

TAB 4

APPENDIX A – NH 271 EXHIBITS

EXHIBIT 37

PUBLIC VERSION

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October 1, 2001

VIA OVERNIGHT DELIVERY AND E-MAIL

Thomas B. Getz
Executive Director and Secretary
New Hampshire Public Utilities Commission
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Concord, NH 03301



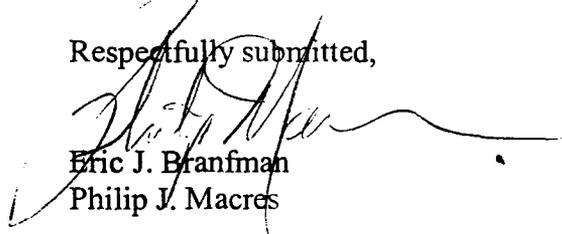
Re: Docket No. DT 01-151, Review of Verizon New Hampshire's 271 Application

Dear Mr. Getz:

Enclosed for filing in the above-referenced proceeding is the non-proprietary Declaration of Freedom Ring Communications, L.L.C. d/b/a BayRing Communications ("BayRing"). A proprietary version of this Declaration is attached that should not be released to the public and kept under seal. A copy of the proprietary Declaration has been sent to Verizon New Hampshire and Paul Hartman.

Enclosed for filing are an original and eight (8) copies of the public version of this filing. In addition, a diskette that contains an electronic copy of this filing in WORD is enclosed. Please date-stamp the enclosed extra copy of this filing and return it in the attached self-addressed, postage prepaid envelope provided. Should you have any questions concerning this filing, please do not hesitate to contact Philip Macres at (202) 424-7770.

Respectfully submitted,


Eric J. Branfman
Philip J. Macres

Enclosures

cc: DT 01-151 Service List

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Verizon-NH)
271 Application)
_____)

Docket No. DT 01-151

DECLARATION OF BAYRING COMMUNICATIONS

Pursuant to the revised procedural schedule as issued by the Hearing Officer Paul Hartman in the above-referenced proceeding, Freedom Ring Communications, L.L.C. d/b/a BayRing Communications (“BayRing”), by its attorneys, hereby submits its Declaration regarding Verizon New Hampshire’s (“Verizon”) 271 Filing dated July 31, 2001, and its compliance with the market opening measures embodied in the fourteen point Competitive Checklist of the Act.¹

I. THE DECLARANT

1. My name is Benjamin P. Thayer. My business address is 359 Corporate Drive, Portsmouth, New Hampshire 03801. I have been employed by BayRing since 1996 and currently am Chief Operating Officer. In this capacity, my responsibilities include complete oversight of all operations at BayRing.

2. Subsequent to the Telecommunications Act of 1996 (“TACT”) BayRing became the first CLEC approved in New Hampshire. BayRing entered the CLEC market with the belief that the TAct would require Verizon to treat CLECs including BayRing in an equitable manner as required by the TACT. BayRing was and remains confident that if Verizon adhered to the TACT

¹ 47 U.S.C. § 271(c)(2)(B)(i-xiv) (“Competitive Checklist”).

as required by law, we, through our management skills, ability to run an efficient operation, and knowledge of the local telephone business would succeed in bringing a stellar competitive product to New Hampshire consumers. Unfortunately, Verizon has consistently veered from its obligations under the TACT functioning as an impediment to competition, the result being substantial damage to BayRing and New Hampshire consumers. Until Verizon can demonstrate that it fully and consistently complies with the TACT and does not systematically work as an obstacle to competition in New Hampshire, Verizon should, at a minimum be prohibited from offering in-region interLATA service.

II. COMPETITIVE CHECKLIST ITEM 1 (INTERCONNECTION): Verizon's Collocation Terms Are Unreasonable.

3. Section 271(c)(2)(B)(i) of the Act requires that a Bell operating company, including Verizon-NH, that seeks authority to provide in-region interLATA services, must provide interconnection arrangements in accordance with the requirements of Sections 251(c)(2) and 251(c)(6).² More specifically, Competitive Checklist Item 1 requires Verizon to provide collocation "on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements."³ Verizon maintains that its Checklist Declaration demonstrates that it "is in compliance with the requirements" of Competitive Checklist Item 1.

4. Contrary to Verizon's assertions, Verizon, until recently, has employed absolutely unreasonable terms and conditions in assessing its collocation power charges and has significantly overcharged BayRing as a result. In particular, Verizon has charged BayRing (and

² 47 U.S.C. § 271(c)(2)(B)(i) ("Competitive Checklist Item 1").

³ 47 U.S.C. § 251(c)(6); *Verizon New England, Inc., d/b/a Verizon New Hampshire, Section 271 of the Telecommunications Act of 1996 Compliance Filing*, Verizon's Checklist Declaration, at ¶ 58 (July 31, 2001) ("Verizon Checklist Declaration").

presumably other CLECs) for far more power than it actually consumed. Importantly, as noted in Verizon's Declaration, Verizon has, in implicit recognition of the inappropriateness of its previous application of power charges, recently changed the way it assesses these charges.⁴ Despite this change, Verizon's collocation terms and conditions do not recognize that Verizon flagrantly overcharged BayRing, or other CLECs, for collocation power and do not attempt to reconcile such past unreasonable practices with CLECs. For this reason, Verizon's collocation provisions, as further discussed below, do not comport with Competitive Checklist Item 1. It simply will not suffice for Verizon to state that it will not overcharge CLECs in the future while, at the same time, it refuses to correct the overcharges it has imposed in the past. Having Verizon's continuing claims for past collocation overcharges hanging over them impedes the ability of BayRing and other CLECs to compete, including their ability to obtain financing.

5. By way of background,⁵ BayRing is entitled to obtain space in Verizon central offices to physically collocate equipment. Verizon owns and controls the central office(s) in which facilities-based competitors, such as BayRing, must collocate equipment to interconnect with the public switched telephone network. In those central offices, Verizon is the only provider of 48 V DC power ("DC power"), which is vital to the operation of BayRing's collocated equipment.

6. To obtain space in a Verizon central office, Verizon requires BayRing to complete an application specifically designed by Verizon. In the collocation applications BayRing completed, Verizon demanded detailed information regarding the equipment BayRing planned to place and use in the collocation space, including the DC power drain in amps for each piece of equipment

⁴ Verizon Checklist Declaration ¶ 97.

