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December 16, 2005

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street – Filing Room (2 North)  
P.O. Box 3265  
Harrisburg, PA 17105-3265

2005 DEC 16 PM 4: 15  
SECRETARY'S BUREAU

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Re: Melissa Hall v. Verizon Pennsylvania Inc.; Docket No. C-20055449;  
**MOTION TO DISMISS**

Dear Mr. McNulty:

Enclosed for filing with the Commission are an original and three (3) copies of Verizon Pennsylvania Inc.'s Motion to Dismiss. A copy of this document has been served upon the Complainant in accordance with the attached Certificate of Service.

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.

**DOCUMENT  
FOLDER**

SKH/kml  
Enclosures  
cc: Melissa Hall

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

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

MELISSA HALL,

Complainant

v.

VERIZON PENNSYLVANIA INC.,

Respondent

Docket No. C-20055449

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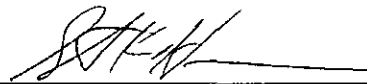
DEC 16 2005

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

NOTICE TO PLEAD

TO: Melissa Hall  
496 Clearview Street  
Pottstown, PA 19464

Pursuant to 52 Pa. Code §§5.101 et seq. you are hereby notified that Verizon Pennsylvania Inc. ("Verizon PA") has filed a Motion to which you may file an answer within ten (10) days unless otherwise provided in Chapter 5 of Title 52 of the Pennsylvania Code. Your failure to answer will allow the presiding officer to rule on the Motion without a response from you, thereby requiring no other proof. All Pleadings such as a reply to this Motion must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on the undersigned counsel for Verizon PA.

  
Steven K. Haas  
Hawke McKeon Sniscak & Kennard LLP  
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Email: skhaas@hmsk-law.com  
Counsel for  
Verizon Pennsylvania Inc.

DATED: December 16, 2005



2. On December 16, 2005, Verizon PA filed an Answer to Ms. Hall's Complaint. In its Answer, which is incorporated herein by reference, Verizon PA averred that all of the disputed charges that appeared on her Verizon PA telephone bills, including the unreturned equipment charge, were credited in full by Verizon Online and have been completely removed from her Verizon PA bills.

3. Verizon PA further averred in its Answer that the DSL service at issue in this proceeding was provided to the Complainant by Verizon Online. Although the two companies are affiliated through a subsidiary relationship with a common parent corporation, Verizon Communications Inc., they are separate and distinct companies. Verizon Online provides Internet services to its customers, which is the service at issue in this proceeding. Verizon Online is not a public utility company and is not regulated by the Commission.

4. The Commission's regulations permit the filing of preliminary Motions to Dismiss where the jurisdiction of the Commission over the subject matter of the Complaint is in question. 52 Pa. Code § 5.101 (a) (1). Further, the Commission must act within, and cannot exceed, its jurisdiction. City of Pittsburgh, v. PA Public Utility Commission, 157 Pa. Super. 595, 43 A.2d 348 (1945).

5. The Commission does not have jurisdiction over the provision of Internet services. Such service has been determined to be an information service, rather than a telecommunications service. The Commission has determined that information service is not subject to Commission regulation. Declaratory Order re: LEC Billing of Pay-Per-Call and Similar Information Services, Docket No. M-00940569 (Order entered July 1, 1994); Collins v. The United Telephone

Company of Pennsylvania, d/b/a Sprint, Docket Nos. C-00970272 and C-00970273 (Order entered July 21, 1997); Landis v. Denver and Ephrata Telephone and Telegraph Company d/b/a D&E Telephone, Docket No. C-20039741 (Order entered September 15, 2003); Benchmark Color Lab, Inc. v. Verizon Pennsylvania Inc., Docket No. C-20042694 (Initial Decision dated June 2, 2004, Final Order Entered August 2, 2004).

6. As explained above, Verizon Online is a subsidiary of Verizon Communications, Inc. It is a separate and distinct company from Verizon PA. Verizon Online provides Internet services to its customers. Verizon Online does not provide utility service as defined by the Pennsylvania Public Utility Code.

7. Ms. Hall's complaint involves a dispute about charges that appeared on her Verizon PA telephone bills for DSL service, which she received from Verizon Online. She complains that DLS charges continued to appear on her monthly Verizon PA bills for several months after her DSL service was disconnected. She also disputes her responsibility for a charge for unreturned DSL equipment that appeared on her bill.<sup>1</sup>

8. The subject matter that underlies and is the subject of this complaint is DSL service, and charges associated therewith. The complaint is not about Ms Hall's telephone service. Accordingly, the Commission does not have jurisdiction over these issues, which are within the exclusive jurisdiction of the Federal Communications Commission. Shipman v. ALLTEL Pennsylvania Inc., Docket No. C-20028477 (Order entered January 28, 2003); Joint Petition of

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<sup>1</sup> As noted in Verizon PA's Answer, the unreturned equipment charge has been credited by Verizon Online and was removed from her Verizon PA account.

Nextlink, et al. and Joint Petition of Bell Atlantic, et al., Docket Nos. P-00991648 and P-00991649, at 204 (September 30, 1999) (Global Order).

9. Section 703 of the Public Utility Code, 66 Pa. C.S. §703(b), provides that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest. The public interest does not require a hearing in this case because there is no action that can be taken by the Commission.

WHEREFORE, for the reasons set forth above, Verizon Pennsylvania Inc. respectfully requests that the Formal Complaint filed by Melissa Hall with the Pennsylvania Public Utility Commission be dismissed preliminarily.

Respectfully submitted,



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Steven K Haas  
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Counsel for Verizon Pennsylvania Inc.

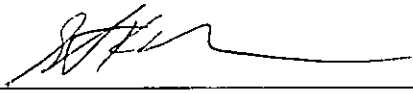
DATED: December 16, 2005

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 via first class mail:

Melissa Hall  
496 Clearview Street  
Pottstown, PA 19464



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Steven K. Haas

DATED: December 16, 2005

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