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

IN REPLY PLEASE  
REFER TO OUR FILE

January 3, 2006

Mary Jane Phelps, Director  
Pennsylvania Code & Bulletin  
Room 647, Main Capitol Building  
Harrisburg, PA 17120

Re: Notice  
Petition of Verizon PA, Inc., for  
Modification of Consent Order  
Docket No. C-00881727

DOCUMENT  
FOLDER

Dear Ms. Phelps:

Enclosed please find two (2) copies of the Commission's order in the above-captioned proceeding. The Commission requests that this order be published in its entirety as a notice in the Pennsylvania Bulletin.

Very truly yours,

Karen O. Moury  
Director of Operations

Enclosure

cc: Regulatory Coordinator DelBiondo  
Docketing ✓

**DOCKETED**  
JAN 17 2007

publication in the *Pennsylvania Bulletin* and request interested Parties to file comments within twenty days from the date of publication with reply comments due 10 days thereafter.

The Verizon Petition seeks modification of a Consent Order of this Commission, entered June 15, 1990, at Docket No. C-00881727. The Consent Order was issued in response to a Joint Petition for Settlement filed by the OCA, the Commission's Staff and Bureau of Consumer Services and Verizon (formerly Bell Atlantic – Pennsylvania, Inc.), in resolution of a Complaint filed by the OCA regarding deceptive sales practices by Verizon in marketing telephone services to residential customers.

The instant Petition requests that Paragraph No. 2<sup>1</sup> of Exhibit F of the Consent Order be eliminated and that Paragraph No. 5 of Exhibit F of the Consent Order be amended. Paragraph No. 2 of Exhibit F states as follows:

In contacts with customers who are subscribing to or transferring residential telephone services ("New Connects" and "Transfers") Bell agrees to complete the sale of required telephone services prior to attempting to sell any optional service, except that Bell may discuss TouchTone Service as provided in paragraph 6.

Paragraph No. 5 of the Consent Order states as follows:

In contacts with New Connects and Transfers, Bell will expressly inform customers **after the sale of required telephone service and** prior to attempting to sell optional services that all such services to be discussed are optional and not required or needed for basic telephone service. (emphasis added).

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<sup>1</sup> Verizon's Petition inadvertently indicated Paragraph No. 3 instead of Paragraph No. 2, however with the correct quotation of the language to be eliminated. Verizon has since confirmed that the Paragraph number be corrected accordingly.

Finally, Verizon states that due to significant changes in the industry and the regulatory environment, the 1990 Consent Order serves no useful purpose and can be annoying and confusing to customers.

#### Answer of OCA

On August 23, 2006, OCA filed an Answer to Verizon's Petition. In its Answer, OCA submits that it does not oppose modification of the Consent Order. However OCA requests that if the Commission considers Verizon's Petition for Modification, Verizon should also allow Lifeline 135<sup>3</sup> discount customers to purchase bundled service packages. OCA contends that currently, Verizon's tariff excludes Lifeline customers from taking advantage of the cost savings and benefits in its bundled service offerings. See Verizon Tariff 500, Section 45 at 18. OCA requests that, as a condition to granting Verizon's Petition, the Commission require Verizon to modify the Lifeline tariff prohibition in order to enable Lifeline 135 customers to purchase bundled service packages.

OCA explains that the customers who qualify for Lifeline 135 service must be able to receive the \$7.67 federal universal service fund discount<sup>4</sup> as a credit against local usage regardless of whether the local service is purchased on a stand-alone basis or as part of a bundled service package. OCA submits that there is no valid reason for Verizon to prevent Lifeline customers from receiving the most economical telephone

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<sup>3</sup> Lifeline 135 reduces the cost of monthly telephone service for one telephone line for those who have incomes at or below 135 percent of the federal poverty guidelines or who receive help from certain public assistance programs.

