



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

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*Peter F. Kilmartin, Attorney General*

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PUBLIC UTILITIES COMMISSION

June 24, 2011

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

**Re: Investigation as to the Propriety of a Proposed Tariff Change to allow a Surcharge to Recover State Gross Receipts Tax- Docket No. 4240**

Dear Ms. Massaro:

Now comes the Division of Public Utilities and Carriers (the "Division") and hereby submits the following comments regarding the application of Verizon Rhode Island ("Verizon") to collect, through a surcharge to its customers, the Gross Receipts Tax imposed on Verizon. The Division has reviewed the tariff filing and Verizon's responses to the two sets of data requests that were issued. While the Division has concluded that the proposed tariff to bill customers a surcharge for the collection of the Rhode Island Gross Receipts Tax (GRT) is ultimately within the rights of Verizon under its Alternate Form of Regulation, the Division also believes the tariff filing made to the Commission is unclear and misleading as to its true purpose and effect.

Verizon's rather concise tariff filing letter of April 26, 2011 states:

"In this filing, Verizon Rhode Island ("Verizon RI") is proposing an amendment to the tariff to allow for the application of a surcharge *to recover the Gross Receipts Tax imposed on the Company.*" (Emphasis supplied).

The proposed tariff language is as follows:

"In addition to the rates and charges provided in this tariff, a surcharge may be imposed to recover the Gross Receipts Tax imposed on the Company. The surcharge will be shown as a separate line item on the customer's monthly bill."

It is clear by a review of the discovery responses that a component of many of the retail tariffs of Verizon, while presently not based on cost-of-service regulation, are based on a foundation that included a significant amount of gross receipt tax in their derivation. Response 1-10 indicates that New England Telephone (Verizon's predecessor incarnation) reported to the PUC in its last cost of service rate case that its gross receipts tax for the six-month period ended June 30, 1984 was \$9.3 million.<sup>1</sup> It is logical to conclude that the annual figure for gross receipts tax that was embedded in the New England Telephone rates in 1984 was therefore double that amount, or \$18 million. Further, as Verizon confirmed in response 2-9, the GRT rate in 1984 was 10%, whereas the current GRT rate has now been lowered to 5%.<sup>2</sup> The lower tax rate results in Verizon paying less GRT in 2009, \$13.1 million according to response 1-6, than is reasonably estimated it paid, and upon which rates were based, in 1984.<sup>3</sup>

The Division's initially believed that Verizon would be reducing its retail service tariffs that had GRT cost embedded in the rate and then adding back the tax via the surcharge in a separate line on the bill, so that the effect on customers would be no net change in their bills. This is in effect what occurred in the past when the regulated Rhode Island electric and gas utilities added an explicit gross receipts tax surcharge into their tariffs. Through discovery however we learned that the filing is not revenue neutral and the tariff rates would not be reduced to reflect the removal of the embedded tax. The tariff rates will remain at the current price level. The proposed surcharge would be additive to the present service rates and Verizon's revenues would be increasing by more than \$3 million, as disclosed in response 1-4. This is what leads the Division to conclude that the filing can be construed as misleading, as Verizon described the tariff change as "an amendment to the tariff to allow for the application of a surcharge to recover the Gross Receipts Tax imposed on the Company." As Verizon's legacy tariffs included cost recovery for GRT and as the GRT rate has dropped from 10% in effect in the last cost of service case to its present 5%, one could fairly conclude that Verizon's rates are presently recovering the GRT.

The Verizon filing appears to the Division to be a rate increase of 5% disguised as a pass-through of a recently enacted state tax. While Verizon has the right to increase its rates under its form of regulation, the Division believes its tariff filing should have been clear and upfront in its communication to the Commission and customers. This may have obviated the need for discovery and the tariff suspension about which Verizon objected. That being said, as the filing has now been made clear and it is within Verizon's authority to raise rates under its present form of regulation, the Division seeks no further suspension of the tariff.

