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January 27, 2009

Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 080234-TP
Implementation of Florida lifeline program involving bundled service packages
and placement of additional enrollment requirements on customers

Dear Ms. Cole:

Enclosed for filing in the above-referenced matter are an original and 15 copies of the
Rebuttal Testimony of Paul B. Vasington on behalf of Verizon Florida LLC. Service has
been made as indicated on the Certificate of Service. If there are any questions
regarding this filing, please contact me at (678) 259-1449.

Sincerely,

Dulaney L. O'Roark III ^{DL}

Dulaney L. O'Roark III

tas

Enclosures

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ECR	_____
GCL	<u>2</u>
OPC	_____
<u>RCP</u>	_____
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing were sent via electronic mail
and/or U.S. mail on January 27, 2009 to:

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AC
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Implementation of Florida Lifeline program) Docket No. 080234-TP
involving bundled service packages and) Filed: January 27, 2009
placement of additional enrollment requirements)
on customers)
_____)**

**PRE-FILED REBUTTAL TESTIMONY OF
PAUL B. VASINGTON
ON BEHALF OF
VERIZON FLORIDA LLC**

January 27, 2009

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1 Q. ARE YOU THE SAME PAUL VASINGTON WHO FILED DIRECT
2 TESTIMONY IN THIS CASE ON DECEMBER 5, 2008?

3 A. Yes.

4

5 Q. PLEASE DESCRIBE THE PURPOSE OF YOUR REBUTTAL
6 TESTIMONY.

7 A. The purpose of my rebuttal testimony is to respond to the direct
8 testimony of Robert J. Casey filed on behalf of Staff, with respect to
9 Issues 1 and 3.

10

11 **ISSUE 1:** UNDER APPLICABLE LAW, MAY THE COMMISSION
12 REQUIRE FLORIDA ETCS THAT CHARGE FEDERAL END
13 USER COMMON LINE CHARGES, OR EQUIVALENT
14 FEDERAL CHARGES, TO APPLY THE LIFELINE DISCOUNT
15 TO BUNDLED SERVICE OFFERINGS WHICH INCLUDE
16 FUNCTIONALITY THAT IS COMPARABLE TO THAT
17 DESCRIBED AT 47 CFR 54.101(a)(1)-(9) OR SECTION
18 364.02(1), FLORIDA STATUTES?

19

20 Q. DOES STAFF BASE ITS POSITION ON ISSUE 1 ON THE SAME
21 REASONING THAT WAS USED IN THE NOTICE OF PROPOSED
22 AGENCY ACTION ORDER THAT GAVE RISE TO THIS DOCKET?

23 A. No. That notice (Order No. PSC 08-0417-PAA-TP) discussed at length
24 the argument that 47 C.F.R. § 54.403(b) required Eligible
25 Telecommunications Carriers ("ETCs") to provide the Lifeline discount

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1 on bundled services. In Verizon's Request to Initiate Formal
2 Proceedings, it explained why this reasoning was invalid with respect to
3 ETCs like Verizon that charge federal end user common line charges or
4 equivalent federal charges. Staff now tacitly acknowledges that Verizon
5 was correct because it has dropped the argument that federal Section
6 54.403.403(b) imposes such a requirement on Verizon. Rather than
7 conceding Issue 1, however, Staff attempts to reach its desired outcome
8 by relying on other arguments.

9

10 **Q. DOES STAFF CONTINUE TO ARGUE THAT FEDERAL LAW**
11 **REQUIRES THE LIFELINE DISCOUNT TO BE APPLIED TO**
12 **BUNDLED SERVICES?**

13 A. Yes, but its only argument that a federal requirement exists is incorrect,
14 and Mr. Casey spends little time trying to defend it. He asserts at page
15 23 of his direct testimony that because local usage is one of the nine
16 service components that must be provided to Lifeline customers, the
17 Lifeline discount must be applied to *any* service that includes local
18 usage. This interpretation is plainly wrong because if the FCC had
19 intended for the Lifeline discount to be applied to any service that
20 includes local usage, its rule would have simply said that, and would not
21 have limited the definition of Lifeline to include only the equivalent of
22 basic local service.