⁵ 47 U.S.C. § 251(c)(6).

and the total power drain in amps for all equipment to be deployed in the collocation space.⁶ Accordingly, Verizon through its own application process, was expressly informed of, and put on notice of, the total DC power drain in amps for each collocation space.⁷

7. In the application, Verizon, with respect to calculating the number of DC power feeds and the amount of DC power requested, specifically instructed that “[a] quantity of ‘1’ [emphasis added] equals one A & B feed pair. When indicating the number of AMPS load per feed, a quantity of ‘30’ equals 30 AMPS on A and 30 AMPS on B – **Do Not Add Together** (sic).”⁸ When BayRing ordered “1” DC power feed, it was, according to Verizon’s own instructions, ordering an A & B pair. Furthermore, when BayRing indicated it would require 40 amps, it was *not* requesting 60, 80, or 120 amps, but rather, as specifically instructed by Verizon, the amps for A and the amps for B should *not* have been added together.

8. In accordance with basic telephony engineering, all central office equipment, including the equipment deployed by BayRing, is manufactured to have both an “A” power side and a “B” power side. Equipment is manufactured in this manner to ensure that if a fuse blows there is a redundant path for power to the equipment and the equipment will continue to operate. In no event does the existence of an A side and a B side increase in any way the amount of power provided to BayRing’s collocation equipment or the amount of power that is drained by BayRing’s equipment. Instead, it simply provides a *redundant path* to the same power supply -- *not* an additional *source* of power.

⁶ See Verizon Collocation Application – Instructions For Use in the former Bell Atlantic and NYNEX regions, CLEC Handbook, at Section IV (ver. 2/1/01).

⁷ *Id.*

⁸ *Id.* at 4. See also, e.g., Exhibit 1.

9. Considering that Verizon defined a “Feed” as being an A and B pair (and specifically instructed applicants *not* to add the A side and the B side together to get the total power required), it is clear that Verizon recognized, in accordance with basic telephony engineering, that the B side was intended simply as a redundant path from the equipment to the exact same power supply in the event that a fuse blew. Nevertheless, Verizon insisted on charging additionally for this B side as if it were a separate additional feed, even though the B side did not increase the power requested or the power provided *in any way*.

10. BayRing applied for and was granted space to physically collocate equipment in 4 Verizon central offices in the State of New Hampshire. BayRing submitted applications for these collocation spaces beginning in November of 1997 and continuing through 2000. As required by Verizon’s collocation application and instructions. BayRing specified in each application the number of DC Feeds (an A & B pair equaling one feed) and the number of amps load per feed and the rated amperage (and drainage) for the planned equipment.

11. BayRing provided this detailed information regarding its DC power needs for the ostensible purposes of ensuring proper construction of the collocation space by Verizon, adequate notice of power needs, and proper billing of power *consumed*.

12. Unbelievably, a BayRing internal audit revealed that Verizon charged BayRing for DC power as if both the A and B pair were simultaneously drawing the maximum power even though the A/B pair configuration, which was required by Verizon’s own application, simply creates a redundant path for the power and does not increase the power that is delivered to or drawn by BayRing’ equipment.

13. The audit further exposed Verizon’s practice of charging for total fused amperage in all feeds. Because Verizon sized the fuse for both the A and B sides to provide for a buffer of

50% above the requested load, this added a comparable percentage increase in the amount Verizon charged BayRing for DC power.

14. As a result of Verizon's practice of using (1) a 50% buffer and (2) charging as if the A and B pair doubled the potential power capacity delivered to the collocation space instead of simply creating a redundant path, Verizon significantly overcharged BayRing for DC power. For example, Verizon would charge its carrier competitors for 120 amps when only 40 amps were requested –*tripling the legitimate charges*.

Requested amps:	40 amps
Add 50% buffer (40 x 1.5):	60 amps
Add back-up feed (2 x 60):	120 amps charged

15. BayRing is as astounded by this practice as it would be if it discovered that its monthly square footage charges for office space included not just floor space, but the square footage of walls and ceilings as well. Verizon's practices concerning DC power charges were just as contrary to the standard practice of charging for power drained, and just as absurd.

16. In its Declaration, Verizon claimed that as a result of CLEC concerns regarding such application of rates, it changed the way it charges for power from the quantity of fused amps provided to the quantity of load amps requested by CLECs on each power feed.⁹ As Verizon stated, "This means that if a CLEC requests 40 load amps on a power feed and Verizon NH fuses that power feed at 60 amps per industry standards, the CLEC will have the capability of using up to 60 amps on that power feed but will only be charged for 40 amps."¹⁰

⁹ Verizon Checklist Declaration ¶ 97.

¹⁰ Verizon Checklist Declaration ¶ 97.

17. Along with this Verizon billing practice, Verizon has charged BayRing far more for collocation power than BayRing actually used in Verizon's Portsmouth central office. In particular, Verizon charged BayRing for 200 amps when it only used approximately 50 amps in that central office.¹¹

18. Collectively, Verizon's practices of billing excess DC power have resulted into the hundreds of thousand of dollars in overcharges to BayRing as of May 6, 2001.

19. Verizon's practice of charging for power in excess of that requested and consumed by BayRing was an unjust, unreasonable, discriminatory, duplicitous and anti-competitive practice that violated section 251(c)(6) of the Act and resulted in a financial windfall to Verizon. Section 251(c)(6) requires ILECs to provide collocation "on rates, terms and conditions that are just, reasonable and nondiscriminatory." Section 251(c)(6) specifically imposed on Verizon:

The duty to provide, on rates, terms and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection ...

The importance of section 251(c)(6) cannot be overstated. Physical collocation is fundamental to a carrier's ability to compete in the telecommunications market. Recognizing the importance of physical collocation, the FCC strengthened its collocation rules in response to findings that the ILECs were "improperly delaying, making more expensive, or precluding entirely the competitive local carriers' [] physical collocation efforts."¹²

¹¹ In 97-171, BayRing objected to Verizon's refusal to apply SGAT collocation rates and assessment of collocation power that has been provisioned rather than actually drawn. Pursuant to Order Commission No. 23, 738, the Commission has approved a separate docket on this matter, DT 00-072, within which it will consider these issues.

¹² *Deployment of Wireline Services Offerings Advanced Telecommunications Capability*, CC Dkt Nos. 98-147 and 96-98, Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, para. 2 (rel. Aug. 10, 2000) (emphasis added).

20. Verizon's billing practices described herein served to increase the operational costs of Verizon's competitors. When Verizon charged for duplicative DC power feeds, intended simply to provide a redundant path to a single power supply, and charged for fused amperage in excess of that requested, Verizon dramatically increased the cost of collocation space for its competitors. Competitors were paying for power that was never drawn nor necessary or usable for a competitor's equipment. Verizon charged for power well beyond the equipment's power limit. This is a prime example of Verizon making collocation tremendously more expensive, thereby, creating a barrier to entry into the market and/or forcing early exit from the market. Such a practice was unjust, unreasonable and discriminatory and, therefore, in violation of section 251(c)(6) of the Act.

