copper Loop” rate was a “stand-alone” rate or an “additive” rate. Verizon argued that the ADSL rate was an additive to the geographically deaveraged rates for UNE loops for ADSL-capable lines. Among other things, Verizon pointed to the arbitrage possibilities inherent in providing a \$6.74 loop in all

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<sup>7</sup> While Appendix A in D.06-03-025 refers to ADSL, Verizon says that the rate should include all types of DSL service, not just the asymmetric brand. Therefore, the rates adopted will refer to xDSL service.

geographic zones, whereas, other loops, with less capacity, could be priced as much as several hundred dollars more.

A number of CLECs, including Covad, argued that the ADSL rate was a stand-alone rate for all loops leased for ADSL use, regardless of the geographic zone in which they were provisioned. Covad noted, among other things, the absence of record evidence to support the “additive” position, and the inclusion of the ADSL rate in Exhibit RAM-9 to the Declaration of the principal cost model witness, Dr. Mercer. Covad maintained that permitting Verizon to add an additional \$6.74 for ADSL-compatible loops would allow over-recovery of costs.

In their Joint Petition, Verizon and Covad state that there is a third compromise alternative to the “stand-alone” and the “additive” positions, and Joint Petitioners believe that this proposal would be an acceptable means of resolving this issue. Joint Petitioners propose to eliminate the \$6.74 ADSL over copper rate altogether and treat two-wire and four-wire copper loops the same within geographic density zones, regardless of whether the loop is xDSL-compatible or whether xDSL is being provisioned, thereby applying the Commission-approved 2-wire loop rates and 4-wire loop rates to xDSL capable loops. According to the Joint Petitioners, as this rate was not otherwise mentioned in D.06-03-025, changes to Appendix A are the only ones needed to correct this particular issue.

In its revised form Appendix A would include the following new line - items:

<b>Unbundled Network Element</b>	<b>Monthly Recurring Charge</b>
<b>Loops</b>	
2-wire xDSL Compatible Loop (inclusive of NID)	
Zone 1	\$ 11.93

Zone 2	\$ 46.71
Zone 3	\$ 134.74
Zone 4	\$ 525.70

4-wire xDSL Compatible Loop (inclusive of NID)

Zone 1	\$ 23.06
Zone 2	\$ 90.27
Zone 3	\$ 260.42
Zone 4	\$1,016.05

According to the Joint Petitioners, the rates depicted for xDSL Compatible Loops (inclusive of NID) are the same as those for 2-wire or 4-wire Digital Loops (inclusive of NID), but are set forth separately in proposed Appendix A for clarity. Under this proposal, both the arbitrage opportunity alleged by Verizon and the over-recovery claimed by Covad are eliminated.

In its response to the Joint Petition, CALTEL supports the resolution reached by the Joint Petitioners and encourages the Commission to adopt it.

We find that the proposal by the Joint Petitioners provides a good compromise to the positions argued earlier in the proceeding, and no party opposes the proposal so we adopt it here. Appendix A has been modified as proposed by the Joint Petitioners.

## 5. Comments on Proposed Decision

The proposed decision of the Administrative Law Judge in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

## 6. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Dorothy Duda is the assigned ALJ in this proceeding.

### Findings of Fact

1. Delisted UNEs must be included in Appendices A and B because they are necessary for true-up purposes.
2. Delisted UNEs should be identified in Appendices A and B by a footnote.
3. Entrance facilities, transport facilities and SS7 links are not UNEs.
4. The rates to be charged for entrance facilities, transport facilities and SS7 links are the UNE rates adopted in D.06-03-025.
5. Verizon presented its switch data in the true-up phase of this proceeding on a MOU basis, and no party took exception to the structure or the rates Verizon employed.
6. Verizon's proposed per minute of use for tandem switching and interoffice switching should replace the structure for switching adopted in D.06-03-025.
7. Verizon had notice that the Commission intended to apply adopted UNE rates to reciprocal compensation.
8. When a carrier requests multiplexing from Verizon, the carrier is charged for the entire multiplexing unit.
9. Verizon bills for dark fiber on a per pair, per mile basis.
10. It would be costly and time-consuming to change the way that dark fiber is provisioned.
11. The statewide average rates shown in Appendix A are not available to competitors.
12. Only the deaveraged rates are available for purchase by competitors.