<sup>4</sup> Lifeline 135 customers are eligible for the sum of the Tier 1 and Tier 2 discounts established under federal Lifeline regulations. 47 C.F.R. § 54.403(a)(1), (2). This amounts to a credit against the current subscriber line charge of \$5.92, \$1.00 toward the dial tone line, and \$0.75 against local usage.

such services. OCA points out that the Commission, in its Lifeline and Link-up Order,<sup>5</sup> has set its policy reflective of provisions in Section 3019(f), consistent with Act No. 183. OCA submits that Verizon PA's position that low income customers eligible for Lifeline 135 cannot subscribe to optional services as part of an economic bundle or package makes no sense and is contrary to Section 3019(f)(2).

OCA further states that nothing in Chapter 30 relieves Verizon of its obligations under Section 1501 of the Code, 66 Pa. C.S. § 1501, to provide reasonable and adequate service and that the Commission should not grant Verizon's instant Petition unless the prohibition against Verizon Lifeline 135 customers purchasing bundles is eliminated. OCA submits that Verizon's revised script for communication and sales of service to all customers satisfy the provisions of both Section 1501 and Chapter 30.

**Verizon's Reply to OCA's Answer & Motion for Judgment on the Pleadings and Motion to Sever and Dismiss the Issue raised by OCA**

On September 15, 2006, Verizon filed separately a Reply to OCA's Answer as well as a Motion for Judgment on the Pleadings and a Motion to Sever and Dismiss the issue raised in OCA's Answer. In these pleadings, Verizon objects to OCA's condition that would require Verizon to provide Lifeline 135 customers a discount on bundled service packages. Verizon states that OCA does not oppose the relief it sought but rather seeks its own unrelated request for affirmative relief. As such, pursuant to Commission regulations at 52 Pa. Code §5.102, Verizon requests judgment on the pleadings to immediately grant the modification to the Consent Order that it seeks in its Petition.

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<sup>5</sup> *In Re: Lifeline and Link-Up*, Docket No. M-00051871, Final Order at 5-6, 13-15 (May 23, 2005).

Verizon also seeks the dismissal of OCA's request for a change to the Lifeline requirements request since the issue is not properly raised.<sup>6</sup>

Verizon claims that since OCA admitted the allegations of Verizon's Petition by failing to oppose or deny them and that no party has opposed this relief, the Commission should immediately enter judgment on the pleadings granting Verizon's Petition. In addition, Verizon requests that the Commission sever OCA's Lifeline argument and dispose them on a separate track because Lifeline is not addressed in the Consent Order which is the sole subject of Verizon's Petition.

In its Reply to OCA's Answer, Verizon states that OCA is not opposed to the Modification of the Consent Order but seeks only to insert its own unrelated request for affirmative relief against Verizon. Verizon claims that it would be inconsistent with the purpose and intent of Lifeline to apply the discount to packages and bundles, particularly those including unlimited nationwide toll and long distance calling plan to Lifeline 135 customer. Verizon quotes Act No. 183, to define Lifeline service as a discounted rate local service offering as defined by FCC regulations. Verizon also states that the federal rules define Lifeline as a retail local service offering that is available only to qualifying low-income consumers that requires including local usage and access to an Interexchange carrier's network.

Verizon believes that OCA's request to expand availability of the Lifeline 135 discount beyond basic local service and apply it to an unlimited and undefined universe of packages and bundles is contrary to the purpose of Lifeline service. It further states that by abiding to OCA's request, Lifeline service could become a discounted

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<sup>6</sup> Verizon believes the request for a change in the Lifeline requirement should have been raised in a separate Petition rather than in an Answer.

premium service, rather than ensuring discounted basic local service for those who could not otherwise afford it. (Verizon Reply at 2 and 3).

Verizon argues that OCA's proposal would allow Lifeline 135 customers to subscribe to and obtain the discount on any bundled or packaged service that contains local calling as a portion of the package, including deluxe packages such as Verizon Freedom Extra (at \$67.99 a month) or Verizon Freedom (at \$57.99 a month). Verizon maintains that the purpose of Lifeline service is not to assist customers with truly limited incomes to purchase these sorts of plans, but only to ensure affordable local calling and access to make toll calls.

