AGENDA DATE: 11/20/01
AGENDA ITEM: 4A

STATE OF NEW JERSEY

Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

TELECOMMUNICATIONS

IN THE MATTER OF THE BOARD'S REVIEW OF UNBUNDLED NETWORK ELEMENTS RATES, TERMS AND CONDITIONS OF BELL ATLANTIC NEW JERSEY, INC.	)	SUMMARY ORDER OF APPROVAL DOCKET NO. TO00060356

(SERVICE LIST ATTACHED)

BY THE BOARD:

This Summary Order memorializes the decision of the New Jersey Board of Public Utilities (Board) at its public agenda meeting of November 20, 2001. At that meeting, the Board established certain rates for unbundled network elements (UNEs), adopted modified inputs and assumptions used in certain cost models used to calculate recurring and non-recurring UNE rates, and established the terms and conditions under which certain advanced services, such as digital subscriber line (DSL) service, would be made available by Verizon New Jersey Inc. (Verizon) to competitive local exchange carriers (CLECs). The Board also authorized its Secretary to send a letter to Verizon directing it to "re-run its recurring, non-recurring and switching models consistent with the Board's findings," and to file, with the Board and the parties, the results of these re-runs, along with the underlying workpapers, by December 3, 2001. This Order also includes a summary of findings and determinations with regard to the terms and conditions under which new UNEs, such as dark fiber and house and riser cable, shall be made available. The Attachments to this Order present the Board's findings for all recurring and non-recurring rates, as well as the results of Verizon model re-runs based upon the Board-approved inputs. The Board HEREBY ADOPTS those rates, as well as the terms and conditions set forth herein, effective as of the date of this Order.

The decisions contained herein are based upon a complex and voluminous record developed during evidentiary proceedings that included 17 days of hearings over fifteen weeks, 26 expert witnesses, over 265 exhibits and over 3,900 pages of transcripts. The positions of the parties with regard to this record were incorporated into extensive briefs and reply briefs submitted on June 18, 2001 and July 13, 2001, respectively. By virtue of its action on November 20, 2001, the Board expects that competition among New Jersey's telecommunications carriers for the provision of local exchange telecommunications services to the State's residential and business

customers will be further promoted. A final Order will be issued in this matter fully setting forth the Board's analysis of the issues, the positions of the parties, and the reasoning underlying the Board's determinations.

BACKGROUND

This proceeding began on June 1, 2000, when the Board announced its intention to review the UNE rates established in a "Generic proceeding" by Order dated December 7, 1997.[1] The Board's decision to re-evaluate the UNE rates established in the Generic Order was consistent with the Board's prior announcement that it would continue to monitor UNE rates and, if appropriate, would reevaluate those rates.[2]

On June 6, 2000, the United States District Court for the District of New Jersey issued a decision that affirmed in part, reversed in part, and remanded in part issues addressed in the Generic Order.[3] The District Court Opinion remanded to the Board for further review the issue of recurring and non-recurring UNE rates, access to dark fiber, subloop unbundling and customer specific pricing arrangements. With regard to UNE rates, the Court found that the Board failed to articulate reasonably the basis for its rate determinations, and stated:

> [w]hether the Board intends to hold new hearings, or simply recalculate the rates based on data previously provided by the parties in the generic proceeding is a decision it must make. The Board may chose to adopt prices on an item-by-item basis from whichever model is more accurate on a particular item, or assign its own value to an item where all models are inaccurate. Should a blending of some proposed prices makes sense, . . . such weighting as the Board chooses can vary from item to item, more rationally reflecting the specific deficiencies of any one model.[4]

At the Board's June 23, 2000 agenda meeting, the Board adopted a Staff proposal, and requested that interested parties augment the record existing in the Generic Proceeding to address the following issues:

(a) Dark Fiber;
(b) Subloop Unbundling;
(c) Line Sharing;
(d) Customer Specific Pricing Arrangements;
(e) Recurring and Non-Recurring UNE Rates;
(f) Information From other Proceedings Relating to UNEs ; and,
(g) UNEs Filed after December 1997.

