

March 4, 2005

**VIA EMAIL & OVERNIGHT MAIL**

Luly E. Massaro  
Commission Clerk  
Rhode Island Public Utilities Commission  
89 Jefferson Boulevard  
Warwick, R.I. 02888

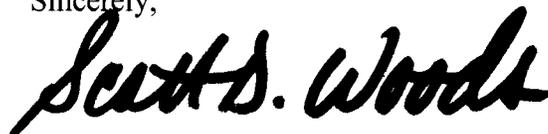
**Re:** Verizon's Proposed Revisions to the Statement of Generally Available Terms  
(SGAT)

Dear Ms. Massaro:

Enclosed please find an original and four (4) copies of the Competitive Carriers' objection to Verizon's Proposed Revisions to the SGAT for Rhode Island. Please file stamp the designated copy and return it in the self-addressed stamped envelope.

Should you have any questions, please do not hesitate to contact us.

Sincerely,



Russell M. Blau  
Harry N. Malone  
Scott D. Woods

Counsel for Competitive Carriers

Enclosure

cc: Verizon Rhode Island (via fax and overnight mail)  
Theresa O'Brien

**BEFORE THE  
PUBLIC UTILITIES COMMISSION  
STATE OF RHODE ISLAND**

**COMPETITIVE CARRIERS' OBJECTION TO VERIZON'S PROPOSED REVISIONS  
TO THE TARIFF**

By their counsel, CTC Communications Corp.; and Lightship Telecom, LLC (the "Competitive Carriers") urge the Public Utilities Commission ("Commission") to reject Verizon's proposed revisions to the tariff filed Tuesday, February 22, 2005. In light of the overlapping issues already before the Commission in Docket No. 3588, the Commission should suspend and/or reject Verizon's proposed revisions and, upon completion of Docket No. 3588, instruct Verizon to file revised tariff provisions consistent with the Commission's resolution of issues in that proceeding.

**I. THE COMMISSION SHOULD REJECT THE REVISIONS BECAUSE THEY ADDRESS ISSUES CURRENTLY BEFORE THE COMMISSION.**

Verizon's proposed tariff revisions address the same issues that are pending before the Commission. It therefore makes no sense for the Commission to allow this tariff to take effect while it arbitrates identical terms that carriers will incorporate into interconnection agreements. At a minimum, the Commission should suspend Verizon's proposed revisions while it resolves CLEC complaints about the specific terms of the tariff including (but not limited to) the issues raised below. Unless the Commission rejects this tariff pending the outcome of Docket No. 3588, it would have two concurrent and duplicative proceedings determining the appropriate terms for implementing the FCC's *Triennial Review Remand Order* ("TRRO"); one to arbitrate terms of interconnection agreements and one to determine the appropriate terms to be included in Verizon's UNE tariff.

It would be a complete waste of the resources of all parties to adjudicate the same issues regarding implementation of the *TRRO* in duplicative proceedings. More importantly, this would place an undue burden on and waste the scarce resources of the Commission.

**II. THE COMMISSION SHOULD REJECT THE REVISIONS BECAUSE THEY DO NOT CONFORM TO FCC RULES.**

If the Commission chooses to review Verizon's proposed tariff revisions apart from the issues that will be addressed in Docket No. 3588, it should, for the reasons set forth below, find that the tariff revisions are unlawful and reject them, or at a minimum, suspend and investigate them.

**A. The Revisions Would Permit Verizon to Reject Orders For Existing Customers.**

Verizon states, in section 6.1.1.A.2.b of the proposed tariff, that "serving a CLEC's embedded base does not include ... moves that involve the disconnection of an existing DS0 Local Circuit Switching arrangement and the re-establishment of such arrangement at a different location." Verizon clearly misreads the FCC's order, which bars new orders for *new customers*. The *TRRO* provides that the "transition period shall apply only to the embedded customer base, and does not permit competitive LECs to *add new customers* using unbundled access to local circuit switching."<sup>1</sup> Nothing in this language permits Verizon to reject orders for CLECs that must continue to serve their existing base of customers by processing routine move orders, including those served by unbundled DS0 switching arrangements.

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<sup>1</sup> *TRRO*, ¶ 199.

**B. The Revisions Do Not Reflect FCC Rules Regarding CLEC Self-Certification.**

In section 2.1.1.E and elsewhere,<sup>2</sup> Verizon reserves for itself the right to challenge a CLEC's certification that specific elements are available as a UNE under the FCC's rules and the tariff. However, Verizon's proposed tariff revisions lack specific language from the *TRRO* that unambiguously provides that upon a CLEC's self-certification, Verizon *must* provision the requested UNE while seeking resolution of the dispute by the Commission, and may not exercise self-help. The proposed language should be revised to reflect that under ¶ 234 of the *TRRO*, Verizon shall provision first and litigate later.

