PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held October 25, 2000

Commissioners Present:

John M. Quain, Chairman
Robert K. Bloom, Vice Chairman
Nora Mead Brownell
Terrance J. Fitzpatrick

Petition of Covad Communications Company for an Arbitration Award Against Bell Atlantic-Pennsylvania, Inc., Implementing the Line Sharing Unbundled Network Element	A-310696F0002
Petition of Rhythms Links, Inc., for an Expedited Arbitration Award Implementing Line Sharing	A-310698F0002

OPINION AND ORDER

BY THE COMMISSION:

Before us for consideration is a Petition for Reconsideration (Petition) and Motion to Compel Production of Documents (Motion) submitted on behalf of Covad Communications Company (Covad) and Rhythms Links, Inc. (Rhythms) (collectively Joint Petitioners) on August 29, 2000, relative to our final Opinion and Order entered

August 17, 2000, in the above-captioned proceeding. On September 11, 2000, Verizon-Pennsylvania, Inc. (Verizon) filed its Opposition (Reply hereafter) to the said pleadings.[1] By Order entered September 13, 2000, we granted reconsideration solely for the purpose of preserving our opportunity to exercise review on the merits.

Background

This matter is an arbitration proceeding conducted pursuant to the federal Telecommunications Act of 1996 (TA-96), 47 U.S.C. §252, the Commission's *Implementation Order*,[2] and related provisions of the Public Utility Code, 66 Pa. C.S. §§101-3316. An extensive procedural history has been provided in our Opinion and Order entered August 17, 2000.

On April 26, 2000, Covad and Rhythms filed separate petitions seeking an arbitration award implementing line sharing pursuant to Section 252 of TA-96, 47 U.S.C. §252. Administrative Law Judge (ALJ) Larry Gesoff was assigned to the matter as Arbitrator.[3]

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[1] We take administrative notice of the change of corporate name from Bell Atlantic-Pennsylvania, Inc. to Verizon Pennsylvania effective August 1, 2000. We shall use Verizon in place of the former name herein, except where a direct quotation is being used. *See* Verizon Reply, p. 1, n. 1.

[2] Re *Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799 (Order entered June 3, 1996; *Order on Reconsideration* entered September 9, 1996)

[3] Line sharing is a new unbundled network element (UNE) mandated by the Federal Communications Commission (FCC) pursuant to Section 251(c)(3) of TA-96, 47 U.S.C. §251(c)(3). The new UNE enables competitive local exchange carriers (CLECs) to offer xDSL (digital subscriber line)-based services through a single telephone line that CLECs share with incumbent local exchange carriers (ILECs). *See Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order CC Docket No. 98-147, Fourth Report and Order, CC Docket No. 96-98; 14 FCC Rcd 20912 (released December 9, 1999) (*Line Sharing Order*).

The proceeding was divided into two (2) phases. Phase 1 was designed to use the Commission's interim procedures to address issues necessary to allow Joint Petitioners to begin line sharing by the deadline imposed by the FCC. Phase 2 would be necessary if the Parties were unable to reach agreement on the remaining line sharing issues.

On May 12, 2000, the Parties entered into an agreement which was attached as Exhibit 1 to the Best and Final Offer of Verizon filed on June 15, 2000. The result of the agreement was that Joint Petitioners withdrew their request for expedited arbitration and their demand to arbitrate an implementation schedule for line sharing. The agreement allowed for Verizon to make line sharing available to Joint Petitioners by June 6, 2000, or within 180 days of the release of the FCC's *Line Sharing Order*.

Also, on June 15, 2000, the Parties submitted an agreement withdrawing cost issues from the instant arbitration proceeding. Cost issues were deferred to the proceeding before ALJ Louis G. Cocheres at Docket No. R-00005261.[4] If the cost issues are not decided in the *UNE Rate Proceeding*, the Parties agreed to request that the Commission decide them in a separate proceeding. Until the Commission decides the cost issues and sets final rates, Joint Petitioners agreed to pay, on an interim basis and subject to true-up, the rates set forth in the amendments to their interconnection agreements with Verizon that provide for line sharing. To effectuate the transfer of the issues, the Parties filed the *Petition of BA-PA-Pennsylvania, Inc., Covad Communications Company* and *Rhythms Links, Inc. For Expedited Referral of Issues*. Said petition was granted at the Commission's June 22, 2000 Public Meeting.