21. Although Verizon has changed the terms and conditions associated with the application of its power rates, the current provisions do not recognize and reconcile the unreasonable practices it forced upon CLECs in the past and provide necessary reparations. Until Verizon lifts the burden of its past law violations from BayRing and other CLECs, competition on a level playing field cannot begin. Verizon's application is deficient because it fails to consider its accountability for such egregious anti-competitive conduct.

III. COMPETITIVE CHECKLIST ITEMS 2 (NON-DISCRIMINATION), 4 (LOCAL LOOPS), 5 (LOCAL TRANSPORT), 11 (LOCAL NUMBER PORTABILITY), OSS (CLEC SUPPORT SYSTEMS): Verizon's UNE Provisioning is Deficient.

22. Section 271(c)(2)(B)(ii) of the Act requires an RBOC seeking in-region interLATA authority to offer "nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)"¹⁵ Section 251(c)(3), in turn, requires incumbent LECs "to provide, to any requesting telecommunications carrier for the provision of a

¹⁵ 47 U.S.C. § 271(c)(2)(B)(ii) ("Checklist Item II").

telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory.”¹⁴

23. In addition, Section 271(c)(2)(B)(xi) of the Act requires “[u]ntil the date by which the [FCC] issues regulations pursuant to section 251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations.” Number portability is defined in Section 3(30) of the Act as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.”

24. Verizon claims that its New Hampshire interconnection agreements, SGAT and NHPUC No. 84 Tariff include terms and conditions “that enable it to provide nondiscriminatory access to network elements.”¹⁵ Additionally, Verizon claims that it “provides access to network elements, separately and in combined form, in the same manner provided by Verizon MA,¹⁶ which the FCC has recently found to be satisfactory.”¹⁷ More specifically, Verizon contends that it provides unbundled local loops, including high capacity loops, subloops, and local transport using substantially the same processes and procedures in New Hampshire that that it uses in Massachusetts.¹⁸ Verizon also claims that it provides number portability in the same manner as

¹⁴ 47 U.S.C. § 251(c)(3).

¹⁵ Checklist Declaration, ¶ 101.

¹⁶ New England Telephone and Telegraph Company d/b/a Verizon Massachusetts (“Verizon MA”).

¹⁷ Verizon Checklist Declaration, ¶ 102.

¹⁸ Verizon Checklist Declaration, ¶¶ 102, 167, 202, and 210.

it does in New York and Massachusetts.¹⁹ Verizon also states that it has designed and implemented an extensive array of support services for CLECs to use in entering and participating in the local telecommunications market throughout its service areas including New Hampshire.²⁰

A. Verizon's Provisioning of UNEs and Ability to Port Numbers Through its OSS is Inadequate.

25. Verizon cannot demonstrate compliance with Checklist Items 2, 4, 11, and OSS because the quality of service that Verizon provides BayRing is woefully inadequate. This is so because: (A) Verizon consistently ignores crucial order dates that have been entered and confirmed in Verizon systems causing increased cost to BayRing as well as substantial operational problems from New Hampshire consumers that have opted to use a Verizon competitor; (B) the processes Verizon uses to provision services are generally inefficient and do not allow for a smooth and timely coordination of efforts with BayRing; (C) many of Verizon's personnel that are assigned to provision BayRing's orders either lack of experience or preparation, or even worse, are uncaring and unresponsive; (D) Verizon does not have a contingency emergency process for BayRing, or any CLEC, to utilize to expeditiously *resolve service disruptions to emergency facilities* and, if it does, its service representatives are ignorant of them. As a result, BayRing's relationship with Verizon is extremely difficult and costly because BayRing's efforts to compete are constantly frustrated and thwarted by these problems. To illustrate further, provided below are four examples of Verizon's deficient provisioning performance that occurred just days before this declaration was due.

¹⁹ Verizon Checklist Declaration, ¶ 368.

²⁰ Verizon OSS Declaration, ¶ 118.

26. Example 1. On August 8, 2001, BayRing requested that Verizon provision a high capacity UNE loop from Verizon's Portsmouth, New Hampshire central office to a customer located in Kittery, Maine. Verizon's Kittery, Maine customers are served by Verizon's Portsmouth, New Hampshire central office and are considered part of the New Hampshire LATA pursuant to the AT&T Consent Decree.²¹ On August 16, 2001, Verizon, however, rejected the request because it lacked a multiplexer at the end-user's location. Once rejected, under Verizon's convoluted ordering process the only way BayRing could obtain such a circuit would be to order the circuit out of Verizon's special access tariff.²² Following the directives of Verizon's notification, BayRing immediately submitted a special access request for the circuit.²³ Verizon then denied BayRing's request on the basis that the circuit crossed LATA boundaries and that Verizon could not provide such interLATA services. After receiving this rejection notification, BayRing Staff had numerous conversations with Patrick Rooney, a Verizon special access service representative, and James Quinn, Verizon New Hampshire's CLEC representative. During these conversations, BayRing explained that Verizon's rejection was improper because the Kittery, Maine customer is within the New Hampshire LATA. Mr. Quinn contacted Verizon counsel in New York and was told that Verizon would not accept the order and would not provision the circuit. Despite Mr. Quinn's effort and his belief that Verizon was obligated to accept the order, Verizon management and legal staff refused to provision BayRing's request on the grounds that the circuit was interLATA. I then turned to Kate Bailey, a senior staff member

²¹ The NH LATA includes seven Maine border communities one of which is Kittery. These border communities are exceptions recognized by the AT&T Consent decree. *United States v. Western Elec. Co.*, 569 F. Supp. 990, 1012-13 & n.102 (D.D.C. 1983).

²² Verizon's general requirement in this regard is another objectionable policy that is discussed later in this declaration.

²³ See PON: NEON01080565A.

with the New Hampshire Public Utilities Commission, for assistance in resolving this issue. Ms. Bailey called Alan Cort, Verizon New Hampshire's Director of Regulatory Affairs, and tried to resolve the problem but was unable to foster any immediate resolution of the issue.

27. Because a significant amount of time was passing and Verizon remained unwilling to act, I then contacted Trina Bragdon, a staff attorney with the Public Utility Commission of Maine, on or about September 19, 2001, and raised an informal complaint that Verizon was refusing to provide BayRing access to the Kittery, Maine customer. Ms. Bragdon contacted Donald Bockie, Verizon Maine's General Counsel, who apparently researched the matter and notified Verizon staff that the rejection was inappropriate and that the request did not cross LATA boundaries. Verizon, through Mr. Cort, told me on Friday, September 21, 2001 that BayRing had to submit a new order for the circuit, and BayRing immediately did so. Discouragingly, when BayRing followed-up with the request on Wednesday, September 26, 2001, it discovered that Verizon did not process the order because it was apparently misplaced or misdelivered (BayRing has in its possession verification of fax completion of the order). As a result, BayRing had to submit yet another order for the circuit on Wednesday, September 26, 2001. Incredibly, *seven* weeks have passed since BayRing originally ordered the facilities and they still have not been provisioned, nor has Verizon provide BayRing with an installation date.

