

THE STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

DT 06-067

SUPPLEMENTAL 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 the practice by Verizon New Hampshire (Verizon) of imposing access charges, including Carrier Common Line (CCL) access charges, on calls that originate on BayRing's network and terminate on wireless carriers' networks. In its petition, BayRing invoked RSA 365:1 and alleged that Verizon was in violation of its tariff provisions which, according to BayRing, have the force and effect of law. BayRing argued that CCL charges are associated with "access" to a local loop of Verizon's end-user. BayRing asserted there is no Verizon end-user local loop involved in a call between a BayRing customer and a wireless customer – and, therefore, CCL charges should not be applicable. BayRing further contended 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. 85 is Verizon's access tariff, which sets forth charges for switched access. Switched

access under the tariff comprises various rate elements traditionally used to facilitate connections between end-users and long distance carriers.

On May 12, 2006, a copy of BayRing's complaint was forwarded to Verizon by the Commission with instructions to 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. On May 31, 2006, Verizon filed its Answer disputing BayRing's complaint and contending that Tariff No. 85 provides that "all switched access services will be subject to carrier common line access charges." Verizon further argued, among other things, that Tandem Transit Service is "not available to BayRing for the application at issue here."

Pursuant to an Order of Notice issued on June 23, 2006, the Commission conducted a Prehearing Conference on July 27, 2006 at which the Commission determined that further investigation was merited and granted without objection the intervention requests of RNK Inc. d/b/a RNK Telecom (RNK), AT&T Communications of New England, Inc. (AT&T), One Communications, Otel Telekom, Inc. (Otel) and segTEL.

The Parties and Staff conducted a Technical Session on August 11, 2006 and a conference call on September 7, 2006. BayRing filed a motion on October 6, 2006, to amend its initial petition by adding the assertion that Verizon was improperly assessing access charges to BayRing for calls originated by BayRing end-user customers and terminating at end-user wireline customers served by carriers other than Verizon. In its motion, which effectively sought to expand the scope of the docket, BayRing requested further notice and opportunity for comment pursuant to Puc 203.10(b).

On October 10, 2006, AT&T filed a motion to clarify or amend the scope of the proceeding to avoid the need for intervenors to file separate petitions raising the same issues. In

its motion, AT&T outlines various call scenarios and corresponding charges levied by Verizon warranting review in this docket. The Commission has approved the following procedural schedule for this docket.

Technical Session	November 3, 2006
Discovery served on all parties	November 10, 2006
Discovery responses due from all parties	December 1, 2006
Prefiled testimony from all parties due	January 12, 2007
Discovery served on all parties	January 24, 2007
Discovery responses due from all parties	February 7, 2007
Rebuttal testimony due from all parties	February 21, 2007
Discovery served on all parties	March 7, 2007
Discovery responses due from all parties	March 21, 2007
Hearings	To be determined

BayRing's amended filing raises issues related to 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 not involving a Verizon local loop. AT&T's filing raises similar issues for interexchange carriers that provide the long-distance service on calls between CLEC or wireless end-users and Verizon end-users as well as end-users of other carriers. AT&T asserts that, to the extent CLECs, independent telephone companies or wireless carriers assess originating or terminating access charges, Verizon's application of CCL on calls which do not include a Verizon end-user represents duplicate charges for a rate element owed to carriers other than Verizon.

In this Order of Notice, the Commission expands the scope of this investigation to include, *inter alia*: (1) whether calls made or received by end-users which do not employ a Verizon local loop involve Verizon switched access; (2) if so, whether Verizon's access tariff requires the payment of certain rate elements, including but not limited to CCL charges; (3) if not, whether BayRing or other carriers are entitled to a refund for such charges collected by Verizon in the past; (4) if not, whether such services are more properly assessed under a different

tariff provision; (5) if not, to what extent reparation, if any should be made by Verizon under the provisions of RSA 365:29; and (6) in the event Verizon's interpretation of the current tariffs is reasonable, whether any prospective modifications to the tariffs are appropriate.

Each party has the right to have an attorney represent them at their own expense.

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 November 3, 2006 at 1:30 p.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, immediately following the Prehearing Conference, BayRing, Verizon, the Staff of the Commission and any Intervenors hold a Technical Session to identify the various calls that traverse Verizon's tandem and the associated charges and clarify issues to be addressed in testimony; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.12, the Commission shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order of Notice no later than October 27, 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 November 3, 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 October 31, 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 November 3, 2006.

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