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[4] *Re: Further Pricing of BA-PA-Pennsylvania, Inc.'s Unbundled Network Elements (UNE Rate Proceeding)*.

The Arbitration Conference was held on June 20, 2000. On June 21, 2000, ALJ Gesoff informed the Parties that the Decision would be written without Briefs. ALJ Gesoff relied upon the record which included presentations by the experts and the attorneys.[5] The record in this proceeding closed on June 27, 2000.

The Recommended Decision of ALJ Gesoff, acting as Arbitrator, was issued June 30, 2000. After consideration of the Exceptions and Replies thereto, our final Opinion and Order was, as noted, entered on August 17, 2000.

The pertinent Ordering Paragraphs of our August 17, 2000 Opinion and Order are reprinted, below:

> 1. That Bell Atlantic-Pennsylvania, Inc. shall complete the provisioning and installation of the line sharing UNE at parity with its Infospeed DSL service on file with the Commission until modified by any future order of this Commission.
>
> 2. That Bell Atlantic-Pennsylvania, Inc. shall provide splitter and cable augments within forty-five (45) days of a CLEC order. This determination shall be an interim order which shall be reconsidered after the entry of a Final Opinion and Order in Docket No. R-00994687 [sic].
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> 3. That Bell Atlantic-Pennsylvania, Inc. shall not have to bear the financial responsibility of owning the splitter.

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[5] There was no testimony under oath during the Arbitration Conference. Instead, the attorneys and experts for the parties discussed and supported the Best And Final Offer of each party on each issue. Anthony Petrilla, Esquire, and Susan Jin Davis, Esquire, represented Covad. Jim Scheltema, Esquire, and Kimberly Scardino, Esquire, represented Rhythms. John F. Povilaitis, Esquire, represented Covad and Rhythms. John M. Walker, Esquire, and Daniel E. Monagle, Esquire, represented Verizon. Michael Clancy, Robert Williams, Mr. Zulevic, Mark Hall and Bill Riolo were Joint Petitioners' experts. John L. White and Amy Stern were Verizon's experts. *See* June 30, 2000 Recommended Decision.

4. That the test access issue is deemed withdrawn based on the representations contained in the July 31, 2000, letters of Rhythms Links, Inc. and Covad Communications stating that a negotiated resolution of the issue is forthcoming.

5. That Bell Atlantic-Pennsylvania shall make the executed Telecordia contract available to CLEC Petitioners no later than one (1) day after it is executed. CLEC Petitioners shall meet with Telecordia within ten (10) days after the contract is executed. Bell Atlantic-Pennsylvania shall fully implement Operations Support Systems on or before March 1, 2001.

6. That Bell Atlantic-Pennsylvania Inc.'s Best and Final Offer is accepted for line sharing over fiber.

7. That Bell Atlantic-Pennsylvania Inc.'s proposal is accepted for line station transfers.

8. That the Recommended Decision of Administrative Law Judge Larry Gesoff is modified, consistent with this Opinion and Order.

9. That the Exceptions of the Parties are granted and denied to the extent consistent with this Opinion and Order.

(Slip op., pp. 51-52).

Discussion

A. Standards for Reconsideration

The standards for granting reconsideration are well-settled. *Duick v. Pennsylvania Gas & Water Co.*, 56 Pa. PUC 553 (1982). What the Commission expects to see are new and novel issues, or considerations which appear to have been overlooked,

or not addressed by the Commission. *See* AT&T *v. Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlth. 1990); *Advocates for True and Open Competition v. Equitable*, Docket No. P-00940886 (Order entered January 21, 1997). We shall review the contentions raised by Joint Petitioners pursuant to the standards of *Duick*, et al.

B. Issues Raised on Reconsideration

Joint Petitioners initially address the Motion which accompanies their Petition. The Motion seeks an order directing Verizon to produce three documents which purportedly became available after the conclusion of hearings and briefings in this matter. (Petition, p. 1). Joint Petitioners assert that the three documents are highly relevant to the issue of line sharing over loops constructed over fiber optic cable and digital loop carrier. *Id.*

Joint Petitioners specifically seek reconsideration of the following issues: (1) the appropriate interval for provisioning line sharing; (2) the appropriate interval for augmenting collocation arrangements to provide additional cable and splitter capacity; and (3) line sharing for customers served by fiber facilities. (*See* Petition, p. 3). It is with respect to the third consideration, i.e., our ruling concerning line sharing for customers served by fiber facilities, that Joint Petitioners allege that "evidence has recently become available that provides important additional support for Petitioners' position. Furthermore, this evidence . . . fully answers the concerns underlying the Commission's rejection of the *Recommended Decision* on this point." (*Id*).

