STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	)	
On Its Own Motion	)	
	)	Docket No. 00-0596
Revision of 83 Ill. Adm. Code 730	)	

INITIAL BRIEF OF
VERIZON NORTH INC. AND VERIZON SOUTH INC.

February 22, 2002

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Verizon North Inc. (f/k/a GTE North Incorporated) and Verizon South Inc. (f/k/a GTE South Incorporated) (collectively referred to as "Verizon"), through its attorneys, hereby submit this Initial Brief for this proceeding to the Illinois Commerce Commission ("Commission"). This Brief is filed in accordance with the procedural schedule established by the Administrative Law Judge.

I. Executive Summary

Verizon has met the Commission's Standards of Service for Local Exchange Telecommunications Carriers, Part 730 of the Commission's Rules (83 Ill.Adm.Code 730), for many years.[1] Whether under the existing version of Part 730 or its predecessor, Verizon has and continues to provide basic local exchange service that meets or exceeds the Commission's standards. Importantly, no party to this proceeding has argued otherwise, nor could they, as the evidence demonstrates that Verizon is providing excellent service.

Part 730 is a rule of general applicability that applies to all local exchange carriers ("LECs"). The current version of Part 730 became effective on September 1, 2000, after a two-

[1] The only exception occurred as a result of a snow storm that hit Verizon's service territory in January 1999.

year process that ultimately led to the amended rule. (Initiating Order, p. 1, entered September 7, 2000). As the Commission is well aware, this proceeding was initiated as the direct result of service issues affecting one particular LEC in the state. Indeed, the Commission initiated this proceeding only 9 days after it entered an Order approving the current Part 730 rule.

Verizon participated fully in all workshops, and submitted comments to Staff addressing the various iterations of the proposed rule. Verizon supports most of the proposed modifications to Part 730 that Staff offers in its testimony. However, as will be detailed below, it is Verizon 's position that certain proposals of Staff are unnecessary or require modification. Meanwhile, various intervenor positions are unnecessary, unduly burdensome, or simply unreasonable, especially in light of the fact that these intervenors point to just one LEC as the basis to modify a statewide rule. Accordingly, the Commission should reject such proposals.

In particular, the proposals of the Citizens Utility Board ("CUB/AG")/People of the State of Illinois ("AG") and the City of Chicago ("City") seek to impose a myriad of unnecessary modifications to Part 730, and resulting new burdens and costs on LECs. An examination of CUB/AG's and the City's testimony demonstrates that it is Ameritech-Illinois centric, relying on their claims about that one company as a basis to impose a host of new burdens and costs on LECs around the State. For example, the witnesses for both CUB/AG and the City presented no testimony complaining about Verizon's service quality, or, for that matter, the service quality of any other LEC in the State other than Ameritech-Illinois. Indeed, the City's witness readily admitted that he conducted no independent investigation regarding Verizon's performance. (Riolo, Tr. 380-82). A rulemaking to address a rule of general applicability should not be the forum upon which to redress the alleged actions of one particular LEC. Accordingly, the Commission should reject any proposal to impose new burdens and costs on LECs that are otherwise providing basic local exchange service that meets or exceeds the Commission's current standards under Part 730.

In sum, Verizon supports many of Staff's proposed modifications to Part 730 in order to further clarify the rule. Part 730, however, should not be modified in a manner that negatively impacts the vast majority of LECs who are providing quality basic local exchange service. If the Commission has concerns about the service quality of a particular LEC, there are a number of administrative proceedings available to examine the issue. A rulemaking of general applicability, however, is not the appropriate forum. Therefore, Verizon urges the Commission to adopt the modifications to Part 730 as discussed in detail below.

