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Alexander W. Moore
Deputy General Counsel

November 14, 2011

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

**Re: Petition of Verizon New England Inc. to Waive Certain Results
 Under its Retail Service Quality Plan for August and September 2011**

Dear Ms. Williams:

Enclosed for filing is the Petition of Verizon New England Inc. to Waive Certain Results Under its Retail Service Quality Plan for August and September.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alex Moore", written in a cursive style.

Alexander W. Moore

Enclosure

cc: Jesse Reyes, Assistant Attorney General

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Petition of Verizon New England Inc. to
Waive Certain Results Under its Retail
Service Quality Plan for August, 2011

**PETITION OF VERIZON NEW ENGLAND INC.
TO WAIVE CERTAIN RESULTS UNDER ITS RETAIL
SERVICE QUALITY PLAN FOR AUGUST AND SEPTEMBER, 2011**

Pursuant to Paragraph E of the Verizon Massachusetts Retail Service Quality Plan (“the Plan”), Verizon New England Inc., d/b/a Verizon Massachusetts (“Verizon MA”) hereby petitions the Department of Telecommunications and Cable (“Department”) for relief under the Plan due to the unprecedented confluence of *force majeure* events during August and September 2011, including a work stoppage followed within days by a hurricane. Indeed, it is difficult to imagine a series of events that more encompasses the intent of the *force majeure* provisions of the Plan. Accordingly, Verizon MA seeks leave to exclude from calculation of its overall scores in future months its performance on two of the Plan’s twelve metrics during the periods August 7 through August 22 and August 27 through September 11 and its performance on a third metric during the period August 7 through August 22 only.

Verizon MA’s service quality performance on these metrics in August and September was significantly and negatively influenced by extraordinary events beyond its control. First, on August 7, 2011, the International Brotherhood of Electrical Workers (“IBEW”) and the Communications Workers of America (“CWA,” collectively, “the Unions”) called a general strike against Verizon MA, and the Company’s unionized workers walked off their jobs for 16

days (the “Work Stoppage”). Second, Hurricane Irene hit Massachusetts on August 27, 2011, only four days after the Work Stoppage ended, causing substantial and widespread damage to Verizon MA’s network, bringing down power lines and washing out roads across much of the state. These circumstances reduced to a bare minimum the workforce available to Verizon MA to serve its customers and, as the hurricane plowed into the state, imposed an enormous and extraordinary workload on the Company under difficult conditions on the ground.

As demonstrated below, Verizon MA took substantial actions before, during and after these events to mitigate their effect on service, and in fact, Verizon MA met the overall requirements of the Plan in both August and September. Despite the Company’s reasonable and significant preparations and its overall Plan performance, however, the combination of the Work Stoppage and the Hurricane caused Verizon MA to turn in substantially subpar performances on the following three metrics in August and on the first two in September as well:

- Troubles Cleared Within 24 Hours – Business (“Troubles Cleared – Business”);
- Repair Resolution Center Average Speed of Answer (“CSB Speed of Answer”);
and
- Directory Assistance Average Speed of Answer (“DA Speed of Answer”).¹

Because Verizon MA’s performance under the Plan is based on the rolling average of its performance in the current month and the preceding 11 months, its performance in August and September may unfairly and adversely affect its ability to satisfy the Plan in future months.

Accordingly, the Department should grant this petition and allow Verizon MA to exclude from calculation of its performance under the Plan the results on the three metrics above for the days affected by the Work Stoppage, conservatively limited to the actual duration of the strike

¹ Verizon MA’s performance on the DA Speed of Answer metric was not materially affected by the Hurricane, and Verizon MA does not seek to exclude any September results for that metric.

(August 7 through August 22), and the results on the first two metrics alone during the period affected by Hurricane Irene (August 27 through September 11).²

I. THE WORK STOPPAGE AND HURRICANE IRENE

A. The Work Stoppage

The Unions called a general strike against Verizon MA as of 12:01 a.m. on August 7, 2011, after the parties' negotiations had failed to result in agreement on new contracts to replace contracts that had expired just before midnight on August 6, 2011 ("the 2008 Contracts").

