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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

Verizon Rhode Island Alternative Regulation Plan	)	Docket No. 3445

BRIEF OF VERIZON RHODE ISLAND

I. INTRODUCTION

Verizon Rhode Island ("Verizon RI") respectfully submits that the Settlement Agreement jointly proposed by the Rhode Island Division of Public Utilities and Carriers ("Division") and Verizon RI is fair, reasonable, and consistent with law and public policy, given the existence of significant, broad-based competition for telecommunications services in Rhode Island.

The General Assembly, the Federal Communications Commission ("FCC"), the Division, and this Commission have all acknowledged that Verizon RI has taken all of the steps required by the Telecommunications Act of 1996[1] to eliminate barriers to competitive entry in the local telecommunications market in Rhode Island. The undisputed substantial evidence in the record of this proceeding confirms that the Rhode Island telecommunications market is not only open to competition, but has rapidly become one of the most competitive telecommunications markets in the nation. In fact, a July, 2002, report by the FCC ranked Rhode Island *second* in the nation in the percentage of competitive access lines served by competitive local exchange carriers. On a statewide basis, competitive telecommunications carriers are providing a wide range of

[1] 47 U.S.C. §§ 101, *et. seq.* ("the Act").

telecommunications services to more than **Proprietary Begins**   **Proprietary Ends** of the customers in Rhode Island. Moreover, the CLEC share of the local exchange market continues to grow.

CLECs are currently serving Rhode Island customers using all modes of competitive entry provided by the Act and, as a result, there is competitive activity in every central office in the state. At least one of those competitors, Cox Rhode Island Telecom ("Cox") is providing services to customers across the state using almost exclusively its own facilities. Such extensive facilities-based competition supports the basic purpose of the Agreement between the Division and Verizon RI: to give Verizon RI the pricing flexibility it needs in this competitive marketplace.

The Division and Verizon RI agree that Rhode Island has reached the point where competitive forces, rather than government regulation, is sufficient to discipline Verizon RI's pricing for telecommunications services. The Agreement, if accepted and adopted by the Commission, would reform Verizon RI's form of regulation to permit Verizon RI to compete on equal terms with other carriers.

While other carriers enjoy flexibility to charge market rates for the services they provide, Verizon RI is constrained under its current regulation plan from engaging in market-based pricing for its tariffed intrastate telecommunications services. Not surprisingly, some of Verizon RI's competitors seek to preserve the status quo. Some competitors urge the Commission to take no action to address the issue or, alternatively, to impose additional unnecessary regulatory obligations on Verizon RI, obligations that are not imposed on its competitors. For example, some competitors urge the imposition of a price floor that is not based on Verizon RI's cost of providing specific services.

The Commission should reject the CLECs' criticisms and their "alternative" proposals because they would represent a significant departure from the steady development of a fully competitive market for telecommunications services in Rhode Island that this Commission has overseen to date. In addition, the proposals advanced by the CLECs in this proceeding would deprive Rhode Island customers of the full benefits of competition.

The modified Alternative Regulation Plan contained in the Settlement Agreement ("the Plan") represents a reasonable compromise between contested positions. The Plan, while affording Verizon RI some much needed additional pricing flexibility, also addresses, to the extent warranted, a number of the concerns raised by other participants in this proceeding. Among the provisions of the Plan are: (1) flexibility for a more limited increase to primary residence basic exchange service lines than was originally proposed by Verizon RI; (2) up to two years of continued funding for Internet access for K-12 schools and libraries while a more equitable alternative funding source for this program is established; (3) an updated and more stringent retail service quality plan; (4) a modified exogenous event clause that increases the extent to which Verizon RI must absorb the costs of such events by $1 million; and (5) a Total Service Long Run Incremental Cost ("TSLRIC") price floor that is based on Verizon RI's cost of providing a particular service, and that will provide assurance to the Commission, the Division, and Verizon RI's competitors that Verizon RI will abide by its legal obligation to price its retail telecommunications services at or above its costs.

The reasonableness of the Plan is strongly supported by substantial record evidence. Verizon RI and the Division have shown that the Plan will improve the competitive market in the state of Rhode Island by allowing competitive forces to better influence the delivery and pricing of retail telecommunication services and by allowing Verizon RI the opportunity to compete fairly with other telecommunications service providers (who will continue to enjoy greater pricing flexibility than Verizon RI in any event). The Commission should accept the Settlement Agreement as in the public interest and approve the Plan.

II. BACKGROUND

On July 1, 2002, in compliance with Commission Order No. 16943 dated March 12, 2002, Verizon RI filed a proposed Alternative Regulation Plan ("ARP") to replace its current regulatory plan (the "Price Regulation Successor Plan" or "PRSP") which expired on December 31, 2002. VZ RI 1. The ARP, if approved by the Commission, would establish the method by which the Commission would regulate the intrastate services Verizon RI offers under tariff in the state. *Id.* at 1. In support of its proposed ARP, Verizon RI also filed the direct testimonies of Theresa L. O'Brien (VZ RI 2), Arthur D. Silvia (VZ RI 3), and William Taylor (VZ RI 4) that described the attributes of the competitive market for retail telecommunications services in Rhode Island and set forth relevant factual, economic, and policy arguments confirming the appropriateness of Verizon RI's proposed ARP as a form of regulation for Verizon RI and Verizon RI's case for pricing flexibility generally.

The Commission opened this docket (No. 3445) for purposes of reviewing the ARP and to permit other interested parties to submit comments and/or alternative proposals. The following entities intervened in this proceeding: Office of the Attorney General, Conversent Communications of Rhode Island, LLC ("Conversent"), Sprint Communications Company ("Sprint"), Global NAPs, Inc ("GNAPs"), and Cox. The

Division also actively participated in its advisory capacity to the Commission and as the representative for Rhode Island ratepayers.[2]

The Commission conducted extensive proceedings in the case, and following a scheduling conference convened by the Commission, interested parties had the opportunity to file direct and rebuttal testimony. Only the Division, Conversent, Cox, and Verizon RI chose to avail themselves of this opportunity. Parties also had ample opportunity to conduct discovery. The Commission conducted four days of hearings from November 19-22, 2002, in which parties presented witnesses in support of their respective positions and had an opportunity to cross examine other parties' witnesses and to further develop the evidentiary record.

At the hearings, interested members of the public appeared and offered comments. Public comment focused primarily on the importance of Verizon RI's voluntary funding for Internet access for K-12 schools and public libraries and concern that the program continue to receive uninterrupted funding following the expiration of Verizon RI's voluntary funding commitment.[3] In the course of the hearings, the Commission encouraged the parties to continue to explore a negotiated resolution to the disputed issues in this docket.

