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April 20, 2007

VIA OVERNIGHT 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:

Enclosed for filing in the above-referenced matter are an original and six copies of the Rebuttal Testimony of Peter Shepherd on behalf of Verizon New England Inc. d/b/a Verizon New Hampshire.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink that reads "Victor D. Del Vecchio".

Victor D. Del Vecchio

cc: Service List

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

**FREEDOM RING COMMUNICATIONS, LLC
d/b/a BAYRING COMMUNICATIONS
Complaint Against Verizon New Hampshire
Re: Access Charges**

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) Docket DT 06-067
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REBUTTAL TESTIMONY OF

PETER SHEPHERD

On Behalf of

**VERIZON NEW ENGLAND INC.
d/b/a VERIZON NEW HAMPSHIRE**

April 20, 2007

TABLE OF CONTENTS

I. INTRODUCTION.....	1
II. VERIZON NH PROVIDES SWITCHED ACCESS SERVICE FOR TOLL TRAFFIC WHERE A CARRIER USES VERIZON'S NETWORK TO PROVIDE ITS SERVICE WHETHER OR NOT VERIZON NH PROVIDES THE END-USER LOOP	2
III. VERIZON NH'S TARIFF REQUIRES PAYMENT OF ACCESS RATE ELEMENTS, INCLUDING THE CCL CHARGE, ON ALL INTRASTATE SWITCHED ACCESS PROVIDED TO CARRIERS.....	13
IV. ATT'S AND BAYRING'S RELIANCE ON OTHER AUTHORITY IS MISPLACED.....	17
V. VERIZON NH IS CORRECTLY APPLYING ITS TARIFF TO THE TRAFFIC BAYRING HAS IDENTIFIED	20
VI. AT&T'S AND BAYRING'S CLAIMS OF UNFAIR, COMPETITIVE ADVANTAGE ARE BEYOND THE SCOPE OF THIS PROCEEDING AND UNSUPPORTED.....	22
VII. CONCLUSION	23

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND CURRENT POSITION.

A. My name is Peter Shepherd. I am a Senior Staff Consultant with Volt Information Sciences, Inc., currently assigned to a consulting engagement with Verizon New Hampshire ("Verizon NH") on public policy and regulatory matters.

Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS PROCEEDING?

A. Yes. I submitted initial direct testimony on March 9, 2007 describing why the service at issue in this proceeding is switched access service provided pursuant to Verizon NH's tariff NHPUC No. 85 and not switched interconnection tandem transit service under tariff NHPUC No. 84. The testimony also explained how the provisions of NHPUC No. 85 have been properly applied in assessing a carrier common line charge on all switched access service provided under the tariff. I further explained that Verizon's application of the tariff is consistent with the access charge structure and rate design established in the Commission's Generic Competition Docket, DE 90-002.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. First, the rebuttal testimony refutes BayRing's argument that a carrier's use of Verizon NH's network for the switching and transmission of a carrier's toll service cannot be switched access service. The terms and conditions of NHPUC

Nos. 84 and 85 are clear that Verizon is providing access service under the access tariff. Second, the rebuttal testimony contradicts AT&T's and BayRing's claims that language in the tariff requires Verizon NH to provide access over a Verizon NH end-user access line in order to assess carrier common line charges. Third, the testimony rebuts AT&T's and BayRing's argument that other rulings or authority prohibit charging a CCL element under the circumstances of this case. Fourth, Verizon NH addresses BayRing's claim that Verizon NH is also improperly applying the switched access tariff for other types of calls. Finally, Verizon NH addresses AT&T's and BayRing's claims that applying the CCL charge to all switched access traffic presents an unfair competitive advantage for Verizon and other wireless providers.

II. VERIZON NH PROVIDES SWITCHED ACCESS SERVICE FOR TOLL TRAFFIC WHERE A CARRIER USES VERIZON'S NETWORK TO PROVIDE ITS SERVICE WHETHER OR NOT VERIZON NH PROVIDES THE END-USER LOOP

Q. BAYRING ASSERTS VERIZON NH IS NOT PROVIDING SWITCHED ACCESS BECAUSE THE TARIFF DOES NOT AUTHORIZE CHARGING SWITCHED ACCESS FOR CALLS THAT DO NOT ORIGINATE FROM OR TERMINATE TO A VERIZON END-USER. IS BAYRING CORRECT?