In response, Verizon MA and its affiliated Operating Telephone Companies ("OTCs") in other states immediately implemented the emergency work stoppage plan. Verizon MA had begun planning for a possible strike well in advance. In March 2011, for example, Verizon MA had required all management employees to complete a survey of their individual field and customer support skills. Based on the data gathered in the survey, Verizon's Emergency Work Assignment System ("EWAS") gave emergency strike assignments to all managers except a limited few who were designated as essential to corporate operations. In the months prior to expiration of the 2008 Contracts, those employees received extensive training to allow them to perform the work of the Associates in the event of a strike, including answering customer sales and service calls; repairing telephone, internet and cable television services for residential customers, and repairing simple and complex services for business customers. In addition, Verizon activated its Emergency Operations Center in Basking Ridge, New Jersey,

² Exhibit 1 hereto includes Section 1 of the monthly Service Quality Reports for August and September, originally filed with the Department on September 29 and October 28, 2011, respectively. Exhibit 2 hereto is Section 1 of the August report revised to exclude the results on the relevant metrics for the August dates stated in the text. Building on that, Exhibit 3 is Section 1 of the September report, revised to exclude, in addition, the results on the two relevant metrics through September 11.

approximately one week before the Work Stoppage deadline to coordinate all strike-related activities for the OTCs.

As a result of this preparation and planning, Verizon MA was able to mobilize a force of approximately 2,000 managers to perform work usually handled by approximately 6,000 Associates. Management employees began to report to their emergency work assignments on Sunday, August 7, 2011 and were assigned to 12-hour shifts, seven days a week. Verizon assigned every available manager to an essential work assignment including assignments in garages across the Commonwealth, at the Customer Service Bureau (“CSB”), the Consumer Sales and Solutions Center (“CSSC”), the Business Sales and Solutions Center (“BSSC”) and the Directory Assistance Centers (“DA”), which support Verizon MA’s retail customers and operations.

During the Work Stoppage, managers from the former GTE region and the former MCI business units were given assignments in the Verizon East States. Verizon MA brought hundreds of managers from 17 states, including states as far away as California, New Mexico, Oregon and Washington into Massachusetts to perform Emergency Work Assignments during the Work Stoppage. Managers were assigned to both retail and wholesale functions. One of Verizon MA’s key strategies was to dedicate its outside work forces to assuring that existing customers continued to receive the best service possible under the circumstances, which meant that maintenance and repair tasks generally took precedence over any installation work.

The Work Stoppage took a bad turn from the very beginning as the hourly workers began to harass managers and sabotage Verizon MA facilities, causing a significant amount of damage to the outside plant. Between August 7 and August 22, 2011, there were five reported incidents of sabotage to Verizon MA’s network in Massachusetts. This, of course, contributed to the

already heavy workload that the management employees had to address during the Work Stoppage, and unnecessarily increased the significant backlog of trouble reports. On top of this, at least one Union local solicited Verizon retirees to flood Verizon's customer service centers with phony calls to artificially increase the workload and delay the Company from answering customer calls and address their issues and questions.

Verizon MA took a number of steps to try to reduce the amount of vandalism and sabotage during the Work Stoppage. It employed additional security personnel, provided escorts for managers assigned to outside plant projects, worked with local police departments, and repaired, replaced or installed new security cameras in key locations. In addition, it offered rewards of up to \$50,000 to individuals who reported acts of sabotage.

Furthermore, striking Associates consistently sought to prevent management employees from performing the necessary repairs and maintenance projects. Among other things, striking workers blocked the entrances to Verizon MA's facilities, substantially delaying managers from getting into those facilities to perform their strike assignments as well as leaving garages and other facilities to perform maintenance work in the field. The numerous videos posted on YouTube and the numerous local news reports of these picketing activities attest to the difficulties that Verizon managers faced as they attempted to provide good service to its retail and wholesale customers. In addition, Associates on strike continued to harass management employees in the field. Cars filled with striking Associates consistently and regularly followed managers to their work sites, and quickly assembled groups of Associates (sometimes 40 to 60 in number) at these locations and began boisterous harassment and haranguing of the management employees, often encircling the work area and even interfering with managers' access to their trucks for tools and supplies. This mobile picketing severely limited the managers' ability to clear troubles in an

effective and efficient manner. This occurred despite the presence of police details, paid for by Verizon MA, at many of the outside work locations.

