

REQUEST TO ESTABLISH DOCKET

(Please Type)

Date:	3/30/2006	Docket No.:	060292-TL
1. Division Name/Staff Name:	Competitive Markets & Enforcement/Simmons SAS		
2. OPR:	CMP		
3. OCR:	GCL		

4. Suggested Docket Title:	Review of tariff filing (T-060052) by Verizon Florida Inc. to establish permanent promotional offering
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5. Suggested Docket Mailing List (attach separate sheet if necessary)

A. Provide NAMES OR ACRONYMS ONLY if a regulated company.

B. Provide COMPLETE NAME AND ADDRESS for all others. (Match representatives to companies.)

1. Parties and their representatives (if any):

Verizon Florida, Inc.	

2. Interested persons and their representatives (if any):


6. Check one:

Documentation is attached.

Documentation will be provided with recommendation.

DOCUMENT NUMBER-DATE

02819 MAR 30 06

C:\establishdocket.doc

FPSC-COMMISSION CLERK

David Christian  
Assistant Vice President  
Regulatory Affairs Florida



106 E. College Ave  
Tallahassee, Florida 32301  
Telephone 850-224-3963  
Fax 850-222-2912  
david.christian@verizon.com

January 27, 2006

Ms. Beth W. Salak, Director  
Division of Competitive Markets and Enforcement  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Dear Ms. Salak:

Attached is a new tariff page filed to become part of the Verizon Florida Inc. General Services Tariff.

Section A2 General Regulations  
10th Revised Page 23

The purpose of this filing is to establish a permanent promotional tariff offering to retain or attract customers in a competitive environment.

If you require additional information, please call Joan Gage at (813) 483-2530.

Sincerely,  
David M. Christian  
Assistant Vice President  
Regulatory Affairs Florida

DMC:sv  
Attachments

A2. GENERAL REGULATIONS

A2.10 Special Promotions

.2 The following promotion is on file with the Florida Public Service Commission:

	Area of Promotion	Service	Application	Period
325)	Company's Service Territory - Residential Service Only	<u>Permanent Promotion</u> Residential Service offerings to retain customers or attract customers who currently receive their local service from a competitive provider.	As dictated by competitive market conditions, Verizon Florida may periodically offer special promotional programs (including, but not limited to gift checks/cards or bill credits on services, and offerings made up of non-regulated products or services) to individual customers to attract or retain them as Verizon customers.  Promotional programs will be limited to qualifying customers contacting the company.  Regulations: 1) No specific offer will be available for more than 90 days. 2) On average, any combination of promotional benefits made to customers will not exceed \$55 in any calendar year.	Each promotional offering not to exceed 90 days in duration.

(N)

(N)

(D)

(D)

A2. GENERAL REGULATIONS

A2.10 Special Promotions

2 The following promotion is on file with the Florida Public Service Commission;

Area of Promotion	Service	Application	Period
325) Company's Service Territory - Residential Service Only	Permanent Promotion Residential Service offerings to retain customers or attract customers who currently receive their local service from a competitive provider.	As dictated by competitive market conditions, Verizon Florida may periodically offer special promotional programs (including, but not limited to gift checks/cards or bill credits on services, and offerings made up of non-regulated products or services) to individual customers to attract or retain them as Verizon customers.  Promotional programs will be limited to qualifying customers contacting the company.  Regulations: 1) No specific offer will be available for more than 90 days. 2) On average, any combination of promotional benefits made to customers will not exceed \$55 in any calendar year.	Each promotional offering not to exceed 90 days in duration.

