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March 10, 2009

**VIA ELECTRONIC FILING**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street – Filing Room  
Harrisburg, PA 17120

RE: Eugene Scherich v. Verizon Pennsylvania Inc.; Docket No. C-2008-2061244; and  
Bertha Scherich v. Verizon Pennsylvania Inc.; Docket No. C-2008-2068818;  
**PETITION FOR ISSUANCE OF A PROTECTIVE ORDER**

Dear Mr. McNulty:

Enclosed for filing please find an original Petition for Issuance of a Protective Order in the above-captioned matter, along with the electronic receipt of filing. A copy of this document has been served in accordance with the Certificate of Service.

Thank you for your attention to this matter. If there are any questions concerning this filing, please do not hesitate to contact me.

Very truly yours,

*/s/ Tori L. Giesler*

Tori L. Giesler  
*Counsel for Verizon Pennsylvania Inc.*

TLG/bks

Enclosures

cc: Honorable Robert P. Meehan, Administrative Law Judge  
David C. Hook, Esquire

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MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

EUGENE SCHERICH,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2008-2061244
	:	
VERIZON PENNSYLVANIA INC.,	:	
Respondent	:	
	:	
BERTHA SCHERICH,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2008-2068818
	:	
VERIZON PENNSYLVANIA INC.,	:	
Respondent	:	

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**NOTICE TO PLEAD**

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TO: David C. Hook, Esquire  
189 West High Street, P.O. Box 792  
Waynesburg, PA 15370

Pursuant to 52 Pa. Code §5.61, you are hereby notified that Verizon Pennsylvania Inc. (“Verizon PA”) has filed a petition to which you may answer in writing within twenty (20) days, unless otherwise provided pursuant to Chapter 5 of Title 52 of the Pennsylvania Code. Your failure to answer will allow the presiding officer to rule on the petition without a response from you, thereby requiring no other proof. All pleadings, such as a reply to this petition, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with copies served on the presiding Administrative Law Judge and the undersigned counsel for Verizon PA.

*/s/ Tori L. Giesler*

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Janet L. Miller, Attorney I.D. No. 63491  
Hawke McKeon & Sniscak LLP  
100 North Tenth Street, P.O. Box 1778  
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tlgiesler@hmslegal.com

DATED: March 10, 2009

*Counsel for Verizon Pennsylvania Inc.*

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Administrative Law Judge Robert P. Meehan

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EUGENE SCHERICH,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2008-2061244
	:	
VERIZON PENNSYLVANIA INC.,	:	
Respondent	:	
	:	
	:	
BERTHA SCHERICH,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2008-2068818
	:	
VERIZON PENNSYLVANIA INC.,	:	
Respondent	:	

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**PETITION OF VERIZON PENNSYLVANIA INC.  
FOR ISSUANCE OF A PROTECTIVE ORDER**

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Verizon Pennsylvania Inc. (“Verizon PA” or “Company”), by its counsel in these proceedings, Hawke McKeon & Sniscak LLP, and pursuant to the provisions of 52 Pa. Code § 5.423, hereby petitions the Pennsylvania Public Utility Commission (“Commission”) for issuance of a Protective Order. Verizon PA requests that the Commission grant protective or confidential treatment to certain information to be disclosed in connection with this matter. In support of this Petition, Verizon PA submits the following:

1. On or about September 5, 2008, the Commission served the Formal Complaint filed by Eugene Scherich (“Mr. Scherich”) on Verizon PA. The Company timely filed an Answer to this complaint on September 24, 2008. On or about October 14, 2008, the Commission served a second Formal Complaint, filed by Mr. Scherich’s mother, Bertha Scherich (“Mrs. Scherich”), on Verizon PA. The Company timely filed an Answer and New Matter and a Preliminary Objection to the Formal Complaint, in addition to a Motion to Consolidate the two cases.<sup>1</sup>

2. The parties attempted to resolve the matters through informal mediation, but were unsuccessful. The Commission has scheduled the matters to be heard simultaneously on Wednesday, April 1, 2009. This Petition is filed in anticipation of documentary evidence to be presented by Verizon PA during this hearing.

