

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint and request for emergency relief against Verizon Florida, L.L.C. for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Comcast Phone of Florida, L.L.C. d/b/a Comcast Digital Phone.

DOCKET NO. 080036-TP

In re: Complaint and request for emergency relief against Verizon Florida, LLC for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Bright House Networks Information Services (Florida), LLC, and its affiliate, Bright House Networks, LLC.

DOCKET NO. 070691-TP
Dated: July 25, 2008

**COMCAST PHONE OF FLORIDA, L.L.C.'S
PREHEARING STATEMENT**

Comcast Phone of Florida, L.L.C. d/b/a Comcast Digital Phone ("Comcast"), pursuant to *Order Establishing Procedure*, Order No. PSC-08-0235-PCO-TP, issued April 10, 2008; *Amendatory Order*, Order No. PSC-08-0235A-PCO-TP issued April 11, 2008; *Modifying Procedure Order*, Order No. PSC-08-325-PCO-TP, issued May 19, 2008; *Second Order Modifying Procedure*, Order No. PSC-08-0344-PCO-TP, issued May 28, 2008; and, *Third Order Modifying Procedure*, Order No. PSC-0437-PCO-TP, issued July 8, 2008, submits the following Prehearing Statement to the Florida Public Service Commission ("Commission") in the above-captioned dockets.

- COM _____
- ECR _____
- GCL _____
- OPC _____
- RCP _____
- SSC _____
- SGA _____
- ADM _____
- CLK _____

WITNESS

Beth Choroser, Direct and
Rebuttal

A. WITNESSES

SUBJECT MATTER

Verizon's retention marketing program is anticompetitive and violates numerous statutes and rules. The Commission should prohibit it immediately.

ISSUES

All Issues

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

B. EXHIBITS

Comcast does not intend to present any exhibits, but reserves the right to introduce exhibits, if necessary, as may be required by cross examination, later filed testimony, completion of discovery, or new issues identified at the prehearing conference.

C. BASIC POSITION

There is no dispute in this case regarding what Verizon is doing – the only issue here is whether Verizon’s use of proprietary carrier change information, the Local Service Request or “LSR,” obtained from Comcast during the number porting process to trigger target marketing of porting customers during the porting window is anti-competitive and therefore illegal under Florida law. Verizon’s retention marketing practice is a gross abuse of the number porting process, is anticompetitive, and should be prohibited.

Verizon’s retention marketing program targets customers who have requested that their current telephone number be ported to a new voice service provider. These telephone number port requests are made by the new service provider, such as Comcast or another CLEC, to the soon to be former provider, such as Verizon, because the only way a telephone number can be ported is with the soon to be former provider’s cooperation and facilitation. During the few days in which Verizon is required to port the telephone number and not use proprietary carrier change information to trigger retention marketing, Verizon uses this information, provided by Comcast, to target market the porting customer and attempt to retain the customer. When this Commission has previously considered the use of such highly sensitive carrier information by an ILEC for retention or winback marketing, the Commission has prohibited an ILEC from using information acquired in the process of a customer switching carriers for the purpose of retention marketing, prohibited the ILEC from including marketing information in the final bill to its former customer, and approved a 10-day waiting period before the ILEC is allowed to engage in any

winback marketing to a former customer. This Commission should affirm its prior decisions, and rule as a matter of Florida law that Verizon's retention marketing program is prohibited because it is anticompetitive, violates Florida Statutes Sections 364.01(4), 364.3381, and 364.10, as well as Florida Administrative Code Rule 25-4.082, and is not in the best interest of consumers.

D. ISSUES AND POSITIONS

ISSUE 1: Does Verizon receive notice of a pending customer's switch to Bright House or Comcast through an LSR received on Verizon's wholesale or Verizon's retail side?

COMCAST'S POSITION: The LSR is submitted electronically to Verizon by Comcast pursuant to standard industry interfaces and procedures. Whether the LSR is received by Verizon wholesale or retail employees is irrelevant to the fact that this confidential and proprietary carrier information, the LSR, is provided by Comcast to Verizon for the singular purpose of having the customer's telephone number transferred to Comcast as the customer's new service provider. Comcast has no choice but to provide this information to Verizon as Verizon's cooperation is necessary to execute the port. It is this information that Verizon's retention marketing organization utilizes to contact customer's whose number porting requests are pending.

ISSUE 2: Is Verizon the underlying "executing carrier" in the LNP process requested by a Bright House or Comcast LSR? If so, does Verizon initiate retention marketing efforts based on its status as the underlying executing carrier for a port, using carrier-to-carrier information?

COMCAST'S POSITION: Yes, and there is no dispute regarding Verizon's practices. Verizon is the executing carrier for porting the telephone numbers of its customers, so for any Verizon customer who wants to change to another service provider and keep their phone number,

Verizon must facilitate the number port so that the customer will be able to continue to use its telephone number with its new service. Verizon does not dispute that it uses the LSR information to initiate its retention marketing efforts.

