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VIA ELECTRONIC AND OVERNIGHT DELIVERY

May 30, 2006

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



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

Dear Ms. Howland:

Enclosed for filing is Verizon NH's reply to the Petition of Freedom Ring
Communications, LLC, d/b/a BayRing Communications re Access Charges.

Thank you for your attention to this matter.

Sincerely,

Alexander W. Moore
awm.

Alexander W. Moore

Enclosures

cc: S. Geiger
K. Bailey

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

_____))
Petition of Freedom Rings Communications, LLC,)
d/b/a BayRing Communications re Access Charges)
_____)

Docket No. DT 06-067

ANSWER OF VERIZON NEW HAMPSHIRE

Pursuant to NH RSA 365:2, Verizon New England Inc., d/b/a Verizon New Hampshire (“Verizon NH”) hereby responds to the Petition filed by Freedom Ring Communication LLC d/b/a BayRing Communication (“BayRing”) with the Commission on April 28, 2006 (“Complaint”). BayRing alleges that Verizon NH is improperly billing BayRing access charges, including carrier common line (“CCL”) charges for calls which originate on BayRing’s network, route through Verizon NH’s network and terminate to a wireless service provider. BayRing is wrong. Verizon NH’s bills to BayRing for CCL and other access charges are proper, and BayRing is required to pay those charges, in accordance with Verizon NH’s PUC-approved tariff, (NH PUC Tariff No. 85 (“the Tariff”). More specifically, Section 5.4.1.A of the Tariff provides that all switched access services will be subject to carrier common line access charges. Contrary to BayRing’s assertion, the services at issue in this case are switched access services governed by the Tariff. There is no valid legal or policy basis for BayRing’s Complaint, and the Commission should dismiss it.

Simply put, § 5.4.1.A of the Tariff, entitled “Application of Rates and Charges,” states in clear and unequivocal terms that, “Except as set forth herein, *all switched access service provided to the customer will be subject to carrier common line access*

charges.”¹ (Emphasis added.) Further, the two exceptions provided in the Tariff, set forth in § 5.1.1.B, do not exempt from CCL charges calls terminated to customers of wireless carriers or calls that do not travel over a “common line.” The clear terms of the Tariff thus require BayRing to pay CCL charges on the switched access services it purchases from Verizon NH, even for calls that terminate on a wireless carrier’s network.

BayRing points to various portions of the Tariff regarding the term “common line” in support of its claim that the CCL charges apply only when a CLEC uses a Verizon NH end-user customer’s loop. See Complaint, ¶¶ 4-7, citing Tariff §§ 1.3.2 (definition of “common line”), 5.1.1.A (description of carrier common line access) and 6.1.2 (diagram of complete switched access service). This is a red herring. First, Tariff §§ 1.3.2 and 5.1.1.A discuss common line access; they do not purport to address the scope or application of CCL *charges*, which is addressed in § 5.4.1, as noted above.

Moreover, the diagram referenced in Tariff § 6.1.2 is intended to provide a general service description, in a conceptual fashion. The diagram and the description of carrier common line access in Tariff § 5.1.1 were adopted from the FCC switched access tariff in 1993 when Verizon NH first introduced its intrastate switched access tariffs in New Hampshire and has been carried forward ever since. The assignment of CCL to the end-user loop had relevance in the federal jurisdiction, as the CCL was a cost recovery element, at that time, for a portion of the end-user loop. From the very beginning, however, in New Hampshire the CCL element was strictly intended as a contribution element and was never associated with any network functionality. See Direct Testimony

¹ Likewise, Tariff § 5.4.1.C provides in part that, “The carrier common line access rates and charges will be billed *to each switched access service* provided under this tariff in accordance with Section 4.1 and Section 5.4.2.” (Emphasis added.)

of Michael J. McClusky, Generic Competition Docket 90-002, at pages 12-13, filed May 1, 1992. Mr. McClusky testified as follows:

- Q. Earlier in your testimony you said that the Company's proposal for switched access would include local transport and local switching rates which are set at their incremental costs. Since toll rates today are much higher than their incremental costs, how does the proposal succeed in creating an end-to-end access rate which differs from retail rates only by incremental cost and retail overhead?
- A. In addition to the local transport and local switching element, the Company is introducing originating and terminating carrier common line elements which reflect contribution. The sum of the cost-based local transport and local switching rate elements which would apply on an end-to-end basis would fall far below the retail rates, since the a [sic] sum would contain no contribution beyond incremental cost. ***The sole purpose of the carrier common line rate elements is to bring the end-to-end access rate from the incremental costs of transport and switching up to a level which results in the proper relationship between toll and access....***

(Emphasis added.) BayRing is thus flatly wrong in claiming that, "The CCL rate element of access is designed to primarily recover the costs of a local loop." See Complaint, ¶ 9.

