

**Rulemaking by the Department of Telecommunications and Energy,)
pursuant to 220 C.M.R. §§ 2.00 et seq., to promulgate regulations to)
establish a funding mechanism for wireline Enhanced 911 services,) D.T.E. 03-24
relay services for TDD/TTY users, communications equipment)
distribution for people with disabilities, and amplified handsets at)
pay telephones, as 220 C.M.R. §§ 16.00 et seq.)
)**

I. INTRODUCTION

Pursuant to the Department’s procedural schedule set in its March 13, 2003 Notice and Request for Comment, the Attorney General, Verizon New England, Inc., d/b/a Verizon Massachusetts (“Verizon” or “Company”), and other interested parties filed reply comments on the Department’s proposed rulemaking for a new funding mechanism for enhanced 911 services, relay services for TDD/TTY users, communications equipment for disabled persons, and pay telephone amplification equipment (collectively “E911 services”). In its reply comments, Verizon mentioned for the first time in this case the existence of an independent audit of Verizon’s handling of E911 funds conducted in 1998-1999 by Deloitte & Touche. Verizon Reply Comment, pp. 2, 5, and 10. With the accompanying Motion, the Attorney General has sought leave to file these supplemental reply comments to point out several significant, relevant, and material facts contained in that audit to help the Department decide whether to rely on Verizon’s representations of the 1999 audit and how to investigate the nature and extent of the

existing E911 deficit for rate making purposes. See AG Comment, p. 3; AG Reply Comment, p. 3; 220 C.M.R. § 2.05(2).

II. BACKGROUND OF THE 1999 AUDIT

According to Verizon, the Department, in 1991, required the Company to undergo an external audit of its directory assistance (“DA”) accounting process, including E911 expenses, and selected Deloitte & Touche in 1998 as the successful bidder for the audit in response to a request for proposals. Verizon Reply Comment, p. 5; Department Letter dated August 27, 1998. Verizon asserts that:

The audit report, which was filed with the Department in December 1999, found that Verizon MA was in full compliance with applicable accounting requirements in reporting expenses and DA revenues, and that the reported amounts were accurately stated. In short, the Department has already verified through an independent audit that Verizon MA accurately records and reports its revenue and expense data. Thus, further examination, as requested by the Attorney General, is unnecessary and unreasonably would require Verizon MA to expend additional resources and incur additional costs.

Verizon Reply Comment, p. 5. Verizon did not attach a copy of either the audit or the Department’s 1998 letter to its Initial Comment or Reply Comment.

III. THE DEPARTMENT SHOULD NOT CONCLUDE, BASED ON THE 1999 AUDIT, THAT FURTHER REVIEW IS NOT REQUIRED

The Department should not conclude, based on the 1999 audit, that further examination of any existing E911 deficit is not now necessary. Verizon first mentioned the existence of the audit in this case in its reply comment, affording other parties no opportunity to comment or respond.

Close examination of the audit report and the Department’s August 27, 1998 audit authorization letter reveals that the report covers E911 revenue and expense data for a three year

period of time, January 1, 1995 to December 31, 1997. Thus, Verizon's directory assistance and E911 revenues and expenses prior to 1995 and since January 1, 1998 have not been subjected to an independent audit or examination.

Furthermore, the Department has not approved the auditors' report, the propriety of certain subsidiary allocations of expenses, or the Company representations about the data. The audit report shows Verizon allocated \$1.4 million (1995), \$2.2 million (1996), and \$1.5 million (1997) of recurring E911 expenses from a subsidiary affiliate, "Telesector Resources Group," ("TRG") to the E911 expense sheet. Total recurring E911 expenses for those years were \$3.5 million (1995), \$4.9 million (1996), and \$5.2 million (1997), so the TRG affiliate allocation is significant and substantial. The record does not reflect whether the Department has determined if the TRG or other affiliate allocations meet the Department's rigorous standards for affiliate allocations.¹ There is no evidence in this rulemaking proceeding that the TRG allocation was made in accordance with a Company allocation study, or that the Department reviewed and approved that allocation study.² The Department should disregard the 1999 audit and should investigate fully the existing Verizon E911 deficit.

¹ The Department must "make all necessary examination and inquiries and keep itself informed as to such relations, transactions and dealings as have a bearing upon the rates, financial conditions and practices" of each carrier. G.L. c. 159, § 34A. "In order to recover costs incurred from an affiliate, a company must show that those costs: (1) are specifically beneficial to the individual company seeking rate relief (as opposed to other subsidiary members of the system as a whole); (2) compare reasonably to competitive prices; and (3) are allocated by a formula that is cost-effective and nondiscriminatory." *Joint Petition of Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company and Commonwealth Gas Company*, D.T.E. 99-19, p. 93 (1999), citing *Eastern-Essex Acquisition*, D.T.E. 98-27 p. 46 (1998); *AT&T Communications of New England, Inc.*, D.P.U. 85-137, pp. 51-52 (1985), and *Oxford Water Company*, D.P.U. 1699, p. 13 (1984). See also *Hingham Water Company*, D.P.U. 88-170, pp. 21-22 (1989).

² See, e.g., *Fitchburg Gas and Electric Company*, D.T.E. 02-24/25, p. 66 (December 2, 2002).

IV. CONCLUSION

The Department should conduct an adjudicatory investigation into all of the existing E911 deficit and affiliate allocations of expenses as part of its efforts to set an E911 wireline surcharge.

Respectfully submitted

THOMAS REILLY
ATTORNEY GENERAL

by:

Karlen J. Reed
Assistant Attorney General
Utilities Division
200 Portland Street
Boston, MA 02114
(617) 727-2200

Dated: May 20, 2003

Rulemaking by the Department of Telecommunications and Energy, pursuant to 220 C.M.R. §§ 2.00 et seq., to promulgate regulations to establish a funding mechanism for wireline Enhanced 911 services, relay services for TDD/TTY users, communications equipment distribution for people with disabilities, and amplified handsets at pay telephones, as 220 C.M.R. §§ 16.00 et seq.

5