

THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DT 06-067

ORDER OF NOTICE

On April 28, 2006, Freedom Ring Communications LLC d/b/a BayRing Communications (BayRing) filed with the New Hampshire Public Utilities Commission (Commission) a petition requesting that the Commission investigate Verizon New Hampshire's (Verizon) 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. In its petition, BayRing invokes RSA 365:1 and alleges that Verizon has violated its tariff provisions which, according to BayRing, have the force and effect of law. BayRing argues that CCL charges are associated with "access" to a Verizon's end-user's local loop. In a call between a BayRing customer and a wireless customer, however, BayRing asserts there is no Verizon end-user local loop involved and therefore CCL charges are not applicable. BayRing further contends that if the Commission determines that a charge should apply to such a transaction, it should be deemed chargeable as Tandem Transit Service under Tariff No. 84 and not as switched access under Tariff No. 85.

Tariff No. 84 is Verizon's wholesale tariff which sets forth the terms of interconnection Verizon offers to competitive carriers, as well as the network elements, such as Tandem Transit Service, that Verizon makes available on an unbundled (*i.e.* individual) basis. Tariff No. 84 is the successor to Bell Atlantic's Tariff No. 80 and was initially approved by Order No. 23,888 in Docket No. DT 99-083, on January 3, 2002, as a collocation tariff. On June

18, 2004, Order No. 24,337 in Docket No. DT 01-151 approved revisions to Tariff No. 84 which incorporated certain elements of Verizon's former Statement of Generally Available Terms (SGAT), entitling competitors to directly order anything formerly contained in the SGAT without the need to negotiate an interconnection agreement or amend an interconnection agreement. Tariff No. 85 is Verizon's access tariff which sets forth charges for switched access. Switched access under the tariff is comprised of various rate elements traditionally used to facilitate connections between end-users and long distance carriers. Tariff No. 85 is the successor to Bell Atlantic's Tariff No. 82, which was initially approved as NHPUC Tariff No. 79 under the company name of New England Telephone and Telegraph Company, by Order No. 21,273 in Docket No. DR 94-125, dated June 22, 1994 (collectively, Verizon's access tariff).

On May 12, 2006, a copy of BayRing's complaint was forwarded to Verizon by the Commission's Executive Director and instructions that Verizon file a response by May 22, 2006. Verizon was subsequently given an extension of time to respond and filed its answer on May 31, 2006. Verizon disputes BayRing's complaint. Verizon contends that Tariff No. 85 provides that "all switched access services will be subject to carrier common line access charges;" Verizon further argues, among other things, that Tandem Transit Service is "not available to BayRing for the application at issue here."

Based on BayRing's complaint and Verizon's answer, the Commission has determined that further investigation is merited. The filing raises, *inter alia*, the following issues: (1) whether the calls for which Verizon is billing BayRing involve switched access; (2) if so, whether Verizon's access tariff requires the payment of certain rate elements, including but not limited to CCL charges, for calls made by a CLEC customer to end-users not associated with Verizon or otherwise involving a Verizon local loop; (3) if not, whether BayRing is entitled to a

refund for such charges collected by Verizon in the past and whether such services are more properly assessed under a different tariff provision; (4) to what extent reparation, if any, should be made by Verizon under the provisions of RSA 365:29; and (5) in the event Verizon's interpretation of the current tariffs is reasonable, whether any prospective modifications to the tariffs are appropriate.

Based upon the foregoing, it is hereby

ORDERED, that a Prehearing Conference, pursuant to N.H. Admin. Rules Puc 203.15, be held before the Commission located at 21 S. Fruit St., Suite 10, Concord, New Hampshire on July 27, 2006 at 10:00 a.m., at which each party will provide a preliminary statement of its position with regard to the petition and any of the issues set forth in N.H. Admin. Rule Puc 203.15(c) shall be considered; and it is

FURTHER ORDERED, that Verizon New Hampshire is a mandatory party; and it is

FURTHER ORDERED, that, immediately following the Prehearing Conference, BayRing, Verizon, the Staff of the Commission and any Intervenors hold a Technical Session to review the petition and allow BayRing or Verizon to provide any amendments or updates to their filings; and it is

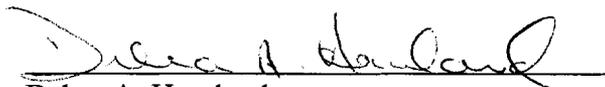
FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.12, BayRing shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order of Notice no later than June 30, 2006, in a newspaper with general circulation in those portions of the state in which operations are conducted, publication to be documented by affidavit filed with the Commission on or before July 27, 2006; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.17, any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a Petition to Intervene with copies sent to BayRing, Verizon and the Office of the Consumer Advocate on or before July 24, 2006, such Petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interest may be affected by the proceeding, as required by N.H. Admin. Rule Puc 203.17 and RSA 541-A:32,I(b); and it is

FURTHER ORDERED, that any party objecting to a Petition to Intervene make said Objection on or before July 27, 2006; and it is

FURTHER ORDERED, that, pursuant to N.H. Code Admin. Rules Puc 203.12 (a)(5), each party has the right to have an attorney represent them at their own expense.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of June, 2006.



Debra A. Howland
Executive Director & Secretary

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability, should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.