Ultimately, the Commission approved the rate structure, including the CCL, without limitation in its Order in Docket 90-002. The parties to the original intraLATA competition proceeding were well aware of this fact and have not challenged this practice for nearly thirteen years. Thus, the express terms of § 5.4.1 of the Tariff applying CCL charges to all switched access services (and not merely to the use of an end-user's loop) are not a technical aberration of language but are consistent with the pricing policy underlying the CCL charges.

It is worth noting that carriers purchase switched access service from Verizon NH at their own discretion, and pursuant and subject to the terms stated in the Tariff. Carriers are not required to purchase such services from Verizon NH to complete their calls but are free to make other arrangements, either with competitive access providers or through

a direct connection with the wireless provider. Verizon NH is simply billing its PUC-approved rates for services purchased by BayRing and rendered by Verizon NH.

BayRing also claims that the access services it purchases from Verizon NH in connection with calls that terminate on a wireless carrier's network are not switched access services at all (and thus are not purchased under the Tariff and subject to CCL charges) but instead are Tandem Transit Services (TTS) purchased under a different tariff, NH PUC Tariff No. 84. *See* Complaint, ¶ 8. Once again, BayRing is incorrect. First, BayRing's reliance on the definition of Tandem Transit Service in Tariff No. 84, § 1.3 is misplaced. That provision is simply a general description and is not the appropriate tariff reference for the terms and conditions of this service. A review of the more relevant sections of Tariff No. 84, including the actual Tandem Transit Service (TTS) description, demonstrates that TTS is not available to BayRing for the application at issue here. *See* Attachment A.

Tariff No. 84, Part C, Section 1.3.3 states that TTS provides for the exchange of traffic between two telecommunications carriers ("TC"s) or between a TC and another carrier purchasing Meet Point B arrangements. Wireless providers are not "TCs" under the approved tariff definition of a TC. Tariff No. 84, Part A, Section 1.3.2, P. 10, defines a Telecommunications Carrier or TC as a common carrier that, among other criteria:

(1) has been authorized by the Commission to provide local exchange services as a facilities-based carrier, [and] (2) provides dial tone and local exchange services under tariff within the State of New Hampshire

Clearly, wireless providers do not meet these criteria and therefore are not TCs under the terms of Tariff No. 84. Since TTS does not provide for the exchange of traffic between a TC such as BayRing and wireless providers, the service BayRing is purchasing from

Verizon NH is not TTS under Tariff No. 84. Thus, the tariffed services Verizon NH is providing to BayRing to exchange traffic with wireless carriers are switched access services provided under NH PUC Tariff No. 85, and which are subject to CCL charges.

Verizon NH has discussed the issues raised in the Complaint with BayRing on multiple occasions and has attempted to resolve them through a business-to-business resolution. BayRing, however, has been unwilling to accept anything but a complete amnesty from intrastate access charges.

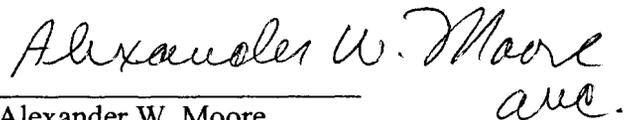
Verizon NH asks that the Commission recognize the Complaint for what it is, an attempt by BayRing to circumvent an approved tariff and avoid paying authorized tariff charges.

WHEREFORE, Verizon NH requests that the Commission dismiss the Complaint and order such other relief to Verizon NH as it deems just.

Respectfully submitted,

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

By its attorney

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awm.

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May 30, 2006

Verizon New England Inc.

1. Switched Interconnection Services
1.3 Meet Point B

(N)

1.3.1 Tandem Meet Point (Meet Point B) Arrangement	
A.	This arrangement provides a TC with a trunk side point of interconnection at 1.544 Mbps (DS1 rate) (24 voice grade equivalent channels) on the Telephone Company's access tandem switch for access only to the Telephone Company's end offices subtending that tandem switch. The end offices subtending tandem switches are listed in the Local Exchange Routing Guide (LERG) published by Bellcore.
1.	In addition, a TC can utilize this arrangement for the exchange of traffic with other TCs or an ITC through the use of Tandem Transit Service as set forth in Section 1.3.3.