A. No, BayRing is incorrect. In its direct testimony, BayRing (Winslow at 8) appears to agree that Verizon NH's tariff NHPUC No. 84, applicable to Switched Interconnection Service for the exchange of local traffic, does not apply to the types of toll traffic that BayRing is disputing. While BayRing acknowledges that services

1 provided under NHPUC No. 84 most closely corresponds to the functions at issue in
2 this investigation, BayRing now claims that neither tariff NHPUC Nos. 84 nor 85
3 authorizes switched access charges for the exchange of toll traffic between itself and
4 another carrier when using Verizon NH's network. In taking this position, BayRing
5 ignores the provisions in NHPUC No. 84, described in Verizon NH's direct
6 testimony (at 4-12), which expressly provide that switched interconnection and
7 tandem transit service involve the exchange of **local** traffic. Moreover, under tariff
8 No. 84, the same facilities could also be used for the exchange of combined local,
9 toll or switched exchange access traffic. Yet this network interconnection
10 accommodation did not affect the jurisdiction or nature of the underlying traffic,
11 which would be subject to the corresponding tariff:

12 Switched interconnection services may only be used for the
13 termination of **local** calls to NXXs served on the Telephone
14 Company's network, including calls redirected from the TC to the
15 Telephone Company under Number Portability that otherwise meet
16 the criteria described in Part B, Section 11. Facilities used to
17 provide switched interconnection services may be used to deliver
18 toll, and/or interexchange traffic as provided in Section 1.7.3
19 following. Toll and Interexchange Switched Access Services that
20 terminate on Switched Interconnection facilities will be rated under
21 the appropriate State and/or Federal Tariffs ("Feature Group
22 Service"). [Section 1.1.1.C., emphasis added.]

23 **Tandem Transit Service**—An offering provided by the
24 Telephone Company to requesting competitive LECs that enables
25 the TC whose customer originated an intraLATA call destined for
26 a customer of another LEC (not a customer of the Telephone
27 Company) to utilize a Telephone Company tandem switch as a
28 means of establishing connectivity with the terminating
29 competitive LEC. Tandem transit service is not applicable to calls
30 that utilize an interexchange carrier for which interconnection with
31 either the originating and/or terminating LEC(s) are provided

1 pursuant to meet point billing, while service to the interexchange
2 carrier is provided pursuant to switched exchange access service
3 tariffs or other applicable contract arrangements. [Part A, Section
4 1.3.2.]

5 Nonetheless, when toll and switched access are combined on the same trunks used
6 for the exchange of local traffic, NHPUC No. 84, Part C, Section 1.1.1.C.1, requires
7 that toll and switched access traffic must be rated under the appropriate state and/or
8 federal tariffs for the switched access feature group service being provided.

9 Likewise, NHPUC No. 84, Part C, Section 1.1.2.B, specifies that when the
10 competing telecommunications carrier ("TC") uses such combined trunks for local,
11 toll and/or switched access traffic, the rates and charges described in NHPUC No. 84
12 for switched interconnection services **only** apply to the local traffic of the TC:

13 When the TC uses combined trunk groups as described in Section
14 1.7.3, the rates and charges described below will only apply to the
15 local traffic of the TC. The local traffic will be determined based
16 on the data provided as described in Section 1.7 following.

17 Thus, while the tariff permits combining local traffic and toll or switched access
18 traffic on the same tandem trunk groups, it is also clear that the toll and switched
19 access traffic delivered under these arrangements will be subject to NHPUC No. 85
20 for intrastate toll or switched access (and FCC No. 11 for interstate switched access).
21 NHPUC No. 84, which was put in place to address the opening of local markets and
22 participation of competitive local exchange carriers ("CLECs") and other TCs, points
23 to NHPUC No. 85 for a carrier's use of Verizon NH's network in the provision of its
24 toll services terminating to a Verizon NH end-user or delivered to another carrier.
25 Interconnecting TC's or CLEC's cannot simply look to a single tariff for the relevant

1 terms and conditions governing the provision of services that Verizon NH provides
2 over common trunking. NHPUC No. 84 and No. 85 must be viewed in combination.

3 **Q. IS THE PROVISION OF SWITCHED ACCESS LIMITED TO ONLY THE**
4 **EXCHANGE CARRIER PROVIDING THE END-USER LOOP, EXCLUDING**
5 **OTHER EXCHANGE CARRIERS THAT JOINTLY PROVIDE SWITCHING**
6 **AND TRANSPORT FOR TOLL AND/OR EXCHANGE ACCESS TRAFFIC?**

7 No, there is no such limitation and such a distorted interpretation is at odds
8 with the tariff and long standing industry practice. Here, BayRing advances an
9 erroneous argument that NHPUC No. 85 does not apply (Winslow at 12-29; Lebeck
10 at 5-10) because the types of calls in dispute do not involve a Verizon NH end user.
11 In making this claim, BayRing focuses on several flawed interpretations, concluding
12 that switched access must necessarily involve a Verizon NH customer on the end of
13 an originating or terminating switched access call. For example, BayRing cites to
14 NHPUC No. 85, Section 5.2.1.A (Winslow at 12-13) and simply concludes that if no
15 end-user loops are provided by Verizon for access to an end-user, then Verizon is not
16 providing the carrier with switched access under the access tariff. That is not at all
17 the meaning of the tariff, which states:

18 Where the customer is provided with switched access service
19 under this tariff, the Telephone Company will provide the use of
20 Telephone Company common lines by a customer for access to
21 end user.

