

#####	Mainframe-	-	-	-	Migration 236 - N - Aug 10 2006 12:00AM - VERIZON PENNSYLVANIA INC. FLD PETITION FOR MODIFIC
#####	Mainframe-	-	-	-	Migration 237 - N - Sep 1 2006 12:00AM - SEC MEMO TO OSA ASSIGNING PET FOR MODIFICATION OF
#####	Mainframe-	-	-	-	Migration 238 - N - Aug 23 2006 12:00AM - OCA FILED ANSWER TO PETITION FOR MODIFICATION OF C
#####	Mainframe-	-	-	-	Migration 239 - N - Sep 15 2006 12:00AM - VERIZON PA FLD MOT FOR JUDGMENT ON PLEADINGS, MC
#####	Mainframe-	-	-	-	Migration 240 - N - Sep 15 2006 12:00AM - VERIZON PA FILED REPLY TO OCA'S ANSWER - BESTKAY
#####	Mainframe-	-	-	-	Migration 241 - N - Sep 19 2006 12:00AM - SEC MEMO TO OSA ASSIGNING VERIZON MOTIONS AND RI
#####	Mainframe-	-	-	-	Migration 242 - N - Oct 10 2006 12:00AM - OCA FILED ANSWER IN OPPOSITION TO VERIZON PA MOT J
#####	Mainframe-	-	-	-	Migration 243 - N - Dec 21 2006 12:00AM - RECOM ADOPTED VERIZON PET GRANTD W/CONDITNS; TE
#####	Mainframe-	-	-	-	Migration 244 - N - Jan 3 2007 12:00AM - DIR OPERATIONS K MOURY LTR TO M PHELPS-PUBLISH ORDI
#####	Mainframe-	-	-	-	Migration 245 - N - Feb 2 2007 12:00AM - COMMENTS TO BE FILED - SCHADERJOAN
#####	Mainframe-	-	-	-	Migration 246 - N - Feb 12 2007 12:00AM - REPLY COMMENTS TO BE FILED - SCHADERJOAN
#####	Mainframe-	-	-	-	Migration 247 - N - Feb 2 2007 12:30AM - COMMENTS FILED BY OCA IN SUPPORT OF PUC TENTATIVE
#####	Mainframe-	-	-	-	Migration 248 - N - Feb 2 2007 12:00AM - COMMENTS FILED BY PENNSYLVANIA UTILITY LAW PROJECT
#####	Mainframe-	-	-	-	Migration 249 - N - Feb 2 2007 12:30AM - COMMENTS FILED BY VERIZON PENNSYLVANIA INC W/CERT
#####	Mainframe-	-	-	-	Migration 250 - N - Feb 12 2007 12:00AM - REPLY COMMENTS FILED BY OCA IN SUPPORT OF PUC TEN
#####	Mainframe-	-	-	-	Migration 251 - N - Feb 9 2007 12:00AM - REPLY COMMENTS FILED BY VERIZON PENNSYLVANIA INC V
#####	Mainframe-	-	-	-	Migration 252 - N - May 30 2007 12:00AM - POSTPONED TO PUB MEETING OF 6/21/07 FOR THE COMI
#####	Mainframe-	-	-	-	Migration 253 - N - Dec 26 2006 12:00AM - TENTATIVE OPINION & ORDER ADOPTED 12/21/06 ISSUED
#####	Mainframe-	-	-	-	Migration 254 - N - Jun 29 2007 12:00AM - FINAL ORDER ADOPTED 6/21/07 ISSUED (SEE DOCS #67397
#####	Mainframe-	-	-	-	Migration 255 - N - Jun 29 2007 12:00AM - V. CHAIRMAN CAWLEY STMT CONCURREING IN PART/DISSEI
#####	Mainframe-	-	-	-	Migration 256 - N - Jul 2 2007 12:00AM - SEC LETTER TO PARTIES ENCLOSED 1ST PAGE REPLACEMENT TO
#####	Mainframe-	-	-	-	Migration 257 - N - Jul 11 2007 12:00AM - OSA E-MAIL TO SEC ADVISING CLOSE CASE - ZEIDERS
#####	Mainframe-	-	-	-	Migration 258 - N - Jun 21 2007 12:00AM - VERIZON PET GRNTD; ULINE CONDITN ADVOCATD BY OCA
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#####	LAW Histor-	-	-	-	Migration Assignment number 1997 0820 00 - Final Act on: LBPS ans