3. As is typical practice for Verizon PA in front of the Commission in similar customer complaint proceedings, the Company anticipates presenting Verizon PA employees as witnesses during the hearing. The witnesses will address entries in Verizon PA’s regularly-kept business records that are necessary to the Company’s defense in these matters and will be prepared to testify as to the relevant events occurring in connection with Complainants’ telephone service on the basis of these business records.

4. In view of the Commission’s May 15, 2007 Opinion and Order in *Rahman v. Verizon Pennsylvania Inc.*, Docket No. F-02009165, Verizon PA intends to make these business records a part of the evidentiary record.

5. For the reasons set forth below, Verizon PA asserts that the Company’s business records are confidential and proprietary and, as such, should be treated appropriately by the parties involved in this matter and by the Commission.

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<sup>1</sup> Mr. Scherich and Mrs. Scherich are collectively referred to in this Petition as the “Complainants.”

6. Protective orders may be issued under the Commission's regulation at 52 Pa. Code §5.423(a) in order to limit disclosure of confidential information on the public record. Factors that can be considered when making a determination on such orders include:

- (1) The extent to which the disclosure would cause unfair economic or competitive damage.
- (2) The extent to which the information is known by others and used in similar activities.
- (3) The worth or value of the information to the party and to the party's competitors.
- (4) The degree of difficulty and cost of developing the information.
- (5) Other statutes or regulations dealing specifically with disclosure of the information

7. The Company considers the business records that will be introduced into the record and upon which the witnesses will testify in these proceedings to be confidential and proprietary. The records contain customer-specific information that may put the Company's customers at risk of identity theft. The records also contain Company service information not available to the public through any means, which information may be valuable to Verizon PA's competitors if permitted to be placed in the public record.

8. In considering whether to issue a Proprietary Order, 52 Pa. Code § 5.423(a)(5) requires the Commission to consider other statutes or regulations dealing specifically with disclosure of information. The Commission regulations at 52 Pa. Code § 63.131-137 require telephone companies such as Verizon PA to treat customer information and communications as confidential, and require Verizon PA to adopt procedures for safeguarding the confidentiality of this customer information. 52 Pa. Code § 63.135(5). Customer information is defined broadly as follows:

*Customer information* – Information regarding a customer of a telephone company or information regarding the services or equipment ordered and used by the customer. The term includes a

person's name, address and telephone number, occupation, information concerning toll calls, collect calls and third-party billed calls, local message detail information and information concerning services ordered or subscribed to by a customer. The term also includes bills, statements, credit history, toll records whether on paper, microfiche or electro magnetic media; computer records; interexchange carrier selection, service problems and annoyance call records.

52 Pa. Code § 63.132. The Commission regulations at 52 Pa. Code §§ 63.131(b) and 63.135(2)(v) allow for customer authorization of the release of customer information. Arguably, Complainants waived confidentiality as to their names, addresses and telephone numbers upon the public filing of a Formal Complaint. However, Complainants have not waived the confidentiality of other customer information in the instant matters, which would undoubtedly be included in business records to be introduced by the Company during the course of this proceeding.

9. Limiting the disclosure of the Company's business records to allow their use only in connection with this litigation will not frustrate the prompt, orderly and fair resolution of this proceeding, nor will it infringe upon Complainants' due process rights.

10. The potential harm to Complainants of disclosure of individual customer information and the competitive harm to Verizon PA if the account records are released to the public, which includes the Company's competitors, is substantial and outweighs any need for public disclosure of the business records.

11. For the foregoing reasons, Verizon PA considers the entry of a Protective Order necessary to protect public disclosure of the business records to be provided by Verizon PA. Such treatment of the records is consistent with the Commission's Regulations and with actions

of Administrative Law Judges in other cases. Therefore, good cause exists for entry of such an Order.

