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State of Florida



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

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JAN 10 AM 9:26
COMMISSION
CLERK

DATE: JANUARY 10, 2002

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYO)

FROM: OFFICE OF GENERAL COUNSEL (L. FORDHAM) *LF*
DIVISION OF COMPETITIVE MARKETS AND ENFORCEMENT (M. WATTS) *W*

RE: DOCKET NO. 990362-TI - INITIATION OF SHOW CAUSE
PROCEEDINGS AGAINST GTE COMMUNICATIONS CORPORATION (N/K/A
VERIZON SELECT SERVICES INC.) FOR APPARENT VIOLATION OF
RULE 25-4.118, F.A.C., LOCAL, LOCAL TOLL, OR TOLL PROVIDER
SELECTION.

DOCKET NO. 991376-TL - INITIATION OF SHOW CAUSE
PROCEEDINGS AGAINST GTE FLORIDA INCORPORATED FOR APPARENT
VIOLATION OF SERVICE STANDARDS.

AGENDA: 01/22/02 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\990362AS.RCM

CASE BACKGROUND

Docket No. 990362-TI

- March 18, 1999 - Staff opened Docket No. 990362-TI to initiate show cause proceedings against Verizon Select Services Inc. (VSSI) for unauthorized carrier changes (slamming) in apparent violation of Rule 25-4.118, Florida Administrative Code.

DOCUMENT NUMBER-DATE

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PSC-COMMISSION CLERK

DATE: January 10, 2002

- November 23, 1999 - VSSI submitted a settlement offer to resolve the alleged slamming violations.
- December 16, 1999 - VSSI submitted a revised settlement offer to resolve the alleged slamming violations.
- January 14, 2000 - OPC filed a Notice of Intervention. Order No. PSC-00-0966-PCO-TI was issued on May 18, 2000, acknowledging intervention of the Citizens of the State of Florida by and through OPC.
- July 26, 2000 - Proposed Agency Action (PAA) Order No. PSC-00-1348-PAA-TI was issued approving Verizon's settlement offer to resolve the issues in this docket.
- August 16, 2000 - The OPC filed a protest of PAA Order No. PSC-00-1348-PAA-TI and a petition requesting a hearing pursuant to Section 120.57, Florida Statutes.
- May 29, 2001 - VSSI filed a motion for continuance of the June 1, 2001, hearing. VSSI's motion was approved in Order No. PSC-01-1237-PCO-TI, issued June 1, 2001. The hearing was rescheduled to August 3, 2001.
- July 5, 2001 - VSSI filed a motion for continuance of the August 1, 2001, hearing. VSSI's motion was approved in Order No. PSC-01-1491-PCO-TI, issued July 18, 2001. The hearing was rescheduled for October 31, 2001.
- October 30, 2001 - VSSI filed a motion for continuance of the October 31, 2001, hearing pending an imminent settlement agreement with OPC. VSSI's motion was granted in Order No. PSC-01-2138-PCO-TI, issued November 1, 2001.
- December 10, 2001 - Verizon, VSSI, and OPC filed a joint settlement agreement to resolve all issues in this docket, as well as Docket No. 991376-TL (Attachment A).

Docket No. 991376-TL

- September 10, 1999 - Staff opened Docket No. 991376-TL based upon repeated apparent service standards violations as evidenced in the periodic reports required by Rule 25-4.0185, Florida Administrative Code.

DATE: January 10, 2002

- September 17, 1999 - The Office of Public Counsel (OPC) filed a Notice of Intervention. Order No. PSC-99-2494-PCO-TL was issued on December 20, 1999, acknowledging OPC's intervention.
- October 29, 1999 - Verizon filed an offer of settlement to resolve the issues in this docket.
- December 21, 1999 - Order No. PSC-99-2501-PCO-TL was issued, rejecting Verizon's offer of settlement and setting the docket for hearing.
- January 10, 2000 - OPC filed a motion to expand the scope of the proceeding such that Verizon's willful violation of the Commission's quality of service rules since January 1, 1996, will be at issue in Docket No. 991376-TL. OPC's motion was granted in Order No. PSC-00-0687-FOF-TL, issued April 12, 2000. The proceeding was expanded to include years 1996 and 1997, as well as 1998 and 1999.
- June 21, 2001, August 1, 2001, and September 10, 2001 - The Commission held three days of hearing regarding Verizon's apparent violation of the Commission's service standards during the period January 1, 1996, through December 31, 1999.
- October 30, 2001 - Verizon filed a motion for continuance of post-hearing procedures, including the filing of briefs, pending an imminent settlement with OPC. Order No. PSC-01-2137-PCO-TL was issued on November 1, 2001, modifying the schedule in anticipation of a settlement agreement.
- December 10, 2001 - Verizon, VSSI, and OPC filed a joint settlement agreement to resolve all issues in this docket, as well as Docket No. 990362-TI (Attachment A).

