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June 23, 2005

Luly E. Massaro, Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

Re: Docket No. 3662 – Verizon RI Proposed Revisions to PUC Tariff No. 18

Dear Ms. Massaro:

By letter dated yesterday, Conversent Communications submitted “as further support” for its position in this proceeding a Hearing Examiner’s report issued in a case pending in Maine. Conversent’s submission, however, is untimely, unauthorized and lacking in merit, and the Commission should ignore it.

The Maine hearing examiner purports to make determinations regarding the scope of Verizon’s obligations under Section 271 of the Telecommunications Act of 1996 and to require Verizon to submit a state tariff addressing such obligations. The examiner’s position is thus directly contrary to prior orders of this Commission. In Docket No. 3668, the Commission stated that:

the Commission has already indicated that determinations related to Section 271 of the Telco Act ‘should be made by the FCC.’ [Citing Order no. 17802.] [S]ince Section 271 is a federal statute, it is inherently logical to have the FCC interpret this statute. ... [If Verizon RI’s Section 271] rates are not just and reasonable, the CLECs should petition the FCC immediately for relief.

Second, as the Maine report notes on its very first page, it is merely “the recommendation of the Hearing Examiner. ... [I]t does not constitute Commission action.” The report relies heavily on a prior decision of the Maine Commission dating from September of 2004 which also

Ms. Luly E. Massaro

June 23, 2005

Page 2

asserts state authority to enforce Section 271 obligations. That order, however, is on appeal to the Federal District Court.

Finally, Conversent's submission is too late, because the Commission already approved Verizon RI's proposed tariff revisions at Open Meeting on Monday, June 20, ordering certain modifications proposed by the Division but rejecting the additional changes sought by Conversent. In the absence of a motion for reconsideration allowed by the Commission, Conversent's attempt to informally reopen the Commission's decision is improper and inappropriate. Accordingly, the Commission need not and should not consider Conversent's submission.

Sincerely,

Alexander W. Moore

cc: Leo J. Wold, Esq.
Alan M. Shoer, Esq.