12. Verizon PA requests that Your Honor issue an Order granting proprietary treatment to the business records described above and that the Order prohibit disclosure of the records and the information contained therein to any person except as provided by the Order.

13. Verizon PA further requests that the business records be sealed and not be made available for public inspection in the Commission's files. The Order should restrict the use of the information contained in the business records except in testimony, written advocacy, and initial or final decisions issued by the Commission in this particular proceeding and, when so used, should require the document to be designated as containing proprietary and confidential information, and be sealed and filed separately from the public record.

WHEREFORE, Verizon Pennsylvania Inc. respectfully requests that Your Honor enter the proposed Protective Order that is attached hereto.

Respectfully Submitted,

*/s/ Tori L. Giesler*

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Janet L. Miller, Attorney I.D. No. 63491  
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tlgiesler@hmslegal.com  
jlmiller@hmslegal.com

*Counsel for Verizon Pennsylvania Inc.*

DATED: March 10, 2009

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

EUGENE SCHERICH,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2008-2061244
	:	
VERIZON PENNSYLVANIA INC.,	:	
Respondent	:	
	:	
	:	
BERTHA SCHERICH,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2008-2068818
	:	
VERIZON PENNSYLVANIA INC.,	:	
Respondent	:	

**PROTECTIVE ORDER**

An Order has been issued granting the Petition of Verizon Pennsylvania Inc. (“Verizon PA”) for Issuance of Protective Order,

THEREFORE;

IT IS ORDERED:

1. A Protective Order is hereby granted for use in this proceeding with respect to all materials and information identified at Paragraph 2 of this Protective Order that are filed with the Pennsylvania Public Utility Commission (“Commission”), produced in discovery, or are otherwise presented during these proceedings. All persons now and hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. The materials subject to this Protective Order include all customer records of Verizon PA that are regularly kept by the Company in connection with its daily activities, and other materials related thereto, which a party or an affiliate of a party furnishes in this proceeding

pursuant to Commission rules and regulations or in discovery procedures, direct testimony or cross-examination, or which are provided as a courtesy to the active parties in this proceeding, which are claimed to be of a proprietary or confidential nature and which are designated “PROPRIETARY INFORMATION” or “CONFIDENTIAL AND PROPRIETARY” (hereinafter collectively referred to as “Proprietary Information”). Proprietary Information shall include, but is not limited to, Social Security numbers, information regarding non-complainant customers, customer repair records, Verizon PA methods and procedures, Verizon PA manuals, Verizon PA customer service agent scripts and/or job aids, and other competitively sensitive business information.

3. Proprietary Information shall be made available to the Commission and its Staff for use in this proceeding. For purposes of filing, to the extent that Proprietary Information is placed in the Commission’s report folders, such information shall be handled in accordance with routine Commission procedures for Proprietary Information inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information is placed in the Commission’s testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Protective Order. Public inspection of Proprietary Information shall be permitted only in accordance with this Protective Order.

4. Proprietary Information shall be made available to parties, their counsel of record in this proceeding, and their consultants, subject to the following:

(a) To the extent required for participation in this proceeding, a party may afford access to Proprietary Information made available by another party (“the producing party”) to the party’s consultants, provided that such consultant has not previously violated the terms of a recent Commission Protective Order and executes **Appendix A** to this Protective Order before reviewing such information, and provided that the consultant is not an officer, director,

stockholder, partner, owner or employee of a competitor of the producing party. A consultant will not be ineligible on account of being a stockholder, partner or owner of a competitor or affiliate unless the ownership interest is valued at more than \$10,000 or constitutes a more than 1% interest, or both.