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1 Decision And Order, In The Matter of The Investigation Regarding Local Exchange Competition For Telecommunications Services, Docket No. TX95120631 (Dec. 2, 1997) (hereinafter, the Generic Order).

2 Generic Order at 70-71.

3 See AT&T Communications of New Jersey, Inc., et al. v. Bell Atlantic-New Jersey, Inc., et al., Civ. No. 97-5762 (KSH), and MCI Telecommunications, Corp., et al., v. Bell Atlantic-New Jersey, Inc., et al., Civ. No. 98-0109 (KSH) (D.C.N.J. June 6, 2000) (hereinafter, District Court Opinion).

4 District Court Opinion at 30.

In addition to these issues, the Board required the parties to update and/or revise their recurring and non-recurring cost models to remove deficiencies previously found by the Board in its Generic Order, and to reflect the current state of applicable law and regulation.
Active parties in this proceeding included the following: Verizon, AT&T Communications of NJ, L.P. (AT&T), the New Jersey Division of the Ratepayer Advocate (Advocate), WorldCom, Inc. (WorldCom), Covad Communications Company (Covad), Sprint/United Communications Company, L.P. (Sprint), Cablevision Lightpath-NJ, Inc. (Cablevision), Conversant Communications of New Jersey, L.L.C. (Conversant), and the Board's Staff (Staff).

After the parties' submissions of pre-filed direct and rebuttal testimony, evidentiary hearings were conducted before Commissioner Frederick F. Butler on various dates from November 28, 2000 to February 8, 2001. Following the close of evidentiary hearings, the parties continued to exchange information relating to outstanding discovery and transcript requests made during the hearings. Pursuant to a discovery ruling, Verizon was required to provide additional material to the parties on switch purchases and AT&T was allowed to file supplemental testimony on that material.

Verizon presented pre-filed testimony of the following witnesses: Marsha S. Prosini, Bruce Meacham, Dr. William E. Taylor, Amy Stern, Donald E. Albert, Dr. Timothy Tardiff, Joseph Gansert, Dr. James H. Vander Weide, and John White. AT&T presented pre-filed testimony of the following witnesses: Thomas J. Cosgrove, Dean Fassett, John I. Hirshleifer, Robert A. Mercer, Michael Baranowski, E. Christopher Nurse, Richard Walsh, and Paul Cain. WorldCom presented pre-filed testimony by August H. Ankum, Mark Stacy, Erik McPeak, and Sidney L. Morrison (adopting testimony of Erik McPeak). The Advocate presented the prefiled testimony of James Rothschild and Scott Lundquist. Covad presented the prefiled testimony of Terry L. Murray and Joseph P. Riolo. Sprint/United presented prefiled testimony by James Maples. Conversant presented prefiled testimony by David A. Graham.

Initial and Reply Briefs were filed on June 18, 2001, and July 13, 2001 by the Advocate, AT&T, Verizon, WorldCom, Sprint/United, Cablevision Lightpath, and Covad. An initial brief only was filed by Conversant. Prior to the filing of briefs, the Board Staff prepared an issues outline to be used by the parties in connection with their briefs.

As a preliminary matter, the Board notes that, as a multi-member State administrative agency, final decisions in all matters must be rendered by the entire Board, which constitutes the agency head. N.J.S.A. 52:14B-2(d); New Jersey Executive Commission on Ethical Standards v. Byrne, 238 N.J. Super. 84 (App. Div. 1990). Therefore, in rendering this final decision, the Board HEREBY AFFIRMS all interlocutory decisions made by Commissioner Butler during these proceedings.

INTRODUCTION

The Summary Order is organized into the following four (4) general areas:

(1) Recurring Cost Models, Assumptions and Costs;
(2) Non-Recurring Cost Models, Assumptions and Costs;
(3) Switching Cost Models, Assumptions and Costs; and

(4) Other Technical and Cost Issues.

