Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054

In the Matter of	)
	)
Revisions by Verizon Telephone	)
Companies to its	)
Tariff F.C.C. Nos. 1, 11, 14 and 16	)
Transmittal No. 226	)

PETITION TO REJECT OR, ALTERNATIVELY, TO SUSPEND AND INVESTIGATE

The Association for Local Telecommunication Services ("ALTS"), Broadview Networks, Inc., the Competitive Telecommunications Association ("CompTel"), KMC Telecom Holdings, Inc., Talk America Inc., and XO Communications, Inc., (collectively, the "Petitioners"), by their attorneys and pursuant to 47 C.F.R. § 1.773, hereby petition the Federal Communications Commission (the "Commission") to reject or, alternatively, to suspend and investigate the revisions to Sections 2.1.8 and 2.4.1 of Tariff F.C.C. Nos. 1, 11, 14 and 16 filed by Verizon Telephone Companies ("Verizon") in Transmittal No. 226 on July 25, 2002 with an effective date of August 9, 2002. Each Petitioner is a Verizon customer under these tariffs, or has members who are Verizon customers under these tariffs, and therefore, has a direct interest in these tariff revisions.

I. INTRODUCTION

Like Iowa Telephone and BellSouth, Verizon has proposed to revise the provisions governing security deposits in its FCC access tariffs. Verizon also (over)reaches further with additional revisions to its tariffed conditions governing the refusal and discontinuance of service. As proposed, these tariff revisions would give Verizon the ability to unilaterally impose new and burdensome deposit requirements on its interstate access customers – including deposits and advance payment obligations – which could result in a massive shift of capital from competitive carriers to Verizon. Further, these tariff revisions give Verizon virtually unfettered discretion to refuse to provision service, and to discontinue actual or pending service, with very little advance notice to its carrier-customers and with virtually no time for those customers to resolve payment discrepancies that would be the impetus for such action. The result of the unreasonably condensed intervals proposed by Verizon is that end-user subscribers could lose service with virtually no advance warning (and the carriers serving them would have essentially no chance of complying with federal and state rules regarding disconnection). All this, of course, would be done in the name of protecting Verizon from an unquantifiable risk stemming from its sale of highly profitable access services, for which those customers typically have no alternative provider.

Like the Iowa Telephone and BellSouth proposals that preceded it, these tariff revisions should be rejected because they too, are unjust, unreasonable and unreasonably discriminatory in violation of Sections 201(b) and 202(a) of the Communications Act of 1934, as amended, and because they are unreasonably vague and ambiguous in violation of Section 61.2(a) and Section 61.54(j) of the Commission's rules. Further, Verizon has provided no justification for the substantial changes it seeks. General references to market instability and the bankruptcy of a carrier brought to its knees by what appears to be fraud cannot suffice to demonstrate that Verizon's tariffed offerings present it with extraordinary risk or risks that could not effectively be addressed by the deposit provisions already contained therein or other tools available to Verizon (Verizon has the ability to account for an increased assessment of risk in its pricing of many services). Further, Verizon has not provided the "substantial cause" necessary to justify making unilateral changes to material terms and conditions of long-term tariffed arrangements.

Even more critical is that the proposed tariff revisions are profoundly anticompetitive, as Verizon seeks to capitalize on uncertainty created by the WorldCom bankruptcy and use it as a means to insulate itself from all risk while draining its competitors of scarce working capital. In effect, Verizon seeks to use its tariff revisions to extend its already significant competitive advantage and punish an entire industry segment for the "problems" it believes have been created by WorldCom's bankruptcy and accounting improprieties. Verizon attempts to attribute malfeasance to virtually all competitive carriers taking service under this tariff, and seeks to punish them by forcibly extracting tens of millions of dollars in scarce and irreplaceable working capital. However, Verizon has not provided any empirical data nor shown any direct correlation to support its position that these tariff revisions are necessary. In particular, Verizon has provided no evidence that it has suffered extraordinary bad debt losses under these tariffs, or that existing tariff mechanisms do not sufficiently protect Verizon's legitimate interests. Rather, by extracting massive amounts of working capital from its competitors, the proposed tariff changes would give Verizon additional methods to strengthen its already dominant position in the local exchange market as well as provide Verizon with the potential power to extend its dominance into the long distance market.[1]

