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February 1, 2012

VIA HAND DELIVERY

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

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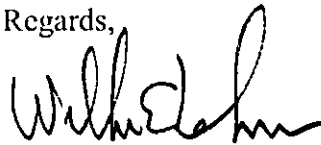
RE: Robin Beaty and James Bloom v. Verizon Pennsylvania LLC.; C-2012-2300642;
REPLY EXCEPTIONS OF VERIZON PENNSYLVANIA LLC

Dear Ms. Chiavetta:

Enclosed for filing with the Commission are the Reply Exceptions of Verizon Pennsylvania LLC in connection with the above-captioned matter. A copy of these Reply Exceptions has been served, as indicated, on the attached Certificate of Service.

Thank you very much for your attention to this matter. Please feel free to contact me at 717-236-1300 with any questions.

Regards,



William E. Lehman
Counsel for Verizon Pennsylvania LLC

WEL/bcs

Enclosures

cc: Per Certificate of Service
Pa. PUC, Office of Special Assistants (via email – ra-OSA@pa.gov)

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

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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ROBIN BEATY and JAMES BLOOM :
:
Complainants :
:
v. :
:
VERIZON PENNSYLVANIA LLC., :
:
Respondent :

Docket No. C-2012-2300642

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**VERIZON PENNSYLVANIA LLC'S REPLY EXCEPTIONS
TO THE EXCEPTIONS FILED BY
ROBIN BEATY and JAMES BLOOM**

Verizon Pennsylvania LLC, formerly known as Verizon Pennsylvania Inc. ("Verizon PA"), by its attorneys in this proceeding, Hawke McKeon & Sniscak LLP, hereby Replies to the Exceptions filed in the above-captioned matter by Robin Beaty and James Bloom ("Complainants"). The Exceptions were filed in response to the December 31, 2012 Initial Decision ("Initial Decision or "ID") of Administrative Law Judge ("ALJ") Elizabeth H. Barnes.

I. INTRODUCTION AND SUMMARY OF REPLY EXCEPTIONS

In her Initial Decision, ALJ Barnes recommended that the Complainants' Formal Complaint at Docket No. C-2012-2300642 should be dismissed in all respects. The ALJ found, based upon the evidence presented by the Complainant and by Verizon PA, that "Complainants' failed to sustain their burden of proving Respondent provided inadequate service or improper billing to Complainants between April, 2008 and May, 2012." (ID at 9, Conclusion of Law 3) As a basis for her finding, ALJ Barnes' correctly concluded that "[T]he exhibits support a

finding that during that time period the bills contained a breakdown of charges and stated that Complainants were being charged for two separate phone numbers, with separate dial tone charges and taxes attributable to each line.” (ID at 8) Consequently, the Complaints were billed correctly and knew – or should have known – that they were being billed for two separate telephone lines.

In her Exceptions, the Complainant takes exception to a minor error in the Initial Decision in an immaterial finding that the Complainant’s additional telephone number appeared on her February, 2008 telephone bill, and exaggerates that such immaterial error somehow taints the entire ID. It does not change or impact the ALJ’s ultimate conclusion which was based on all material evidence and considerations.

Overwhelming evidence shows that the Complainant’s telephone bills during the *relevant time period of 2008 through 2012 where in compliance with the Commission’s regulations* and clearly indicated that the Complainant was being billed for two (2) separate telephone lines, with separate dial tone charges and taxes attributable to each line. (ID at 8) The ALJ’s ultimate holding, as stated above, was based on unrefuted evidence, or lack thereof on the Complainant’s part, and should not be overturned on a small, immaterial and harmless error in the Initial Decision.

The Complainants’ Exceptions consist of nothing more than a reiteration of the testimony she provided at the hearing, which was fully considered and rejected by the ALJ. Moreover, nothing contained in the Complainants’ Exceptions supports a conclusion that the well-reasoned decisions reached by the ALJ should be reversed. The Commission should adopt the Initial Decision without modification.