We shall address seriatim the issues for which reconsideration is sought, and we shall dispose of the Motion in conjunction with our consideration of the last issue (line sharing for customers served by fiber facilities).

1. Provisioning Interval for Line Sharing

In the August 17, 2000 Order, we directed Verizon to provision line sharing at a parity standard. We rejected the position of Joint Petitioners to impose a three-day provisioning interval. We found that "parity" should be based upon Verizon's retail DSL service, Infospeed, as the closest analogue. (August 17, 2000 Order, slip op., pp. 14-15).

Joint Petitioners argue on reconsideration that retail Infospeed is not an adequate analogue for line sharing. Thus, they offer several reasons why we should reconsider our conclusion that the provisioning interval for line sharing should be at parity with the time in which Verizon provisions its own retail DSL service. As a preliminary matter, Joint Petitioners state that they would assume that a "parity" standard contemplates measuring parity based upon the interval to perform Central Office wiring work in which the customer's loop is cross-connected to a splitter, for both wholesale line sharing and retail Infospeed DSL; and that parity is to be measured based upon the service Verizon provides to itself, not to end users. (*See* Petition, p. 5; also p. 5, n. 13).

Joint Petitioners explain that the use of the Infospeed interval to set wholesale provisioning intervals for line sharing is inefficient, potentially subject to abuse and is unsupported by the record.

Joint Petitioners acknowledge that the "provisioning processes for line sharing and Infospeed DSL both include Central Office wiring work." However, they envision a scenario where use of the Infospeed DSL provisioning interval will lead to "perverse results that are subject to manipulation" by Verizon. (Petition, p. 5). As an example, Joint Petitioners present the following hypothetical concern:

> The fact is that for any service or network element VZ-PA ties the date on which it completes the central office wiring work to the overall due date for the underlying service or

> element. In other words, VZ-PA determines the date to perform central office wiring by counting backward from the ultimate due date. For instance, VZ-PA performs the central office wiring for stand alone DSL loops on Day 4 because it counts two days back from the due date on Day 6. Tr. 9 (Williams). If the due date for one service is longer than that of another service, VZ-PA will perform the central office wiring for the first service on a later date than it would for the second. Obviously, a parity standard for the completion of central office wiring would be ineffective for two services that have different due dates.

(Petition at 5).

Next, Joint Petitioners assert that Infospeed DSL has a dramatically longer due date than any of the proposed intervals for the wholesale provisioning of line sharing. (Petition, p. 6). They refer to testimony presented in the Massachusetts line sharing case,[6] where Verizon admitted in a response to a data request that the interval for Infospeed DSL is fifteen (15) business days. (*Id*). This is a substantially longer time than Verizon's proposed six (6) business day interval for line sharing in the instant proceeding and Joint Petitioners attribute this longer interval to the greater amount of work involved in provisioning retail DSL. (*Id*). Joint Petitioners, after pointing out the activity involved in provisioning retail DSL, note that a parity standard in this instance could result in Pennsylvania consumers, who decide to subscribe to the line shared DSL service of a CLEC, receiving the worst provisioning interval in the country. (*See* Petition, p. 6, n. 15).

Joint Petitioners next argue that the Commission lacked evidence for its ruling on the provisioning interval. (Petition, p. 7). They assert that Verizon presented no evidence in the record to indicate what the provisioning interval for Infospeed DSL is.

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[6] *See* Massachusetts Department of Telecommunications and Energy, Docket No. D.T.E. 98-57 Phase III. Attached as Exhibit 1 to the Petition.

(*Id*). Joint Petitioners posit that this Commission first learned of the retail provisioning interval of Infospeed DSL upon consideration of the instant Petition (for Reconsideration). Similarly, Joint Petitioners argue that there was no evidence in the record as to what processes Verizon uses to provision Infospeed DSL. Also, they allege there was no evidence indicating that the overall provisioning process for Infospeed DSL is even comparable to that of line sharing. (*Id*).

Additionally, Joint Petitioners state that the FCC's *Line Sharing Order* contemplates that state commissions will determine the provisioning interval for line sharing based on the realities of the provisioning process. In this regard, Joint Petitioners quote the FCC *Line Sharing Order* which provides that "states are free, and indeed, are encouraged to adopt more accurate provisioning standards for the high frequency portion of the loop . . ." (Petition, pp. 7-8, citing *Line Sharing Order* at ¶175).