While all of the parties were not able to reach a mutually acceptable settlement of disputed issues, on December 6, 2002, Verizon RI and the Division filed a Settlement Agreement pursuant to Rule 1.24 of the Commission's Rules of Practice and Procedure.

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[2] *See Providence Gas Co. v. Burke,* 419 A.2d 263, 270 (R.I. 1980) (It is the function of the Division to serve the Commission in bringing to it all relevant evidence, facts, and arguments that will lead the Commission in its quasi-judicial capacity to reach a just result); *Narragansett Elec. Co. v. Harsch,* 368 A.2d 1194, 1200-1201 (R.I. 1977). (In hearings before the Commission the Division assumes a role similar to that of a party in interest, appearing on behalf of the public to present evidence and make arguments before the Commission).

[3] *See* Tr. 11/19/02 at 9-62.

The Settlement Agreement modified Verizon RI's proposed ARP in a number of significant respects. Among other things, the new Plan provides that Verizon RI would continue to provide specified funding support for Internet access for K-12 schools and public libraries for up to an additional eighteen months beyond the time period proposed in the ARP. The Plan also contains a TSLRIC retail price floor to provide additional assurance that Verizon RI will not engage in predatory pricing. Existing service quality standards would be continued, and in some respects made more stringent, to help ensure that Verizon RI will continue to provide high quality service to its retail customers in Rhode Island.[4]

While the Plan did not present any new issues, the Commission convened another hearing on December 11, 2002 to hear testimony regarding the Plan. At that hearing there was additional public comment, and parties were given an opportunity to cross examine witnesses presented by Verizon RI and the Division regarding the Plan. In addition, in response to concerns expressed by Cox and Conversent that there would not be sufficient time for the Commission to consider the evidence in this case prior to the expiration of Verizon RI's currently effective PRSP, Verizon RI agreed to extend its voluntary funding of the Lifeline Program and Internet access for K-12 schools and libraries beyond the expiration date of the PRSP to January 14, 2003, to afford the Commission additional time to consider the evidence and the proposed Settlement Agreement and to render a final decision in this docket. Tr. 12/11/02 at 200. The Commission has directed parties to file any briefs addressing the issues in this proceeding no later than January 7, 2003 and expressed its intention to render a decision in this case by January 14, 2003.

[4] *See* Discussion regarding details of the settlement *infra* Section IV.

III. RHODE ISLAND'S LOCAL EXCHANGE MARKET IS SUFFICIENTLY COMPETIVE AND IRREVERSIBLY OPEN TO COMPETITION

A. The Commission Has Long Recognized That a Competitive Local Exchange Market is in the Best Interest of Rhode Island Consumers.

The Commission has long recognized the importance of developing a competitive market for telecommunications services in Rhode Island. Even prior to the passage of the Telecommunications Act of 1996, the Commission had determined that "a competitive intrastate telecommunications market is in the best interest of the citizens of Rhode Island." *See Comprehensive Review of Intrastate Telecommunications Competition*, Docket No. 2252 (June 30, 1995), at 3, 4. The Commission emphasized that "[c]ompetition in the local exchange and intrastate toll markets is in the public interest, and should be permitted as broadly as possible, as soon as possible" and that "[t]he transition to a fully competitive marketplace should be accomplished methodically, taking into account the specific market conditions for specific telecommunications functions and services, safeguards for monopoly ratepayers, and potential anti-competitive behavior." *Id.* at 4.

As discussed in the testimony of Verizon RI witness Theresa L. O'Brien, the Commission had already taken a significant step to advance this methodical transition to a competitive market when it approved an initial stipulation in 1989, altering Verizon RI's form of regulation from traditional rate of return regulation to a form of regulation that permitted the company to share in profits generated through efficiency and cost reductions for an initial three year period. *See* VZ RI 2 at 2 (citing Order No. 13061). The Commission further adjusted Verizon RI's form of regulation and expanded the company's pricing flexibility when it approved the PRP in 1996. *Id.* at 3 (citing Order No. 15020 (June 25, 1996)). The PRP eliminated the sharing requirement that had existed under its previous plan but imposed significant constraints on Verizon RI's ability to price its services, including a requirement that annual adjustments to its prices be made based on a complex formula. *Id.* Verizon RI continued to be regulated under the PRP until the Commission approved the Price Regulation Successor Plan ("PRSP") on September 14, 2000. *Id.* (citing Order No. 16390).

In 1999, again observing the emerging competitive market in Rhode Island and acknowledging the importance of its continuing development, the Commission concluded that:

> The market for telecommunications services is gradually developing into a full-fledged competitive commercial market. As this Commission previously observed, the Act "was passed to introduce competition into the local telephone market."… The presumed goal of Congress was to lift the heavy hand of government from the telecommunications market. *Thus, the Commission will intervene and interfere in the natural workings of the competitive marketplace only cautiously and with great circumspection.*

In re: Customer Specific Pricing Contracts: Large System Specific Pricing Plans, Docket No. 2676 (December 15, 1999), at 8-9 (emphasis added, footnote omitted).

B. Competitors Face No Barriers to Entry in Rhode Island.

On April 24, 2001, the state Senate issued a resolution praising the Commission for its efforts in fostering competition in Rhode Island by implementing the provisions of the Act. Senate Resolution (S 0918), "Applauding the Rhode Island Public Utilities Commission for its Efforts Fostering Competition in Rhode Island by Implementing the Telecommunications Act of 1996" (January Session, 2001). In that resolution the Senate noted that "since the passage of the Telecommunications Act of 1996 over 100 telecommunications companies…have entered the Rhode Island marketplace and currently offer local and long distance telephone services" and that as a "direct result" of the substantial increase in the number of competitors providing telecommunications services in Rhode Island, "Rhode Island consumers have begun to realize the benefit of competition in the form [of] lower local and long distance telephone rates." *Id.*

In November 2001 the Commission concluded after a thorough investigation that Verizon RI was in compliance with the requirements of section 271 of the Act and recommended that the FCC approve Verizon RI's application to provide in-region, interLATA services in Rhode Island. The Division fully concurred with the Commission's conclusion that Verizon RI had met these market-opening requirements. In its report to the FCC regarding Verizon RI's compliance with section 271 of the Act, the Commission stated that:

- The local telecommunications market in Rhode Island is open for competition, as evidenced by the high percentage of CLEC lines in Rhode Island compared to other states at the time of their Section 271 approval.

- By the end of September 2001, CLECs in Rhode Island were serving both commercial and residential customers.

- Cox Communications, for example, is able to provide telephone service to at least 75% of the homes in Rhode Island.

