

Ruth Nettles

080278-TL

From: ROBERTS.BRENDA [ROBERTS.BRENDA@leg.state.fl.us]
Sent: Thursday, October 01, 2009 1:03 PM
To: Filings@psc.state.fl.us
Cc: Adam Teitzman; cecilia_bradley@oag.state.fl.us; David Christian; Dulany O'Roark; Floyd R Self; Mike Twomey; Rosanne Gervasi; Lee Eng Tan; Vicki Gordon Kaufman
Subject: e-filing (Dkt. No. 080278-TL)
Attachments: 080278 Citizens Prehearing Statement.sversion.doc

Electronic Filing

a. Person responsible for this electronic filing:

Charlie Beck, Deputy Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
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b. Docket No. 080278-TL

In re: Joint petition for show cause proceedings against Verizon Florida LLC for apparent violation of Rule 25-4.070, F.A.C., Customer Trouble Reports, and impose fines, by the Office of the Attorney General, Citizens of the State of Florida, and AARP.

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 7 pages.

e. The document attached for electronic filing is Citizens' Prehearing Statement.

(See attached file: 080278 Citizens Prehearing Statemet.sversion.doc)

Thank you for your attention and cooperation to this request.

Brenda S. Roberts
Office of Public Counsel
Telephone: (850) 488-9330
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DOCUMENT NUMBER-DATE

10133 OCT-18

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for show cause proceedings against Verizon Florida LLC for apparent violation of Rule 25-4.070, F.A.C., Customer Trouble Reports, and impose fines, by the Office of the Attorney General, Citizens of the State of Florida, and AARP.

Docket No. 080278-TL

Filed: October 1, 2009

CITIZENS' PREHEARING STATEMENT

The Citizens of the State of Florida, through the Office of Public Counsel, hereby submit this Prehearing Statement.

APPEARANCES:

Charlie Beck
Deputy Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida.

1. **WITNESSES:**

Mr. R. Earl Poucher filed direct and rebuttal testimony on behalf of Citizens.

2. **EXHIBITS:**

Through R. Earl Poucher, the Citizens intend to introduce the following exhibits, which can be identified on a composite basis:

REP-1	Florida Service Overview
REP-2	"This Has to Stop Now"

DOCUMENT NUMBER-DATE
10133 OCT-18
FPSC-COMMISSION CLERK

REP-3	\$1.2M Overrun
REP-4	"We Need to Deliver on Budget"
REP-5	Stellar Performance on FIOS
REP-6	Service Quality 2001-2007
REP-7	Under Budget
REP-8	Cannot Exceed Our Targets
REP-9	6 Day Wait for OOS
REP-10	Spend the Money on FIOS
REP-11	150 Techs Moved Out of Core
REF-12	We Need to Deliver on Budget
REP-13	This Has to Stop Now
REP-14	Summer/PSC Plan
REP-15	Short 151 Techs

3. STATEMENT OF BASIC POSITION

Upon settling a similar show cause proceeding in 2001, Verizon improved its service so that it successfully met or exceeded the requirements of the Commission's service quality standards from 2001 through 2004.

Thereafter, Verizon's compliance with the Commission's service quality standards deteriorated. By 2007 the company was routinely violating Commission Rule 25-4.070. Verizon failed to comply with the provisions of Rule 25-4.070(3) (a) and (b) 262 times during 2007, and it continued to violate the rule 194 times during the first three quarters of 2008.

The only reason for the company's repeated and continued violation of Rule 25-4.070 is that the company was unwilling to expend sufficient resources to provide the quality of service required by the Commission. It was simply all about the money.

Little else has changed concerning the company's ability to meet the Commission's standard for repair of service. For example, there were thunderstorms in 2007 and 2008, just as there were thunderstorms in 2001, 2002, 2003, and 2004 when the company fully complied with the rule. The company made a deliberate business decision in recent years that cost cutting would trump compliance with the Commission's rule governing repair of service. The violations in 2007 and 2008 were therefore willful. The Commission should fine Verizon \$4.56 million for 456 willful violations of rule. Even at that, this fine will cost Verizon less than Verizon would have paid to employ the people needed to provide quality service meeting the requirements of the Commission's rule.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

ISSUE 1: How many times over the period January 2007 through September 2008 did Verizon Florida LLC fail to meet the Service Objectives stated in: (a) Rule 25-4.070(3)(a), Florida Administrative Code, and (b) Rule 25-4.070(3)(b), Florida Administrative Code?

OPC: Verizon failed to meet the service objectives of part (3)(a) 119 times in 2007 and 100 times in 2008. Verizon failed to meet the service objectives of part (3)(b) 143 times in 2007 and 94 times in 2008.

ISSUE 2: Does each instance in which Verizon Florida LLC failed to meet the Service Objectives stated in Rules 25-4.070(3)(a) and 25-4.070(3)(b), Florida Administrative Code, constitute a rule violation?

OPC: Yes.

ISSUE 3: Do the rule violations, if any, identified in Issue 2 constitute willful violations of Rule 25-4.070(3), Florida Administrative Code? If so, does the Commission have authority to impose penalties pursuant to Section 364.285, Florida Statutes?

OPC: Yes, the rule violations constitute willful violations of Rule 25-4.070(3), Florida Administrative Code. The Commission has authority to impose penalties pursuant to Section 364.285, Florida Statutes

ISSUE 4: What action, penalty, or fine, if any, should be imposed by the Commission?

OPC: The Commission should fine Verizon \$4.56 million.

5. STIPULATED ISSUES:

None.

6. PENDING MOTIONS:

None.

7. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:

Citizens filed an objection to Verizon's claim of confidentiality on August 7, 2009. Verizon has not yet filed a redacted copy of the rebuttal testimony of Earl Poucher filed on September 17, 2009, nor has the company filed a request for confidential classification regarding this rebuttal testimony. The only reason Mr. Poucher's rebuttal testimony and portions of his direct testimony are not available for public inspection is that Verizon claims that some of the information upon which the testimony is based is confidential. Citizens request the Prehearing Officer to expeditiously rule on the pending request for confidential classification and to require Verizon to provide a detailed basis for its claims of confidentiality related to Mr. Poucher's rebuttal testimony.

8. OBJECTIONS TO QUALLIFICATION OF WITNESSES AS AN EXPERT:

None.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 1st day of October, 2009.

Respectfully submitted,

J. R. Kelly
Public Counsel

s/ Charlie Beck
Charlie Beck
Deputy Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
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Attorney for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Prehearing Statement of the Office of Public Counsel has been furnished by electronic mail and U.S. Mail to the following parties on this 1st day of October, 2009, to the following persons:

Adam Teitzman
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s/ Charlie Beck
Charlie Beck