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Malcolm McLane
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January 12, 2007

VIA HAND DELIVERY & E-MAIL

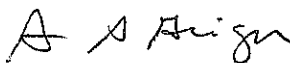
Ms. Debra A. Howland, Executive Director & Secretary
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301

***Re: DT 06-067, Petition of Freedom Ring Communications, LLC
d/b/a BayRing Communications (Motion to Compel)***

Dear Ms. Howland:

Enclosed for filing with the Commission in the above-captioned matter, please find AT&T and BayRing Communications Motion to Compel. Please do not hesitate to contact me if you have any questions. Thank you for your attention to this matter.

Very truly yours,


Susan S. Geiger

Ronald L. Snow
William L. Chapman
George W. Roussos
Howard M. Moffett
James E. Morris
John A. Malmberg
Martha Van Oot
Douglas L. Patch
Connie L. Rakowsky
Jill K. Blackmer
James P. Bassett
Emily Gray Rice
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Lisa Snow Wade
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Connie Boyles Lane
Todd C. Fahey
Vera B. Buck
James F. Laboe
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Maria M. Proulx
Phillip Rakhunov
Jessica E. Storey
Justin M. Boothby
Heidi S. Cole

Susan S. Geiger
Judith A. Fairclough
(Of Counsel)

SSG/dlc
Enclosures
cc: Service List

432657_1

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

BayRing Petition For Investigation Into
Verizon New Hampshire's Practice Of
Imposing Access Charges, Including Carrier
Common Line (CCL) Access Charges, On
Calls Which Originate On BayRing's Network
And Terminate On Wireless and Other Non-
Verizon Carriers' Networks

Docket No.06-067

AT&T AND BAYRING MOTION TO COMPEL

Introduction

Pursuant to N.H. Admin. Rule Puc 203.07 and 203.09(i), AT&T Communications of New England, Inc. ("AT&T") and Freedom Ring Communications, LLC, d/b/a BayRing Communications ("BayRing") (collectively, "Movants") hereby move that the New Hampshire Public Utilities Commission ("PUC" or "Commission") issue an order compelling Verizon-New Hampshire to provide a complete and responsive answer to Information Request BayRing/AT&T-VZ 1-37. The Movants (through counsel for AT&T) have conferred with Verizon regarding this matter, but in the time available were not able to resolve this dispute. The Movants and Verizon will attempt to discuss this matter next week and if they are able to resolve this dispute, this Motion will be withdrawn. The grounds for this motion are set forth below.

Argument

I. STANDARD OF REVIEW

In its own motion to compel filed on January 10, 2007, in this docket, Verizon quoted and cited to appropriate authority regarding the scope of permissible discovery in regulatory proceedings such as this one; rather than repeating in detail the same references to multiple authority, the Movants here state the basic principle: discovery must seek information that is

relevant or likely to lead to the discovery of admissible evidence on the issues to be decided by the Commission. A motion to compel seeking information that does not meet that standard will be denied. *See, e.g., Lower Bartlett Water Precinct*, Docket DW 99-166, Order No. 23,471 at 4-5 (May 9, 2000).

II. INFORMATION REQUEST BAYRING/AT&T-VZ 1-37 SEEKS INFORMATION RELEVANT TO THE INTERPRETATION OF THE SWITCHED ACCESS TARIFF AT ISSUE.

Information Request BayRing/AT&T-VZ 1-37 seeks, with respect to specified call flows, information relating to the types of interconnection arrangements that Verizon has with wireless carriers, the payment arrangements between Verizon and the wireless carriers with respect thereto, and volume of traffic flowing over each type of interconnection arrangement. Although Verizon objects to the information request, it nevertheless provides what appears to be a partial answer to the question. A full copy of the question and Verizon's objection and response is attached hereto as Exhibit A.

In its December 26, 2006, partial response, Verizon make two principal statements:

- For other types of traffic (e.g., nos. 8, 9, 10, 14, 15, 16, 18) no interconnection payments are made between the wireless carrier and Verizon NH for the exchange of these types of traffic or use of facilities.
- Information on the quantities of interconnections by type and relative volumes of termination usage for each type is not readily available and would require a special study.

Thus, Verizon purports to respond to the aspect of the question that asks for the type of payment arrangements between Verizon and wireless carriers and declines to respond to the aspect of the question that asks for information relating to the prevalence of the different types (primarily Type 1 and Type 2) of wireless interconnection in New Hampshire. Each of Verizon's positions are unresponsive, Verizon should be compelled to provide a responsive answer for the following reasons.