2 The following promotions are approved by the Commission: (Continued)

Area of Promotion	Service	Charges-Waived	Period	Authority
65) Venice Exchange: 484, 486, 488	Custom Calling	Nonrecurring (Secondary)	6/22/87 8/20/87	Docket No. 830411-TP
		Service-Ordering Charge)		Order No. 12559
66) Winter Haven Exchange: 966, 967	Custom Calling	Nonrecurring (Secondary)	6/22/87 8/20/87	Docket No. 830411-TP
		Service-Ordering Charge)		Order No. 12559
67) Zephyrhills Exchange: 782, 783, 788	Custom Calling	Nonrecurring (Secondary)	6/22/87 8/20/87	Docket No. 830411-TP
		Service-Ordering Charge)		Order No. 12559
68) Tampa Exchange: 644, 646	Custom Calling	Nonrecurring (Secondary)	6/22/87 8/20/87	Docket No. 830411-TP
		Service-Ordering Charge) Recurring <sup>1</sup>		Order No. 12559
69) Tarpon Springs Exchange: 934, 937, 938, 942 665, 666	Custom Calling	Nonrecurring (Secondary)	6/22/87 8/20/87	Docket No. 830411-TP
		Service-Ordering Charge) Recurring <sup>1</sup>		Order No. 12559
60) Company: Company's Service Territory Except: 223, 224, 226, 226, 228 254, 253, 254, 258, 259 293, 294, 299 354, 355, 359 644, 646, 647 680, 681, 684, 685, 687, 688, 689 872, 873, 874, 876, 876, 877 964, 962, 963, 969	Touch Call	Nonrecurring (Secondary)	6/22/87 8/20/87	Docket No. 830007-TP
		Service-Ordering Charge and Individual and Two-Party Line Service Charge)		Order No. 11546
64) Sarasota Exchange: 354, 355, 359	Custom Calling	Nonrecurring (Secondary)	6/29/87 8-27-87	Docket No. 830414-TP
		Service-Ordering Charge) Recurring <sup>1</sup>		Order No. 12559
64) Sarasota Exchange: 354, 355, 359	Touch Call	Nonrecurring (Secondary)	6/29/87 8/27/87	Docket No. 830007-TP
		Service-Ordering Charge and Individual and Two-Party Line Service Charge)		Order No. 11546

NOTE 1: A 30-day free trial on a full-service package or on an individual Custom Calling feature is offered.

ALAN F. CIAMPORCERO JOHN A. FERRELL, PRESIDENT  
TAMPA, FLORIDA

EFFECTIVE: December 22, 1998  
ISSUED: December 7, 1998

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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RECEIVED-FPSC

APR -6 AM 11:57

COMMISSION  
CLERK

**DATE:** April 6, 2006

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Division of Competitive Markets & Enforcement (Simmons) *SAS*  
Office of the General Counsel (Wiggins) *pmw*

**RE:** Docket No. 060292-TL – Review of tariff filing (T-060052) by Verizon-Florida Inc. to establish permanent promotional offering. *mt*

**AGENDA:** 04/18/06 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\060292.RCM.DOC

### Case Background

On January 27, 2006, Verizon Florida Inc. (Verizon) filed to establish a permanent promotional tariff offering (T-060052) [Attachment A]. Tariff filings by price regulated local exchange companies such as Verizon are presumptively valid, and non-basic service filings (which would include this type of tariff) go into effect on 15 days' notice pursuant to Section 364.051(5)(a), Florida Statutes. If there are issues regarding the legality of a tariff, staff prepares a recommendation for the Commission's consideration and determination as to whether the tariff should remain in effect or be canceled. Due to the unique nature of this tariff offering, which includes provisions for variable benefits to customers, staff is bringing this tariff before the Commission for review. Staff has had several discussions with Verizon to better understand the

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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Docket No. 060292-TL

Date: April 6, 2006

offering, identify concerns, and determine appropriate controls that would address staff's concerns and be workable for Verizon.

### Discussion of Issues

**Issue 1:** What action, if any, should the Commission take with respect to Verizon's permanent promotional tariff offering (T-060052)?

