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January 7, 2011

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

***Re: D.T.C. 10-2 – Petition of Choice One Communications of Massachusetts Inc.,
Conversent Communications of Massachusetts Inc., CTC Communications
Corp. and Lightship Telecom LLC for Exemption from Price Cap on Intrastate
Switched Access Rates as Established in D.T.C. 07-9***

Dear Ms. Williams:

Enclosed please find Verizon's Response to One Communications' Appeal.

Thank you for your assistance in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard C. Fipphen".

Richard C. Fipphen

cc: Service List

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Petition of Choice One Communications of Massachusetts
Inc., Conversent Communications of Massachusetts Inc.,
CTC Communications Corp. and Lightship Telecom LLC
for Exemption from Price Cap on Intrastate Switched
Access Rates as Established in D.T.C. 07-9

D.T.C. 10-2

**VERIZON'S RESPONSE TO
ONE COMMUNICATIONS' APPEAL**

Verizon New England Inc. d/b/a Verizon Massachusetts, MCImetro Access Transmission Services of Massachusetts, Inc., d/b/a Verizon Access Transmission Services, MCI Communications Services, Inc., d/b/a Verizon Business Services, Verizon Long Distance LLC, and Verizon Select Services, Inc. (collectively "Verizon") hereby respond to the Appeal of One Communications ("One Comm") of the Hearing Officer's Ruling Regarding AT&T's and Verizon's Motions for Leave to Respond to One Communications' Rebuttal Testimony.

For the reasons set forth below, the Hearing Officer's Ruling properly found that the One Comm "rebuttal" testimony "presented new material" and that "parties should be given an opportunity to respond." Ruling, p. 2. Despite its protests to the contrary, nothing in the One Comm Appeal undermines the Hearing Officer's finding. Accordingly, the Appeal should be denied.

ARGUMENT

In its Appeal, One Comm repeatedly argues that "each and every section of One Communications' rebuttal testimony to which AT&T and Verizon objected. . . is directly

responsive to specific arguments raised in the intervenors' pre-filed testimonies, and, thus, constitutes 'permissible' rebuttal testimony. . ." Appeal, pp. 3, 6 and 8. An examination of the relevant intervenor testimony, however, demonstrates that One Comm is simply wrong. In fact, much of one Comm's purported "rebuttal" does not respond to any issue raised by the intervenors.

New voice/data study. In its testimony, Verizon demonstrated that the use of a voice/data allocator is inappropriate in an incremental cost study of a particular service and that, in any event, One Comm had overstated the amount of the allocator due to its miscalculation of the voice-to-data ratio of the MALC unit it had modeled. Verizon Panel Testimony, pp. 53-57. Rather than respond to Verizon's critique of the MALC modeling – which would have been appropriate rebuttal testimony – One Comm instead conjured up a wholly new purported justification for allocating an even higher percentage of its costs to data services. One Comm's rebuttal testimony now asserts that instead of modeling a network based on the MALC capacity, One Comm has reviewed new data showing the ratio of voice to data facilities in its actual, existing network, and that the voice/data allocator should be based on this new method, rather than modeling a new network. See Webber Rebuttal Testimony at 7 (relying on "an inventory of all active DSO level voice and data circuits" where Webber "had initially relied on a representative central office set-up....") The fact that One Comm's new approach may have been "prompted" by Verizon's demonstration that One Comm's original approach results in a allocator that is too low to suit One Comm's litigation needs does not mean that the wholly new approach responds to Verizon's argument. It is beyond argument that One Comm has shifted from relying on a modeling analysis to a new approach based on the facilities it claims to have in the field today. It is simply disingenuous for One Comm to argue that presenting a *new study* is

appropriate “rebuttal” testimony. The Hearing Officer properly allowed the intervenors an opportunity to respond to this new study.