The harassment of management employees was so severe that Verizon MA sought an injunction prohibiting the Unions from, among other things, blocking the entrances and exits to Verizon MA's facilities, harassing non-striking employees on work assignments and impeding Verizon MA work efforts at remote sites. A three-judge panel of the Superior Court issued a temporary restraining order against a number of Union locals and then, following multiple days of evidentiary hearings, entered an order on August 19, 2001, enjoining the locals from blocking free access to Verizon MA's garages, offices and business premises, and warning that it would entertain requests for additional relief if certain practices complained of continued in the future. A copy of the Court's order is attached hereto as Exhibit 4.

The day after the injunction issued, August 20, 2011, Verizon and the Unions announced that they had reached an agreement under which the Associates returned to work starting on Tuesday, August 23, 2011, as the parties continued to negotiate new contracts. As part of that agreement, the Unions agreed to lift for one week restrictions in the 2008 Contracts on the number of hours that Verizon MA could have Associates work, in order to help address the serious backlog of order processing and repair and installation work that had developed during the Work Stoppage.

B. Hurricane Irene

By the time the Associates returned to work, a serious backlog of repair and installation work had developed. Verizon MA immediately began the task of reducing this backlog. Unfortunately, Hurricane Irene hit Massachusetts on August 27, 2011.³ Unlike prior storms

³ Irene was downgraded from a hurricane to a tropical storm just before it reached Massachusetts. Regardless of its technical classification, however, the storm caused widespread damage across the

which had affected only a few of Verizon's states, Hurricane Irene caused devastation in numerous states beginning with Virginia. The Hurricane worked its way up the East Coast, causing severe flooding and damage in each of the Verizon states that it crossed. The center of the storm traversed Massachusetts south to north, its torrential rains and high winds causing severe flooding and many power outages. The central and western regions of the state were particularly hard hit, with substantial damage to the networks of Verizon MA and the power companies. At one point, over 676,000 customers in Massachusetts were without power as a result of the storm.⁴ In some communities it took a week or more to restore power. For some time after the storm, flooding and downed trees blocked secondary roads and bridges, making it difficult or impossible for utility crews to make repairs to their facilities.

As a result of the devastation caused by Hurricane Irene there were numerous declarations of States of Emergency. On August 26, 2011 Governor Patrick declared a State of Emergency for the Commonwealth. On the same day President Obama responded to a request by Governor Patrick by issuing a Pre-landfall Emergency Declaration for the Commonwealth. In addition, during September, President Obama issued a Major Disaster Declaration for four counties in Massachusetts (Franklin, Berkshire, Hampden and Hampshire) so that federal financial assistance could be made available to individuals, households, businesses, municipalities and state agencies. The President later expanded that Declaration to Barnstable, Bristol, Dukes, Norfolk and Plymouth counties.⁵

Commonwealth.

⁴ See <http://boston.cbslocal.com/2011/08/28/hurricane-irene-scattered-power-outages-across-southern-new-england/> (last visited on October 6, 2011).

⁵ Government press releases concerning these declarations are attached hereto as Exhibit 5.

Verizon MA had initiated contingency planning for the hurricane before it hit and was able to take substantial actions to prepare for Irene. Even while workers returned to their jobs for the first time in over two weeks, Verizon MA:

- inventoried and tested all emergency generators that would be deployed to provide power to remote electronic sites in the event of a commercial power loss;
- prioritized generator deployment to remote electronic sites based on the services provided from the location. (For example, Verizon MA gave first priority to locations that provided service to hospitals and E911 service to emergency response personnel.)
- increased its inventories of poles, service wire and general repair stock in anticipation of storm damage;
- ran a safety check on all of its motor vehicles and filled their fuel tanks;
- moved vehicles and equipment to protected locations and made efforts to protect its facilities;
- tested all central office generators and topped off their fuel tanks; and
- provided an engineer as a single point of contact to each of the NSTAR, NGRID and Western MA Electric “Storm Management Centers” across the state. (A total of nine Verizon Engineers were dedicated as resources to assist the electric companies in restoral efforts across the state).