In the discussion that follows, the Board adopts cost models, and makes specific modifications to inputs and assumptions that are incorporated into the cost models referenced in the first three areas listed above. In addition, the Board renders specific decisions on matters of policy affecting all four areas and directs Verizon to re-run its models based upon Board approved inputs. With the modified inputs and assumptions set forth below, the Board believes that the Verizon cost models produce appropriate forward-looking costs that are compliant with the principles promulgated by the Federal Communications Commission (FCC). In modifying the inputs and assumptions inherent in the Verizon cost models, the Board seeks to capture the forward-looking portion of Verizon's network design and layout, while rejecting inefficient, embedded and unreasonable assumptions. The Board believes that this approach will promote both competition and the deployment of CLEC facilities in the State. In the Board's view, it is essential that CLECs invest in their own facilities in order to guarantee the long-term introduction of new and innovative services in a manner that is not dependent upon the incumbent's own facilities.

I. Recurring Cost Models, Assumptions and Costs

Based upon the information in the record, the Board adopts the Verizon recurring cost model as the starting point to establish the recurring rates for the Loop and all related network components. The Board believes that the Verizon model most closely approximates the concepts supported by the Board in modeling a forward-looking network. Our conclusion is supported by the testimony of both Verizon and the Ratepayer Advocate, who suggest that the HAI Model, sponsored by AT&T, failed to use TELRIC[5]-compliant inputs and assumptions. It is the Board's belief that such an approach would result in Verizon subsidizing CLEC entry into the local markets and eliminate any incentive for CLECs to invest in their own facilities.

However, based upon the record, we found it necessary to modify the following six (6) critical inputs to the Verizon model to ensure that it would produce the proper, lawful, and forward-looking results:

(a) Fill Factors;
(b) Depreciation Rates;
(c) Expense Factors;
(d) Cost of Capital;
(e) Support Structures; and
(f) Digital Loop Carrier.

(a) Fill Factors

The record reflects, and the Board FINDS, that fill factors should be revised as follows:

(a)	Copper Feeder:	75%
(b)	Fiber Feeder:	77.5%

5 The term "TELRIC" means "Total Element Long Run Incremental Cost."

(c) Distribution Cable: 53%.

The revision to both the copper feeder and fiber feeder fill factors is based upon a calculation of the mid-point between Verizon's actual fill level and the relief point for feeder. This calculation is consistent with Verizon's mid-point calculation for loop electronics. The 53% for distribution cable is derived from the Advocate's analysis which calculated the mid-point between embedded fill and objective fill as detailed in Verizon's engineering guidelines.

(b) Depreciation Rates

The Board FINDS that the lives proposed by WorldCom are consistent with the principles articulated by the FCC, and represent the appropriate forward-looking lives. Accordingly, the Board ADOPTS those lives.

(c) Expense Factors

The Board DIRECTS Verizon to eliminate all advertising expenses used in the development of its expense factors. Verizon was unconvincing in its argument that it would incur such expenses in providing wholesale services such as UNEs. In addition, the Board DIRECTS Verizon to hold all expense factors constant as a percentage of investment over the life of the cost study.

(d) Cost of Capital

The Board FINDS that the Advocate's recommendation of a weighted Cost of Capital of 8.8% is appropriate and is to be used in the development of recurring and non-recurring rate elements. In its analysis, the Advocate calculated the Verizon's existing debt/equity ratio, including an 8.07% cost of debt based upon the interest rate of "A" rated utility debt, and a 10% cost of equity based upon data from Value Line Reports adjusted for risk. The Board believes that the Advocate's analysis is the most reasonable and forward-looking analysis in the record.

(e) Support Structures

The Board DIRECTS Verizon to modify its studies to reflect the following changes to support structure assumptions:

(1) Structures Percentages:
  a. Aerial: 60%
  b. Underground: 25%
  c. Buried: 15%
(2) Revise Aerial Drop Length: 73 Feet
(3) Pole Cost : $733.67.

The revised structure percentages reduce the aerial percentage in the Verizon model and reflects Verizon's network today. The Board is unconvinced that Verizon's structure percentages will be materially different in the future, and believes that Verizon's proposed forward-looking adjustment would therefore yield inflated results.