23

24 **Q. DOES STAFF NOW ARGUE THAT STATE LAW AUTHORIZES THE**
25 **LIFELINE DISCOUNT TO BE APPLIED TO BUNDLED SERVICES?**

1 A. Yes. Staff argues that Sections 364(10)(3)(a) and 364.10(3)(d)
2 authorize such a requirement.

3

4 **Q. DOES SECTION 364.10(3)(a) AUTHORIZE A DISCOUNT ON**
5 **BUNDLES?**

6 A. Although I am not a lawyer, I do not believe it does. Section
7 364.10(3)(a) provides as follows:

8 Effective September 1, 2003, any local exchange
9 telecommunications company authorized by the commission
10 to reduce its switched network access rate pursuant to s.
11 364.164 shall have tariffed and shall provide Lifeline service
12 to any otherwise eligible customer or potential customer who
13 meets an income eligibility test at 135 percent or less of the
14 federal poverty income guidelines for Lifeline customers.

15

16 This provision expands the number of customers who are “otherwise
17 eligible” to receive the Lifeline discount from certain ILECs, including
18 Verizon. The use of the phrase “otherwise eligible” makes clear that the
19 Legislature did not enact this provision to expand the services to which
20 the Lifeline discount must be applied. This language therefore provides
21 no support for Staff’s argument.

22

23 **Q. DOES SECTION 364.10(3)(d) AUTHORIZE A DISCOUNT ON**
24 **BUNDLES?**

25

1 A. In my layman's opinion, it does not. Section 364.10(3)(d) provides as
2 follows:

3 An eligible telecommunications carrier may not discontinue
4 basic local exchange telephone service to a subscriber who
5 receives Lifeline service because of nonpayment by the
6 subscriber of charges for nonbasic services billed by the
7 telecommunications company, including long-distance
8 service.

9
10 Contrary to Mr. Casey's assertion at page 24 of his direct testimony, this
11 provision does not "necessarily assume[] that a Lifeline customer will
12 have access to bundled service packages." Rather, it merely defines
13 the respective rights of the carrier and customer when a customer does
14 not pay for nonbasic services the carrier has provided. This provision is
15 entirely consistent with Verizon's practice of permitting a Lifeline
16 customer to buy nonbasic services *separate from and in addition to* the
17 customer's discounted basic service.

18
19 **Q. DOES FLORIDA LAW AUTHORIZE THE COMMISSION TO REQUIRE**
20 **ETC'S LIKE VERIZON TO APPLY THE LIFELINE DISCOUNT TO**
21 **BUNDLED SERVICES?**

22 A. No. For the reasons stated in my direct testimony, I do not believe it
23 does. Other than raising the points I have just noted, Staff does not
24 seek to rebut that portion of my testimony on Issue 1.

25

1 **ISSUE 3:** SHOULD THE COMMISSION REQUIRE EACH FLORIDA ETC
2 THAT CHARGES FEDERAL END USER COMMON LINE
3 CHARGES, OR EQUIVALENT FEDERAL CHARGES, TO
4 APPLY THE LIFELINE DISCOUNT TO ITS BUNDLED
5 SERVICES WHICH INCLUDE FUNCTIONALITY THAT IS
6 COMPARABLE TO THAT DESCRIBED AT 47 CFR
7 54.101(a)(1)-(9) OR SECTION 364.02(1), FLORIDA
8 STATUTES?

9

10 **Q.** DOES STAFF ACKNOWLEDGE THAT THE PURPOSE OF
11 FLORIDA'S LIFELINE PROGRAM RELATES TO BASIC LOCAL
12 TELECOMMUNICATIONS SERVICE?

13 **A.** Yes. Mr. Casey quotes with approval PSC Order No. PSC-08-0130-
14 FOF-TL, issued March 3, 2008, which states that the goal of Link-Up
15 and Lifeline programs "is to help low-income households in Florida
16 obtain and maintain *basic telephone service*." (Casey Direct, pp. 4-5,
17 emphasis added.) Verizon is committed to this goal, and its Florida
18 Lifeline program and policies ensure that it is being achieved.