1 The correct reading of this language is that, when switched access is provided for the
2 carrier's use of Verizon NH's network, Verizon NH will also provide the carrier with
3 the use of "Telephone Company" end-user loops if and when the toll service
4 originates from or terminates to a Verizon NH end-user. Similarly, BayRing claims
5 NHPUC No. 85 does not define switched access, and therefore BayRing relies on
6 language from tariff FCC No.11.¹ BayRing then draws the erroneous conclusion that
7 FCC No. 11 is controlling. It is not. References in NHPUC No. 85 to FCC No. 11
8 are mainly for convenience and refer to the technical and operational specifications
9 for feature group offerings and local switching/local transport options. Even if it
10 were controlling, which it is not, the plain language cited does not imply that
11 Verizon end-user loops **must** be used in combination with Verizon switching and
12 trunking facilities in order for Verizon to be providing the customer with switched
13 access. Rather, it provides that switching and trunking **may** be used by the carrier in
14 the provision of its toll service and, when the toll service involves a Verizon end-
15 user, the carrier may also use Verizon end-user loops.

16 Switched access, which is available to carriers for their use in furnishing the
17 carrier's service, provides a two-point communications path between end-users and

¹ "Switched Access Service, which is available to customers for their use in furnishing their services to end users, provides a two-point electrical communications path between a customer's premises, multiplexing node or virtual collocation arrangement and an end user's premises. It provides for the use of common terminating, switching and trunking facilities, and common subscriber plant of the Telephone Company. Switched Access Service provides for the ability to originate calls from an end user's premises to a customer's premises, multiplexing node or virtual collocation arrangement and to terminate calls from a customer's premises, multiplexing node or virtual collocation arrangement to an end user's premises in the LATA where it is provided. Specific references to material describing the elements of Switched Access Service are provided in 6.1.1 and 6.1.3 following." FCC No. 11, Section 6.1

1 the carrier. Neither NHPUC No. 85, Section 5.2.1.A nor FCC No. 11, Section 6.1
2 specifies that the end-user **must** be a Verizon end-user or limit the application of
3 switched access solely to a Verizon NH end-user. In fact, the definition of switched
4 access is simply stated in NHPUC No. 85, the general regulations and application
5 section of the tariff. Section 2.1, as explained in Verizon NH's direct testimony (at
6 9-10), provides that switched access is the service that Verizon NH furnishes to a
7 carrier, for the carrier's use of Verizon NH's network in the carrier's provision of its
8 services. Had Verizon intended that switched access be limited solely to the use of
9 Verizon NH's network in providing service to a Verizon end-user, the language
10 would have been more restrictive. However, the tariff permits the use of the
11 Verizon NH network by carriers providing service to non-Verizon end-users.
12 Language was thus included for the provision of switched access by Verizon NH
13 jointly with other local exchange carriers, where Verizon NH is functioning as an
14 intermediate carrier and only providing transport and switching functions.

15 As explained in Verizon NH's direct testimony (at 9-10), if BayRing's
16 flawed reasoning were carried forward, the joint provision of switched access service
17 involving multiple exchange carriers would not constitute the provision of switched
18 access by the "intermediate" carrier that is only providing transport and switching
19 functions. Such switched access arrangements, known as meet point billing, are a
20 long-standing industry practice.

**Q. HOW DOES VERIZON NH'S TARIFF ADDRESS THE INTERMEDIATE
CARRIER FUNCTIONS/SERVICES THAT BAYRING CLAIMS ARE NOT
SWITCHED ACCESS?**

A. Although BayRing would appear to have the Commission invent an entire new service offering, as discussed above and in Verizon NH's direct testimony, provisions are included in NHPUC No. 85 for the use of Verizon NH's network when traffic is delivered to or from another exchange carrier and does not involve a Verizon NH end-user. Contrary to BayRing's testimony that NHPUC No. 85 does not address intermediate carrier scenarios (Winslow at 21-29), Section 3.1.2.A states:

General — Where more than one exchange telephone company is involved in the provision of access service the Telephone Company will handle ordering, rating and billing of access services under this tariff as follows. [] The regulations contained herein are illustrated in Exhibit 3.1.2-1.

