

THE STATE OF NEW HAMPSHIRE



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Thomas B. Getz

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Graham J. Morrison
Clifton C. Below

EXECUTIVE DIRECTOR
AND SECRETARY
Debra A. Howland

PUBLIC UTILITIES COMMISSION

21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429

Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH
1-800-735-2964

Website:
www.puc.nh.gov

February 5, 2007

Re: DT 06-067, Freedom Ring Communications d/b/a BayRing Communications
Complaint Against Verizon New Hampshire Regarding Access Charges

To the Parties:

On January 10, 2007, Verizon filed a motion to compel the complainant, BayRing, and the intervenors, AT&T, One Communications and RNK, to provide certain discovery responses. All four companies subsequently filed objections.

Verizon argues that BayRing and the intervenors improperly refused to respond to 41 of the 57 data requests they received from Verizon. The data requests in dispute are numbers 1, 2, 3, 8, 10 through 35, and 45 through 55. In general, BayRing and the intervenors take the position that the requested responses would be irrelevant because the Commission has bifurcated the proceeding such that the only issues currently under consideration relate to tariff interpretation. They make other specific objections as well.

The Commission has consistently adopted a liberal approach to discovery, allowing inquiries that are calculated to lead to the discovery of potentially admissible evidence. Bifurcating the proceeding essentially deferred the question of relief until there was an occasion to rule on the merits of the contention that Verizon has been violating its tariff when it comes to access charges. The disputed discovery requests generally fall into the realm of industry practice. The possibility that such evidence would be probative of how the tariff language should be construed cannot be ruled out at this time.

However, certain of the specific objections made to some of the individual Verizon data requests have merit. For instance, it was pointed out that Verizon already has some of the information and documents it seeks in its own files. No useful purpose is served in requiring parties to produce documents for Verizon that are already in its possession. For this reason, the Commission has determined to deny Verizon's request to compel responses to Data Request No. 1. For the same reason, the Commission has determined to deny Verizon's request that any of the parties be compelled to respond to Data Request No. 8.

Data Request No. 2 asks for two years of call records in which the carriers allege that TTS rates rather than intrastate switched access rates should apply. Data Request No. 3 asks for copies of all bills rendered in instances where the carrier claims it was billed TTS rates for some calls to wireless customers in the past. The complete list in both cases could be useful in the

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second phase for the purpose of assessing the extent of Verizon's liability, if any. But, in the first phase, it would be unduly burdensome to require the carriers to provide anything but an example of such bills. Thus, the Commission has determined to compel responses to Data Request Nos. 2 and 3 to the limited extent of providing illustrative examples.

Data Request No. 54 seeks information about the extent to which certain interconnection agreements oblige or obliged the carriers to establish direct trunks between their networks and those of others. This case involves purchases made through Verizon's tariff, not interconnection agreements. Thus, discovery about obligations under interconnection agreements cannot lead to the discovery of potentially admissible evidence. Therefore, the Commission has determined to deny the motion to compel responses to request No. 54.

Data Request No. 55 asks for copies of all bills received from Verizon that show the disputed charges and call details for certain cellular tandem switched access calls. For the same reason that it does not compel the carriers to provide anything beyond a sample bill in response to Data Request No. 2, the Commission has determined that it would be unduly burdensome to require anything but a sample bill in response to this request.

The Commission has determined that the remainder of the data requests could lead to the discovery of potentially admissible evidence. Accordingly, Verizon's motion to compel is granted with respect to Data Request Nos. 10 through 35, and 45 through 53.

Sincerely,

A handwritten signature in cursive script that reads "Debra A. Howland". The signature is written in black ink and is positioned above the typed name.

Debra A. Howland
Executive Director and Secretary