

Voice Report

The Leading Independent Source of News and Best Practices for Communications Technology Professionals

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Use Contracts to Stabilize Prices

Verizon's Special Access Freeze Thaws in July

Push for a two-year contract with guaranteed rate stability on any T-1s and DS-3s, and services like frame relay and MPLS you're buying from Verizon or AT&T.

That will protect your bottom line as the clock winds down on the FCC mandates that have kept rates on such "special access" services stable, advises top telecom attorney Colleen Boothby.

Verizon and MCI agreed to 12 stipulations as conditions of their merger in January 2006, including several dealing with how the carrier can price its special access services. AT&T offered similar commitments as a condition of its merger with BellSouth in December 2006.

But the special access merger conditions are temporary, and experts worry that special access rates could be on their way up. Mark your calendar: Verizon's special access rate freeze will expire in July, and AT&T's in June 2010.

See "Special Access," p. 6

6 Changes to Privacy, SLAs, Pricing and More

New Contract Terms for Open Mobile Networks

Don't be shocked to see your wireless carrier try to sneak in a contract clause that would give it blanket consent to send your end users unsolicited ads and other content on their wireless devices.

It's just one of the ways your wireless contracts might change if you put users on "open" networks, predicts veteran wireless negotiations attorney Kevin DiLallo, a partner at Levine, Blaszak, Block & Boothby, in Washington, D.C.

Verizon Wireless is leading the charge: It has committed to allow any approved device and application to operate on the spectrum it recently won in the FCC's 700 MHz auction. The carrier has four years from the time it is awarded the licenses to reach 40% of the population covered by those licenses, DiLallo says.

Verizon Wireless also announced in November that it will open its

6 Questions to Ask in Wireless RFP

Use the RFP process to determine how committed your wireless carriers are to opening their networks. Here are six questions to ask in your next wireless RFP, courtesy of Kevin DiLallo, partner at Levine, Blaszak, Block & Boothby, a specialist in enterprise wireless deals.

Will you commit to allow us to use third-party devices?

If so, what is the approval process?

Verizon Wireless has said it will allow third-party devices and applications on its network, but the question is still up in the air for AT&T Mobility, Sprint Nextel and T-Mobile, DiLallo says.

What will you charge to unlock my enterprise's devices?

What will you charge to approve these devices?

How long will it take to approve them?

Can you confirm that you won't increase your rates if we use third-party devices and applications?

Don't be surprised if your carrier agrees to these conditions in your RFP, but then backs off once you get into contract negotiations, DiLallo warns.

Carriers could argue that their pledge in response to your RFP was made under certain assumptions but they can't commit to it in the contract.

In this case, at least you'll have a starting point. ☎

existing network under its "Any Device, Any App" network-only service [VR 12/6/07]. Verizon will test and approve every device it allows on the open network, and expects to get the first devices enabled in the third quarter of this year, Verizon Wireless CEO Lowell McAdam told a Verizon Wireless developer conference in New York last month, according to a Reuters account.

"If we can just get a few hundred thousand [devices] on this year, we'll be happy," McAdam reportedly said.

Having the freedom to load any application you'd like on a phone will simplify the process of equipping mobile users with access to back-office apps like Oracle and SAP, predicts Michael Voellinger, vice president and practice leader for enterprise mobility at Greenwood Village, Colo.-based telecom spend management company Telwares.

But that convenience will come with a hefty contractual burden. Expect wireless relationships to become "far more complex and multilayered than they are now" as a result of open networks, DiLallo predicts.

Here's a rundown of five changes you should anticipate in a wireless deal crafted for open networks, presented by DiLallo at "Mobile Device Management in a World of Open Networks," an exclusive *Voice Report* webinar recorded April 10. [You can order a CD or on-demand webcast of the webinar by calling (866) 675-4753; more details at www.thevoicereport.com/OpenNetworks.]

#1: Privacy Terms

As carriers look to build revenue through advertising-supported services, they will want to share your enterprise's consumer proprietary network information (CPNI) with their affiliates and business partners so they can send targeted ads to your end users' mobile devices, DiLallo says.

Google's Android platform, for example, is rumored to enable such targeted mobile advertising.

Take advantage of section 222 of the Federal Communications Act of 1934, which gives you the right to prohibit sharing of your information, DiLallo advocates.

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#2: Pricing

On an open network, you'll buy your devices directly from the manufacturer, so carriers won't subsidize them anymore. Don't expect that to translate into the elimination of early termination fees, though, DiLallo says.

