

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

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Petition of Verizon New England, Inc.,	)	
MCIMetro Access Transmission Services of	)	
Massachusetts, Inc. d/b/a Verizon Access	)	
Transmission Services, MCI Communications	)	
Services, Inc. d/b/a Verizon Business Services,	)	D.T.C. 07-9
Bell Atlantic Communications, Inc. d/b/a	)	
Verizon Long Distance, and Verizon Select	)	
Services, Inc. for Investigation into the	)	
Intrastate Access Rates of Competitive Local	)	
Exchange Carriers	)	
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**PRE-FILED TESTIMONY OF**  
**JOHN DULLAGHAN**  
**ON BEHALF OF**  
**RICHMOND TELEPHONE AND RICHMOND NETWORKX**

1   **Q.    PLEASE STATE YOUR NAME, TITLE, AND BUSINESS**  
2       **ADDRESS?**

3    A.    My name is John Dullaghan. I am Vice President of  
4        Communication and Customer Operations for Richmond  
5        Telephone Company and for Richmond Connections, Inc. d/b/a  
6        Richmond NetWorx. My business address is Suite 120, 75 North  
7        Street, Pittsfield, Massachusetts 01201.

8   **Q.    PLEASE DESCRIBE YOUR EDUCATIONAL AND**  
9       **PROFESSIONAL BACKGROUND?**

10   A.    I have a Bachelor of Arts in Sociology, with a minor in Political  
11        Science, from Curry College. I have completed course work  
12        towards a Master of Business Administration at the University of  
13        Massachusetts. I also have completed specialized training in  
14        Finance, Accounting, and Management. Finally, I am a member of  
15        the Regulatory Committee of the Telephone Association of New  
16        England, and the Competitive Local Exchange Committee of the  
17        New York Telephone Association.

18   **Q.    PLEASE DESCRIBE THE OPERATIONS OF RICHMOND**  
19       **TELEPHONE AND RICHMOND NETWORK?**

20   A.    Richmond Telephone is an incumbent local exchange carrier, also  
21        known as an ILEC; it provides local exchange service and  
22        exchange access service within its incumbent service area located  
23        entirely within Berkshire County. Richmond NetWorx is a

1 competitive local exchange carrier, also known as a CLEC; it  
2 provides local exchange service and exchange access service  
3 throughout the remainder of Berkshire County.

4 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

5 A. The purpose of my testimony is to present evidence to demonstrate  
6 that Verizon's proposal to cap intrastate switched access rates  
7 charged by CLECs at the same rate as charged by the competing  
8 ILEC is poor public policy and conflicts with requirements in  
9 Massachusetts General Laws, Chapter 159, at least as applied to  
10 Richmond NetWorx. I also show that Verizon is asking the  
11 Department to adopt only a selected portion of the federal rule it  
12 claims to support, while omitting the portion that is designed to  
13 address exactly the kind of situation faced by Richmond NetWorx.  
14 Finally, I discuss the applicability of Verizon's proposal to  
15 Richmond Telephone.

16 **Q. HAVE YOU REVIEWED THE PRE-FILED TESTIMONY OF**  
17 **PAUL B. VASINGTON ON BEHALF OF VERIZON?**

18 A. Yes.

19 **Q. DO YOU AGREE WITH MR. VASINGTON'S ASSERTION**  
20 **AT PAGE 21 LINES 14 AND 15 THAT THE POLICY**  
21 **VERIZON IS ASKING THE DEPARTMENT TO ADOPT**  
22 **"PARALLELS REQUIREMENTS THAT HAVE BEEN**  
23 **ESTABLISHED AT THE FEDERAL LEVEL?"**

1 A. No. The policy Mr. Vasington enunciates on page 21 lines 1  
2 through 13 of his testimony reflects only a selected portion of the  
3 federal requirements. Of critical importance, Verizon's proposal  
4 completely omits that portion of the federal rule that addresses the  
5 issue of how to handle the kind of situation Richmond NetWorx  
6 faces: a CLEC provides service only in a rural area that is part of a  
7 non-rural ILEC's much larger service area.

8 **Q. HOW DOES THE FEDERAL RULE ADDRESS THE**  
9 **SITUATION THAT RICHMOND NETWORKX FACES?**

10 A. The federal rule contains a rural exemption. The rural exemption,  
11 which is found at 47 C.F.R. § 61.26(e), allows a rural CLEC that is  
12 competing with a non-rural ILEC to charge access rates equal to  
13 the rate contained in the National Exchange Carrier Association  
14 ("NECA") tariff, assuming the highest rate band. The federal rule  
15 also allows the rural CLEC to assess the federal presubscribed  
16 interexchange carrier charge, ("PICC") if the non-rural ILEC  
17 assesses that charge.

