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From: Cecilia Bradley [Cecilia.Bradley@myfloridalegal.com]
Sent: Friday, October 02, 2009 6:23 PM
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Cc: Adam Teitzman; David Christian; Dulany O'Roark; Floyd R Self; Mike Twomey; Rosanne Gervasi; Lee Eng Tan; Vicki Gordon Kaufman; KELLY.JR; Charles Beck
Subject: Docket No. 080278-TL - Attorney General's Prehearing Statement
Attachments: AG Prehearing Statement .doc



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Attached is the Attorney General's Prehearing Statement for filing in Docket No. 080278-TL. Thank you for consideration of this matter.

(See attached file: AG Prehearing Statement .doc)

Please note that Florida has a broad public records law, and that all correspondence to me via email may be subject to disclosure.

DOCUMENT NUMBER-DATE
10230 OCT-5 8
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for show cause proceedings against Verizon Florida LLC for apparent violation of Rule 25-4.070, F.A.C., Customer Trouble Reports, and impose fines, by the Office of the Attorney General, Citizens of the State of Florida, and AARP.

Docket No. 080278-TL

Filed: October 2, 2009

ATTORNEY GENERAL'S PREHEARING STATEMENT

The Attorney General, by and through the undersigned counsel, submits this Prehearing Statement.

APPEARANCES:

Cecilia Bradley
Senior Assistant Attorney General
Office of the Attorney General
The Capitol- PL01
Tallahassee, Florida 32399-1050
On behalf of the Citizens of Florida

1. **WITNESSES:**

We will offer no additional witnesses but reserve the right to cross examine the witnesses of all other parties.

2. **EXHIBITS:**

We have no exhibits of our own but reserve the right to use the exhibits of all other parties.

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3. STATEMENT OF BASIC POSITION

Verizon settled a similar proceeding in 2001, never claiming that it was not subject to the Commission Rule 25-4.070, FAC. Following the settlement, Verizon maintained its compliance with the rules. However, Verizon's service quality started to deteriorate and in 2007, the company failed to comply with Rule 25.070(3)(a) and (b) on 262 occasions. Verizon again failed to comply with these same rules on 194 occasions within the first three quarters of 2008. Verizon's failure to comply with Rule 25-4.070 was willful since it was aware of the requirements of the rule due to its prior show cause settlement, and it had improved its service so that it successfully met or exceeded the requirements of the Commission's service quality standards from 2001 through 2004.

There have been no changed circumstances which would affect Verizon's ability to comply with the service quality rules. Although Verizon claims that environmental factors such as thunderstorms, have affected its ability to comply with these rules, the state of Florida has always suffered from environmental factors, including the period of Verizon's compliance with the rules.

The major difference is that Verizon has made the decision to shift resources from supporting its landline service to newer services such as FIOS. That was a choice the company made and it does not relieve them of the responsibility of compliance with the service quality rules. Further, Verizon chose to forego the service agreements, adopted by other utilities and provide money to the consumers when the agreement is not complied with, thus requiring Verizon's compliance with these service quality rules.

.Verizon has repeatedly and willfully violated the service quality rule, thus denying necessary and timely service to its customers. The Commission should fine Verizon \$4.56 million for 456 willful violations of rule.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

ISSUE 1: How many times over the period January 2007 through September 2008 did Verizon Florida LLC fail to meet the Service Objectives stated in: (a) Rule 25-4.070(3)(a), Florida Administrative Code, and (b) Rule 25-4.070(3)(b), Florida Administrative Code?

AG: Verizon failed to meet the service objectives of part (3)(a) 119 times in 2007 and 100 times in 2008. Verizon failed to meet the service objectives of part (3)(b) 143 times in 2007 and 94 times in 2008.

ISSUE 2: Does each instance in which Verizon Florida LLC failed to meet the Service Objectives stated in Rules 25-4.070(3)(a) and 25-4.070(3)(b), Florida Administrative Code, constitute a rule violation?

AG: Yes.

ISSUE 3: Do the rule violations, if any, identified in Issue 2 constitute willful violations of Rule 25-4.070(3), Florida Administrative Code? If so, does the Commission have authority to impose penalties pursuant to Section 364.285, Florida Statutes?

AG: Yes. As specified in our basic position statement, the rule violations constitute willful violations of Rule 25-4.070(3), Florida Administrative Code. The Commission has authority to impose penalties pursuant to Section 364.285, Florida Statutes

ISSUE 4: What action, penalty, or fine, if any, should be imposed by the Commission?

AG: The Commission should fine Verizon \$4.56 million.

5. STIPULATED ISSUES:

None.

6. PENDING MOTIONS:

We anticipate filing motions in limine prior to the prehearing conference.

7. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:

We support OPC's position on confidentiality and note that Verizon has indicated that it is not willing to accept our statement that we will comply with Section 364.183, Florida Statutes, and will keep confidential all documents covered by this statute until returned to the PSC or Verizon.

8. OBJECTIONS TO QUALLIFICATION OF WITNESSES AS AN EXPERT:

None.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Attorney General cannot comply, other than the filing of the

Prehearing Statement; the filing of which was extended one day without objection.

Dated this 2nd day of October, 2009.

Respectfully submitted,
BILL McCOLLUM
ATTORNEY GENERAL

s/ Cecilia Bradley
CECILIA BRADLEY
Senior Assistant Attorney General
Florida Bar No. 0363790

Office of the Attorney General
The Capitol - PL01
Tallahassee, FL 32399-1050
(850) 414-3300
Fax: (850) 488-4872

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Prehearing Statement of the Office of Public Counsel has been furnished by electronic mail to the following parties on this 1st day of October, 2009, to the following persons:

Adam Teitzman
Theresa Tan
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Verizon Florida Inc
Dulaney L. O'Roark III
6 Concourse Parkway, Suite 600
Atlanta, GA 30328

Michael B. Twomey
Post Office Box 5256
Tallahassee, FL 32314-5256

Verizon Florida Inc.
David Christian
106 E. College Avenue Suite 710
Tallahassee, FL 32301-7721

Charlie Beck
Deputy Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

s/ Cecilia Bradley
Cecilia Bradley