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The Verizon logo, consisting of a checkmark symbol above the word "verizon" in a bold, lowercase sans-serif font.

Alexander W. Moore
Assistant General Counsel

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PUBLIC UTILITIES COMMISSION

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November 11, 2005

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

Re: Petition of Verizon New England Inc. for Review
of Ordinance Enacted by the City of Warwick

Dear Ms. Massaro:

Enclosed for filing, please find the original and nine copies of a Petition for Review Under R.I.G.L. Section 39-1-30.

Thank you for your assistance in this matter. As always, please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Alex Moore", written over a horizontal line.

Alexander W. Moore

cc: Leo J. Wold, Esq.
John Earle, Esq.

2. The Commission has jurisdiction over this matter pursuant to R.I.G.L. § 39-1-30.

3. The Ordinance purports to allow Verizon RI and other owners of utility poles just ten days to remove any pole that is no longer in use or that has been replaced by a new pole.

Specifically, the Ordinance provides, in its entirety, as follows:

Any utility pole erected pursuant to this article or by any state agency regulation, upon, adjacent to or in any city owned or maintained highway, including the roadway, sidewalk, curbing, median or buffer thereof, which is no longer in use for its intended purposes, or which had been replaced by a new pole, shall be removed by the utility company which has ownership or control of the pole which is no longer in service, or, in the case of a replacement pole, by the utility company which has caused its replacement within ten (10) days of its termination of service, or of its replacement, as the case may be.

Any violation of this section shall be punishable by a fine of \$500.00. Each day in which the violation occurs shall constitute a separate offense.

See Article III of Chapter 70 of the Code of Ordinances of the City of Warwick, § 70-78.

4. The conduct of the City in enacting the Ordinance constitutes an unlawful exercise of power contrary to R.I.G.L. § 39-1-1(c), which vests in the Commission “the exclusive power and authority to supervise, regulate, and make orders governing the conduct of companies offering . . . communication . . . services....” The Ordinance falls outside any authority the City may have to regulate the manner in which its roadways are maintained, repaired or reconstructed. The Ordinance is thus preempted by operation of R.I.G.L. § 39-1-1(c).

5. The ten-day time limit in the Ordinance is far from reasonable, in light of the work that must be performed and completed, most often by multiple pole owners, attachers and licensees, after a new pole is installed and before the old one can be replaced. Once a new pole is in the ground, the many attachments on the old pole must be transferred to the new one. As a matter of mechanics, this process must be completed from the top down, so that any electric power lines on the pole (which are almost always the uppermost attachments) must be

transferred to the new pole first. Only after the power company has completed this work can the non-owner licensees such as CATV operators, wholesale fiber companies and municipal agencies (usually fire and police) transfer their attachments. The standard aerial license agreement between Verizon RI and its licensees provides that each licensee shall have 15 days in which to transfer its plant after notice. Only when the power company and all licensees have transferred their attachments to the new pole may Verizon RI transfer its own facilities, which are usually the lowest attachments on a pole. Finally, the appropriate pole owner can then remove the old pole. Due to amount of labor involved, the availability and scheduling of crews for each of the users of the pole and the need to coordinate the efforts of multiple pole users, ten days does not even begin to allow a reasonable amount of time for the proper and safe completion of this work and removal of an old pole. Indeed, that time limit is not even sufficient to allow proper notice to the licensees and time for each of them to move its attachments.

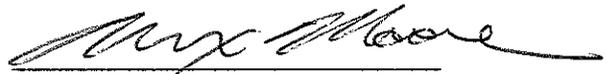
6. Verizon RI could not meet the ten-day requirement of the Ordinance without renegotiating its aerial license agreements with licensees, re-organizing substantial sectors of its workforce and re-deploying trucks and equipment, at substantial monetary expense and at the additional cost of pulling these resources away from other critical work, such as emergency and other repair and installation. Alternatively, Verizon RI could possibly conform to the ten-day requirement only by hiring additional construction crews and purchasing additional heavy equipment. Either way, the disruption to the company's ability to provide high-quality service to its customers and the cost of new crews and equipment, which may be passed along to rate-payers, would be prohibitive and in any event would far outweigh any benefit to the City from such lightning-fast removal of poles.

7. The temporary presence of poles that are no longer in service has no effect on the use of City streets by the public or on the maintenance, repair or restoration of the roadways. Thus, any balancing of the need of the City to maintain its highways with the need of Verizon RI to serve its customers must come down in favor of Verizon RI's customers. Accordingly, the Ordinance is unduly and unnecessarily burdensome in its impact on the business and services of Verizon RI.

WHEREFORE, Verizon RI requests that the Commission enter an order: (1) nullifying the Ordinance and declaring it void; (2) finding that the Ordinance and enforcement thereof by the City is preempted by state law; and (3) granting such other and further relief as the Commission deems just.

VERIZON RHODE ISLAND

By its attorneys



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November 11, 2005

CERTIFICATE OF SERVICE

I hereby certify that I causes a true copy of the within Petition to be served upon the people listed below by first-class, postage pre-paid mail, on November 14, 2005.

A handwritten signature in cursive script, appearing to read "Amy Moore", is written over a horizontal line.

John Earle
City Solicitor
Warwick City Hall
3275 Post Road
Warwick, RI 02886

Leo Wold
Special Assistant Attorney General
150 South Main Street
Providence, RI 02903