**Recommendation:** Staff recommends that Verizon's permanent promotional tariff offering (T-060052) be allowed to remain in effect, subject to two requirements. First, Verizon should be required to provide staff with one-day, advance written notice of each promotional offer made during 2006. Second, Verizon should be required to provide semi-annual tracking reports during 2006, by individual promotion and in total, showing the number of offers made, the number of offers accepted, and the average dollar benefit provided to customers. Tracking reports should be due on July 31, 2006 and January 31, 2007. (Simmons, Wiggins)

#### Staff Analysis:

Verizon designed its permanent promotional tariff offering primarily as a retention strategy to address a high rate of residential access line loss, especially to the incumbent cable company. The Verizon product manager will develop and activate each promotion, with only one promotion available at any one time. The promotion will be offered if a residential customer calls Verizon to disconnect service and explains he/she is accepting an offer from a competing company. Each promotional offer will not exceed 90 days in duration and will be available for resale to CLECs at no discount, in keeping with the FCC's determination that "promotional prices offered for a period of 90 days or less need not be offered at a discount to resellers." (FCC 96-325, ¶ 950)

As mentioned in the Case Background, this tariff offering provides for variable benefits to customers. This variable benefit approach is a departure from the status quo in which promotional tariffs detail the benefits to be provided to the customer. In addition, this variability raises a possible concern of undue discrimination among customers, with some callers receiving a higher valued benefit than other callers.

Pursuant to its permanent promotional tariff, Verizon will offer qualifying callers a one-time benefit, with no change in tariffed rates. The promotional benefit is described in the tariff as "including, but not limited to gift checks/cards or bill credits on services, and offerings made up of non-regulated products or services." The tariff states that "(o)n average, any combination of promotional benefits made to customers will not exceed \$55 in any calendar year."

Verizon has informed staff that service representatives will have specific decision criteria that must be followed before offering each promotion. Staff understands that only one type of benefit will be offered under any one promotion; however, different valued benefits, such as both \$25 and \$50 gift cards, may be offered under the same promotion. Where different valued benefits are offered, the service representatives will be instructed to offer the lower valued benefit first and only offer the higher valued benefit if necessary. Verizon has advised staff that the service representative's compensation will not be affected in any way by the promotion. For example, his/her compensation will not be affected by the representative's customer retention statistics or the average benefit value provided by the representative.

Legal Framework

While different customers may receive different valued benefits, staff does not view this possibility as prohibited discrimination, since the customers may not be similarly situated in terms of having the same competing offers. The basic legal framework for regulating the offerings of Verizon as an incumbent local exchange company is found in Section 364.051, Florida Statutes, which was enacted in 1995 and amended several times since. Under Section 364.051(5)(a), incumbent local exchange companies are authorized to meet competitive offers, but "shall not engage in any anticompetitive act or practice, nor unreasonably discriminate among similarly situated customers."

As suggested above, the statutory grant of pricing flexibility to ILECs is a recent development in regulatory history. One might argue that the purpose of previous regulatory approaches was just the opposite: to fix the prices of monopoly provider so that no flexibility was allowed to ensure that customers were not subjected to unfair treatment. As competition in telephony emerged, fixing the prices and controlling the behavior of the former monopoly provider also served the purpose of avoiding anticompetitive practices. While these two generalizations are overstated, they do highlight that Section 364.051 was introduced into Chapter 364 as an exception to the way economic regulation was formerly handled.

Consequently, Section 364.051(c) exempts the ILEC from several other more restrictive sections of the chapter. Section 364.051(c) provides specifically as follows:

Each company subject to this section shall be exempt from rate base, rate of return regulation and the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18.

Without these exemptions, the framework provided in Section 364.051 would be in irreconcilable conflict with the sections establishing the traditional approach to filing and approving tariffs.

There are two other sections in Chapter 364, Florida Statutes, that may be germane to Verizon's tariff but that were not exempted: Sections 364.08(1) and 364.09. Section 364.08(1) states in part "(a) telecommunications company may not refund or remit, directly or indirectly, any portion of the rate or charge so specified . . . not regularly and uniformly extended to all persons under like circumstances for like or substantially similar service." Section 364.09 prohibits use of any "special rate, rebate, drawback, or other device or method" to obtain "greater or lesser compensation for any service" provided under the "same or substantially the same circumstances and conditions." Both of these sections were originally enacted in 1913 and were part of an overarching scheme to restrict pricing flexibility to avoid, among other things, discrimination among similarly situated customers.