II.
Argument

A. The Commission Has Clearly Articulated The Purpose And Scope Of This Proceeding

The Commission, in its Initiating Order in this proceeding, has clearly defined the purpose and scope for reviewing the Part 730 rules addressing the standards of service for the provision of basic local exchange service. The Initiating Order identifies three primary areas of review:

> [1][T]o determine whether the standards for local exchange telecommunications service are clear as well as consistently applied and reported by all local exchange carriers, [2] to determine whether Part 730, as currently written, has sufficient penalty mechanisms associated with it to modify a local exchange carrier's performance, [3] to determine whether the levels of service currently required of local exchange carriers are appropriate, or if more stringent measures should be adopted…

(Initiating Order, p. 2). If necessary, the Commission could then revise Part 730 based upon the outcome of these determinations. (*Id.*). This proceeding was initiated only 9 days after the

Commission approved the current version of Part 730. (*Id*. at 1). As the Commission is aware, this proceeding was initiated as the result of service issues concerning one particular LEC.

In response to the Initiating Order the Commission Staff embarked upon a thorough examination of the primary issues subject to review. Verizon participated in every workshop and presented comments on the various versions of Staff's proposed modifications. The same degree of participation cannot be said for all of the participants to this proceeding.

With respect to the first area of review, Staff proposes a number of clarifications to Part 730 that Verizon supports. There are certain Staff proposals that Verizon does not support. Each of these proposals is discussed below.

Turning to the second area of review, subsequent events at the General Assembly have answered the inquiry about the sufficiency of penalty mechanisms and the manner in which penalties will be contemplated. (See, 220 ILCS 5/13-304, 13-305). As an administrative agency, the Commission is bound to act within the authority provided under the Act. *City of Chicago v. Illinois Commerce Commission*, 79 Ill. 2d 213, 217-18, 402 N.E. 2d 595 (The Commission's powers are derived solely from the Act, and its authority is limited by the grants of the Act.). Given the passage of the new legislation amending the Act, the review of penalty mechanisms has effectively been rendered moot. Verizon, therefore, proposes certain clarifications to Staff's proposed Part 730 modifications that are consistent with the recent amendments to the Public Utilities Act ("Act").

Finally, the current levels of service standards are appropriate. In fact, the existing standards require the provision of quality basic local exchange service. As the evidence unequivocally demonstrates, there is nothing to support a claim that Verizon customers are concerned about basic local exchange service. (Boswell Reb, Verizon Ex. 2.0, p. 4; Riolo Tr., pp.

380-382; TerKeurst Tr., pp. 277-78). Indeed, no such claim in this proceeding exists. Moreover, other than the City and CUB/AG citing to Ameritech, there is no evidence that the customers of any other LEC are concerned about the quality of basic local exchange service. In sum, there is no evidence that the existing service standards are resulting in poor service. Given that this is a rule of general applicability, there is no need to modify the existing standards in Part 730.

The Commission has clearly delineated the purpose and scope of this proceeding. In light of the evidence before the Commission, only limited modifications to the existing rule are warranted.

B. The City And CUB/AG Propose A Myriad Of Modifications That Are Unreasonable And Contrary To Sound Regulatory Policy

Before turning to the analysis of the specific proposals, there is an overarching basis for the Commission to reject the City's and CUB/AG's proposed modifications to Part 730. As a basis for their respective proposals, both the City and CUB/AG point to service quality issues surrounding Ameritech Illinois. (See, Riolo Dir., City Ex. 1.0, pp. 11-17, 34-37; TerKeurst Dir., CUB/AG Ex. 1.0, pp. 3-5, 14-15). Service quality issues involving one LEC, however, should not be the basis for imposing new standards and reporting requirements on LECs throughout the State. Neither the evidence nor sound regulatory policy demands the burdensome and unnecessary changes that the City and CUB/AG propose to impose on a statewide basis.

The unrebutted evidence in this proceeding demonstrates that Verizon has and continues to meet the Commission's Part 730 Standards of Service. (Boswell Dir., Verizon Ex. 1.0, pp. 9-10; Boswell Reb., Verizon Ex. 2.0, p. 4). Additionally, Verizon has experienced no increase in customer complaints on any issue not already addressed by the current standards. (*Id.*).