Carriers will find other justifications for early termination fees – and minimum service periods, too – such as the need to offset the cost of testing third-party devices or the risk of allowing third-party devices access to their networks, DiLallo says.

Expect early termination fees to be reduced from today's typical \$175 before pro-ration, he adds. Likewise, minimum service periods will be less than the one- and two-year commitments that are common today.

With an influx of new applications and new devices, you also should expect to see some commoditization of wireless voice and data services, and hopefully better bundled offerings, DiLallo says. He points to the \$99.99 unlimited voice usage plans offered by Verizon Wireless and AT&T Mobility, and the \$99.99 "Simply Everything" plan from Sprint Nextel, which includes unlimited voice, data, text, e-mail and Web surfing, as evidence that a change is already underway.

#3: Service Level Agreements

SLAs have never been easy to win, but they will be even more difficult to secure with open networks, DiLallo says. The challenge will be that carriers, software developers and device manufacturers won't want to take responsibility for the interoperability of a device, application or service, DiLallo says.

Players, he predicts, are going to "point the finger at each other and say, 'Look, customer, you're taking the risk that this device and this application are going to work on Verizon's service or on AT&T's service, and we're not going to guarantee that the integrated solution is going to work for you,'" DiLallo says.

Even the basic SLAs you can get today – like one-minute airtime credits for dropped calls or pro-rated outage credits if the service is down for several hours – will be hard to get, he predicts.

#4: Acceptable Use Policies

Acceptable use policies are already onerous – prohibiting the sending of unsolicited e-mails, regardless of whether they are commercial or sent in bulk, for example, DiLallo notes. You might think carriers will loosen their policies to allow customers to use applications and devices that have never been on networks before.

Time Your Contracts With Maturity of Open Networks

Lock in your current contract for another year instead of pursuing an open networks agreement right now, says Kevin DiLallo, a partner at Levine, Blaszak, Block & Boothby, in Washington, D.C., who specializes in wireless deals. Otherwise you risk negotiating rates, terms and conditions that won't be relevant once open networks finally come to fruition, he warns.

Waiting a year "makes perfect sense," agrees Avi Greengart, research director for mobile devices at Washington, D.C.-based competitive intelligence research firm Current Analysis.

Longer-term contracts might not give you the flexibility to purchase some new devices, he says.

Many devices generating buzz now will begin shipping in the late third and early fourth quarters, Greengart says. But most enterprises would prefer to see a version 1.1 before committing to a new device.

Google's Android platform, for example, is in beta right now, so it still will be in "really early code" if it ships later this year, he adds. ☎

Microsoft Launches Windows Mobile 6.1

Microsoft unveiled Windows Mobile 6.1, its latest smart phone operating system, on April 1.

The new OS enables better viewing of Web pages and multimedia, and will allow users to get more critical information – like missed calls and upcoming appointments – from the home screen, Microsoft says in its press release. Setup time also will be reduced on the new version.

Microsoft says it expects handset makers to upgrade to Windows Mobile 6.1 beginning in the second quarter. ☎

New OpenScape Contact Center From Siemens

Siemens introduced its OpenScape Contact Center – offering voice, unified communications and customer interaction capabilities – on April 21.

It will be available beginning June 30, Siemens says in its press release.

The new contact center platform is based on Siemens' new OpenScape Unified Communications Server, which impressed industry watchers when it was unveiled last month because it combines full-featured voice and UC apps on a single server.

OpenScape Contact Center builds on the HiPath ProCenter Enterprise contact center application, Siemens explains. Agents can see all contact center personnel and enterprise users' presence and availability via a desktop client, the manufacturer boasts.

Because OpenScape Contact Center uses SIP, agents can work from any location if they're equipped with the new OpenScape UC Application Personal Edition, soft phones and "productivity desktops," Siemens says.

When deployed with the OpenScape Voice Application, the contact center platform can support as many as 7,500 active agents, Siemens says. The platform includes optional voice and contact center server redundancy with automated fail over.

You can buy the OpenScape Contact Center package – including the OpenScape UC Server, OpenScape Voice, HiPath ProCenter Enterprise and OpenScape UC Application Personal Editions – starting at \$42,500 for 100 voice users, 10 agents and one manager, Siemens says.

