Memorandum

DATE: June 12, 2009

TO: Commissioners

FROM: James E. Lanni
Associate Public Utilities Administrator
for Operations and Consumer Affairs for
the Rhode Island Division of Public Utilities
and Carriers

SUBJECT: Rules Regarding Residential Collections Procedures
By Local Exchange Carriers In Rhode Island

The Rhode Island Division of Public Utilities and Carriers ("Division") files these comments pursuant to the procedural schedule issued by the Rhode Island Public Utilities Commission ("Commission") in this proceeding on March 30, 2009. The Division's suggestions are intended to assist the Commission in updating its New England Telephone Collections Procedures ("Rules") that were effective on November 2, 1992.

PACKAGED OR BUNDLED SERVICES

In recent years, Verizon and Cox have increased their emphasis on selling bundled telecommunication offerings to end users as compared to unbundled or stand-alone services since customers have shown a propensity to purchase bundled packages over a-la-carte offerings while taking advantage of discounts. The packaged or bundled services are single-priced offerings that consist of competitive non-regulated and uncompetitive regulated telecommunication services. The bundling of services has become a popular practice amongst telephone carriers and the customer is required to commit to a contract period in order to receive the discounted price.

The regulated services in the bundled packages must be tariffed whether or not they are offered in conjunction with unregulated services. Regulated components of Local Exchange Carriers' ("LEC") bundled services are separately available at rates approved by the Public Utilities Commission. The total price of any bundled service package would generally not match the total of the services' individually priced because the single rate is discounted. Almost all retailed bundled services include, as a minimum component, regulated local telephone exchange service and/or other tariffed vertical services such as Call Waiting, Call Forwarding, Caller ID etc.

Currently both Verizon and Cox offer many variations of discounted bundle offerings with a one to two-year contractual period. The companies promote a combined service package of digital television, high-speed internet access, long-distance calling, and unlimited local calling with vertical services such as Voice Mail, Caller ID and Call Waiting. The only regulated components of such bundled offerings are local exchange service and related vertical features while all other services are unregulated and competitive. With Verizon providing wireless telephones, there are bundle offerings that also include unregulated cellular service.

VERIZON AND COX'S COMMENTS

In Verizon's and Cox's comments regarding the Rules' update, both telephone companies support the termination of a customer's service or the denial of new service if there is a failure to pay the full cost of a bundled offering or its balance from a previous location respectively. Cox's comments are more explicit, in that, they suggest that the Rules should be revised to disconnect a customer's local telephone service if the customer has subscribed to a bundle offering of regulated and unregulated services and fails to pay for any services that are priced as part of the bundle. Verizon's comment make reference to its competitive or unregulated telecommunication services by utilizing phrases like "bills rendered by affiliates of the LEC operating in other states" or "LECs and their affiliates" but their position on the issue is delineated on page 4 that states,

> *"The Rule requires a customer to pay an outstanding Verizon bill for telephone service before Verizon RI will provide new service, but if the customer incurred that bill as a result provided by Verizon RI's affiliate in New York, for example, Verizon RI is required to ignore that debt and must provide new service even if the customer refuses to pay the outstanding bill. Such a policy serves no public purpose, but it significantly restricts the ability of the Verizon companies to collect payment for service rendered and results in unduly high amounts of bad debt."*

It may be important to note that a predominance of the customer's monthly cost of bundled telecommunication services is attributed to the unregulated service components such as cable television, internet and etc. Therefore, when un-collectible situations occur with bundled-service customers, the company's write offs are impacted more severely on the unregulated side of the business.

BASIC TELEPHONE EXCHANGE SERVICE

It appears to the Division that the proposals put forth by the telephone companies to amend the Rules have apparently been chosen to exploit the continuance of customers' regulated local telephone service as a collection technique to recover unpaid charges associated with their competitive services. The Division opposes such proposals and urges the Commission to adopt a public policy that a telephone customer, who purchases a bundled telecommunication package from the local telephone company and becomes disconnected for non-payment of regulated and non-regulated service charges, should not be barred from subscribing to basic telephone service. An arrearage accumulated as a result of a bundled telecommunication service should not be considered an unpaid balance applicable to local telephone service.

The Division views local dial tone service as an essential link to the outside world for low-income telephone users who live independently that may be unemployed, disabled, or elderly. The ability to maintain local telephone service provides such end users with the opportunity to call a doctor or their pharmacy, to communicate with their loved ones and most importantly, to contact 9-1-1 during emergency situations. An unemployed person also has a critical necessity for plain old telephone service ('POTS") to receive calls and also to make calls in seeking re-employment. Our senior citizens would more than likely opt for maintaining their unlimited local telephone service since it is the least expensive alternative when compared to cellular service.

