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**verizon**<sup>✓</sup>

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November 23, 2015

**Via Electronic Filing**

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


**RE: Office of Small Business Advocate v Verizon North LLC**  
**Docket Nos. C-2015-2512883 and R-2015-2510233**

Dear Secretary Chiavetta:

Enclosed please find the Preliminary Objections of Verizon North LLC to the Complaint of the Office of Small Business Advocate in connection with the above-referenced matter.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

  
Suzan D. Paiva

SDP/slb

Enc.

**Via E-Mail and First Class Mail**  
cc: Hon. Charles Rainey, Chief ALJ  
Attached Certificate of Service

**CERTIFICATE OF SERVICE**

I, Suzan D. Paiva, hereby certify that I have this day served a true copy of Verizon North LLC's Preliminary Objections to the Complaint of the Office of Small Advocate, upon the parties listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

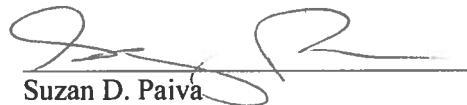
Dated at Philadelphia, Pennsylvania, this 23<sup>rd</sup> day of November, 2015.

**VIA E-MAIL AND FIRST CLASS U.S. MAIL**

Steven C. Gray, Esquire  
Office of Small Business Advocate  
Suite 202, Commerce Building  
300 North Second Street  
Harrisburg, PA 17102  
**[Served by FedEx in lieu of First Class]**

Johnnie E. Simms, Esquire  
Bureau of Investigation & Enforcement  
PA Public Utility Commission  
Commonwealth Keystone Bldg  
400 North Street  
Harrisburg, PA 17105-3265

Barrett Sheridan, Esquire  
Office of Consumer Advocate  
555 Walnut Street, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923



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Attorney for Verizon

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Office of Small Business Advocate,	:		
Complainant,	:		
	:	Docket No.	C-2015-2512883
v.	:		R-2015-2510233
	:		
Verizon North LLC,	:		
Respondent.	:		

**NOTICE TO PLEAD**

**TO THE COMPLAINANT, OSBA: PURSUANT TO 52 PA CODE, SECTION 5.101(f) YOU MUST FILE AN ANSWER TO THESE PRELIMINARY OBJECTIONS WITHIN TEN (10) DAYS OF THE DATE OF SERVICE.**

**PRELIMINARY OBJECTIONS TO THE COMPLAINT  
OF THE OFFICE OF SMALL BUSINESS ADVOCATE**

Verizon North LLC (“Verizon North”) preliminarily objects to the complaint of the Office of Small Business Advocate (“OSBA”) against Verizon North’s 2016 Price Change Opportunity (“2016 PCO”) filing. OSBA’s only claim is that “[u]pon preliminary review” the proposed rates “may be unjust, unreasonable, unduly discriminatory, or otherwise contrary to law” and that its supporting materials “may be insufficient.” This vague statement is not sufficient to state a cause of action upon which relief can be granted and OSBA’s complaint should be dismissed pursuant to 52 Pa. Code § 5.101(a)(4). Alternatively, the complaint should be dismissed for insufficient specificity pursuant to 52 Pa. Code § 5.101(a)(3). In support of these preliminary objections, Verizon PA states as follows:

1. On October 22, 2015, Verizon North made a filing notifying the Commission that the price cap mechanism in the company’s Chapter 30 plan allowed Verizon North to increase its revenue from noncompetitive services by \$216,000, which is its 2016 PCO.

To implement that allowed revenue increase, Verizon North proposed to increase rates for residence and business dial tone line and business local usage.

2. On November 10, 2015, the OSBA filed a complaint against Verizon North's 2016 PCO filing. That complaint was served by the Commission on November 12, 2015.

3. OSBA's complaint does not allege any specific defect in Verizon North's filing. Rather, OSBA states that "[u]pon preliminary review" it "believes" that the materials provided in support of the filing "may be insufficient" and that the proposed rates "may be unjust, unreasonable, unduly discriminatory, and otherwise contrary to law, particularly as they pertain to Verizon PA's small business customers." (OSBA Complaint ¶ 6-7).

4. The Commission's rules require a formal complaint to set forth "clear and concise statement of the act or omission being complained of." 52 Pa. Code § 5.22(a)(5). OSBA's complaint does not comply with the Commission's rule.

5. The Public Utility Code requires a formal complaint to "set[] forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission." 66 Pa. C.S. § 701. OSBA's complaint does not meet that standard.

6. Because OSBA has failed to specify any actual defect with Verizon North's filing or set forth any facts specifying an alleged violation of rule or law, its complaint should be dismissed as legally insufficient in that it fails to state a cause of action upon which relief can be granted. Under 52 Pa. Code §5.101(a)(4) legal insufficiency of a pleading is an appropriate ground for a preliminary objection. While the standard

requires the Commission to consider “as true all well-pleaded, material, relevant facts,”<sup>1</sup> OSBA has not alleged any material facts. A complaint must be dismissed as legally insufficient where, as here, even accepting the well pleaded materials facts as true, (which do not exist here since no facts were pleaded) the complaint “does not raise a violation of the Public Utility Code, any Commission Order or regulation or any Commission-approved tariff.”<sup>2</sup>

7. Alternatively, OSBA’s complaint should be dismissed under 52 Pa. Code §5.101(a)(3) because it is insufficiently specific. A complaint must contain information specific enough to allow the respondent to understand the allegations against it, in order to conduct a meaningful investigation of the allegations and to prepare a coherent response or defense.<sup>3</sup> OSBA’s complaint fails to meet that standard and therefore should be dismissed.

WHEREFORE, the Commission should dismiss OSBA’s complaint against Verizon North’s 2016 PCO filing for failure to state a claim or alternatively because it is insufficiently specific.

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<sup>1</sup> *County of Allegheny v. Commonwealth of Pennsylvania*, 490 A.2d 402 (Pa. 1985); *Commonwealth of Pennsylvania v. Bell Telephone Co. of Pa.*, 551 A.2d 602 (Pa.Cmwlt. 1988).

<sup>2</sup> *Evans v. Peco Energy Company*, Docket No. C-2013-2368477, Initial Decision (Final Order entered February 6, 2014).

<sup>3</sup> *Angelo Rodriguez v. Philadelphia Gas Works*, Docket No. F-2009-2110772, Initial Decision (Final Order entered Jan. 5, 2010).

Respectfully submitted,

Dated: November 23, 2015



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