

AA00069.00000 (40/40)

CAPTION SHEET

BASE MANAGEMENT SYSTEM

1. REPORT DATE: 00/00/00 :
2. BUREAU: ALJ :
3. SECTION(S): : 4. PUBLIC MEETING DATE:
5. APPROVED BY: : 00/00/00
DIRECTOR: :
SUPERVISOR: :
6. PERSON IN CHARGE: : 7. DATE FILED: 08/20/04
8. DOCKET NO: C-20043569 : 9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: RUBINSKY, JOSEPH P., ESQUIRE
RESPONDENT/APPLICANT: VERIZON PENNSYLVANIA INC
COMP/APP COUNTY: PHILADELPHIA UTILITY CODE: 310200

ALLEGATION OR SUBJECT

COMPLAINANT STATES THE FAILURE TO PROVIDE ONGOING WORKING PHONE SERVICE FROM 6/25/04 TO 7/28/04. THEY WANT THE PUC TO IDENTIFY THE PROBLEM, CORRECT THE PROBLEM, AND PUNISH THE WRONGDOER.

DOCKETED
AUG 26 2004

ORIGINAL

Formal Complaint Form

C-20043569

Please Print

1. Your name, mailing address and telephone number.

Name Joshua P. Rubinsky, Esquire BRODIE & RUBINSKY

Street/P.O. Box 121 S. Broad Street, Suite 800 Apt # _____

City Philadelphia State PA Zip 19107

County Philadelphia Area Code/Home Phone 215-848-7073

Area Code/Work Phone 215-925-1470

2. Name of company your complaint concerns. Verizon

3. What is your complaint? (Use additional paper if need more space).

The failure to provide ongoing working phone service from June 25, 2004 to July 28, 2004 (see attached for summary of the problem)

4. What do you want the Public Utility Commission to do about your complaint? (Use additional paper if need more space).

- 1. Identify the problem
- 2. Correct the problem
- 3. Punish the wrongdoer (if any with appropriate sanctions)
- 4. Make our office whole for all disruption

5. You must sign and date your complaint below.

The information I have placed on this form is true and correct to the best of my knowledge. I understand that I could be punished under Pennsylvania State Law if I purposely give false information.

Joshua P. Rubinsky
Signature

8/6/04
Date

Continued on next page

8/22/04
115

6. If you are represented by a lawyer you must provide your lawyer's name, address and telephone number.

Lawyer's Name Brodie & Rubinsky

Street 121 S. Broad Street

City Philadelphia State PA Zip 19107

Area Code/Phone Number 215-925-1470

Mail to:

Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

**For more information, please contact the Secretary's Bureau at
717-772-7777.**

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P O BOX 3265, HARRISBURG PA 17105-3265

DATE SERVED: AUGUST 27, 2004

C-20043569

JULIA A CONOVER ESQUIRE
VERIZON PENNSYLVANIA INC
FLOOR 32-N 1717 ARCH ST
PHILADELPHIA PA 19103

DOCUMENT
FOLDER

Dear Sir/Madam:

A complaint has been filed against you before the Pennsylvania Public Utility Commission by JOSHUA P. RUBINSKY, ESQUIRE. To defend yourself against the claims stated in the following pages, you must act within twenty (20) days by filing in writing with the Commission, either personally or through your attorney, your defenses or objections to the claims stated against you. Or, you may satisfy the complaint by settling the matter with the Complainant and submitting proof of settlement to the Commission within twenty (20) days.

IF YOU FAIL TO RESPOND WITHIN TWENTY (20) DAYS, THE CASE MAY GO FORWARD IN YOUR ABSENCE AND A JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COMMISSION WITHOUT FURTHER NOTICE.

CUSTOMER OF A UTILITY

A payment schedule may be prescribed or a termination of utility services may be authorized. You may lose money or property or other rights important to you.

COMPANY/UTILITY

An Administrative Law Judge may revoke or suspend any certificate or permit held by you, or impose a fine, or any other appropriate penalty or remedy authorized by the Public Utility Code. You may lose money or property or other rights important to you.

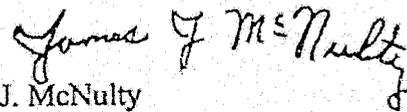
AUGUST 27, 2004

Detailed instructions on how to proceed are contained in the attached pages. You are advised to read them carefully.

Unless you are a corporation or other organization, you may proceed without a lawyer. However, if you want a lawyer and do not have one or cannot afford one, the office listed below can tell you where you can get legal help:

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

Very truly yours,



James J. McNulty
Secretary

JH

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DATE SERVED: AUGUST 27, 2004

JOSHUA P. RUBINSKY, ESQUIRE
Complainant

VS.