Siemens also introduced a natural speech-enabled self-service application called Voice Portal, which is available now. Prices will depend on your configuration, but rates start at \$31,150 for a 48-port configuration, Siemens says. ☎

But expect them to get worse when you have users on open networks, DiLallo warns.

"I think carriers are going to be a little bit scared of the impact of third-party devices and apps on their services and their networks, and so they're going to tighten their AUPs up even more than they have been," DiLallo says.

He also anticipates an increase in service suspensions in cases where new devices and applications have unexpected effects on the network, service or other customers.

#5: Legal Recourse

Most current wireless service contracts prohibit customers from going to court, and instead mandate that all disputes be resolved through arbitration. But the FCC says it will enforce its open network rules for Verizon Wireless' newly won spectrum via its complaint procedure, DiLallo relates.

When signing new open-network contracts, customers should not waive their right to seek FCC intervention to stop discriminatory practices or pricing related to the use of third-party apps and devices, he warns. ☎

Senate to Decide Fate of Two Bills

Momentum Builds for Cell Phone Tax Relief

Attention enterprises that allow end users to make personal calls on corporate cell phones: The U.S. House of Representatives has passed a bill that could make it easier for you to comply with IRS regulations.

Since 1989, cell phones have been considered "listed property" by the IRS, meaning enterprises are responsible for having users log every call they make on corporate cell phones, detailing time, duration and business justification for each call. [See IRS tax code Section 280F(d)(4)(A)(v)] Fail to keep such records and tax end users for their personal usage, and your enterprise could be on the hook for hefty fines [VR 2/28/08].

But a bill passed by the House on April 15 is trying to change that. The "Taxpayer Assistance and Simplification Act of 2008" (H.R.5719) addresses issues as diverse as identity theft and health savings accounts, but also includes a provision that would remove the listed property designation from cell phones.

The bill would relieve you of the obligation to document personal usage of corporate cell phones and tax end users for it for taxable years beginning after Dec. 31, 2008.

The legislation passed by a vote of 238 to 179, and was sent on to the Senate Committee on Finance. It has 18 co-sponsors, including 17 Democrats and one Republican.

But the bill might face opposition because, according to a summary on House Majority Whip James Clyburn’s Web site, it is expected to cost the government \$237 million in tax revenue over 10 years.

Companion Bill Still in Senate Committee

Another bill to remove cell phones from the catalog of listed property was introduced in the Senate on Feb. 26 by Sen. John Kerry, D-Mass., with the backing of three Democratic senators and four Republican senators. The “Modernize Our Bookkeeping In the Law for Employee’s (MOBILE) Cell Phone Act of 2008” (S.2668) immediately was referred to the Senate Committee on Finance, which hasn’t yet acted on it.

In order for cell phones to lose their listed property designation, one of these bills would have to be passed by the Senate Committee on Finance, survive a vote on the Senate floor and then a vote in a conference committee of Representatives and Senators before being considered by the president, an aide in the finance committee explains. ☎

FCC Approves Emergency Alert Text Message System

The FCC adopted technical requirements for the transmission of text message alerts to cell phones during emergencies, it announced April 9.

Carriers’ participation in the Commercial Mobile Alert System is optional and users that are on participating carriers’ networks will be able to subscribe to receive alerts, the FCC explains.

Users can expect to receive three types of alerts if they opt in to the program:

- **Presidential Alerts** that relate to a national emergency;
- **Imminent Threat Alerts** with details on emergencies that might pose imminent risk to lives or well-being; and
- **Child Abduction Emergency/AMBER Alerts** when a child is missing or endangered because of an abduction or runaway situation, according to the FCC.

A federal agency will be designated to collect and transmit alerts to wireless carriers, and participating carriers will have to comply with the FCC’s rules for participation in the program within 10 months of that agency being announced, the commission says. ☎

Area Code Update: Kentucky

Kentucky’s 270 area code split has been delayed for a second time: The new 364 NPA now will go into effect on March 28, 2010. The Kentucky Public Service Commission first announced the 270/364 split in May 2007 and set an effective date of July 1, 2008 [VR 8/20/07]. The effective date was later delayed to Jan. 1, 2009 [VR 12/6/07].

An NPA is exhausted when the North American Number Plan Administration (NANPA) assigns all the available NXXs in that area code. The 270 NPA is lasting longer than expected because carriers returned more NXX codes than were assigned within this area code last year, explains Wayne Milby, senior NPA relief planner at NANPA.