18 **Q. IS RICHMOND NETWORKX A RURAL CLEC?**

19 A. Yes. The federal rule defines a rural CLEC as a CLEC that  
20 provides service in areas that does not serve (1) any incorporated  
21 place with a population of 50,000 people or more, based upon the  
22 most recent census data or (2) an urbanized area as defined by the  
23 Census Bureau.

1    **Q.     IS VERIZON A NON-RURAL ILEC?**

2    A.     Yes. The federal rule defines a non-rural ILEC as an ILEC that is  
3           not a Rural Telephone Company. Verizon is not a Rural  
4           Telephone Company and therefore is a non-rural ILEC.

5    **Q.     WHY IS IT IMPORTANT FOR A RURAL CLEC LIKE**  
6           **RICHMOND NETWORKX TO BE ABLE TO CHARGE A**  
7           **RATE HIGHER THAN A NON-RURAL ILEC LIKE**  
8           **VERIZON?**

9    A.     It costs more to serve rural areas than it costs to serve non-rural  
10          areas. Rates must reflect that cost differential in order for a rural  
11          CLEC to earn a reasonable return and to stay in business. This is  
12          not materially different from Richmond Telephone charging higher  
13          access rates than Verizon.

14   **Q.     WHY ARE VERIZON'S ACCESS RATES LOWER WHEN**  
15          **IT PROVIDES SERVICE IN BERKSHIRE COUNTY, TOO?**

16   A.     Verizon's access rates reflect Verizon's costs to provide access  
17          service across its entire service area. The high costs Verizon  
18          incurs to provide access services in Berkshire County are offset by  
19          the relatively lower costs it incurs to provide service in much more  
20          densely populated areas, such as the Boston metropolitan area.  
21          Richmond Telephone and Richmond NetWorx serve only  
22          Berkshire County and therefore have no low-cost areas to use as an  
23          offset.

1    **Q.    IS THIS ANALYSIS CONSISTENT WITH THE FCC’S**  
2           **REASONS FOR ADOPTING THE RURAL EXEMPTION?**

3    A.    Yes. The reasons for the FCC’s adoption of the rural exemption  
4           perhaps are succinctly summarized in the Federal Register. The  
5           following summary is taken from 66 Fed Reg. 27896:

6                   This exemption will permit a CLEC to [charge] access rates  
7                   above the competing ILEC’s only when the competing  
8                   ILEC has broad-based operations that include concentrated  
9                   urban areas that allow it to subsidize its rural operations  
10                  and therefore charge an artificially low rate for access to its  
11                  rural customers. We conclude that the most effective and  
12                  objective means of accomplishing this is to allow the rural  
13                  exemption only to those CLECs that are competing with  
14                  price-cap ILECs that do not qualify as “rural telephone  
15                  companies” under the Act’s definition.

16  
17          Using the FCC’s terminology, Verizon is subsidizing its access  
18          rates in the rural areas it serves and thus charging artificially low  
19          access rates in those areas. More specifically in terms of this case,  
20          Verizon’s access rates are artificially low in Berkshire County  
21          because they are subsidized by ratepayers located in concentrated  
22          urban areas, such as the Boston metropolitan area.

23   **Q.    WHAT EVIDENCE EXISTS TO DEMONSTRATE THIS**  
24           **COST DIFFERENCE?**

25   A.    There are three obvious pieces of evidence. First, Verizon’s own  
26          rates demonstrate the significant cost difference and the effect of  
27          cost averaging across its service area. Second, the cost difference  
28          is demonstrated by the difference in the access rates charged by

1 Richmond Telephone and by Verizon. Both of these pieces of  
2 evidence are compelling because the rates have been established  
3 under the oversight of the Department and are based directly upon  
4 Verizon's and Richmond Telephone's costs. Third, Berkshire  
5 County is extremely rural compared to the rest of the  
6 Commonwealth.