CAPTION SHEET

CASE MANAGEMENT SYSTEM

1. REPORT DATE: 00/00/00 :
2. BUREAU: OSA :
3. SECTION(S) : 4. PUBLIC MEETING DATE:
5. APPROVED BY: : 00/00/00
DIRECTOR :
SUPERVISOR :
6. PERSON IN CHARGE: : 7. DATE FILED: 03/21/88
8. DOCKET NO: C-00881727 : 9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: BARASCH, DAVID, CONSUMER ADVOCATE

RESPONDENT/APPLICANT: BELL TELEPHONE CO OF IENNA, THE

COMP/APP COUNTY:

UTILITY CODE: 310200

ALLEGATION OR SUBJECT

COMPLAINANT ALLEGES THAT RESPONDENT IS PROVIDING UNLAWFUL, UNFAIR AND DECEPTIVE MARKETING PRACTICES REGARDING THE SALE OF OPTIONAL TELEPHONE SERVICES WHEN INITIATING OR RE-ESTABLISHING TELEPHONE SERVICE TO CUSTOMERS AND REQUESTS A REFUND TO RATEPAYERS ALL CHARGES COLLECTED AS A RESULT AND TO LEVY FINES AGAINST RESPONDENT FOR VIOLATIONS OF PUC REGULATIONS.

Suzan DeBusk Paiva
Assistant General Counsel



Verizon Pennsylvania Inc.
1717 Arch Street, Floor 10
Philadelphia, PA 19103

Tel: (215) 466-4755
Fax: (215) 563-2658
Suzan.D.Paiva@Verizon.com

August 10, 2006

ORIGINAL

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AUG 10 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

VIA UPS OVERNIGHT DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

RE: In Re Petition of Verizon Pennsylvania Inc.
For Modification of Consent Order
Docket No. ~~P~~-C-00881727

Dear Secretary McNulty:

Enclosed please find the original and three (3) copies of the Petition of Verizon Pennsylvania Inc. for Modification of Consent Order.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Suzan D. Paiva

SDP/slb
Enclosure

VIA FIRST CLASS MAIL
cc: Attached Certificate of Service

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AUG 10 2006

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

In Re Petition of Verizon Pennsylvania Inc. :
For Modification of Consent Order : Docket No. P-C-00881707

PETITION OF VERIZON PENNSYLVANIA INC.
FOR MODIFICATION OF CONSENT ORDER

1. The name and address of the Petitioner are:

Verizon Pennsylvania Inc. (Verizon PA)
1717 Arch Street, 10th Floor West
Philadelphia, PA 19103.

2. The name, address and email address of Petitioner's attorney is:

Suzan D. Paiva
1717 Arch Street, 10th Floor West
Philadelphia, PA 19103
(215) 466-4755
suzan.d.paiva@verizon.com

3. Pursuant to Section 703(g) of the Public Utility Code (66 Pa. C.S. Sec. 703(g)) and 52 Pa. Code § 5.572(d), Verizon PA hereby requests that the Commission modify a Consent Order entered more than sixteen years ago. This modification would permit Verizon PA to offer New Connect (NC) and Transfer (T) residential customers, where appropriate, packages of services containing basic service without first selling those customers standalone basic service.

4. The communications industry has undergone a revolutionary transformation in the almost two decades since the original Consent Order was entered. Not only Verizon PA, but various wireline and intermodal competitors, offer all sorts of packages combining various services at favorable prices. Verizon PA's experience has shown that most customers want one of these packages, and do not want to be forced to make theoretical

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decisions to purchase basic services they do not want and will not use before hearing about the products that actually meet their needs. This anachronistic requirement to “sell” basic services first -- while it may have been appropriate sixteen years ago -- is no longer in the best interests of consumers, and in fact results in annoying delays and confusion for Verizon PA’s customers rather than providing useful information. While Verizon PA will, of course, inform the customer up front of the least expensive local service option, it seeks to be relieved of the requirement (imposed on Verizon PA alone and not on its competitors) to actually sell basic service before discussing packages that might better meet the customer’s stated needs.