- If other CLECs do not enter the market, it is by their own choice and not due to some barrier erected by Verizon Rhode Island.[5]

The FCC approved Verizon RI's 271 application in April of 2002. In doing so, the FCC noted that the Commission had established wholesale rates for unbundled network elements and a resale discount in accordance with its mandated methodology. It is undisputed on the record in this proceeding, that Verizon RI has interconnected its

[5] Rhode Island Public Utilities Commission, *In the matter of Application of Verizon New England Inc., Bell Atlantic Communications Inc., d/b/a Verizon Rhode Island NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) , Verizon Global Networks, Inc. (collectively Verizon) Pursuant to Section 271 of the Telecommunications Act of 1996 To provide In Region, InterLATA Services in the State of Rhode Island and Providence Plantations, CC Docket No. 01-324*; *Report of the Rhode Island Public Utility Commission on Verizon Rhode Island's Compliance With Section 271 of the Telecommunications Act of 1996*; Written Report and Recommendation Issued on December 14, 2001; Section VI.C.3, pp. 191, 192. and Section VI.C.1, p. 190.

network with the networks of its competitors, made available unbundled network elements to its competitors, and made all of its retail telecommunications services available for resale at the commission-mandated discount, all in accordance with the rules adopted by the FCC and the Commission to implement the Act. VZ RI 3 at 2-8; VZ RI 4 at 4-5. *See also*, VZ RI 2 at 4.

As a result, "competition is now practical for any service in any geographic area of Rhode Island where a competitor can supply any portion of the facility or service as efficiently as Verizon." VZ RI 4 at 5. Entry into Rhode Island's markets is "comparatively easy," and competition through the use of resale or UNEs provides competitive pressure on the prices for Verizon RI's retail services throughout Rhode Island since any significant deviation between price and cost for a retail service will attract competitors. *Id.* In addition, carriers in Rhode Island can and do deploy their own facilities to provide telecommunications services in competition with Verizon RI. VZ RI 3 at 6-7; VZ RI 6 at 3-4. The elimination of barriers to entry and corresponding comparative ease of entry are factors that affirm the fact that Verizon RI no longer has the ability to exercise "market power" in Rhode Island and that effective competition exists. VZ RI 4 at 9-12; VZ RI 7 at 3-4.

C. The Evidence Demonstrates That There is Substantial Actual Competition in Rhode Island.

Since the approval of Verizon RI's 271 application, the level of competition for telecommunications services in the state has continued to grow, and evidence of broad-based competition in the Rhode Island telecommunications marketplace is extensive. VZ RI 6 at 4-6. *See also*, VZ RI 5 at 5-6. Carriers competing with Verizon RI are using a host of methods to reach and acquire customers throughout the state. VZRI 3 at 3. Multiple telecommunications providers are authorized to offer telecommunications services across Rhode Island. *Id.* These include interexchange and other "toll" carriers, pay phone providers, competitive access providers, cable companies, resellers, facilities-based competitive local exchange companies, and wireless providers. *Id.* Some offer a full suite of voice, data and Internet services, while others serve particular segments such as data, and are principally focusing at this time on providing DSL, Frame Relay and point-to-point services. *Id.* at 3-4. Carriers are offering a myriad of services to customers throughout the State of Rhode Island using all three entry modes envisioned by the Act. *Id.* at 4. In every Verizon RI central office in the state at least two of the three modes of entry are employed by carriers to serve customers, and in the offices that serve 97 percent of Verizon RI's retail lines, all three modes of entry are currently employed. *Id.*

The actual evidence of the ease of competitive entry and the resulting presence of significant competition is overwhelming. It demonstrates that competitors not only serve a significant percentage of the total access lines in Rhode Island but that the share of the market served by competitive carriers has continued to grow in Rhode Island, despite the economic difficulties encountered by many businesses during the past two years. VZ RI 3 (Attachment 1); VZ RI 6 at 4-7. The Competitive Profile (Attachment 1 to the Direct Testimony of Arthur D. Silvia) shows that as of February 2002, competitors were serving approximately 135,000 access lines in Rhode Island. VZ RI 3 at 9. At least 106,000 of these lines are being served by means of the competitive carriers' own facilities, about 4,800 over UNE-platforms, and approximately 23,000 through resale. *Id.* at 10. The total number of access lines held by competitors as of February 2002 reflects an increase of approximately 29,000 lines over the data previously filed with the Commission in May/June 2001 or an annual growth rate for competitive access lines of

36%. VZ RI 3 at 9-10. In sharp contrast, over this same period Verizon RI's total retail access lines in service declined at an annual rate of 7%. *Id.*

As of August 2002, the total number of access lines served by competitors in Rhode Island had increased to approximately 156,000 access lines or nearly **Proprietary Begins** **Proprietary Ends** of the total access lines in the state of Rhode Island. VZ RI 6 at 5. This demonstrates a percentage increase in the number of competitive lines held in both the residential and business markets of **Proprietary Begins** **Proprietary Ends** since February of 2002. *Id.* Competitors are serving almost **Proprietary Begins** **Proprietary Ends** of the residential local exchange market and approximately **Proprietary Begins** **Proprietary Ends** of the business access lines in Rhode Island. VZ RI 6 at 5-6.

While several parties sought to challenge the reliability of the data provided in the Competitive Profile, no party offered any Rhode Island-specific competitive data that undermines Verizon RI's evidence of the level of competitive activity in Rhode Island. In any event, the data provided by Verizon RI was comparable to the self-reported data provided by CLECs to the FCC and set forth in a July 23, 2002 report issued by the FCC examining the status of local telephone competition nationwide. *See* Verizon RI's response to PUC 1-3. As of December 31, 2001, the FCC reported that the CLEC share of the local exchange market in Rhode Island was 16%.[6] Based on this information, the FCC ranked Rhode Island *second* in the nation (behind New York) in terms of the amount of competition for local exchange services. Thus, the undisputed evidence

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[6] This percentage most likely understates the actual extent of local exchange competition in Rhode Island at that time since carriers with under 10,000 lines in the state were not required to report. *See id.* at Note.

gathered by the FCC provides additional compelling evidence that the local exchange market in Rhode Island is well developed and among the most competitive in the nation.

