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March 3, 2010

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street – Filing Room (2 North)
Harrisburg, PA 17120

RECEIVED
11 MAR - 3 PM 3:25
SECRETARY'S BUREAU

Re: Dominic Longo v. Verizon Pennsylvania Inc.; Docket No. C-2010-2191445;
**MOTION OF VERIZON PENNSYLVANIA INC. REQUESTING A
CONTINUANCE OF THE INITIAL HEARING**

Dear Secretary Chiavetta:

Enclosed for filing is an original and three copies of a Motion of Verizon Pennsylvania Inc. requesting a continuance of the Initial Hearing in this proceeding, currently scheduled for Thursday, March 17, 2011. A copy of this motion has been served on Mr. Longo by first class mail. Verizon PA notes that 52 Pa. Code §5.15 does not require inclusion of a Notice to Plead with a request for a continuance. The more general provision on motions at 52 Pa. Code §5.103 requires inclusion of a Notice to Plead, and provides for a twenty day response time. Since the hearing in this matter is currently scheduled for March 17, 2011, Verizon PA has attached a Notice to Plead hereto and directed the Complainant to file a response, if any, within ten (10) days of the date of service of this Motion.

If you have any questions with regard to this filing, please direct them to me. Thank you for your attention to this matter.

Regards,

Steven K. Haas
Counsel for Verizon Pennsylvania Inc.

SKH/san

Enclosures

cc: Honorable Eranda Vero
Dominic Longo

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOMINIC LONGO

Complainant

v.

VERIZON PENNSYLVANIA INC.,

Respondent


Docket No. C-2010-2191445

NOTICE TO PLEAD

TO: Dominic Longo
313 Trenton Road
Fairless Hills, PA 19030-2803

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You are hereby notified that, if you do not file a written response to the enclosed Motion Requesting a Continuance of the hearing in this proceeding within ten (10) days from service of this notice, the Pennsylvania Public Utility Commission ("Commission") may rule on this Motion without further input. A response, if any, to the enclosed Motion must be filed with the Secretary of the Commission, with a copy served on the presiding Administrative Law Judge and the undersigned counsel for Verizon Pennsylvania Inc.



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Counsel for Verizon Pennsylvania Inc.

DATED: March 3, 2010

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOMINIC LONGO

Complainant

v.

VERIZON PENNSYLVANIA INC.,

Respondent

Docket No. C-2010-2191445

**MOTION OF VERIZON PENNSYLVANIA INC.
REQUESTING A CONTINUANCE OF THE
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Verizon Pennsylvania Inc. ("Verizon PA"), by and through its counsel, Hawke McKeon & Sniscak LLP, and pursuant to 52 Pa. Code §5.15, hereby files this Motion Requesting a Continuance of the Initial Hearing in this proceeding, currently scheduled for Thursday, March 17, 2011, before Administrative Law Judge Eranda Vero. Verizon PA notes that 52 Pa. Code §5.15 does not require inclusion of a Notice to Plead with a request for a continuance. The more general provision on motions at 52 Pa. Code §5.103 requires inclusion of a Notice to Plead, and provides for a twenty day response time. Since the hearing in this matter is currently scheduled for March 17, 2011, Verizon PA has attached a Notice to Plead hereto and directed the Complainant to file a response, if any, within ten days of the date of service of this Motion.

In support of this Motion, Verizon PA avers and represents as follows:

BACKGROUND

Previous Formal Complaint at Docket No. C-2010-2184380

1. On June 28, 2010, the Complainants filed a previous Formal Complaint with the Commission at Docket No. C-2010-2184380. In their complaint the Complainants alleged that Verizon personnel trespassed on their property on occasions when they entered the property to access Verizon PA telephone facilities located thereon.

2. On August 9, 2010, Verizon PA filed an Answer with New Matter in response to the Complaint. In its New Matter, Verizon PA asserted that it had a valid right-of-way agreement to have its telephone facilities located on the Complainant's property.

3. Also on August 9, 2010, Verizon PA filed preliminary objections to the Complaint in which it sought dismissal of the Complaint for lack of subject matter jurisdiction. Verizon PA argued in its preliminary objections that the Commission does not have subject matter jurisdiction over private contractual disputes, nor does it have subject matter jurisdiction over allegations of trespass and the proper use of right-of-ways. Verizon PA argued that jurisdiction over such matters properly lies with the Courts of Common Pleas of the Commonwealth.

4. By initial decision dated September 10, 2010, Administrative Law Judge John H. Corbett, Jr. granted the preliminary objections of Verizon PA and dismissed the Formal Complaint filed by the Complainants at Docket No. C-2010-2184380.