The Board also FINDS that aerial drop length should be reduced from 100 feet to 73 feet. 73 feet is a nationwide average based upon a study performed by Bellcore.

Pole cost should be reduced from $1,156 to $733.67. This adjustment was recommend by the Advocate, and is based upon the cost of poles used by NYNEX in its cost study filed in Massachusetts, adjusted for inflation.

(f) Digital Loop Carrier

One of the most critical decisions in this docket deals with the percentage of digital loop carrier (DLC) assumed in the model. Verizon assumes that on a forward-looking basis, its network will be comprised of 60% DLC with the remaining being 40% end-to-end copper. The Board is, however, concerned that, of the 60% DLC, 83% is universal digital loop carrier (UDLC) and the remaining 17% is integrated digital loop carrier (IDLC). Verizon had argued that a higher percentage of UDLC is required to serve stand-alone unbundled loops. However, in Verizon's existing network, the 17% DLC is comprised of 7% IDLC and 10% UDLC, and close to 83% is end-to-end copper. Said another way, of the 17% DLC currently in Verizon's network, 59% is UDLC while the remaining 41% is IDLC.

The Board supports Verizon's assumption that designs a forward-looking network that includes a greater percentage of DLC systems. However, Verizon inappropriately includes UDLC in its design. It is not reasonable that a carrier, such as Verizon, would suggest that its percentage of DLC will increase in a forward-looking network from 17% to 60%, and then only include 10% deployment of a modern, technologically superior DLC system such as IDLC. Therefore, consistent with the recommendations of AT&T, WorldCom, the Advocate and others, the Board FINDS that the use of 100 % IDLC is an appropriate and realistic forward-looking assumption.

The record reflects the fact that UNE-P orders do not have to be unbundled and may be provided seamlessly over IDLC facilities. Based upon the fact that many of the CLECs have stated that they will utilize UNE-P as the primary vehicle to enter the local market, and not unbundled loops, we are satisfied that the use of 100% IDLC is appropriate.

Staff made the aforementioned adjustments using model software made available by Verizon during the proceeding. These forward-looking adjustments to the Verizon model yield a statewide average 2-wire loop rate of $9.52.

II. Non-Recurring Cost Models, Assumptions and Costs

The Board ADOPTS the Verizon non-recurring cost (NRC) model to establish non-recurring rates. Non-recurring rates are the one-time costs associated with tasks and activities necessary for Verizon to process and provision requests by CLECs for the installation, modification or disconnection of service.

While the models submitted by AT&T and Verizon were similar in their approach, that is, both attempted to estimate the expected time and occurrence of an event multiplied by an assumed labor rate, the AT&T model identified far fewer rate elements than the Verizon model and assumed away a number of potential costs under the guise that they should have been included as part of recurring costs, and/or are unnecessary in a forward-looking environment due to

mechanized improvements. In addition, the AT&T model assumed that disconnect charges are not incurred until the disconnection of service actually occurs.

However, the Board is also concerned with some aspects of the Verizon model. Verizon interjects many unnecessary manual steps, such as retyping orders, into the processing of orders, and uses unrealistic time estimates throughout its model. Of particular concern, is Verizon's use of self-administered surveys, which produce biased and arbitrary results, as evidenced by the variations in estimates from one survey to another. In order to correct these deficiencies, the Board has found it necessary to make numerous adjustments to Verizon's model. However, due to the enormity and complexity of the non-recurring cost model, the Board's analysis focused on the following NRC rate elements:

(1) Two Wire New Loops-Initial;
(2) Two Wire New Loops-Additional;
(3) Two Wire Loop Hot Cut-Initial Line;
(4) Two Wire Loop Hot Cut-Additional;
(5) POTS/ISDN BRI Platform-Migration-Initial Line;
(6) POTS/ISDN BRI Platform-Migration-Additional;
(7) POTS/ISDN BRI Platform-New Line, and
(8) POTS/ISDN BRI Platform-New Additional Line.