28. As the above sequence of events demonstrates, BayRing experienced substantial delay and expense in attempting to resolve this issue with Verizon prior to getting the staff attorney involved. It is extremely disappointing that Verizon's personnel did not know that Kittery, Maine end users were served out of Verizon's Portsmouth, New Hampshire central office, and didn't even seem to pay attention to this crucial fact even after BayRing pointed it out. Obviously, the permissibility of provisioning such facilities is elementary given Verizon's

own retail customers in Kittery, Maine are currently provisioned through Verizon's Portsmouth, New Hampshire central office. In addition, Verizon's employees were reluctant to recognize BayRing's claim that this was the case and regrettably, but predictably, turned to bureaucratic delay tactics. These tactics include, but are not limited to, making statements indicating that they need to check into this issue further and will get back to the CLEC, but never do so or do so in an untimely manner, as a means to avoid provisioning the service altogether. What is further troubling is that the delays caused by Verizon may have caused BayRing to lose this customer if regulators such as Ms. Bailey and Mrs. Bragdon, had not become involved. Clearly, BayRing should not have to resort to calling any Commission staff to get basic issues resolved. In addition, Verizon should be required to resolve such fundamental disputes quickly, which it is currently unable to do, because BayRing, in the meantime, is precluded access to Verizon facilities the longer they are unjustifiably drawn out. Importantly, the end result is that such delays harm New Hampshire consumers and preclude BayRing from having a meaningful opportunity to compete.

29. Example 2: On Wednesday, September 19, 2001, Verizon's poor provisioning performance and lack of adherence to its own alleged procedures caused the Exeter Hospital to lose telephone service for 15 hours. The eventual problem was identified as Verizon's failure to remove numbers from its switch translations after those numbers had been ported to BayRing through standard local number porting procedures. During the 15 hours that the Hospital's service was down, BayRing worked frantically to resolve the problem. Incredibly though, Verizon had no process by which to handle emergency CLEC issues and its service representatives, for the most part, were unconcerned about the seriousness of the outage and were not in a position in which they could fix the problem or get someone involved who could.

In the end, it took a call for assistance to Alan Cort, New Hampshire's Director of Regulatory Affairs, at 12:30 at night, as well as a member of the BayRing switching department talking a Verizon switch tech through the rudimentary procedure of troubleshooting and removing the numbers from the Verizon switch. Fortunately, I was able to get through to Mr. Cort who then called Loraine (please note that most Verizon employees will only provide CLECs with their first names) at the Wholesale Customer Care Center and instructed her along with a Verizon switch technician to work with BayRing to fix the problem that prompted the service outage. Toward the end of this 15-hour outage, during which a major medical institution could not receive a single call on its main line, Mr. Cort finally was able to bring Denise, a Verizon switch tech, onto the conference call with BayRing Staff. Within minutes of Denise's presence on the call, John Conner, BayRing's Switch Supervisor, instructed her in troubleshooting and fixing the problem. It is inconceivable that Verizon would have delayed this long had the problem been with a hospital that was a Verizon customer.

30. To elaborate, BayRing submitted an order for Verizon to reassign 5 DID blocks or 500 numbers to BayRing that serve Exeter Hospital.²⁴ The numbers that were to be reassigned were to be part of a hunt group that served the hospital. The order required that Verizon reassign the numbers on September 19, 2001 and when Verizon executed the order on this date, the hospital's telephone service was lost. BayRing's switch was not receiving the calls, as it should have. Once the hospital lost service, BayRing immediately contacted Verizon to attempt to find out why Verizon was not passing the calls.

31. In doing so, BayRing spoke with Lydia, a Verizon representative, who told BayRing that the hospital numbers had been reassigned and had been pulled out of Verizon's switch

²⁴ See PON: E-EH0107249A.

translations. Lydia proceeded to tell BayRing that the conversion was complete and that BayRing should be receiving the DID calls. Despite this assertion, BayRing was not receiving the calls and the hospital did not have telephone service. Lydia confirmed at least seven times throughout the course of the outage that the numbers in question had been removed from the Verizon switch, although, in the end Verizon conceded the information was incorrect, as Verizon had not removed the numbers from its switch as required.

32. With incorrect information provide by Verizon, BayRing assumed the reason the calls were not being passed was that Verizon had restricted the call paths associated with the hospital's main line. BayRing called Verizon's Wholesale Customer Care department and requested that Verizon immediately increase the number of talk paths on the line because the hospital could not receive calls. BayRing then explained that by doing this, multiple calls to this number would immediately be forwarded to the DID block that BayRing established for the hospital - which in turn would restore the hospital's telephone service. Verizon's representative responded that Verizon could not do this because the line and the number were provisioned by another CLEC via resale of Verizon's facilities. She refused to provide the name of the CLEC that would need to originate any request associated with the line.

33. Noting the seriousness of the situation, BayRing again requested the name of the CLEC, but Verizon remained unwilling to provide it. After significant pleading by BayRing, Verizon finally revealed that the line was resold to Business Long Distance. BayRing queried Verizon as to whether Business Long Distance was in any way associated with Conversant Communications, another CLEC to which BayRing believed the line was resold. Verizon responded that it was not. Despite the fact that BayRing did not control the line, the

representative tried to be of some assistance and busied out the line to see if calls would get redirected to BayRing and the reassigned DID block; however, they did not.

34. Fortunately, BayRing was able to find out on its own that Business Long Distance was, contrary to Verizon's representations, in fact an affiliate of Conversant. BayRing immediately called Conversant regarding the situation and asked Conversant to request Verizon to increase the number of talk paths on the Business Long Distance line mentioned above. Conversant, in recognizing the seriousness of the issue, submitted this request to Verizon. Verizon, however, still was apparently unaware that Conversant was affiliated with Business Long Distance, and rejected Conversant's request. To resolve this problem, Conversant placed a number of calls to Verizon explaining the issue and Verizon finally recognized the relationship of the companies and agreed to discuss the trouble with Conversant.

35. Conversant then requested that Verizon join a conference call with BayRing's staff and Conversant to help resolve this emergency situation. Verizon representatives refused to participate on the call because BayRing was not the customer. Because of Verizon's refusal to join the call Conversant had to call Verizon on a separate line and the Conversant representative had to graciously jockey between calls during the troubleshooting process.

