

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

Investigation by the Department on its Own Motion to)	
Determine whether an Agreement entered into by Verizon)	
New England Inc., d/b/a Verizon Massachusetts is an)	D.T.C. 13-6
Interconnection Agreement under 47 U.S.C. § 251)	
Requiring the Agreement to be filed with the Department)	
for Approval in Accordance with 47 U.S.C. § 252)	
)	

**REPLY OF VERIZON MA
IN SUPPORT OF MOTION FOR ABEYANCE**

The Department should grant Verizon MA’s Motion for Abeyance. The CLECs argue that the Department should move forward with this investigation now because the three contract documents Verizon MA has submitted to the Department – without more – purportedly provide all the information the Department needs to find in their favor. The CLECs’ arguments, however, misinterpret the terms of the documents and unduly minimize the importance of the technical terms of the parties’ arrangements for exchanging traffic in IP format.

1. The multi-state VoIP Traffic Exchange Agreement does not affect, amend or impose a § 251 interconnection obligation in Massachusetts.

The Competitive Carriers would have the Department dispense with this entire investigation and find, on Verizon MA’s motion to hold the case in abeyance, that the provisions of the TEA regarding VoIP traffic exchanged in TDM format impose an ongoing obligation relating to § 251 and therefore require Department approval of the agreement. Specifically, they assert that ***** Begin Proprietary ***** [REDACTED]

[REDACTED]

[REDACTED] ***** End Proprietary ***** See CC

Opposition at 6-8.

This is a merits-based argument, and Verizon MA has not had an opportunity to present testimony, other evidence or argument on these issues (aside from arguments herein, should the Department grant leave for Verizon MA to file this Reply). Moreover, the Competitive Carriers are wrong on the merits. ***** Begin Proprietary ***** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ***** Begin Highly Sensitive Proprietary ***** [REDACTED]

[REDACTED]

[REDACTED] ***** End Highly Sensitive Proprietary***** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ***** End Proprietary *****

Also premature and without merit is the Competitive Carriers' claim that the agreement at issue must be filed for Department approval because the provisions regarding the exchange of VoIP traffic in IP format relate to interconnection under § 251(c)(2). See CC Opposition at 8. See also Sprint Opposition, at 6-7. Verizon MA will demonstrate in this investigation that §§ 251 and 252 apply only to telecommunications services, not to VoIP service exchanged in IP

format, which is an information service.¹ Consequently, the agreement is not subject to state commission approval.

2. The specific terms and conditions under which the parties agree to exchange VoIP traffic in IP format, as stated in an eventual written agreement, are important in understanding why the agreement is not subject to § 251.

The CLECs are eager for the Department to tread lightly in this investigation and not delve into the facts. Sprint, for example, argues that all the Department needs to know in this case is that Verizon MA has entered into an ongoing agreement under which it is exchanging VoIP traffic in IP format. *See* Sprint Opposition at 6. It also claims that, “[w]hether all business and operational terms have been agreed to is relevant only if their absence prevents on ‘ongoing obligation’ from being found. *Id.* at 5. But that is wrong, for the reasons explained above. The business and operational terms on which VoIP traffic is exchanged in IP format are relevant in determining that the agreement is not subject to § 251.

Likewise, the Competitive Carriers ask the Department to move forward and review the agreement at issue even though all but its most fundamental terms [*** **Begin Proprietary** ***]  [*** **End Proprietary** ***] remain in development, on the grounds that ICAs for telecommunications services are often submitted for Department approval even while “numerous technical aspects of interconnection” remain open. *See* CC Opposition at 10. In those situations, however, the contracting parties generally do not intend to include those technical terms in the agreement itself. In addition, the “technical aspects” of the flow and processing of VoIP traffic as it is exchanged between networks in IP format pursuant to the operational terms of the agreement help explain how and why the agreement is not subject to § 251. Terms the parties may agree to regarding codecs and

¹ *See e.g.*, Verizon Comments (Feb. 24, 2012) and Reply Comments (Mar. 30, 2012) regarding the Further Notice of Proposed Rulemaking, *Connect America Fund*, WC Docket No. 10-90, *et al.*

transcoding obligations, for example, help demonstrate generally the capability of VOIP to transform information.

Finally, Sprint's argument that state commissions have found oral agreements to constitute ICAs subject to § 252 review and approval, *see* Sprint Opposition at 5, misses Verizon MA's point, which is that trying to identify and determine any oral terms and conditions in this instance, while possible, would require substantial resources, and that such effort will be mooted (and wasted) once the parties sign a written agreement stating the terms of their agreement.

For these reasons, Verizon MA urges the Department to place this investigation in abeyance on the terms stated in the Motion.

Respectfully submitted,

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