



January 22, 2007

Via Electronic Filing and Overnight UPS

Ms. Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429



**Re: DT 06-067 Complaint of Freedom Ring Communications d/b/a BayRing DT 06-067
Against Verizon New England Inc.d/b/a Verizon NH**

Dear Ms. Howland,

Enclosed for filing is RNK Inc. d/b/a RNK Telecom's OPPOSITION OF RNK INC.
D/B/A RNK TELECOM TO VERIZON'S MOTION TO COMPEL.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Castano".

Lynn Castano
Counsel

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

**Complaint of Freedom Ring)
Communications d/b/a BayRing)
Against Verizon New England Inc.)
d/b/a Verizon NH)**

DT 06-067

**OPPOSITION OF RNK INC. D/B/A RNK TELECOM TO VERIZON'S MOTION TO
COMPEL**

On January 10, 2006, Verizon New England Inc. d/b/a Verizon New Hampshire ("Verizon") filed a motion to compel discovery responses to requests objected to by other parties, including RNK Inc. d/b/a RNK Telecom ("RNK").¹ Pursuant to PUC 203.07(e), RNK hereby replies to the Motion to Compel, and respectfully requests the Commission to deny the Motion to Compel, for the reasons stated herein.

PROCEEDURAL HISTORY

On November 29, 2006, the New Hampshire Public Utilities Commission ("Commission") issued Order No. 24,705 (the "Procedural Order") establishing a procedural schedule for the instant proceeding. The Procedural Order, among other things, bifurcated the proceedings into two phases, established the scope for the two phases of the proceeding,² and dates for parties to submit discovery requests. The first phase will determine the proper interpretation of the relevant tariff or tariffs and then the second phase will decide to what extent, if any, reparations are due. Consideration of prospective modifications to Verizon's tariff were

¹ *Verizon New Hampshire's Motion to Compel Discovery Responses*, DT 06-067 (January 10, 2007, "Motion to Compel.")

² *Procedural Order* at 6-7.

removed from the present proceeding and designated for resolution in a separate proceeding to be initiated later if necessary.

DISCUSSION

RNK, Inc. d/b/a RNK Communications ("RNK") opposes Verizon New Hampshire's motion to compel answers to its extensive information requests on the grounds that the information and documents requested are irrelevant and/or Verizon is already in possession of many of the documents requested and, therefore, the requests are inappropriate. In addition, it does not appear that RNK was ever contacted by Verizon in regards to a conference on the discovery requests.

The N.H. Code Admin. R. Puc 203.23, states that the Commission may exclude irrelevant, immaterial or unduly repetitious evidence. Discovery that seeks irrelevant or immaterial information is not something that a party should be required to undertake. *In re City of Nashua — Petition for Valuation Pursuant to RSA 38:9*, Order on Motion to Compel Discovery, Order No. 24,681, at 2 (Oct. 23, 2006). The New Hampshire Administrative Procedure Act also provides that "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence." RSA 541-A:3. Clearly, if the information sought is not relevant to the underlying proceeding, the discovery quest is improper.

Because this first phase of the proceeding is limited to determining the proper interpretation of the relevant tariff or tariffs³, Verizon's discovery requests must be limited to information and documentation relevant to that issue only. Verizon's extensive information requests go far beyond the scope of determining the proper interpretation of a tariff. Furthermore, in regards to some of the documentation requested, Verizon is already in possession of the documents as Verizon was required to file the documents with the Commission

³ *Procedural Order* at 6-7

and in fact did so. It is unduly burdensome to require RNK to produce documents already in possession by Verizon. Specifically, RNK's objections were as follows:

Request 8: RNK objects to this information request on the grounds of relevance, to the extent that interconnection agreements are not relevant to the meaning of the tariff. *See* NH PUC Order No. 24,705 (November 29, 2006) at p. 7. In any event, interconnection agreements are a matter of public record and are already in the possession of Verizon;

Request 10-35: RNK objects to these information requests on the grounds that they are irrelevant. The extent of RNK's direct trunking arrangements and the factors that determine the extent of such arrangements are not relevant to the meaning of the tariff. *See* NH PUC Order No. 24,705 (November 29, 2006) at p. 7;

Request 52-53: RNK objects to these information requests on the grounds of relevance to the extent they seek information relating to other states' access tariffs the language of which is different from the tariff at issue in this case; and

Request 54: RNK objects to this information request on the grounds of relevance, to the extent that interconnection agreements are not relevant to the meaning of the tariff. *See* NH PUC Order No. 24,705 (November 29, 2006) at p. 7. In any event, interconnection agreements are a matter of public record and are already in the possession of Verizon.

CONCLUSION

RNK has objected to any of the requests that seek information not relevant to the tariff(s) at issue. Procedural regulations and case law support a finding that non-relevant information cannot be sought through discovery. For the reasons stated above, the Commission should deny Verizon New

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Opposition to Verizon's Motion to Compel

Hampshire's motion to compel RNK to respond to Verizon's impermissible and inappropriate discovery.

Respectfully submitted, by the undersigned,

A handwritten signature in black ink, appearing to read "Lynn Castano", written over a horizontal line.

Lynn Castano
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