The Florida Public Service Commission is vested with jurisdiction over these matters pursuant to Sections 364.01, 364.03, 364.17, 364.183, 364.285 and 364.603, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DATE: January 10, 2002

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the provisions of the Settlement Agreement, offering a settlement of \$1,100,000, entered into by Verizon Select Services Inc. and the Office of Public Counsel on December 10, 2001, that the company has proposed to resolve the issues in Docket No. 990362-TI, Initiation of show cause proceedings against GTE Communications Corporation (n/k/a Verizon Select Services Inc.) for apparent violation of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection?

RECOMMENDATION: Yes. The Commission should accept the provisions of the Settlement Agreement, offering a settlement of \$1,100,000, entered into by Verizon Select Services Inc. and the Office of Public Counsel on December 10, 2001. The company has proposed this settlement to resolve the issues in Docket No. 990362-TI, Initiation of show cause proceedings against GTE Communications Corporation (n/k/a Verizon Select Services Inc.) for apparent violation of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection. The contribution should be received by the Commission no later than thirty days from the date that the Commission's Order becomes final and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. (M. Watts/L. Fordham)

STAFF ANALYSIS: On May 26, 1999, staff met with VSSI to discuss its concerns regarding the number of apparent unauthorized carrier change complaints being received. VSSI stated that the consumer complaints stem from the actions of one marketing firm (Snyder Communications, Inc.) and that this firm has terminated all face-to-face marketing on behalf of VSSI.

Thereafter, on November 23, 1999, VSSI submitted its offer of settlement. On December 16, 1999, VSSI submitted a revised settlement offer and requested a deferral of its settlement proposal from the December 21, 1999, Agenda Conference in order to allow staff to consider its revised settlement offer. VSSI proposed a monetary settlement of \$209,000 and to take actions to prevent unauthorized carrier changes in the future.

DOCKET NOS. 990362-TI, 991376-TL
DATE: January 10, 2002

On January 14, 2000, OPC submitted a notice of intervention in Docket No. 990362-TI. OPC then began issuing interrogatories and requests for production of documents to VSSI.

On July 26, 2000, the Commission issued Order No. PSC-00-1348-PAA-TI approving VSSI's settlement offer. On August 16, 2000, OPC protested the Order and requested the matter be set for hearing.

Prior to the completion of a hearing before the Commission, VSSI and OPC agreed upon terms of a settlement, as outlined in Attachment A, and submitted it to the Commission on December 10, 2001. As settlement, VSSI will make a monetary contribution of \$1,100,000 to the General Revenue Fund to be paid no later than 30 days after the Order approving the settlement becomes final.

Staff recommends that the Commission should accept the provisions of the Settlement Agreement, offering a settlement of \$1,100,000, entered into by Verizon Select Services Inc. and the Office of Public Counsel on December 10, 2001. The company has proposed this settlement to resolve the issues in Docket No. 990362-TI, Initiation of show cause proceedings against GTE Communications Corporation (n/k/a Verizon Select Services Inc.) for apparent violation of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection. The contribution should be received by the Commission no later than thirty days from the date that the Commission's Order becomes final and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund.

ISSUE 2: Should the Commission accept the provisions of the Settlement Agreement, offering a settlement of \$2,000,000, entered into by Verizon Florida Inc. and the Office of Public Counsel on December 10, 2001, that the company has proposed to resolve the issues in Docket No. 991376-TL, Initiation of show cause proceedings against GTE Florida Incorporated (n/k/a Verizon Florida Inc.) for apparent violation of service standards?

