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***VIA* HAND DELIVERY**

Ms. Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301

Re: Docket DT 06-067 – Freedom Ring Communications Complaint Against Verizon New Hampshire re Access Charges

Dear Ms. Howland:

This is in response to AT&T Communications' ("AT&T") letter filed late Friday, November 17, 2006. AT&T's request is overly narrow and self serving. This investigation is not, as AT&T suggests, merely a matter of looking at tariff language to determine if the carrier common line ("CCL") rate element is being misapplied, as AT&T alleges.[1] To ensure that Verizon New Hampshire's ("Verizon NH") "legal rights, duties or privileges" protected by RSA 541-A:31 through :36 and N.H. Admin. Rules, PART Puc 203, are not violated, AT&T's request to "bifurcate" the proceeding must be denied.

First, AT&T misapprehends the scope of this contested case. AT&T claims (at 1) that the issue before the PUC is whether the tariff has been properly applied (which it has) and "nothing more." AT&T has gotten it wrong. The Commission *twice* determined that "in the event Verizon's interpretation of the current tariffs is reasonable, [the scope of the docket also

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[1] Indeed, if that were the case, the docket should never have gotten this far, as the language itself expressly provides that "[c]arrier common line access service is billed to *each switched access service provided* under this tariff," and tandem switched access service is one such service. Tariff NHPUC No. 85, Section 5.1, emphasis added.

includes a determination of] whether any prospective modifications to the tariffs are appropriate." Supplemental Order of Notice dated October 23, 2006 ("*Supplemental Order*") at 4; *see also* Order of Notice dated June 23, 2006 at 3. In protecting the due process rights of Verizon NH and other parties, the Commission is charged with balancing competing interests. Those interests are directly implicated by the financial harm to Verizon NH, should the PUC now construe the tariff in a manner inconsistent with its application over the past 13 or so years, or alternatively, direct that the tariff be revised to reflect different policy considerations going forward.

Second, AT&T claims (at 1) that in Verizon NH's seeking to apprise the PUC of the financial harm that would result from determining that the tariff should be applied – retroactively or prospectively – differently than it has for more than a decade, or changed going forward, the Commission would be practicing single-issue ratemaking. In fact, quite the contrary is true. In making the "mid-course" correction AT&T now urges, the PUC would likely be doing precisely what AT&T argues the PUC should studiously avoid.

Single-issue ratemaking is a discretionary practice that typically occurs when a commission considers changing an existing rate under rate of return regulation – as here – without consideration of all other relevant factors, such as overall operating expenses, revenues and rate of return. The reason why single-issue ratemaking is generally disfavored is to prevent a commission from directing or permitting a utility to lower (or raise) rates to reflect reduced (or increased) costs in one area without realizing there may be counterbalancing savings or expenses in another. The application of single-issue ratemaking is thus rooted in traditional rate case, rate-of return concepts and is generally intended to ensure that a single rate or expense does not unfairly affect recovery of an overall revenue requirement. This is because, under a rate case analysis, single issue rate filings may ignore other changes that have taken place in other factors since the last rate case. As the PUC explained:

> Single-issue rate cases do not allow for this determination of overall net income. They focus on the change in a single expense (or revenue) item since the last rate case, ignoring completely what changes may have taken place in the other factors of net income.... Standard ratemaking does not permit recovery of "onetime" costs (and correspondingly does not reduce rates on account of "one-time" income). An increase in rates to allow a company to "recover" a single expense (or, as here, several specified expenses), without placing that expense in the overall framework of a net income determination, risks the establishment of rates that will seriously overcollect (or even undercollect) a company's fair return. A temporary billing surcharge such as the one the Company proposes is, in effect, a single issue rate case, as the Company does not propose that the Commission undertake the rigorous examination of reasonableness and fidelity to regulatory principles that a rate case would require. Neither did

the Company follow the Commission's requirements for presenting a rate case.[2]

Third, AT&T claims (at 2) that only "new" revenues are at issue here. Specifically, AT&T asserts (*id.*) that the docket pertains to uncollected revenues associated with "volumes of traffic that terminate to wireless carriers" – something that AT&T alleges could not have been "taken into account" in 1993. AT&T's observation is not only wrong but puzzling, since it successfully moved to substantially expand the scope of the investigation to include "*interexchange carriers that provide the long-distance service* on calls between CLEC or wireless end-users and Verizon end-users *as well as end-users of other carriers*." *Supplemental Order* at 3, emphasis added. As a result, the bulk of the access revenues now at risk, retroactively and prospectively, are attributable to calls to and from *non-wireless*, interexchange carriers – from which CCL access revenues have been collected since at least 1993. The 34 or so traffic "scenarios" that the parties developed over the last few technical sessions are testimony to the expanded scope and potential financial impact of this contested case.

Fourth, to understand why the PUC has properly allowed CCL to be "billed to each switched access service" provided under Tariff No. 85 since at least 1993, the Commission should review the rate design and policies that first established intrastate switched access charges in New Hampshire. Among other things, the genesis of the access rate structure – and specifically CCL – was designed to target an overall rate per minute to provide a contribution to Verizon NH's shared joint and common costs and overall revenue requirement. Elements of that charge were thus designed to cover the incremental costs of switching and transport, with CCL intended to provide contribution from each originating and terminating Feature Group Service (FGA, FGB and FGD) or 800 Access Service minute of use. To properly assess the issue of this rate application, the Commission must consider the rate design and rate-making principles that generated the New Hampshire access charge and its resulting tariff. And, in doing so, the PUC should consider the impact any mid-course changes to its policies, rate design and application of elements would have on Verizon NH's opportunity to recover this critical contribution elsewhere in the overall rate design.

Finally, the issue of financial harm was also presented to the New York Public Service Commission in a very recent investigation involving CCL on calls terminating to wireless carriers, similar in part to that pending before the New Hampshire PUC. There, Verizon NY argued, among other things, that the switched access tariff was approved in a 1998 rate proceeding; that the PSC should not look in isolation at the proposed modification but only in the context of an overall rate review; and that absent any other changes, Verizon NY would suffer revenue losses in the millions of dollars, should tariff changes be made (or the tariff construed) as the CLECs proposed. *See New York Order* at 5-6.[3] The New York PSC considered all such factors and concluded that it was appropriate for Verizon NY to charge CCL on wireless calls

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[2] *Connecticut Valley Electric Co. Request for Temporary Billing Surcharge*, DE 01-224, Order No. 23,887, December 31, 2001, at 18-19.

[3] *Complaint of WilTel Communications Against Verizon New York*, Case 04-C-1548, dated May 30, 2006 (the "*New York Order*"). A copy of the *New York Order* is appended for the Commission's convenience.

"because the rate is consistent with the balance struck" in the earlier rate review and because "the tariff is being applied properly." *New York Order* at 2; *see also id.* at 4-5.

In conclusion, as stated above and for the reasons articulated at the November 3, 2006 prehearing conference, AT&T's request to "bifurcate" should be rejected as a denial of Verizon NH's due process rights, particularly given the expanded scope and potential harm to Verizon NH and its general body of ratepayers. AT&T proposes that the Commission adjudicate this dispute wearing blinders, focusing solely on a singular image in a comprehensive, integrated tapestry. To adopt AT&T's position would be to give credence to AT&T's conceit that what is most important in New Hampshire is that it pay as little as possible in access charges *regardless* of the impact such a proposal has on Verizon NH and the overall body of ratepayers in New Hampshire – something that the PUC should not allow.

Thank you for your attention to this matter.

Very truly yours,

/s/ Victor D. Del Vecchio

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cc: Service List
Enclosure