In sum, Verizon's tariff revisions are based on the cryptic and unsupported statement that "[t]he telecommunications industry is in a period of unprecedented financial stress and upheaval." Verizon Description and Justification ("D&J") at 6. The current market volatility does not, by itself, justify imposing massive new obligations on virtually all carrier-customers under these tariffs. If the Commission is not willing to reject these tariff revisions on their face,

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1 As of the date of this petition, Verizon has been granted 271 authority in eight states (Maine, Vermont, Massachusetts, New York, Rhode Island, Connecticut, Pennsylvania and New Jersey) with three additional applications for authority (Delaware, New Hampshire and Virginia) currently pending before the Commission.

it should, at a minimum, suspend and investigate these tariff revisions to ensure that sufficient legal, factual and policy bases exists to warrant their imposition on any and all of Verizon's interstate access service customers.

The Petitioners note that the Pricing Policy Division of the Wireline Competition Bureau recently suspended a similar tariff revision submitted by another incumbent local exchange carrier ("ILEC") for five months and began an investigation into the lawfulness of the tariff revisions. *See Iowa Telecommunications Services, Inc.*, Transmittal No. 22, DA 02-1732, rel. July 17, 2002 (Chief, Pricing Policy Division)("*Iowa Telecom Suspension Order*"). The Division recognized that "substantial questions" regarding the lawfulness of the tariff justified this action.[2] Those same "substantial questions" are raised by Verizon's filing, and require the same result – suspension and investigation for at least five months if not more, pending a thorough investigation by the Commission. In order to ensure non-discriminatory treatment of all carriers around the country, and to prevent needless and harmful industry disruption of service to carriers and end-user customers alike – something that Chairman Powell recently identified as a critical industry need[3] – the Division should suspend and investigate Verizon's tariff revisions to ensure that Verizon's deposit provisions are lawful in the *Iowa Telecom Suspension Order* investigation proceeding.

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2 The Order acknowledged that WorldCom raised substantial questions regarding whether Iowa Telecom's proposed revision "is unjust and unreasonable in violation of section 201(b) of the Act", "whether the language of the revision is vague and ambiguous in violation of sections 61.2 and 61.54 of the Commission's rules", and "whether Iowa Telecom has demonstrated substantial cause for a material change by a dominant carrier in a provision of a term plan." *Iowa Telecom Suspension Order* at 2.

3 *See*, "Financial Turmoil in the Telecommunications Marketplace: Maintaining the Operations of Essential Communications," written statement of Michael K. Powell, Chairman Federal Communications Commission before the Committee on Commerce, Science, and Transportation, United States Senate, July 30, 2002 at 1 (noting that "[p]rotecting consumers from service disruptions is our first and highest priority") ("*Powell July 30, 2002, Statement to Senate Committee on Commerce, Science and Transportation*").

In addition to these tariff revisions, the Petitioners are aware that Verizon filed a petition on July 24, 2002[4] seeking a policy declaration from the Commission regarding security deposits, and shortened notification periods for refusals and discontinuances of service. As the Verizon petition indicates, this is nothing more than an anticompetitive move by Verizon to attribute the problems of one member of the industry on the entire industry. In fact, Verizon's petition, coupled with the tariff revisions recently filed by BellSouth that address almost identical issues, clearly indicates a trend among the ILECs to reinforce their monopoly position by imposing new and burdensome requirements on their competitors. As Senator Hollings noted in his recent comments to Chairman Powell at the Senate Committee on Commerce, Science and Technology, the changes encompassed in the tariff revisions do nothing more than to extend the monopoly of the ILECs at the cost of competition.[5] Rather than deal with this issue on a piece-meal ILEC-by-ILEC basis, the Petitioners urge the Bureau to suspend Verizon's tariff revisions so that a generic proceeding can be conducted to ensure that this issue is resolved in a fair, expeditious and non-discriminatory manner.

II. THE TARIFF REVISIONS PROPOSED BY VERIZON SHOULD BE REJECTED BECAUSE THEY ARE UNJUST, UNREASONABLE AND DISCRIMINATORY IN VIOLATION OF BOTH SECTIONS 201(B) AND 202(A)

The revisions to Sections 2.4.1 and 2.1.8 of Verizon's Tariff F.C.C. Nos. 1, 11, 14 and 16 would permit Verizon to impose additional onerous obligations for deposits, advance payments and letters of credit as well as speed up its ability to refuse or discontinue service on any and all of its interstate access customers, many of whom compete *directly* with Verizon, thus permitting

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4 *Wireline Competition Bureau Seeks Comment on Verizon Petition for Emergency Declaratory and Other Relief*, WC Docket No. 02-202, DA 02-1859 (rel. July 31, 2002).