In comparison to the older Sections 364.08(1) and 364.09, the newer Section 364.051(5)(a) prohibits *unreasonable* discrimination among similarly situated customers. Thus an initial legal question presents itself: does the statutory standard embraced in the older sections still apply?



Section 364.08(1) and 364.09 Not a Bar

Staff believes that Sections 364.08 and 364.09 do not prohibit Verizon's tariff. There are three reasons for this view. First, the initial sentence of Section 364.051 begins as follows: "Notwithstanding any other provisions of this chapter...." This creates a general exemption from conflicting provisions elsewhere in Chapter 364.

Second, the legislature specifically exempted the sections of Chapter 364 it believed to be in conflict with the approach established in Section 364.051. Thus one can reasonably infer that Sections 364.08(1) and 364.09 do not interfere with the operation of Section 364.05(1) and tariffs filed under that section.

Third, the actual language of the older sections can be reconciled with the newer section. Section 364.08 prohibits discrimination outside the tariff, but neither contemplates nor prohibits reasonable discrimination among customers as provided for in the tariff. Section 364.09 appears to prohibit absolutely special deals, rebates, etc., but contains the saving language "except as authorized in this chapter."

In sum, Sections 364.08(1) and 364.09 do not prohibit Verizon's tariff, which was filed under the framework created in Section 364.051. Moreover, staff believes that the tariff is not *unreasonably* discriminatory and complies with Section 364.051(5)(a), Florida Statutes. Staff believed it useful to provide this background because Verizon's tariff presents a case of first impression.

Regulatory Analysis

After considering the average promotional benefit and the incidence of use, Verizon has demonstrated that the permanent promotion covers incremental cost. The proprietary analysis shown to staff considered the residential subscription rates for all vertical services and average intraLATA billable usage, i.e., the typical residential customer profile, and determined a break-even period that was significantly lower than the expected location life. Staff notes that to the extent the permanent promotion is provided to atypical residential customers, with higher spending patterns, the break-even period would be shorter.

Because the tariff states that "(o)n average, any combination of promotional benefits made to customers will not exceed \$55 in any calendar year," staff believes that tracking is very important. Tracking is also essential for Verizon as the company will be experimenting to determine the most cost effective ways of retaining customers. Verizon has informed staff that the company will be tracking results on a monthly basis and monitoring statistics including offers made, offers accepted, and average dollar benefit provided.

Due to the flexible nature of the permanent promotional tariff, staff has identified some issues related to complaint handling, which have been discussed with the company and resolved to staff's satisfaction. Staff understands that Verizon is willing to provide written notification of each promotion to staff, thereby providing the necessary knowledge for staff to address any customer complaints that may be filed with the Commission. Further, the company has indicated

Docket No. 060292-TL

Date: April 6, 2006

that if a customer states the company promised a higher valued benefit, and the higher valued benefit is available under the promotion, the company will accept the customer's word.

The variable benefit nature of Verizon's permanent promotional tariff is a departure from the status quo. Staff notes that Section 364.057, Florida Statutes, provides for experimental and transitional rates. This section, which is applicable to price regulated local exchange companies such as Verizon, does not seem directly on point, since the promotional benefits in the tariff at issue do not really constitute rates. Nonetheless, this section may be of some interest. Under this section, approval of experimental or transitional rates may be limited geographically and must be limited in time. While staff does not believe that Verizon's permanent promotional tariff should be geographically constrained or time limited, staff does believe this tariff should be monitored closely during the first year. Depending on results for the first year, staff will assess whether further monitoring appears necessary.

Accordingly, staff recommends that Verizon's permanent promotional tariff offering (T-060052) be allowed to remain in effect, subject to two requirements. First, Verizon should be required to provide staff with one-day, advance written notice of each promotional offer made during 2006. Second, Verizon should be required to provide semi-annual tracking reports during 2006, by individual promotion and in total, showing the number of offers made, the number of offers accepted, and the average dollar benefit to customers. Tracking reports should be due on July 31, 2006 and January 31, 2007.