Moreover, there is no evidence claiming that any other non Ameritech-Illinois LEC is somehow providing inadequate basic local exchange service. (*Id*.).

Neither the City witness, Mr. Riolo, nor the CUB/AG witness, Ms. TerKeurst, presented evidence to the contrary. In fact, Mr. Riolo admitted that he conducted no investigation regarding Verizon's performance, or that of other non-Ameritech-Illinois LECs. (Riolo, Tr. pp. 380-82, 386).[2] Meanwhile, Ms. Terkeurst reviewed Verizon's performance data, but offered no testimony complaining of Verizon's performance. (TerKeurst, Tr. pp. 276-77). Additionally, CUB/AG presented no evidence of any customer complaints regarding the provision of service to customers located outside of Ameritech-Illinois' service territory. (TerKeurst, Tr. p. 280).

In addition to the fact that neither the City nor CUB/AG could claim, let alone demonstrate, service quality problems for the vast majority of LECs in the State, these parties failed to present any cost/benefit analysis regarding their respective proposals. (Riolo Tr., p. 383: TerKeurst Tr., p. 282). Although both Mr. Riolo and Ms. TerKeurst acknowledged that their proposals would likely increase costs to LECs, neither quantified the magnitude of such costs. (Riolo Tr. 383 ("I did not conduct a quantitative study."); TerKeurst Tr. 282 ("I discussed [the proposals] from a policy perspective."). Hence, the City and CUB/AG failed to provide any evidence as to the economic impact of their proposals.

Stated simply, the City's and the CUB/AG's proposed modifications should be rejected in total. The evidence in this proceeding demonstrates convincingly that service quality is *not* an issue for all LECs but one: and that LEC already has different service standards under its Alternative Regulation Plan. Absent any service quality problem, let alone an endemic statewide

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[2] Additionally, Mr. Riolo could not recall whether Ameritech-Illinois was held to a higher or lesser standard for service under its Alternative Regulation Plan. (Riolo Tr., pp. 378-79).

problem, the Commission should ask whether the imposition of more stringent standards, excessive reporting requirements and duplicative rules is warranted for all LECs in the State. The answer is no -- especially when customers would ultimately bear the burden of increased operating costs to address a service problem that does not exist.

Instead, the Commission should recognize that it has various tools available to it to address issues impacting a particular carrier. Not only does the Commission have its long-standing complaint and investigative powers under the Act, it now has substantial enforcement capabilities pursuant to the recent amendments to Article XIII of the Act. 220 ILCS 5/13-101 *et seq.* As such, there is no need to impose additional regulatory burdens and costs on LECs who are providing quality service. For the foregoing reasons, then, the proposed modifications of the City and CUB/AG should be rejected.

C. Verizon's Position Regarding Specific Proposed Modifications To Part 730

For the sake of simplicity, this argument will follow the sequence of the Part 730 rule for the purpose of issue identification. Additionally, this discussion will be focused on Staff's draft rule found in Mr. McClerren's Attachment 3.1, attached to his rebuttal testimony, which is Staff Ex. 3.0.

1. Section 730.100 – Application of Part

It is Verizon's position that Section 730.100 should not be modified as Staff proposes. (Boswell Sur., Verizon Ex. 3.0, pp. 7-8). In this Section, Staff accepts a proposal from CUB/AG witness TerKeurst regarding carriers subject to alternative regulation. (McClerren Reb., Staff Ex. 3.0, p. 17). Verizon proposes that the following language be stricken:

> The Part does not supersede the authority of, nor prohibit, the Commission from imposing different, additional, or more stringent service quality standards, reporting requirements or penalties upon a carrier pursuant to 220 ILCS 5/13-506.1, Alternative forms of regulation for noncompetitive services.