These revisions affect the following categories of cost:

(a) Service Orders;
(b) Central Office (CO) Wiring;
(c) Provisioning; and
(d) Field Installation.

Each cost category is developed for what Verizon describes as a standard interval and an expedited interval. Verizon also proposed a fifth category, called a "manual surcharge," which would only apply in the event that a CLEC did not want to use the mechanized system.

Verizon's study first estimates the current time required to perform a task. It then adjusts the number by applying two factors, one called a "typical occurrence factor," and the other called a "forward-looking adjustment," before multiplying the results by a labor rate. Based upon the arguments of the parties and an analysis of the critical inputs associated with the eight rate elements referenced above, the Board has developed the following eight (8) criteria which the Board, by the aforementioned Secretary's letter, has directed Verizon to apply to the re-running its non-recurring cost models:

(1) Revise all travel times to 20 minutes;

(2) Adjust the time estimates for all Additional Lines to be equal to the time associated with Initial Lines where the Additional Line is greater;

(3) Eliminate all computer connect times for Additional Lines in recognition that the tasks for the Initial and Additional Lines will be performed within the allotted time for the Initial Line;

(4) Eliminate all times associated with notifying a CLEC to complete an order in recognition that the tasks for the Initial and Additional Lines will be performed within the allotted time for the Initial Line;

(5) Eliminate all times associated with scheduling teams, contacting CLEC, verifying service orders, obtaining CLEC approval, completing order, and notifying team of cancellations for all Additional Lines in recognition that the tasks for the Initial and Additional Lines will be performed within the allotted time for the Initial Line;

(6) Revise all times associated with gaining access to a premises, locating terminal, contacting MLAC and working with frame or RCC to 5 minutes;

(7) Eliminate all field installation charges associated with Migration orders; and,

(8) Eliminate all manual translation times that are made obsolete by the flow through capabilities of Verizon's operations support systems (OSS).

The resulting rates, along with all other rates, are contained in the Attachments to this Order. In addition, where appropriate, the mix of DLC systems has been adjusted to be consistent with the assumptions recommended previously for use in the recurring cost model.

Finally, with regard to disconnect costs, the Board FINDS that Verizon should be permitted to collect disconnect costs at the time of installation. This is consistent with retail ratemaking practices, and protects Verizon in the event that a CLEC goes out of business.

III. Switching Cost Models, Assumptions and Costs

The record also supports the adoption of Verizon's switching model. This model is comprised of a series of models and modules developed by Telcordia. The Telcordia Model is an industry standard that has been relied upon by both carriers and regulators alike. The most critical input affecting switching rates is the assumption related to replacement versus growth discounts. Verizon relied upon 100% growth discounts with zero recognition of replacement discounts. Verizon's approach has the affect of significantly overstating switching costs by ignoring the higher discounts associated with the replacement of switches. A more reasonable method to calculate switching rates would have been to calculate the effective discount for switch purchases of the replacement digital switches that supplanted Verizon's older analog switches and then estimate the anticipated growth discount based upon contract data using New Jersey specific data. However, in the absence of such data, the Board FINDS that the switch discounts provided in response to Commissioner Butler's May 7, 2001 ruling in this matter should be used. In addition to revised depreciation rates and cost of capital, discussed earlier, the Board ADOPTS the forward-looking replacement/growth analysis developed by AT&T which results in a weighting of 79.4% replacement and 20.6% growth, assuming 3% annual line growth and a projected 17 year life.

The use of these values results in the effective discounts used to calculate switching rates. The Board has directed Verizon to re-run its switching model using the Board-approved inputs. The results are contained in the Attachments.

IV. Other Technical and Cost Issues

The following issues each contain technical, rate and policy considerations. The focus of this section is the appropriateness of rates, rather than magnitude.

Line Conditioning

The Board FINDS that Verizon's proposal for line conditioning is reasonable and should be adopted. Verizon's proposal is reasonable in that it does not seek to charge CLECs for loop conditioning on lines less than 18,000 feet from the central office. In addition, its limitations on the use of lines over 18,000 feet are reasonable in that they consider service degradation to the voice component. Verizon appropriately seeks to charge carriers for additional loop electronics for ISDN conditioning.