RECOMMENDATION: Yes. The Commission should accept the provisions of the Settlement Agreement, offering a settlement of \$2,000,000, entered into by Verizon Florida Inc. and the Office of Public Counsel on December 10, 2001. The company has proposed this settlement to resolve the issues in Docket No. 991376-TL, Initiation of show cause proceedings against GTE Florida Incorporated (n/k/a Verizon Florida Inc.) for apparent violation of service standards. Any contribution should be received by the Commission no later than thirty days from the date the Commission's Order becomes final and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. (M. Watts/L. Fordham)

STAFF ANALYSIS: Pursuant to Rule 25-4.0185, Florida Administrative Code, Verizon is required to file with the Commission quarterly reports which demonstrate its measure of its quality of service. During January 1998 through September 1999, Verizon's quarterly reports indicated that it had consistently not met the 95% performance standard for restoration of interrupted service within 24 hours of report and installation of primary service within three working days in apparent violation of the Commission's service standards.

On September 17, 1999, the Office of Public Counsel (OPC) filed a Notice of Intervention in this proceeding. After that time, OPC, independent of the Commission, initiated its own investigation, including serving discovery requests, and conducting meetings with Verizon representatives.

Prior to staff's filing its initial recommendation in Docket No. 991376-TL, Verizon came forth to discuss staff's concerns and, on October 29, 1999, submitted its offer of settlement. In its settlement offer, Verizon agreed to make specific personnel and procedural changes to ensure that it would meet the Commission's

service standards in the future, as well as a monetary settlement of \$50,000.

At the November 30, 1999, Agenda Conference, OPC opposed the Commission accepting Verizon's offer of settlement. OPC argued that it would be inappropriate to accept the settlement offer when Verizon was still not in compliance with the service standards rules. According to OPC, Verizon's problems were ongoing. Additionally, OPC argued that Verizon's proposed settlement payment amount of \$50,000 was too low. OPC stated that with 562 repair violations and 192 installation violations, the \$50,000 settlement offer amounted to just \$66 per violation. Therefore, OPC requested that the matter be set for hearing. Accordingly, the Commission rejected the settlement offer and set the matter for hearing.

On April 12, 2000, the Commission issued Order No. PSC-00-0687-FOF-TL granting OPC's January 10, 2000, motion to determine that Verizon's willful violation of the Commission's quality of service rules since January 1, 1996, will be at issue in this proceeding.

The hearing was conducted on June 21, August 1, and September 10, 2001. On October 30, 2001, Verizon filed a motion for continuance of post-hearing procedures, including the filing of briefs, pending an imminent settlement agreement with OPC. Order No. PSC-01-2137-PCO-Tl was issued on November 1, 2001, modifying the procedural schedule in anticipation of the settlement agreement.

Verizon and OPC agreed upon terms of a settlement, as outlined in Attachment A, and submitted it to the Commission on December 10, 2001. Verizon proposes a monetary contribution of \$2,000,000 to the General Revenue Fund to be paid no later than 30 days after the Order approving the settlement becomes final.

Therefore, staff recommends the Commission should accept the provisions of the Settlement Agreement, offering a settlement of \$2,000,000, entered into by Verizon Florida Inc. and the Office of Public Counsel on December 10, 2001. The company has proposed this settlement to resolve the issues in Docket No. 991376-TL, Initiation of show cause proceedings against GTE Florida Incorporated (n/k/a Verizon Florida Inc.) for apparent violation of service standards. Any contribution should be received by the Commission no later than thirty days from the date the Commission's

DOCKET NOS. 990362-TI, 991376-TL

DATE: January 10, 2002

Order becomes final and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund.

DOCKET NOS. 990362-TI, 991376-TL
DATE: January 10, 2002

ISSUE 3: Should these dockets be closed?

RECOMMENDATION: If staff's recommendations in Issues 1 and 2 are approved, these dockets should be closed upon receipt of the monetary contributions. (L. Fordham)

STAFF ANALYSIS: If staff's recommendations in Issues 1 and 2 are approved, these dockets should be closed upon receipt of the monetary contributions.

