

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, Pennsylvania 17105-3265**

**Jacqueline Fielder**  
v.  
**Verizon Pennsylvania Inc.**

**Public Meeting held January 27, 2012**  
**2189352- OSA**  
**Docket No. C-2010-2189352**

**DISSENTING STATEMENT OF COMMISSIONER WAYNE E. GARDNER**

Before the Commission for consideration is the proposed Opinion and Order of our Office of Special Assistants (OSA) in the above-captioned formal Complaint of Ms. Jacqueline Fielder against Verizon Pennsylvania Inc. (Verizon). The OSA recommendation would sustain the formal Complaint, in part. The Motion of the Vice Chairman would dismiss the Complaint.

I would adopt the OSA recommendation and sustain the Complaint. I, respectfully dissent from the Vice Chairman's Motion as I believe that the record supports sanctions against Verizon for inadequate service under the Public Utility Code and our regulations, 66 Pa. C. S. § 1501; 52 Pa. Code § 63.57.

Ms. Fielder operates a program that provides community out-reach services to at-risk youth and, in addition, screens applicants for the Dollar Energy Fund. Ms. Fielder, admittedly, paid her bills on time, every month to Verizon. She also maintained (paid for) an inside wire maintenance plan under which service on the customer side of her Network Interface Device (NID), which is non-jurisdictional, was to have been provided.

In February, 2009, Ms. Fielder relocated her operations to her residence. Ms. Fielder complained that she had no dial tone service on the two telephone lines (1919 and 6679, respectively) which were transferred, from February, 2009 until July 10, 2010. Verizon acknowledged that Ms. Fielder contacted its repair office no less than six times during that year and a half period, about her service not working properly. Verizon distinguished these contacts by Ms. Fielder from complaints placing it on notice of "no dial tone." On May 14, 2009, while Ms. Fielder continued to experience service difficulties on the two lines, she contacted a Verizon customer service representative who provided her a credit, but also proceeded to sell her two service packages for the two lines in question.

The presiding Administrative Law Judge (ALJ) found that Ms. Fielder did not meet her burden of proof and recommended dismissal of the Complaint. The ALJ also found Ms. Fielder's testimony about Verizon's failure to keep a scheduled appointment on May 5, 2009, to be unpersuasive because Ms. Fielder continued to pay her bills throughout the seventeen-month period that she claimed she was without service.

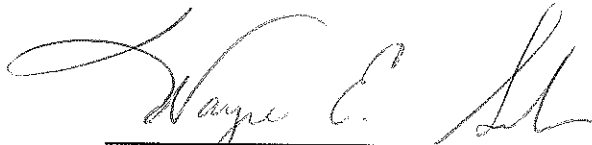
The OSA recommends that the portion of Ms. Fielder's complaint concerning no dial tone for line 6679 for the period from March, 2009, to July, 10, 2010 be sustained.

Our regulation at 52 Pa. Code § 64.171(1) provides, *inter alia*, that during the pendency of a formal complaint, the disputing party shall be obligated to pay the portion of a bill which is not honestly disputed. This regulation also provides that amounts ultimately determined to have been validly due but not paid, shall be paid with a late payment charge at the tariff rate filed. Based on the Commission's regulation, Ms. Fielder exercised prudence, good faith, and honesty in paying her bills to Verizon while this dispute was pending. The ALJ's reference to, and adverse conclusion drawn, from Ms. Fielder's good faith bill payments is unacceptable. I would grant, outright, Fielder's Exception in this regard.

Section 63.57(2) of our regulations, (52 Pa. Code § 63.57(2)), provides, in pertinent part, that a public utility shall respond to and take substantial action to clear other out-of-service trouble, not requiring unusual repair, within 24 hours of the report. The actions of Verizon fall short of adequate service and are, overall, well below the reasonable expectations of our regulations. It should not take six, documented, contacts with the Verizon repair office to remedy the service quality problems identified in this Complaint.

**January 27, 2012**

**Date**



**Wayne E. Gardner, Commissioner**