

Appendix 2

June 14, 2002

J. Michael Hickey, President
Verizon New England Inc.
d/b/a Verizon New Hampshire
900 Elm Street – Suite 1927
Manchester, NH 03101

Re: Application of Verizon New England Inc., d/b/a Verizon New Hampshire, for a
Favorable Recommendation to Offer InterLATA Service Under 47 U.S.C. 271,
DT 01-151

Dear Mr. Hickey:

By letter dated March 1, 2002, we notified you of our conclusions as to whether Verizon NH complies with the requirements of Section 271 of the Telecommunications Act of 1996 (TAct). That letter explained that we could conclude that Verizon NH's proposal met the 14 point checklist of Section 271 (c)(1)(A) and that the company's entry into the long distance market would be in the public interest if Verizon NH satisfied ten specified conditions. By letter dated March 15, 2002, Verizon NH indicated its agreement to meet six of the conditions. Verizon NH, however, considered compliance with Conditions 2, 3, 5, and 9 to be problematic.

Given that we found certain of Verizon's points reasonable, by letter of April 10, 2002, we directed Staff and the parties to this docket to discuss and develop clarifications, modifications or substitutions to the four conditions in a way to better serve the interests of the parties and the public. We directed Staff to report in writing the results of the discussions. According to the report filed by Staff on May 6, 2002, the parties considered a number of alternatives for addressing the concerns underlying the conditions but did not produce any solution that could be supported by both the CLECs and Verizon. In the meantime, the Joint Legislative Oversight Committee conducted three meetings that further investigated the resolution possibilities.

On June 5, 2002, Verizon submitted a letter summarizing its position in regard to the conditions we established in our March 1st Section 271 Opinion Letter and offered alternatives to conditions 2 and 5, the conditions on the UNE rates and broadband expansion. We now provide this second Section 271 Opinion Letter in light of the entire record, including post-hearing submissions. This Section 271 Opinion Letter retains the prior conditions to which
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Verizon NH agreed, and modifies the remaining conditions as we deemed appropriate. Satisfaction of all the conditions will enable us to conclude that Verizon NH has demonstrated its §271 proposal meets the 14 point checklist and is in the public interest.

A. Conditions To Which Verizon Has Not Objected

Condition 1. To avoid confusion, Verizon will explicitly convert the existing SGAT into a CLEC tariff from which competitors may directly order anything contained in the SGAT, without the need to negotiate an interconnection agreement or amend an interconnection agreement. The tariff may contain a standard form for competitors to complete which would provide Verizon with the information it needs about the competitor in order to interconnect, such as the location of the point of interconnection or identification for billing purposes. The tariff must reflect the SGAT rates, terms and conditions ordered by this Commission in Docket DE 97-171, except to the extent further reductions or changes are required below as a condition of Verizon's receipt of a favorable recommendation on its Section 271 petition.

Condition 4. Verizon will revise the SGAT and CLEC tariff to clarify that UNE-P combinations ordinarily combined by Verizon to serve retail customers will be provided, as they are in Massachusetts, even if the particular loop and switch port affected by the CLEC order are not currently connected and have never been connected to each other before.

Condition 6. Verizon will create a critical-need customer category (e.g., police, fire, hospital) which identifies end-user customers whose continued telephone service is essential to public health and safety. If these customers choose to change local exchange carriers, Verizon must take extraordinary steps to prevent service interruptions during a transfer and to reestablish service should an interruption occur. LECs may, if they desire, notify Commission staff when one of these customers is about to cut over to a new provider, and staff will work with Verizon to insure extra precaution is taken.

Condition 7. Verizon will create a rapid response process similar to that developed in Maine to address issues in dispute between Verizon and CLECs in an expeditious manner. The process will be tested for six months and revised based on our experience.

Condition 8. Verizon will convert all interim number portability to permanent number portability.

Condition 10. Verizon will require employees who deal with CLECs to identify themselves using either an employee identification number or first and last name.

