

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SECRETARY'S OFFICE

2007 APR -6 AM 10:05

RECEIVED

Larry O'Brien

v.

Verizon Pennsylvania Inc.

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FOLDER

C-20077291

PROTECTIVE ORDER

On April 2, 2007, Verizon Pennsylvania, Inc. (Verizon), through counsel, filed and served a Motion for Protective Order in the above-captioned case¹, pursuant to 52 Pa. Code §5.423, on the basis that Interrogatory requests submitted by the Office of Consumer Advocate (OCA) seek information that is of a proprietary nature to Verizon and also seeks protected consumer information related to Larry O'Brien's (Complainant) account with Verizon. In its Motion, Verizon represents that the Office of Consumer Advocate and the Complainant support the entry of a Protective Order.

THEREFORE,

IT IS ORDERED:

1. This Protective Order, submitted by Verizon Communications Inc. ("Verizon") and the Office of Consumer Advocate ("OCA") (collectively "Joint Applicants"), is hereby granted for use in this proceeding with respect to all materials and information identified at Paragraph 2 of this Protective Order which are filed with the Commission, produced in discovery, or 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 Order.

2. The materials subject to this Order are all correspondence, documents, data,

¹ This case is currently assigned to the Commission's mediation unit.

information, studies, methodologies and other materials which a party or an affiliate of a party furnishes in this proceeding pursuant to Commission rules and regulations, discovery procedures or cross-examination or provides as a courtesy to a party to this proceeding, which are claimed to be of a proprietary or confidential nature and which are designated "PROPRIETARY INFORMATION" (hereinafter collectively referred to as "Proprietary Information"). Such information may also include customer information which a party believes to be sensitive and should be restricted from public examination.

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 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 Order. Public inspection of Proprietary Information shall be permitted only in accordance with this Protective Order.

4. Proprietary Information shall be made available to counsel or parties of record in this proceeding pursuant to the following procedures.

a. Proprietary Information. To the extent required for participation in this proceeding, a party or a party's counsel may afford access to Proprietary Information made available by another party ("the producing party") to the party's expert(s), subject to the following restrictions:

i. Such expert(s) may not hold any of the following positions with any competitor of the producing party: (a) an officer, board member, significant stockholder, partner, owner (other than owner of stock) or an employee of any competitor of the producing party who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the producing party; or (b) an officer, board member, significant stockholder, partner, owner (other than owner of stock) of any affiliate of a competitor of the producing party; provided, however, that any expert shall not be disqualified on account of being a stockholder, partner, or owner unless his/her interest in the business constitutes a significant potential for violation of the limitations of permissible use of the Proprietary Information. For purposes of this Order, stocks, partnership, or

other ownership interest valued at less than \$500,000 and/or constituting less than a 10 % interest in a business does not, in itself, establish a significant potential for violation.

ii. If a party's independent expert, another member of the independent expert's firm or the independent expert's firm generally also serves as an expert for, or as a consultant or advisor to a competitor or any affiliate of a competitor of the producing party, said independent expert must: (1) advise the producing party of the competitor's or affiliate's name(s); (2) make reasonable attempts to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a competitor or any affiliate of a competitor of the producing party; and (3) if segregation of such personnel is impractical, the independent expert shall give to the producing party written assurances that the lack of segregation will in no way jeopardize the interests of the producing party. The producing party retains the right to challenge the adequacy of the written assurances that its interests will not be jeopardized.

b. No other persons may have access to the 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.

5. Prior to making Proprietary Information available to any person as provided in paragraph 4 of this Protective Order, counsel shall deliver a copy of this Order to such person and shall receive a written acknowledgment from that person in the form attached to this Order and designated as Appendix A. Counsel shall promptly deliver to the producing party a copy of the executed acknowledgment form.

6. A producing party shall designate data or documents as constituting or containing Proprietary Information by affixing an appropriate proprietary stamp or typewritten 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

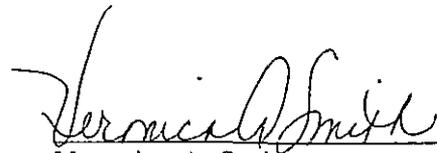
access to the Proprietary information to fully understand the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

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, and including reference thereto as mentioned in ordering paragraph 7 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Order, either through the agreement of the parties or pursuant to an order of the Administrative Law Judge, the Commission or an appellate court with applicable jurisdiction. 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) or by the rulings of an appellate court with applicable jurisdiction. All such challenges will be resolved in conformity with existing rules, regulations, orders, statutes, precedent, etc., to the extent that such guidance is available.

9. The parties affected by the terms of this 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 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 or Highly Confidential Information. In the alternative, parties may provide an affidavit of counsel affirming that the materials containing or reflecting Proprietary Information have been destroyed.

Dated: April 3, 2007


Veronica A. Smith
Chief Administrative Law Judge