NHPUC No. 85 also provides that:

Each exchange telephone company will provide the portion of the local transport element in its operating territory to an IP with another exchange telephone company and will bill the charges in accordance with its access service tariff. The charges for the local transport element will be determined as described in Section 3.1.2K and 3.1.2L. All other appropriate charges in each exchange telephone company tariff are applicable. [Section 3.1.2.D]

Clearly, these and other tariff provisions (e.g., Sections 3.1.2.K and 3.1.2.L and 4.1.12) authorize Verizon to bill carriers for switched access where Verizon NH is functioning as an intermediate carrier for calls originating or terminating with another carrier. These sections address the joint provision of

switched access and application of local transport when another carrier is involved, and specify that other charges are applicable in accordance with the each carrier's tariff. The diagram in the tariff exhibit 3.1.2-1 illustrates the local transport mileage apportionment where billing percentages are applicable.

Q. MUST AN END OFFICE BE LISTED IN THE LERG OR MUST A BILLING PERCENTAGE BE LISTED IN NECA'S TARIFF FCC NO. 4 TO CHARGE CARRIERS FOR THE SWITCHED ACCESS PROVIDED BY VERIZON NH?

A. No. BayRing argues (Lebeck at 6-10) that Verizon NH does not have a meet point billing arrangement with some of the carriers for which BayRing uses Verizon NH to deliver toll traffic originated by a BayRing end-user. In addition, BayRing claims that some of the exchanges for which BayRing is being charged switched access by Verizon NH are not listed or not owned by Verizon NH. BayRing's contentions are misplaced.

First, listing of end office information in NECA tariff FCC No. 4 and the LERG is the responsibility of the respective operating company, not Verizon NH. The information is only as good as the information provided by the responsible companies. The listing of meet point billing percentages in NECA FCC No. 4 is a cooperative effort between the end office operating company and the intermediate transport company, which is handled through joint agreement of the involved parties when initially establishing such arrangements. However, not all meet point

1 arrangements require listing in the NECA FCC No. 4 tariff. The purpose of that
2 section of the tariff is to identify billing percentages for each company when local
3 transport facilities are jointly provided and will be billed by each party for the
4 mileage sensitive portion of the local transport facilities they provide. Meet point
5 arrangements where one company provides 100% of the inter office transmission
6 facilities and the other company provides 0% (such as the case in question here) are
7 generally not listed as there is no need to apportion the mileage sensitive transport
8 charges.

9 Second, end office codes (not exchange or rate center codes) form the
10 basis of access charge billing. End office common language location identification
11 (“CLLI”) codes are utilized in the Verizon carrier access billing system (“CABS”).
12 Switched access traffic is compiled in CABS according to trunk group designations
13 over which the traffic is carried. For example, switched access traffic that is
14 transported from Verizon NH’s Manchester tandem switch to CLLI code
15 CNCRNH03RS0 represents a trunk group between the tandem and a CLEC’s
16 interconnection point in Concord. This arrangement is not listed in the NECA FCC
17 No. 4 billing percentages section because Verizon NH provides 100% of the mileage
18 based transport facilities associated with this trunk group. Other CLLI codes may
19 not appear in NECA FCC No. 4 or the LERG because the trunk group designation is
20 established based on CLLI codes listed on the Access Service Request (“ASR”)
21 when the carrier initially established or augmented trunk groups. For example,
22 MNCHNHCOH04 may not appear in the wire center section or billing percentage

1 section of NECA FCC No. 4 or the LERG. But it represents a trunk group
2 designation for trunks between Verizon NH's Manchester tandem and a CLEC's
3 interconnection point where Verizon NH does not provide the mileage sensitive
4 transport facilities.

5 Finally, BayRing's claims regarding NECA FCC No. 4 or the LERG,
6 ignore the basic fact that Verizon NH is providing switched access pursuant to
7 NHPUC No. 85, Section 2 (general regulations) and Sections 3, 4, 5 and 6 therein.
8 The controlling authority is thus NHPUC No. 85 and not the LERG or FCC No. 4.²

9 **Q. IS VERIZON NH AUTHORIZED TO CHARGE CARRIERS FOR**
10 **SWITCHED ACCESS IF THE END OFFICE IS NOT LISTED IN NECA'S**
11 **TARIFF FCC NO. 4?**

12 A. Yes. As explained above, the controlling authority is Verizon NH's
13 NHPUC No. 85 for intrastate access charges and not NECA's tariff FCC No. 4.
14 BayRing raises the argument in its testimony (Lebeck at 6-10) that Verizon NH does
15 not have a meet point billing arrangement with some of the carriers for which it
16 uses Verizon NH to deliver toll traffic originated from a BayRing end-user to another
17 carrier. As also explained above, not all meet point arrangements require listing in
18 the NECA FCC No. 4 tariff. The purpose of that section of the tariff is to identify

² BayRing provided more specific information in response to Verizon NH's second set of data requests regarding certain of its additional billing claims — individual claims that are incidental to the larger claims at issue in this proceeding. Verizon NH will use the information BayRing provided to investigate further the merits of its additional claims and in good faith attempt to address and resolve them, if appropriate, through customary industry processes.