VERIZON PENNSYLVANIA, INC.
Respondent

Complaint Docket
No: C-20043569

DOCKETED
AUG 26 2004

FORMAL COMPLAINT NOTICE TO RESPONDENT TO ANSWER OR SATISFY

TO: VERIZON PENNSYLVANIA, INC.

DOCUMENT
FOLDER

TAKE NOTICE:

That a complaint in the above entitled matter, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. Section 702 of the Public Utility Code, 66 Pa. C.S. Section 702, requires the Commission to serve on each party named in a complaint a copy of the complaint and notice calling upon each party to satisfy the complaint, or to answer the same in writing within a specified time; THEREFORE,

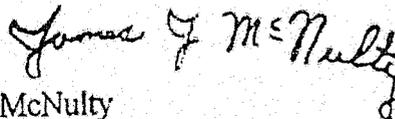
1. You have twenty (20) days from the date on which this complaint is served to either satisfy this complaint or to file with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, an answer (original and three copies), in writing, under oath, which, as required by Section 5.61 of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 5.61, either affirms or specifically denies the allegations in this complaint. You must also serve a copy of the answer upon the complainant. The date of service is the mailing date as indicated by the date at the top of this Notice. Section 1.56(a) of the Commission's Rules of Practice and Procedure, 52 Pa. Code Section 1.56(a).

2. If you fail to either satisfy this complaint or to file answer or other responsive pleading within twenty (20) days, you will be deemed to have admitted all the allegations in this complaint in accordance with Section 5.61 of the Commission's Rules of Administrative Practice and Procedure, 52 Pa. Code Section 5.61. In that event, the Commission may, without hearing, enter an order which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C.S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

3. If you elect to satisfy this complaint you must file, within twenty (20) days from the date on which this complaint is served, affidavits executed by each complainant that this complaint has been satisfied. Such affidavits must describe the basis on which this complaint was satisfied; any settlement agreement between the parties must be reduced to writing and attached to the affidavit. Such affidavits are to be filed with the Secretary of the Commission at the address set forth in paragraph 1. Upon receipt of affidavits of satisfaction from all complainants, this complaint may be dismissed by the Commission in accordance with Section 703(a) of the Public Utility Code, 66 Pa. C.S. Section 703(a), unless the Commission determines that such dismissal would be contrary to the public interest, in which event the Commission may direct that hearings be held upon the complaint.

4. If you file an answer which admits the allegations in this complaint, or which fails to specifically deny the allegations in this complaint, the Commission may, without hearing, enter an order which either revokes or suspends any certificate held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. The Commission is not limited to the relief sought by the complainant in paragraph 4 of the attached complaint.

5. If you file a timely answer which specifically denies the allegations in this complaint, or which raises material questions of law or fact, this matter shall be referred to the Office of Administrative Law Judge for hearing and decision. If, after hearing on the issues raised by that answer, you are found to have committed any of the violations alleged in the complaint, the Administrative Law Judge may render a decision which either revokes or suspends any certificate or permit held by you or which imposes a fine or any other appropriate penalty or remedy authorized by the Public Utility Code, 66 Pa. C. S. Section 101, et seq.; and, if you are a customer of a utility, an order may be entered which prescribes a payment schedule or which authorizes termination of utility services. In the imposition of a penalty after a hearing the Administrative Law Judge is not bound by the relief sought by the complainant in paragraph 4 of the attached complaint.



James J. McNulty
Secretary

(SEAL)

Certified Mail
Return Receipt Requested

Hawke
 Mckeon
 Sniscak &
 Kennard LLP
ATTORNEYS AT LAW

William T. Hawke
Kevin J. McKeon
Thomas J. Sniscak
Norman James Kennard
Lillian Smith Harris
Scott T. Wyland
Todd S. Stewart
Craig R. Burgraff
Steven D. Snyder
Janet L. Miller
Steven K. Haas
William E. Lehman
Rikardo J. Hull
Katherine E. Lovette

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmsk-law.com

September 16, 2004

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

ORIGINAL

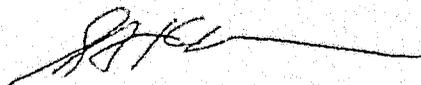
RE: Joshua P. Rubinsky, Esquire v. Verizon Pennsylvania Inc ;
Docket No. C-20043569; ANSWER OF VERIZON PENNSYLVANIA INC.

Dear Mr. McNulty:

Enclosed for filing with the Commission are the original and three (3) copies of Verizon Pennsylvania Inc.'s ("Verizon PA") Answer in the above-captioned proceeding. 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.

Very truly yours,



Steven K. Haas
Counsel for Verizon Pennsylvania Inc

SKH/kml
Enclosures
cc: Joshua P. Rubinsky, Esquire

RECEIVED
2004 SEP 16 PM 4:09
SECRETARY'S BUREAU

DOCUMENT
FOLDER

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

17

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

JOSHUA P. RUBINSKY,

Complainant

v.