(Staff Ex. 3.0, Attach. 3.1, p. 2). The foregoing language is inconsistent with a discussion of the applicability of Part 730. In particular, it seeks to discuss matters that are outside the scope of Part 730. Moreover, it is self-evident that the statutory provisions of Section 13-506.1 of the Act supersede a rule. 220 ILCS 5/13-506.1. Rather than clutter the rule with superfluous verbiage, the Commission can readily rely on exact provisions of the Act. Accordingly, the proposed language is unnecessary to include in the rule and should be stricken.

2. Section 730.105 – Definitions

Of the definitions that Staff proposes to modify, Verizon agrees with many modifications and supports their adoption. (Boswell Dir., Verizon Ex. 1.0, pp. 6-7). The following discussion details where Verizon does not support Staff's proposal.

a. Emergency Situation

The first problematic modification concerns the definition of "Emergency Situation", particularly limiting an emergency situation to "the first 7 days of a strike or work stoppage." (Staff Ex. 3.0, Attach. 3.1, pp. 5-6). Here, Staff attempts to export the Commission's findings from the Part 732 rulemaking to this proceeding. There are several reasons this proposal should be rejected.

First, the Commission recently granted rehearing in the Part 732 proceeding, with one of the issues for rehearing being the definition of an "Emergency Situation." In fact, direct testimony for that proceeding is being filed on the same date as this brief. Consequently, the Commission is open to reconsidering its earlier decision. Second, the development of the Part 732 definition came about without the benefit of an evidentiary record to explore the issue. Unlike that proceeding, an evidentiary record has been created here that demonstrates Staff's proposed modification is impractical and interferes with a labor/management dispute. (Boswell Dir., Verizon Ex. 1.0, pp. 17-18). There is simply no basis to penalize a LEC for missing a service standard due to strike or work stoppage. Moreover, this standard is likely to harm labor as well, as a LEC will be required to retain substantial numbers of replacement personnel in order to meet the standards. Accordingly, Staff's proposal should be modified as follows:

> (B) an act of third parties, including acts of terrorism, vandalism, riot, civil unrest or war, or acts of parties that are not agents, employees or contractors of the local exchange carrier, or ~~the first 7 calendar days of a strike or other work stoppage~~ a strike or other work stoppage; or

b. Out of Service > 24 Hours

As currently proposed, the definition for "Out of Service > 24 Hours is:

> Means that 24 hours after reporting an out of service condition to the local exchange carrier, the customer still:
>
> (A) has no dial tone; or
> (B) cannot be called; or
> (C) cannot call out.
>
> This defined term excludes call blocking or any other intentional alteration to an end user's calling or call receiving ability.

It is Verizon's position that subsection (B), "cannot be called", be deleted from this definition.

The inability to receive calls should not be a criterion for an out-of-service ("OOS") condition. (Boswell Dir., Verizon Ex. 1.0, p. 18). Historically, the purpose for establishing a separate OOS standard has been to ensure that customers who have lost *all* service be the first to have their service repaired. (*Id*.). Under Staff's proposal, however, a customer who is at risk of not being able to place an emergency call, or any call for that matter, will be placed in a repair queue equal with customers who can still place a call. (*Id*. p. 19). Consequently, repair may be delayed in order to repair service to a customer who continues to have the ability to make calls. Such a result is contrary to reasonable utility practice.

Verizon's position is reasonable. First, it assures immediate, preferential, and expedited restoration of service to those customers who are truly out of service. (*Id.*). Meanwhile, as the unrebutted evidence demonstrates, non-OOS problems within Verizon's service territory are usually repaired within 36 hours after receiving a trouble report. (*Id.*). Consequently, while giving priority treatment to customers who cannot make outgoing call, Verizon still resolves other service-related problems in a prompt manner. (*Id.*). Indeed, evidence of Verizon's ongoing commitment to providing quality service is the fact that it has not missed one of the Commission's service standards in many years. (*Id.*).

For the foregoing reasons, therefore, subsection (B) under the definition of OOS >24 Hours should deleted. There is simply no reasonable basis in the record to expand this standard.