When the storm hit on August 27, 2011, Verizon activated its Emergency Operations Procedures for Massachusetts and the surrounding states. The EOP is a complete set of instructions for Verizon employees that provide the procedures to be followed in responding to and recovering from large-scale natural disasters. The EOP establishes necessary incident command and control authority to ensure a coordinated response and recovery effort. In addition, Verizon MA kept open its regional control center in Taunton, which it had opened during the Work Stoppage and normally would have shut down when the Associates returned to work. The center was responsible for priority planning, service crew assignments and overall communications for the entire state.

To help ensure the safety of its employees, Verizon MA had changed its repair crews' work schedules to keep them off the roads during the most dangerous periods of the hurricane. Nevertheless, Verizon MA still had to respond to service issues during the storm. In areas of downed power lines, Verizon MA field managers stayed in close contact with electric company field managers to determine if the area was safe for Verizon MA employees to begin repair efforts. Verizon MA took direction from the electric companies on priority pole restorations. On day two of the storm, Verizon MA purchased new generators to increase its generator inventory by 20% in response to the widespread commercial power outages impacting its customers. Verizon MA's generators maintained power at approximately 60 remote terminals that lost commercial power. Each of these sites serves from several hundred to several thousand customers, and without power they would have lost telephone service.

Immediately following the storm and as soon as areas were declared safe, Verizon MA dispatched crews to begin the lengthy process of restoring service to customers. Verizon MA supplemented its usual workforce with extensive overtime and also reassigned technicians from the eastern area of the state to the central and western regions that were hardest hit by the hurricane and subsequent flooding.⁶ Verizon MA field technicians worked, on average, nearly three times their normal overtime rate from August 29th through September 7th. Verizon MA replaced close to 650 poles, repaired approximately 110 additional poles and replaced nearly 160 aerial network distribution cables that had been brought down by the storm. Each of these cables can provide service to hundreds of Verizon MA customers. Verizon MA technicians also

⁶ Unfortunately, unlike previous severe weather events, Verizon crews from other states were generally unavailable to assist in Massachusetts since they were addressing the service issues that Irene caused in their home states.

replaced approximately 7,000 downed or damaged service connections (drops). In total, Verizon MA cleared more than **26,000** storm-related service troubles during this period.

II. VERIZON MA IS ENTITLED TO EXCLUDE THE RESULTS FOR THE THREE METRICS AT ISSUE FOR THE LIMITED PERIODS AUGUST 7-22 AND AUGUST 27 THROUGH SEPTEMBER 11.

Paragraph E of the Plan provides that Verizon MA may file for a waiver of service results due to events beyond its control, including work stoppages and severe weather, as follows:

Recognizing that service quality may be influenced by factors beyond Verizon MA's control, Verizon MA may file Exception of Waiver petitions with the Department seeking to have monthly service quality results modified. Circumstances that would qualify for such consideration are limited to periods of emergency, catastrophe, natural disaster, severe storms, or other events beyond Verizon MA's control.

Any petition pursuant to this provision must demonstrate clearly and convincingly the extraordinary nature of the circumstances involved, the impact that the circumstances had on Verizon MA's service quality, why Verizon MA's normal, reasonable preparations for difficult situations proved inadequate, and the specific days affected by the event.