VERIZON PENNSYLVANIA INC.,

Respondent.

Docket No. C-20043569

ANSWER OF VERIZON PENNSYLVANIA INC.
TO THE COMPLAINT OF JOSHUA P. RUBINSKY, ESQUIRE

Verizon Pennsylvania Inc. ("Verizon PA"), by its attorneys in this proceeding, Hawke McKeon Sniscak & Kennard LLP, hereby submits its Answer to the Complaint filed by Joshua P. Rubinsky, Esquire, ("Complainant"). In support thereof, Verizon PA avers and represents as follows:

1. ADMITTED, upon information and belief.
2. ADMITTED. The correct corporate name of the Respondent is Verizon Pennsylvania Inc.
3. Verizon PA DENIES the allegation set forth in Paragraph 3 of the Complaint.¹ By way of additional response and explanation, Verizon PA AVERS that the Complainant is not a customer of the Respondent.² The Complainant's local exchange carrier is Allegiance Telecom of PA, Inc.

¹The copy of the Complaint that was served on Verizon PA by the Commission does not include the Attachment referred to by the Complainant in Paragraph 3 of the Complaint.

²Verizon PA filed a Motion to Dismiss on this basis.

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SEP 23 2004

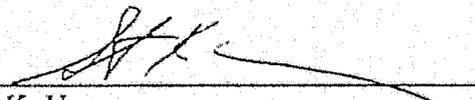
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("Allegiance Telecom"). The Complainant contacted Verizon on or about June 30, 2004, about his telephone service. Verizon referred the Complainant to his local exchange carrier and informed him that any service quality issues must be raised with Allegiance Telecom. Verizon PA has not received any trouble reports from Allegiance Telecom related to the facilities that serve the Complainant.

4. Paragraph 4 of the Complaint contains requests for relief to which no responses are required.

WHEREFORE, for the reasons set forth above, Verizon Pennsylvania Inc. respectfully requests that the Formal Complaint filed by Joshua P. Rubinsky, Esquire at Docket No. C-20043569 be dismissed or denied in its entirety.

Respectfully submitted,



Steven K. Haas
Hawke McKeon Smiscak & Kennard LLP
Harrisburg Energy Center
100 North Tenth Street
P.O. Box 1778
Harrisburg, PA 17105-1778
(717) 236-1300
Counsel for
Verizon Pennsylvania Inc.

DATED: September 16, 2004

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SECRETARY'S BUREAU

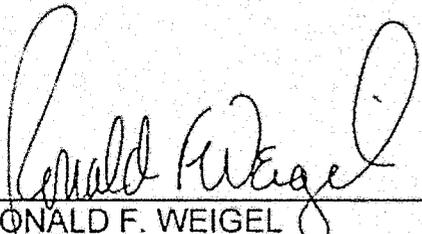
AFFIDAVIT

I, RONALD F. WEIGEL, Director - Government Relations of Verizon Pennsylvania am authorized to make this affidavit on its behalf, and I verify that the information provided in the foregoing document(s) is true and correct to the best of my knowledge, information and belief. I understand that false statements therein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsifications to authorities.

SECRETARY'S BUREAU

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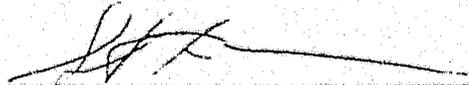
RONALD F. WEIGEL
Director - Government Relations

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 by First Class Mail:

Joshua P. Rubinsky, Esquire
Brodie & Rubinsky
121 S. Broad Street, Suite 800
Philadelphia, PA 19107



Steven K. Haas

DATED: September 16, 2004

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SECRETARY'S BUREAU

Hawke

McKeon

Sniscak &

Kennard LLP

ATTORNEYS AT LAW

ORIGINAL

William T. Hawke
Kevin J. McKeon
Thomas J. Sniscak
Norman James Kennard
Lillian Smith Harris
Scott T. Wyland
Todd S. Stewart

Craig R. Burgraff
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100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmsk-law.com

September 16, 2004

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

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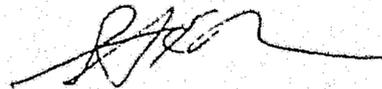
Re: Joshua P. Rubinsky, Esquire v. Verizon Pennsylvania Inc ;
Docket No. C-20043569, MOTION TO DISMISS

Dear Mr McNulty,

Enclosed for filing with the Commission are an original and three (3) copies of Verizon Pennsylvania Inc.'s ("Verizon PA") 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.

SKL/kml

Enclosures

cc: Joshua P. Rubinsky

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

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

JOSHUA P. RUBINSKY, ESQUIRE,

Complainant

v.