3. Section 730.110 -- Waiver

It is Verizon's position that Part 730 should be applicable to all LECs. (Boswell Sur., Verizon Ex. 3.0, pp. 11-12). The Commission was confronted with a similar argument less than two years ago in the preceding Part 730 proceeding. The Commission concluded in its Order in Docket No. 98-0453 that:

> The Commission is of the opinion that Part 730 should apply to all certificated telecommunications carriers, including both ILECs and CLECs. The Commission reaches this conclusion on the basis that to achieve the objection of reliable telecommunications service to the end user, and the only way to guarantee that objective is to make Part 730 applicable to all carriers.
>
> The Commission is further of the opinion that the imposition of Part 730 on all carriers is competitively neutral and does not act as an entry barrier to the telecommunications market.

While two years have passed since the Commission made that determination, there is no change of fact to support a reversal or modification of the Commission's recent decision. Moreover, should any LEC have a problem with a particular provision of Part 730, the LEC can seek a waiver under Section 730.110. 83 Ill.Adm.Code 730.110. Accordingly, the Commission should maintain the existing waiver language found in Section 730.110.

Another basis for maintaining the existing waiver language is the fact that CLECs have more protections available now, than at the time the Commission first considered the waiver issue. (Boswell Dir., Verizon Ex. 1.0, pp. 14-17). For example, CLECs will be reimbursed for any credit they are required to issue under Part 732 if the violation of a Part 732 standard is caused by another carrier. (*Id*. pp. 15-16). With respect to Verizon and Ameritech-Illinois, each company has OSS standards in place to govern wholesale performance. Additionally, the Commission is now in the process of promulgating wholesale service standards for the provisioning of basic local exchange service between an ILEC and CLEC. (*Id*. p. 15). As such, CLECs should be required to provide the same level of service as ILECs, especially since CLECs have the benefit of protections not previously available. The Commission, therefore, should not modify the existing waiver language found in Section 730.110.

4. Section 730.115 – Reporting

Verizon has no objection to Staff's proposed modifications to Section 730.115. As currently drafted, the proposed modifications comport with the requirements under the recent amendments to the Act. (Boswell Dir., Verizon Ex. 1.0, pp. 6-7). Verizon, therefore, urges the Commission to adopt Staff's proposed modifications to Section 730.115.

In contrast to Staff's proposal, the City and CUB/AG propose a myriad of new reporting requirements that are unnecessary, unduly burdensome, and unreasonable. As discussed earlier in this brief, neither the City nor CUB/AG have provided any compelling evidence as to why a host of new reporting requirements under Part 730 is warranted. (See Section II B above). There has been no showing of an endemic statewide service quality problem because no such problem exists. There has been no showing that the City or CUB/AG proposal, on balance, is beneficial to customers. Indeed, both the City and CUB/AG witnesses admit that they presented no such evidence that such problems exist or the quantification of the costs of their proposals. (Riolo Tr., p. 383: TerKeurst Tr., p. 282). What the record does demonstrate is that no such problems exist. (See Section II B above).

Absent any compelling reason to impose the City's or CUB/AG's reporting requirements, the Commission only should adopt those changes to Section 730.115 proposed by Staff.

5. Section 730.120 –Penalties

As currently drafted, Verizon agrees with Staff's proposed language in Section 730.120, subject to certain modifications. Verizon concurs with Staff's position that this Section should comport with the recently enacted changes to the Act. (Boswell Dir., Verizon Ex. 1.0, pp. 8-9; Boswell Sur., Verizon Ex. 3.0, pp. 5-6). Verizon, however, believes that additional language found in the Act should be included with Section 730.120. In addition to the penalty provisions of Section 13-305 of the Act, particular provisions of Section 13-304 should be added. 220 ILCS 5/13-304, 13-305.