Loop Qualification

Based upon the evidence in the record, the Board FINDS that the existing compliance filing requirements will remain as the primary means of accessing loop qualification data. However, the Board agrees with the parties that argue that the FCC requires that CLECs be provided non-discriminatory access to the same detailed information that is available to Verizon. Consistent with those requirements, Verizon is DIRECTED to make available electronically the same data contained in the LFACS database that Verizon uses for its own loop qualification purposes within ninety days of receipt of this Order. The Board does not believe that Verizon should be required to make the actual LFACS database available, but the identical information that is available to Verizon in an electronic format should be made available to CLECs in an electronic format. CLECs should not be responsible for the cost of creating an entirely new database since the information is already available. During the interim, CLECs should only be assessed the charge associated with electronic access, rather than manual process, if the manual intervention is a result of Verizon's inability to make the information electronically available to CLECs that is already electronically available to itself.

Line Sharing

Verizon is DIRECTED to eliminate the condition which excludes line sharing when used in conjunction with UNE-P or EEL arrangements. Since line sharing requires Verizon to provide the voice component of the service, both EEL and the Platform are non-issues. With that condition removed, we are satisfied that Verizon's line sharing parameters are consistent with the FCC's line sharing requirements.

Line Splitting and Ownership

Verizon is DIRECTED, consistent with the FCC's requirements, to modify the terms and conditions of its line splitting proposal to permit line splitting in the UNE-P environment. In

addition, the Board agrees with Verizon that CLECs should be required to provide and install their own splitters or contract with Verizon to have splitters installed. As for the issue of splitter ownership and control, we note that this is currently the subject of an FCC rulemaking. However, we agree with Verizon that it is under no legal obligation to purchase splitters on behalf of its competitors. Therefore, the Board rejects the CLECs' requests to purchase access to splitters on a line-at-a-time basis.

Wideband Testing

The Board agrees with the parties that argue that wideband testing should be made optional. The Board believes that Verizon has an affirmative obligation to provide working loops to its wholesale customers. As a basic premise, the Verizon cost studies develop recurring rates that are based on a fully functioning network. In fact, the rates already take into account that additional lines will be necessary for growth and repair through the application of fill factors. In addition, non-recurring rates come with the implicit assumption that any additional service provisioning or installations are performed professionally. There is no support in the record to indicate that CLECs should not be permitted to perform their testing.

Cooperative Testing

The Board REJECTS Verizon's proposed cooperative testing charge as unnecessary. Like wideband testing, the Board believes that Verizon has an obligation to provide CLECs with working loops and that the rates established assume the availability of working loops. However, we will permit Verizon to impose a cooperative testing charge, if testing is requested by the CLEC and the trouble is found to be on the CLEC's end of the circuit. While it is the Board's belief that cooperative testing could benefit CLECs, the lack of required testing only impacts CLECs if the trouble is determined to be on its end of the circuit.

Splitter-Related Costs

The Board FINDS that the Option "A" charges proposed by Verizon should be eliminated. Option "A" charges would apply to CLEC splitters installed in the CLEC's own collocation space. As such, the Board is not convinced that Verizon would incur any costs.

Line Station and Transfer

The Board agrees with Verizon that a line station and transfer charge is appropriate. In addition, the Board DIRECTS Verizon to clarify that a line and station transfer is available to line splitting, as well as to line sharing arrangements.

xDSL Service Over PARTS

This issue began with a Verizon proposal to address CLEC concerns regarding the provisioning of DSL service where Verizon has a fiber-based feeder. However, Verizon's proposal never progressed beyond its initial concept. The Board believes that Verizon should be encouraged to pursue its initial proposal to conclusion. However, the Board agrees that Verizon is under no legal obligation to provide PARTS. Nevertheless, the Board DIRECTS Verizon to review its

planned deployment of PARTS and inform the Board and the parties of any plans it has to deploy such systems within 60 days of its receipt of this Order.

