

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION

IN RE: AT&T'S PETITION TO INVESTIGATE :  
YMAX COMMUNICATION CORP.'S TARIFF :  
FILING TO IMPLEMENT REVISIONS : DOCKET NOS. 3735, 4344  
PURSUANT TO FCC'S ORDER (ISSUED :  
NOVEMBER 18, 2100) REGARDING :  
TREATMENT OF TOLL VOIP-PSTN TRAFFIC :

ORDER

On June 1, 2012, in Docket No. 3735, YMax Communications Corp. ("YMax") filed revisions to its Rhode Island Tariff No. 2 (Switched Access Services) with the Public Utilities Commission ("Commission") for effect July 1, 2012. According to YMax, the purpose of the revisions was to incorporate the requirements of a Federal Communications Commission ("FCC") Order regarding the treatment of Toll VoIP-PSTN traffic.<sup>1</sup> On June 21, 2012, after reviewing the tariff together with a Memorandum from the Division of Public Utilities and Carriers ("Division"), the Commission allowed the Tariff to go into effect without suspension. On June 29, 2012, AT&T Rhode Island, AT&T Communications of Rhode Island, Inc., and TCG Rhode Island ("the AT&T Entities") filed a Motion to Reopen the Proceeding on the basis that YMax's Tariff provisions were inconsistent with the FCC Orders and that the tariff filing would allow YMax to charge for services it does not provide.<sup>2</sup> On July 12, 2012, YMax objected to the AT&T Entities' Motion on procedural and substantive grounds.<sup>3</sup> On July 13, 2012, Verizon Rhode Island filed a letter supporting AT&T's Motion or in the alternative, suggesting that the Commission open an investigation on its own motion.<sup>4</sup> At an Open Meeting held on July 26,

---

<sup>1</sup> *In re: Connect America Fund, et al.*, 26 FCC Red 17663 (Nov. 18, 2011) ("CAF Order").

<sup>2</sup> Motion of the AT&T Entities to Reopen the Proceeding of YMax Communications Corp. Regarding the Automatic Approval of the Tariff Application at 2, 4-7.

<sup>3</sup> Objection of the Motion of the AT&T Entities to Reopen the Proceeding of YMax Communications Corp. Regarding the Automatic Approval of the Tariff Application at 2-7.

<sup>4</sup> Letter from Keefe B. Clemons, Esq. to Luly Massaro dated 7/13/2012.

2012, the Commission considered the filings and Ordered the opening of a new docket to investigate YMax's Switched Access Services tariff, leaving the rates in effect during the pendency of the investigation.

On August 9, 2012, Commission Legal Counsel conducted a pre-hearing conference in Docket No. 4344 with the parties to determine the proper procedural mechanism and set a schedule. YMax agreed to provide the Commission with certain information and counsel for the parties had several issues to discuss with their clients in time for the next procedural conference scheduled for September 5, 2012. On August 28, 2012, YMax filed with the Commission Revisions to Rhode Island Tariff No. 2 (Switched Access Services) for effect September 28, 2012, stating, "this tariff filing reverses definitional changes and changes in the general description of switched access services and in the description of rate categories....the instant filing is intended to eliminate the controversial language and hereby obviate the need for further proceedings in this docket."<sup>5</sup> On August 29, 2012, YMax filed a letter in Docket No. 4344 referencing the August 28, 2012 filing in Docket No. 3735, indicating that the purpose of the filing was to moot the issues in Docket No. 4344 and suggesting that further Commission action in this matter would be a waste of resources. Additionally, YMax requested that it be relieved of filing the previously requested pre-hearing conference.<sup>6</sup>

On August 31, 2012, Commission Legal Counsel sent a Memorandum to the parties indicating that the Commission would likely rule on YMax's August 28, 2012 tariff filing at its September 26, 2012 Open Meeting. YMax was temporarily relieved of its obligation to circulate the previously requested information. On September 5, 2012, a second pre-hearing conference

---

<sup>5</sup> Letter from Sharon Thomas, Consultant to Luly Massaro dated 8/27/2012.