Docket No. 060292-TL

Date: April 6, 2006

**Issue 2:** Should this docket be closed?

**Recommendation:** The Order issued from this recommendation will be a proposed agency action. Thus, the Order will become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of this Order. **(Wiggins)**

**Staff Analysis:** The Order issued from this recommendation will be a proposed agency action. Thus, the Order will become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of this Order.

Docket No. 060292-TL  
Date: April 6, 2006

ATTACHMENT A

David Christian  
Assistant Vice President  
Regulatory Affairs Florida



106 E. College Ave  
Tallahassee, Florida 32301  
Telephone 850-224-3963  
Fax 850-222-2912  
david.christian@verizon.com

January 27, 2006

Ms. Beth W. Salak, Director  
Division of Competitive Markets and Enforcement  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Dear Ms. Salak:

Attached is a new tariff page filed to become part of the Verizon Florida Inc. General Services Tariff.

Section A2 General Regulations  
10th Revised Page 23

The purpose of this filing is to establish a permanent promotional tariff offering to retain or attract customers in a competitive environment.

If you require additional information, please call Joan Gage at (813) 483-2530.

Sincerely,  
David M. Christian  
Assistant Vice President  
Regulatory Affairs Florida

DMC:sv  
Attachments

VERIZON FLORIDA INC.

GENERAL SERVICES TARIFF

10th Revised Page 23  
Canceling 9th Page 23

A2. GENERAL REGULATIONS

A2.10 Special Promotions

2 The following promotion is on file with the Florida Public Service Commission:

	Area of Promotion	Service	Application	Period	(N)
325)	Company's Service Territory - Residential Service Only	<u>Permanent Promotion</u> Residential Service offerings to retain customers or attract customers who currently receive their local service from a competitive provider.	As dictated by competitive market conditions, Verizon Florida may periodically offer special promotional programs (including, but not limited to gift checks/cards or bill credits on services, and offerings made up of non-regulated products or services) to individual customers to attract or retain them as Verizon customers.  Promotional programs will be limited to qualifying customers contacting the company.  Regulations: 1) No specific offer will be available for more than 90 days. 2) On average, any combination of promotional benefits made to customers will not exceed \$55 in any calendar year.	Each promotional offering not to exceed 90 days in duration.	(N)

(D)

(D)

VERIZON FLORIDA INC.  
INCORPORATED

GENERAL SERVICES TARIFF

109th Revised Page 23  
Cancelling 98th Revised Page 23

A2. GENERAL REGULATIONS

A2.10 Special Promotions

2 The following promotion is on file with the Florida Public Service Commission:

Area of Promotion	Service	Application	Period
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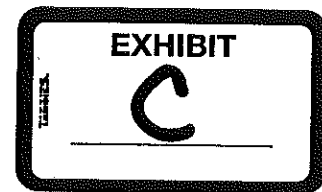
2 The following promotions are approved by the Commission: (Continued)

Area of Promotion	Service	Charges Waived	Period	Authority
56) Venice Exchange: 484, 485, 488	Custom Calling	Nonrecurring (Secondary)	6/22/87 8/20/87	Docket No. 830411-TP
		Service Ordering Charge)		Order No. 12559
56) Winter Haven Exchange: 965, 967	Custom Calling	Nonrecurring (Secondary)	6/22/87 8/20/87	Docket No. 830411-TP
		Service Ordering Charge)		Order No. 12559
57) Zenith Hills Exchange: 782, 783, 788	Custom Calling	Nonrecurring (Secondary)	6/22/87 8/20/87	Docket No. 830411-TP
		Service Ordering Charge)		Order No. 12559
58) Tampa Exchange: 644, 646	Custom Calling	Nonrecurring (Secondary)	6/22/87 8/20/87	Docket No. 830411-TP
		Service Ordering Charge)		Order No. 12559
		Recurring*		
59) Tarpon Springs Exchange: 934, 937, 938, 942 685, 686	Custom Calling	Nonrecurring (Secondary)	6/22/87 8/20/87	Docket No. 830411-TP
		Service Ordering Charge)		Order No. 12559
		Recurring*		
60) Company: Company's Service Territory Except: 223, 224, 225, 226, 228 254, 253, 254, 258, 259 293, 294, 299 354, 355, 359 644, 646, 647 680, 681, 684, 685, 687, 688, 689 872, 873, 874, 875, 876, 877 884, 882, 883, 889	Touch Call	Nonrecurring (Secondary)	6/22/87 8/20/87	Docket No. 830007-TP
		Service Ordering Charge and Individual and Two-Party Line Service Charge)		Order No. 11546
64) Sarasota Exchange: 354, 355, 359	Custom Calling	Nonrecurring (Secondary)	6/22/87 8/27/87	Docket No. 830411-TP
		Service Ordering Charge)		Order No. 12559
		Recurring*		
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		Service Ordering Charge and Individual and Two-Party Line Service Charge)		Order No. 11546