**C. The Revisions Are Unclear as to the Period During Which Verizon Must Accept UNE Orders.**

With respect to all the elements affected by the *TRRO*, Verizon asserts that if the CLEC does not place "timely" conversion orders before the end of the transition period, Verizon will disconnect. While the tariff seems to imply that an order will satisfy the timeliness requirement if "placed early enough, in light of the applicable provisioning intervals, to ensure that the orders can be fulfilled by the end of the transition period,"<sup>3</sup> this language is less than clear. Further, the tariff should specifically provide that where the CLEC has submitted a timely order, Verizon remains obligated to continue providing the UNE at the transition rate until Verizon completes the processing of the order, even if Verizon fails to do so before the end of the transition period. The *TRRO* provides that CLECs "will continue to have access to UNE-P priced at TELRIC plus one dollar until the incumbent LEC successfully migrates those UNE-P customers to the

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<sup>2</sup> See, e.g. Verizon's Proposed Tariff §§ 5.3.1.E; 10.1.1.E.

<sup>3</sup> Verizon's Proposed Tariff §§ 2.1.1.D; 5.3.1.D; 6.1.1.A.3; 10.1.1.D.

competitive LECs' switches or to alternative access arrangements.”<sup>4</sup> With this unequivocal language, Verizon may not disconnect CLECs and their customers on the transition date when Verizon has yet to migrate a CLEC's UNE-P customers to the other arrangements specified by the CLEC.

**D. The Revisions Should Not be Permitted Until Verizon's Obligations Under Section 271 are Established.**

Verizon remains obligated under section 271 to provide access to loops, transport and switching, regardless of whether such elements are available under section 251. Verizon should not be permitted to withdraw tariff provisions providing UNEs under section 251 until it files an appropriate Section 271 tariff for loops, transport and switching elements affected by the *TRRO*, at just and reasonable rates, consistent with R.I. Gen. Laws § 39-4-9.

**E. The Revisions Are Unclear as to the Scope of Verizon's Authority to Deny Access to UNEs.**

Verizon is not the sole arbiter of which UNEs remain available on which routes. Under the *TRRO*, DS1 and DS3 loop and transport elements, as well as dark fiber transport, continue to be available as UNEs under the new rules unless and until it is determined that a particular wire center (or route between wire centers) falls within the classes as to which the FCC found a lack of impairment. In order to support its position that certain wire centers fall under certain impairment classifications, Verizon is obligated to provide the underlying data that supports Verizon's characterization of the tiers and allow CLECs to contest the validity of such data.<sup>5</sup>

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<sup>4</sup> *TRRO*, ¶ 199.

<sup>5</sup> See, e.g. *Verizon-Maine Proposed Schedules, Terms, Conditions and Rates for Unbundled Network Elements and Interconnection*, NH PUC Docket No. 2002-682, Procedural Order (Mar. 1, 2005) (“Because we anticipate some confusion regarding implementation of the new rules and because we will be responsible for resolving any disputes regarding wire center qualification under the FCC's new rules, we find it necessary at this time to request that Verizon provide data

Until the Commission resolves any resulting disputes over classification of particular wire centers and/or routes,<sup>6</sup> CLECs are entitled to UNEs at wire centers that are in dispute.

**F. The Revisions Do Not Provide for TELRIC-Priced Interconnection.**

Verizon's proposed tariff revisions omit provisions that memorialize Verizon's obligation to offer 251(c)(2) interconnection facilities, including dedicated transport facilities used for interconnection, even where Verizon may have been relieved of providing unbundled dedicated transport pursuant to section 251(c)(3) on certain transport routes.<sup>7</sup> The *TRRO* provides that nothing in the FCC's revised unbundling rules alters Verizon's existing obligation to provide interconnection facilities at TELRIC, pursuant to 251(c)(2) and 252(d)(1), including transport facilities and equipment between a CLEC switch and a Verizon tandem switch or other point of Interconnection designated by the CLEC that are used for the exchange of traffic between the CLEC and Verizon. Under federal law, competitive LECs have access to these facilities at cost-based rates to the extent that they require them to interconnect with Verizon's network.

**G. The Revisions are Unclear as to True-up Provisions.**

Verizon further claims that to the extent a CLEC dispute fails Verizon is entitled to seek true-up to the rate that otherwise would apply.<sup>8</sup> However, the proposed tariff pages provide no

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to back-up the assertions made in the February 18, 2005 letter to the FCC. Specifically, we order Verizon to provide the work papers used to develop the Maine section of the February 18, 2005 letter by March 4, 2005. Verizon should include in its back-up information indicating how the lines were counted, whose lines were counted, the date of the line count, whether the data was derived from any publicly available data, how "wire centers" were defined, and which particular switches and/or central offices were included in each wire center's totals."

<sup>6</sup> The *TRRO* specifically recognizes that the Department has the authority to address this issue. See *TRRO*, ¶ 233.

<sup>7</sup> *TRRO* para. 140.

<sup>8</sup> Verizon Proposed Tariff §§ 2.1.1.E; 5.3.1.E; 10.1.1.E.

detail as to what rates Verizon suggests would apply. Nor is it clear that the *TRRO* permits Verizon to automatically collect such true-ups. It is likely CLECs will dispute Verizon's ability to seek true-up under the tariff.

### CONCLUSION

For the foregoing reasons, the Commission should suspend and/or reject Verizon's proposed revisions, and upon completion of Docket No. 3588, instruct Verizon to file revised tariff provisions consistent with its resolution of issues in that proceeding.

Respectfully submitted,



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