Joint Petitioners conclude this issue by arguing two (2) points. First, they assert that new evidence has become available which confirms the accuracy of the three (3)-day, and shorter intervals proposed. This evidence arose in the Massachusetts proceeding, *supra*, and addresses the contention attributed to Verizon that a three (3)-day interval is not appropriate based on the possibility of spikes in demand that will overburden the Central Office technicians doing the actual provisioning work. (Petition, p. 8). Joint Petitioners provide an excerpted portion of the transcript from the Massachusetts proceeding which they hold shows that Verizon is capable of handling service demand peaks by "maximizing" their labor force by shifting around so-called "frame techs" primarily responsible for implementation. The upshot of this excerpt appears to be that Joint Petitioners continue to adhere to the position that Verizon has the ability to consistently complete the pre-wiring work by Day 3. (Petition, p. 9).

Finally, Joint Petitioners contend that the time period will be tolled when Verizon receives an invalid line sharing order. (Petition, p. 10). Thus, Joint Petitioners

express the concern that Verizon would not be in jeopardy of having the provisioning interval lapse while it works out the "bugs" in a problematic order. It is the opinion of Joint Petitioners that this could lead to misuse, or abuse of the parity standard. (*Id*).

(a) Verizon Reply

Verizon first contends that it has consistently explained that the appropriate interval to apply to provisioning the line sharing UNE should be at "parity" with the time Verizon takes to provision a standard DSL loop – whether the loop is being provided for use by Verizon's own retail "Infospeed" service or for use by a competitor. (Reply, p. 2). This timeframe, as stated by Verizon and its witnesses, is currently six (6) business days. (Reply at 2 citing Tr., p. 25, statement of witness Stern).

Verizon further explains that the "parity" standard and DSL analogue is appropriate on many grounds. Verizon points out (1) that the FCC noted that the provision of a DSL loop is the best analogue currently available to providing a line shared loop; (2) that requiring parity ensures that CLECs are not disadvantaged as compared to the ILEC in offering DSL service; and (3) that as ILECs lower their interval performance to tap into the high-speed data market (whether directly or through an affiliate), CLECs will benefit equally from those efforts. (Reply, p. 2; also FCC *Line Sharing Order* at Para. 173).

Additionally, Verizon contends that there should not be any confusion regarding the appropriate time it takes Verizon to fill an end-user customer's order for DSL. Verizon states:

> the parity standard in this instance means the time at which Verizon completes an order for a DSL loop for itself (in this case, for a specific affiliate, Infospeed). This is the six business day period – which includes order, wiring,

> testing and other associated activities to ensure a quality "turn-up" of the loop – which Verizon supported as the appropriate, parity starting point throughout this proceeding.

(Reply, pp. 3-4).

Verizon next refutes Joint Petitioners' allegations that the "new evidence" taken from the Massachusetts proceeding supports their position. (Reply, p. 4). Verizon asserts that neither the Commission's final Opinion and Order, nor Verizon's Exceptions, mention such spikes [in demand] as a basis for using the parity standard. (*Id*).

In conclusion, Verizon notes that the six (6) business days it proposed equates to the parity standard adopted by the Commission and includes order, wiring, testing and other associated activities to ensure a quality "turn-up" of the loop. (Reply, p. 4; 5).

(b) Disposition

Our analysis of these matters begins with the perspective that this Commission should act in a fashion which promotes the roll out of advanced telecommunications services to as many consumers as quickly as possible. Our concerns on these particular matters have been previously expressed in our first opportunity to address these issues pertaining to line sharing. At that time, we noted specific concerns relating to provisioning intervals as well as the lack of certainty regarding line sharing over fiber optics. Our review of the record, the Petition now before us and Verizon's responses thereto leads us to conclude that reconsideration of several issues should be granted and our prior Decision in this matter should be modified, consistent with the discussion below.

As we have previously indicated, the standards for a petition for relief following a final Decision were set forth in *Duick*, which held that a petition for

reconsideration under Subsection 703(g), 66 Pa. C.S. §703(g), may properly raise any matter designed to convince us that we should exercise our discretion to amend or rescind a prior order, in whole or in part. "What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission." (*Id.* at 559).