The intraLATA toll market in Rhode Island is also highly competitive and has been for a number of years. VZ RI 3 at 7-8. With literally dozens of providers of intraLATA usage services and implementation of intraLATA presubscription in 1997, customers can choose among many providers. *Id.* Indeed, an estimated 40% of the Rhode Island customers use a wireline carrier other than Verizon RI for their intraLATA toll calling.[7]

A unique feature of the competitive market in Rhode Island is the presence of a Fortune 500 competitor, Cox, which is providing telecommunications to Rhode Island customers across the state almost exclusively through the use of its own embedded cable facilities. Cox offers telephone service to Rhode Island customers in nearly every town in Rhode Island. Tr. 12/11/02 at 114. Cox also indicated on the record that all of its existing cable facilities have already been updated to provide telephony and that it is therefore capable of providing telephony to all of the homes or offices it passes. Tr.11/21/02 at 276 ("Cox has upgraded to be able to provide telephone service to wherever it has cable service today…."). Cox currently offers telephone services at rates that are substantially similar to and, in some instances, lower than Verizon RI's prices for comparable services. *See e.g.,* Cox Response to Commission Data Request 5 (citing Cox RI PUC Tariff No. 1, Section 3.1.2.2 detailing Cox's prices). Cox's ubiquitous presence

[7] For example, Verizon RI's Statewide Calling Plan is a highly competitive toll service that has been in the competitive "Basket 4" within Verizon RI's existing and prior price regulation plans (PRP and PRSP) during the past eight years. Tr. 11/21/02 at 97-98. Cox currently offers a competitive statewide calling plan for $19.95 per month. *Id.* at 99-100. The rate for Verizon RI's Statewide Calling Plan is on average $22.00 per month. *Id.*

in the market makes Rhode Island unique and provides further evidence that all Rhode Island customers have a competitive alternative to Verizon RI's service.

In addition to wireline competitors, Verizon RI also faces significant competition from wireless carriers. As of December 31, 2001, wireless carriers were serving over 450,000 subscribers in Rhode Island. Verizon RI Response to PUC 1-3 (Table 11). While many of these wireless services are not used to completely displace wireline telephones, wireless carriers often offer attractive calling plans that provide a competitive alternative for the completion of both toll and local calling services. *Id.*[8]

In short, if consumers do not want to pay Verizon RI's prices, they can obtain service from either Cox, wireless carriers, or other providers of telecommunications services in Rhode Island.

IV. THE COMMISSION SHOULD APPROVE THE PLAN SINCE IT IS REASONABLE, CONSISTENT WITH THE PUBLIC INTEREST, AND WILL CONTINUE TO PROVIDE COMPETITIVE CHOICES FOR RHODE ISLAND CONSUMERS

The Plan will ensure that Verizon RI's retail rates remain fair and reasonable throughout the period of the Plan, by allowing Verizon RI greater flexibility to compete in the second most competitive intrastate telecommunications market in the United States while nevertheless retaining significant controls over Verizon RI's retail prices where appropriate.

Highlights of the Plan, submitted as Joint Exhibit 1 at the hearing on December 11, 2002, are as follows:

[8] While Verizon RI's parent company has a wireless affiliate, the wireless market for telecommunications is fiercely competitive, and Verizon Wireless has approximately **Proprietary Begins** **Proprietary Ends.** *See* Verizon RI Response to PUC Record Request 8. As a result, in many instances in which a customer does discontinue wireline service and rely exclusively on wireless services, the wireless service will not be provided by Verizon.

Internet Access for Schools and Libraries: Verizon RI will extend its voluntarily subsidy of this program for up to two years, to December 31, 2004, providing up to $4 million to this program in that time period.

Term: The term of the Plan is three years.

Primary Residence Basic Exchange Rates: These rates will not increase more than $1 per line per year for the first two years of the Plan. The Division reserves the right to review any proposed increases in these rates in the third year of the Plan.

Residence Local Usage Rates: These rates shall not increase during the first two years of the Plan.

All Other Retail Services: Rates for these services, as listed in the Plan, will be free to fluctuate in response to market conditions, subject to a price floor.

Price Floor: The Plan precludes Verizon RI from decreasing any of its retail rates for current services, or offering initial retail rates for new services, below the Long Run Incremental Cost of such services (TSLRIC).

Exogenous Events: Verizon RI may pass through to consumers changes to its revenues and costs resulting from events beyond its control, such as changes in tax laws, up to $2.5 million annually. However, Verizon RI must absorb the first $1 million in cumulative, positive exogenous changes (*i.e.* increases to Verizon RI's costs or decreases in its revenues) in the year it seeks approval for such changes.

Quality of Service Plan: The Plan eliminates two of the ten metrics in the current Quality of Service Plan, tightens the performance standards on four other metrics (including Out Of Service > 24 hours) by 10% and tightens the standards on a fifth metric by 5%.

A. Verizon RI's Decision to Extend its Voluntary Subsidy of Internet Access by Schools and Libraries for up to two Years Ensures the Continued Viability of this Program at Enormous Benefit to Ratepayers and the Public, and Represents a Significant Concession by Verizon RI During Difficult Economic Times.

Over the course of the last 10 years, Verizon RI has provided more than $13 million in subsidies to fund expanded internet access by Rhode Island schools and libraries. Tr. 11/21/02 at 72-73. The ARP would have eliminated this subsidy after June 30, 2003, in reluctant acknowledgment that Verizon RI could no longer afford it.

During the course of the hearings in this matter, however, a number of representatives of the schools and libraries attested to the incredible value and effectiveness of the internet access program and the severe dislocation that its termination would cause. These witnesses, and the Division, pledged to work with Verizon RI to ask the Legislature to enact a more equitable alternative mechanism to fund this program, if given enough time to do so.

With this in mind, and at the urging of the Commission, Verizon RI has agreed in the Plan to extend its already substantial funding of the Internet access program for up to an additional 18 months, to December 31, 2004, at a price tag not to exceed $4 million. The sole purpose of the extension is to allow sufficient time to establish an alternative funding mechanism for the program. *See* Joint Ex. 1, Appendix 1, ¶ M. Verizon RI's obligation to the program would terminate once such a mechanism is in place, even if that occurs before the end of 2004. Tr. 12/11/02 at 52. In the absence of an alternative funding mechanism, Verizon RI's funding obligation will continue through December 31, 2004.

Verizon RI's decision to continue to subsidize the Internet access program represents a particularly significant concession to the Division and the expressed concerns of the interested public and the Commission, in light of two factors. First, the evidence is undisputed that in the current competitive environment, Verizon RI's financial position is not what it once was and the continued support of the internet access program can no longer be sustained absent some change. Verizon RI lost approximately 7.6% of its access lines in Rhode Island from 2000 to 2001 and an additional 7% of its lines from October 2001 to October 2002. Tr. 11/21/02 at 109-110. Verizon RI's revenues fell 9% for the twelve months ended August 31, 2002, *id*. at 111, and its return on equity for the same period is estimated at negative 4%. *Id.* at 112. With these numbers, the continued subsidy of the internet access program will make an enormous dent in Verizon RI's future financial performance.

