



Jay E. Gruber
Senior Attorney

AT&T Enterprise Services, Inc. T: 617.574.3149
99 Bedford Street F: 281.664.9929
Room 420 jegrub@att.com
Boston, MA 02111

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VIA FIRST CLASS AND ELECTRONIC MAIL

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



RE: Docket No. 06-067, Bay Ring 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 Carriers' Networks

Dear Ms. Howland

Enclosed for filing on behalf of AT&T Communications of New England, Inc., please find the following:

**ERRATA TO PANEL DIRECT TESTIMONY OF OLA A. OYEFUSI,
CHRISTOPHER NURSE, AND PENN PFAUTZ**

The foregoing filing includes only the pages of the testimony affected by the corrections. Those pages are: 1, 13, 19, 20, 22, and 23.

Kindly acknowledge receipt of the foregoing, by date-stamping the enclosed copy of this cover letter and returning it in the enclosed self-addressed and stamped envelope.

If you have any questions regarding this matter, please contact me at the address or e-mail above. Thank you.

Sincerely,

[Handwritten signature]

Jay E. Gruber

cc: Lynn Fabrizio, Esq.
Service List (*Electronic only*)

1 **PANEL TESTIMONY OF OLA A. OYEFUSI, CHRISTOPHER NURSE,**
2 **AND PENN PFAUTZ**

3 **I. INTRODUCTION**

4 **Q: DR. OYEFUSI, PLEASE STATE YOUR NAME AND BUSINESS**
5 **ADDRESS.**

✓6 A: My name is Dr. Ola A. Oyefusi and my business address is ~~11710 Beltsville~~
7 ~~Drive, Beltsville MD 20705~~ 7125 Columbia Gateway Drive,
Columbia, MD 21046.

8 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

9 A. I am employed by AT&T Corp. as a Manager in the Global Access Management
10 Organization. In that capacity, I am responsible for managing the cost to AT&T
11 for interconnecting its network with all others regardless of class of service or
12 technology. The scope of that responsibility is primarily, but not strictly limited
13 to, the in regulatory agencies states where Verizon is the dominant incumbent
14 local exchange carrier.

15 **Q: PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
16 **PROFESSIONAL EXPERIENCE.**

17 A: I hold a Ph.D. in Economics from George Mason University in Fairfax, Virginia.
18 Additionally, I hold M.A. and B.S. degrees in Economics from Morgan State
19 University in Baltimore, Maryland.

20 I began my career with AT&T in 1999, and have been responsible for analyzing
21 and managing AT&T's access and local connectivity expenses. Among other
22 duties, I have been responsible for providing analytical support to determine the
23 cost and the rates for unbundled network elements ("UNEs"). Also, I am
24 responsible for reviewing and interpreting access tariffs to confirm applicability

1 charge. Moreover, the language in Section 5 makes clear that the Section is to be
2 read as a whole. The introduction to that Section states (emphasis added):

3 Carrier common line access service is billed to each switched
4 access service provided under the *tariff in accordance with the*
5 *regulations as set forth herein and in Section 4.1[.]*
6

7 The Section 5 regulations, to which Verizon's right to bill CCL is subject,
8 unequivocally impose a requirement that the call actually route through the end-
9 office switch and traverse the end-user common line before Verizon can assess its
10 CCL charge. Indeed, Section 5.4.1.A, itself, makes it clear that Verizon cannot
11 automatically charge the CCL anytime it provides service under Section 6,
12 regardless of whether Verizon is actually originating or terminating the traffic
13 through its end-offices and over its end-user lines. By stating that it can charge
14 CCL "except as set forth herein", Section 5.4.1.A makes the right to charge CCL
15 subject to the other requirements of Section 5, including Verizon's requirement to
16 utilize its end-user's loop "in conjunction with switched access service provided
17 in Section 6" before any charge is assessed. In other words, Verizon is not
18 permitted to assess a charge for Local Switching or a CCL charge unless the call
19 is actually routed through the Verizon end-office switch and over its end-user
20 access lines. It cannot assess those charges for traffic that is directed to or from
21 the Verizon from some other carrier's facilities. Section 4.1 further supports this
22 interpretation because it requires that billing shall ^{be} issued ~~for~~ *services provided*.