We believe that Petitioners have effectively presented us with considerations, specifically evidence in the record, which appear to have been overlooked or not addressed by our prior Order in this matter. Specifically, we are persuaded by Joint Petitioners that our August 17, 2000 Order failed to adequately address expert testimony and arguments relating to provisioning intervals and cable augmentation. Further, we conclude that our prior Order may have overlooked the current state of the industry as it relates to these issues in fiber networks.

In our August 17, 2000 Order, we accepted the Verizon position of a provisioning interval of six (6) business days. Parenthetically, we note that our Order suggested this interval was a minimum of six (6) days. Provisioning intervals should be expressed as maximums.

Verizon expressed its position as partly grounded in concerns that any necessary work be completed properly. Verizon raised the specter of mistakes resulting in quality of service issues. We commend Verizon for its concerns for service quality. However, this issue can be resolved with appropriate regard for service quality while also providing for prompt provisioning.

It is a misconstruction of the FCC's *Line Sharing Order* to suggest that this Commission is *required* to adopt the provisioning interval for Verizon's Infospeed DSL service as the appropriate parity standard. A close reading of the FCC's *Line Sharing Order*, focuses on the following provision:

> Where the incumbent LEC is already providing shared line xDSL service to a particular customer, however, the provisioning interval should be significantly shorter, requiring only that the incumbent perform a simple cross-connect. We emphasize that states are free, and indeed, are encouraged to adopt more accurate provisioning standards for the high frequency portion of the loop for inclusion in their section 252 arbitration awards.

(Emphasis added.) FCC *Line Sharing Order*, ¶175.

Exercising our authority under the foregoing language, we believe that we should adopt a more accurate standard for provisioning intervals for continued loops for this service. The record before us indicates that the process can be completed in three (3) business days or parity, whichever is less, for loop orders of less than 20 and six (6) business days or parity, whichever is less, for loop orders of 20 loops or greater.

Mr. Robert Williams for Rhythms and Mr. Michael Clancy for Covad testified that Verizon's six (6)-day request was inappropriate. (Tr. 8-16), Mr. Clancy, a former Bell Atlantic employee with 30 years experience, testified that a six (6) day provisioning interval is for a brand new loop which means that Verizon (formerly Bell Atlantic) must look in their inventory system to find a spare wire pair. The record before us establishes that Verizon does not have to perform that function with a shared loop. (Tr. 12-13). Mr. Williams stated that a shorter provisioning interval is appropriate because there is less work involved with a shared loop. (Tr. 8-9). Specifically, there is less work in the field as well as at the customer's premises because the loops are already up and working. (Tr. 9). The record clearly indicates that it does not even take three (3) business days for Verizon to process these orders. (Tr.10).

In the matter now before us, we are persuaded by the Joint Petitioners' arguments and the record referenced above which show that the actual work necessary to

accomplish provisioning for conditioned loops can be performed in three (3) business days or less. We are also persuaded by Verizon's cautions relating to quality of service issues that may crop up from time to time. Finally, any interval we direct here should recognize that Verizon's own provisioning intervals (the parity standard) will decrease over time.

We further note that in keeping with this clear directive from the FCC, the Texas Public Utility Commission recently issued an interim arbitration award regarding this UNE. In that award, the Texas arbitrators provided for the following intervals:

1. For orders of less than 20 loops where no conditioning is necessary, the lesser of 3 business days or parity with the ILEC's tariffed xDSL services.

2. For orders of less than 20 loops where conditioning is requested, the interval is 10 business days or parity, whichever is less.

3. For orders of more than 20 loops and no conditioning is requested, the interval will be the lesser of 15 business days or parity.

4. For orders of more than 20 loops which require conditioning, the interval shall be that agreed to by the parties in each instance.

(*See Petition of Covad Communications Company and Rhythms Links, Inc. against Southwestern Bell Telephone Company and GTE Southwest, Inc.*, Texas Commission Docket No. 22469, Interim Award). While that interim award has been taken up to the full Texas Commission, it is at least instructive of what other jurisdictions are doing.

For the foregoing reasons, based upon the record before us, we conclude that a provisioning interval for conditioned loops of three (3) business days or parity, whichever is less, is appropriate for loop orders of less than 20, and for loop orders of 20

loops or greater, a provisioning interval of six (6) business days or parity, whichever is less, should be imposed. By stating these intervals as a set number of days or parity, we are recognizing that at this time the intervals should be at the timelines we establish here. However, the record indicates that Verizon's own interval will decrease over time. Thus, as Verizon's interval decreases from the timelines set here, our reference to the parity standard captures that reduced provisioning interval as it occurs. These intervals are amply supported by our record and should more than adequately address the respective concerns of the parties.

