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October 31, 2008

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

RE: Docket No. 3692 – Investigation into a Successor Alternative Regulation Plan for Verizon Rhode Island

Dear Ms. Massaro:

Enclosed please find the original and nine copies of the Comments of Verizon Rhode Island regarding Alternative Regulation Plan.

Thank you for your assistance in this matter.

Very truly yours,

Alexander W. Moore 

Alexander W. Moore

cc: Service List

Enclosure

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

Investigation into a Successor Alternative
Regulation Plan for Verizon New England Inc.
d/b/a Verizon Rhode Island

Docket No. 3692

**COMMENTS OF VERIZON RHODE ISLAND
REGARDING ALTERNATIVE REGULATION PLAN**

Verizon New England Inc., d/b/a Verizon Rhode Island (“Verizon RI”) submits these comments at the direction of the Commission at the status conference held in this matter on September 16, 2008, for comments from the parties regarding whether the Commission should take any action with respect to the scheduled termination of the initial term of the Alternative Regulation Plan applicable to Verizon Rhode Island Intrastate Operations (the Plan”) on December 31, 2008.

The Commission need not and should not take any action regarding the Plan at this time. Under its terms, the Plan automatically renews upon expiration of its initial term on December 31, 2008. Section I of the Plan provides that, “the Plan shall stay in effect until such time, after December 31, 2008, that the Commission enters an order altering the Plan.” In its Report and Order dated March 17, 2006 (“*Order*”) approving the Plan, the Commission first established the initial expiration date of the Plan but then explained that “there may be no need to change VZ-RI’s regulatory plan at the end of these three years.” *Order*, at 30. Accordingly, the Commission held that after December 31, 2008, the Plan “will stay in effect until such time as the Commission takes an action to alter the plan.” *Id.*, at 38 (ordering clause 1.b).

The Commission's expectation that there may be no need to change the Plan has proved to be accurate. There have been no changes in market or other conditions that would warrant modifying the Plan at this time, and no party suggested otherwise at the September 16 status conference. Indeed, the history of the last three years suggests the opposite – that the Plan has functioned just as the Commission intended and should be left alone. At the time the Commission approved the Plan, some had expressed concern that granting Verizon flexibility to set its residential basic exchange rates in response to market conditions would lead Verizon RI to increase its rates to unreasonable levels. Nothing of the sort has come to pass. Indeed, over the course of the three-year initial term of the Plan, Verizon RI has increased its rate(s) for residential basic exchange service by only one dollar, which is *less than* those rates had been allowed to increase in the previous three years (i.e. 2003 – 2005) under an express price cap imposed by the Commission. The market is clearly the determining factor in setting Verizon RI's rates, as the Commission anticipated it would be.

Likewise, Verizon RI has continued to maintain its high standards of service quality in Rhode Island. Pursuant to Section G of the Plan, Verizon RI continues to file quarterly service quality reports with the Commission. Those reports demonstrate that the pricing flexibility in the Plan has not resulted in any deterioration in the quality of service provided by Verizon RI. Moreover, the Division has not expressed any concerns to Verizon RI with respect to any loss of service quality in the state over the term of the Plan, nor has the Division indicated to Verizon RI any desire to modify the standards in Verizon RI's service quality reports in response to any perceived changes in service quality.

The Commission should not modify the Plan at this time for the further reason that the Plan itself provides for ample authority to modify it should the need arise in the future, after

December 31, 2008. First, Section J of the Plan acknowledges that, “In approving the Plan, the Commission maintains its rights to review, and where required, modify rates to protect the public from rates found to be improper and unreasonable in accordance with R.I.G.L. §§ 39-1-1, et seq.” In addition, Section F of the Plan expressly authorizes the Division to petition the Commission to impose a more structured form of regulation on Verizon RI as necessary to address “a material change in circumstances.”¹ Thus, there is no need to consider any changes to the Plan now in anticipation of potential changes in market or other conditions that may never take place.

Nor should the Commission modify the Plan to create a new termination date. As noted, above, the Commission determined in 2006 based on a full proceeding and complete evidentiary record that following its initial term, the Plan should “stay in effect” until modified by the Commission. No party to this proceeding has offered any grounds for reconsidering the Commission’s decision in the *Order*, and none exist. Given the Commission’s clear authority to review and modify the Plan as the need may arise in the future (as well as the Division’s ability to petition the Commission for modifications), imposing a new, artificial “expiration date” for the Plan is unnecessary and inappropriate.

Finally, at the Commission’s September 16, 2008 status conference, Verizon RI was asked to address whether FCC approval of Verizon RI’s pending Forbearance Petition² would affect operation of the Plan. Approval of the Forbearance Petition would have no harmful effect on retail competition or result in unjust or unreasonable rates in Rhode Island. The Forbearance

¹ Section F also authorizes Verizon RI to petition the Commission to modify the Plan in response to changes in law or to provide a less structured form of regulation in light of changes in market conditions.

² See *In the Matter of Petition of Verizon New England for Forbearance Pursuant to 47 U.S.C. § 160 in Rhode Island*, WC Docket No. 08-24, Petition of Verizon New England for Forbearance dated February 14, 2008 (“Forbearance Petition”), a copy of which is filed herewith.

Petition seeks, among other things, that the FCC forbear from applying loop and transport unbundling regulation pursuant to 47 U.S.C. § 251(c) to Verizon in Rhode Island. Of course, Verizon RI's chief competitor in Rhode Island, Cox, is a full facilities-based provider and obtains few if any UNE loops and transport facilities from Verizon RI. Thus, Cox's ability to compete with Verizon in Rhode Island is not affected by the Forbearance Petition. In any event, in considering the Forbearance Petition, the FCC applies the three-part standard established in 47 U.S.C. § 160, *see* Forbearance Petition at 31, and therefore may approve the Petition only on a finding that the state of competition in Rhode Island is such that:

- (1) enforcement of the UNE regulations is not necessary to ensure that Verizon RI's rates "are just and reasonable and are not unjustly or unreasonably discriminatory;"
- (2) that enforcement of those regulations is not necessary "for the protection of consumers;" and
- (3) that forbearance from applying the regulations to Verizon RI is "consistent with the public interest."

See 47 U.S.C. § 160(a)(1-3). Thus, if the FCC does approve the Forbearance Petition (as it should), it will be on findings that doing so is consistent with the public interest and will not result in Verizon RI charging unjust or unreasonable rates, and that the UNE regulations are not needed to protect Rhode Island consumers. Finally, in the unlikely event that the FCC approves the Forbearance Petition but, despite its findings, retail competition in Rhode Island does weaken to the point that it no longer disciplines Verizon RI's rates, the Plan allows the Commission to modify the Plan as necessary.

For these reasons, Verizon RI submits that the Commission should take no action on the Plan at this time and thereby allow it to continue in force after December 31, 2008 without modification.

VERIZON RHODE ISLAND

By its attorney

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