Section 13-304 addresses actions to recover civil penalties and the considerations the Commission may take into account when considering the amount of a penalty. In particular, Section 13-304(a)(2) provides:

> (2) the presence or absence of due diligence on the part of the violator in attempting either to comply with requirements of the Act, the rules, or the order of the Commission, or to secure lawful relief from those requirements;

220 ILCS 5/13-301(a)(2). Here, it is Verizon's position that the "Penalties" Section of Part 730 should reflect what the Commission shall consider prior to assessing a penalty.

Another addition to the "Penalties" Section should come from Section 13-712(c) of the Act. Section 13-712(c) provides in pertinent part that:

> (c) The Commission shall promulgate service quality rules for basic local exchange service, which may include fines, penalties, customer credits, and other enforcement mechanisms. In developing such service quality rules, the Commission shall consider, at a minimum, the carrier's gross annual intrastate revenue; the frequency, duration, and recurrence of the violation; and the relative harm caused to the affected customer or other users of the network. In imposing fines, the Commission shall take into account compensation or credits paid by the telecommunications carrier to its customers pursuant to this Section in compensation for the violation found pursuant to this Section. These rules shall become effective within one year after the effective date of this amendatory Act of the 92nd General Assembly.

220 ILCS 5/13-712(c)(emphasis added). Once again, Verizon proposes to add language that reflects the intent of the Act to ensure no double counting of credits and penalties.

In light of the foregoing, Verizon presents the following amendments to Staff's proposed Section 730.120:

> Any telecommunications carrier subject to the service quality rules provided in Part 730 shall be subject to the civil penalties of Section 13-305 of the Public Utilities Act, 220 ILCS 5/13-305, for failure to meet said service quality rules. Upon complaint or its own motion and after notice and a hearing, the Commission may assess fines, penalties or impose other enforcement mechanisms against a telecommunications carrier that fails to meet the requirements or standards established in this Part. In determining the appropriate fines, penalties or other enforcement mechanisms, the Commission shall consider at a minimum, the carrier's gross annual intrastate revenue; past performance; the diligence of the carrier in attempting to comply with the provisions of this part; the frequency, duration, severity, and recurrence of the violation or violations; and the relative harm caused to the affected customers ~~or other users of the network~~. In imposing penalties or fines, the Commission shall take into account compensation or credits paid by the telecommunications carrier to is customers pursuant to this part or Part 732 in compensation for violations found pursuant to this part. In addition, carriers subject to alternative regulation may have fines, penalties and other enforcement mechanisms

> determined in a company specific docket and may incorporate fines, penalties or other enforcement mechanisms as part of an alternative regulation plan.

Evident from Verizon's proposal is the fact that the added language reflects only the recent changes to the Act and does not materially change Staff's proposal. Accordingly, the Commission should modify Section 730.120 as set forth above.

6. Section 730.200 – Preservation of Records

Verizon submits that no change is necessary to this Section. As currently stated, Section 730.200 provides:

> All records required by this Part shall be preserved in accordance with provisions of 83 Ill.Adm.Code 705.

There is no need to change this Section, or insert record retention requirements in this rule. City witness Riolo suggested a number of modifications to the existing record retention requirements (Riolo Dir., City Ex. 1.0, pp. 29-30).[3] Staff witness Jackson identified a number of problems with this proposal. First, she states:

> Furthermore, it appears that this requirement is directed towards one telecommunications carrier and <u>if that is the case, then the City should work independent of this docket to gather that information from the carrier.</u>

(Jackson Reb., Staff Ex. 4.02, pp. 6-7)(emphasis added). Ms. Jackson goes on to testify that:

> Staff believes that all record retention information should be contained in Part 705, and should be consistent with that Part, rather than having different record retention areas in different rules. Maintaining the record retention requirements within Part 705 provides one location for companies to look for record retention information, rather than having to look at each rule for retention information and possibly creating conflicting requirements in different rules for the same issues.