Second, it is beyond debate that Verizon RI has no legal obligation to support the Internet access program. The company's initial agreement to subsidize the program was entirely voluntary.[9] Moreover, no participant in this proceeding has pointed to any legal authority for the proposition that the Commission may require Verizon RI alone to fund the Internet access program without extending that requirement to other telecommunications providers in Rhode Island. Indeed, the Act expressly requires that the FCC's rules for enhancing internet access for schools and libraries be "competitively neutral" and further requires any state regulations regarding universal service to be "not inconsistent" with such rules. 47 U.S.C. §254(f) and (h)(2). Verizon RI's willingness to extend its support of the internet access program arises solely out of its interest in being a good corporate citizen and out of respect for the clear concerns expressed by the Commission and members of the public at the hearings.

B. The Plan's Limitation on Increases to Primary Residence Basic Exchange Rates is a Reasonable Compromise, Supported by the Evidence of Strong Competition in the Market.

As demonstrated above, Verizon RI's original proposal for flexibility to increase Primary Residence Basic Exchange rates up to $2 per month is fully supported by the largely uncontested evidence that competition in Rhode Island is strong and growing.

[9] This Commission previously acknowledged that "Rhode Island has not established a funding mechanism for telecommunications services for schools and libraries" and expressly noted that "[t]he agreement reached with NYNEX in the Price Regulation Plan, Docket No. 2370, Section 3 and Appendix 1, is not such a funding mechanism." *See In re: Universal Service Provisions of the Federal Telecommunications Act of 1996*, Docket No. 2577 (August 21, 1997), at 6. The Commission also noted that while it may have the authority to create such a fund, that it "would seek direction from the General Assembly before taking such a step." *Id.*

See Part III, above. That the flexibility Verizon RI seeks is modest is clear when viewed in the perspective of the long-term history of Verizon RI's basic residential exchange rates in Rhode Island. Those rates have not increased since 1994 and in some cases (in Providence, for example) are now lower than they were in 1985. VZ RI 5 at 2. Verizon RI, however, is cognizant of the concern of the Commission and the Division over possible "price shock" if Verizon RI were to increase its rates to the full limit all at once. Accordingly, as an additional protection to ratepayers, the Plan will limit Verizon RI to an increase of up to only $1 per line per month for each of the first two years of the Plan. With this additional restriction on Verizon RI's modest request for flexibility, the Commission is assured that Basic Residential Exchange rates will be reasonable in light of the strong and growing competition in the state.

C. Although No Floor on Verizon RI's Retail Rates is Necessary, the TSLRIC Price Floor Provided by the Plan, Not TELRIC, Will Best Foster Efficient Competition Among All Carriers, Including Verizon RI, to the Benefit of Ratepayers.

1. Because the Purpose of a Price Floor is to Prevent Antitrust Violations, the Proper Floor is Verizon RI's Own Long-Run Incremental Costs, or TSLRIC.

The purpose of the TSLRIC price floor provided in the Plan is to protect against anti-competitive pricing by Verizon RI. As the Division's expert, Mr. Weiss, testified: "Our objective here … was to insure that Verizon didn't blatantly ignore or violate antitrust basically, and that is by pricing below their long-run incremental cost for a lengthy period of time." Tr. 12/11/02 at 63-64; *see also* Division 1 at 14. The "long-run incremental cost" of providing a service is known as TSLRIC, which includes the direct cost of the particular service plus an allocation of costs shared with other services, such as the costs of buildings, land and power. Tr. 12/11/02 at 141. Mr. Weiss subsequently explained that TSLRIC will best assure continued competition in Rhode Island:

> We were eager to enter into a settlement with long-range incremental cost as the price floor as a means of protecting the degree of competition that's been achieved in the state. And we elected for a long-run incremental price floor because Verizon is faced with competition from a carrier in the person of Cox whose marginal cost is probably a lot less than Verizon's price floor as we're proposing it. On the other hand, you have Conversent, a UNE-based carrier, … arguing that its marginal costs are greater than the long-run incremental costs. We selected our approach because it really reflects the cost that Verizon sees as it faces competition from a facility-based carrier and UNE-based carrier[s].

Id. at 170. Verizon RI's expert economist, Dr. Taylor, agreed that, assuming a price floor is necessary at all, the economically appropriate floor to prevent anti-competitive pricing of a particular service would be Verizon RI's incremental cost incurred in providing that service, at least in Rhode Island, where the presence of a near-ubiquitous full facilities-based carrier (Cox) means that none of Verizon RI's facilities are essential to competition. VZ RI 7 at 12-13; Tr. 12/11/02 at 49-50. TSLRIC can be seen as a compromise or "melding" of the costs of service faced by Verizon's competitors, Weiss, Tr. 12/11 at 172, or as a neutral floor that unduly favors neither UNE-based providers nor full facilities-based providers. Taylor, Tr. 11/21/02 at 62-63, 66. As such, TSLRIC is the most efficient price floor on Verizon RI's retail rates.

2. The CLECs' Fear that TSLRIC Might Allow Verizon RI to Engage in a Price Squeeze are Overstated and Unsupported by the Evidence.

Mr. Weiss explained why he was not "terribly concerned," Tr. 12/11/02 at 59, about a price squeeze using TSLRIC as a floor, as follows:

> [F]rom a practical point of view, the only way that Verizon is going to approach its TSLRIC is if it was a perfectly competitive market [and] their objective was to capture as much of the market share as their price would allow them to do. That's not going to

> happen in my opinion. Verizon is not interested in losing money if it can make money; and they are, therefore, going to price their services above the TSLRIC number.

Weiss, Tr. 12/11/02 at 149.

Likewise, Verizon RI has demonstrated that even in the absence of any price floor, it has neither the ability nor the incentive to engage in anticompetitive pricing due to the availability of resale as a barrier-free mode of entry into the market and the presence of entrenched competition in Rhode Island, including the full facilities-based provider Cox. *See* VZ RI 7 at 4-8, 11-12; Tr. 11/21/02 at 104-106, 108-109 and Tr. 12/11/02 at 108, 110. Dr. Taylor explained that a price squeeze would require Verizon to incur an immediate, if short-term, loss due to its excessively reduced retail rates. VZ RI 4 at 6-8. Verizon RI would not willingly incur such a loss unless it expected to recover that loss and earn a profit later, by raising its rates above market based levels. As soon as Verizon RI's prices exceeded the competitive level, however, customers would turn to other carriers, leaving Verizon RI at a loss. A price squeeze could succeed only if Verizon RI could drive all of its competitors out of the market and keep them out. Tr. 11/21/02 at 104-106. That is not possible for a number of reasons. First, the resale option guarantees that any efficient competitor will always be able to obtain Verizon RI's services and resell them at a cost which would allow it to compete profitably. VZ RI 7 at 5, 8. Second, there is an existing facilities based provider, Cox, on which a price squeeze would have little or no effect, since it need not purchase services from Verizon. Even if Cox decided to exit the telephone market due to anti-competitive pricing by Verizon RI, Cox and its video/telephony network would be perfectly able to re-enter the market when Verizon raises its rates, as it must. Tr. 11/21/02 at 105-106.