NOTE 1: A 30-day free trial on a full-service package or on an individual Custom Calling feature is offered.

ALAN F. CIAMPORCERO/JOHN A. FERRELL, PRESIDENT  
TAMPA, FLORIDA

EFFECTIVE: December 22, 1998  
ISSUED: December 7, 1998



BEFORE THE PUBLIC SERVICE COMMISSION

In re: Review of tariff filing (T-060052) by Verizon Florida Inc. to establish permanent promotional offering. | DOCKET NO. 060292-TL  
ORDER NO. PSC-06-0390-PAA-TL  
ISSUED: May 10, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
J. TERRY DEASON  
ISILIO ARRIAGA  
MATTHEW M. CARTER II  
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION ORDER  
ALLOWING TARIFF TO REMAIN IN EFFECT

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Introduction

On January 27, 2006, Verizon Florida Inc. (Verizon) filed to establish a permanent promotional tariff offering (T-060052). We have jurisdiction to review this tariff under Section 364.051, Florida Statutes.<sup>1</sup>

Tariff filings by price regulated local exchange companies such as Verizon are presumptively valid, and non-basic service filings (which would include this type of tariff) go into effect on 15 days' notice pursuant to Section 364.051(5)(a). If there are issues regarding the legality of a tariff, we consider and determine whether the tariff should remain in effect or be canceled.

We review this tariff because it includes provisions for variable benefits to customers. This is a departure from traditional approaches and raises potential legal and policy issues. Primarily, we must ensure that both as proposed and as applied the tariff does not result in undue discrimination among similarly situated customers or below-cost pricing.

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<sup>1</sup> All statutory references in this Order are to Florida Statutes 2005.

### The Tariff Offering

Verizon designed its permanent promotional tariff offering primarily as a retention strategy to address a high rate of residential access line loss, especially to the incumbent cable company. The Verizon product manager will develop and activate each promotion, with only one promotion available at any one time. The promotion will be offered if a residential customer calls Verizon to disconnect service and explains he/she is accepting an offer from a competing company. Each promotional offer will not exceed 90 days in duration and will be available for resale to CLECs at no discount, in keeping with the FCC's determination that "promotional prices offered for a period of 90 days or less need not be offered at a discount to resellers." (FCC 96-325, ¶ 950)

Under this permanent promotional tariff, Verizon will offer qualifying callers a one-time benefit, with no change in tariffed rates. The promotional benefit is described in the tariff as "including, but not limited to gift checks/cards or bill credits on services, and offerings made up of non-regulated products or services." The tariff states that "(o)n average, any combination of promotional benefits made to customers will not exceed \$55 in any calendar year."

Verizon says that service representatives will have specific decision criteria that must be followed before offering each promotion. Only one type of benefit will be offered under any one promotion; however, different valued benefits, such as both \$25 and \$50 gift cards, may be offered under the same promotion. Where different valued benefits are offered, the service representatives will be instructed to offer the lower valued benefit first and only offer the higher valued benefit if necessary. Verizon says also that the service representative's compensation will not be affected in any way by the promotion. For example, compensation will not be affected by the representative's customer retention statistics or the average benefit value provided by the representative.