II. REPLIES TO EXCEPTIONS

Complainants' Exceptions do not follow the guidelines prescribed by the Commission under 52 Pa.Code § 5.533(b) in that they are not numbered; however, Verizon PA responds to the Complainants' Exceptions, to the extent applicable, as follows:

Complainants' Exception 1: **The Initial Decision of Administrative Law Judge Elizabeth Barnes is based on a misreading of a date of our Exhibit 10, and a consequent error in the summary of testimony when we, the Complainants, first knew we were being charged for two separate telephone numbers. (Exceptions at 1)**

Verizon PA's response:

The Complainants' Exceptions are based entirely on her assertion that ALJ Barnes incorrectly found in Finding of Fact No. 11 that:

11. Complainants first noticed on the phone bill for a period of February through March, 2008 that they were also being charged for a second phone line because the bill contained a breakdown of charges and listed a second phone line number (610) 867-1756 with charges to that number. (ID at 3)

The Complainants allege that this misreading of the record evidence taints the entire Initial Decision and, thus, it should be reversed. That allegation is wrong for several clear reasons. While Verizon PA acknowledges that the Initial Decision's finding that both of the Complainants' telephone numbers first appeared on her telephone bills in March 2008, that mistake is harmless error and is not dispositive of the case. What is dispositive is that Complainants provided no evidence whatsoever to show that Verizon PA overbilled the Complainants for services between 2008 and 2012,¹ or that the information contained in Verizon

¹ The ALJ correctly determined that the issue surrounding the establishment of the second phone line in question in 2002 occurred more than 3 years before the instant complaint was filed and thus was barred by the statute of limitations found at 66 Pa. C.S. § 3314(a). (ID at 8-9)

PA's telephone bills during this timeframe were in violation of the Commission's regulations at 52 Pa. Code § 64.14.

Although whether or when the Complainants first realized that they were being billed for two telephone lines is not dispositive in this case – as stated above, what is dispositive is that Verizon PA did not overbill them nor did its bills violate the Commission's regulations – the record clearly shows that the Complainants knew, or with any type of diligence whatsoever, should have known that they were being billed for two telephone lines all along and receiving and using service for two telephone lines. Verizon PA's witness, Nichole Fialco, testified that on the Complainants' telephone bill from November, 2002 (after the additional line was added) the second telephone number (610) 867-1756 was clearly indicated on the telephone bills. (N.T. at 64; Verizon Exhibit No. 1)

Verizon Exhibit No. 2, a bill from August of 2006, gives a breakdown of the monthly service charges. It shows that the Complainants had one line with flat rate monthly service, and one with measured local calling. It also indicates that they were paying for two dial tone lines and the associated fees and charges.² (N.T. at 64; Verizon Exhibit No. 2) On both of these telephone bills, there is a toll-free number provided for a customer to call Verizon PA if they have any questions about their bills. (N.T. 64-65; Verizon Exhibit Nos. 1 and 2)

Ms. Fialco testified that the Complainants' telephone bill from May of 2009 also clearly indicates that they were being billed for one line with a flat rate unlimited service, and one line with measured local calling. Once again, the bill also indicates that they were paying for two dial tone lines, and the associated fees and charges. (N.T. at 67; Verizon Exhibit No. 3)

² The Complainant testified that she thought this meant she was being billed for two telephone jacks; however, as Ms. Fialco pointed out, neither Verizon PA nor its predecessors had ever billed, at least for the past 30 years, for each separate jack. (N.T. at 65) Furthermore, the Complainant testified that it became clear to her in 2008 that the bills contained references to quantity 2 for her local telephone service (N.T. at 31); however, she never called Verizon PA to question the charges until March of 2012. (ID at 6; N.T. at 68).