5 Remarks of Senator Fritz Hollings (D-SC) before the Senate Committee on Commerce, Science and Technology, July 30, 2002 (urging Chairman Powell to deny the ILEC's request that the FCC permit advance payments of services and additional financial securities, stating "they've got every gimmick in the book to extend their monopolies, take you over and take me over. And I want to plead with you that you won't allow it").

Verizon to strengthen its near monopoly position in the local market. Petitioners urge the Commission to conclude that these additional obligations regarding deposits and discontinuance of service that Verizon is seeking to impose are facially unlawful violations of Sections 201(b)[6] and 202(a)[7] of the Communications Act of 1934, as amended. The Petitioners further urge the Commission to conclude that the revisions and the explanation provided by Verizon in its D&J fail to meet the standards of clarity required under both Section 61.2(a)[8] and Section 61.54(j)[9] of the Commission's rules.

Throughout its D&J, Verizon puts forth as the basis for the proposed revisions a reference to turmoil in the telecommunications industry, citing to the recent WorldCom bankruptcy petition as a clear indicator of the situation. Critically, Verizon fails to actually put forth concrete evidence as to the impact of WorldCom or the other alleged instabilities on the telecommunications market or on Verizon, in particular. Nor does Verizon explain why the existing tariff provisions would not suffice, if diligently applied, as a method of protecting Verizon from the impacts of the alleged instability. In fact, the only "proof" Verizon provides in its D&J as to the impact of the current turmoil in the industry is a reference to the fact that Verizon is party to 92 bankruptcy proceedings. This statistic, without specific explanation as to

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6 Section 201(b) provides, in relevant part, that "all charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful."

7 Section 202(a) provides that "it shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage."

8 Section 61.2(a) states "in order to remove all doubt as to their proper application, all tariff publications must contain clear and explicit explanatory statements regarding the rates and regulations." 47 C.F.R. § 61.2(a).

9 Section 61.54(j) requires, in relevant part that ". . . regulations, exceptions, and conditions which govern the tariff must by stated clearly and definitely. All general rules, regulations, exceptions or conditions which in any way affect the rates named in the tariff must be specified."

the impact of the bankruptcy proceedings and their relationship to services provided under Verizon's FCC tariffs,[10] does not justify Verizon increasing the requirements for deposit, letters of credit or advance payments or shortening the amount of notice to be given before it discontinues service.

If permitted to go into effect, Verizon's proposed tariff revisions will encourage additional instability within the telecommunications market by forcing a drastic capital shift from competitors to Verizon, forcing expensive changes to the way competitors and Verizon handle billing and collection, and by raising the risk that Verizon will disconnect facilities and cause end user service disruption in such a condensed timeframe that federal and state discontinuance requirements simply could not be met. As Senator Hollings warned earlier this week, in his comments to Chairman Powell, the ILECs should not be permitted to use current financial instability in the industry to whittle down the number of competitors and expand their monopolies.[11] Providing vague references to financial turmoil in the telecommunications marketplace does not satisfy Verizon's obligation to provide "clear and explicit explanatory statements" justifying why these changes should be approved.

Verizon's assertion that the revisions to its tariffs are necessary to "grant Verizon some of the same market-based protections other suppliers can – and do – routinely exercise when dealing with financially troubled buyers" also rings hollow. Verizon D&J at 2. Indeed, Verizon

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10 In providing such data, Verizon should be made to disclose the amount of billing on which it has declined payment to carriers currently operating under Chapter 11 bankruptcy. It is likely that Verizon owes some of these companies more money that they owe Verizon. The Commission certainly should conduct an investigation into this aspect of the bankruptcies from which Verizon claims to suffer disproportionately.

