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VIA ELECTRONIC DELIVERY AND FIRST CLASS U.S. MAIL

February 23, 2012

Catrice C. Williams, Secretary
Department of Telecommunications & Cable
Commonwealth of Massachusetts
1000 Washington Street, Suite 820
Boston, MA 02118-6500

Re: Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariff: M.D.T.E. No. 14, filed with the Department on June 16, 2006, to become effective July 16, 2006, by Verizon New England, Inc. d/b/a Verizon Massachusetts, D.T.C. 06-61

Dear Secretary Williams:

On behalf of Broadview Networks, Inc.; DSCI Corporation; Eureka Telecom, Inc. d/b/a InfoHighway Communications; Metropolitan Telecommunications of Massachusetts, Inc., d/b/a MetTel; New Horizon Communications; and EarthLink Business f/k/a One Communications (collectively "the CLEC Coalition"), enclosed for filing is the CLEC Coalition's Opposition to Verizon MA's Motion for Leave to Reply.

An extra copy of this filing is also attached. Please date stamp and return it in the attached postage prepaid envelope. Please contact me if you have any questions. Thank you for your attention to this matter.

Sincerely,

/s/ Philip J. Macres

Philip J. Macres

Enclosures

cc: Paul Abbott, General Counsel
Karlen Reed, Director
Ben Dobbs, Assistant Director
D.T.C. 06-61 Service List

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**BEFORE THE
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariff: M.D.T.E. No. 14, filed with the Department on June 16, 2006, to become effective July 16, 2006, by Verizon New England, Inc. d/b/a Verizon Massachusetts.	D.T.C. 06-61
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**CLEC COALITION'S OPPOSITION
TO VERIZON MA'S MOTION FOR LEAVE TO REPLY**

The CLEC Coalition¹ opposes Verizon New England Inc., d/b/a Verizon Massachusetts' ("Verizon MA") Motion for Leave to Reply ("Motion") dated February 17, 2012 to the CLEC Coalition's Response to Verizon MA's Motion for Clarification and Partial Reconsideration. The procedural schedule did not allow for Verizon MA to file a reply with a Motion. *See* Procedural Order, at n.2 (dated Jan. 24, 2012). Verizon MA only seeks to have the last word due to its failure to satisfy its burden of proof in this case. To the extent the Department wishes to consider Verizon MA's reply, the CLEC Coalition requests that the Department consider the following surreply.

The Department's conclusion in its January 5, 2012 *Order on Reconsideration* that "Verizon failed to provide evidence that indirect costs are not avoided and thus failed to satisfy its burden of supporting the proposed changes in its wholesale rates" applies equally in this instance. *Order on Reconsideration*, at 11. Verizon MA has not carried its burden to show the previous percentage used to determine the avoided expenses in Account 612400 should change.

¹ The CLEC Coalition includes Broadview Networks, Inc.; DSCI Corporation; Eureka Telecom, Inc. d/b/a InfoHighway Communications; Metropolitan Telecommunications of Massachusetts, Inc. d/b/a MetTel; New Horizon Communications; and EarthLink Business f/k/a One Communications.

The CLEC Coalition proposed the surrogate percentage that was used in determining the resale discount rate in D.C. and Virginia and demonstrated this percentage is reasonable and supported by substantial evidence to use in Massachusetts for the very reason it was appropriate for Verizon VA and Verizon DC to apply this percentage to Account 612400 in determining the resale discount rates in D.C. and Virginia.

Verizon MA complains that this is an average rate across six states that is not state-specific; however, the Massachusetts specific costs associated with the six-state average percentage are revealed in the Attachment that Verizon MA referenced on page 3 of its Motion for Clarification and Partial Reconsideration. *See* Proprietary Attachment VII to CLEC-VZ 1-16 (the Virginia Cost Study), Tab 12. In addition, Verizon MA's response to the Department's data requests demonstrates that using Massachusetts specific avoided costs in its General Purpose Computers (Account 6124) from its 2001 cost studies would have resulted in an avoided cost factor of 43.67 percent for services with operator services and an avoided cost factor of 46.15 percent for services without operator services rather than the 45.38 percent factor used in the 2001 Verizon VA and DC cost studies.² A comparison of these avoided cost percentages demonstrates the CLEC Coalition's proposal is abundantly reasonable. Moreover, as the CLEC Coalition explained previously, "The Department has the authority to adopt the 45.38 percent proxy."³

² *See* Verizon MA's response to DTE-VZ 2-8, Attachment I (this response was introduced into the DTE 06-61 record as part of Verizon MA Ex. 4).

³ CLEC Coalition's Response to Verizon MA's Motion for Clarification and Partial Reconsideration at 4 (filed Feb. 13, 2012). As the Department is likely well aware, it has determined and adopted inputs to be used in determining rates. *See, e.g., Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided-Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth*

For the foregoing reasons, the CLEC Coalition respectfully requests that the Department deny Verizon MA's Motion for Leave to Reply and order Verizon MA to apply an avoided cost adjustment of 45.38 percent to Account 612400.⁴

Respectfully submitted,

/s/ Philip J. Macres

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Counsel for Broadview Networks, Inc.;

of Massachusetts, D.T.E. 01-20, Order, at 407 (Mass. D.T.E. July 11, 2002) (adopting AT&T's proposed Digital Circuit ACF as being "more appropriate" and ordering "for the next TELRIC rate proceeding, Verizon shall calculate a Power ACF for our review.") (subsequent history omitted); *Id.* at 319 ("[h]aving concluded that Verizon has failed to justify its proposed factor, we will look to the record for an alternative, reasonable value").

⁴ Verizon MA's proposal in footnote 3 of its Motion would result in a 15.95 percentage avoided cost factor for Account 612400 (General Purpose Computer Equipment expenses). *See* Letter from Alexander W. Moore, Associate General Counsel - New England, Verizon, to Mary L. Cottrell, Secretary, Department of Telecommunications & Energy, at *Exhibit 1, VZ Avd Cost Study (Compl).xls*, tab WP3, Avoided Exp by Acct (dated February 15, 2007) (this 15.95 percentage was determined as follows: [(\$236,393 in avoided direct costs) / (i.e., divided by) (\$1,481,659 in total unseparated costs)). The Department should reject this proposal as it has no basis in the record. If the Department does not order Verizon MA to apply the avoided cost factor of 45.38 percent to Account 612400, the Department should consider an alternative avoided cost factor that is based on the relationship of the Account 612400 avoided cost factor in the Verizon VA cost study to the direct costs avoided cost factor in that same study. This would produce an alternative avoided cost factor for Account 612400 in the Verizon MA cost study between that proposed by Verizon MA above and the factor recommended by the CLEC Coalition. Although the Department should adopt the 45.38 percent as proposed by the CLEC Coalition, the CLEC Coalition will provide additional details regarding this alternative approach if so requested by the Department.

*DSCI Corporation; Eureka Telecom, Inc.
d/b/a InfoHighway Communications;
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Massachusetts, Inc., d/b/a MetTel; New
Horizon Communications; and EarthLink
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Dated: February 23, 2012

CERTIFICATE OF SERVICE

I certify that on this 23rd day of February, 2012 in D.T.C. 06-61, the CLEC Coalition's Opposition to Verizon MA's Motion for Leave to Reply, along with the associated transmittal sent to the D.T.C., have been sent or are being sent to the individuals on the D.T.C. 06-61 service list as shown below via electronic mail and postage prepaid first-class U.S. mail, or via electronic mail only (if noted with two asterisks).

/s/ Philip J. Macres

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