23 **Q. IS THERE OTHER LANGUAGE IN THE TARIFF THAT SUPPORTS**
24 **YOUR POSITION THAT VERIZON CANNOT ASSESS THE CCL**
25 **UNLESS THE CALL IS ROUTED OVER THE VERIZON END-USER**
26 **LINE?**

1 should be allowed to charge for only the network functions they provide.² We
2 agree.

3 **Q. DOES AT&T (AS AN ILEC) ASSESS THE CCL CHARGE (ANYWHERE)**
4 **WHEN IT DOES NOT PROVIDE AN ASSOCIATED COMMON LINE?**

5 A. No. In states where AT&T is an ILEC, AT&T assesses the CCL (or its
6 equivalent) only when the traffic originates from or terminates to its end-user
7 customer. And, there are no instances where AT&T does what Verizon is
8 attempting to do in New Hampshire.

9 **Q. ARE THERE OTHER PRIOR RULINGS ELSEWHERE SUPPORTING**
10 **THE NOTION THAT CARRIERS SHOULD ONLY CHARGE FOR**
11 **NETWORK FUNCTIONS THEY PROVIDE?**

12 A. Yes. The FCC has repeatedly ruled that carriers must provide a network function
13 if they want to charge for it. The following are excerpts and citations from some
14 of the relevant FCC's prior rulings.

15 "Common line charges *obviously* should reflect common line usage"
✓16 (emphasis added). Reconsideration Order 97 FCC 2d, ¶ 708.7d.
17
18 "CCL charge under the new plan would be "calculated on a
19 straightforward minutes of use basis for services using the common line
20 facilities"" (emphases added). 1983 Access Charge Order, 93 FCC 2d ¶
✓21 285-150.
22
23 "We conclude that those [carriers] whose current tariff provisions would
24 allow a [carrier] to impose [terminating] charges if that [carrier] is an
25 intermediate, non-terminating carrier are required to modify their tariff
26 provisions to preclude such charges" (emphasis added). See In the Matter
27 of Access Billing Requirements for Joint Service Provision, Memorandum
✓28 Opinion & Order on Further Reconsideration, Phase I, October 4, 1988 ¶ 87.

² *Application Of Verizon Virginia Inc., Verizon South Inc. And MCIMetro Access Transmission Services Of Virginia, Inc. For Modifications to Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers*, Order for Notice and Comment, December 27, 2006.

“ . . . charging CCL to IXC's for RCC connections is not consistent with the Commission's rules.”

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“CCL charges do not apply to calls that terminate to end users over an RCC's facilities.” See *Bell Atlantic Cellular*, 6 FCC Rcd. At 4794-95, ¶7.

“[a] LEC may impose CCL charges only at points where an interstate or foreign call originates or terminates to an end user via transmission over a common line.” See *AT&T Corp. v. Bell Atlantic, et al*, File Nos. 95-6 et al. FCC 98-321, rel. Dec 9, 1998 (Liability Order), ¶ 28.

“In the case of the common line, the CCL charge pursuant to Section 69.105(a) is expressly conditioned on actual common line use, and the presence of associated switching is immaterial to that determination.” See *Id.* ¶ 32.

“[A] CCL charge is generally appropriate only at points where an interexchange call originates or terminates over a common line, and intermediate 'uses' do not constitute chargeable common line usage.” *Id.* ¶ 34.

“As a rule, access rates, like all other tariffed rates, must be just and reasonable under section 201(b) of the Act, and access tariffs, like all other tariffs, must clearly identify each of the services offered and the associated rates, terms, and conditions.” “As noted ... our longstanding policy with respect to incumbent LECs is that they should charge only for the services that they provide (emphases added). See *AT&T Corp. v. Bell Atlantic-Pennsylvania*, 14 FCC Rcd 556 (1998). See *In the Matter of Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers et seq.*, CC Docket No. 96-262, rel. May 18, 2004. (CLEC Access Order).