Line Cards/Access to Remote Terminals

The Board agrees with Verizon that it has no legal obligation to install line cards for CLECs. While line card installation would greatly reduce a CLEC's cost by eliminating the need to purchase an entire DSLAM and occupy collocation space, it is not Verizon's duty to invest in equipment for the express purpose of limiting CLEC costs. However, the Board disagrees with Verizon that its remote terminal (RT) collocation rates should be based on individual case basis (ICB) pricing. While it is true that remote terminal collocation for CLECs is something that Verizon has not experienced before, it has provisioned equipment for itself in RTs and has extensive experience with central office collocation. Therefore Verizon is DIRECTED to file, within 60 days of receipt of this Order, proposed RT collocation rates so that CLECs may better evaluate their options as they relate to RTs. The filing should be provided both to Staff and interested CLECs for their review.

House and Riser Cable

The Board HEREBY ADOPTS Verizon's house and riser cable proposal with one modification. The Board agrees with the Advocate's recommendation that CLECs be permitted to install and share terminal blocks and order Cross Connects only when required. Verizon's proposal needlessly inflates the CLEC's cost of providing service in a multi-tenant building by requiring them to order fifty cross-connects at a time.

Dark Fiber

The Board DIRECTS Verizon to modify its definition of dark fiber to eliminate references to "spare" and "continuous" in describing dark fiber. While the Board is sensitive to the CLECs' concerns regarding Verizon's use of the language "existing, in-place fiber optic sheath," the Board agrees with Verizon that it is necessary to clarify that the Verizon's obligation does not extend to building new facilities for CLEC's. This fact does not, however, preclude CLEC access to dark fiber that is put into service in the future. In addition, the Board FINDS that CLECs should be permitted to route dark fiber through intermediary central offices without the need to establish collocation facilities in each central office. Verizon's collocation requirement needlessly inflates CLECs' costs. Cross connects must be provided at cost–based rates. The Board declines to require that Verizon permit access to portions of dark fiber, i.e., "sub-loop unbundling" of dark fiber between fiber routes. The Board agrees with Verizon that CLECs should be required to purchase the entire piece of fiber that it intends to use. It is the Board's view that splicing into dark fiber is an inefficient and wasteful use of these valued facilities and could have the effect of "stranding" many unused pieces of fiber, with the result that Verizon might be considered responsible for denying other CLECs access to dark fiber.

The Board is also sensitive to the CLECs' concerns regarding Verizon's reservation policy. However, the Board declines at this time to find in favor of the CLECs on this issue. However, the Board does believe that CLECs should have the ability to challenge any claims by Verizon that sufficient dark fiber does not exist. In the event that a CLEC's dark fiber request is rejected,

Verizon is DIRECTED to provide specific details to the CLEC and Staff for review within five calendar days of the rejection.

Regarding Ordering procedures, the Board is concerned that Verizon's ordering procedures disadvantage and discriminate against CLECs by providing only for the testing of the number of dark fiber pairs the CLEC orders, and requiring the CLEC to start the Ordering process over again if the pairs do not meet transmission quality standards. Therefore, the Board FINDS that it is appropriate to require Verizon to provide CLECs with the actual number of working dark fibers it orders regardless of how many it needs to evaluate to do so. Finally, the Board believes that Verizon's proposed procedures related to the availability of maps showing dark fibers routes are reasonable. The Board cautions Verizon against holding back maps beyond the serving wire center without just cause. Verizon should work cooperatively with CLECs in this regard.

Reciprocal Compensation

The Board FINDS that the end-office switching rate should be adopted as the appropriate reciprocal compensation rate. CLECs, however, should be given the opportunity to provide specific data to Verizon and the Board demonstrating that the tandem rate should apply for traffic, consistent with FCC regulations.

Sub-Loop Unbundling

The Board ADOPTS Verizon's subloop unbundling proposal with the following modification. The Board REQUIRES Verizon to modify its sub-loop unbundling proposal to include a standard offering for both sub-loop unbundling of the feeder portion of the loop and a standard offering for collocation at remote terminal equipment enclosures (CRTEE). Verizon is DIRECTED to submit a proposal to CLECs, the Advocate and Staff that included rates, terms and conditions for sub-loop unbundling of the feeder portion of the loop and its proposed CRTEE within 60 days of receipt of this Order.