7 **Q. HOW DOES A COMPARISON OF RICHMOND**  
8 **TELEPHONE'S ACCESS RATES AND VERIZON'S**  
9 **ACCESS RATES DEMONSTRATE THE COST**  
10 **DIFFERENTIAL?**

11 A. Richmond Telephone charges a composite rate of \$0.072750 per  
12 minute of use for intrastate switched access while Verizon charges  
13 a composite rate of \$0.002200 per minute of use. Verizon's rate  
14 reflects its ability to average costs across its entire service area and  
15 to offset the high cost to serve Berkshire County against the low  
16 cost to serve other parts of its service area

17 **Q. HOW DO VERIZON'S OWN RATES DEMONSTRATE THE**  
18 **COST DIFFERENCE?**

19 A. Verizon's monthly retail rate for residential basic telephone service  
20 throughout Massachusetts, including Berkshire County, is \$19.64.  
21 That rate is based on Verizon's averaged costs to provide  
22 telephone service throughout its incumbent service area. In  
23 contrast, Verizon has deaveraged rates for unbundled local loops

1 that it sells to CLECs. In rural areas, including Berkshire County,  
2 Verizon charges \$24.32 per month for an unbundled local loop.  
3 Thus, Verizon's deaveraged cost of just a local loop in the areas  
4 Richmond NetWorx serves is greater than Verizon's retail rate for  
5 finished telephone service. Both of these Verizon rates have been  
6 established under the oversight of the Department and are based  
7 upon Verizon's costs. Thus, Verizon's own rates conclusively  
8 demonstrate that areas like Berkshire County are much more  
9 expensive to serve than other areas of the Commonwealth. This  
10 also means that Richmond NetWorx must pay Verizon nearly  
11 \$5.00 more for an unbundled loop than it can charge its retail  
12 customers for finished service while matching Verizon's retail rate.

13 **Q. HOW DOES CENSUS DATA DEMONSTRATE THE COST**  
14 **DIFFERENTIAL?**

15 It is commonly and correctly held that rural areas are more costly  
16 to serve than urban areas. Census data demonstrates that Berkshire  
17 County is extremely rural. Some key points about Berkshire  
18 County are:

- 19 ■ Represents 11.9% of the commonwealth's land mass but  
20 only 2% of the total population of Massachusetts
- 21
- 22 ■ Population density is 145 people per square mile compared  
23 to 810 for Massachusetts
- 24
- 25 ■ Contains 2.5% of the housing units in Massachusetts



1           ■       Is home to 2.3% of the businesses in Massachusetts<sup>1</sup>

2       **Q.     DO VERIZON’S ACCESS RATES REFLECT THE COSTS**  
3       **THAT RICHMOND NETWORK INCURS TO PROVIDE**  
4       **SERVICE?**

5       A.     Absolutely not. As demonstrated above, the average cost to serve  
6       Berkshire County, which is the only area Richmond NetWorx  
7       serves, is significantly higher than the average cost to serve  
8       Verizon’s service area. Richmond Telephone’s access rates much  
9       more closely reflect Richmond NetWorx’s costs.

10      **Q.     WHAT CAN THE DEPARTMENT DO TO ADDRESS THE**  
11      **SITUATION FACED BY RICHMOND NETWORK?**

12      A.     If the Department decides to adopt some sort of rate cap for  
13      CLECs, it should provide in the rule a rural exemption along the  
14      lines of that contained in the federal rule. At a minimum, it should  
15      adopt a definition of rural CLECs, even by adopting the same  
16      definition as the federal rule, and allow rural CLECs to charge  
17      access rates up to the level charged by Richmond Telephone.

18      **Q.     WHY SHOULD RICHMOND TELEPHONE’S ACCESS**  
19      **RATES BE USED TO ESTABLISH THE RATE CAP FOR**  
20      **RURAL CLECS?**

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<sup>1</sup>       Data compiled from  
<http://quickfacts.census.gov/qfd/states/25/25003.html> and from  
<http://massachusetts.hometownlocator.com/census/Estimates/Cities.cfm>.

1 A. There are three compelling reasons. First, there is no association  
2 tariff for intrastate access rates, so a different proxy must be  
3 identified with respect to rural CLEC rates. Second, Richmond  
4 Telephone's rates are a much better proxy for rates to be charged  
5 by rural CLECs than are Verizon's rates. Third, like Verizon's  
6 rates, Richmond Telephone's rates already have been reviewed by  
7 the Department and have been found to be just and reasonable.  
8 Unlike Verizon's rates, however, Richmond Telephone's rates  
9 have been found to be just and reasonable specifically with respect  
10 to providing service solely in rural Berkshire County.

11 **Q. IS IT ADEQUATE, AS VERIZON HAS PROPOSED ON**  
12 **PAGES 21 AND 22 OF MR. VASINGTON'S TESTIMONY,**  
13 **TO CREATE A REBUTTABLE PRESUMPTION PROCESS**  
14 **SUCH THAT A CLEC CAN SEEK AN EXEMPTION OR**  
15 **WAIVER OF THE RATE CAP IF THEY CAN**  
16 **DEMONSTRATE TO THE DEPARTMENT THAT ITS**  
17 **COSTS ARE HIGHER?**

18 A. No. There are three major problems with that being the only  
19 method by which a rural CLEC could charge rates above Verizon's  
20 rates. First, it is neither valid nor reasonable to presume that  
21 Verizon's rates accurately reflect the costs incurred by a rural  
22 CLEC, or that Verizon's rates will provide a reasonable return for  
23 a rural CLEC. Second, it unnecessarily burdens the rural CLEC

1 with overcoming a presumption that is invalid in the first place.

