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 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	:	D.T.C. 13-6

COMMENTS OF COX RHODE ISLAND TELCOM LLC AND CHARTER FIBERLINK MA-CCO, LLC

Cox Rhode Island Telcom LLC ("Cox") and Charter Fiberlink MA-CCO, LLC ("Charter") respond to Verizon MA's Motion to Dismiss Or, In The Alternative, Renewed Motion To Abate This Proceeding (filed on September 9, 2014) ("Verizon Motion").

In support of its Motion, Verizon asserts that "there is no IP interconnection problem in Massachusetts for the Department to address," citing for support the assertion that there exist nine IP interconnection agreements between Verizon and other companies, and that Sprint has reached an agreement with Verizon. Verizon Motion at pg.1. The fact that some companies have, for business reasons or otherwise, decided to enter into voluntary IP interconnection agreements with Verizon is entirely irrelevant to the central questions posed by the Department in this Investigation. For this reason alone, the Department should deny Verizon's Motion.

In its "Order Opening an Investigation, Declining to Issue an Advisory Ruling, and Denying Verizon MA's Motion to Dismiss or Stay the Proceeding," the Department opened this Investigation "to determine whether the agreement is an 'Interconnection Agreement' under 47 U.S.C. §251 requiring the document to be filed for approval in accordance with 47 U.S.C. §252." Order dated May 13, 2013 (at pp. 1-2 and 14). That is the central issue in this Investigation.

Verizon's argument is essentially that because companies are reaching voluntary IP interconnection agreements with Verizon, under secret terms and conditions, then Verizon may avoid its statutory requirement to file the agreements, along with all other IP interconnection agreements, with the Department. But the Telecommunications Act (the "Act") has no provision that would allow Verizon to avoid filing one interconnection agreement merely because it has entered into any number of other agreements. Rather, Verizon should be filing all of its interconnection agreements. See Sections 251/252 of the Act. The fact that the companies have reached agreement on key terms of the IP agreement is simply additional evidence that the agreement is an "interconnection agreement" pursuant to the Act that should be filed and the terms made public. The Act's filing provisions, under Section 252, were designed for precisely this reason: to avoid the manipulation of smaller competitors by the much larger market power of the incumbent LEC.

This is not the first time an ILEC has sought to avoid its legal obligations when it has reached an agreement with a party during the pendency of a similar investigation. When the ILEC requested the same type of relief sought by Verizon here (even with the joint concurrence of the other company, Sprint in Michigan), the Michigan Public Service Commission correctly dismissed the "joint resolution" as irrelevant to the fundamental question of whether an IP interconnection agreement must be filed for review and potential adoption under Section 252, and pointed out the harms of acceding to the request to avoid a decision.

> [T]he Commission finds that consenting to the parties' "contingent resolution" sets a widespread and damaging precedent. If the Commission fails to enforce the Section 252(e)(1) filing requirement in this case, it opens the door for ILECs to negotiate separate, side agreements that permit the ILEC to selectively conceal from the Commission and other CLECs rates, terms and conditions of interconnection and traffic exchange. In the Commission's opinion, such a holding eviscerates Section 252 and defeats the nondiscriminatory, pro-competitive purpose of the Act.

In the Matter of the petition of Sprint Spectrum L.P. for arbitration pursuant to Section 252(b) of the Telecommunications Act of 1996 to establish interconnection agreements with Michigan Bell Telephone Company d/b/a AT&T Michigan, Case Nos. U-17349, U-17569, Order dated March 18, 2014. The Michigan Commission ordered the agreement to be filed with the Commission, regardless of the fact that the companies reached a "resolution." Id. This Department should also move forward to a final decision in this Investigation, notwithstanding the fact that Verizon and Sprint have evidently reached an agreement on interconnection of their IP networks, which should also be filed pursuant to the Act.

For these reasons the Department should deny Verizon's Motion.

Respectfully submitted,

COX RHODE ISLAND TELCOM LLC and
CHARTER FIBERLINK MA-CCO, LLC

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Certificate of Service

I hereby certify that on this 15th day of September 2014, I served a copy of the foregoing Comments of Cox Rhode Island Telcom LLC and Charter Fiberlink MA-CCO, LLC upon all parties of record by mailing a copy of said document by mail, postage prepaid regular via regular mail and via e-mail.