Customer Specific Pricing Arrangements (CSPA)

The Board DIRECTS Verizon to provide CSPAs consistent with the FCC's requirements that usage in the aggregate must meet the same standards as applied to Verizon's customer. Consistent with the FCC requirements, however, Verizon is permitted to make a showing to the Board that unique economic conditions exist that support the non-availability of a CSPA to a CLEC's customer.

Revised UNEs Filed After December 1997

After considering the comments of the parties, the Board FINDS that CLECs should be permitted to update their enhanced extended loop (EEL) forecasts on a monthly basis in recognition of the fact that forecasts may need to be adjusted periodically to take into account changed business conditions.

Other BA/GTE Merger Conditions

While the Board agrees with AT&T that Verizon's merger conditions are relevant to New Jersey, the actual enforcement of those merger conditions that are not also State requirements are outside of the scope of the Board's purview. It should be noted that the FCC recently relieved Verizon of certain of its merger commitment obligations making moot several of AT&T's concerns. Verizon's compliance with the remaining conditions resides with the FCC.

Monitoring Reports

As a final matter, the Board DIRECTS Staff to initiate a process, after the release of the Final Order in this matter, to review the Board's existing Competitive Services Monitoring Reports and make recommendations that would aid the Board tracking and analyzing the development of Local Competition throughout the State.

The Board again notes that by a Secretary's letter dated November 20, 2001, it directed Verizon to re-run its recurring, non-recurring and switching models consistent with the Board's November 20, 2001 findings, utilizing the inputs and assumptions articulated by the Board for all rate elements not specifically set by the Board. See Letter of Acting Secretary Henry M. Ogden, Esq. to Bruce D. Cohen, Esq., dated November 20, 2001. Verizon was further directed to respond to the Board and the parties with the results of those re-runs by December 3, 2001, and to also provide all workpapers, along with a certification signed by an officer of the company verifying the results.

By letter dated December 3, 2001, Verizon filed its cost study results, but stated that it was unable to provide certification of the results and the associated workpapers due to resource limitations and requested that it be provided a one-week extension. See Letter of Hesser G. McBride, Jr., Esq. to Acting Secretary Henry M. Ogden, Esq., dated December 3, 2001.

On December 10, 2001 AT&T submitted a letter to the Board noting that the rates submitted by Verizon on December 3, 2001 did not reflect any changes to switch costs, i.e., the unbundled POTS port and unbundled originating and terminating switch usage rates. See Letter of Frederick C. Pappalardo to Acting Secretary Henry M. Ogden, Esq., dated December 10, 2001. Based upon its understanding of the Secretary's letter, AT&T re-ran the switching models and provided the results of its analysis to the Board and Staff.

Subsequently, on December 10, 2001, Verizon filed both the required workpapers as well as the certification. In addition, Verizon provided revised switching runs based upon the Board's announced inputs and assumptions.

The Board has reviewed Verizon's recurring and non-recurring model reruns, including the revised switching runs, as well as the related workpapers, and is satisfied that these reruns are consistent with the Board's November 20, 2001 findings and Secretary's letter directive.

Therefore, the Board FINDS that the recurring and non-recurring rates set forth on the Attachments to this Order, as well as the terms and conditions set forth herein, are just and reasonable, and in accordance with law. Accordingly, the Board HEREBY ADOPTS those rates, terms and conditions as the approved rates, terms and conditions to be offered by Verizon to competitive local exchange carriers. This approval is not intended to preclude the negotiation of non-discriminatory rates, terms and conditions that differ from those adopted herein.

DATED: 12/17/01

BOARD OF PUBLIC UTILITIES
BY:

(signed)
CONNIE O. HUGHES
PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

(signed)
CAROL J. MURPHY
COMMISSIONER

ATTEST:

(signed)
HENRY M. OGDEN
ACTING BOARD SECRETARY