

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION

IN RE: UNBUNDLED LOCAL SWITCHING :  
RATES VERIZON—RHODE ISLAND'S : DOCKET NO. 3363  
SECTION 271 COMPLIANCE FILING :

REPORT AND ORDER

Prior to Verizon-Rhode Island (“Verizon”) filing of its Section 271 compliance filing with the Rhode Island Public Utilities Commission (“Commission”) on July 25, 2001, WorldCom filed a letter with the Commission on July 12, 2001. In this letter, WorldCom criticized Rhode Island’s permanent unbundled network element (“UNE”) rates as not being TELRIC compliant and as substantially higher than UNE rates in other Verizon states.<sup>1</sup> In particular, WorldCom noted that Rhode Island’s unbundled local switching rates are almost double the per minute switching rates included in Verizon’s initial Section 271 application for Massachusetts.<sup>2</sup> WorldCom emphasized that in Verizon’s renewed Section 271 application for Massachusetts which was ultimately approved by the FCC, Verizon had voluntarily adopted UNE switching rates based on those in New York.<sup>3</sup> WorldCom also noted that a New York administrative law judge had issued a recommended decision that considerably lowered UNE rates from those currently in effect in New York, Massachusetts and Rhode Island.<sup>4</sup> Therefore, WorldCom argued

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<sup>1</sup> WorldCom’s letter dated 7/12/01.

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Id.

that Verizon's current reliance on New York's UNE rates in Massachusetts could undermine Verizon's compliance with Section 271 if New York modifies its UNE rates.<sup>5</sup> Accordingly, WorldCom recommended that Rhode Island compare its UNE rates to New York's UNE rates when they are amended.<sup>6</sup>

On October 5, 2001, Verizon filed a Supplemental Checklist Declaration addressing WorldCom's letter of July 12, 2001. At the outset, Verizon noted that no party had filed any comments regarding UNE rates except the Division of Public Utilities and Carriers ("Division") which found that Verizon's Rhode Island UNE rates were in compliance with Checklist Item 2.<sup>7</sup> In order to remove the issue of local switching rates from the instant proceeding, however, Verizon proposed modifying Rhode Island's unbundled local switching rates to the equivalent switching rates Verizon filed for review with the Massachusetts D.T.E. on May 8, 2001.<sup>8</sup> Verizon emphasized that the unbundled local switching rates it was proposing for Rhode Island were lower than permanent rates approved by the Commission in Docket No. 2681 and lower than the rates adopted in Massachusetts and approved by the FCC in granting approval of the Massachusetts 271 application in April 2001.<sup>9</sup>

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<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Verizon's Supplemental Declaration, p. 13.

<sup>8</sup> Id., Attachment D.

<sup>9</sup> Id. A list of the new rates filed by Verizon is attached and incorporated by reference herein as Appendix A.

After due notice, a public hearing was conducted at the offices of the Commission at 89 Jefferson Boulevard, Warwick, Rhode Island, on October 15, 2001. The following appearances were entered:

FOR VERIZON:	Bruce Beausejour, Esq. Keefe Clemons, Esq.
FOR DIVISION:	Leo Wold, Esq. Special Assistant Attorney General
FOR COMMISSION:	Steven Frias, Esq. Executive Counsel

Ms. Theresa O'Brien, the Rhode Island Director of Regulatory Affairs, testified on behalf of Verizon. Ms. O'Brien noted that each of the 13 new UNE switching rates for Rhode Island has a statewide average as in Massachusetts.<sup>10</sup> In nearly all instances, the new UNE switching rates reflect a single average rate for peak and off peak hours, thereby resulting in lower peak hour UNE rates.<sup>11</sup> Consequently, all of the new UNE switching rates for peak hours are significantly lower than current Rhode Island UNE rates for peak hours. Ms. O'Brien suggested that by significantly lowering the UNE rates for peak hours, competitive local exchange carriers ("CLECs") will benefit because most of their usage occurs during peak hours.<sup>12</sup> In addition, with one exception, all of the new Rhode Island UNE switching rates for peak hours are lower than the comparable Massachusetts rates at the time of the FCC's Section 271 approval in April 2001. The one exception is the Unbundled TC

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<sup>10</sup> Tr. 10/15/01, p. 8.

