

TAB 13

APPENDIX A – NH 271 EXHIBITS

Exhibit E to Brief

Filed by BayRing, Network Plus and CTC in Docket No. 01-151 on January 31, 2002

(January 14, 2002 E-Mail from Kevin Minsky, Esquire, Counsel for BayRing, to

Barclay Jackson, Staff of the New Hampshire Public Utilities Commission)

PUBLIC VERSION

EXHIBIT E

January 14, 2002 E-Mail from Kevin Minsky, Esquire, Counsel for BayRing, to Barclay Jackon, Staff of the New Hampshire Public Utilities Commission

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

Verizon-NH)
271 Application)
_____)

Docket No. DT 01-151

**BRIEF OF
CTC COMMUNICATION CORP.,
FREEDOM RING COMMUNICATIONS, L.L.C. D/B/A
BAYRING COMMUNICATIONS, AND NETWORK PLUS, INC.**

EXHIBIT

**January 14, 2002 E-Mail from Counsel for BayRing to Staff of
New Hampshire Public Utilities Commission regarding EELs**

—Original Message—

From: Minsky, Kevin
Sent: Monday, January 14, 2002 2:18 PM
To: Barday Jackson (E-mail)
Cc: Ben Thayer (E-mail); Branfman, Eric
Subject: Bay Ring Communications ("Bay Ring"): Dispute With Verizon-New Hampshire ("Verizon-NH") Regarding Purchase Order for UNE-EELs

Dear Ms. Jackson,

Thank you for returning my call this morning regarding Bay Ring's current problem with Verizon-NH's delay in processing Bay Ring's purchase order for EELs placed on December 8, 2001. As we discussed, Verizon-NH has routinely processed these orders in the past for Bay Ring. With respect to this order, however, Verizon-NH has for the first time taken the position that Bay Ring needs to execute the attached interconnection amendment *before* it will process Bay Ring's order. Bay Ring has a large customer in New Hampshire whose order requires that these EELs be provisioned by January 18, 2002. However, Verizon-NH did not send the amendment to Bay Ring until January 9, 2002, 32 days after Bay Ring submitted the order. That was the first time that Verizon notified Bay Ring that it would no longer fill EELs orders without an amendment to Bay Ring's interconnection agreement.

Last Friday, after numerous calls by Ben Thayer of Bay Ring, Jeff Masoner of Verizon finally agreed to process the December 8, 2001, order subject to Bay Ring signing the amendment. Bay Ring sent Verizon-NH its proposed comments on the amendment this morning, and we are awaiting Verizon-NH's response.

There are several provisions in the amendment to which Bay Ring objects. Bay Ring's proposed changes to the amendment are shown in blue line. In section 1.2 of the Combinations Attachment, Verizon places an "embargo" on future purchases of Verizon services by Bay Ring if it either: (1) induces a Verizon customer to order telecommunications services from Verizon with the primary intention of enabling Bay Ring to convert these services to UNE combinations; or (2) itself orders telecommunications services from Verizon without taking delivery of the services, and then converts these services to UNE combinations. As we discussed this morning, (1) would appear to be contrary to the position of both the Commission Staff and Verizon-NH in a pending proceeding (DT 01-206). Bay Ring objects to section 1.2 and also believes that section 1.6 should be removed from the agreement. Furthermore, Bay Ring objects to the inclusion of section 2 of the Pricing Appendix in which Verizon improperly attempts to restrict the prices Bay Ring can charge Verizon for its services (for example, access). That provision bears no relationship to the EELs provision, and simply constitutes an attempt by Verizon-NH to gain a business advantage in an unrelated matter as a result of Bay Ring's attempt to exercise its legal rights to order EELs.

In this regard, I have attached the FCC decision in the Net2000 case relating to UNE-EELs. Please see paragraph 37 of the Net2000 decision, in which the FCC states that "although an applicable interconnection agreement is required for Verizon to bill for any converted EELs, Verizon is not permitted to require CLECs to execute unneeded amendments or amendments with unfavorable terms as a condition to the conversion of their special access circuits to EELs." Bay Ring should not be required to execute a UNE combinations amendment to purchase EELs from Verizon-NH, since EELs are offered in Verizon-NH's SGAT. Moreover, the conditions Verizon seeks to impose upon Bay Ring are impermissible under the FCC's Net2000 case.

I will let you know how Verizon-NH responds to our proposed changes to the amendment. We have a call in to Jeffrey Masoner and are awaiting an update on the status of the UNE-EEL order. Any assistance that you can provide to help ensure that Verizon promptly processes this UNE-EEL order would be greatly appreciated.

If you have any questions about this matter, please let me know. Thank you.

Best regards,

Kevin D. Minsky, Esq.
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