

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265**

Jacqueline Fielder

v.

Verizon Pennsylvania LLC

**PUBLIC MEETING: December 22, 2016
2553231-ALJ***

Docket No. C-2016-2553231

MOTION OF VICE CHAIRMAN ANDREW G. PLACE

Before us for disposition is the Initial Decision (I.D.) of Administrative Law Judge (ALJ) Elizabeth H. Barnes addressing the Formal Complaint of Ms. Jacqueline Fielder against Verizon Pennsylvania LLC (Verizon PA or Company). ALJ Barnes' I.D. largely agrees with the Company's preliminary objections and dismisses the Complaint on the basis that "the Complainant is not entitled to relief as a matter of law," and that there "is no factual dispute that the Complainant received VoIP [Voice over the Internet Protocol] services that the Commission lacks the authority to regulate."¹

Although I agree with most of the reasoning and the result that the I.D. reaches, certain aspects of its discussion need some additional clarification. The I.D. largely and correctly utilizes the statutory provisions of Pennsylvania's Voice-Over-Internet Protocol Freedom Act of 2008 in its finding that the Commission cannot exercise jurisdiction over the VoIP service that is the subject of the Complaint at issue.² However, the I.D. also raises the inference that VoIP is an interstate service and "that the FCC regulated interstate communications and treated internet services as interstate for its jurisdictional purposes."³

I note that the Voice-Over-Internet Protocol Freedom Act of 2008 preserves Commission jurisdiction over VoIP services in a number of aspects such as "1) the provision and administration of 911 service; 2) telecommunications relay service; 3) universal service fund fees; 4) switched network access rates or other intercarrier compensation rates for interexchange services provided by a local exchange telecommunications company and; 5) rates, terms or conditions of protected services provided under tariffs subject to the approval by the Commission."⁴ The preservation of such Commission jurisdiction over VoIP services under applicable Pennsylvania and federal law would be legally impossible if such services were to be considered as solely interstate simply because they technically and functionally rely on the Internet Protocol. The Voice-Over-Internet Protocol Freedom Act of 2008 did not intend and does not create such a legal conflict. Thus, I conclude that the dismissal of the Complaint at issue is adequately justified on the basis of the 2008 Act alone.

¹ Docket No. C-2016-2553231, I.D., at 8.

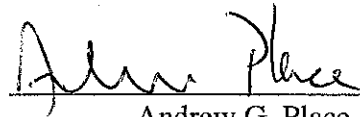
² Docket No. C-2016-2553231, I.D., at 6-7, citing 73 P.S. § 2251.4 (statutory prohibition regarding the regulation of rates, terms and conditions of VoIP service or Internet Protocol enabled service).

³ Docket No. C-2016-2553231, I.D., at 7, referencing I.D. in *Silvestri v. Comcast Phone of Pennsylvania, LLC*, Docket No. C-2011-2241959, Order entered October 7, 2011.

⁴ Docket No. C-2016-2553231, I.D., at 6, citing 73 P.S. 2251.6.

THEREFORE, I move that:

1. The result of the Initial Decision dismissing the Formal Complaint is affirmed.
2. The Initial Decision should be clarified consistent with this Motion.
3. The Office of Special Assistants prepare the appropriate Order consistent with this Motion.



Andrew G. Place
Vice Chairman

Dated: December 22, 2016