<sup>11</sup> Id., pp. 11, 18-19.

Reciprocal Compensation rate because, as Ms. O'Brien pointed out, the Rhode Island Commission set a higher rate for reciprocal compensation traffic than was required by the Massachusetts D.T.E.<sup>13</sup>

In addition, Ms. O'Brien explained that Verizon did not propose modifying the rates for line ports because a CLEC would always order a line port with a loop.<sup>14</sup> As a result, the total cost for a line port and loop in Massachusetts would be \$16.98 compared to \$18.08 in Rhode Island.<sup>15</sup> Ms. O'Brien also pointed out that utilizing the FCC's high cost model for a port and loop, Rhode Island's cost should be about 114 percent of the costs of a port and loop in New York.<sup>16</sup> However, Ms. O'Brien emphasized that Rhode Island's price for a port and line is only 107 percent of the price in New York.<sup>17</sup>

Mr. Thomas Weiss testified on behalf of the Division. He supported approval of the 13 new UNE rates proposed by Verizon stating that the new rates were low enough to support local competition in Rhode Island and were TELRIC compliant.<sup>18</sup>

#### COMMISSION FINDINGS

Based upon the evidence presented, the Commission finds the 13 new UNE rates proposed by Verizon to be TELRIC compliant and

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<sup>12</sup> Id., p. 20.

<sup>13</sup> Id., pp. 29-30.

<sup>14</sup> Id., p. 13.

<sup>15</sup> Id., p. 15.

<sup>16</sup> Id., pp. 13-14.

<sup>17</sup> Id.

<sup>18</sup> Id., pp. 45-46.

approves them. The Commission notes that no CLEC contested the adoption of these new UNE rates during the hearing. The Division clearly stated that these new UNE rates are adequate to support for local telephone competition. The Commission also notes that, in general, these new 13 UNE switching rates are not only lower than Rhode Island's current UNE rates, but also lower than Massachusetts' comparable UNE rates in April 2001 when the FCC approved Massachusetts's Section 271 application.

Any criticism by AT&T and WorldCom's of the UNE rates hereby approved by the Commission is unfounded. A New York administrative law judge's recommended decision is not a basis upon which the Commission can order UNE rates for Rhode Island, because there is no guarantee that the recommended decision will be adopted by the state commission. In establishing UNE rates, the Commission will comply with TELRIC, the FCC's high cost model and the benchmark set by the FCC in the Verizon Massachusetts Section 271 Approval Order of April 17, 2001. The Commission notes that approximately 90 percent of Rhode Island's UNE rates are lower than Massachusetts UNE rates.<sup>19</sup> Lastly, the Commission emphasizes that, according to AT&T, the new UNE rates will result in a wholesale cost of \$25.45 for UNE-Platform

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<sup>19</sup> Id., p. 51.

which is lower than the \$28.95 price of Verizon's Unlimited Local Calling Offer.<sup>20</sup> The time to litigate is over. The time to compete is now.

Accordingly, it is

(16799) ORDERED:

1. The unbundled network element rates filed by Verizon on October 5, 2001 are approved.
2. The rates filed on October 5, 2001 shall take effect no later than February 1, 2002.

EFFECTIVE AT WARWICK, RHODE ISLAND ON FEBRUARY 1, 2002 PURSUANT TO AN OPEN MEETING DECISION ON NOVEMBER 15, 2001. WRITTEN ORDER ISSUED NOVEMBER 28, 2001.

PUBLIC UTILITIES COMMISSION

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Elia Germani, Chairman

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Kate F. Racine, Commissioner

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Brenda K. Gaynor, Commissioner

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<sup>20</sup> AT&T's Post Hearing Brief, pp. 7-8.