Verizon further states that OCA's argument that the Lifeline 135 discount must apply to bundled and packaged services does not make sense. Verizon quotes 66 Pa. C.S. § 3019(f)(2) which specifically requires that Lifeline customers purchase those services at tariffed rates and that it particularly does not mean a bundled or package rate. Verizon also states that the above provision specifically states that Lifeline subscribers shall be permitted to subscribe to any number of other eligible telecommunications services at the tariffed rates for such services. Verizon asserts that while other individual service options are available to Lifeline 135 customers, discounted services are limited to basic local services.

Finally, Verizon claims that if it has to expand the availability of the Lifeline 135 discount to packages and bundles, it would have to make extensive ordering and billing system changes, and that it would not be without cost to the industry. However, Verizon concedes that it has not been able to calculate the exact cost of these systems changes and provided no cost estimates.

## OCA's Answer in Opposition to Verizon's Motion for Judgment on the Pleadings

On October 10, 2006, OCA filed its Answer in opposition to Verizon's Motion for Judgment on the pleadings. In its Answer, the OCA states that Verizon failed to recognize the fundamental problem with its revised script which it claimed was modified to meet the needs of its customers. The OCA urges the Commission not to approve a sales script that promises more than it produces. The OCA is concerned that this might give rise to future complaints where Lifeline customers are promised the best plan or package, but are forced to buy needed services "a la carte" when a much "lower priced package" is available. Accordingly, OCA believes Verizon's new script is inconsistent and unfair since it prevents the potential bundled package savings from reaching local-income customers who may need these savings the most.

OCA argues that there is no longer any justification for Verizon's contradictory and inequitable policy in the aftermath of the General Assembly's revision to its Lifeline policy in Section 3019 of Act No. 183 and the Commission's subsequent *Order In Re: Lifeline and Link-Up*.

In response to Verizon's complaint in its Motion and Reply that the Lifeline benefits should not be available to the highest priced packages (Verizon Motion at 3, Verizon Reply at 4), OCA submits that it would be a reasonable compromise to restrict the types and prices of packages to which Lifeline customers can subscribe. OCA lists the following services as illustrating the type of packages that would be most valuable to Lifeline consumers:

- A. Local Package  
(Local and three vertical services)  
\$27.95/month
  
- B. Regional Essentials  
(Local, three vertical services and regional toll)  
\$36.00/month
  
- C. Freedom Essentials  
(Local, three vertical services, regional toll, and long distance)  
\$39.95/month

OCA states that the above-referenced packages represent the lowest priced current package in each of the three categories and is a reasonable compromise to restrict the type of packages available with the Lifeline discount. OCA believes this restriction will eliminate any concern regarding Lifeline customers signing up for deluxe packages and will focus the Lifeline application on low-priced packages that may offer the best savings.

In response to Verizon's complaint that OCA's proposal will needlessly delay the implementation of its revised sales presentation, OCA submits that there is no need to hold a hearing in this matter and that it has laid out its concern on legal and policy grounds. OCA takes the position that the Commission may decide this issue based upon the pleading that was filed without any further delay.

OCA disagrees with Verizon's argument that the issue raised by OCA should be resolved in a different forum involving other carriers. OCA states that Verizon is unique in having a script that it is required to use when it sells its telecommunications services; the existence of which is related to a complaint action and settlement. This complaint was resolved years ago and related to allegations about unfair and misleading Verizon sales practices. OCA further submits that not all carriers follow Verizon's

practice of prohibiting Lifeline customers from purchasing service bundles. OCA cites examples of Commonwealth Telephone Company and The United Telephone Company of Pennsylvania d/b/a Embark Pennsylvania Inc. (previously d/b/a Sprint) for the proposition that these companies offer discounted custom calling feature packages to Lifeline customers. OCA states that enlarging this case to include other carriers is unwarranted and unnecessary.

OCA also counters that the purpose of Lifeline 135 is to enable persons with limited incomes to afford basic local telephone service and a connection to long distance. OCA states that the Commission has already appropriately determined that legislative changes allow Lifeline subscribers service to subscribe to any number of other telecommunication services.