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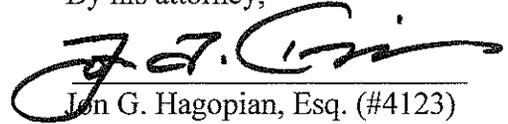
<sup>1</sup> See Exhibit A, Verizon Response to Division Data Request 1-10

<sup>2</sup> See Exhibit B, Verizon Response to Division Data Request 2-9

<sup>3</sup> See Exhibit C, Verizon Response to Division Data Request 1-6

Thomas Ahern, Administrator  
State of Rhode Island  
Division of Public Utilities and  
Carriers

By his attorney,

A handwritten signature in black ink, appearing to read "J. G. Hagopian", written over a horizontal line.

Jon G. Hagopian, Esq. (#4123)  
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State of Rhode Island  
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Dated: June 24, 2011

# EXHIBIT A

Verizon New England, Inc.  
d/b/a Verizon Rhode Island

State of Rhode Island

Docket No. 4240

Respondent: John L. Conroy  
Title: Vice President-  
Regulatory Affairs

**DATA REQUEST**

**DATED:** May 16, 2011

**ITEM:** Please provide the dollar amount of GRT in total included in the last cost  
**DIV. 1 - 10** of service case before the PUC.

**REPLY:** Objection: This request seeks information that is neither relevant to the subject matter of the proposed tariff nor reasonably calculated to lead to the discovery of admissible evidence. Verizon RI's retail rates are free to fluctuate with the market and have not been regulated based on the Company's costs for many years.

Subject to this Objection, Verizon RI states the following: To the best of Verizon RI's knowledge, the last cost of service case before the RI PUC for Verizon RI's predecessor company was Docket No. 1780 in 1984 – 27 years ago. At that time, when New England Telephone was a monopoly provider of local exchange service in RI, NET stated in a data response that it had reported a GRT of \$9,399,141 for a six-month period ending June 30, 1984. Verizon RI does not know whether the PUC relied on that figure in its decisions in that docket.

VZ DIV 1 - 10

# EXHIBIT B

Verizon New England, Inc.  
d/b/a Verizon Rhode Island

State of Rhode Island

Docket No. 4240

Respondent: John L. Conroy  
Title: Vice President-  
Regulatory Affairs

**DATA REQUEST**

**DATED:** June 2, 2011

**ITEM:** In Verizon Rhode Island's response to DIV 1-10, the company reported a  
**DIV. 2 - 9** GRT of \$9,399,141 for a six-month period ending June 30, 1984. Was  
that at the 10% rate applicable as indicated in §44-13-4 prior to July 1,  
1985?

**REPLY:** Yes.

VZ DIV 2 - 9

# EXHIBIT C

Verizon New England, Inc.  
d/b/a Verizon Rhode Island

State of Rhode Island

Docket No. 4240

Respondent: John L. Conroy  
Title: Vice President-  
Regulatory Affairs

**DATA REQUEST**

**DATED:** May 16, 2011

**ITEM:** Please provide the GRT payments to the Division of Taxation for the most  
**DIV. 1 - 6** current annual period and prior three annual periods.

**REPLY:** Objection: This request seeks information that is neither relevant to the subject matter of the proposed tariff nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to the objection Verizon RI states the following:

2009: \$13.1M  
2008: \$12.7M  
2007: \$12.8M  
2006: \$12.8M

VZ DIV 1 - 6

Verizon New England, Inc.  
d/b/a Verizon Rhode Island

State of Rhode Island

Docket No. 4240

Respondent: John L. Conroy  
Title: Vice President-  
Regulatory Affairs

**DATA REQUEST**

**DATED:** May 16, 2011

**ITEM:** If the tariff filing is not intended to be revenue neutral, what incremental  
**DIV. 1 - 4** revenues does Verizon expect to receive annually through the effect of the  
tariff change?

**REPLY:** Verizon RI estimates that it will receive an additional \$3.1 million  
in additional annual revenue, which will also be subject to the RI  
Gross Receipts Tax.

VZ DIV 1 - 4