A. VERIZON SHOULD BE REQUIRED TO PROVIDE A COMPLETE AND UNAMBIGUOUS RESPONSE TO THE QUESTION OF HOW THE FACILITY OVER WHICH TRAFFIC BETWEEN IT AND WIRELESS CARRIERS IS EXCHANGED IS PAID FOR.

Although not denying that there exist facilities that run between Verizon and wireless carriers over which traffic between them is exchanged, Verizon claims that “no interconnection payments are made between the wireless carrier and Verizon NH for the exchange of these types of traffic or use of facilities” with respect to call flows such as 8, 9, 10, 14, 15, 16, and 18. While theoretically possible, such an answer appears so far outside of industry practice and normal commercial requirements that facilities be paid for as to be unbelievable, unless Verizon is relying on carefully crafted caveats to make the statement true. That is, Verizon may be stating that no “*interconnection* payments” are made, even though merely “payments” are made. Or, Verizon may be contending that no payments are made (either for call flow usage or for use of facilities) in connection with the specified call flow numbers, because – in Verizon’s view – the facilities are paid for pursuant to its interconnection agreements with wireless carriers with respect to *other* call flows, *e.g.*, with respect to such call flows as number 24. AT&T and BayRing are entitled to an unambiguous answer to this question. The answer that Verizon has given is potentially misleading, and – if it is not – then Verizon should be required to say so. The costs of these facilities are being recovered somewhere and the Movants are entitled to an answer to that question.

Verizon’s objection does not provide grounds for denying the Movants’ request here. First, although Verizon purports to answer without waiving its objection, that does not necessarily preserve Verizon’s objection. A party cannot provide a misleading answer to a question and then claim it does not have the obligation to provide a clear and complete answer, simply because – in its view – it was under no obligation to answer in the first place.

Having responded and put on the record potentially misleading information, Verizon has a duty to clarify it.

In any event, Verizon's objection is without merit. Verizon contends that its financial arrangements related to the provision of interconnection facilities used for the exchange of traffic between it and wireless carriers is not relevant in this proceeding. Such arrangements are, however, relevant to whether the tariff should be interpreted to permit Verizon to charge a carrier common line charge when the only line that Verizon could provide (the connection between it and the wireless carrier) is paid for in other ways. It may be an understatement to say that tariffs are not usually interpreted to permit double recovery.

While Verizon may argue that the CCL is not designed to recover the cost of the loop, such an argument is no answer to the Movants argument here. A Verizon argument that the Movants information is irrelevant *based on Verizon's theory of the case* puts the cart before the horse. It amounts to assuming that Verizon will win the case in order to conclude that Movant's information is not relevant.

For the reasons set forth above, the Commission should order Verizon to give a complete, accurate and unambiguous answer to the Movant's information request.

B. VERIZON SHOULD BE REQUIRED TO PROVIDE AT LEAST AN ORDER OF MAGNITUDE ESTIMATE REGARDING THE RELATIVE AMOUNT OF TYPE 1 VERSUS TYPE 2 INTERCONNECTION ARRANGEMENTS IN NEW HAMPSHIRE.

The issue of the type of interconnection arrangement Verizon uses to exchange traffic with wireless carriers, Type 1 or Type 2, as well as the relative numbers of each, came up in the technical sessions, and Verizon raised no objection to its relevance. Nor could Verizon do so. Whether wireless interconnection is provided over a Type 1 or Type 2 facility affects the type and cost of interconnection facilities used and affects the way in which Verizon's network treats the facility connecting Verizon to the wireless carrier. Thus, the extent to which a carrier common line may be involved and the way in which it is paid for is affected

by whether a Type 1 or Type 2 facility is involved. It thus bears directly on whether Verizon's Tariff 85 permits it to charge BayRing, AT&T and other carriers a CCL for terminating to a wireless carrier.

Moreover, Verizon did not indicate that there would be any difficulty in providing an answer to the question of whether Verizon has any Type 1 interconnection facilities in New Hampshire. Indeed, Peter Shepherd stated that there are very few, and possibly no, Type 1 wireless interconnection arrangements in New Hampshire. Mr. Shepherd even indicated that he could find out. Despite that, Verizon has now objected to the Movants' request for information related to the extent of Type 1 versus Type 2 facilities and the relative amounts of traffic flowing over each on the ground that it would require a "special study." Assuming, without accepting, that a special study is required and that as a result Verizon should be excused from responding to the Movants' question, Verizon can at least confirm that there are very few and possibly no Type 1 wireless interconnection arrangements in New Hampshire. The Commission should require Verizon to do so.