13. The HM 5.3 model uses the total count of ISDN lines to calculate the \$2.54 ISDN Option rate.

14. The ISDN Option rate must be added to the deaveraged loop rates, not to the statewide average loop rate.

15. Verizon does not offer a special Coin Option loop so it is appropriate to delete that item from Appendix A.

16. Verizon does not provide ADSL on DLC Loop so that service should be deleted from Appendix A.

### **Conclusions of Law**

1. Pursuant to Section 252(d) of the Telecommunications Act of 1996, elements used for interconnection should be priced at cost-based rates, the same as UNEs.

2. If Verizon believed that the Commission committed legal error by adopting rates for reciprocal compensation in D.06-03-025, it should have included that issue in its Application for Rehearing of the decision.

3. Appendices A and B of this decision replace Appendices A and B of D.06-03-025.

4. At the Law and Motion hearing on February 3, 2004, ALJ Duda made it clear that adopted UNEs would be used to set reciprocal compensation rates.

5. The FCC requires state commissions to adopt geographically deaveraged rates.

6. It is contrary to the FCC's rules to use the statewide average rate to price a UNE that has been geographically deaveraged, such as loops.

**O R D E R**

Therefore, **IT IS ORDERED** that:

1. The Petition to Modify filed by Verizon California Inc. shall be granted, in part, as described in this order.
2. The Petition to Modify filed by Verizon California Inc. and Covad Communications Company shall be granted.
3. Appendices A and B of this decision replace Appendices A and B of Decision 06-03-025.
4. The September 1, 2006 motion of Verizon California Inc. for confidential treatment of Exhibit D (Multiplexing and Dark Fiber Rate Restructure Workpaper) is hereby granted for a period of two years, until November 1, 2009.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

## Appendix A

### Adopted UNE Rates<sup>a</sup>

<u>Unbundled Network Elements</u>	<u>Adopted UNE Rate</u>
<u>Loops</u>	
Basic 2-wire, statewide average	\$ 13.94
Zone 1	\$ 11.93
Zone 2	\$ 46.71
Zone 3	\$ 134.74
Zone 4	\$ 525.70
4-wire statewide average	\$ 26.95
Zone 1	\$ 23.06
Zone 2	\$ 90.27
Zone 3	\$ 260.42
Zone 4	\$ 1,016.05
ISDN loop, statewide average	\$ 16.48
Zone 1	\$ 14.47
Zone 2	\$ 49.25
Zone 3	\$ 137.28
Zone 4	\$ 528.24
DS-1/HDSL, statewide average	\$ 78.33
Zone 1	\$ 67.70
Zone 2	\$ 144.04
Zone 3	\$ 552.37
Zone 4	\$ 684.37
DS-3, statewide average	\$ 596.57
2-wire xDSL Compatible Loop (inclusive of NID)	
Zone 1	\$ 11.93
Zone 2	\$ 46.71
Zone 3	\$ 134.74
Zone 4	\$ 525.70

<sup>a</sup> All rates include an 8.93% markup for shared and common costs.

## Appendix A (cont.)

<u>Unbundled Network Elements</u>	<u>Adopted UNE Rate</u>
4-wire xDSL Compatible Loop (inclusive NID)	
Zone 1	\$ 23.06
Zone 2	\$ 90.27
Zone 3	\$ 260.42
Zone 4	\$ 1,016.05
<u>Subloops</u>	
NID	\$ 0.53
Basic 2-wire distribution	\$ 8.86
Basic 2-wire feeder <sup>b</sup>	\$ 4.56
4-wire distribution <sup>b</sup>	\$ 18.32
DS-1 distribution	\$ 32.45
DS-1 feeder <sup>b</sup>	\$ 45.88
DS-3 distribution <sup>b</sup>	\$ 356.05
DS-3 feeder <sup>b</sup>	\$ 240.52
<u>Entrance Facilities<sup>c</sup></u>	
DS1	\$ 59.42
DS3	\$ 391.36
<u>Multiplexing</u>	
DS0 to DS1	per MUX \$ 75.36
DS1 to DS3	per MUX \$ 156.24
DS-1 to OC-3	per DS1 <sup>b</sup> \$ 5.75
DS-3 to OC-3	per DS3 <sup>b</sup> \$ 112.47
EC-1 to OC-3	per EC1 <sup>b</sup> \$ 112.47
DS-3 to OC-12	per DS3 <sup>b</sup> \$ 47.01
EC-1 / STS-1 to OC-12	per EC1 <sup>b</sup> \$ 47.01
<u>Switching</u>	
Ports	
Basic <sup>b</sup>	\$ 3.17

<sup>b</sup> Delisted UNE.