ORIGINAL



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison St.
Room 812
Tallahassee, Florida 32399-1400
850-488-9330

RECEIVED-FPSC
01 DEC 10 PM 2:23
COMMISSION
CLERK

December 10, 2001

Blanca S. Bayo, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 991376-TL

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of the Joint Motion Seeking Commission Approval of Settlement Agreement.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Charles J. Beck,
Deputy Public Counsel

CJB:bsr

Enclosure

APP
CAF
CMP
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LEG
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SEC
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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

15394 DEC 10 2001

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of Show Cause
Proceedings against GTE Florida,
Inc., for Violation of Service Standards

Docket 991376-TL

Filed December 10, 2001

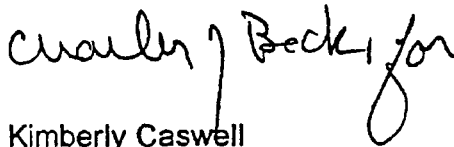
Joint Motion Seeking Commission Approval of Settlement Agreement

The Office of Public Counsel (OPC) and Verizon Florida, Inc. (Verizon Florida) file this joint motion requesting the Florida Public Service Commission (Commission) to approve the attached settlement agreement. In support of this joint motion, OPC and Verizon Florida show the following:

1. OPC and Verizon Florida have entered into a settlement agreement that avoids the time, expense and uncertainty associated with adversarial litigation, in keeping with the Commission's long-standing policy and practice of encouraging parties in contested proceedings to settle issues whenever possible. That settlement agreement is attached to this motion as attachment 1.
2. OPC and Verizon Florida believe that the settlement agreement serves the public interest and accordingly request the Commission to expeditiously accept and approve settlement agreement as filed and to close docket no. 991376-TL.
3. OPC and Verizon Select Services, Inc., are contemporaneously filing a similar motion in docket 990362-TI, because the settlement agreement resolves that docket, as well.

WHEREFORE, OPC and Verizon Florida respectfully request the Commission
to approve the attached settlement agreement and to close docket 991376-TL.

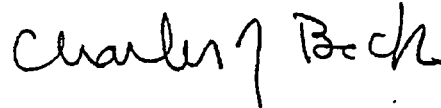
Respectfully submitted,



Kimberly Caswell
P.O. Box 110, FLTC0007
Tampa, Florida 33601

813-483-2617

Attorney for Verizon Florida, Inc.



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

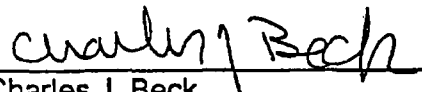
(850) 488-9330

Attorney for the citizens
of Florida

**DOCKET NO. 991376-TL
CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S.

Mail or hand-delivery to the following parties on this 10th day of December, 2001.


Charles J. Beck

Kimberly Caswell
Verizon Florida Incorporated
P.O. Box 110, FLTC0007
Tampa, FL 33601-0110

Lee Fordham
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Rick Moses
Communications Division
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Walter D'Haeseleer
Director of Communications
Communications Division
FL Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Michael A. Gross
FL Cable Telecommunications Assoc., Inc.
246 E. 6th Avenue, Suite 100
Tallahassee, FL 32303

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of Show Cause Proceedings)
Against GTE Communications Corporation)
(n/k/a Verizon Select Services Inc.) for)
Apparent Violation of Rule 25-4.118, F.A.C.,)
Local, Local Toll, or Toll Provider Selection.)

Docket No. 990362-TI

In re: Initiation of Show Cause Proceedings)
against Verizon Florida, Inc., for Violation of)
Service Standards.)

Docket No. 991376-TL

Filed:

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes (2001), Verizon Florida Inc. (Verizon Florida), Verizon Select Services Inc. (VSSI) and the Office of the Public Counsel (OPC) (collectively, the Parties) have entered into this Settlement Agreement to effect an informal disposition and complete and binding resolution of any and all matters and issues which were or might have been addressed by the Florida Public Service Commission (Commission) in Docket Numbers 990362-TI and 991376-TL. This Settlement Agreement avoids the time, expense and uncertainty associated with adversarial litigation, in keeping with the Florida Public Service Commission's longstanding policy and practice of encouraging parties in contested proceedings to settle issues whenever possible. The terms of this Settlement Agreement are as follows:

1. As complete resolution of Docket Numbers 990362-TI and 991376-TL, and in lieu of any fine or other penalty that the Commission might otherwise assess in either of these dockets, Verizon Florida and VSSI will make contributions totaling \$3.1 million to the General Revenue Fund of the State of

Florida, with no admission of liability or wrongdoing by either company, to resolve all issues in both dockets. The \$3.1 million is comprised of contributions by Verizon Florida and VSSI as set forth in paragraphs 4 and 5 of this Settlement Agreement.

