

Ruth Nettles

From: Ann Bassett [abassett@lawfla.com]
Sent: Thursday, July 31, 2008 4:17 PM
To: Filings@psc.state.fl.us
Subject: Docket Nos. 070691-TP and 080036-TP
Attachments: 2008-07-31, 070691 and 080036 Comcast Revised Prehearing Statement.pdf; 2008-07-31, 070691 and 080036, Comcast Revised Prehearing Statement.doc

The person responsible for this electronic filing is:

Floyd R. Self
Messer, Caparello & Self, P.A.
P.O. Box 15579
Tallahassee, FL 32317
(850) 222-0720
fself@lawfla.com

The Docket Nos are:

070691-TP - 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

080036-TP - 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.

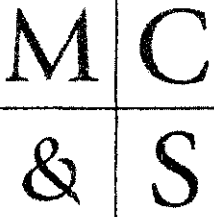
This is being filed on behalf of Comcast Phone of Florida, L.L.C. d/b/a Comcast Digital Phone

Total Number of Pages is 7.

Comcast Phone of Florida, L.L.C.'s Revised Prehearing Statement.

The document is attached in pdf and MS Word 2003 format.

Ann Bassett
Messer, Caparello & Self, P.A.
2618 Centennial Place (32308)
P.O. Box 15579
Tallahassee, FL 32317
Direct Phone: 850-201-5225
Fax No. 850-224-4359
Email Address: <abassett@lawfla.com>
Web Address: <www.lawfla.com>



MESSER CAPARELLO & SELF, P.A.

Attorneys At Law

www.lawfla.com

July 31, 2008

BY ELECTRONIC FILING

Ms. Ann Cole, Director
Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

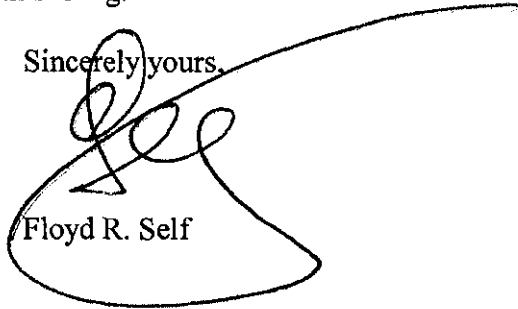
Re: Docket Nos. 070691-TP and 080036-TP

Dear Ms. Cole:

Enclosed for filing on behalf of Comcast Phone of Florida, L.L.C. d/b/a Comcast Digital Phone ("Comcast") is an electronic version of Comcast's Revised Prehearing Statement in the above referenced dockets. The wrong issues were inadvertently inserted in the Prehearing Statement filed on July 25, 2008. No substantive changes have been made to our positions on these issues. Also enclosed is a version of the document in MS Word 2003 format.

Thank you for your assistance with this filing.

Sincerely yours,



Floyd R. Self

FRS/amb
Enclosure
cc: Parties of Record

DOCUMENT NUMBER - DATE
06735 JUL 31 08
FPSC-COMMISSION CLERK

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
REVISED 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 Revised Prehearing Statement to the Florida Public Service Commission ("Commission") in the above-captioned dockets.

A. WITNESSES

<u>WITNESS</u>	<u>SUBJECT MATTER</u>	<u>ISSUES</u>
Beth Choroser, Direct and Rebuttal	Verizon's retention marketing program is anticompetitive and violates numerous statutes and rules. The Commission should prohibit it immediately.	All Issues

DOCUMENT NUMBER-DATE

1

06735 JUL 31 8

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: 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 2: Does Verizon facilitate porting of a subscriber's telephone number upon request of Bright House or Comcast, pursuant to Rule 25-4.082, F.A.C.?

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 customers 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 winner service provider. Clearly, Verizon’s cooperation is critical to facilitating the port of the customer to the winning service provider.

ISSUE 3: Is Verizon’s retention marketing program appropriately competitive or anti-competitive? Why or why not?

COMCAST’S POSITION: 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 4: What action, if any, should the Commission take with respect to Verizon’s Retention Marketing Program?

COMCAST’S POSITION: Verizon should be prohibited as a matter of Florida law 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.

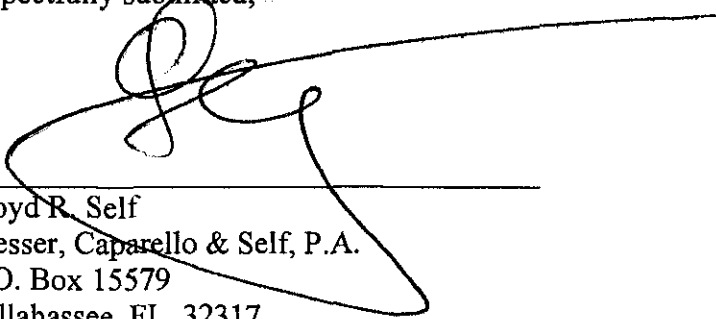
G. OBJECTIONS TO A WITNESSES QUALIFICATION AS EXPERT

None at this time.

H. ANY OTHER REQUIREMENTS THAT CANNOT BE COMPLIED WITH

None at this time.

Respectfully submitted,



Floyd R. Self
Messer, Caparello & Self, P.A.
P.O. Box 15579
Tallahassee, FL 32317
Tel: 850-222-0720
Fax: 850-224-4359
fself@lawfla.com

Counsel for Comcast Phone of Florida,
L.L.C. d/b/a Comcast Digital Phone

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing have been served by Electronic Mail (*) and/or U. S. Mail this 31st day of July, 2008 upon the following:

Charlene Poblete, Esq.*
H. F. Mann, Esq.*
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Mr. David Christian*
Verizon Florida LLC
106 East College Avenue, Suite 710
Tallahassee, FL 32301

Beth Keating, Esq.*
Akerman Senterfitt Law Firm
106 East College Avenue, Suite 1200
Tallahassee, FL 32302-1877

Marva Brown Johnson, Esq.*
Bright House Networks Information
Services, LLC
12985 North Telecom Parkway
Temple Terrace, FL 33637-0907

Christopher W. Savage, Esq.*
Davis Wright Tremaine, LLP
1919 Pennsylvania Avenue, NW, Suite 20
Washington, DC 20006

Dulaney L. O'Roark III, Esq.*
Verizon Florida LLC
5055 North Point Parkway
Alpharetta, GA 30022

Christopher McDonald, Esq.*
Vice President, State Government Affairs
Comcast -Southern Division
600 Galleria Parkway, Suite 1100
Atlanta, GA 30339

Samuel F. Cullari, Counsel*
Comcast Cable
1500 Market Street
Philadelphia, PA 19102

David A. Konuch, Esq.*
Florida Cable Telecommunications
Association, Inc. (interested)
246 E. 6th Avenue, Suite 100
Tallahassee, FL 32303

Howard E. Adams, Esq.
Pennington Law Firm (interested)
Post Office Box 10095
Tallahassee, FL 32302-2095

Ms. Carolyn Ridley
Time Warner Telecom (interested)
555 Church Street, Suite 2300
Nashville, TN 37219



FLOYD R. SELF