19

20 **Q.** MR. CASEY CLAIMS AT PAGE 9 OF HIS DIRECT TESTIMONY THAT
21 NOT APPLYING THE LIFELINE DISCOUNT TO BUNDLED
22 SERVICES CREATES A BARRIER TO LIFELINE ENROLLMENT IN
23 FLORIDA. HE FURTHER STATES AT PAGE 31 THAT VERIZON
24 DENIED MORE THAN 9,700 LIFELINE APPLICATIONS. HOW DO
25 YOU RESPOND?

1 A. There is no barrier preventing eligible customers from receiving the
2 Lifeline discount from Verizon. Verizon's policy is to tell customers that
3 they may not have both Lifeline and a service bundle, which is *not* a
4 denial of Lifeline service. These customers are free to choose to keep
5 or take the Lifeline discount on basic service, or they may choose the
6 discount on bundled service instead. All Verizon's policy forbids is
7 receiving both discounts on bundled service, which is clearly
8 communicated to customers so they can make the choice that best
9 meets their needs. Some customers may choose the Lifeline discount
10 and some may choose the bundle discount, but this has no impact on
11 subscribership, and no customer has been denied Lifeline service due to
12 this policy.

13

14 **Q. MR. CASEY ASSERTS AT PAGE 21 OF HIS DIRECT TESTIMONY**
15 **THAT THE COMMISSION SHOULD NOT ATTEMPT TO CONTROL**
16 **THE DISCRETIONARY SPENDING OF A CONSUMER. DO YOU**
17 **AGREE?**

18 A. Generally, yes, but limiting the Lifeline discount to basic service does
19 not seek to control consumers' discretionary spending. Indeed, the
20 Commission should not attempt to force ETCs to apply the discount to
21 other telecommunications services because, as Mr. Casey
22 acknowledges, those services involve customers' discretionary
23 spending.

24

25

1 Q. AT PAGE 19 OF HIS DIRECT TESTIMONY, MR. CASEY ASSERTS
2 THAT IF THE LIFELINE DISCOUNT WERE APPLIED AS STAFF
3 REQUESTS, THE DISCOUNT ONLY WOULD BE APPLIED TO THE
4 LOCAL USAGE COMPONENT OF THE BUNDLE. DO YOU AGREE?

5 A. No. As discussed in detail in my direct testimony (and nowhere rebutted
6 in Mr. Casey's testimony) a service must be either basic or nonbasic; it
7 cannot be both. Because a service bundle is a nonbasic service
8 (another point Mr. Casey does not rebut), the Commission may not
9 require an ETC to apply the Lifeline discount to a service bundle or any
10 of its components.

11
12 Q. MR. CASEY CONTENDS AT PAGE 21 OF HIS DIRECT TESTIMONY
13 THAT NOT APPLYING THE LIFELINE DISCOUNT TO SERVICE
14 BUNDLES IS DISCRIMINATORY. PLEASE RESPOND.

15 A. Mr. Casey is incorrect because Florida law creates the requirement that
16 the Lifeline discount be applied to basic services. Verizon does not
17 discriminate against anyone by adhering to a distinction instituted by
18 law.

19
20 Q. AT PAGE 21 OF HIS DIRECT TESTIMONY, MR. CASEY ASSERTS
21 THAT ETCs THAT DO NOT APPLY THE LIFELINE DISCOUNT TO
22 SERVICE BUNDLES ARE PROVIDING INFERIOR SERVICE. IS
23 THAT TRUE?

24 A. No, this statement is clearly wrong. Verizon provides the same level of
25 basic service to Lifeline customers that it provides to other basic

1 customers. Further, if Lifeline customers wish to receive additional
2 telecommunications services, they have two options. First, they can
3 order such services on an a la carte basis. Second, they can forego the
4 Lifeline discount and order the service bundle and receive the
5 discounted, package rate for those services.

6

7 **Q. DO YOU AGREE WITH MR. CASEY'S READING OF FCC ORDER**
8 **FFCC 04-87?**

9 A. No. Mr. Casey states that "the FCC expressed support for Lifeline
10 customer participation in bundled service packages" in this Order. He
11 then quotes verbatim from the order, with italics, bold print, and
12 underlining of the following passage: "we believe any restriction on the
13 purchase of vertical services may discourage qualified consumers from
14 enrolling and may serve as a barrier to participation in the program."

