

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17120**

**Brian M. Rudnick  
v.  
Verizon Pennsylvania Inc.**

**Public Meeting November 10, 2011  
2238995-ALJ  
Docket No. C-2011-2238995**

**MOTION OF  
VICE CHAIRMAN JOHN F. COLEMAN, JR.**

Before the Commission for disposition is an Initial Decision (“ID”) granting the Preliminary Objections of Verizon Pennsylvania Inc. (“Verizon PA” or “Verizon”) and dismissing the above-captioned Formal Complaint filed by Brian M. Rudnick (“Mr. Rudnick” or “Complainant”). The Complaint alleges inaccurate information on verizon.com about international calling rates for calls to Ecuador. Specifically, the allegations relate exclusively to verizon.com, information contained on the website, and communications with “Verizon telephone representatives” about the website and its contents.

I agree with the ID that the Commission does not have subject matter jurisdiction in this case. However, my reasoning for lack of jurisdiction differs from the ID. The Commission has previously held that it does not have jurisdiction to regulate rates for calls made from a point in Pennsylvania to another country. See, e.g., Reverend Fatoma Y. O. Kpakiwa v. Bell Atlantic-Pennsylvania, Inc., and AT&T Communications of Pennsylvania, Inc., Docket No. F-09344616, Final Order entered March 29, 1994 (no subject matter jurisdiction to decide complaint alleging improperly billed international calls to Sierra Leone). Rather, the Federal Communications Commission has exclusive jurisdiction over rates for international calls. Because international calling rates are outside our subject matter jurisdiction, it follows that the website content issue raised by Complainant regarding access to information about international calling rates is also outside our subject matter jurisdiction. It is fundamental that the Commission cannot create jurisdiction where none exists.<sup>1</sup> In my view, a finding of Commission jurisdiction here would be doing just that; creating jurisdiction where none exists.

The Commission previously dismissed a similar complaint filed by Mr. Rudnick against Verizon PA about international calling rates for calls to Ecuador. See Brian M. Rudnick v. Verizon Pennsylvania, Inc. Docket No. C-2009-2142052 (Opinion and Order entered April 1, 2011). In Mr. Rudnick’s prior complaint case,

---

<sup>1</sup> See Roberts v. Matarano, 427 Pa. 581, 235 A.2d 602 (1967).

the Commission did not have jurisdiction over the international calling rates at issue. But, the Commission did exercise jurisdiction over whether Verizon PA's billing disclosures implicated in that case were in compliance with applicable law.<sup>2</sup> Here, we have no such allegations regarding international calling rate disclosures provided by Verizon PA in its billing statements that would otherwise implicate Commission jurisdiction.

I note that the instant Complaint does not appear to implicate a reliability, safety, or strictly engineering quality of service issue with Complainant's quality of FiOS (retail fiber-to-the-home or FTTH) service that is provided by Verizon PA.<sup>3</sup> Because Verizon PA admits that it is the provider of the FiOS service to Complainant, the on-line affiliate of Verizon PA – Verizon On-Line – does not appear to be involved or otherwise implicated in this proceeding.<sup>4</sup>

As indicated in our August 3, 2010 decision concerning Mr. Rudnick's prior complaint mentioned above, the Commission encouraged all telephone utilities in Pennsylvania to strive to use the most modern means of available technology to inform consumers of the various available calling plans, including the associated rates for local, intrastate, interstate or international calls. In doing so, the Commission further encourages all telecommunications providers to strive for accuracy and clarity in disclosing calling and rate plans to consumers communicated through the company websites.

**THEREFORE, I move that:**

1. The Initial Decision be modified consistent with this Motion.
2. The Commission's Office of Special Assistants draft an appropriate Order consistent with this Motion.

**DATE: November 10, 2011**

  
**JOHN F. COLEMAN, JR.**  
**VICE CHAIRMAN**

---

<sup>2</sup> Specifically, 66 Pa. C.S. § 1501 and 52 Pa. Code § 64.14.

<sup>3</sup> Verizon PA Answer, ¶ 4.B(a), Docket No. C-2011-2238995 (filed May 23, 2011) ("Verizon PA ADMITS Complainant currently receives FiOS service provided by the Company [Verizon PA]"). We note that the Verizon PA FiOS fiber optic based (FTTH) service and network configuration have certain engineering differences from the Verizon PA digital subscriber line or xDSL services that are provided over ordinary copper access lines. Thus, the terms FiOS and xDSL cannot be equated or used interchangeably. ID at 1.

<sup>4</sup> ID, Findings of Fact 4 & 5, at 3. It should be administratively noted that Verizon On-Line is an affiliate of Verizon PA. *Affiliated Interest Agreement Verizon Services Corp., et al.*, Docket No. G-00041080 (filed September 2, 2004) (Proprietary).