11 *See* Remarks of Senator Fritz Hollings before the Senate Committee on Commerce, Science and Technology, July 30, 2002 ("[the ILECS are] playing a sordid game. . . .We've got the demise and the downfall now of telecommunications. . . .[the Commission should] try to short-stop 'em, don't let -- use the demise of telecommunications be used to extend the monopolies. . . .[otherwise it will] put 40 of the other remaining 80 under. I hope the commission doesn't go along with that particular. They've got every gimmick in the book to extend their monopolies, take you over and take me over. And I want to plead with you that you won't allow it.")

fails to acknowledge that the requirements it seeks to impose on its carrier customers generally are not practically available to non-dominant carriers. Moreover, non-dominant carriers operating without the shield of protection afforded by a federal tariff could not unilaterally amend service contracts to demand or increase deposits, require advance payments (without interest and with long true up intervals), or shorten notice of discontinuance intervals. In fact, the condensed disconnect intervals proposed by Verizon are simply not permitted in the marketplace, as they would force carrier customers into violations of state and federal discontinuance and disconnect rules. If, as Chairman Powell recently noted, "[p]rotecting consumers from service disruption is [the Commission's] first and highest priority,"[12] Verizon's proposed tariff revisions must be rejected outright.

Verizon's proposed tariff revisions are also unjust and unreasonable because Verizon has failed to demonstrate how its current tariff provisions do not provide it with adequate protection. In fact, Verizon states in its D&J at 6-7 that "[t]he revisions modify the two options already available to Verizon in certain circumstances" without providing any demonstration that the available remedies have proven ineffective. Without such proof, Verizon cannot demonstrate that the dramatic revisions proposed are reasonable or necessary.

A. Section 2.4.1: Payment of Rates, Charges and Deposits

Under the revisions to Section 2.4.1, Verizon has sought to unilaterally impose additional obligations on any and all of its interstate access customers by requiring deposits, letters of credit and advance payments and has created arbitrary thresholds for invoking any or all of these requirements. Indeed, if Verizon is permitted to implement these requirements, based on the triggers set out in Section 2.4.1.(A)(2), the result would force cash and credit strapped carriers to

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[12] *Powell July 30, 2002, Statement to Senate Committee on Commerce, Science and Transportation* at 1.

pay many tens of millions of dollars of scarce working capital to their direct competitor over a very short amount of time with little notice, or face discontinuance of service (possibly triggering stiff termination penalties). Placing such burdens directly on its competitors only adds to the financial uncertainty by shifting risk from Verizon to its competitors.

Verizon should not be permitted to compound the industry's problems by trading on fears of bankruptcy to destabilize its competitors. Even if bankruptcy does occur, Verizon should not be permitted to tariff its dissatisfaction with the protections provided under bankruptcy rules. As Chairman Powell recently noted, in order to revitalize the telecommunications industry, carriers must focus on paying down their debts and finding ways to cut costs.[13] Paying additional money to Verizon to help insulate Verizon from the potential harms caused by instability does not help foster Chairman Powell's mandate but rather depletes the working capital competitive carriers need to generate revenues and earnings that can be earmarked to reducing debt.

Unlike the triggers proposed by BellSouth in its similar tariff filing, the proposed triggers included by Verizon in its tariff revisions purport to be "objective". However objective these triggers might be, they are no less overbroad and arbitrary. The Verizon triggers plainly are designed to ensure that all its competitors will be paying hefty deposits and will continue to be forced to subsidize Verizon's shareholders, as well as the servicing of Verizon's own massive debt levels.[14] Verizon has failed to set forth any plausible rationale for imposing them on any and all carrier customers. Rather, these requirements merely strengthen Verizon's dominance

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13 *Id.*, at 11.

14 *See* "Verizon Reins in Forecast; Profits Lost Among Charges" *TR Daily,* July 31, 2002 (citing to Verizon's 2Q earnings report indicating a 2.1 billion net loss for the second quarter of 2002 as a result of 4.2 billion in charges, $3.2 billion of which was tied to asset write-downs related to its investments in telecom companies including Genuity, Inc., Telus Corp., and Cable & Wireless plc, and $475 million was severance-related); *see also See* Jane Black, *Is Verizon a Champ or a Pretender?*, Business Week Online, June 10, 2002 at 2 ("Declining margins and profits are raising questions about Verizon's $60 billion debt load. On May 31, Moody's announced it was reviewing the Baby Bell's long-term debt ratings for a possible downgrade").

over its competitors by forcing cash-strapped competitors to ante-up vast amounts of cash prior to Verizon continuing to provide access to services over which, for the most part, it retains a pure monopoly.[15]