It is evident from the foregoing that the FCC has a long-standing policy that supports AT&T's interpretation on NHPUC Tariff No. 85 that CCL can only be assessed when the call is being originated or terminated over a Verizon end-user common line. This policy is also consistent with this Commission's conclusions in its prior rulings as summarized below.

Q. ARE YOU AWARE OF ANY STATE COMMISSIONS THAT PERMIT A LOCAL EXCHANGE CARRIER TO CHARGE FOR NETWORK SERVICES IT DOES NOT PROVIDE?

A. Apart from the New York State Commission decision that Verizon has referenced in this proceeding, we are not aware of any other state commission that has

1 established a rate design that expressly linked application of the CCL to usage of
2 the line (*i.e.*, CCL rate per MOU) as stated above.

3
4 **Q. YOU INDICATE THAT AT&T AGREES WITH VERIZON THAT LOOP**
5 **COSTS SHOULD NOT BE ALLOCATED TO THE CCL. DOES THAT**
6 **HAVE ANY BEARING ON THIS CASE?**

7 A. No. This case is about whether Verizon is assessing its CCL in accordance with
8 its tariffs and prior Commission decisions, not on whether there should even be a
9 CCL in the first place.

10 Loop costs are not a “shared” or “common” cost, but, rather, are a direct, non-
11 traffic sensitive cost of basic local exchange service. Verizon’s costs of providing
✓ 12 a customer’s loop^{do} not vary depending on whether the customer uses the line
13 entirely for local exchange service, entirely for long distance service, or for some
14 mix of the two, nor does the cost vary based on whether the customer uses the line
15 24 hours per day, or never makes or receives a single call. Thus, were loop costs
16 to be recovered in an economically rational manner, they should be recovered
17 entirely from the end-user customer that causes the costs to be incurred on a
18 recurring flat rate basis.

19 Over the years, however, consumer advocates and regulators, including this
20 Commission, have preferred to assign a portion of the loop costs to carrier access
21 services so that long distance services would continue to subsidize the cost of
22 basic local telephone service. That cross-subsidization system worked reasonably
23 well as long as telephone service was being provided by a single carrier, but it
24 began to unravel with the advent of competition. Today, assessing the CCL on a

1 usage-sensitive basis, even on the calls that actually traverse the Verizon end-user
2 common line (and, thus, subject to the CCL), puts AT&T and other IXCs at a
3 competitive disadvantage relative to wireless carriers, VoIP providers, e-mail, and
4 other forms of electronic communication that are not burdened with the access
5 subsidy. The steady decline in intrastate long distance volumes over the past
6 several years proves this to be true.

7 Thus, if this Commission were addressing whether the CCL should be maintained
8 going forward, its conclusion should be no. It would want to eliminate the CCL
9 and permit Verizon to adjust its end-user prices accordingly.

10 But, as we said, this is not a proceeding to address whether the CCL should be
11 maintained. Rather, it is a case to determine whether Verizon is assessing its CCL
12 in accordance with its tariffs and this Commission's orders. This Commission's
13 prior decisions implementing an intrastate Carrier Common Line Charge
14 determined it should be assessed whenever an IXC's long distance call is directed
15 to a Verizon customer and, therefore, routed through the Verizon end-office
16 switch and over a Verizon end-user line. Here the only issue the Commission is
17 being asked to address is whether Verizon has overstepped its authority when it
18 assesses the CCL on calls that do not traverse a Verizon end-user line; *i.e.*, is
√19 Verizon ~~is~~ allowed to charge for an access service it does not provide?

20 **Q. DID THE COMMISSION "GUARANTEE" VERIZON ANY**
21 **PARTICULAR LEVEL OF CCL REVENUES?**

22 **A.** No, nor should it. The Commission has specifically stated that "[a]n effectively
23 competitive marketplace is totally at odds with any notion that NET's [n/k/a