Docket No. C-20043569

VERIZON PENNSYLVANIA INC.,

Respondent

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SECRETARY'S BUREAU

NOTICE TO PLEAD

TO: Joshua P. Rubinsky, Esquire
Brodie & Rubinsky
121 S. Broad Street, Suite 800
Philadelphia, PA 19107

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 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
Harrisburg Energy Center
100 North Tenth Street
P.O. Box 1778
Harrisburg, PA 17105-1778
717-236-1300

Counsel for
Verizon Pennsylvania Inc.

DATED September 16, 2004

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

JOSHUA P. RUBINSKY, ESQUIRE,

Complainant

v.

Docket No. C-20043569

VERIZON PENNSYLVANIA INC.,

Respondent

DOCKETED
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SECRETARY'S BUREAU

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MOTION OF
VERIZON PENNSYLVANIA INC.
TO DISMISS THE COMPLAINT
OF JOSHUA P. RUBINSKY, ESQUIRE

DOCUMENT
FOLDER

Verizon Pennsylvania Inc. ("Verizon PA"), by its attorneys in this proceeding, Hawke McKeon Sniscak & Kennard LLP, and pursuant to 52 Pa. Code §5.101, hereby moves to dismiss the above-captioned Formal Complaint of Joshua P. Rubinsky, Esquire ("Complainant") due to lack of standing. In support of its Motion, Verizon PA represents as follows:

BACKGROUND

1. On or about August 20, 2004, the Complainant filed the instant Formal Complaint in which he alleges that Verizon PA failed to provide working service from June 25, 2004 to July 28, 2004.

2. On September 16, 2004, Verizon PA filed a timely Answer to the Complaint in which it DENIED the Complainant's allegations and AVERRED that the Complainant is not a

customer of Verizon PA. As indicated in Verizon PA's Answer, the Complainant has been a customer of Allegiance Telecom of PA, Inc. ("Allegiance Telecom") for local exchange service at all times relevant to this proceeding.

MOTION TO DISMISS

3 The Complainant has failed to state in his complaint any basis giving him standing to challenge the reasonableness of Verizon PA's service. In fact, he does not have such standing because Verizon PA does not provide service to the Complainant. Verizon PA has no duty to the Complainant, either via the Pennsylvania Public Utility Code, the Commission's regulations or Verizon PA's tariff, concerning the reasonableness of its service.

4 Additionally, the Commission has indicated in prior decisions that in order to have standing to complain against a utility, the Complainant must be a customer of the utility.¹

5 In this matter, the Complainant is a customer of a Competitive Local Exchange Carrier ("CLEC"), Allegiance Telecom, and, as such, does not have a direct relationship, either contractual or otherwise, with Verizon PA. Verizon PA provides no telephone service to the Complainant. The Complainant must pursue this matter through Allegiance Telecom. Because the Complainant is not a customer of Verizon PA, he lacks standing to pursue this matter via a Formal Complaint against it.

6 Verizon PA notes that the Complainant also filed a Formal Complaint against Allegiance Telecom with the Commission on or about August 20, 2004. This complaint is docketed at Commission Docket No. C-20043568. This proceeding against Allegiance Telecom

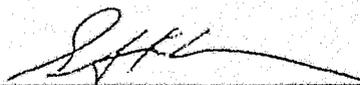
¹ *Re Pennsylvania-American Water Company*, 85 Pa. P.U.C. 548 (1995); *Pa. P.U.C. et al. v Marietta Gravity Water Company*, 87 Pa. P.U.C. 864 (1997); *Connolly v Duquesne Light Company*, Docket No. C-00015603; (Order entered October 31, 2001).

at Docket No. C-20043568 is the proper proceeding to address the issues raised by the Complainant since he is Allegiance Telecom's customer.

7. As indicated in Verizon PA's Answer, Verizon PA was contacted by the Complainant on or about June 30, 2004. Since the Complainant is not its customer, Verizon PA immediately referred him to his local exchange carrier, Allegiance Telecom, to report any problems. Verizon PA never received a trouble report from Allegiance Telecom concerning the facilities through which service to the Complainant is provided.

WHEREFORE, for the reasons set forth above, Verizon Pennsylvania Inc. respectfully requests that the Commission dismiss the Formal Complaint of Joshua P. Rubinsky, Esquire in its entirety

Respectfully submitted,



Steven K. Haas
Hawke McKeon Sniscak & Kennard LLP
100 North Tenth Street
PO Box 1778
Harrisburg, PA 17105-1778
(717) 236-1300

Counsel for
Verizon Pennsylvania Inc.

DATED: September 16, 2004

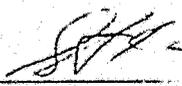
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SECRETARY'S BUREAU

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 by first class mail

Joshua P. Rubinsky, Esquire
Brodie & Rubinsky
121 S. Broad Street, Suite 800
Philadelphia, PA 19107



Steven K. Haas

DATE: September 16, 2004

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