OCA also points out that Verizon makes a misstatement when its replies that OCA wants Lifeline customers be able to purchase packages at a discounted rate. OCA clarifies that it advocates Lifeline customers be able to buy packages at tariffed rates consistent with Section 3019(f)(2). Under the terms of Section 3019, customers are able to purchase any services, whether local area unlimited or caller ID, at tariffed rates and the discount that the Lifeline customers receive consist of a credit of federal Universal Service Fund money that is applied to the overall bill. The discount that the Lifeline customer receives is merely the reflection of the federal USF Lifeline credit that Verizon receives as partial payment for the consumer's bill.

### **Disposition**

On consideration of the positions of Verizon and OCA, we agree that, with certain conditions, relief for Verizon from the Consent Order along with the OCA's proposed compromise condition to eliminate the prohibition against Verizon Lifeline 135

customers from purchasing bundled package service is appropriate and in the public interest. Granting of the Petition will allow Verizon and its new customers to complete the sale of services in an efficient manner. However, we would expect Verizon to continue to notify customers up front of the least expensive basic service option.<sup>7</sup> We also find OCA's compromise proposal to be reasonable in that it limits the type of packages available with the Lifeline discount.

We do not find Verizon's cost claims persuasive. Granting OCA's compromise proposal to allow Lifeline 135 customers to subscribe to bundled service packages appears to be consistent with the new changes that were brought about by Act 183 and any costs associated with Act 183 compliance is considered a cost of doing business. In addition, Verizon is incorrect when it argues that OCA is seeking relief against Verizon to provide Lifeline 135 discounts on bundled service packages. In this regard, we agree with OCA's contention that the Lifeline credit of \$7.67 is applied to the overall bill of Lifeline 135 customers. Verizon is fully reimbursed by federal USF under the Lifeline 135 program and Verizon is fully paid for all services by the Lifeline consumer at the tariffed rate. As such, we agree with OCA's position and we shall deny

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<sup>7</sup> We note that Verizon is required to explain and offer the least expensive type of basic service to residential customer in accordance with our regulations at §64.191, which provides that:

- (a) LEC service representatives shall provide applicants who apply for residential telephone service in person with a concise, easy-to-understand printed price list showing all available service and equipment options. The price of the least expensive single-party basic service option shall be clearly and conspicuously displayed on the list.
- (b) If an applicant applies for service by telephone, the LEC service representative shall:

Verizon's Motion for Judgment and Motion to Sever and Dismiss the issues raised in OCA's Answer.

We also are of the opinion that any changes to Verizon's New Connect or Transfer Customer Contact Flow and any associated script changes, including the questions that Verizon will ask the affected customers to determine the best plan or package, should first be reviewed by our Bureau of Consumer Services for plain language review. As such, we shall require, as a condition to granting Verizon's Petition, that Verizon contact our Bureau of Consumer Services for plain language review consistent with this discussion.

Finally, we note that Verizon's Lifeline tariff<sup>8</sup> presently contains language that explicitly restricts Lifeline customers from ordering bundled services. As such, within twenty days from the date that a final order is entered in this proceeding, Verizon shall file revised tariffs, to become effective on one day's notice, which modifies this language consistent with the relief granted by this Tentative Opinion and Order.

In addition, until such time that a final determination is made in the Commission's rulemaking proceeding at Docket No. L-00060179,<sup>9</sup> consistent with our September 23, 2003 Secretarial Letter at Docket No. M-00031747, and our July 3, 2006 Order at Docket No. L000060179, which automatically grants a temporary waiver of

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(1) Explain and give the price of the least expensive type of single-party basic service.

<sup>8</sup> See Verizon PA Tariff-Telephone Pa. P.U.C. No. 1, Section 22G, 2<sup>nd</sup> Revised Sheet 2, Paragraph B.3., which states that "Lifeline 135 customers may not subscribe to any packaged or bundled offerings that include local, toll and optional services."

<sup>9</sup> See, *Rulemaking Re: Provision of Bundled Service Package Plans at a Single Monthly Rate by Local Exchange Carriers*; Docket No. L-00060179 (Order entered July 3, 2006).