Therefore, with no expectation of profiting from a price squeeze, Verizon RI has no incentive to attempt one. Dr. Taylor summed it up this way:

> Verizon is unlikely to be able to price below its cost, whatever that is, for a substantial period of time, lose money, drive folks out particularly here where you can't drive out the facilities-based folks, and then raise prices later and make money. So, no, I don't think that's a viable strategy. And if I was a CLEC, I wouldn't expect Verizon to do it.

Tr. 12/11/02 at 110. Speaking more generally, the United States Supreme Court put it this way: "… predatory pricing schemes are rarely tried and even more rarely successful." *Matsushita Electric Industrial Co. v, Zenith Radio Corp.*, 475 U.S. 574, 589 (1986). Dr. Ankum's and Ms. Schoenhaut's concerns about a price squeeze are misplaced.

For the same reasons, the more particular concern that a TSLRIC floor would allow Verizon RI to squeeze out of the market facilities-based CLECs who purchase UNE loops from Verizon RI, such as Conversent, is equally misplaced. Both Dr. Taylor and Mr. Weiss testified at the hearings that if Verizon RI set its retail prices above TSLRIC but below a UNE-based level (*i.e.*, TELRIC), it might be more difficult for UNE-dependent CLECs to compete, *but it would not run them out of the market*. Taylor, Tr. 11/21/02 at 65, 12/11/02 at 109; Weiss, Tr. 12/11/02 at 150-151. Even if a CLEC might lose money selling basic service alone in this scenario, it can earn a "handsome profit" selling vertical services such as voice mail, call waiting, and other discretionary services and would not exit the market. Weiss, Tr. 12/11/02 at 111 and 151. Moreover, any UNE-based CLEC always has the option of shifting to a resale business strategy to defeat any below-TELRIC price plan that Verizon RI could attempt. Weiss, Tr. 12/11/02 at 112; VZ RI 7 at 5, 8. Dr. Taylor, however, stressed that in the real world, most CLECs utilize a combination of entry strategies, and that a price floor will only affect decisions on the margin. In other words, a TSLRIC floor might cause a CLEC to shift some resources away from one mode of entry to another, but it is unlikely to drive any CLEC to abandon a UNE-based strategy and resort to resale entirely or try to become totally facilities based. *See* Taylor, Tr. 11/21 at 54-55, 65.

Finally, it is worth noting that for years, Verizon RI's efforts to win Centrex and other customer-specific contracts have been limited by an incremental cost price floor, similar to the TSLRIC floor proposed in the Plan, and in that time competition in the Centrex market has grown. O'Brien, Tr. 12/11/02 at 162. In light of this example and the above testimony, there is no justifiable concern that a TSLRIC price floor could reduce competition in Rhode Island.

3. A UNE-Based or TELRIC Price Floor Would Hinder Competition and Artificially Prop up Retail Prices, at the Expense of Consumers.

For purposes of establishing a retail price floor, a UNE-based price floor differs from TSLRIC in two significant ways. First, TELRIC-based prices include costs not included in TSLRIC. Whereas TSLRIC includes the direct and shared costs of providing a service, TELRIC (in addition to looking at elements, rather than services) includes a mark-up for common costs of the company, e.g., the cost of the president's desk. Weiss, Tr. 12/11/02 at 141. Accordingly, a TELRIC price floor will generally be higher than a TSLRIC price floor. *Id.* at 85. Second, Conversent argues that even a TELRIC floor, representing the aggregate costs a CLEC would incur in purchasing a service from Verizon RI, is not high enough, but that a price floor must also include retailing costs, measured by the resale discount of 18%. *See* Conversent 3 at 32.

Conversent's claim that a TELRIC price floor is absolutely necessary to protect it from anti-competitive pricing by Verizon RI has no basis in fact, for the reasons stated in part 2, above. A TELRIC-based price floor may allow Conversent to maximize its profits, but it is in no way necessary to keep Conversent in business in Rhode Island.

Moreover, a TELRIC-based price floor will needlessly tend to stifle competition by disabling Verizon RI and all UNE-based CLECs from matching prices offered by Cox and the other full facilities-based providers (not to mention wireless providers). Rhode Island consumers would be deprived of much of the benefit of competition and would end up paying rates higher than they would pay under the Plan with its TSLRIC floor. Cox is not dependent on Verizon RI's UNE prices, and its own marginal cost is likely much lower than Verizon's. Weiss, Tr. 12/11/02 at 170. Consequently, Cox would be able to price its services just below the TELRIC price floor, knowing that Verizon RI would not be allowed to match them.[10] Under the lower TSLRIC price floor, however, Verizon RI might be able to match Cox's prices or even beat them, yielding reduced prices for consumers.

Dr. Taylor explained this interrelationship with a hypothetical example. If the TELRIC price floor for a given service is $10, the TSLRIC floor would likely be lower, for example, $6. Cox could price a service at $7 without fear of competition from Verizon RI, which by regulation could not charge less than $10 for its similar service. Cox's customers would pay $7 and Verizon RI's would be stuck at $10. In contrast, a TSLRIC floor would allow Verizon RI to match Cox's $7 or even go down to $6, reducing the average rate paid by all customers. *See* Taylor, Tr. 11/21/02 at 127-130.

[10] Cox would have an advantage over a CLEC in such a scenario as well, since an efficient CLEC that is highly dependent on UNEs could not match Cox's price either; the CLEC's costs for some services will be the same as Verizon RI's. Taylor, Tr. 11/21/02 at 128. As noted in the preceding section, however, a CLEC can use a combination of resale, UNEs and its own facilities in order to create a competitive pricing scenario.

For this reason, Mr. Weiss testified that while a higher price floor such as TELRIC might be advantageous for some CLECs, it would not be in the best interests of consumers. Weiss, Tr 12/11/02 at 69. Likewise, Dr. Taylor testified that a UNE-based price floor would "unambiguously harm competition, and ultimately cost Rhode Island consumers more." VZ RI 7 at 12. Accordingly, a TSLRIC price floor, not a TELRIC price floor, will best foster competition and benefit Rhode Island ratepayers.