1. **Triggering Events**

First, permitting Verizon to impose a deposit in an amount based on estimated future costs when "the customer has fallen into arrears in its account balance in any (2) months out of any consecutive twelve (12) month period" is both vague and unjust. Verizon makes no effort to set out any explanation as to what qualifies as "into arrears." There is no minimum threshold time or amount requirement for the amount in arrearage. As the tariff revision is currently drafted, Verizon could demand a deposit of millions of dollars on a carrier that was in arrearage less than fifty dollars ($50) in February and then again for a few more dollars in October. As written, there is little if any nexus between a payment pattern that would trigger a deposit and a payment pattern that may indicate an extraordinary risk of nonpayment.

Second, Verizon makes no distinction with regard to disputed amounts and undisputed amounts. As written, Verizon could use disputes to trigger deposits on billings that include disputed amounts. That, however, clearly is not reasonable and certainly should not be permitted. Indeed, quite frequently the total amount, or some portion thereof, billed by Verizon is disputed by its customer. Verizon should not be permitted to consider disputed amounts to be in arrears thus providing the impetus for a deposit request on amounts that include those in dispute. As demonstrated in previous filings to the Commission, this potentially vicious circle would be fed by billing systems used by companies such as Verizon that are systematically inaccurate and unreliable. Carrier customers frequently dispute significant percentages of their

15 Verizon's obligation to serve remains rooted in the fact that they enjoyed a hundred-year government sanctioned monopoly and continues to enjoy the fruits of an ubiquitous network built for it with vast sums of public money.

billings and typically experience a high success rate in doing so (once they actually get an ILEC to commit the resources necessary to resolve the dispute). Accordingly, Verizon should be required to further clarify that any deposit requirement for payments in arrears is only triggered by outstanding undisputed amounts and is requested only on undisputed amounts.

Third, setting the threshold which triggers the imposition of a deposit at $250,000 owed for more than thirty (30) days is unreasonable. Carrier customers routinely pay many millions of dollars per month for services provided by carriers such as Verizon. To set the threshold so low and so quick would virtually assure Verizon the ability to impose million dollar deposits on almost all carrier customers. At a minimum, the amount should be raised to at least $1.5 million in undisputed amounts owed more than thirty (30) days past due to more realistically reflect the amount of money exchanged between the parties.

Fourth, Verizon should not be permitted to assess a security deposit on customers that have "commenced a voluntary receivership or bankruptcy proceeding." Requiring such a payment directly conflicts with bankruptcy law and is highly anticompetitive. As it is currently included in the tariff, the deposit requirement language could be read to permit Verizon to override a bankruptcy court's determination of what constitutes "adequate protect"[16] and impose deposit requirements in the millions of dollars. The tariff revisions should not allow Verizon to by-pass the well established principles of, and protections set out under, bankruptcy law and to extract additional deposits from customers. This trigger should be struck down in its entirety.

Fifth, Verizon's inclusion of "investment grade" criterion on senior debt securities to warrant the imposing security deposits on carrier customers is overbroad and completely without justification. Verizon has failed to demonstrate any link between debt securities ratings and the

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16 *See* 11 U.S.C. § 361 (explaining what constitutes "adequate protection" under Sections 362, 363 and 364 of the Bankruptcy Code).

ability for the carrier customer to meet its financial obligations to Verizon. As currently written, these triggers would apply to virtually all competitive carriers, regardless of their payment history with Verizon. This is requirement is so deliberately overbroad that it surely must be found unreasonable.

2. Payment Requirements

In all of the above instances where Verizon believes it should be permitted to impose security deposit requirements, Verizon should be required to provide a break-down and justification of the deposit request to the customer or at a minimum, the customer should be permitted to submit such a request to Verizon in writing. Upon receipt of Verizon's explanation, the customer should be given a reasonable time period, at least thirty (30) days, before having to provide Verizon with the requested deposit. Without such justification and reasonable time period, customers will have difficulties discerning the reasonableness and lawfulness of Verizon's deposit demands.[17]

Customers also must be provided a reasonable chance to dispute such requests, as experience has shown that they are often made based on incorrect payment and billing data and other questionable basis. Accordingly, alternative dispute resolution provisions should be included so as to avoid costly and lengthy litigation over such proposals (as well as to avoid strong-arming by Verizon while such a dispute is pending).