1 billing percentages for each company when local transport facilities are jointly
2 provided and will be billed by each party for the mileage sensitive portion of the
3 local transport facilities they provide. Also as noted above, meet point arrangements
4 where one company provides 100% of the inter office transmission facilities are
5 generally not listed as there is no need to apportion the mileage sensitive transport
6 charges. Verizon NH further notes that most of the instances identified in BayRing's
7 response to Verizon NH's second set of information requests involve meet point
8 billing arrangements with independent telephone company end offices with billing
9 percentages that are listed in NECA FCC No. 4. The others fall into the first
10 category where either Verizon NH or the other carrier provides 100% of the transport
11 facilities to the end office, and there is no reason to apportion local transport facility
12 charges.

13 **Q. DOES BAYRING'S INTERPRETATION OF THE SWITCHED ACCESS**
14 **DESCRIPTION CONTAINED ON VERIZON'S WHOLESALE WEBSITE**
15 **LIMIT THE APPLICATION OF THE NEW HAMPSHIRE ACCESS**
16 **TARIFF?**

17 A. No. Again the controlling authority is NHPUC No. 85. BayRing's
18 reference in its testimony (Lebeck at 5) to language on the Company's wholesale
19 website relies on a generic description of switched access. The description depicts
20 the network functions or elements a carrier may use in providing its service but does
21 not mandate that a carrier **must use all** the functions such as common terminating

1 and end-user subscriber plant facilities. Switched access can be provided using
2 Verizon's and another participating carrier's facilities in jointly establishing a
3 communications path between the switched access customer and end-users. Further,
4 BayRing's reliance on part of the description ignores advice contained on the
5 website to visit the appropriate state and federal tariffs for specific information.

6 **III. VERIZON NH'S TARIFF REQUIRES PAYMENT OF ACCESS RATE**
7 **ELEMENTS, INCLUDING THE CCL CHARGE, ON ALL**
8 **INTRASTATE SWITCHED ACCESS PROVIDED TO CARRIERS**

9 **Q. ARE AT&T AND BAYRING CORRECT IN ASSERTING THAT NHPUC NO.**
10 **85 CANNOT BE READ TO APPLY THE CCL UNLESS A VERIZON LOOP**
11 **IS ALSO PROVIDED?**

12 A. No, AT&T and BayRing are incorrect in their interpretations. As
13 explained in Verizon NH's direct testimony (at 17-28) the CCL is applicable to all
14 switched access provided to a carrier. Contrary to AT&T's (9-11) and BayRing's
15 (Winslow at 19-21, 29-30) direct testimony, the tariff is explicit that a carrier
16 common line charge applies and is billed for each switched access service provided
17 under the tariff. This requirement is clearly stated at the beginning of Section 5.1,
18 which provides:

19 Carrier common line access service is billed to each switched
20 access service provided under this tariff....

21 Section 5.4.1 also specifies that the carrier common line charge applies to all
22 switched access:

1 Except as set forth herein, all switched access service provided to
2 the customer will be subject to carrier common line access charges.

3 Section 5.4.1 also explains that carrier common line rates and charges will be billed
4 for all intrastate switched access service provided where Verizon NH is functioning
5 (as also explained in the previous section above) as an intermediate carrier, jointly
6 providing switched access local transport with another exchange carrier:

7 The switched access service provided by the Telephone Company
8 includes the switched access service provided for both interstate
9 and intrastate communications. **The carrier common line access**
10 **rates and charges will be billed to each switched access service**
11 **provided under this tariff** in accordance with Section 4.1 and
12 Section 5.4.2. [Section 5.4.1.C, emphasis added]

13 As explained in Verizon NH's direct testimony, this language was placed in all of
14 these sections to underscore the principle that carrier common line charges apply for
15 all types of switched access calls, consistent with the rate design and framework for
16 access charges established in DE 90-002.³

17 Verizon NH thus does not rely solely on a single sentence in Section
18 5.4.1.A, as claimed by BayRing (Winslow at 29-30). BayRing's contention that the
19 "...except as set forth herein..." language applies to other, more specific provisions
20 of the tariff is also incorrect. The "except for" proviso was included only to apply to
21 usage associated with enhanced service providers, as can be seen from the Section
22 5.4.1.B terms immediately following Section 5.4.1.A:

³ Verizon NH will not reiterate arguments already presented in its direct testimony concerning the application of CCL and its underlying rate design.