ISSUE 3: Is Verizon giving undue or unreasonable preference or advantage to any person when receiving an LSR to port a number for Bright House or Comcast? If so, how is Verizon doing so?

COMCAST'S POSITION: Yes, and there is no dispute about Verizon's conduct in this matter.

Verizon is giving itself a vastly unfair advantage by taking the proprietary carrier information given to it for the sole purpose of porting the customer's telephone number and then using that information to engage in targeted retention marketing to that very same customer before the port has been completed. No other carrier has this information, and Verizon would not have this information but for the fact that Verizon's cooperation is required in order for number porting to occur.

ISSUE 4: Is Verizon's retention marketing program a barrier to competition when retention marketing is initiated upon receipt of a Bright House or Comcast LSR to port a customer?

COMCAST'S POSITION: Yes. Target marketing a customer during the porting window based upon the winning service provider's proprietary carrier change information creates an inherent conflict of interest that undermines the porting process and the public policy that numbers should be freely ported between carriers. Refusal to port a telephone number has been recognized as a significant barrier to competition. For voice competition to work, customers must be able to seamlessly and transparently have their telephone numbers transferred to a new service provider when they switch service providers without any interference from the old service provider. Allowing Verizon to exploit its position as the executing carrier to target market during the porting window those customers whose telephone numbers it is required to

port by using proprietary carrier change information that must be provided to it by the winning service provider is an obvious barrier to competition.

ISSUE 5: Does Verizon facilitate porting of a subscriber's telephone number upon request of Bright House or Comcast?

COMCAST'S POSITION: Verizon must cooperate with the winning service provider during the porting process to facilitate the execution of the port. For example, Verizon schedules the date of the cut-over, which triggers the ultimate removal of the number to be ported from the Verizon switch serving the customer from the frame in the central office. Verizon also delivers information to the E911 database to unlock the customer's record so it can be modified by the winning service provider, implements changes to the customer's directory listing, and after Verizon's service is disconnected ceases billing. Further, Verizon establishes a "conditional ten digit trigger" in the Verizon switch serving the customer so that incoming calls to the customer will be correctly routed on the port due date during the brief period of time after the winning service provider has physically completed the installation of the customer's service but prior to Verizon fully disconnecting the customer's number translations from its own switch. Additionally, Verizon confirms the pending subscription record previously established in the Number Portability Administration Center by the winning service provider. Clearly, Verizon's cooperation is critical to facilitating the port of the customer to the winning service provider.

ISSUE 6: Is Verizon's retention marketing program anti-competitive? Why or why not?

COMCAST'S POSITION: Yes. It is clearly anti-competitive because Verizon is abusing its position as the executing carrier in the number porting process by utilizing proprietary carrier change information obtained solely for the purpose of porting the telephone number of a customer Verizon has lost to a competitor. Competitive carriers have no choice but to provide Verizon with the information necessary for Verizon to execute a number port. As the losing

carrier in a number porting scenario, Verizon has exclusive access to the porting customer's telephone number and therefore is in a unique position to delay and or abuse the process. Verizon's utilization of information that its competitors have no choice but to provide it to target market porting customers during the porting window causes great harm to competition. Nothing could be more anti-competitive.

ISSUE 7: Should the Commission order Verizon to cease retention marketing to its customers who are switching to Bright House or Comcast?

COMCAST'S POSITION: Yes. Verizon should be prohibited from using any information provided by Comcast or Bright House as a part of the number porting process for the purpose of retention marketing. Comcast would support application to Verizon of the Commission's decision in Order No. PSC-02-0875-PAA-TP (June 28, 2002), which prohibited any retention marketing until 10 days after the completion of the number port in order to avoid customer confusion.

E. PENDING MOTIONS

None by Comcast at this time. Comcast reserves its right to raise motions at the Pre-Hearing Conference or at the Hearing.

F. PENDING CONFIDENTIAL CLAIMS OR REQUESTS

None at this time.

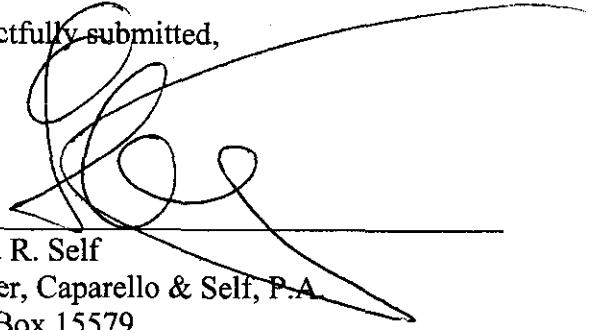
G. OBJECTIONS TO A WITNESSES QUALIFICATION AS EXPERT

None at this time.

H. ANY OTHER REQUIREMENTS THAT CANNOT BE COMPLIED WITH

None at this time.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'F. Self', written over a horizontal line. The signature is stylized and somewhat cursive.

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