B. Section 2.1.8: Refusal and Discontinuance of Service

In Section 2.1.8, Verizon has sought Commission approval, without providing a legitimate basis for justify such a change, to shorten the notice period for discontinuance of service. This requested change not only threatens substantial harms to customers by permitting

[17] Even BellSouth included a provision requiring it to provide an explanation of its request in its recent tariff revisions.

Verizon to, on its own volition, discontinue service to carrier customers who, in turn, are providing service directly to the public, but it also facially unlawful, as it is in direct conflict the Commission's own established principles and timelines regarding discontinuance of service.

Under the Commission's discontinuance of service rules,[18] non-dominant carriers are only permitted to discontinue service on the thirty-first (31st) day after notice has been provided, dominant carriers, such as Verizon, can only do so after the sixtieth (60th) day post notice. Indeed, Chairman Powell in his written statements to the Senate Committee on Commerce, Science and Transportation emphasized that the 30-day grace period from notice to actual discontinuance of service is a "minimum period required by our Rules and that the Commission may extend this period should the public interest warrant such an extension."[19] Verizon does not have the authority to modify the Commission's rules with its tariff revisions. To permit Verizon to effectively force violations of the thirty (30) day minimum period would cause tremendous harm both to its competitors and to consumers whose service could easily be disrupted on short notice (if any).

Further, the proposed shortening of the notice period also directly violates many, if not all, state laws concerning discontinuance of service. Most states, following the lead of the Commission, have implemented thirty (30) day notice periods for discontinuing customer service. Several states have a sixty (60) day requirement. The proposed seven (7) day time period that Verizon alleges is necessary to protect it from the risks of doing business in the telecommunications sector would force carrier customers to violate state requirements, as termination by Verizon would give them no chance to comply with the state-specific time

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[18] 47 C.F.R. § 63.71.

[19] *Powell July 30, 2002, Statement to Senate Committee on Commerce, Science and Transportation* at 4.

frames. Clearly, Verizon should not be able to effectively upend state law with a federal tariff filing.

In addition, it is unjust and unreasonable to permit Verizon to shorten the notice provision as proposed, since it would not allow for a reasonable amount of time in which the customer can cure the defect. Seven (7) days, as set out in the tariff revision, is not a sufficient time to cure defects or reconcile disputes, particularly when the tariff fails to clearly explain when the notice period begins to toll.

III. THE TARIFF REVISIONS PROPOSED BY VERIZON VIOLATE THE "SUBSTANTIAL CAUSE" TEST

It is established Commission precedent that a telecommunications carrier, such as Verizon, may not make unilateral and material revisions to a tariffed long-term service arrangement unless it first demonstrates "substantial cause" for the revisions.[20] Under this doctrine, the Commission will closely scrutinize the reasons given by the carrier for the revisions, as well as the burden imposed on the customer, and then determine based on all relevant circumstances whether the carrier has demonstrated "substantial cause" for modifying the long-term tariffs.

Verizon's tariff revisions, as drafted, would appear to apply to customers' to long-term access service arrangements, as well as other services ordered under the tariffs. However, Verizon makes no effort of any kind to satisfy the "substantial cause" doctrine. The only reason it offers for tariff revisions is a cryptic and unsupported one-sentence statement about industry-wide turmoil and the recent bankruptcy filing by WorldCom. However, Verizon does not offer any evidence about its experience with the turmoil or the direct impact of the WorldCom filing

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20 *See e.g., RCA American Communications, Inc.* Memorandum, Opinion and Order, 84 FCC 2d 353, 358 (1980); *id.*, 86 FCC 2d 1197, 1201 (1981), *id.*, 94 FCC 2d 1338, 1340 (1983), *id.*, 2 FCC Rcd 2363 (1987).

on the long-term access service arrangements in this tariff. In effect, Verizon has ignored Commission precedent by failing to present any evidence that it has satisfied the "substantial cause" doctrine.