Finally, the Complainants' telephone bills from April of 2010 and July of 2011 clearly indicate the second telephone number of (610) 867-1756. (N.T. at 67; Verizon Exhibit Nos. 4 and 5)

Clearly, these telephone bills indicate that the Complainants were being billed for two separate local telephone packages, two dial tone lines, and the associated fees and charges for each – which is in complete compliance with the Commission's regulations. It is well-settled law that telephone customers are responsible to check their telephone bills for any discrepancies and contact Verizon PA to inquire about the same.³ Had the Complainants done this, which Ms. Beaty admitted that she did not do (N.T. 32, Complainant's Exceptions at 4), she would have noticed that she was being billed for these two lines. Thus, the Complainants either knew, or should have known, that they were being billed for two lines, and should have contacted Verizon PA, during the relevant time period, with any questions, which they did not. Ms. Fialco testified that neither Ms. Beaty nor Mr. Bloom called in to question any of the charges or references to the additional line until March 1, 2012. (N.T. at 68)

ALJ Barnes correctly found Verizon PA witness Fialco's testimony to be credible and that the bills from 2008 through 2012 clearly indicate the Complainants were being charged for a second line and that the Complainant, Ms. Beaty, admitted that from 2008 through February 2012, she did not telephone Verizon PA to request the second line be removed. (ID at 7)

In addition, as stated earlier, the Complainant provided no evidence whatsoever that, during the relevant time period, the information contained in her Verizon PA bills was inaccurate or violative of the Commission's regulations.

³ *Harrison v. Verizon Pennsylvania, Inc.*, Dkt No. C-20015861 (Final Order Entered May 22, 2002); *Murray v. Verizon Pennsylvania, Inc.*, Dkt. No. F-00979085 (Final Order Entered January 3, 2003).

Therefore, the ALJ correctly found that the Complainants failed to carry their burden of proving Respondent erroneously billed them from April 2008 through May 2012, and that the Exhibits support a finding that, during that time period, the bills contained a breakdown of charges that stated Complainants were being charged for two separate phone numbers, with separate dial tone charges and taxes attributable to each line. (ID at 8)

Based on the overwhelming evidence presented by Verizon, which the ALJ found credible (ID at 7), the Complainants' assertion that the ALJ error tainted her whole decision is misplaced, and should be rejected by the Commission. The overwhelming evidence presented in this case clearly indicates that the Complainants knew, or should have known, that they were being billed for two separate dial tone lines, and that Verizon PA's telephone bills during the relevant time period were in full compliance with the Commission's regulations. The Commission should deny this Exception.

Complainant's Exception 2: The Complainant, on page 3 of her Exceptions, indicates a "minor exception" with the alleged 3 months wait to disconnect the additional line. (Exceptions at 3)

Verizon PA's response:

The ALJ correctly found that, when the Complainants did request to terminate service to the second line, it was promptly handled and in any event, the Respondents gave the Complainants a courtesy refund totaling \$165.98. (ID at 6-7; N.T. at 72 - 73) The Complainants' assertion that Verizon PA's handling of the disconnection of the additional line in 2012 was somehow unreasonable is disingenuous considering that Ms. Fialco testified that, on April 13, 2012, on an outgoing call made by Jennifer Miketa of Verizon PA to the customer, Verizon PA offered to disconnect the line at that time, but the customer refused. (N.T. at 73) Upon further contact by the Complainant, Verizon PA promptly terminated the second line; however, as a

courtesy, provided the Complainants with three months of full credit totaling \$165.98. (ID at 7; N.T. 72-73)

The Complainants' exception regarding Verizon PA's handling of the disconnection of her second line should be rejected and the ALJ's Decision affirmed.

III. CONCLUSION

The Complainants' Exceptions are nothing more than a reiteration of the evidence provided at the hearing which was fully considered by the ALJ and rejected. The Commission should deny the Exceptions and affirm the well-reasoned decision of ALJ Barnes.

Respectfully submitted,



William E. Lehman
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Harrisburg, PA 17105-1778
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Counsel for Verizon Pennsylvania LLC

DATED: February 1, 2013

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

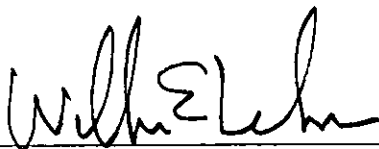
Service by First Class Mail:

Robin Beaty
2535 Main Street
Bethlehem, PA 18017

Service by Hand Delivery:

Honorable Elizabeth H. Barnes
Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
2nd Floor, L-M West
Harrisburg, PA 17120

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William E. Lehman
Counsel for Verizon Pennsylvania LLC

Dated: February 1, 2013

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