A “split” occurs when a portion of numbers in an existing area code are assigned a new area code. “Permissive dialing” – when both the old and new area codes are active – is possible between the effective date and the mandatory date.

For a complete area code database, visit www.ccmi.com/neb2.html or call *Voice Report* customer service at (888) 275-2264 and select option 1.

State	Type of Change	Old Code	New Code	Effective Date	Mandatory Date
Kentucky	Split	270	364	March 28, 2010	To Be Determined

Source: North American Number Plan Administration planning letters www.nanpa.com/planning_letters/planning_letters_2008.html

AT&T Posts Big Growth, Lays Off 1.5% of Workers

AT&T made \$30.7 billion in revenue during the first quarter, an increase of 6.1% from its revenue in the first quarter of 2007, the carrier reported to the U.S. Securities and Exchange Commission on April 22.

Revenue from wireless data – including Web access, messaging and media bundles – rose 57.3%, the carrier announced. Wireless revenue as a whole grew 18.3% to \$11.8 billion.

Enterprise service revenue is up 2.1%, thanks in part to a 22.9% growth in revenue from IP-based data services, AT&T says.

Yet AT&T will reduce its workforce by 1.5%, mostly among non-customer-facing management employees, the carrier announced in an April 17 SEC filing. The cuts are necessary to streamline the company after multiple acquisitions, it explains. ☎

Verizon Wireless Subscribers Get Web and E-Mail for \$29.99/Mo

Verizon Wireless now offers smart phone users unlimited Web and e-mail access for \$29.99 per month.

The catch: The plan isn't designed to work with Microsoft Exchange Servers, Verizon Wireless spokeswoman Brenda Raney says.

However, users will be able to access e-mail on as many as 10 different accounts hosted by services like Yahoo, AOL, Windows Live and Verizon.net, Verizon Wireless says in its press release.

The unlimited data plan is available on Verizon Wireless' SMT5800, XV6800 and MOTO Q9m, the carrier says. Other devices reportedly will be added in the next few months.

There is a separate e-mail and Web browsing plan for BlackBerry devices, Verizon Wireless says. ☎

Special Access, continued from p. 1

Ideally, you'll score a two-year deal with options to renew for a third and fourth year, says Boothby, a partner at Levine, Blaszak, Block & Boothby, in Washington, D.C., who specializes in regulatory issues that confront enterprises when buying telecom services.

“For an enterprise customer, if they can get themselves a longer-term deal that goes beyond the expiration date of the merger conditions, then they'll have some protection if the prices start to push up,” Boothby says.

Plus, having a two-year deal gives you the flexibility to walk away from the contract should prices drop, she adds.

CLEC Customers Vulnerable, Too

Enterprises buying service from incumbent carriers aren't the only ones who could see rate changes as the conditions expire. CLECs buy special access from incumbent carriers to build out their networks, so CLEC customers are subject to price fluctuations, too.

“Competitive carriers – nine times out of 10 – they can build the artery, but the capillaries – those lower-volume connections... that's where they depend a lot on the incumbent carriers because they're the ones with the network facilities in place,” Boothby explains.

A bank's headquarters might be serviced by Time Warner Telecom's network, for example, but the carrier would buy special access circuits to link all the bank's ATMs, says Kelsi Reeves, vice president of federal regulatory affairs for Littleton, Colo.-based competitive local exchange carrier Time Warner Telecom.

All told, about 40% of every dollar that an enterprise spends on voice and data services goes to an incumbent carrier for special access, Boothby says.

'They're Not Going to Drop Them Like They Should'

Verizon hasn't given Time Warner Telecom any indication that it will raise prices, Reeves relates. Verizon might hesitate before hiking rates because such a move could invite FCC intervention, especially since Verizon is one of the subjects of an FCC proceeding (Docket No. 05-25) dedicated to investigating special access regulations and prices, she adds.

But Boothby is nonetheless concerned that Verizon's special access rates will rise after the merger conditions expire. She points

to the fact that carriers made some “pretty steep” special access price increases after the FCC first allowed them pricing flexibility on these services. [See related article below]

Qwest currently enjoys 132% rates of return on special access, while AT&T has 99.56% returns and Verizon has 51.78%, according to public filings with the FCC, Boothby recounts. “So the prices are already too high,” she says. “Even if they don’t increase them when the freeze goes away, they’re not going to drop them like they should or like they would in a competitive market.”