Conversent makes two additional arguments in favor of a TELRIC floor, neither of which has merit. First, Conversent argues that the Commission should follow the lead of the Massachusetts Department of Telecommunications and Energy ("D.T.E."), which recently imposed a UNE-based price floor. Conversent 4 at 17. The D.T.E., however, applied its UNE-based floor only to services "contestable on a UNE basis." Tr. 11/20/02 at 93. Without regard to whether the decision is the correct one for Massachusetts, it is an inappropriate position in Rhode Island. Stated simply, because of the ubiquitous presence of a predominantly unregulated facilities based competitor, Cox, there are *no* services in Rhode Island that are *solely* contestable on a UNE basis. Every service offered by Verizon RI can readily be contested not only by Cox, but by wireless companies and by CLECs that are partially facilities based. Put another way, no customer in Rhode Island is forced to rely on Verizon RI's network either directly or indirectly, and no competitor must use Verizon RI's network to serve its customers. A price floor that holds Verizon RI's retail prices above Verizon RI's costs so that competitors can use UNEs to compete against Verizon RI does not serve the interests of competition or customers. Thus, this Commission should not follow the example of the

Massachusetts D.T.E. because its findings and conclusions on this point are not readily transferable to Rhode Island. *See* Tr. 12/11/02 at 86-87, 91.[11]

Second, Conversent argues that a LRIC price floor (presumably including a TSLRIC floor) will be ill-defined and more difficult to administer than a TELRIC floor, which is easily determined for a given service by reference to current TELRIC UNE prices. Ankum, Tr 11/21/02 at 153-155. However, when asked directly whether a LRIC standard "may be interpreted differently by different parties," both Mr. Weiss and Dr. Taylor answered no; each witness had no trouble defining the floor in the Plan as a specific form of LRIC, *i.e.*, TSLRIC. *See* Tr. 12/11/02 at 38. In addition, calculating a TSLRIC floor for a given service is not as difficult as Dr. Ankum implied, nor is calculating a TELRIC floor so easy. Dr. Taylor explained that the costs needed to calculate a TSLRIC floor for a given service come from the same information used to set TELRIC prices, so that no new information must be gathered to set the floor. Conversely, a TELRIC floor would require the Commission to add together the TELRIC costs of the various UNEs comprising Verizon RI's service, which will not be done as part of the TELRIC proceeding and is not easy or simple. Overall, "the administrative hassle is probably the same for the two [price floors]." Taylor, Tr. 11/21/02 at 69, 70, 12/11 at 144. Given the clear policy advantages of a TSLRIC price floor over TELRIC in fostering competition, the Commission should approve the Plan.

[11] Conversent's argument that the Commission should require Verizon RI to reduce its hot-cut non-recurring cost rate and comply with other provisions of the retail rate plan adopted by the New York Public Utilities Commission, *see* Conversent 3 at 22-29, is equally inappropriate. The New York plan was adopted as part of a comprehensive settlement spanning many retails and wholesale issues (such as TELRIC prices for UNEs) not relevant to this Docket. VZ RI 5 at 5. Specific pricing decisions in New York cannot be taken out of context and applied in Rhode Island. Conversent has made virtually no showing that market conditions in New York are sufficiently similar to those in Rhode Island to justify blithely adopting certain features of the New York plan selected by Cox. To the extent that the Commission does look to the New York plan as a guide, it should take note that New York has established a TSLRIC floor, just as the Division and Verizon RI recommend in this case. Tr. 12/11/02 at 68, 84.

D. The Discretionary Services Included in the "All Other" Category of the Plan are Fully Subject to Competition and Should Not Be Subject to Arbitrary Price Caps but Be Market Priced.

Paragraph D of the Plan provides that All Other Retail Services of Verizon RI (all retail services other than Primary Residence Basic Exchange, Residence Local Usage and Intrastate Switched Access; Appendix A to the Plan, at 3-6, lists such services) will increase or decrease in response to market conditions. The Commission should resist any impulse to impose price caps on these services, in that there was substantial evidence presented at hearing that these services are discretionary and are subject to competition, and therefore require no caps.

For example, Verizon RI's three statewide calling plans are all "highly competitive services and have been in basket 4 [for highly competitive services] for at least eight years now …." O'Brien, Tr 11/21/02 at 98. Ms. O'Brien pointed out that placing these services in a more restrictive "basket" now would be taking a step backward, harming competition. *Id.* In addition, Verizon RI's Response to PUC Record Request No. 9 filed on December 10, 2002, demonstrates that a competitive alternative exists for *each* of the residential services included in the "Other" category. *See also* Tr. 12/11/02 at 124. In discussing this Response, Ms. O'Brien explained that Cox offers each of these services as well, even if Cox sometimes resells Verizon's services and uses its own names for service packages that are similar to Verizon RI's.[12] *Id*. at 125-126. Many of these services are also offered by other CLECs, including resellers and UNE-based carriers. Tr. 12/11/02 at 129. Even Mr. Weiss, who first proposed caps on "Other" services, agreed that they "are offered generally in competitive environments or … would

[12] Indeed, as noted above, Cox's website currently lists statewide calling rates that appear to be lower than Verizon RI's rates. Tr. 11/21/02 at 99-100.

be consumed at the customer's sole discretion." Division 1 (Weiss Dir.) at 16. It is clear that market forces can be relied upon to hold prices for these services at competitive levels. *See* VZ RI 7 at 15-16. In light of the Commission's wise policy of intervening in the competitive market "only cautiously and with great circumspection," *In re: Customer Specific Pricing Contracts*, Docket No. 2676 (December 15, 1999), at 8-9, it should decline to impose price caps here.

The Commission questioned at the hearings whether price caps on "Other" services may nevertheless be necessary to exert downward pressure on prices for certain services or in certain geographic areas where Verizon RI's sole competitors are resellers. Caps are not appropriate even in that situation, however, because it is not only actual competition (here in the form of resellers) that exerts downward pressure on Verizon RI's prices but also potential competition, *i.e.*, the threat that additional CLECs will enter the market if prices and profits rise. *See* Taylor, Tr. 12/11/02 at 116-117. For example, even if Cox does not serve Block Island today, it may decide to do so if price increases by Verizon RI make it profitable for Cox to extend its network. *Id.* Thus, price caps are not justified for any of the services included in "All Other Retail Services."

E. Allowing Limited Geographic Deaveraging of Verizon RI's Retail Rates in Response to Market Conditions will Foster Competition.

The Plan does not require Verizon RI to implement any changes in its retail rates evenly across the state but would allow Verizon RI to change its rates (within the other limits established by the Plan, such as the price floor) over smaller geographic areas in response to competitive challenges. This limited flexibility to deaverage rates is not only justified by the current intense competition in Rhode Island but is also necessary to allow Verizon RI to compete on a more level footing with its competitors, to the advantage of consumers.

At the outset, the Commission should keep in mind that the Plan does not give Verizon RI leeway to create vastly disparate rates across the state. Rather, it circumscribes Verizon RI's flexibility to change the Primary Residence Basic Exchange rate – the rate of most concern to most ratepayers – by imposing the $1 per month annual cap and a price floor. *See* Tr. 12/11/02 at 218-219 (in which Mr. Weiss states that Plan as a whole is in the best interest of ratepayers, despite the potential for geographic deaveraging, in light of the cap on local exchange rates).