B. Remaining Conditions

Condition 2. The March 1st Opinion Letter directed Verizon NH to recalculate the UNE rates in the CLEC tariff using an overall cost of capital of 8.42%. The March 1st Opinion Letter also directed Verizon NH to reduce UNE rates by 6.43% to account for merger and process re-engineering savings. As proposed by Verizon in its June 5, 2002 letter, Verizon NH will:

- reduce rates for zone 3 (rural) 2-wire analog loops from \$34.87 to \$25 and the zone 3 (rural) 4-wire analog loop rate to \$50.
- reduce switching and transport rates as set forth on Attachment 1.
- reduce UNE DS1 loop rates in all three density zones by 20%,
- reduce UNE Daily Usage Feed File (DUF) rates (referred to in the SGAT as call usage detail) in the following manner:

<u>DUF rate element</u>	<u>current rate</u>	<u>reduced rate</u>
Record charge	\$ 0.004144	\$ 0.001197
Transmission charge	<u>0.000118</u>	<u>0.000022</u>
TOTAL	0.004262	0.001219
Per tape/cartridge	\$ 20.12	\$ 14.36

Condition 3. This condition directed Verizon NH to revise the current SGAT and CLEC tariff to apply the unbundled local switching charge only once to a call that originates and terminates in the same switch. New information provided to Staff and the parties by Verizon NH indicates that no double charging occurs by permitting Verizon NH to bill for both originating and terminating portions of calls within the same switch. We will therefore accept Staff=s recommendation that we remove this condition.

Condition 5. This condition, intended to promote broadband service in New Hampshire, would have allowed competitive provisioning despite Verizon NH=s claims of Ano facilities.@ Verizon NH was directed to create a CLEC-only intrastate special access tariff for DS-1 and DS-3, using UNE rates and SGAT terms and conditions. Verizon NH objected on several grounds, including, confiscation and violation of an FCC commingling prohibition. Verizon proposed an alternative means for satisfying the intent of this condition.

We are not persuaded that the original condition violates the FCC=s commingling prohibition. Nevertheless, consistent with our underlying concern for the rural areas of the state that have few or no options for high-speed Internet service, we will accept Verizon NH's proposed alternative approach to satisfying the concerns underlying our original condition 5. We

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direct Verizon to conduct, in at least six exchanges, a twelve month trial offering of tariffed ISDN BRI service with unlimited circuit switched data usage, at a monthly per line rate of \$30 for residential service and \$50 for business service. The business trial offering may be limited to customers that have no more than six exchange lines. The trial will be further limited to no more than 50 total lines in each exchange during the trial. The trial rates for ISDN BRI service is in addition to basic exchange service.

Our Staff will select exchanges in predominantly rural areas in which to conduct the trial. An economic analysis of the trial will be due from Verizon within two months of the conclusion of the trial and, if the trial is subsequently determined to be unsuccessful, we require Verizon to “grandfather” the existing trial customers’ service and rates for an additional period. The additional period shall end 36 months from the beginning of the trial.

Condition 9. This condition directed Verizon NH to refund or recalculate disputed DC power bills that were rated using the intrastate SGAT rate that was in effect by operation of law prior to the Commission’s final order on DC power (Order No. 23,915). Because there is a docket pending within which this matter can be resolved, we will accept Staff=s recommendation that we remove this condition.

The record shows that Verizon NH has developed the tariffs, the Statement of Generally Available Terms, interconnection agreements, processes and procedures necessary for a competitive market in New Hampshire. At this time, we find that Verizon NH has taken steps to open the local exchange and exchange access markets in New Hampshire to competition in accordance with standards set forth in the TAct, including Section 271. We base our decision on the evidence presented during our review of this docket, consideration of our decisions in other dockets in which we have taken active steps to ensure effective and fair competition¹, and our expectation of Verizon NH=s satisfaction of the six conditions to which Verizon agreed in its March 15th Letter and the modified conditions specified above.

Conditioned on satisfaction of the items specified above, we find that Verizon NH has met the 14 point checklist and that entry into the interLATA toll market is in the public interest. Accordingly, we will recommend that the FCC approve Verizon NH=s Section 271 application to offer interstate long distance telephone service to customers in New Hampshire.

Sincerely,

Thomas B. Getz

Susan S. Geiger

Nancy Brockway

¹ Order No. 23,940 in DT 01-006 and Order No. 23,948 in DT 01-206, *inter alia*.

Chairman

Commissioner

Commissioner

cc: Service List