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October 20, 2015

Sara J. Clark, Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500

Re: Department Reg Review – 207 C.M.R. 2.00, 3.00, 4.00, 6.00
and 10.00 and 220 C.M.R. §§ 1.00, 26.00 and 45.00

Dear Secretary Clark:

Enclosed for filing in the above-referenced proceeding are the Comments of Verizon New England Inc. on Proposed Revisions to Regulations and an attachment.

Thank you for your attention to this matter.

Sincerely,


Alexander W. Moore

Enclosures

cc: Michael Scott, Hearing Officer
Sean M. Carroll, Hearing Officer
Kerri DeYoung Phillips, Hearing Officer

Rule 10.05(2) Insert “cable” before “operator”

Rule 10.05(3) Insert “cable” before “subscribers”

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

_____)
Department Regulation Review)
_____)

**COMMENTS OF VERIZON NEW ENGLAND INC.
ON PROPOSED REVISIONS TO REGULATIONS**

Verizon New England Inc., d/b/a Verizon Massachusetts (“Verizon MA”) files these comments in response to the Notices Seeking Comment on Hearing Officer Recommendations issued by the Department on October 6, 2015 (“Notices”) pursuant to Executive Order No. 562.

As Verizon MA explained in its Comments submitted on August 14, 2015, many of the Department’s regulations adopted decades ago to govern monopolies are obsolete in today’s highly competitive communications market, in which customers enjoy a broad choice of voice and video services, including (in addition to traditional landline telephone service and cable television) wireless, WiFi, VoIP, email, texts, social media, satellite television and video streaming services. Competition constrains service providers’ rates, customer service practices, quality of service, policies for addressing customer inquiries and billing and nonpayment policies. And Massachusetts’ strong consumer protection laws of general application such as M.G.L. c. 93A are more than adequate to protect consumers of these services, just as they protect consumers in other areas of competitive commercial activity. Regulations on these subjects no longer serve any purpose but continue to “impose[] unnecessary cost, burden and complexity,”¹ and distort the market, chilling investment and constraining competition. The Department should eliminate them.

¹ See Executive Order.

These outdated rules include the CATV Billing and Termination Rules at 207 C.M.R. 10.00, the Security Deposit and Late Payment rules in 220 C.M.R. 26.00, and the CATV Form 500 complaint reports referenced at 207 C.M.R. 2.03. The Department should not limit its review to the C.M.R., however, because its more burdensome and harmful rules do not appear there but derive from orders and informal directives issued by predecessor agencies. These include the residential telephone Billing and Termination Rules, Verizon MA's Retail Service Quality plan and its Alternative Regulation Plan. Excluding these regulations from review, or limiting its review of the C.M.R. to administrative issues while ignoring the very real burdens the above regulations impose on service providers would render this exercise mere lip service and defeat the goal of the Executive Order to eliminate state agency regulations that "inhibit business growth and the creation of jobs" and retain only those that are "essential to the health, safety environment or welfare of the Commonwealth's residents."²

Verizon MA offers the following specific comments on the Hearing Officers' recommendations on the regulations currently at 207 C.M.R. 2.00, 3.00, 4.00, 6.00 and 10.00 and 220 C.M.R. §§ 1.00, 26.00 and 45.00.³

The CATV Rules.

Verizon MA agrees that it is sensible to consolidate all of the Department's regulations under title 207 of the Code. Upon that consolidation, however, the CMR titles will no longer serve to distinguish rules that apply only to cable television from general rules and rules that apply only to telephone service. Verizon MA suggests in Attachment A to these Comments

² *Id.*, at Introduction and ¶ 3

³ Verizon MA has no comment at this time on the Hearing Officers' recommendations regarding 220 C.M.R. 2.00, 13.00, 15.00, 16.00, 37.00, 77.00, 78.00 and 273.00 but reserves the right to submit comments in response to other parties' submissions or in a formal rulemaking.

changes to a number of CATV rules (mainly to insert the term “cable”) to clearly convey their limited scope without altering their substance. For example, 207 C.M.R. 2.00 is entitled “General Rules,” which would be misleading and confusing because only Rule 2.01 would apply to all of the Department’s operations; Rules 2.02, 2.03 and 2.04 by their terms apply only to CATV matters. Verizon MA suggests revising the title of the Rule 2 to Adoption of Regulations and General Cable Rules and clarifying the application of Rules 2.02, 2.03 and 2.04 as set forth in Attachment A.

In addition, as Verizon MA stated in its August 14 Comments, the Department should drastically simplify the Form 500 reports of consumer complaints governed by 207 C.M.R. 2.03(3). The detailed complaint data that Form 500 requires carriers to report has always far exceeded the mandate of G.L. c. 166A, which requires only the nature of the complaints and their resolution and the time required to resolve. Requiring carriers to break down those complaints into ten vague categories imposes substantial costs and results in fairly random reported results, presumably so that the Department can monitor carriers’ service quality and performance. But there is no need for such micro-monitoring in the highly competitive Massachusetts market, in which customers can and do switch providers if they are unhappy with their cable provider’s performance or treatment of them.