2. Collocation Augment Interval For Line Sharing

Joint Petitioners argue that the record does not support a forty-five (45) business day interval for provisioning collocation augments for line sharing and that critical evidence was overlooked. (Petition, p. 11). Collocation augments are additions to existing collocation arrangements made after the installation of a CLEC's initial collocation arrangement at a Central Office. (*Id*). In the line sharing environment, two (2) of the most common augments are for installation of additional splitter capacity and installation of additional cabling between a CLEC's collocation arrangement and Verizon's Main Distribution Frame (MDF). (*Id*).

Joint Petitioners continue to advocate their position of thirty (30) *calendar* days as reasonable. (Emphasis ours). They repeat that the thirty (30) day interval provides Verizon with the necessary time to manage its work force which, in Pennsylvania, merely entails securing vendors to perform the work. (Petition, p. 15). Thus, Joint Petitioners aver that this information was overlooked. (Petition, p. 16).

Joint Petitioners additionally point out that the record in the pending collocation proceeding, Docket No. R-00994687 [sic], has closed and does not address

collocation augment intervals.[7] Thus, Joint Petitioners note that to the extent our final Opinion and Order assumed that the record in the collocation proceeding would address collocation augment intervals, it did not. As a result, the only proceeding before this Commission that addresses collocation augments is the instant one. (Petition, p. 17).

(a) Verizon Reply

Verizon initially notes that Joint Petitioners' request for a thirty (30) calendar day collocation augment interval could be as few as twenty (20) business days. Also, Verizon notes that the 76 business day interval proposed in the instant arbitration was the same as that proposed in the collocation investigation docket referenced, above. (Reply, p. 5).

Verizon stresses that there is sufficient justification for the Commission's interim Decision and that the "facts" raised by Joint Petitioners on reconsideration are merely a rehash of their positions before ALJ Gesoff. (Reply, p. 6). Verizon does not apparently take issue with the observation that the record in the pending collocation proceeding has closed with no specific resolution of collocation augments relative to line sharing. (Reply, pp. 7-8). However, Verizon states that Joint Petitioners miss the point, in that the crux of the reasoning relative to the collocation proceeding is that such a proceeding will establish the baseline for collocation intervals going forward. (Reply, p. 8).

(b) Disposition

Our position on this issue is guided by a few principal factors. First, we must bear in mind that this is a provisioning interval for the augmentation of existing

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[7] *See* August 17, 2000, Order, slip op. at 23.

collocation arrangements. Second, we have already ruled that Verizon will not be responsible for purchasing, owning and provisioning splitters. It will be incumbent on the Joint Petitioners to ensure that equipment is available and compatible with existing facilities. This Opinion and Order on reconsideration does not modify that ruling. Third, Verizon has sole control over the vendor selection and qualification process. Should Verizon find that additional vendors are necessary to meet this interval, it is within Verizon's control to make necessary arrangements For these reasons, we shall modify our prior Opinion and Order and direct that this cable augmentation interval shall be thirty (30) business days.

Mr. Michael Zulevic for Covad testified that in U.S. West territory there is a 45 calendar day interval for building out an entire caged arrangement – including power, power engineering, space, and providing three different types of transmission cable and thus thirty (30) days for just the cabling and splitters is appropriate. (T. 50). Mr. Mark Hall, a Senior Program Manager for Covad with 11 years managing engineering and installation groups with various ILECs and CLECS around the country, concurred that a thirty (30) business day interval should apply to any cable augments. (T. 52). Mr. Michael Clancy with thirty (30) years experience in the telephone industry also concurred that thirty (30) days was an appropriate interval for cable augmentation. (T. 57–58). Mr. James Scheltema stated that SBC provides for cable augmentation in thirty (30) days. (T. 50).

As stated when these issues were first addressed, where the record before us supports the result, we should strive to maintain Pennsylvania's leadership in technology, services and competitive markets in part by adopting forward looking measures in place in other states. In addition to noting the SBC matter, *supra*, our review of the record before us in this case permits us to find that Verizon has the expertise and ability to meet this interval if it is not doing so already.

For the foregoing reasons, based upon the record before us, we shall direct that the cable augmentation interval for existing collocation arrangements shall be thirty (30) business days.