2. This Settlement Agreement will take effect the day after it is approved by the Commission. The Parties understand that the Commission's decision will be reflected in a final order.

3. No Party to this Settlement Agreement will request, support or seek to impose a change in the application of any provision of this Settlement Agreement. Provided the Commission approves the Settlement Agreement, each Party waives its right to request further administrative or judicial proceedings concerning any and all matters which were or might have been addressed by the Commission in resolving these Dockets, except proceedings to enforce this Settlement Agreement. This waiver of the right to further administrative or judicial proceedings shall include (but not be limited to): a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code; a motion for reconsideration of the decision in this matter in the form prescribed by Rule 25-22.060, Florida Administrative Code; or a notice of appeal to initiate judicial review by the Florida Supreme Court pursuant to Rule 9.110, Florida Rules of Appellate Procedure, in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

4. To resolve Docket Number 991376-TL as contemplated herein, Verizon Florida individually will contribute \$2 million to the General Revenue Fund

no later than 30 days after the date the order approving this Settlement Agreement becomes final.

5. To resolve Docket Number 990362-TI as contemplated herein, VSSI individually will contribute \$1.1 million to the General Revenue Fund no later than 30 days after the date the order approving this settlement becomes final.

6. This Settlement Agreement is contingent upon the Florida Public Service Commission's accepting the entire Agreement, which acceptance shall include the Commission's explicit recognition that its order approving this Settlement Agreement resolves all matters that were or might have been addressed in these Dockets.

7. This Settlement Agreement resolves all matters in both Dockets in accordance with Section 120.57(4), Florida Statutes (2001). Both Dockets will be closed effective on the date the Commission order approving this Settlement Agreement is final. The submission of this Settlement Agreement by the parties is in the nature of an offer to settle. Consequently, if this Settlement Agreement is not accepted and approved without modification by an order not subject to further proceedings or judicial review, then the settlement proposal is rejected and the Settlement Agreement shall be considered null and void and of no further force or effect.

8. If the Commission does not accept this document in its entirety pursuant to its terms, this document shall not be admissible in any hearing on the matters established by either of these Dockets, or in any other docket or forum. Moreover, no Party to this Settlement Agreement waives any position on any issue

that it could have otherwise asserted in any docket in which it is a party, as if this document had never been developed and written. This Settlement Agreement shall not constitute an admission of liability.

9. This Settlement Agreement is being executed in duplicate originals, with an original to be filed by Verizon Florida and the OPC in Docket Number 991376-TL and by VSSI and the OPC in Docket Number 990362-TI.

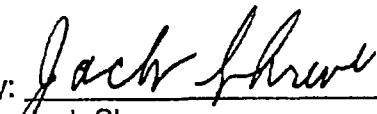
10. This Settlement Agreement may be executed in counterpart originals and a facsimile of an original signature shall be deemed an original.

11. This Settlement Agreement constitutes a single, integrated written contract expressing the entire agreement between the respective Parties in each Docket and superseding all other agreements, representations, and understandings on the subject matter hereof. There is no other agreement, oral or written, expressed or implied, between the Parties with respect to the subject matter hereof, except this Agreement.

The Parties evidence their acceptance and agreement with the provisions of this Settlement Agreement by their signatures:

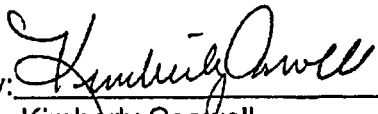
In Docket No. 991376-TL

Office of Public Counsel

By: 
Jack Shreve

Date: 12/6/01

Verizon Florida Inc.

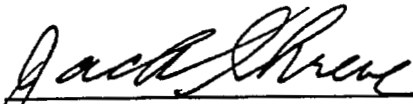
By: 
Kimberly Caswell

Date: 12/1/01

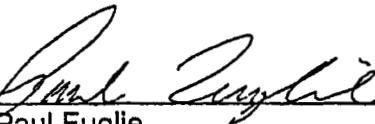
In Docket No. 990362-TI:

Office of Public Counsel

Verizon Select Services Inc.

By: 
Jack Shreve

Date: 12/6/01

By: 
Paul Fuglie

Date: 11/29/01