36. At that point, it was just after midnight and the Verizon representative, although aware of the urgency of the situation and that BayRing was on the other line, had the gall to inform Conversant that it could not change the talk paths because the number in question as of 12:00 a.m. belonged to BayRing (even though it would not be ported for another 8-10 hours) and that BayRing would have to initiate any calls relating to the number.

37. Being at wits end and 12 hours into the service outage, I stepped in and called Alan Cort, at his home at 12:30 a.m. and requested his assistance. Fortunately, Mr. Cort took the call

and immediately proceeded to get the appropriate Verizon service representatives on the problem.

38. Subsequent to Mr. Cort's entrance in the process, Verizon representatives added call paths to the main number; however, calls still did not complete to the Hospital. BayRing then requested Mr. Cort to have a switch technician involved in the conference call because it appeared, after troubleshooting, that the problem resided in Verizon's switch. Mr. Cort did so and the switch technician was then asked to verify whether the DID numbers had been taken out of Verizon's switch. The technician discovered and reported that they were not. BayRing then instructed the switch tech to take the numbers associated with the DID block out of the switch translations which she did. After the switch tech completed this task and approximately 14 hours after the outage started, BayRing began receiving calls and Hospital's telephone service resumed.

39. After proper diagnosis of the problem, it became apparent that the service outage would have been avoided had Verizon, as required, removed the numbers from its switch translations. As mentioned above, Verizon told BayRing numerous times that the DID block reassignment had been completed and that all the numbers had been removed from Verizon's switch. The group assigned to remove the numbers during the reassignment process, Network Operational Control Center, never undertook the task although the service representative was told that it had been done.

40. Unbelievably, during this fiasco, BayRing made many calls to Verizon and spent a significant amount of time speaking with various Verizon service representatives who, for the most part, refused to do anything despite the gravity of the service outage and were otherwise disinclined to take the necessary steps needed to cure the problem. In addition, many of the

Verizon's service representatives, in avoiding accountability, refused to give their entire names during the troubleshooting process when asked by BayRing. Moreover, as mentioned above, service representatives refused to participate on conference call with BayRing and another CLEC to resolve a serious service outage and made assertions that they did not have the authority as a matter of Verizon policy to work with BayRing on such a conference call when doing so.

41. In reflection, there is no question that the 15-hour telephone service outage to the hospital would not have occurred had Verizon reassigned DID numbers out of Verizon's switch translations, as it should have done. Despite this mishap, an emergency facility was down and there was no expedited process for Verizon's service representatives to follow when such situations happen. Indeed, Verizon should have people and processes in place to handle emergencies when they arise. Clearly, such a process should not require CLECs to call Verizon's senior management at home after 12:00 at night. Among the many frustrations BayRing experiences based on Verizon's actions, the aforementioned is a prime example of how Verizon will disregard its own alleged processes and cause substantial problems for CLECs and New Hampshire consumers, but consistently refuses to put in place adequate procedures to remedy its many errors.

42. Example 3: On August 28, 2001, BayRing submitted a trouble ticket on a T-1 circuit that Verizon provisions for BayRing in Exeter, New Hampshire.²⁵ Verizon tested the line and reported back to BayRing that there was "no trouble found." BayRing then rechecked the circuit to find that the original trouble remained. At that point, BayRing submitted another trouble ticket and requested that Verizon technicians meet with BayRing technicians to diagnose the trouble. Verizon, however, refused to meet with BayRing and again reported back to BayRing

²⁵ Trouble Ticket No. CL100587.

that there was “no trouble found.” Because the problem persisted, BayRing submitted another trouble ticket and requested that Verizon technicians meet with BayRing, again in order to uncover the problem. Unbelievably, BayRing went through this process 5 times before Verizon finally agreed to meet with BayRing on September 7, and when they did meet, Verizon discovered that it had improperly wired the circuit.

43. As a result of Verizon’s refusal to meet with BayRing, it took a total of 10 days to correct a problem on a circuit that was caused by Verizon. Obviously this error could have been corrected much sooner had Verizon been willing to meet with BayRing as BayRing had originally requested. Indeed, Verizon’s failure to respond to such requests made by BayRing makes it virtually impossible to have an efficient troubleshooting process that allows for a smooth and timely coordination of efforts. Importantly, during the time period that Verizon refused to meet, BayRing could not provide service to its customer, which limits BayRing’s opportunity to compete and New Hampshire consumers’ access to competition. In addition, Verizon’s repeated refusals to meet with BayRing drove up BayRing’s costs considerably.

44. Example 4: On September 13, 2001, BayRing submitted a service order to Verizon requesting that it port 23 specified numbers to BayRing on September 25, 2001.²⁶ Verizon confirmed the order and date. However, Verizon, on September 18, disconnected 12 of the numbers, substantially disrupting the customer’s business. Verizon, on September 21, again disconnected 12 numbers, the result being additional customer disruption. Further, when BayRing called in the trouble, Verizon repeatedly stated that they had done nothing to cause the outage. In the end, of course, Verizon was wrong and had in fact prematurely disconnected the lines. Again, as a result of Verizon’s incompetence and inability to follow procedures BayRing

²⁶ PON: D-EAD0108255.

had to expend substantial effort and another New Hampshire consumer was harmed. Unbelievably, on September 25, the scheduled date of the order, Verizon did not remove 12 of the customer's numbers from Verizon translations – resulting in another service outage. Once again, Verizon's mishap, whether by design or not, caused BayRing's customer to lose service, thereby undermining BayRing's efforts to compete.

45. Although there are many other horror stories associated with provisioning, the above are just a few recent examples of what BayRing has experienced when working with Verizon. It is also important to note that Verizon's poor provisioning performance immediately and significantly undermines BayRing's relationship with its customers. When the customer's first service experience with BayRing is a 15-hour outage, BayRing not only loses the goodwill of that customer, but the customer may inform other prospective customers that leaving Verizon for BayRing is too fraught with risk to be worthwhile. In fact, when such Verizon-caused problems occur, some customers become enraged with BayRing, saying that they never experienced these problems before, when they were "with Verizon." Notably, there is a direct cost when such problems occur and BayRing feels the financial brunt of it because customer expect service credits even though the problems were caused by Verizon.

46. To make matters worse, Verizon's knee-jerk reaction is to blame BayRing when questioned about any service disruptions. In fact, Verizon has repeatedly told BayRing customers that the problem is with BayRing when the fault actually lies with Verizon. The bottom line is that loss of confidence and good will that occurs as a result of such planned or engineering rearrangements is absolutely unacceptable and totally avoidable if Verizon had qualified personnel and appropriate processes in place to handle various provisioning issues as they arise.