The Division's position continues to be one of basic telephone service protection to the least fortunate. We support a regulatory practice that if a customer fails to submit timely payments sufficient to cover the entire amount of the regulated and unregulated bundled packaged rate, the LEC may discontinue the provision of any regulated and unregulated services, other than basic local exchange service, if payment is adequate to cover the "stand-alone" tariff rate for basic local measured or unlimited flat-rate telephone service with its governmental surcharges. This policy will insure that local telephone service is not disconnected for nonpayment of interstate toll and/or non-regulated services, when customers are billed at a single packaged rate. The Division would like to further suggest that the LEC should, in its notice of disconnection for nonpayment, state the total amount due to avoid discontinuance of the package, as well as the total amount due, pursuant to the filed tariffs rates, to avoid discontinuance of the basic local exchange service component of the package. Furthermore, it would be an unfair financial burden to delinquent customers to pay for the re-installation of new telephone service when they are meeting the monthly cost of their local exchange service.

PARTIAL PAYMENTS

It is the Division's opinion that the Commission should adopt a default procedure as a minimum telephone consumer protection standard that would govern the assignment of partial payments among the various portions of the customer's telecommunication bill with the intent to favor the preservation of local service as a priority. In the absent of the customer's instruction to apply payment(s) to a specific service(s), a public policy should be established in Rhode Island that distributes partial payments initially to local telephone service, second to other regulated services and third to unregulated services. Such a default policy is not a novel concept and does exist in other states where local telephone companies are required to implement internal billing practice to allocate partial payment. Therefore, a customer may avoid disconnection of local telephone service if the partial payment is equal to or larger than the monthly amount required to cover the tariffed rate(s) in addition to the monthly ancillary fees, taxes, and surcharges.

The proposed default paradigm is currently being utilized at the federal level and was established in a decision of the Federal Communications Commission that requires all telephone companies to allocate partial payments received from Lifeline consumers to local telephone service.[1]

<u>OTHER DIVISION RECOMMENDATIONS</u>

The Division concurs with the proposed recommendations:

(a) That the Rules apply to all Telecommunication Service Providers registered in the State of Rhode Island

(b) That residential basic exchange service should be defined as "Local Service"

(c) That a consolidation of the two deferred payment plans into a single payment plan with a 6-month repayment period while providing all of the protections offered in Plan 2 such as installation of Curb-a-Charge at no cost and with the right to one renegotiation of the payment plan.

(d) That the elimination of the $140 threshold of toll charges should be allowed to minimize fraudulent telephone use through earlier contact with the customers about high-toll usage.

[1] "Carriers offering Lifeline service must apply partial payments received from Lifeline consumers first to local service charges and then to toll charges, in keeping with our goal of maintaining low-income consumers' access to local telecommunications services…We find that any administrative burden this initially may cause is outweighed by the benefit of maintaining Lifeline consumers' access to local telecommunications services." *FCC Report and Order, On the Matter of Federal-State Joint Board on Universal Service, FCC 97-157, CC Docket No. 96-45, May 8, 1997, Paragraph 393.*

The Division proposes the following recommendations:

(a) That the delinquent telephone customer should be provided a minimum of 10 days upon receipt of the termination notice to establish a payment plan before service disconnection. In order to be consistent with the Commission's Termination Rules for gas, electric and water, the 10-day noticing period should begin when a delinquent customer receives the termination notice. National Grid's current policy is to allow a three-day mailing period in order for the delinquent customer to be provided ample time to establish payment during a 10-day period of noticing prior to scheduled disconnection. The procedure language states the written notice must be issued by the LEC no less than 15 calendar days prior to the scheduled discontinuance date. If the notice-issuance date were changed to 13 days, the procedure would provide the customer with a complete 10 days to establish a payment plan pending the service termination.

(b) The Division's concern is that even though customers may agreed to provide permission to an LEC to receive an electronic disconnection notice, the customer may not be accessing his computer on a daily or periodic basis and would be unaware of the pending service cancellation. We believe that electronic delivery of disconnection notices can be allowed but only if the LEC establishes an electronic receipt verification procedure regarding the notification.

(c) That the requirement for a delinquent customer to be able to pay a deposit to cover the "regulated" telecommunication services over such a short period of time of a three month is not unreasonable since the customer could be having difficulty paying his monthly charges.

(d) That the Commission should not be establishing customer deposit requirements within promulgated regulations that would pertain to non-tariffed telecommunication services.

In closing, the Division appreciates the Commission's consideration of our suggestions and we are willing to pursue revisions to the Telephone Collection Procedures through discussions with interested parties in order to minimize the number of divergent issues.