5. In his initial decision, ALJ Corbett cited a number of prior Commission decisions for the propositions that: (1) the Commission does not have subject matter jurisdiction over private contractual disputes; (2) the Commission does not have subject matter jurisdiction over allegations of trespass and the proper use of a right-of-ways; and (3) the Commission does not

have jurisdiction over disputes that require interpretation of the validity of a right-of-way. The ALJ noted that such matters are within the jurisdiction of the Court of Common Pleas of the Commonwealth.

6. No exceptions to this initial decision were filed by either party, and the matter is currently pending before the Commission for issuance of a Final Order.

Instant Formal Complaint at Docket No. C-2010-2191445

7. On August 2, 2010, the Complainants filed a second Formal Complaint with the Commission at Docket No. C-2010-2191445. In this Complaint, the Complainant again asserts allegations that Verizon PA personnel trespassed on their property when accessing Verizon PA facilities located thereon.

8. On August 23, 2010, Verizon PA filed an Answer with New Matter to this Complaint. Verizon PA again averred that its facilities are located on the Complainant's property pursuant to a valid right-of-way-agreement, which was entered into on June 19, 1951, was recorded in the Bucks County Recorder of Deeds office.

9. Also on August 23, 2010, Verizon PA filed Preliminary Objections to the Complaint, again on the basis that the Commission lacks subject matter jurisdiction over the dispute. Verizon PA also argued in its preliminary objections that the Commission does not have subject matter jurisdiction to order the payment of monetary damages. The Complainant did not file responses to Verizon PA's New Matter and Preliminary Objections.

10. By order dated February 9, 2011, ALJ Eranda Vero granted in part, and denied in part, Verizon PA's preliminary objections. ALJ Vero granted the preliminary objection with regard to the Complainant's request for monetary damages. ALJ Vero denied the preliminary objection that sought to dismiss the Complaint on the basis of lack of subject matter jurisdiction

over the issue of trespass and the existence of the right-of-way-agreement. The ALJ noted that a question of fact exists concerning the existence of Verizon PA's right-of-way over the Complainant's property. She noted that the Commission does have jurisdiction to determine whether a valid right-of-way agreement exists in the first place.

11. By hearing notice dated February 10, 2011, the Commission scheduled a hearing in this proceeding for Thursday, March 17, 2011, before Judge Vero.

REQUEST FOR CONTINUANCE

12. The Commission's regulation at 52 Pa. Code §5.15 allows for parties to request continuances of scheduled hearings by filing a written motion at least five days before the scheduled hearing.

13. As noted, the issues in both of the Complainant's Formal Complaint proceedings, and the subject of Verizon PA's preliminary objections in each proceeding, are nearly identical; namely, the extent, if any, to which the Commission has subject matter jurisdiction over issues involving allegations of trespass, and the existence and/or scope of a valid right-of-way-agreement for the location of utility facilities on the customer's property.

14. As noted, Verizon PA's preliminary objections in the previous Complaint proceeding (Docket No. C-2010-2184380) were granted by the ALJ, and are currently pending before the Commission for final resolution.

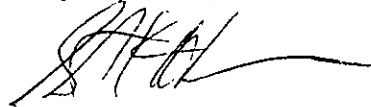
15. The resolution of these issues in the previous proceeding will have a direct impact on the ultimate resolution of these issues in the instant proceeding (Docket No. C-2010-2191445). For this reason, Verizon PA is requesting that the hearing currently scheduled in this proceeding for March 17, 2011, be continued until after a final decision is issued in the previous proceeding. Depending upon the final outcome in that proceeding, either a new hearing may be

scheduled in this proceeding, or an appropriate motion or motions may be filed by the parties under the Commission's decision.

16. Verizon PA believes that this approach is a logical and efficient course of action, given the similarities between the two proceedings and the current procedural status of each.

WHEREFORE, for the reasons set forth above, Verizon PA respectfully requests that the hearing in the instant proceeding at Docket No. C-2010-2191445, currently scheduled for Thursday, March 17, 2011, be continued until after a final decision is issued in the Complainant's previous Formal Complaint proceeding at Docket No. C-2010-2184380.

Respectfully submitted,



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Counsel for Verizon Pennsylvania Inc.

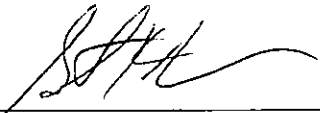
DATED: March 3, 2011

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the person and in the manner indicated below.

Service by first class mail:

Dominic Longo
313 Trenton Road
Fairless Hills, PA 19030-2803



Steven K. Haas

DATE: March 3, 2011

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