(b) No other persons may have access to Proprietary Information except as authorized by Order of the Commission or of the presiding Administrative Law Judge. No person who may be entitled to receive, or who is afforded access to any Proprietary Information shall use or disclose such information for the purposes of business or competition, or any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof. The Proprietary Information may not be publicly disclosed.

5. Prior to making Proprietary Information available to any person as provided in Paragraph 4(a) of this Protective Order, the party shall deliver a copy of this Protective Order to such person and shall receive a written acknowledgement from that person in the form attached to this Protective Order and designated as **Appendix A**. Counsel of record or a party shall promptly deliver to the producing party a copy of the executed acknowledgment form. Counsel of record to the parties are deemed to have reviewed this Order and agreed to its content and, therefore, shall not be required to sign Appendix "A."

6. A producing party shall designate data or documents as constituting or containing Proprietary Information by affixing an appropriate proprietary stamp or similar designation on such data or documents. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the producing party shall designate only the specific data or pages of documents which constitute or contain Proprietary Information.

7. Any public reference to Proprietary Information by counsel or persons afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with

access to the Proprietary Information to fully understand the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes or administrative or judicial review.

8. Parts of any record in this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, argument and responses to discovery, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the parties or pursuant to Order of the presiding Administrative Law Judge or the Commission. Unresolved challenges arising under Paragraph 9 shall be decided on motion or petition by the presiding officer or the Commission as provided by 52 Pa. Code § 5.423(a).

9. The parties affected by the terms of this Protective Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information; to question or challenge the admissibility of Proprietary Information; to refuse or object to the production of Proprietary Information on any proper ground, including but not limited to, irrelevance, immateriality or undue burden; to seek an order permitting disclosure of Proprietary Information beyond that allowed in this Order; and to seek additional measures of protection of Proprietary Information beyond those provided in this Protective Order. If a challenge is made to the designation of a document or information as Proprietary, the party claiming that the information is Proprietary retains the burden of demonstrating that the designation is necessary and appropriate.

10. Upon completion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes, which contain any Proprietary Information, shall be immediately returned upon request to the party furnishing such Proprietary Information. In the alternative, parties may provide an affidavit of counsel affirming that the materials containing or reflecting Proprietary Information have been destroyed.

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Robert P. Meehan  
Administrative Law Judge

Dated: \_\_\_\_\_

## **APPENDIX A**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

EUGENE SCHERICH,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2008-2061244
	:	
VERIZON PENNSYLVANIA INC.,	:	
Respondent	:	
	:	
	:	
BERTHA SCHERICH,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2008-2068818
	:	
	:	
VERIZON PENNSYLVANIA INC.,	:	
Respondent	:	

**TO WHOM IT MAY CONCERN:**

The undersigned has read and understands the Protective Order that deals with the treatment of Proprietary Information in connection with the above-captioned proceedings. The undersigned agrees to be bound by, and to comply with, the terms and conditions of said Order. The undersigned is not precluded from being provided access to Proprietary Information by virtue of Paragraph 4 of the Protective Order.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
EMPLOYER

DATED: \_\_\_\_\_

**AFFIDAVIT**

I, Tori L. Giesler, certify that I am counsel for Verizon Pennsylvania Inc. and that, in this capacity, I am authorized to and do make this Affidavit for them, that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief, and that I expect Verizon Pennsylvania Inc. to be able to prove the same at any hearing hereof. I understand that false statements made therein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.

*/s/ Tori L. Giesler*

\_\_\_\_\_  
Tori L. Giesler

DATED: March 10, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this day served a true copy of the foregoing document upon the individual listed below, in accordance with the requirements of §1.54 (relating to service by a party).

**SERVICE VIA FEDERAL EXPRESS:**

David C. Hook, Esquire  
189 West High Street  
Waynesburg, PA 15370

*/s/Tori L. Giesler*

\_\_\_\_\_  
Tori L. Giesler

*Counsel for Verizon Pennsylvania Inc.*

Dated this 10<sup>th</sup> day of March 2009.