### Legal & Regulatory Analysis

We first consider whether the tariff violates the statutory prohibition against undue discrimination. The basic legal framework for regulating the offerings of Verizon as an incumbent local exchange company is found in Section 364.051. This section was enacted in 1995 and has been amended several times since. Under Section 364.051(5)(a), incumbent local exchange companies are authorized to meet competitive offers, but "shall not engage in any anticompetitive act or practice, nor unreasonably discriminate among similarly situated customers."

While different customers may receive different valued benefits under this tariff, these differences do not result from an arbitrary pricing scheme; rather the pricing scheme is designed to allow Verizon to respond rationally to customers who may not be similarly situated in terms of having the same competing offers. Based on current information, we therefore conclude that the tariff does contemplate unreasonable discrimination among similarly situated customers.

We next consider whether the tariff contemplates pricing below incremental cost. After considering the average promotional benefit and the incidence of use, we conclude that the



permanent promotion does cover incremental cost. The proprietary analysis provided to our staff by Verizon considered the residential subscription rates for all vertical services and average intraLATA billable usage, i.e., the typical residential customer profile, and determined a break-even period that was significantly lower than the expected location life. We note that to the extent the permanent promotion is provided to atypical residential customers, with higher spending patterns, the break-even period would be shorter.

#### Tracking Essential

The above conclusions are based on the tariff *as proposed*. We believe it essential to track Verizon's application of the tariff among similarly situated customers or below-cost pricing, or both. For example, the tariff states that "(o)n average, any combination of promotional benefits made to customers will not exceed \$55 in any calendar year." We need to ensure that this limit is not exceeded, as this constraint is key to ensuring that incremental costs are covered. We thus conclude that Verizon must provide semi-annual tracking reports during 2006, by individual promotion and in total, showing the number of offers made, the number of offers accepted, and the average dollar benefit provided to customers. Tracking reports are due on July 31, 2006 and January 31, 2007.

We also note that tracking is essential for Verizon as the company will be experimenting to determine the most cost effective ways of retaining customers. Verizon says that it will be tracking results on a monthly basis and monitoring statistics including offers made, offers accepted, and average dollar benefit provided.

Due to the flexible nature of the permanent promotional tariff, our staff identified some issues related to complaint handling, which they discussed with the company and resolved to their satisfaction. We understand that Verizon is willing to provide written notification of each promotion to staff, thereby providing the necessary knowledge for staff to address any customer complaints that may be filed with the Commission. Further, the company has indicated that if a customer states the company promised a higher valued benefit, and the higher valued benefit is available under the promotion, the company will accept the customer's word.

#### Conclusion

For the reasons stated above, we conclude that Verizon's permanent promotional tariff offering (T-060052) may remain in effect, subject to two requirements.

1. Verizon must provide staff with one-day, advance written notice of each promotional offer made during 2006; and
2. Verizon must provide semi-annual tracking reports during 2006, by individual promotion and in total, showing the number of offers made, the number of offers accepted, and the average dollar benefit provided to customers. Tracking reports are due on July 31, 2006 and January 31, 2007.

Based on the foregoing, it is

**ORDERED** by the Florida Public Service Commission that a permanent promotional tariff offering (T-060052) of Verizon Florida Inc. (Verizon) may remain in effect subject to two explicit requirements:

1. Verizon must provide staff with one-day, advance written notice of each promotional offer made during 2006; and
2. Verizon must provide semi-annual tracking reports during 2006, by individual promotion and in total, showing the number of offers made, the number of offers accepted, and the average dollar benefit provided to customers. Tracking reports are due on July 31, 2006 and January 31, 2007.

**ORDERED** that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

**ORDERED** that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 10th day of May, 2006.

/s/ Blanca S. Bayó

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

This is a facsimile copy. Go to the Commission's Web site,  
<http://www.floridapsc.com> or fax a request to 1-850-413-  
7118, for a copy of the order with signature.

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 31, 2006.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.