The combined effects of the Work Stoppage and Hurricane on Verizon MA's ability to serve its customers satisfy these requirements of the Plan and support the limited exclusions sought herein. To begin with, a Work Stoppage of 16 days followed closely by a severe hurricane constitutes extraordinary circumstances beyond Verizon MA's control. The Unions have sole decision-making authority to call a strike, and they elected to do so in this instance. Moreover, although the Plan itself does not expressly list a work stoppage as an event beyond Verizon MA's control, the Department's Performance Assurance Plan ("PAP") for Verizon MA holds that to be the case, expressly providing as follows:

The third grounds for filing Waivers relates to situations beyond Verizon's control that negatively affect its ability to satisfy only those measures with Benchmark standards. The performance requirements dictated by Benchmark standards establish the quality of service under normal operating conditions, and

do not necessarily establish the level of performance to be achieved during periods of emergency, catastrophe, natural disaster, severe storms, *work stoppage, or other events beyond Verizon's control*.⁷

Since Verizon MA's control over an event such as a work stoppage is unrelated to a regulatory distinction between wholesale services and retail services, there is no question that the events at issue here were not within the Company's control. Indeed, imposing a tighter, more restrictive standard on Verizon MA's waiver rights in the retail context than in the wholesale arena would potentially entitle Verizon MA's retail customers to better service quality during a work stoppage than that afforded to wholesale customers. That would be entirely inconsistent with one of the key purposes of the PAP, to ensure that wholesale customers receive the same level of service quality as retail customers.⁸

In any event, it was not the Work Stoppage alone that affected Verizon MA's performance on the metrics for Troubles Cleared – Business and CSP Speed of Answer. Rather, it was the unprecedented combination of the Work Stoppage and the Hurricane, arriving just as the Company was beginning to attack the work backlog from the Work Stoppage, that caused extended subpar performance on these metrics.

Verizon MA took all reasonable steps to mitigate the impact of the Work Stoppage and the Hurricane on its service quality – before, during and after these events. As explained above,

⁷ PAP, Appendix C, at 39 (emphasis added).

⁸ The Department approved the PAP in D.T.E. 99-271 (order dated September 5, 2000). In that order, the Department found that it was reasonable to include “work stoppage” as a situation beyond Verizon MA's control even though that phrase was not included in the New York PAP, on which the PAP is based, and even though the Department in that order otherwise required Verizon MA to conform its proposed PAP to the terms of the New York PAP. *See id* at 32. The history of the Retail Service Quality Plan does not indicate any intent by the Department to apply a more restrictive standard in determining whether a situation is beyond the Company's control in the retail context. The Department established the Plan in D.P.U. 94-50 (order dated May 12, 1995), and revised the penalty provisions of the Plan in D.T.E. 01-31 (Phase II order dated April 11, 2003). Neither of these orders discusses the *force majeure* provisions of the Plan.

in anticipation of a possible strike, Verizon MA had trained thousands of management employees to perform the duties normally handled by Associates, and the Company was able to field a management work force of 2,000 to perform those functions when the Unions did walk out. During the Work Stoppage, Verizon MA worked long and hard to resolve the dispute with the Unions while also performing the functions of the striking workers to provide the best possible service to its customers under the circumstances. Once the Work Stoppage ended, Verizon MA augmented its normal workforce capacity through the liberal use of paid overtime and reassignment of technicians to the areas of the state requiring the most work, all in order to return service quality to normal as quickly as possible.

Verizon MA also properly prepared and responded to Hurricane Irene – checking and preparing its equipment and fleet in advance of the storm, maintaining service to the extent possible during the storm and coordinating its efforts with other utilities and applying its full resources and workforce to restore service as quickly as possible after the storm. As a result of these aggressive measures, Verizon MA was able to meet the general requirements of the Plan for August and September and is not in a penalty situation.

Nevertheless, the Work Stoppage and the Hurricane negatively and significantly affected the Company's performance on the three metrics at issue despite its best efforts. Operating with only a third of its normal workforce, Verizon MA could not avoid building up a backlog of new service orders, repairs and other work. Even with the use of substantial overtime once the Associates returned to work, Verizon MA could not reasonably have been expected to clear the repair backlog in the few days before Hurricane Irene exacerbated the significant operational issues that the Work Stoppage had created and drove a surge in repair orders across the state. Troubles Cleared within 24 Hours – Business, for example, fell to 54% in August, far below

Verizon MA's average rate of 78% over the preceding 11 months and representing the first time in five years that Verizon MA's monthly score dipped below 75%. Although performance improved somewhat in September, it was significantly affected by the backlog of orders from August and the difficulty of making repairs in the aftermath of the Hurricane. As a result, Verizon MA cleared only 71% of business orders within 24 hours in September, still far below the Company's average performance level.