Further, the Department should eliminate the monopoly-era CATV Billing and Termination rules in 207 C.M.R. § 10.00. In today’s competitive market, the goals of winning and retaining customers, rather than government regulation, drive service providers to implement fair, reasonable and customer-centric policies on payment terms, notice of rate and policy changes, customer dispute resolution and discontinuance of service. Service providers have every incentive to preserve the customer relationship if possible and to not disconnect a customer

unless it is absolutely necessary. The many filing and notice requirements in these rules are doubly superfluous in light of the Internet and company websites, which provide a far more effective means than regulatory filings of making the providers' rates, terms, conditions, policies and channel lineups available to consumers.

220 C.M.R. § 1.00

Verizon MA supports the Hearing Officer's recommendation for the Department to adopt its own version of the procedural rules rather than rely on 880 C.M.R. 1.00. That said, however, Verizon MA objects to the proposed new rules on Motions for Protection from Public Disclosure in Rule 1.04(5)(e) to the extent they are intended to change current practice before the Department. Verizon MA questions the appropriateness of promulgating additional procedural regulations – of any stripe – in response to an Executive Order whose goal is to reduce regulation. In addition, Verizon MA is not aware of any infirmities in the Department's and its predecessors' practice on motions for confidential treatment that would warrant a change at this time.

220 C.M.R. 26.00

There is no basis for re-promulgating the Department's age-old rules dictating the interest rate that telephone companies must pay on deposits provided by business customers and the amount such companies may charge business customers for late payment. These are precisely the type of archaic, market-distorting rules that the Executive Order seeks to eliminate. Business services were among the first services the Department found to be competitive and freed from

rate regulation many years ago.⁴ In today's highly competitive market, business customers enjoy ample choice of telecom providers and can (and do) freely switch providers if unsatisfied with the current provider's offerings, including its rates and any late payment charges. In such a market, retaining customers is ample incentive for service providers to adopt fair and reasonable policies. Put another way, there is no basis for continuing to regulate late payment charges to business customers where the Department deregulated the rates for the underlying services more than a decade ago. The Department should rescind these rules.

220 C.M.R. 45.00

Verizon MA has concerns with the recommendation in the Notice Seeking Comment that the Department retain the Pole Attachment regulations "in their current form at this time." From this statement, it is unclear to Verizon MA whether the Department intends to retain the second paragraph of the definition of "utility" in Rule 45.02 and Rule 45.04(2)(h). The Supreme Judicial Court invalidated these provisions in 2002, and they should be deleted from the regulations.

Second, Rule 45.02 defines "Department" to mean the Department of Telecommunications and Energy, which no longer exists, rendering the other rules that refer to "the Department" incoherent. Leaving these rules in title 220 of the Code when all other Department rules are moving to title 207 would only compound the ambiguity and raise the question whether the Department continues to exercise jurisdiction over these issues. Verizon MA suggests that the Department replicate these rules in title 220 of the Code, define "Department" to mean the Department of Telecommunications and Cable, and work with the

⁴ See *Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Regulatory Plan to succeed Price Cap Regulation for Verizon New England Inc.*, D.T.E. No. 01-31-Phase I (Order issued May 8, 2002).

Department of Public Utilities (“DPU”) to iron out any inconsistencies that may result from having twin rules. In the alternative, the Department should open a joint proceeding with the DPU to update the pole attachment regulations in light of their shared jurisdiction over the subject matter.


Conclusion

For these reasons, the Department should revise its formal regulations as stated above and should also review and eliminate its many rules not included in the Code that nevertheless impose needless burdens on regulated companies, distort the market and do not meet the requirements of the Executive Order.

Respectfully submitted,

VERIZON NEW ENGLAND INC.

By its attorney

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Dated: October 20, 2015

ATTACHMENT A

207 CMR 2.00

Amend the title to Adoption of Regulations and General Cable Rules

Rule 2.02 Insert "on CATV Matters" at the end of the title

Rule 2.03(1) Insert "CATV" in front of the title, to read "CATV Statutory Reporting Forms" and in insert "cable" before "license" in each sentence

Rule 2.03(2) Insert "for cable licensees" after "forms" in the first sentence

Rule 2.03(3) Insert "cable" before "complaint" and "licensee"

Rule 2.04 Insert "§§ 2.02, 2.03, 3.00, 4.00 or 6.00"

207 CMR 3.00

Insert "of CATV Systems" at the end of the title

Rule 3.02(1) Insert "cable" before "licensing process"

Rule 3.07(1) Insert "cable" after "final"

207 CMR 4.00

Insert "cable" after "final" in the title

Rule 4.01(2) Insert "cable" before "license"

207 CMR 6.00

Insert "cable" at the beginning of the title

Rule 6.02 Insert "cable" before "service"

Rule 6.04 Insert "cable" before "service"

207 CMR 10.00

Insert "cable" before "service" in the title.

Rule 10.02(2) Insert "cable" before "operator"

Rule 10.03(1) Insert "for cable service" after "bill"

Rule 10.05(1) Insert "to a cable operator" after "subscriber payment"