1 When access to the local exchange is required to provide a
2 customer service (e.g., MTS type, Telex, Data, etc.) that uses
3 resold IC's private line service, switched access service rates and
4 regulations as set forth in Section 6 will apply except when such
5 access to the local exchange is required for the provision of an
6 enhanced service. Carrier common line access rates and charges
7 apply.

8 Sections 6.6.3 and 5.1.1, which BayRing claims are other, more specific exceptions,
9 cannot reasonably be read as exclusions from the application of the CCL charge.

10 **Q. DO THE COMMISSION'S ORDERS IN DOCKET DE 90-002 SUPPORT**
11 **AT&T'S CONTENTION THAT THE COMMISSION DID NOT APPROVE**
12 **THE CCL AS A CONTRIBUTION ELEMENT?**

13 A. No. Verizon NH's direct testimony provided extensive evidence
14 presented in the DE 90-002 proceeding, refuting AT&T's present contention.⁴ The
15 Commission's Orders⁵ adopting the stipulation and compliance tariff represent
16 approvals of the CCL as a contribution element, linked to transitional target rates.
17 The Commission's Orders did not in any way reject the evidence NET provided on
18 the importance of this contribution element and its application to all switched access.
19 The language of the tariff is also clear, as explained in part II above, and in Verizon
20 NH's direct testimony, that all switched access is subject to the CCL, including when

⁴ When access charges were adopted in DE 90-002, New England Telephone ("NET") explained that as toll competition was introduced in New Hampshire, it was important that the revenue contribution supporting exchange services that had been traditionally provided by toll services be maintained regardless of whether NET or a competitor provided the toll services.

⁵ Order Nos. 20,864, 20,916 and 20,980.

1 a carrier uses Verizon NH's network for delivery of calls to non-Verizon NH end-
2 users.

3 In addition, the Commission has also addressed the exchange of traffic
4 between LECs and CLECs in various proceedings, which eventually led to the
5 development and approval of NHPUC No. 84. Tariff No. 84 provides that CLECs
6 are subject to switched access when using Verizon NH's network for transmission
7 and switching of toll and exchange access traffic. The approved tariffs address the
8 use of Verizon NH's network in the provision of toll services involving CLECs and
9 interexchange carriers, including toll traffic to non-Verizon end-users. No
10 Commission order in the related proceedings rejected application of switched access
11 charges, including the CCL as a contribution element for use of Verizon NH's
12 network, or otherwise limited its application only to instances where a Verizon NH
13 end-user loop is used.

14 **Q. DO THE REGULATIONS IN NHPUC NO. 85, SECTION 6 PERTAINING TO**
15 **USAGE RATES ALSO APPLY TO THE CCL?**

16 A. No. The terms and conditions in Section 6 only apply to the provision of
17 the local transport and local switching categories of switched access service, as
18 specified by Section 6.7 which prescribes the application of rates and charges for
19 Section 6 rate elements. Both AT&T (at 12-18) and BayRing (Lebeck at 4-5;
20 Winslow at 6-8 and 19-21) assert that under Section 6.6.3 usage rates apply only
21 when a specific rate element is used. However, the requirement in that section

1 applies only to local transport and local switching elements, as specified by the
2 “Application of Rates and Charges” in Section 6.7. Section 5 is a separate and
3 distinct section containing the terms, conditions and rate application for CCL.
4 AT&T and BayRing present a contorted reading of these separate and distinct
5 sections. While Section 5.1.1.A provides for the use of a Verizon NH end-user loop
6 when a carrier uses Verizon NH’s network, Sections 5 or 6 do not mandate its use, as
7 explained above. The plain language of the tariff differentiates the relevant sections,
8 distinguishing each with its own rate application terms, and clearly states that all
9 switched access is subject to the CCL.