Staffing at the Customer Service Bureau (CSB) during the Work Stoppage was only approximately half its normal level. The managers who manned the CSB had been trained for this work, but there was a steep learning curve, and they were able to address customer calls at only half the rate normally achieved by experienced customer service representatives. Then Hurricane Irene drove a dramatic increase in call volume at the CSB well into September. As a result of these factors, the CSB Speed of Answer in August was 155 seconds, more than nine times higher than the rolling average of 17 seconds for the previous eleven months. The CSB Speed of Answer in September was 69. These results are so far out of line from the normal range and the standard in the Plan (which is 20 seconds) that they will cause Verizon MA to miss this metric for the next 11 months, even if its actual monthly performance meets the standard.

Verizon MA's Directory Assistance ("DA") Centers experienced difficulties during the Work Stoppage similar to those at the CSB. Staffing at the DA Centers during the Work Stoppage was at only 65% of its normal level, and the emergency work force handled customer calls at only half the normal rate of experienced representatives. Consequently, the DA Speed of Answer in August was 6.4 seconds, 50% higher than the standard in the Plan and more than 2.5 seconds higher than Verizon MA's 12-month rolling average.

The following chart shows the impact of the Work Stoppage and Hurricane on Verizon MA's performance on the three metrics at issue. For each metric, it states the threshold and standard performance objectives under the Plan and the rolling average of Verizon MA's performance for the twelve months preceding August, 2011. That is followed by Verizon MA's actual result for August and then by its August result excluding the performance from August 7-22 and 27-31. The next two columns provide the actual and adjusted results for September. Finally, the column on the far right shows the number of months out of the 60 months prior to August, 2011, in which Verizon MA's actual monthly performance did not meet the standard (*i.e.* lower) objective in the Plan.

	SQI Objective Threshold, Standard	12-month Rolling avg.	August monthly results	Results w/Aug. Dates Excluded	Sept. monthly results	Results w/Sept. Dates Excluded	Number of misses in last 60 Months
% Trbls Clrd w/i 24 hrs-Bus	T = 85, S = 75	78	54	61	71	77	0
DA Avg. Speed of Answer	T = 3.6, S = 4.0	3.5	6.4	1.5	3.3	NA	0
CSB Avg. Speed of Answer	T = 15, S = 20	17	155	35	69	21	4

The chart demonstrates that Verizon MA's performance on these metrics in August and September was entirely out of line with its consistently strong performance over many years and confirms that the Company would have turned in similarly strong results in August and September but for the Work Stoppage and the Hurricane.⁹

⁹ The adjusted results for Troubles Cleared 24 Hours – Business and CSB Speed of Answer do not all meet the standards in the Plan because Verizon MA has been conservative in identifying the daily results to be excluded from the metrics. In reality, Associates only *began* to return to work on August 23, and Verizon MA continued to address the consequences of the Work Stoppage and Hurricane throughout September.

III. CONCLUSION

As demonstrated above, the Work Stoppage, Hurricane Irene and the unfortunate timing of those events so close together were extraordinary events beyond the control of Verizon MA. These circumstances significantly and adversely affected specific aspects of Verizon MA's service quality measured by the three metrics above, despite Verizon MA's extensive preparations and appropriate responses to these events. Accordingly, the Department should grant this petition and allow Verizon MA to exclude from the rolling averages of these three metrics going forward its performance results from August 7 through August 22 and, with respect to Troubles Cleared - Business and CSB Speed of Answer only, the results from August 27 through September 11, 2011.

Respectfully submitted,

VERIZON NEW ENGLAND INC., d/b/a
VERIZON MASSACHUSETTS

By its attorney



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Dated: November 14, 2011