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March 25, 2009

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

**Re: Docket No. 4028 - The Narragansett Electric Company  
d/b/a National Grid v. The City of Providence, et al.**

Dear Ms. Massaro:

Enclosed for filing in the above-referenced matter are the original and nine copies of the Response of Verizon New England Inc. to National Grid's Motion for Summary Judgment.

Thank you for your assistance. Please contact me if you have any questions about this filing.

Sincerely,

*Alexander W. Moore* (AEM)

Alexander W. Moore

Enclosure

cc: Peter V. Lacouture, Esquire  
Service List

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION**

	)	
The Narragansett Electric Company,	)	
d/b/a National Grid	)	
	)	Docket No. 4028
v.	)	
	)	
The City of Providence, et al.	)	
	)	

**RESPONSE OF VERIZON NEW ENGLAND INC. TO NATIONAL  
GRID’S MOTION FOR SUMMARY JUDGMENT**

Verizon New England Inc., d/b/a Verizon Rhode Island (“Verizon RI”)<sup>1</sup> files this response pursuant to the Procedural Schedule the Commission issued in this proceeding on February 13, 2009.

Verizon RI joins in and supports National Grid’s motion with respect to § 23-35 of the Ordinance promulgated by the City of Providence (“City”), which would impose a lengthy, 60-day permitting process before Verizon RI could “alter, install or upgrade” any of its equipment in the public ways or on private property within Providence. As National Grid demonstrates in Part III of its Memorandum of Law in support of its motion, this section of the Ordinance violates the promise the City made in its Settlement Agreement with a number of utilities, including Verizon RI, to “make its best efforts to issue a permit within seven (7) days after submission of a completed application.” *See*, Standards To Be Employed By Public Utility Operators, § 3.4, attached to the Settlement Agreement. Like National Grid, Verizon RI too relied on the City’s promise in this regard in entering into the Settlement Agreement and in seeking the

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<sup>1</sup> Verizon RI filed a petition to intervene in this proceeding on March 4, 2009.

Commission's approval of the Agreement. As such, the City is estopped from promulgating this more onerous requirement now.

Moreover, § 23-35 is unreasonably burdensome on Verizon RI and is not in the public interest. The Settlement Agreement and the Standards are the result of years' of negotiations between the utilities and the City and represent a comprehensive compromise on a number of issues concerning street excavation and the permitting process. The parties agreed that the Agreement was "fair, reasonable and in accordance with regulatory policy." Settlement Agreement, § 4(C). By expanding the permitting period from 7 to 60 days and expanding the scope of the permit requirement, the City would unilaterally revise a key element of that compromise, destroying the balance achieved in the Settlement Agreement between the City's interests and the interests of the utility companies to serve their customers. Consequently, § 23-35 is unreasonably burdensome and would render the Standards (as revised by the City) unreasonably burdensome as well.

In addition, the real-world effect of § 23-35 would be to grind Verizon RI's repair and maintenance work to a halt. Every time a Verizon RI customer in Providence reports a trouble with his or her service and the resolution of that trouble would require work on Verizon RI's outside plant, the customer would have to wait 60 days or more before Verizon RI would be allowed to fix the problem, while Verizon RI applies for a permit and the Providence City Council and other agencies consider the request. The Commission can and should find that such a delay is undue, unreasonable and in no way justified by the need of the City to maintain its highways. *See, In Re: Petition for Review Pursuant to 39-1-30 of Ordinance Adopted by Providence*, 745 A. 2d 769, 775-776 (R.I. 2000).

Accordingly, the Commission should nullify § 23-35 of the Providence Code of Ordinances.

Respectfully submitted,

VERIZON NEW ENGLAND INC.

By its attorney

Alexander W. Moore



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Dated: March 25, 2009