10 **IV. ATT’S AND BAYRING’S RELIANCE ON OTHER AUTHORITY IS**
11 **MISPLACED**

12 **Q. DO THE VARIOUS FCC ORDERS REFERED TO IN AT&T’S AND**
13 **BAYRING’S TESTIMONY APPLY TO THE PROVISION OF INTRASTATE**
14 **ACCESS SERVICE?**

15 A. No. Each of the orders cited by AT&T (at 19) and BayRing (Winslow at
16 31) involved the provision of interstate services over which the FCC has jurisdiction.
17 Nothing in those orders pertains to intrastate services or authority a state commission
18 has over the regulation of intrastate services. Verizon NH notes, however, that the
19 FCC has determined that the CCL does not apply when a common access line is not
20 actually used or when a dedicated access line is used which has an associated fixed
21 charge because in its Part 69 rules the CCL was specifically designed as an element

1 to recover costs of non-traffic sensitive subscriber plant. For example, in DA 91-890
2 (6 FCC Rcd. At 4794) at paragraph 7, the FCC states:

3 We conclude that charging CCL to IXC's for RCC connections is
4 not consistent with the Commission's rules. In establishing the
5 interstate access charge structure, the Commission designed CCL,
6 along with subscriber line charges, to recover the LEC's costs of
7 providing subscriber loops.

8 However, in developing the framework for access charges in New Hampshire, the
9 CCL was designed as an element solely to isolate and provide contribution and not
10 as an element for use of a loop or recovery of loop costs.

11 **Q. IN ATTEMPTING TO ESTABLISH A NEXUS BETWEEN CCL RATES AND**
12 **LOOP COST RECOVERY, IS AT&T'S VIEW OF PRIOR COMMISSION**
13 **DECISIONS IN DOCKET DR 89-010 ACCURATE?**

14 A. No. In establishing the access charge rate design and structure in DE 90-
15 002, the Commission's Orders in DE 90-002 did not make reference to or rely on
16 Order No. 20,082 in DR 89-010.⁶ In other words, there is no evidence that the
17 Commission established a connection between the CCL and recovery of loop costs in
18 DE 90-002 or that the CCL was intended solely for use of Verizon NH end-user
19 loops. If the Commission had intended that the apportionment of loop costs across
20 all services, based on a minute-of-use ("MOU") allocator, should apply only to use
21 of Verizon NH loops, as AT&T alleges, it would have provided a clear indication in

⁶ In order No. 20,864 in DE 90-002, the Commission makes reference to the DR 89-010 Order No. 20,082 only in the context of whether or not basic exchange services recovered their costs and thus whether rate rebalancing would be appropriate or necessary.

1 its orders that the MOU allocator **exclude** minutes from toll (i.e., toll provided as a
2 designated toll provider to independent telephone company end-users) and switched
3 access services that do not use a Verizon NH loop. The Commission did not make
4 such exclusions.

5 **Q. WHAT BEARING DOES THE NECA HANDBOOK REFERED TO IN**
6 **BAYRING'S TESTIMONY HAVE ON THE INTERPRETATION AND**
7 **APPLICATION OF NO. 85?**

8 A. None. BayRing (Lebeck at 6) states that the NECA handbook indicates
9 that CCL is intended to compensate LECs for the loop, drop and associated
10 equipment associated with the provision of end-user loops. The NECA handbook is
11 a general guide primarily related to the provision of interstate access services from
12 NECA tariff FCC No. 5, and as it relates to NECA FCC No. 4 with the provision of
13 interstate access services generally. By contrast, NHPUC No. 85 is the authority for
14 the application of intrastate CCL charges. As explained in part III above, CCL
15 applies to all intrastate switched access provided by Verizon NH.

16 **Q. DOES VERIZON ENDORSE THE CONCEPT OF CARRIERS ONLY**
17 **CHARGING FOR NETWORK FUNCTIONS ACTUALLY PROVIDED, AS**
18 **AT&T SUGGESTS IN ALLUDING TO A VIRGINA PROCEEDING?**

19 A. Whether or not Verizon NH would support particular charges would
20 depend on the policy considerations underlying the adoption of the charges. The

1 situation and circumstances in Virginia to which AT&T is referring (AT&T at 18)
2 are different from the situation and circumstances that existed in New Hampshire
3 when the tariff was adopted, justifying the positions taken in each jurisdiction.

4 CCL is not a usage sensitive rate element designed to recover the costs of
5 providing a particular network function. Rather, CCL is solely an element to provide
6 contribution, assessed on a per minute basis, where local transport and/or switching
7 are provided for a carrier's use of Verizon NH's network. The Virginia situation
8 involved access charges by new carriers for transport and tandem switching which
9 the new carriers are not actually providing, rather than a charge designed to provide
10 contribution for the use of the incumbent exchange carrier's network. In Virginia,
11 the policy considerations were thus different than those before the Commission in
12 New Hampshire. The Virginia situation involved access charges imposed by new
13 rather than incumbent providers. And new providers do not have public policy
14 obligations that apply to incumbents in their role as providers of last resort, such as
15 providing service for all users including those in high cost areas throughout the state.