15

16 Nowhere in this quoted and italicized passage, or in the entire text of
17 FCC 04-87, or in any other rule or FCC decision, does the FCC say
18 anything about supporting Lifeline customer participation in bundled
19 service packages. Mr. Casey is simply reading into the order something
20 that clearly is not there.

21

22 **Q. MR. CASEY REFERS TO A NUMBER OF OTHER STATES THAT**
23 **HAVE REQUIRED LIFELINE FOR BUNDLES. HOW DO YOU**
24 **RESPOND?**

25 A. As I stated in my direct testimony, whether such a mandate is allowed

1 under federal rules is an open question at the FCC, but a minority of
2 states has adopted such a mandate, and Verizon complies with the rule
3 in states where it has been adopted and where we are subject to the
4 rule. Mr. Casey lists these states in his testimony, citing from a Verizon
5 response to a data request.¹ Other state decisions are not controlling
6 on this issue, since it is a matter of Florida law, but even if the
7 Commission finds other state experiences to be instructive, it should be
8 noted that the large majority of states does not require that a Lifeline
9 discount be required for bundles.

10

11 **Q. DO ANY STATES PROHIBIT LIFELINE CUSTOMERS FROM**
12 **SUBSCRIBING TO VERTICAL SERVICES?**

13 A. Yes. To give some examples, in Maryland there are two Lifeline
14 plans. The first is a message rate service for which customers are not
15 allowed to purchase vertical services. The second is a flat rate plan
16 which limits Lifeline customers to the purchase of up to three vertical
17 services at tariffed, a la carte rates. Another example is Ohio, which
18 prohibits Lifeline customers from the purchase of any vertical service,
19 unless the customer has a medical need. Similarly, Virginia does not
20 allow the purchase of vertical services with Lifeline.

21

22

¹ These states are California, North Carolina, Oregon, and Texas. Mr. Casey notes that Pennsylvania adopted such a rule, subsequent to the filing of my testimony and on the date of the filing of the data request response. Also, Mr. Casey states that Verizon affiliates were ordered to provide a Lifeline discount on bundled service offerings in Vermont and Maine. As he notes, Verizon's ILEC operations in Vermont and Maine are now a part of FairPoint Communications, and are no longer Verizon affiliates.

1 Again, these state examples are not dispositive for Florida, where under
2 current policy, Verizon allows Lifeline customers to order vertical
3 features on an a la carte basis, but it is instructive in showing that there
4 is no federal requirement for Lifeline to be provided on non-basic
5 services, since some states limit or do not even allow the purchase of
6 vertical services by Lifeline customers.

7

8 **Q. MR. CASEY TESTIFIES THAT REQUIRING LIFELINE FOR BUNDLES**
9 **IS IN THE PUBLIC INTEREST AND IS CONSISTENT WITH**
10 **UNIVERSAL SERVICE POLICY. DO YOU AGREE?**

11 A. If by “public interest” he means appropriate public policy in the form of a
12 mandate, then, no, I disagree. As I noted in my direct testimony,
13 however, it not necessarily a bad idea for a company to choose to offer
14 a Lifeline discount on top of a bundle discount, but that should be a
15 business decision left to a particular company based on its own
16 business plan and assessment of the market. Mr. Casey even suggests
17 that Verizon could change its Lifeline policy to create a competitive
18 advantage.² This is the kind of decision that should be made by
19 marketing and business development professionals, and not by
20 regulators or people like me in public policy. Given the technological
21 and marketplace evolution in telecommunications, it is better for
22 decisions like this to be made outside of a regulatory proceeding or
23 hearing room.

24

25 The only possible policy rationale for a state commission to require a

² Casey Direct at 32, lines 8-17.

1 mandate of Lifeline for service bundles is that it might further the policy
2 goals of universal service. Mr. Casey believes it does, but I disagree.