Though Verizon completely ignores the "substantial cause" doctrine in its D&J, it would be unreasonable for it to allege that the discontinuance of service notice provisions of Section 2.1.8 and the deposit provisions in Section 2.4.1 are not part of the long-term arrangements, as BellSouth has alleged. Certainly, Verizon could not deny that the general terms and conditions in Section 2, including the discontinuance of service provision in Section 2.1.8 and the deposit provisions in Section 2.4.1, apply to long-term service plans. For example, if Verizon were to terminate a long-term arrangement due to failure to comply with the proposed revisions, the termination procedures set forth Section 2 surely would be triggered. When a customer signs up to a term plan, it expects stability among all materials terms and conditions, not just the rates, as the *quid pro quo* for its agreement to purchase service for a specific term and to pay penalties for early termination. The deposit and discontinuance of service provisions are undeniably material terms of the long-term interstate access arrangements, and the instant tariff revisions invoke the "substantial cause" doctrine by altering those provisions to the detriment of customers

IV. ADDITIONAL PROVISIONS ARE UNJUST AND UNREASONABLE

Separate from the arguments raised in Sections II and III, *supra*, the Petitioners have strong objections to several additional revisions proposed by Verizon. As explained below, these revisions are unjust and unreasonable and should be rejected, or at a minimum, suspended and investigated, by the Commission.

A. Deposit and Advance Payment

Verizon's proposed requirement that a customer both maintain a security deposit or a letter of credit and make payments for services in advance is overly burdensome and without proper justification as to why either or both are reasonable or necessary.. If any change to the existing deposit provisions is warranted, Verizon should not be permitted to double-up by imposing both deposit and advanced payment requirements. To permit Verizon to impose both would double the harmful anticompetitive effect that would result from Verizon's effort to drain its competitors of working capital and to insulate itself from all risk. Moreover, advance payments would complicate a process already fraught with errors and complexity. Monthly interest and true-up provisions also would have to be incorporated into any advance payment procedure.

In addition, with regard to the requirement of advance payments, it is difficult to understand the justification for imposing such a requirement on services such as special access that customers are already billed in advance. Advanced payment in addition to advanced billing would only deepen the damage that could be done if Verzion's proposals were allowed to go into effect. At most, accelerated payments should be instituted as an option for carriers in lieu of deposits. Accelerated payments options could provide competitive carriers with a means of avoiding a capital stranding deposit requirement, while reducing any risk perceived by Verizon.[21]

Under any advanced or accelerated payment option, a true-up mechanism would be needed. Such true-ups should be done on a monthly basis, and not every six (6) months as Verizon desires. In addition, Verizon should be required to pay interest, equal to, at a minimum, that which a carrier customer is required to pay to Verizon on late payments on any advanced payment or true-up amounts. Without these protections, competitors would be forced to provide additional subsidies to Verizon in the form of interest-free loans.

21 Accelerated payment provisions likely would not work, absent improvement in Verizon's billing systems and procedures. Moreover, an additional mechanism would need to be established to provide sufficient time for review of bills and identification of disputes.

B. Timing of Discontinuance

As stated above, customers need sufficient time to review the bills, verify the charges contained therein, make payment or, if necessary, dispute amounts charged. Accordingly, Verizon must provide a reasonable amount of time between the customer's receipt of a bill and receipt of a discontinuance of service notice. The compressed intervals proposed by Verizon do not provide a reasonable amount of time, and as a result, they likely would (and perhaps are intended to) create significant customer service disruptions.

Further, as currently written, it is not clear whether the seven (7) day notice period before discontinuance starts when Verizon mails the notice or when notice is received. The tariff also does not indicate whether these are seven calendar days or seven business days. At a minimum, the notice requirements (whatever they may ultimately end up being) should be clarified to address these ambiguities.

C. Nondiscrimination

In addition to the changes addressed above, the Petitioners believe that any changes that are permitted to the Verizon interstate access tariffs should also include an express nondiscrimination provision. The inclusion of a non-discrimination provision is necessary to ensure that any new requirements imposed by Verizon applies to customers taking services under these tariffs, carrier and non-carrier customers alike. Imposing such requirements only on its carrier customers would constitute discriminatory treatment and would be in direct violation of Section 202(a) of the Communications Act of 1934, as amended.

V. CONCLUSION

For the foregoing reasons, the Commission should reject the Verizon tariff revisions as unlawful or, alternatively, exercise its full authority to suspend and investigate those revisions.

Respectfully submitted,

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Dated this 1st day of August, 2002.

<u>**CERTIFICATE OF SERVICE**</u>

I, Erin W. Emmott, hereby certify that, on this 1st day of August 2002, a copy of the foregoing ***Petition To Reject Or, Alternatively, To Suspend And Investigate*** was sent, as indicated, to the following individuals:

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