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May 21, 2014

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 NJ EPU
 CASE MANAGEMENT

Via Electronic and Regular Mail

Kristi Izzo - Board Secretary
 New Jersey Board of Public Utilities
 44 South Clinton Avenue, 9th Floor
 P.O. Box 350
 Trenton, New Jersey 08625-0350

**Re: I/M/O the Verified Petition of Vodafone US Inc., for Authority to Provide Facilities-Based Competitive Intrastate Local Exchange and Interexchange Telecommunications Services Throughout the State of New Jersey.
BPU Docket No.: TE14040384**

Dear Ms. Izzo:

The New Jersey Division of Rate Counsel ("Rate Counsel") has reviewed the above-captioned filing and submits the within comments for consideration by the New Jersey Board of Public Utilities ("Board") on this matter. Enclosed with this original please find ten copies, as well as a self-addressed and pre-paid postage stamped envelope. Kindly return a date/stamped copy to Rate Counsel. In its Petition, Vodafone US Inc, ("Petitioner") requests authority to provide facilities-based competitive local exchange, switched exchange access and interLATA/intraLATA interexchange telecommunications services catering to retail, wholesale and carrier level customers throughout New Jersey. Petitioner also requests confidential treatment of financial information submitted along with its Petition, as well as certain accounting and record-keeping waivers and expedited consideration and approval of the Verified Petition.¹ Rate Counsel does not oppose Petitioner's request for confidential treatment of its financial

¹ / See Petitioner's Motion for Confidentiality and supporting Affidavit of Megan Doberneck, Petitioner's General Counsel and Secretary, annexed to its Petition, dated April 24, 2014, requesting confidential treatment of the financial information provided and accompanying redacted public copy of the Petition and Exhibits, in compliance with the Open Public Record Act *N.J.S.A. 47:1A-1 et seq.*. Rate Counsel does not oppose Petitioner's request for confidential treatment as in accordance with *N.J.A.C. 14:1-12 et seq.* and further notes that such information does not constitute a government record under the New Jersey Open Public Records Act, P.L. 2001, c. 404 (*N.J.S.A. 47:1A-1 et seq.*, and is not subject to release or disclosure at the request of a third party.

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information, or waiver requests connected to accounting and record-keeping methods. Upon review of this filing, Rate Counsel is satisfied that the Verified Petition meets the regulatory requirements and is consistent with the public interest, convenience, and necessity, and does not oppose the Board's grant of the requests under the Verified Petition.

Petitioner is a corporation and a wholly-owned subsidiary of Vodafone Group Plc,² organized under the laws of the State of Delaware, and has annexed to its Petition, a copy of its Articles of Incorporation, Certificate of Good Standing and Certificate of Authority to conduct business in New Jersey, under [Exhibits A and B]. Petitioner intends to conduct business from 560 Lexington Avenue, 9th Fl., New York, NY 10022, and maintains a toll-free telephone number for customer service.³ Petitioner represents that it has sufficient managerial and technical experience necessary to provide adequate service and has the financial capability to do so.⁴

Petitioner requests waiver of *N.J.S.A.* 48:3-7.8 and *N.J.A.C.* 14:1-5.15(a), which requires that they maintain books, records, accounts, documents, and other writings incident to its business within New Jersey. Petitioner represents it would produce books for Board review upon request. Petitioner also requests waiver of *N.J.A.C.* 14:1-4.3 and *N.J.A.C.* 14:10-1.16 requiring that accounts be kept using the Uniform System of Accounts ("USOA") and that Petitioner instead be permitted to maintain its books according to Generally Accepted Accounting principles ("GAAP").⁵ Rate Counsel does not object to a grant of the waivers requested by Petitioner herein nor opposes Petitioner's request to treat Petitioner's financial information as confidential and placed under seal.⁶

The Telecommunications Act of 1996 states that "[n]o State or local statute or regulation, or other State or local requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide interstate or intrastate telecommunications service" pursuant to 47 U.S.C. § 251(a). Further, the New Jersey Legislature has declared that it is the policy of the State to provide diversity in the supply of telecommunications services, and has found that competition will "promote efficiency, reduce regulatory delay . . . foster productivity and innovation," and "produce a wider selection of services at competitive market-based prices." *N.J.S.A.* 48:2-21.16(a)(4) and *N.J.S.A.* 48:2-21.16(b)(1), (3). Accordingly, the Board is required to grant the Petition if Petitioner meets all statutory requirements and Board-imposed conditions, including, but not limited to, demonstration of managerial, financial, and technical capability.⁷

² / Vodafone Group Plc is a British multinational telecommunications company based in London, providing mobile voice and data services via its own network serving over 400 million customers in more than 30 countries. Petition a Paragraph 4, pp. 2-3.

³ / *Petition*, at Paragraph 14, p. 7: Toll free number: 1(855) 377-8360.

⁴ / *Id.* at Paragraphs 7 & 8, p. 5, and Exhibit E.

⁵ / *Id.* at Paragraph 16, pp. 7 - 8. Rate Counsel notes that Petitioner is not an incumbent local exchange carrier ("ILEC") and as a non-dominant carrier is relieved from the federal regulatory book keeping requirements under the Uniform System of Accounts ("USOA"), pursuant to 47 CFR Part 32.11(a) and *N.J.A.C.* 14:10-1A.16.

⁶ / Petitioner's Motion for Confidentiality and Supporting Affidavit of Megan Doberneck.

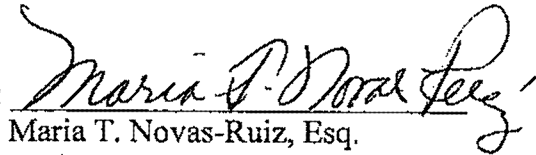
⁷ / *Petition* at Paragraphs 5 & 6, pp. 3-5, and Exhibits C and D. *See also, e.g., Re: MFS Intelenet of New Jersey, Inc.*, Docket No. TT95010031, Slip Op. (June 19, 1996), *Re: AT&T Communications of New Jersey, Inc.*, Docket No. TE95120653, Slip Op. (June 20, 1996), and *Re: Teleport Communications New York*, Docket No. TX95100501, Slip Op. (June 20, 1996), setting forth standards for approval.

Rate Counsel supports the introduction and expansion of competition in the New Jersey telecommunications market because competition encourages lower prices and technological development and deployment, and provides consumers with a greater number of alternatives. Accordingly, Rate Counsel submits that the Verified Petition meets the regulatory requirements and is consistent with the public interest, convenience, and necessity. Rate Counsel does not oppose a grant of authority or approval of Petitioner's request to provide facilities-based competitive local exchange, exchange access and interexchange telecommunications services throughout the State of New Jersey.

Very truly yours,

STEFANIE A. BRAND, DIRECTOR
NEW JERSEY DIVISION OF RATE COUNSEL

By:



Maria T. Novas-Ruiz, Esq.
Assistant Deputy Rate Counsel

cc: Service List

IMO Vodafone US Inc.
Petition to Provide
Telecommunications Svcs. In
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Docket No. TE14040384

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