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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Everett P. Priestley

v.

Verizon Pennsylvania, Inc.

C-20054728

SECRETARY'S BUREAU

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FOLDER

ORDER REGARDING DISCOVERY OBJECTIONS  
TO COMPLAINANT INTERROGATORIES  
SET I NOS. 1, 2, 4 AND 5

On February 13, 2006, I received a copy of Objections to Interrogatories and Request for Production of Documents Nos, 1, 2, 4 and 5 (Set I) of Everett P. Priestley (Objections), which had been filed by Verizon Pennsylvania, Inc., (Verizon or Respondent). The Objections contained a Notice to Plead, which indicated that I could rule on the Objections without further input, unless Complainant filed a written response within five (5) days. The Notice to Plead cited to 52 Pa. Code §5.342 in support of the five (5) day response time although, as the Objections were served via first class mail, an additional three days would be added to any five (5) day response period. 52 Pa. Code §1.56(b).

The parties are hereby notified that I do not interpret 52 Pa. Code §5.342 as authorizing a ruling on the correctness of Verizon's objections. Instead, 52 Pa. Code §5.342 allows participants to object to discovery so as to toll the otherwise applicable discovery response deadlines with respect to that discovery.<sup>1</sup> If the party against whom objections have been filed does not pursue the matter, through the filing of a motion to compel, then there is no further action to be taken with respect to that discovery by the presiding officer. In other words, the

<sup>1</sup> Section 5.342(a) of Title 52 of the Pennsylvania Code states that "[e]ach interrogatory shall be answered fully and completely unless an objection is made."

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filing of objections does not, without more, trigger the involvement of the presiding officer. The requirement that the presiding officer be served with objections acts to alert the presiding officer that a discovery dispute may be imminent and provides important background material in the event that a ruling is required. However, objections can be and often are resolved informally.

If the objections are not resolved, then the party against whom the objections have been filed can file a motion to compel, requesting that the presiding officer dismiss an objection and direct that the interrogatory be answered. See, 52 Pa. Code §5.342(e). I was waiting to see whether the Complainant would file such a motion.

On February 22, 2006, I received a copy of Complainant's Responses to Objections, dated February 17, 2006. This pleading was undoubtedly filed in response to Verizon's Notice to Plead, which was attached to the Objections.

As the Complainant is proceeding *pro se*, I am going to disregard this defect in procedure and treat his Responses to Objections as, in effect, a Motion to Compel, pursuant to 52 Pa. Code §5.342(e). Verizon should then be afforded the five (5) day response time provided in 52 Pa. Code §5.342(e)(1) for filing an answer to the Motion to Compel.

THEREFORE,

IT IS ORDERED:

1. That the Responses to Objections, dated February 17, 2006, which were provided by Complainant in response to Verizon's Objections to Interrogatories and Request for Production of Documents, dated February 13, 2006, shall be treated as a Motion to Compel with respect to the objected-to discovery and filed with the Secretary's Bureau.

2. That Respondent is given five (5) days in which to respond to the Motion to Compel, or until Tuesday, February 28, 2006.

Date: February 23, 2006

Kandace F. Melillo  
Kandace F. Melillo  
Administrative Law Judge