<sup>c</sup> Delisted UNE. May be used for purposes of interconnection.

## Appendix A (cont.)

<u>Unbundled Network Elements</u>	<u>Adopted UNE Rate</u>
DID Port <sub>b</sub>	\$ 7.29
ISDN BRI Port <sub>b</sub>	\$ 5.43
ISDN PRI Port <sub>b</sub>	\$ 164.82
DS1 Port <sub>b</sub>	\$ 161.65
Switch Usage	
Interoffice - Originating/Terminating per MOU <sub>b</sub>	\$ 0.001511
Tandem Switching Per MOU <sub>b</sub>	\$ 0.000364
Trunk Port Termination <sub>b</sub>	
End Office Termination	\$ 168.55
Tandem Termination	\$ 168.55
<u>Interoffice Transmission Facilities</u>	
Switched Transport - Common <sub>b</sub>	
common per mile per MOU	\$ 0.000000
common fixed per term	\$ 0.000053
Dedicated Transport - DS1	
DS-1 transport per mile	\$ 0.13
DS-1 fixed per termination	\$ 9.77
Dedicated Transport - DS3	
DS-3 transport per mile	\$ 3.67
DS-3 fixed per termination	\$ 273.55
<u>Additional Elements</u>	
SS7 Links <sub>c</sub>	
56 Kbps per month	\$ 5.16
DS1 per month	\$ 34.57
STP Usage per signaling message	\$ 0.000036
Database Query <sub>b</sub>	
800 Database - per Query	\$ 0.000397
Line Identifier Database (LIDB) - per Query	\$ 0.000397
Digital Cross-Connect System (DCS)	
Multiplexing	

## Appendix A (cont.)

Unbundled Network Elements	Adopted UNE Rate	
DS0 / DS1 per MUX	\$	75.36
DS1 / DS3 per MUX	\$	156.24
Dark Fiber		
Interoffice - IDT Facility, per pair, per mile <sup>d</sup>	\$	3.82
Loop, per strand <sup>b</sup>	\$	10.98
Loop, per foot <sup>b</sup>	\$	0.00011
Sub-Loop Feeder, per strand <sup>b</sup>	\$	10.98
Sub-Loop Feeder, per foot <sup>b</sup>	\$	0.00011
Cross Connection		
Interoffice Termination per end	\$	3.70
Feeder to CO <sup>b</sup>	\$	0.92
At RT <sup>b</sup>	\$	0.92
<b>UNE-P<sup>bf</sup></b>	<b>\$</b>	<b>17.46</b>

**(End of appendix A)**

<sup>d</sup> Dark fiber price based on Pacific Bell Telephone Company rates adopted in D.03-07-023, Appendix A, p. 4.

<sup>f</sup> UNE-P calculated based on usage assumption of 1400 voice 300 toll.

## Appendix B

### Switching Rates Based on Minute of Use<sup>a</sup>

<u>Unbundled Network Elements</u>	<u>Adopted UNE Rate<sup>b</sup></u>
Switch Usage	
Interoffice - Originating/Terminating per MOU	\$ 0.001511

**(End of appendix B)**

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<sup>a</sup> Based on a 70/30 split of traffic sensitive/non-traffic sensitive costs.

<sup>b</sup> All rates include an 8.93% markup for shared and common costs.

**INFORMATION REGARDING SERVICE**

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated September 17, 2007, at San Francisco, California.

/s/ ANTONINA V. SWANSEN  
Antonina V. Swansen

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\*\*\*\*\* SERVICE LIST \*\*\*\*\*

**Last Updated on 17-AUG-2007 by: EAP  
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