

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

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| _____) | |
| Complaint of Freedom Ring) | Docket DT 06-067 |
| Communications, LLC d/b/a BayRing) | |
| Communications Against Verizon New) | |
| Hampshire Regarding Access Charges) | |
| _____) | |

VERIZON NEW HAMPSHIRE'S MOTION TO STAY PROCEEDINGS
PENDING ITS APPEAL PURSUANT TO RSA 541:6

Verizon New Hampshire ("Verizon" or "the Company") hereby moves the Commission for an Order staying the commencement of Phase II of the proceeding in this docket pending determination of Verizon and FairPoint's appeal of the Commission's decision in Phase I of this docket to the New Hampshire Supreme Court, filed on September 8, 2008, in the interests of efficiency and administrative economy. In further support of this motion, Verizon states as follows:

1. On November 29, 2006, the Commission issued Order No. 24,705, bifurcating the proceedings in the above-captioned docket into two Phases, the first ("Phase I") determining the interpretation of the relevant tariffs and the second ("Phase II") determining to what extent, if any, reparations are due based on the complaint filed by BayRing.

2. On March 21, 2008, the Commission issued Order No. 24,837, setting forth its interpretation of Verizon's wholesale tariff and ordering Verizon to cease the billing of carrier common line charges for calls that do not involve a Verizon customer as the end-user or a

Verizon-provided local loop. Verizon moved for rehearing of Order No. 24,837, which motion the Commission denied by Order No. 24,886, issued August 8, 2008.

3. In its order on rehearing, the Commission scheduled a pre-hearing conference for October 1, 2008¹ to establish procedures for the conduct of Phase II of this proceeding.

4. On September 8, 2008, Verizon and FairPoint filed an appeal of Order No. 24,837 with the New Hampshire Supreme Court pursuant to RSA 541:6.

5. Verizon requests that the Commission stay Phase II and the October 1, 2008 pre-hearing conference pending the resolution of its appeal to the Supreme Court in the interests of justice and administrative efficiency.

6. During Phase II, the Commission will be determining the extent of any reparations owed to BayRing and other competitive local exchange carriers. This will likely involve extensive discovery, technical sessions and ultimately, hearings to determine the amounts due under Order 24,837. To embark on Phase II proceedings in the face of the appeal would cause irreparable harm not only to Verizon, but to all parties involved as well as the Commission, given the substantial amount of resources that will be required by that proceeding. *See Union Fidelity Life Ins. Co. v. Whaland*, 114 N.H. 549, 550 (1974). Those substantial resources will have been wasted should Verizon prevail in its appeal.

7. There is no compelling reason to undertake Phase II while the Supreme Court appeal is pending. A stay of the Phase II proceedings pending the resolution of Verizon's appeal will not prejudice the public interest or the interest of the Petitioner or intervenors in this case.

¹ Sprint Communications has requested that the October 1, 2008 prehearing conference be rescheduled, to which Verizon has not objected. However, Verizon seeks a stay of the prehearing conference regardless of when it is scheduled so long as the Company's appeal is pending.

See id. In fact, staying Phase II will benefit all parties and the Commission, by preserving their scarce resources to litigate Phase II only if truly necessary.

8. The Commission has the power to grant such a stay pending a party's appeal to the Supreme Court, and has not hesitated to do so in the past. *See e.g., Granite State Elec. Co.*, 64 NH PUC 390 (1979)(granting stay until decision rendered by New Hampshire Supreme Court); *Concord Elec. Co.*, 69 NH PUC 159 (1984); *cf. In re Statewide Electric Utility Restructuring Plan*, 82 NH PUC 280 (1997) (granting stay of implementation of order pending rehearing pursuant to RSA 541:3). Under the circumstances described above, there is no question that a stay of the Phase II proceeding benefits all parties involved as well as the Commission, and will ensure that there are no unnecessary expenditure of assets, time and resources going forward.

9. For these reasons, Verizon requests that the Commission grant this motion for stay effective immediately.

WHEREFORE, Verizon respectfully requests that the Commission:

- A. Grant this motion to stay the Phase II proceedings pending the resolution of Verizon and FairPoint's appeal of Order No. 24, 837 to the New Hampshire Supreme Court; and
- B. Grant such other and further relief as the Commission deems necessary and just.

Respectfully submitted,

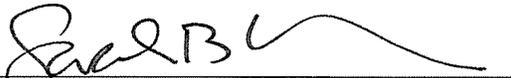
VERIZON NEW HAMPSHIRE

By its Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

Date: September 8, 2008

By:



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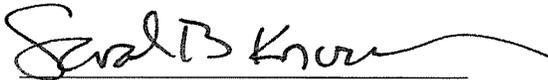
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Certificate of Service

I hereby certify that on September 8, 2008, a copy of the foregoing Motion has been forwarded to the parties listed on the Commission's service list in this docket.



Sarah B. Knowlton