3. Line Sharing Over Fiber – Motion to Compel

In the final Opinion and Order, we adopted Verizon's Best and Final Offer on the issue of line sharing over fiber. (Order at 47). Verizon, in its Reply, notes that this commits it to (1) make available the subloop elements required for CLECs to provision DSL to customers even when they are served in part by fiber facilities; and (2) to continue to negotiate with Joint Petitioners to resolve the technical and operational issues associated with provisioning line sharing through other approaches when customers are served in part by fiber. (Reply, pp. 8-9). Verizon further states:

> ...if Digital Loop Carrier [DLC] equipment is upgraded in Verizon's facilities and DLSAM cards are deployed at a location which equate to the "plug and play" option, then Verizon will make access to those capabilities available to the extent required by all applicable rules and regulations.

(Reply, p. 9).

Joint Petitioners, on reconsideration, initially criticize our final Opinion and Order by asserting that they rebutted Verizon's abstract arguments by showing that Verizon is on the verge of a massive roll-out of the very technology that could bring competitive DSL to consumers served by DLC. (Petition, p. 18). They also assert that they showed that another ILEC, SBC of Texas, has already proposed arrangements that show that providing line shared DSL service over DLC is both technically feasible and practically achievable. (Petition, pp. 18-19).

Also, Joint Petitioners state that they have arbitrated the issues under discussion here in the states of, *inter alia*, New York, Massachusetts, and Maryland. During the course of those proceedings, certain documents came to light which they argue are highly relevant to the question of line sharing over fiber-fed DLC. (Petition, pp. 19-20).

(a) Verizon Reply

Verizon generally emphasizes that what Joint Petitioners originally demanded and what the Recommended Decision concluded, as well as what Joint Petitioners present in the instant Petition, remain vague and confusing. (Reply, p. 9). Thus, Verizon asserts that our final Opinion and Order was correct. (Reply, pp. 9-10).

(b) Disposition

The technical aspects of the issues presented by the parties in this area remain unclear. However, what is clear is that technology developments in this area are occurring at a rapid pace. Those developments will obviously impact our Decision in this matter. For these reasons, it appears that a technical conference relating to this issue would be appropriate. Accordingly, we shall direct that the parties respond in writing within seven (7) days of entry of this Opinion and Order, advising the Commission as to whether a technical conference facilitated by Commission staff would be appropriate to address this issue and in reaching an expedited resolution. Our intention is to afford the technical experts of each party the opportunity to address the feasibility of Verizon providing this service at this time. We would expect the parties to apprise us of similar efforts taking place in other jurisdictions.

The Motion to Compel is dismissed, without prejudice, in light of our determination.

Conclusion

Based on the discussion contained in this Opinion and Order, the Petition for Reconsideration is, hereby, granted, in part, and denied, in part, consistent with the discussion contained in this Opinion and Order, and our August 17, 2000 Order is modified consistent herewith. The Motion to Compel is dismissed, without prejudice; **THEREFORE,**

IT IS ORDERED:

1. That the Petition for Reconsideration submitted on behalf of Covad Communications Company and Rhythms Links, Inc. on August 29, 2000, relative to our final Opinion and Order entered August 17, 2000, in the above-captioned proceeding is granted, in part, and denied, in part, consistent with this Opinion and Order.

2. That Covad Communications Company's and Rhythms Links, Inc.'s request for three (3) business days on line sharing provisioning intervals is denied.

3. That line sharing provisioning intervals for conditioned loops shall be provisioned according to the following standards until modified by Order of this Commission:

(a) For loop orders of less than 20, three (3) business days or parity, whichever is less

(b) For loop orders of 20 loops or greater, six (6) business days or parity, whichever is less.

4. That Covad Communication Company's and Rhythms Links, Inc.'s request for thirty (30) calendar days on cable augmentation interval is granted in part.

5. That the cable augmentation interval for line sharing shall be thirty (30) business days.

6. That the Motion to Compel submitted on behalf of Covad Communications Company and Rhythms Links, Inc. is dismissed without prejudice.

7. That the Parties are directed to respond in writing, within seven (7) days of entry of this Opinion and Order, advising the Commission as to whether a technical conference facilitated by Commission staff would be appropriate to address the technical issues involved in providing line sharing over facilities served by DLC and fiber.

BY THE COMMISSION

James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: October 25, 2000

ORDER ENTERED: NOV 15 2000