Chapter 64 billing requirements to the extent necessary to permit LECs to offer bundled service packages without petitioning the Commission, Verizon shall not be permitted to immediately terminate basic service for failure by the bundled package customer to pay the package charge. Instead, we shall require Verizon to convert the account to a basic service account which could be subject to future suspension or termination for non-payment in accordance with our regulations. We will also require Verizon to provide disclosure statements to all customers currently subscribed to a bundled service package and to all consumers being offered the opportunity to subscribe to a bundled service package. This disclosure statement, the content of which is subject to Commission review for consistency with plain language guidelines, will notify the customer of the billing practices that will be implemented in the event of the customer's failure to pay the bundled service package charge in full, informs the customer that they will not lose basic service for failure to pay the bundled service package charge, and identifies the charge that must be paid to maintain basic service.

Accordingly, we shall tentatively grant Verizon's Petition consistent with the OCA's compromise proposal set forth in its October 10, 2006 Answer. In addition, we shall issue this Opinion and Order as a Tentative Opinion and Order. This Tentative Opinion and Order shall be published in the *Pennsylvania Bulletin* and any interested Parties shall be directed to file comments within twenty days from the date of publication with reply comments due 10 days thereafter. If no adverse or objectionable comments are received, this Order shall become effective without further Commission action. Otherwise, we shall issue a subsequent final Order addressing the Comments and Reply Comments; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition of Verizon Pennsylvania Inc. For Modification of Consent Order, as modified by the compromise proposal addressed in the Office of Consumer Advocate's October 10, 2006 Answer In Opposition to Verizon Pennsylvania Inc.'s Motion for Judgment on the Pleadings or Alternate Relief, is tentatively granted consistent with this Tentative Opinion and Order.
2. That the Secretary shall publish this Tentative Opinion and Order in the *Pennsylvania Bulletin*.
3. That all persons having an interest in this proceeding shall file comments regarding our disposition in this Tentative Opinion and Order within twenty (20) days from the date of publication in the *Pennsylvania Bulletin*. Reply Comments shall be due ten (10) days thereafter.
4. That if no adverse or objectionable comments are received within the time frame set forth in Ordering Paragraph No. 3, above, this Tentative Opinion and Order will become final without further action of the Commission and the Petition of Verizon Pennsylvania Inc. For Modification of Consent Order, as modified by the compromise proposal addressed in the Office of Consumer Advocate's October 10, 2006 Answer will be granted, and the matter be marked closed.
5. That if no adverse or objectionable comments are received within the time frame set forth in Ordering Paragraph No. 3, above, it is further ordered:

a. That Verizon shall contact the Commission's Bureau of Consumer Services for plain language review of its New Connect or Transfer Customer Contact Flow and any associated script changes, including the questions that Verizon will ask the affected customers to determine the best plan or package, consistent with this Tentative Opinion and Order.

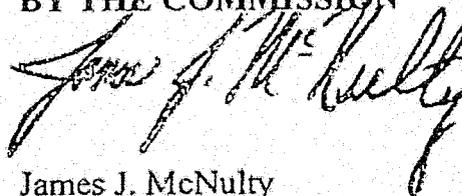
b. That within twenty (20) days from the date this Tentative Opinion and Order becomes final, Verizon is directed to file revised Lifeline tariffs consistent with the discussion in this Opinion and Order.

6. That Verizon Pennsylvania Inc.'s Motion for Judgment on the Pleadings on its Petition and Motion to Sever and Dismiss the issues raised in OCA's Answer seeking Affirmative Relief is tentatively denied, consistent with this Tentative Opinion and Order.

7. That if any adverse or objectionable comments are filed pursuant to Ordering Paragraph No. 3, above, a further Opinion and Order addressing the Comments and any Reply Comments will be issued.

8. That a copy of this Tentative Opinion and Order be served on the Office of Consumer Advocate, the Office of Small Business Advocate and the Office of Trial Staff.

BY THE COMMISSION



James J. McNulty

Secretary

(SEAL)

ORDER ADOPTED: December 21, 2006

ORDER ENTERED: DEC 26 2006