<sup>6</sup> Letter from Ronald W. Del Sesto, Jr., Esq. to Luly Massaro dated 8/29/2012.

was conducted at which time a schedule was set for the parties to file objections or comments on YMax's August 28, 2012 tariff filing.

On September 14, 2012, AT&T filed a Statement Regarding YMax Communications Corp.'s Withdrawal of Tariff Language disagreeing that YMax's August 28, 2012 tariff filing moots the issues before the Commission but nonetheless stating that AT&T "is not requesting that the Commission take additional action at this time regarding YMax's revised access tariff."<sup>7</sup> Likewise, on September 14, 2012, Verizon Rhode Island filed a letter stating that it "does not ask the Commission to take any action on YMax's revised access tariff at this time, but Verizon RI reserves its rights to object to any edition of the tariff to the extent that YMax maintains that the tariff allows it to assess access charges on Verizon RI for services that YMax has not provided."<sup>8</sup> On September 21, 2012, the Division submitted a letter stating that based on AT&T's and Verizon Rhode Island's September 14, 2012 submissions, "the Division does not believe the Commission need suspend the revised tariff."<sup>9</sup>

At an open meeting held on September 26, 2012, the Commission first considered YMax's revised tariff filed in Docket No. 3735 and approved it based on the positions of the parties. The Commission then voted to close Docket No. 4344 based on the parties' comments, noting that AT&T and Verizon Rhode Island had reserved their rights to re-petition the Commission for review if necessary.

It is hereby,

(20842) ORDERED

---

<sup>7</sup> AT&T's Statement Regarding YMax Communications Corp.'s Withdrawal of Tariff Language at 2.

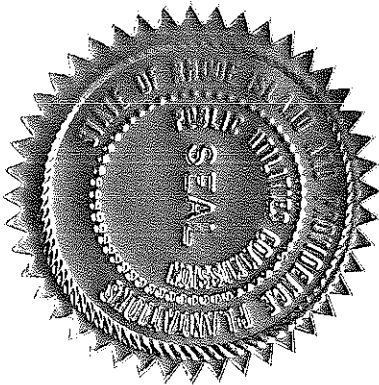
<sup>8</sup> Response of Verizon Rhode Island to YMax's Revised Tariff Filing.

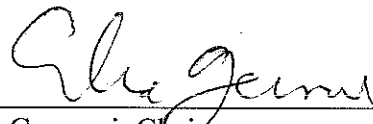
<sup>9</sup> Letter from Leo J. Wold, Esq. to Luly Massaro dated 9/21/2012.

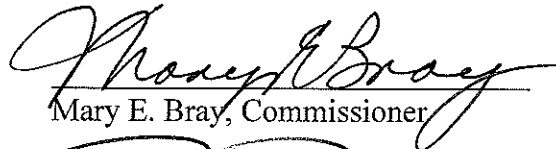
1. YMax Communications Corp. Revision to Rhode Island Tariff No. 2 (Switched Access Services) filed on August 28, 2012 is hereby approved for effect September 28, 2012.
2. Docket No. 4344 is closed effective September 28, 2012.

EFFECTIVE AT WARWICK, RHODE ISLAND ON SEPTEMBER 28, 2012  
PURSUANT TO AN OPEN MEETING HELD ON SEPTEMBER 26, 2012. WRITTEN  
ORDER ISSUED OCTOBER 5, 2012.

PUBLIC UTILITIES COMMISSION



  
Elia Germani, Chairman

  
Mary E. Bray, Commissioner

  
Paul J. Roberti, Commissioner

**NOTICE OF RIGHT OF APPEAL** PURSUANT TO R.I.G.L. SECTION 39-5-1, ANY PERSON AGGRIEVED BY A DECISION OR ORDER OF THE COMMISSION MAY, WITHIN SEVEN DAYS (7) DAYS FROM THE DATE OF THE ORDER, PETITION THE SUPREME COURT FOR A WRIT OF CERTIORARI TO REVIEW THE LEGALITY AND REASONABLENESS OF THE DECISION OR ORDER.