2 Third, it is unclear what level of cost support would be required to  
3 rebut the presumption. With respect to the third problem, I do not  
4 believe that anyone, except perhaps Verizon, wants to subject  
5 competitive carriers to traditional rate case processes and  
6 procedures that were designed for monopoly markets. It certainly  
7 is not sound public policy to do so.

8 **Q. DOES THIS MEAN THAT THERE SHOULD NOT BE AN**  
9 **EXEMPTION OR WAIVER PROCESS?**

10 A. No. There should be a process to permit each CLEC to seek  
11 exemption or waiver of the rate cap based upon its own costs. This  
12 is true with respect to both rural and non-rural CLECs because it  
13 may be the case that a specific CLEC's costs would justify a rate  
14 higher than the rural cap or the non-rural cap.

15 **Q. HOW WOULD THE EXEMPTION OR WAIVER PROCESS**  
16 **WORK?**

17 A. That is something that the Department may wish to put out for  
18 additional comment. Verizon did not provide any specifics for  
19 how it envisioned the process to work, so I cannot respond to its  
20 proposal. Further, the idea that CLECs can seek exemption or  
21 waiver of the rate cap may sound appealing and straightforward in  
22 the abstract, but implementing that concept in the form of a  
23 specific process and legal standard likely will be difficult.

1   **Q.    YOU PREVIOUSLY MENTIONED THAT RICHMOND**  
2       **NETWORX PAYS VERIZON \$5.00 MORE PER MONTH**  
3       **FOR AN UNBUNDLED LOOP THAN VERIZON CHARGES**  
4       **END USERS FOR FINISHED TELEPHONE SERVICE.**  
5       **DOES THAT AFFECT RICHMOND NETWORX’S ACCESS**  
6       **RATES?**

7    A.    Yes. To be competitive with Verizon and to attract customers,  
8       Richmond NetWorx must charge end user rates that are  
9       comparable to the rates charged by Verizon. Where Richmond  
10      NetWorx uses an unbundled loop to serve a customer, it must  
11      make up that \$5.00 per month difference plus cover its other costs  
12      of providing service. The higher access rates Richmond NetWorx  
13      charges provides a means of recovering the costs it cannot recover  
14      through end user rates.

15   **Q.    IS THIS MATERIALLY DIFFERENT FROM HOW**  
16       **RICHMOND TELEPHONE RECOVERS ITS COSTS?**

17   A.    No. Richmond Telephone recovers its costs through a mix of end  
18      user rates, access rates, and universal service support. Revenues  
19      from access services and from universal service support are used to  
20      keep end user rates lower than they otherwise would be.  
21      Consistent with long-standing public policy, this helps to make  
22      basic telephone service more affordable to end users.

1   **Q.   DO YOU AGREE WITH MR. VASINGTON'S ASSERTION**  
2       **AT PAGE 26, LINES 5 THROUGH 9, THAT THE RATE**  
3       **CAP PROPOSED BY VERIZON WOULD APPLY ONLY TO**  
4       **CLECS AND NOT TO ILECS SUCH AS RICHMOND**  
5       **TELEPHONE?**

6   A.   I agree that the rate cap should not apply to other ILECs, such as  
7       Richmond Telephone. ILEC rates already are subject to regulation  
8       by the Department.

9   **Q.   DOES MR. VASINGTON'S TESTIMONY AT PAGE 26,**  
10       **LINES 5 THROUGH 9, ADDRESS THE POINT RICHMOND**  
11       **TELEPHONE AND RICHMOND NETWORKS WERE**  
12       **MAKING IN THE COMMENTS MR. VASINGTON**  
13       **REFERENCES?**

14   A.   Not entirely. Richmond Telephone and Richmond NetWorx were  
15       pointing out inconsistent legal arguments that Verizon made in this  
16       proceeding and in D.T.C. 08-2, which involved a complaint by  
17       Richmond NetWorx against Verizon regarding whether the  
18       interconnection agreement between them required Richmond  
19       NetWorx to charge Verizon below-tariff access rates. The legal  
20       arguments are matters for the attorneys to handle in the briefs.

21   **Q.   DOES THIS CONCLUDE YOUR PRE-FILED**  
22       **TESTIMONY?**

23   A.   Yes.