3

4 **Q. PLEASE EXPLAIN WHY YOU DISAGREE.**

5 A. Mr. Casey testifies that a Lifeline requirement for service bundles "is
6 consistent with the goals and principles of universal service, is in the
7 public interest, and would foster increased participation in the Florida
8 Lifeline Program."³ He may be correct that the mandate would increase
9 participation in the Florida Lifeline program, but this is a completely
10 separate matter from whether it is consistent with the goals and
11 principles of universal service. Lifeline participation is a *means* to an
12 end, not an *end* in itself. As I noted in direct testimony, "all of the
13 rationales for and benefits of universal service policy concern the goal of
14 universal customer connections to communications networks."⁴ I also
15 recognized that "[t]he customer may rightly perceive more *value* from
16 the discounted bundle," which may increase the participation rate for
17 Lifeline, but this does not equate to an increase in telephone
18 subscribership. A Verizon customer may choose to take the bundle
19 discount in lieu of the Lifeline discount, and this is a choice that the
20 customer is free to make, but it is a choice that does not harm universal
21 service.

22

23 **Q. MR. CASEY NOTES THAT THE NUMBER OF VERIZON**
24 **CUSTOMERS SUBSCRIBING TO LIFELINE HAS GONE DOWN, AND**

³ Casey Direct at 24.

⁴ Vasington Direct at 2.

1 **THAT THE NUMBER OF LIFELINE CUSTOMERS FOR AT&T AND**
2 **EMBARQ HAS INCREASED.⁵ ARE THESE ASSERTIONS**
3 **ACCURATE AND SIGNIFICANT?**

4 A. They appear to be accurate, but I do not believe they lead to the
5 conclusions that Mr. Casey draws from them. Mr. Casey concludes that
6 “one of the reasons for the decrease is because of Verizon’s policy of
7 denying Lifeline-eligible consumers the option of choosing a bundled
8 service offering and receiving a Lifeline discount on the local usage
9 functionality of the bundled offering.”⁶

10

11 First, as Mr. Casey notes, Verizon has experienced a reduction in the
12 absolute number of Lifeline customers, but Verizon also has
13 demonstrated that the reduction in the number of Lifeline customers has
14 been outpaced by the reduction in the number of total lines served by
15 Verizon in Florida, so the ratio of Lifeline customers to total customers
16 has increased. I would also note that Verizon experienced an increase
17 in the number of Lifeline customers from December 2003 to September
18 2006, even though Verizon had the same policy on Lifeline in place
19 during that period.⁷ So there is no reason to conclude from the data that
20 the absolute decline in the number of Verizon Lifeline customers is due
21 to the policy at issue in this case.

22

23 Second, even if were to be demonstrated that the different trends in
24 Lifeline participation among Verizon, AT&T, and Embarq are due to the

⁵ Casey Direct at 31.

⁶ Id. at lines 17-20.

⁷ FPSC, “Number of Customers Subscribing to Lifeline Service,” December 2006, at Table 4.

1 differing policies, this fact would not be indicative of a loss of
2 subscribership. It is entirely consistent with Verizon's view that a Lifeline
3 discount on service bundles may make service bundles more valuable.
4 If a customer can choose to combine a Lifeline discount with a service
5 bundle discount, as AT&T and Embarq have chosen to allow, that
6 customer would likely choose both discounts. But if customers have to
7 choose between a Lifeline discount and a service bundle discount, some
8 percentage of these customers will choose to take the service bundle
9 discount, thus lowering the number of Lifeline customers but not
10 reducing subscribership at all. Because of this, the achievement of
11 universal service goals cannot be measured by Lifeline participation.

12

13 **Q. MR. CASEY NOTES THAT VERIZON IS OPPOSED TO THE**
14 **ESTABLISHMENT OF A STATE UNIVERSAL SERVICE FUND (USF)**
15 **AND HAS NOT REQUESTED AN EXPLICIT LIFELINE FUNDING**
16 **MECHANISM, AS IT WAS ALLOWED TO DO UNDER FLORIDA LAW.**
17 **WHAT IS YOUR RESPONSE?**

18 A. As noted in the letter from Ms. Robinson that Mr. Casey cites, Verizon
19 believes that the administrative burdens of such a fund would outweigh
20 any benefits. Thus, the creation of a fund would not remedy the
21 competitive disparity created by the requirement that ETCs self-fund a
22 portion of the Lifeline discount.

23

24 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

25 A. Yes.