Conclusion

For the reasons set forth above, the Commission should compel Verizon to respond to Information Request BayRing/AT&T-VZ 1-37.


Respectfully submitted,

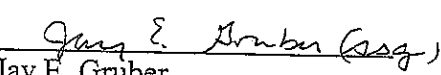
FREEDOM RING COMMUNICATIONS,
LLC, d/b/a BAYRING
COMMUNICATIONS

AT&T COMMUNICATIONS OF NEW
ENGLAND, INC.

By its Attorney,

By Its Attorney,

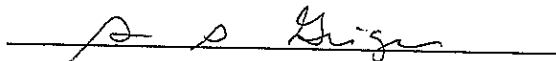

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Dated: January 12, 2007

Certificate of Service

I hereby certify that a copy of the foregoing Motion has on this 12th day of January, 2007 been mailed first class postage prepaid and sent by e-mail to the parties on the Service List in the above-captioned matter.

A handwritten signature in cursive script, appearing to read "S. S. Geiger", is written over a horizontal line.

Susan S. Geiger

432651_1.DOC

**Verizon New England Inc.
d/b/a Verizon New Hampshire**

State of New Hampshire

Docket No. DT 06-067

Respondent: Peter Shepherd
Title: Senior Staff Consultant

REQUEST: BayRing Communications, Inc., and AT&T Communications of New England, Inc., Set #1

DATED: December 15, 2006

ITEM: BayRing/ATT 1-37 With reference to all of the call flows involving wireless traffic (e.g. nos. 8, 9, 10, 14, 15, 16, 18):

- i) Does Verizon have Type 1, Type 2 or another type of interconnection arrangement with wireless providers in the scenario depicted by this call flow?
 - a. How many Type 1 interconnection arrangements does Verizon have in New Hampshire?
 - b. How many Type 2 interconnection arrangements does Verizon have in New Hampshire?
 - c. Please describe any other type of interconnection arrangement Verizon has with wireless carriers in New Hampshire and state the number of such interconnections for each.
 - d. For each type of interconnection identified above, please describe the most common type of payment arrangements Verizon has with the wireless carriers involved. Please state whether the wireless carrier purchases facilities from Verizon that are used to exchange traffic, or whether Verizon purchases facilities from the wireless carrier. Please include a description of the types of payments the wireless carrier makes to Verizon (e.g., monthly recurring, or usage based) and the types of payments that Verizon makes to the wireless carrier. Please identify any tariffed rate elements that Verizon charges the wireless carrier for the interconnection arrangement and identify the applicable section of the applicable tariff.

- ii) Within the past twelve (12) months, what percentage of wireless traffic was terminated over Type 1 interconnection?
- iii) Within the past twelve (12) months, what percentage of wireless traffic was terminated over Type 2 interconnection?
- iv) Within the past twelve (12) months, what percentage of wireless traffic was terminated over any other type of interconnection?
- v) Do wireless carriers connect directly to the Verizon tandem? If yes, describe and state the charges that Verizon assess for such connection?

REPLY:

Verizon NH objects to this request on the grounds that the request is not relevant to nor reasonably calculated to lead to the discovery of admissible evidence in this proceeding. Specifically, the request seeks information concerning the types of interconnections and quantities of each type, the types of reciprocal compensation charges Verizon NH pays to wireless carriers and the corresponding charges wireless carriers pay to Verizon NH for transport and termination of local intraMTA traffic terminating on each other's networks and the relative volumes of terminated traffic for the past 12 months. The Commission, in Order No. 24,705 dated November 29, 2006, limited the scope of the adjudication in this phase of the proceeding to: (1) whether calls made or received by end-users which do not employ a Verizon local loop involve Verizon switched access; and (2) if so, whether Verizon's access tariff requires the payment of certain access service rate elements, including but not limited to Carrier Common Line charges. Without waiving its objection, see the replies to BayRing 1-9 through BayRing 1-14 and BayRing 1-16 for the types of interconnection arrangements and compensation for the exchange of reciprocal compensation traffic. For other types of traffic (e.g., nos. 8, 9, 10, 14, 15, 16, 18) no interconnection payments are made between the wireless carrier and Verizon NH for the exchange of these types of traffic or use of facilities. Information on the quantities of interconnections by type and relative volumes of termination usage for each type is not readily available and would require a special study.