[3] Notably, this is just one example of the City raising issues that were never discussed during the workshop process. Staff witness Jackson stated: "[w]ithout the benefit of discussing these new issues in the workshop phase of this case, Staff does not know if the carriers retain or have the capability to retain this type of information or if the additional reporting criteria is the correct data." (Jackson Reb., Staff Ex. 4.02, p. 6).

(*Id*. p. 7).

Verizon agrees with Ms. Jackson's assessment. Here, the City provides another example of its inappropriate Ameritech-Illinois centric approach to this case. There is no need to impose burdens on all LECs throughout the State to satisfy the City's issues with Ameritech-Illinois. Moreover, Part 705 is the appropriate forum to centralize record retention requirements. Accordingly, Verizon supports Staff witness' Jackson's decision to let stand the existing Section 730.200 record retention language.

7. Sections 730.305, 730.25, and 730.340

Verizon supports Staff's proposed changes to Section 730.305, 730.325, and 730.340. (Boswell Dir., Verizon Ex. 1.0, p. 7).

8. Section 730.510 – Answering Time

Verizon supports most of the changes to Section 730.510 proposed by Staff. The only proposal Verizon objects to is contained in Section 730.510(b)(3)(D). The relevant provision would require a LEC to collect the "total number and percentage of abandoned calls". Such a provision is impractical and unnecessary.

Staff presented the identical position to the Commission less than two years ago when the Commission last considered revisions to Part 730. (Docket No. 98-0453). In rejecting Staff's proposal then, the Commission concluded:

> [t]he Commission agrees with the opponents of this proposed revision that measurement of abandoned calls is imprecise and the Commission declines to impose a measurement of abandoned calls at this time.

Nothing has changed since the Commission's decision less than two years ago. (Boswell Sur., Verizon Ex. 3.0, p. 9). Indeed, Staff witness Jackson agreed that there may be many reasons why a call may be abandoned that is in no way related to a LECs performance. (Jackson Tr., pp. 460-61). Moreover, there is no way for a LEC to measure or survey the reason as to why a customer abandoned a particular call. (Id. p. 461). Accordingly, the Commission should again decline Staff's proposal to track abandoned calls, as the same degree of imprecision still exists today.

9. Section 730.515 – Central Office Administrative Requirements

Verizon supports Staff's proposals with respect to this Section.

10. Section 730.520 – Interoffice Trunks

Verizon supports Staff's proposals with respect to this Section.

11. Section 730.535 – Interruptions of Service

Verizon supports Staff's proposal with respect to this Section except for one small, but important, modification. Proposed Section 730.535(b) provides a calculation for how a LEC is to calculate its performance related to service interruptions. One of the variables in the equation is variable "d", which is defined as "condition caused by payphone equipment." It is the definition of this variable that Verizon proposes to modify.

Verizon witness Karen Boswell testified that the definition for variable "d" should be modified to read: "condition caused by payphones." (Boswell Dir., Verizon Ex. 1.0, p. 20). The basis for this proposal is straightforward. Customer premise equipment already is excluded from all of the provisions of this rule. (See variable "e" in Section 730.535(b)("e = Condition Caused By Customer Premise Equipment (CPE) or inside wire")). As the Commission is aware, payphone equipment is customer premise equipment. As such, in its current form the definition of variable "d" is duplicative. (Boswell Sur., Verizon Ex. 3.0, p. 20).

Meanwhile, in support of her modified definition of variable "d", Verizon presented unrebutted testimony that the "repair of a payphone line does not go through the same process as the repair of other lines." (Id.). The reason for the different process is that trouble related to payphones is found to be in the customer-owned instrument rather than the line a higher percentage of the time. (Id.). Verizon, therefore, usually receives a trouble report after the 24-hour time interval to repair a problem has elapsed, as the payphone provider has first taken the time to check the instrument. (*Id*.). As such, Verizon should not be penalized as a result of the delay attributable to payphone providers. It is Verizon's position, then, that payphone lines should not be held to the out of service requirement. Accordingly, the definition for variable "d" should read "Condition Caused By Payphones."