B. Verizon Does Not Provide Adequate Access to Dark Fiber.

47. Verizon's assertions that it provides satisfactory access to network elements in New Hampshire are patently false with respect to unbundled dark fiber loops, subloops, and transport. In fact, BayRing has not been able to get dark fiber when it requested it.²⁷ In addition, Verizon has admitted that it rejected 90 out of 107 inquiries for dark fiber between January 2000 and July 2001.²⁸

48. Moreover, Verizon has failed to provide a sufficient basis for rejecting BayRing's dark fiber requests in contravention of the NH PUC's Order No. 22,942. In particular, the Order requires that if Verizon denies dark fiber access requested,

Bell Atlantic shall include in its written reply the reason the request cannot be granted. The reason must be specific and include the following: total number of fiber sheath and strands between points on the requested routes, number of strands currently in use and the transmission speed on each strand (e.g. OC-3, OC-48), the number of strands in use by other carriers, the number of strands reserved for Bell Atlantic's use, the number of strands lit in each of the three preceding years, the estimated completion date of any construction jobs planned for the next two years or currently underway, and an offer of any alternate route with available dark fiber. In addition, for fibers currently in use, Bell Atlantic shall specify if the fiber is being used to provide non-revenue producing services such as emergency service restoration, maintenance and/or repair.

Verizon, however, has not provided this information to BayRing. For example, an application for dark fiber that BayRing submitted to Verizon along with Verizon's rejection is attached as Exhibit 2. Verizon's response to this request does not include the detail that the Commission ordered. In particular, Verizon's response does not indicate whether the strands identified include all the dark fiber strands between points on the requested routes; whether they are actually in use or the transmission speed of each strand; the number of strands in use by other

²⁷ See attached Exhibit 2.

²⁸ JC 1-75.

carriers; the number of strands reserved for maintenance by Verizon; the estimated completion date of any construction jobs planned for the next two years or currently underway, an offer of any alternate route with available dark fiber. In addition, Verizon does not specify and if it does it is not clear if the fiber is being used to provide non-revenue producing services such as emergency service restoration, maintenance and/or repair.

49. While the Commission decided in Order No. 22,942 that the fast track arbitration process can be used on a case-by-case basis when Verizon rejects dark fiber requests, BayRing has not utilized this avenue of relief because it is not practical or economical to employ from a business standpoint. Gearing up for litigation repeatedly in response to Verizon's denial of each and every Bay Ring dark fiber request requires an expenditure of BayRing's limited resources that cannot be freely exhausted. Regrettably, Verizon has exploited this PUC requirement by rejecting 84% of dark fiber requests in recognition of the fact recognizes that CLECs cannot afford to resort to such litigation for the vast majority of their dark fiber requests. Verizon's 84% rejection rate of dark fiber is a direct indication that the fast track arbitration process is not operating as the Commission intended.

50. Importantly, the Commission stated in Order No. 22,942 that it reserves the right in the future to establish more specific criteria for reservation of dark fiber in light of experience gained during the arbitration process. Because BayRing is unaware of any evidence that indicates that that this avenue of relief has served to curb Verizon's nearly uniform rejections of all dark fiber requests, BayRing suggests that the Commission consider the dark fiber reservation regulations in place in neighboring states such as Massachusetts.

51. Notably, Verizon's policies regarding maintenance spares and reservation of dark fiber severely limit the quantity of dark fiber that is characterized as "spare" and "available" to

CLECs in New Hampshire as compared to Massachusetts. While in Massachusetts, Verizon may reserve a quantity of fibers in a cable as “maintenance spares” that are not available to CLECs as unbundled dark fiber,²⁹ maintenance spares are limited to a maximum of five percent of the fibers in a sheath with a minimum of two fibers reserved in cables with 12 to 24 fibers and no more than 12 reserve fibers in larger fiber cables.³⁰ Moreover, Verizon MA must inform the CLEC in writing if it denies a request for dark fiber and has reserved fibers for its own business needs in excess of these amounts for maintenance spares.³¹ Additionally, in Massachusetts Verizon will not reserve fiber pairs for unknown and unspecified future growth and, in fact, will not reserve fiber pairs unless such fibers have been “installed or allocated to serve a particular customer in the *near future*.”³²

52. Indeed, Verizon’s rejection as set forth in Exhibit 2 seems to indicate a significant amount of fiber is being reserved for a certain customer on the route between Dover and Barrington and the route between Barrington and Rochester. Verizon’s rejection, however, does not indicate if the fiber will actually be used in the *near future*, if at all.

53. Moreover, despite Verizon’s claim that it provides nondiscriminatory access to dark fiber in conformance with the Commission’s Order No. 22, 942,³³ it is my understanding that in interconnection negotiations, Verizon has indicated that it will not enter into an interconnection agreement that reflects the dark fiber provisioning requirements set forth in this Order. Instead,

²⁹ Mass. DTE No. 17, Part B § 17.4.2.A; Verizon Massachusetts Unbundled Dark Fiber Service Description, ¶ 1.6.

³⁰ Mass. DTE No. 17, Part B § 17.4.2.A; Verizon Massachusetts Unbundled Dark Fiber Service Description, ¶ 1.6.

³¹ Mass. DTE No. 17, Part B § 17.4.2.A.1; Verizon Massachusetts Unbundled Dark Fiber Service Description, ¶ 1.6.

³² Verizon Massachusetts Unbundled Dark Fiber Service Description, ¶ 1.7 (emphasis added); *see*, Mass. DTE No. 17, § 17.4.1.A (Where Verizon “has received a specific order for fiber-related service from a given customer, the fiber will be reserved for that customer.”).

Verizon states that CLECs that wish to adopt such terms must adopt the SGAT in totality and that it will not allow CLECs to incorporate just the dark fiber SGAT terms into an interconnection agreement. Verizon's policy is unreasonable because CLECs should be able to enter into personalized agreements with Verizon that include UNE provisioning requirements ordered by the Commission. Verizon's position as a result frustrates CLECs efforts in getting nondiscriminatory access to dark fiber, which utterly disregards and clearly defies the Commission's decision.

54. Moreover, Verizon's position defies the FCC's "pick and choose" rules as upheld by the Supreme Court that provide in relevant part:

An incumbent LEC shall make available without unreasonable delay to any requesting telecommunications carrier any individual interconnection, service, or network element arrangement contained in any agreement to which it is a party that is approved by a state commission pursuant to section 252 of the Act, upon the same rates, terms, and conditions as those provided in the agreement.³⁴

Although the FCC stated that an ILEC can require a requesting carrier to accept all terms that it can prove are "legitimately related" to the desired term, Verizon's requirement that CLECs must adopt the entire SGAT to get the Commission's dark fiber provisions is entirely improper because by no means are the dark fiber provisions legitimately related to other sections of the SGAT.