1.3.2 Two-Way Meet Point B Reciprocal Traffic Exchange Trunk (RTET) Arrangement	
A.	This arrangement provides a TC with a trunk side connection at 1.544 Mbps (DS1 rate) or 44.736 Mbps (DS3 rate with CCSA/SS7 protocol to a point of termination located at the same V&H coordinates as that of the end office of the Telephone Company's access tandem switch for access only to the Telephone Company's end offices subtending that tandem switch. The end offices subtending tandem switches are published in the LERG. 64 Clear Channel Capability is an available option with this arrangement.
1.	Two-Way Meet Point B RTET provides for the following terminations: (1) TC termination of its traffic from its point of termination to a Telephone Company access tandem; and (2) The Telephone Company termination of traffic from its access tandem to a TC's point of interconnection over the same trunk group.

1.3.3 Tandem Transit Service (TTS)	
A.	TTS provides for the exchange of POTS traffic between two TCs where the two TCs purchase a meet point B arrangement under this tariff from the same Telephone Company access tandem switch, or between TCs utilizing Dedicated Transport and unbundled local switching through a Telephone Company access tandem switch. TTS also provides for the exchange of local traffic between a TC and an ITC, or other carrier where the TC purchases a meet point B arrangement and the ITC is also connected to the same Telephone Company access tandem switch.
B.	When such calls are terminated to another TC, ITC or other carrier, the Telephone Company will record and transmit call details to the terminating TC, ITC or other carrier and will provide tandem switching and transport on these calls.
C.	Payment of terminating access charges and associated record processing charges for TTS calls are the responsibility of the originating TC. The Telephone Company and the terminating TC, ITC or other carrier will each bill its appropriate charges to the originating TC.

(N)

Verizon New England Inc.

1. Tariff Information and General Regulations

1.3 Tariff Terminology

1.3.2. Definitions

Tandem—The customer designated location, in the same LATA as the Telephone Company STP, where SS7 signaling information is exchanged between the Telephone Company and the telecommunications carrier. Tandem switches are Class 4 switches which provide interconnection between other switches in the network. While the physical switch(es) may serve an end office function, the tandem functionality is strictly that which provides interconnection between end offices. It does so in cases where direct trunk groups are not economically justified, or when the network configuration indicates alternate routing is economically justified. (Ref: BCR SR-TSV-002275, BOC Notes on the LEC Networks).

(C)
(C)

Tandem Signaling—All the signaling and data elements necessary for identifying by FGD switched access customer or a TC, each access or TC call in the routing of multi-FGD traffic via common transport to an access tandem.

(N)

Tandem Transit Service—An offering provided by the Telephone Company to requesting competitive LECs that enables the TC whose customer originated an intraLATA call destined for a customer of another LEC (not a customer of the Telephone Company) to utilize a Telephone Company tandem switch as a means of establishing connectivity with the terminating competitive LEC. Tandem transit service is not applicable to calls that utilize an interexchange carrier for which interconnection with either the originating and/or terminating LEC(s) are provided pursuant to meet point billing, while service to the interexchange carrier is provided pursuant to switched exchange access service tariffs or other applicable contract arrangements.

(N)

Technically Feasible Points—Points at which it is technically or operationally feasible or possible to interconnect with or access the Telephone Company network without either creating a legitimate threat to the reliability or security of the Telephone Company's network or precluding the Telephone Company from maintaining responsibility for the management, control, and performance of its network.

Telecommunications—As defined in the Telecommunications Act of 1996, the transmission between or among points specified by the user of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications Carrier or TC—A common carrier that meets the following criteria: (1) has been authorized by the Commission to provide local exchange services as a facilities-based carrier, (2) provides dial tone and local exchange service under tariff within the State of New Hampshire, (3) provides reciprocal interconnection arrangements under contract to all local exchange carriers upon request, (4) provides access to E-911 services and statewide relay service, (5) complies with industry standards on all matters such as technical interconnection standards and billing standards, (6) participates in intercarrier compensation arrangements and provides data for such arrangements required according to industry standards and practices, and (7) complies with other applicable requirements set forth in PUC 1300 Local Telecommunications Competition Rules or any other applicable Commission rules. Such term does not include aggregators of Telecommunications Services (as defined in Section 226 of the Act). A Telecommunications Carrier shall be treated as a common carrier under the Act only to the extent that it is engaged in providing Telecommunications Services, except that the FCC shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage. Synonymous with the term CLEC.

(N)

(N)