Cost factor corrections. In its Appeal, One Comm readily admits that two of the three cost factor adjustments were not previously identified on the record. Appeal, p. 12. One Comm defends these corrections by arguing that updating and correcting cost information in a rate case is standard Department practice. Appeal, pp. 13. But that is beside the point, because no party has sought to strike One Comm’s rebuttal testimony. Rather, the Hearing Officer has merely allowed other parties an opportunity to respond to One Comm’s updates and corrections. One Comm offers no precedent to support its argument that intervenors have no right to respond to such new, updated and corrected cost information. As an example, despite One Comm’s insistence that every section of its rebuttal testimony responds to the intervenors’ testimony, Mr. Fischer expressly admitted that his original testimony on the “installation factor for Switching Equipment required correct[ion] *because I inadvertently omitted switch installation costs from one of [One Comm’s] general ledger accounts.*” Fischer Rebuttal, at 37 (emphasis added). Mr. Fischer is obviously attempting to correct his own error and is *not* responding to any intervenor testimony, which did not raise this issue. Accordingly, the Hearing Officer has appropriately afforded intervenors the opportunity to develop the record further on these cost corrections.

Verizon’s host/remote architecture. One Comm was well aware at the time it filed its cost study that intervenors would take exception to the inclusion of loop costs in a purported incremental cost study of switched access service. Yet, Dr. Ankum chose to hold back from his direct testimony an argument and supporting evidence that the One Comm network architecture is similar to Verizon’s host/remote switch architecture. By doing so, One Comm effectively prevented the intervenors from offering evidence in their rebuttal testimony to counter One

Comm's arguments. Contrary to One Comm's position in its Appeal, Dr. Ankum's new argument does not "narrowly" respond to Verizon's claims but rather attempts to introduce an entirely new method of how the loop cost issue should be analyzed by the Department. The intervenors should have an opportunity to offer evidence and comment on One Comm's brand new approach to defending the inclusion of loop costs in a switched access cost study.

Special access bypass. Finally, Dr. Ankum's argument and analysis on special access bypass is so patently beyond the scope of proper rebuttal that One Comm has effectively admitted it. One Comm claims that Dr. Ankum offered the evidence in response to AT&T's testimony. Rather than simply asserting that AT&T's testimony addresses an issue already decided by the Department, however, One Comm went further and introduced new evidentiary material. Its offer to withdraw the special access bypass testimony if the relevant AT&T testimony is stricken is an admission that Dr. Ankum's testimony on this point went beyond the scope of proper rebuttal. Appeal, pp. 8-9.

Two other points from One Comm's Appeal warrant a response. First, One Comm denies that its revised cost study has resulted in a *material* increase in its estimated cost per minute. One Comm calls it a "small increase." Appeal, pp. 10, 13. Yet, the facts speak for themselves. The results page from the revised NUCA model shows that the total cost per minute has increased by *over 12%*. One Comm cannot have it both ways. If the increase is not material, then the Hearing Officer should not even consider it. If the increase is material, then the intervenors must be allowed to respond to it. Second, One Comm alleges that the intervenors "have repeatedly sought to delay this proceeding." Appeal, p. 2, n 2. That claim is baseless. Verizon's request to the Hearing Officer for an opportunity to respond to One Comm's updates

and corrections did not seek a postponement of the hearing schedule, a fact that One Comm conveniently ignores.

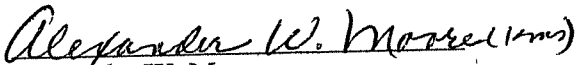
Conclusion

For the reasons set forth above, the Hearing Officer appropriately determined that the One Comm filing on December 15 exceeded the scope of rebuttal testimony and that the "evidentiary record is not yet fully developed." One Comm's protests to the contrary are unpersuasive and should be rejected. The Commissioner should affirm the Hearing Officer's ruling in all respects.

Respectfully submitted,

VERIZON NEW ENGLAND INC., MCIMETRO
ACCESS TRANSMISSION SERVICES OF
MASSACHUSETTS, INC., MCI
COMMUNICATIONS SERVICES, INC., VERIZON
LONG DISTANCE LLC, and VERIZON SELECT
SERVICES, INC.

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Dated: January 7, 2011