12. Section 730.540 – Installation Requests

Verizon supports Staff's proposed modifications to Section 730.540, except for subsection (e). It is Verizon's position that subsection (e) is unnecessary. (Boswell Dir., Verizon Ex. 1.0, p. 21). Part 705 of the Commission's rules already details the records it must maintain and the time frames for retaining such documents. The records that Staff seeks to have maintained in subsection (e) are already maintained pursuant to Part 705. Accordingly, there is no need to have subsection (e) in Part 730. Indeed, this result appears to square with Staff witness' Jackson's view that Part 705 is the appropriate place to address record issues. As Ms. Jackson testified:

> Staff believes that all record retention information should be contained in Part 705, and should be consistent with that Part, rather than having different record retention areas in different rules. Maintaining the record retention requirements within Part 705 provides one location for companies to look for record retention

> information, rather than having to look at each rule for retention information and possibly creating conflicting requirements in different rules for the same issues.

(Jackson Reb., Staff Ex. 4.02, pp. 7).

13. Section 730.545 – Trouble Reports

Verizon generally supports Staff's proposed modifications to Section 730.540. However, for the reasons set forth in the preceding argument, subsections (e) and (i) of Section 730.540 should be deleted. These subsections relate to record keeping that is otherwise contemplated in the Commission's Part 705. Rather than restate the argument here, Verizon refers to the preceding argument as the basis to delete these subsections from the proposed rule.

14. Section 730.550 – Network Outages and Notification

Verizon disagrees with Staff's proposal regarding Section 730.550. In particular, Staff seeks to expand this regulation to the reporting of minor outages that affect more than 10% but less than 50% of the customers. It is Verizon's position that such a requirement is unduly burdensome and impractical. First, it is impractical to tie reporting to the number of customers affected. While the LEC may know quickly about the number of lines impacted by an outage, there is little correlation between lines impacted and customers affected by an outage. Consequently, if the Commission desires information about "minor" outages, it should be based on the number of lines affected, not customers.

The second problem with Staff's proposal is that it is unduly burdensome and inequitable. (Boswell Sur., Verizon Ex. 3.0, pp. 10-11). Under Staff's proposal, LECs with a majority of small exchanges will be more frequently subject to the minor outage reporting requirement than a LEC whose exchanges have a large number of customers. For example, assuming one uses Staff's standard of customer's affected rather than lines affected, an exchange with 200 customers will be required to report a minor outage if just 20 customers are affected.

Meanwhile, an exchange with 20,000 customers will not have to report a minor outage until 2,000 customers are affected. It is readily apparent that Staff's proposal imposes an inequitable burden on LECs who have few customers in their exchanges. Such a requirement is not reasonable.

Verizon proposes that the Commission should adopt a line-size threshold at which point minor outages would be reported. (*Id.*). Under this approach, the Commission would avoid placing an undue burden on LECs with predominant number of small exchanges. Moreover, this approach also would reflect the evidentiary record that shows that the vast majority of LECs are not experiencing issues concerning the provision of basic local exchange service.

III.
Conclusion

Less than two years has passed since the Commission last amended Part 730. What is clear is that certain modifications to the rule are necessary to clarify Part 730. What is also clear from this proceeding is that there is no need to impose more stringent standards or more burdensome reporting requirements on LECs throughout the State. The record shows that LECs throughout the State, including Verizon, are providing quality service while meeting or exceeding the Commission's existing Part 730 rules. Based upon the record in this proceeding, sound regulatory policy requires only limited modification to Part 730. Verizon, therefore, respectfully requests the Commission to adopt the modifications proposed in this brief.

Dated: February 22, 2002

Respectfully submitted,

VERIZON NORTH INC. AND
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CERTIFICATION

I, John Rooney, hereby certify that I served a copy of the Initial Brief of Verizon North Inc. and Verizon South Inc. upon the service list in Docket No. 00-0596 by email on February 22, 2002.

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