55. Notwithstanding Verizon's contention that it provides nondiscriminatory access to dark fiber,³⁵ Verizon has failed to carry its burden of showing that it provisions dark fiber to CLECs in the same manner as it provides to itself and its affiliates. Importantly, its overall rejection record strongly demonstrates that Verizon does not treat CLECs in a manner similar to

³³ Verizon Checklist Declaration ¶ 225.

³⁴ 47 C.F.R. § 51.809.

the manner in which it treats itself and its affiliates with respect to the provision of dark fiber network elements. Absent adherence by Verizon to restrictions on its ability to reject dark fiber applications that are similar to those to which it adheres in Massachusetts, Verizon should not be deemed to have complied with Checklist Items 2 and 4.

C. Verizon Does Not Provide Adequate Access to High Capacity UNE Loops.

56. Verizon states that it offers access to unbundled high capacity loops pursuant to 251(c)(3); however, in reality, Verizon does not. In particular, Verizon will not provision high capacity UNE loops that need certain conditioning. In fact, as stated in its July 24, 2001 industry letter, Verizon refuses to process orders for unbundled DS-1/DS-3 network elements where “it does not have the common equipment in the central office, at the end-user’s location, or outside plant facility needed to provide a DS-1/DS-3 network element.”³⁶

57. Verizon’s practice of refusing to provide unbundled loops and transport where it must add DS-1/DS-3 electronics to existing facilities disregards the clear unbundling obligations imposed upon ILECs under federal law. More specifically, on August 8, 1996, the FCC released its Local Competition First Report and Order in which the FCC determined that Verizon was required to provide requesting CLECs with unbundled DS-1 capable loops. Specifically, the FCC concluded:

The local loop element should be defined as a transmission facility between a distribution frame, or its equivalent, in an incumbent LEC central office, and the network interface device at the customer premises. This definition includes, for example, two-wire and four-wire analog voice-grade loops, and two-wire and four-wire loops that are conditioned to transmit the digital signals needed to provide services such as ISDN, ADSL, HDSL, and *DS-1-level signals*.³⁷

³⁵ Verizon Checklist Declaration, at ¶ 99.

³⁶ See CON 1-12.

³⁷ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 96-325, First Report and Order, 11 FCC Rcd 15499 (rel. August 8, 1996), ¶ 380 (“Local Competition First Report and Order”) (emphasis added).

The FCC then addressed the requirement for incumbent LECs, such as Verizon to take affirmative steps to condition existing loop facilities to carry such digital signals:

Our definition of loops will in some instances require the incumbent LECs to take affirmative steps to condition existing loop facilities to enable requesting carriers to provide services not currently provided over such facilities. For example, if a competitor seeks to provide a digital loop functionality, such as ADSL, and the loop is not currently conditioned to carry digital signals, but it is technically feasible to condition the facility, the incumbent LEC must condition the loop to permit the transmission of digital signals. Thus, we reject Bell South's position the requesting carriers "take the LEC networks as they find them" with respect to unbundled network elements. As discussed above, some modification of the incumbent LEC facilities, such as loop conditioning, is encompassed within the duty imposed by section 251(c)(3).³⁸

The FCC confirmed the ILEC's obligation to condition facilities, including attaching the needed electronics, once again in the UNE Remand Order:

In order to secure access to the loop's full functions and capabilities, we require the incumbent LECs to condition loops. This broad approach accords with section 3(29) of the Act, which defines network elements to include their "features, functions, and capabilities."³⁹

58. In its July 24 letter, Verizon reiterates the same position that the FCC has rejected in these orders. Verizon claims that it has no obligation to provide loop and transport UNEs where such UNEs are not "available" in Verizon's view because the required electronics are not already attached to the facility.⁴⁰ In other words, Verizon refuses to condition loop and transport facilities to carry DS-1/DS-3 signals. Verizon's restrictive view of the "availability" of UNEs and its refusal to add the appropriate electronics to existing facilities is a clear violation of federal law. Further, other commissions have rejected a similar restrictive view of the

³⁸ Local Competition First Report and Order, ¶ 382.

³⁹ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 99-238, 15 FCC Rcd 3696, ¶ 167 (rel. November 5, 1999) ("UNE Remand Order").

⁴⁰ Con 1-12.

“availability” of UNEs proposed by other ILECs. *See, e.g., Complaint of BRE Communications, L.L.C., d/b/a Phone Michigan, against Ameritech Michigan for Violations of the Michigan Telecommunications Act*, Case No. U-11735, 1999 Mich. PSC LEXIS 22, at 28-38 (Feb. 9, 1999).

59. Verizon is not only denying BayRing and other CLECs access to DS-1/DS-3 UNEs in violation of federal law but also seems to be engaging in the discriminatory practice of conditioning loops and transport (by adding the appropriate electronics) for its retail arm and retail customers while refusing to do so for requesting CLECs that order UNEs. In response to CON 1-13, Verizon admitted that

As a general matter, retail orders are not rejected due to lack of facilities because Verizon will undertake to construct the facilities required to provide service at tariffed rates (including any applicable special construction rates) if the required work is consistent with Verizon’s current design practices and construction. Like its retail and carrier access customers, Verizon’s CLEC customers may request Verizon to provide DS-1 and DS-3 services pursuant to applicable state or federal tariffs.

To add to this, Verizon has admitted that certain DS-1 UNEs and High Capacity Special Access Service (1.544 Mbps) are physically equivalent (i.e., may use similar underlying network facilities/technology).⁴¹

60. In light of the above, Verizon appears to believe that its preferential treatment of its own retail customers in circumstances when DS-1/DS-3 facilities are not immediately available is excusable and permissible, because CLECs can order comparable network elements from its “applicable state or federal tariffs,” presumably referring to its special access tariffs. Contrary to Verizon’s belief, this conduct discriminates against CLECs. Importantly, even if a CLEC such as BayRing obtains DS-1/DS-3 service under Verizon’s special access tariff in the long run, the

⁴¹ JC 1-35.

CLEC has suffered significant competitive disadvantage because: 1) the CLEC's original service request has been denied; 2) it must enter a new service request, so that the clock on service fulfillment is restarted (meaning that the end-user is subjected to additional delay of service); and 3) the service, assuming it is provided at all under the special access tariff, will be subject to different terms and conditions and different, higher charges. In contrast, Verizon's retail customer is not exposed to these onerous consequences. As stated previously, it is Verizon's routine practice to fulfill DS-1/DS-3 orders from its retail customers in the same circumstances in which it rejects DS-1/DS-3 orders from its competitors.

