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September 29, 2003

**BY FEDERAL EXPRESS**

Ms. Luly Massaro  
Commission Clerk  
Rhode Island Public Utilities Commission  
89 Jefferson Boulevard  
Warwick, Rhode Island 02888

Re: Docket No. 3545 - In Re Rules and Regulations Governing the  
Telecommunications Education Access Fund Required Under  
R.I.G.L. § 39-1-61

Dear Ms. Massaro:

Cox Rhode Island Telcom, L.L.C. ("Cox"), through its undersigned counsel, respectfully submits this letter in the above-referenced proceeding regarding the proposed Rules and Regulations Governing the Rhode Island Telecommunications Education Access Fund.

Cox agrees with testimony presented by the Department of Education ("DOE") at the public hearing, held September 17, 2003, at the Rhode Island Public Utilities Commission ("Commission") that the regulations proposed to comply with General Law of Rhode Island Section 39-1-61 go a long way toward satisfying the needs of many parties, including the DOE, Verizon, various competitors, and most importantly the students and library users throughout the State. Cox therefore limits its comments to a few issues that it believes will ensure the competitive neutrality of the Telecommunications Education Access Fund ("TEAF" or "Fund"), while also ensuring no interruption in the services Rhode Island schools and libraries receive.

During the hearing, the DOE raised an issue that goes to the heart of the competitive neutrality of the Fund – namely, how the transition from the Verizon program to the new funding source should take place. The issue stems from the fact that, based on the federal

E-Rate schedule, a contract for Internet schools and libraries funding has already been awarded to Verizon to cover the time period from July 1, 2003 through June 30, 2004.

Cox does not take issue with the fact that the DOE awarded a contract to Verizon to be the exclusive provider of Internet services for the E-Rate program during the period July 1, 2003 through June 30, 2004. The window within which to bid for that contract has come and gone, and Cox does not seek to re-open it. Cox does, however, take issue with the prospect of allowing Verizon to access funds from the TEAF, contributed by the end users of all Telecommunications Service Providers in the State, to meet its obligations under that pre-existing contract.

First, General Law of Rhode Island Section 39-1-61 took effect upon passage<sup>1</sup> and as a result the TEAF was not in effect when Verizon filed its proposal for the current E-Rate funding year. It is therefore unwarranted for Verizon now to assume that it may access the newly created TEAF to cover services upon which it bid (and was awarded) prior to the TEAF's creation. Moreover, as Bill Fiske, Coordinator of Educational Technology for the DOE, pointed out in response to questioning from Commission Counsel, Verizon did not place any qualifications upon its ability to provide the services it bid on for the period July 1, 2003 – June 30, 2004. Therefore, the DOE had good reason to rely upon Verizon's continuing commitment to provide those services under the then-existing arrangement.

Second, under the Settlement Agreement ("Agreement") entered into by Verizon and the Division of Public Utilities and Carriers in Docket 3445 on December 6, 2002, and approved by the Commission on January 10, 2003, Verizon agreed as an important component of the settlement to continue its subsidization of the Rhode Island schools and libraries Internet program through December 31, 2004.<sup>2</sup> Nothing in the Agreement limits Verizon's commitment to provide such funding. Moreover, although Verizon may petition the Commission to modify the terms or conditions of the Alternative Regulation Plan to reflect the impact of newly enacted legislative provisions,<sup>3</sup> to date Verizon has not done so. Cox is disappointed that Verizon appears now to be retreating from its commitment to Rhode Island's schools and libraries, but more importantly to Rhode Island's students. To be clear, however, Cox is not asking for the Commission to order Verizon to continue funding Internet services for the schools and libraries through December 31, 2004. Instead, Cox merely requests that Verizon honor its funding commitment through the end of its current contract with the DOE on June 30, 2004.

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<sup>1</sup> 2003 R.I. Pub. Laws 376.

<sup>2</sup> Paragraph M of Appendix 1 to that Agreement provides:

M. In order to provide a sufficient period of time to investigate and determine an equitable mechanism by which to fund Internet access for Rhode Island K-12 schools and libraries, Verizon RI agrees to continue its voluntary subsidization of that program for a period commencing with the approval of this agreement and ending December 31, 2004. Verizon RI's commitment to this endeavor shall not exceed \$4.0 million for the period from January 1, 2003 to December 31, 2004.

<sup>3</sup> Paragraph L, Appendix 1 of the Agreement.

During the September 17, 2003 hearing, Chairman Germani inquired what harm would come from allowing Verizon to access the TEAF to finance the remainder of its existing contract to provide Internet access to Rhode Island schools and libraries through June 30, 2004 – especially in light of the fact that no other carrier is eligible to apply for such funding prior to that date. The answer, unfortunately, is that the potential for great harm exists. As Mr. Fiske testified, “we are flying blind” with respect to how much funding the TEAF will provide. This is especially true in light of the fact that, as the Commission recognized in Docket 3445, many landline telephone users are migrating to wireless services, thereby depleting the potential pool of available TEAF funds. If, for some reason, the TEAF funding collected from July 1, 2004 through June 30, 2005 is insufficient to cover the contracts awarded during that time period (the first period under which all carriers will be eligible to apply for funding), it would be helpful to have a “cushion” built up during the first six months of 2004 to plug the gap – at least until the State Legislature had the opportunity to revisit the level of the monthly surcharge required or the issue of whether to include wireless telephone service in the surcharge.

In short, Cox believes that Verizon should honor the commitment it made both in its contract with the DOE and in the Settlement Agreement to provide continued Internet funding for schools and libraries through the end of the current E-Rate year, or until June 30, 2004.

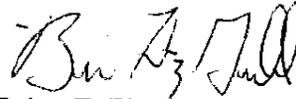
In the absence of Verizon voluntarily making such a commitment, the Commission should order Verizon to continue its funding of this program pursuant to the Commission’s approval of the Settlement Agreement in Docket 3445. Any other result would undermine the Legislature’s intent to create a competitively neutral program and would deprive Rhode Island’s schools and libraries of potentially necessary Internet funding until the Commission and the DOE have a better sense of precisely how much revenue for schools and libraries the new TEAF will yield.

Finally, Cox wishes to address two additional concerns raised at the public hearing. The first is the issue of how “Telecommunications Services Provider” should be defined with respect to application of the TEAF surcharge. Cox believes that it would be reasonable to assume that the TEAF surcharge is intended to apply only to local telephone bills, just as does the E-911 surcharge. The second is the definition of a quasi-governmental agency. Rhode Island General Laws Section 39-1-61(d)(1) provides, in part, that “State, local and quasi-governmental agencies shall be exempt from the surcharge.” Part III, Section 2 of the Commission’s proposed rules reiterates this exemption. However, “quasi-governmental agencies” is not defined in either the statute or the proposed regulations. Cox requests that the Commission’s final regulations clearly define “quasi-governmental agencies” so that Cox can determine those entities that should be exempt from the surcharge.

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Cox appreciates the opportunity to provide its comments in this proceeding.  
Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brian T. Fitzgerald". The signature is written in a cursive style with a large initial "B" and "F".

Brian T. Fitzgerald

cc: Service List  
Jennifer J. Marrapese, Esq.  
AL-83025.1