One of the merger conditions forbids Verizon from giving different pricing to its affiliates and its competitors. But once the merger conditions expire, “Verizon might introduce some lower prices, but if they’re going to increase any special access prices, it would be the prices paid by their competitors,” Boothby says.

Verizon did not respond to *Voice Report’s* request for comment. ☎

Select Regions Immune from Special Access Price Increases

Some enterprises can take comfort that their special access rates will remain stable. In certain geographic areas, the FCC still caps the price of special access.

Most of the special access loops that competitive access carrier Time Warner Telecom buys are under price caps, for example, so these services aren’t affected by the thawing of the rate freeze, says Kelsi Reeves, vice president of federal regulatory affairs for the Littleton, Colo.-based carrier.

But in many cities, incumbent carriers have asked for and won the flexibility to price special access based on market conditions. The FCC began granting pricing flexibility to incumbents in 2001, based on petitions they filed to prove that enough competition existed.

Small carriers have reported special access rate increases after incumbent carriers were given pricing flexibility, notes the U.S. Small Business Administration’s Office of Advocacy in a comment it filed with the FCC.

The special access price freeze put in place as a condition of Verizon’s merger has protected enterprises from rate increases in those geographic areas where Verizon has pricing flexibility for special access, because those are the areas where it has the ability to raise special access rates, Boothby says.

But it’s been a temporary fix, says Karen Reidy, vice president of regulatory affairs for competitive carrier industry association COMPTTEL. “There is a clear market failure in the special access market,” she writes in an e-mail to *Voice Report*. “While the merger conditions may have stabilized the market in the AT&T and Verizon regions for a period of time, they by no means cured the problem. This is why it is so imperative for the commission to address this market failure in the pending special access rulemaking proceeding.” ☎

Use Competition to Thwart Special Access Rate Hikes

So how can you protect your enterprise from special access price increases? Use CLECs to discipline the incumbent carriers, recommends telecom attorney Colleen Boothby, at Levine, Blaszak, Block & Boothby, and Kelsi Reeves, vice president of federal regulatory affairs for Littleton, Colo.-based Time Warner Telecom.

➔ **Keep competitive carriers in RFPs**, Boothby and Reeves suggest. “Always, always, always putting out an RFP and getting some competitive bids is the best way to keep your prices as low as they can be,” Boothby notes.

➔ **Use CLECs for redundant facilities**, Boothby advises. “If you want to keep prices down as an enterprise customer, you have to maintain the appearance and the reality of being able to move traffic to another carrier if you don’t get the price you want,” she says.

Services you buy for redundancy and disaster recovery are a good niche for competitive carriers. “That’s where you want diversity anyway, and that’s a market they can really address,” Boothby adds. ☎

Special Access Time Bomb?

Ready for Verizon's special access rate freeze to expire this summer? Join LB3's **Colleen Boothby**, Time Warner Telecom's **Kelsi Reeves** and *Voice Report's* **Jessica Gdowski** as they work out an enterprise game plan to keep your rates low. Listen now at www.telecomjunkies.com.



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4 Special Access Merger Conditions Set to Expire in July

Verizon agreed to 12 stipulations as a condition of its merger with MCI, which closed Jan. 6, 2006. The FCC mandated that four special access conditions would expire 30 months after the merger. The following regulations only apply until July 6:

- Verizon cannot raise the prices paid by the customers MCI had as of Jan. 6, 2006, on DS-1 and DS-3 wholesale metro private line services that MCI provided in Verizon's incumbent local telephone company service areas above the price level as of Jan. 6, 2006;
- Verizon cannot provide special access offerings to its wireline affiliates that are not available to other similarly situated special access customers with the same terms and conditions;
- Before Verizon's incumbent local telephone companies provide a new or modified contract tariffed service under section 69.727(a) of the FCC's rules to their own section 272(a) affiliates, Verizon must certify to the FCC that they provide service pursuant to that contract tariff to an unaffiliated customer other than SBC/AT&T or its wireline affiliates. Verizon's incumbent local telephone companies also cannot unreasonably discriminate in favor of their affiliates in establishing the terms and conditions for grooming special access facilities;
- Verizon's incumbent local telephone companies cannot increase the rates in their interstate tariffs, including contract tariffs, for DS-1, DS-3 and OC-n (optical carrier) special access services that Verizon's incumbent local telephone companies provide in their local service areas, as written in Verizon's tariffs on file with the FCC on Jan. 6, 2006. ☎

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