**IV. COMPETITIVE CHECKLIST ITEM 13 (RECIPROCAL COMPENSATION):
Verizon Does Not Pay the Appropriate Reciprocal Compensation Rate for Voice
Traffic.**

61. Section 271(c)(2)(B)(xiii) of the Act requires Verizon NH to provide reciprocal compensation in accordance with the requirements of Sections 251(b)(5) and 252(d)(2) of the Act. Reciprocal compensation refers to the agreements between interconnecting carriers regarding the charges that each carrier will apply for the transport and termination of certain telecommunications traffic of the other carrier.⁴² Section 252(d)(2) requires reciprocal compensation arrangements that provide for mutual and reciprocal recovery of costs associated with the transport and termination on one carrier's network of calls that originate on the network of the other carrier.

62. In its declaration, Verizon NH claims that it has implemented provisions of the FCC's *Reciprocal Compensation Order*.⁴³ Verizon states that to the extent that Verizon NH is exchanging Internet-bound traffic and voice traffic properly subject to reciprocal compensation

⁴² See Local Competition First Report and Order, ¶¶ 1033-1045.

⁴³ See CC Docket Nos. 96-98 and 99-68, *Order on Remand and Report and Order*, FCC 01-131, released April 27, 2001, ¶¶ 45-46 (the "*Reciprocal Compensation Order*").

under the Act, Verizon NH will apply the presumption that any terminating traffic that exceeds a 3:1 ratio of terminating to originating is Internet-bound traffic. Despite this assertion, Verizon does not provide reciprocal compensation in accordance with the requirements of the Act.

63. In particular, Verizon, in implementing this FCC decision, does not apply the appropriate reciprocal compensation rates of Day \$.003757 (Day), \$.005184 (Evening), \$.001763 (Night) for traffic included within the 3:1 ratio, but rather offers BayRing only a composite rate of \$.00209 for such traffic within the 3:1 ratio. This \$.00209 rate was negotiated by BayRing and Verizon prior to the FCC decision, and was specifically contemplated to apply to both voice and ISP traffic.⁴⁴ Because the FCC presumption is that traffic under 3:1 is voice traffic, Verizon should pay appropriate, Commission-approved reciprocal compensation rates for terminating voice traffic which are the meet point rates set forth in Section 4.7.3.1 of Verizon's SGAT. As reflected in its response to data request JC 1-126, Verizon is not complying with the FCC's Order that it pay the rates for voice traffic (traffic below the 3:1 ratio) that were adopted by the state commission.

V. OSS: Verizon Does Not Provide Timely and Accurate Bills

64. In its OSS Declaration, Verizon also asserts that it provides timely and accurate wholesale bills to CLECs.⁴⁵ Contrary to Verizon's assertion, BayRing has experienced chronic problems with both the timeliness and the accuracy of wholesale bills provided by Verizon.

65. As examples of timeliness problems, Verizon back billed BayRing on September 13, 2000 for collocation services that were 731 days old⁴⁶ and backbilled BayRing on July 13, 2001 for collocation services that ranged between March 1, 1999 and November 12, 2000.

⁴⁴ JC 1-120 & 1-126.

⁴⁵ Verizon OSS Declaration, at ¶ 118-119.

66. Moreover, BayRing began receiving switched access bills in February of this year that reflected charges for switched access services rendered starting in January 2000. In addition to being received a year late, these bills were inaccurate. In these bills, Verizon charges BayRing switched access charges for local calls that were terminated on Verizon's network. BayRing, however, disputed the charges and finally Verizon recognized that it had charged the wrong rates for the calls and attempted to correct the billing. In the process of doing so, Verizon blamed BayRing for causing the billing error, claiming that BayRing had not informed Verizon of the percentage of traffic that would local on the circuits.⁴⁷ This claim is entirely unfounded because BayRing, as required by its current and past interconnection agreements with Verizon, passed Calling Party Number with each call, which permits Verizon to determine the jurisdiction of each call so that it can be appropriately billed. Verizon, however, apparently did not have the capability to read BayRing's CPN and, therefore, assumed all traffic was intrastate terminating access and billed BayRing such charges.

67. Verizon's assumption, however, blatantly disregards the fact that the agreement, as a threshold matter, assumes parties have the capability to read CPN and if a party cannot read CPN, the party must obtain the Percent Local Usage ("PLU") from the other party (who is obviously required to provide it upon request).

68. In light of Verizon's improper assessment of switched access rather than reciprocal compensation rate for Local Calls, Verizon has attempted to correct the bills, but is now demanding late payment charges for these bills that BayRing never received from January 2000 through February 2001 that are associated with this billing dispute. Verizon's attempt to assess

⁴⁶ JC - 132.

⁴⁷ JC - 135.

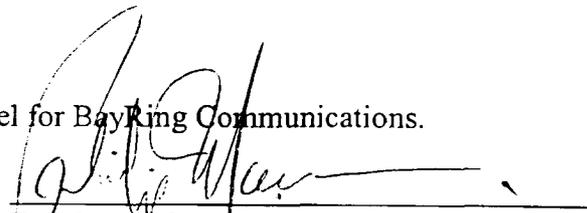
these charges is absolutely improper because BayRing only became aware of the outstanding charges associated with these bills during a discussion with Verizon in February of this year at which time the bills were further investigated and then disputed. Prior to February, BayRing had no knowledge that the bills existed.⁴⁸ Assessing late charges for a failure to pay bills that were not received is hardly consistent with Verizon's assertion of timely billing.

69. To make matters worse, Verizon's ongoing billing remains inaccurate because Verizon continues to charge BayRing switched access rates for local traffic terminated on Verizon's network despite the fact that Verizon has BayRing's PLU and told BayRing that it would take the necessary corrective action to ensure that the billing problems do not occur again.⁴⁹

70. Verizon's procedures and systems for responding to billing claims similar to the one referenced above are also deficient. Discouragingly, it has been BayRing's experience that CLEC claims often take many months, if not years to resolve.

71. This completes BayRing's Declaration.

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Dated October 1, 2001

⁴⁸ Further investigation has revealed that Verizon was sending the bills to the wrong address and failed to send the billing record to the billing address that BayRing submitted to Verizon in 1997. See JC 1-135 & Exhibit 3.

⁴⁹ See Verizon Bill No. 603-Y55-9039 321, Invoice No. Y559039321-01237, dated August 25, 2001.

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

D.T.E. No. 01-151

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding.

Dated this 1st day of October, 2001.



Carolyn Shaw

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

Verizon-NH
271 Application

Docket No. DT 01-151

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EXHIBIT 1

Proprietary Exhibit

EXHIBIT 2

Proprietary Exhibit

EXHIBIT 3

Proprietary Exhibit