16 **V. VERIZON NH IS CORRECTLY APPLYING ITS TARIFF TO THE**
17 **TRAFFIC BAYRING HAS IDENTIFIED**

18 **Q. WHAT IS THE CURRENT STATUS OF VERIZON NH CREDITS TO**
19 **BAYRING FOR CALLS DELIVERED TO WIRELESS CARRIERS THAT**
20 **VERIZON AND BAYRING AGREED WOULD BE TREATED AS TANDEM**
21 **TRANSPORT SERVICE?**

1 A. Verizon NH billed these types of calls as switched access for the October
2 2005 – July 2006 period. BayRing and Verizon NH agreed to treat these types of
3 calls as tandem transit service, and BayRing agreed to provide Verizon NH with
4 transit and local use factors to begin the tandem transit billing in August 2006.
5 Credits for the difference between switched access and tandem transport charges for
6 the October 2005 – July 2006 period will be posted to BayRing's account no later
7 than April 25.

8 **Q. BAYRING ALSO CLAIMS VERIZON NH IS ASSESSING LOCAL**
9 **TRANSPORT CHARGES FOR TRANSPORT IT IS NOT ACTUALLY**
10 **PROVIDING. IS THIS CLAIM ACCURATE?**

11 A. As discussed above, BayRing provided more information in response to
12 Verizon NH's second set of data requests regarding certain of its additional billing
13 claims that are incidental to the larger claims at issue in this proceeding. Verizon
14 NH has not yet determined whether there are legitimate billing issues based on the
15 more specific information provided. Additional information is needed before
16 Verizon can reasonably conclude its investigation and determine the accuracy of
17 these particular BayRing claims. Verizon NH believes it would be more productive
18 to use this information in its investigation of the claims and address these
19 individually identified situations through the appropriate industry process.

**VI. AT&T'S AND BAYRING'S CLAIMS OF UNFAIR, COMPETITIVE
ADVANTAGE ARE BEYOND THE SCOPE OF THIS PROCEEDING
AND UNSUPPORTED**

**Q. ARE AT&T'S AND BAYRING'S CLAIMS, THAT VERIZON'S
APPLICATION OF CCL CHARGES IN THIS CASE REPRESENTS AN
UNFAIR COMPETITIVE ADVANTAGE, BEYOND THE SCOPE OF THIS
PROCEEDING?**

A. Yes. As stated in the Commission's procedural orders, the issue to be determined in phase I involves the proper interpretation and application of Verizon NH's NHPUC No. 85 access services tariff. If the disputed calls involve the provision of switched access service, phase I will also determine if the tariff is being properly interpreted to apply switched access charges, including the CCL, for the types of calls disputed in BayRing's complaint. Whether the tariff is being properly interpreted and applied centers on language of the tariff and whether such application is consistent with the underlying rate design establishing the tariff. AT&T's (at 24-25) and BayRing's (Winslow at 13-21 and 34-35) new-found claim, that such application of the CCL may have unintended consequences that allegedly may or may not create an unfair advantage for Verizon NH or wireless carriers in the provision of competitive toll services, goes well beyond whether the approved tariff terms are being properly applied.

Equally important, BayRing's and AT&T's allegations are a red herring.
No information has been presented by any party that Verizon NH is engaging in

1 unfair pricing in the provision of competitive toll services. In fact Verizon NH is not
2 competing with CLECs to provide CLEC end-users with Verizon toll service.
3 CLECs and IXC's also have the ability if they so choose to establish direct
4 interconnection with other carriers that would avoid using Verizon NH switched
5 access and application of the disputed CCL charges.

6 **VII. CONCLUSION**

7 **Q. HOW SHOULD THE COMMISSION PROCEED WITH THIS CASE?**

8 A. The Commission should deny BayRing's complaint. As demonstrated in
9 Verizon NH's direct and rebuttal testimony, the service at issue is not switched
10 interconnection tandem transit service, which only applies for the delivery of **local**
11 traffic. Rather, the service is clearly switched access service, which applies to the
12 use of Verizon NH's switched network for the transmission and switching of another
13 carrier's **toll** traffic. The application of the access tariff approved by the
14 Commission is consistent with the access charge framework and structure
15 established in the Generic Competition investigation, Docket DE 90-002. That
16 proceeding established Verizon NH's carrier common line element solely as a
17 contribution element applicable to all switched access usage. The language of the
18 approved tariff specifies that **all** switched access is subject to carrier common line
19 charges for that very reason -- to provide contribution and support to maintain other
20 ratepayer rates. Nothing has occurred to change the Commission's prior access
21 charge determinations.

1 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

2 A. Yes it does.