Moreover, Geographic deaveraging in Rhode Island is nothing new. All CLECs have this freedom right now. VZ RI 5 at 3; Tr. 11/21/02 at 120. In addition, for many years Verizon RI's Residence Basic Exchange rates have varied across calling areas, depending on the number of access lines a customer can reach with a local call. VZ RI 5 at 3. As a result, those rates now range from $12.30 a month in a number of towns, such as Newport, to $17.26 a month in Providence and other populous areas. *See* Verizon RI response to PUC 2-6. Likewise, Verizon RI has long had flexibility to tailor prices on a per customer and per location basis in competing for contracts to provide services to individual business customers. VZ RI 7 at 8. Competition in Rhode Island is most extensive and successful in the business market,[13] where such customer specific pricing flexibility has existed for several years. That experience should lay to rest any concern that the limited ability to customize other rates, as will be allowed to Verizon RI by the Plan, will retard the continued growth of competition in the state.

Finally, Verizon RI has offered substantial evidence that some flexibility to tailor its rates by geographic area in response to market conditions will in fact spur competition

[13] *See* the Competitive Profile, Attachment 1 to VZ RI 3, Section A; *see also,* evidence of Cox's recent successes in winning over Verizon RI business clients (VZ RI 5 at 5-6).

in underserved areas, while a prohibition on deaveraging would thwart competition. Dr. Taylor testified on this point as follows:

> Any price changes that move prices closer to cost (geographically or otherwise) will enhance consumer welfare and foster more widespread competition throughout all of Rhode Island. . . . [W]hen prices deviate from cost consumers end up paying too much for some goods and too little for others. While Ms. Schonhaut [Cox's expert witness] may believe it is beneficial for consumers in high-cost-to-serve areas of Rhode Island not to pay prices commensurate with the cost to bring them service, she ignores an important consequence. Namely that the misalignment of prices and cost will discourage competitors from supplying services to those areas.

VZ RI 7 at 10. Dr. Taylor explained that competition is generally less intense in rural areas of the state because the cost of service in such areas is high while retail prices are low, yielding little profit. Taylor, Tr. 11/21/02 at 31, 122. If Verizon RI were to raise rates in a rural area, the existing competition may well choose not to match the increase and thereby sell more services, expanding competition. *Id*. at 24-25. In addition, other competitors would be expected to enter that market as prices and profits rise, as noted in part D above. *Id.* at 126; Tr 12/11/02 at 116-117. On the other hand, if the Commission stringently regulates Verizon RI's rates in rural areas, the small profit margin problem will persist, and it will take more time for competitors to reach those markets. Taylor, Tr. 11/21/02 at 126. Likewise, stringent regulation of Verizon RI's rates would preclude Verizon RI from responding to promotions or other competitive initiatives by CLECs directed to specific areas of the state, rural or urban. As a result, CLECs will have reduced incentive to offer lower rates, and Rhode Island consumers will be deprived of the full benefits of competition, paying higher rates than they would if Verizon RI is allowed the rate flexibility incorporated in the Plan. Taylor, Tr. 11/21/02 at 122.

F. The Plan Provisions Requiring Verizon RI to Absorb the First $1 Million in Revenue Effects for Exogenous Events Represents a Substantial Concession by Verizon RI in Light of the Continued Regulation of its Retail Rates.

The exogenous event provisions of the PRSP and the Plan are designed to allow Verizon RI to pass through to consumers changes to Verizon RI's revenues and costs resulting from events beyond its control, such as changes in tax laws. VZ RI 6 at 2; Tr. 11/21/02 at 45-46. The intent is to provide an exception to caps on Verizon RI's retail rates and thereby mimic, in a way, the workings of an unregulated market, in which changes to the cost basis of a service are reflected in changes in retail prices, resulting in greater economic efficiency. VZ RI 7 at 19-20. The exogenous event exception also places Verizon RI on a more level playing field with its competitors, who are free to pass such costs through to consumers without any regulatory restrictions. VZ RI 6 at 3. Because the ARP and the Plan would continue to impose caps on critical components of Verizon RI's retail rates – namely, Primary Residence Basic Exchange and Residence Local Use rates – Verizon RI originally proposed in the ARP to retain the current exogenous event provisions of the PRSP. *Id.* at 2. At the insistence of the Division and in deference to views expressed by the Commission at the hearings, however, Verizon RI has agreed to include in the Plan a new provision more restrictive than the terms of the PRSP. Under that new provision, Verizon RI is required to absorb the first $1 million in cumulative, positive exogenous changes (*i.e.*, increases to Verizon RI's costs or decreases in its revenues). *See* Joint Ex. 1, ¶ I. As a result, the Plan's exogenous event provisions are more commensurate with the greater pricing flexibility the Plan allows Verizon RI in light of the overwhelming evidence that significant competition in Rhode Island is here to stay.

G. The Plan Tightens the Standards on Most of the Metrics in the Quality of Service Plan, Providing Additional Assurances that Verizon RI will Continue to Provide High-Quality Service at Reasonable Rates.

Verizon RI has offered compelling evidence in this proceeding that competition in the Rhode Island intrastate telecommunications market is widespread and thriving. *See* Part III, above. That evidence further demonstrates that market forces, rather than government regulation, are more than sufficient to require Verizon RI to maintain a high quality of service. *See* VZ RI 2 at 10 and VZ RI 5 at 7. Accordingly, Verizon RI's ARP justifiably proposed to eliminate the existing Quality of Service Plan as obsolete and unnecessary. In contrast, the Division proposed to retain the Quality of Service Plan, eliminate two metrics it felt were no longer useful and tighten by 10% the performance standards for six of the eight remaining metrics. *See* attachment to Division 3. As part of the overall settlement, Verizon RI accepted the bulk of the Division's position, so that the Plan now includes the Quality of Service Plan as modified by the Division, except that the performance standard on one of the six metrics the Division proposed to tighten will remain unchanged, and one other such standard shall be reduced by only 5%. Accordingly, while competitive market pressure is now sufficient to discipline Verizon RI's quality of service, the Plan provides additional assurances that Verizon RI will continue to provide the exceptional levels of service that Rhode Island consumers have come to expect of it.

V. CONCLUSION

For the above reasons, the Commission should enter an order accepting the Settlement Agreement and approving the Plan jointly submitted by Verizon RI and the Division.

Verizon New England Inc., d/b/a Verizon Rhode Island

By its attorneys,

/s/Keefe B. Clemons
Keefe B. Clemons [RI Bar No. 6567]
Alexander W. Moore [Admitted Pro Hac Vice]
Verizon Rhode Island
185 Franklin Street, 13th Floor
Boston, Massachusetts 02110

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