5. Over sixteen years ago, on June 15, 1990, the Commission entered a Consent Order in Docket No. C-881727. Verizon PA requests **elimination** of paragraph 3 of Exhibit F of the Consent Order, which provides that “[in] contacts with customers who are subscribing to or transferring residential telephone service (“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.”¹

6. Verizon PA further requests **amendment** of paragraph 5 of Exhibit F, which provides that “[i]n contacts with New Connects and Transfers, Bell will expressly inform customers **after the sale of required telephone services 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) The proposed amendment would eliminate the bolded language in paragraph 5 above.

7. These changes would permit Verizon PA to stop the mandatory upfront sale of standalone basic service. These modifications would continue notice to the customer up front of the least expensive basic service option, but then permit the customer to select the standalone or package services that best meet the customer's needs after the Verizon PA consultant has had a chance to obtain the customer's LD PIC/LPIC, determine the customer's overall service needs, and discuss various service options with the customer.

8. The Consent Order was approved by the Commission in a very different, highly regulated era, several years before Verizon PA started selling bundled packages of services and more than a decade and a half before now, which given the light speed developments in telecommunications during this period makes 1990 seem an eternity ago. Indeed, this Consent Order originally even prohibited Verizon PA from selling packaged bundles of services as they exist today.² Since that time the Legislature has recognized how important it is to consumers that bundled and packaged services be made available. Act 183 specifically states that local exchange carriers may offer bundles and packages of services "which include nontariffed, competitive, noncompetitive or protected services, including services of an affiliate, in combinations and at a single price selected by the company." 66 Pa. C.S. § 3016(e)(2).

9. Because of these significant changes in the industry and the regulatory environment, what made sense in 1990 no longer serves a useful purpose, in 2006 and, indeed, can be annoying and confusing to customers:

¹ Paragraph 2 of Exhibit F defines "required telephone services" as "the Dial Tone Line, Local Usage Services options, and the federal line cost charge" which collectively comprise "basic service" under the Commission's Chapter 64 rules (52 Pa. Code Chapter 64) and "local service" in common parlance.

² Verizon PA initially had to petition the Commission in 1997 to eliminate an outright ban on package sales in Exhibit F to this same Consent Order. The Commission approved this modification (and associated

1990	2006
<p>All services were purchased "a la carte":</p> <ul style="list-style-type: none"> • a basic service offering, • toll from Verizon PA and/or an IXC (Verizon PA could not provide interLATA toll) at generally high metered (per minute) rates, and • individual standalone nonbasic services such as Call Waiting or Caller ID. 	<p>As of June 2006, 65% of Verizon PA New Connect and Transfer customers who are eligible for a package purchase packages of services, for a flat rate that is less than the total of the standalone rates for the individual services.</p> <p>Toll rates have dropped precipitously as IXC, CLEC, VOIP and wireless carrier competition has intensified (Verizon PA can now provide interLATA as well as intraLATA toll service), and many toll customers now obtain unlimited wireline toll service as part of flat rate packages that may include local and nonbasic services as well.</p>
<p>Most calling was local.</p>	<p>Much more toll calling is occurring due to substantially reduced toll rates and more widely dispersed family and friends. And that toll calling, in many cases, is flat rated from "all you can eat" packages.</p>
<p>Verizon PA faced no residential wireline carrier competition.</p>	<p>There is now substantial wireline carrier competition in Verizon PA's service territory - from wireline, wireless and VOIP/cable sources.</p>
<p>The wireless industry was still in its infancy recall the "brick" phones.</p>	<p>There has been an explosive growth of wireless carrier competition (there are now more wireless lines in PA than wirelines).</p>

10. All of the foregoing factors, most notably, the rise and increasing ubiquity of service packages combining basic, toll and nonbasic services for a favorable fixed price, make the lockstep segregation-of-services sales procedure called for in the Consent Order -

Chapter 64 waivers not required here) in a order entered on June 12, 1997 in this docket, thereby giving Verizon PA freedom to sell packages that many of its emerging competitors were already marketing.

i.e., always sell basic service first before selling any toll or other optional services – now anachronistic.³

11 Not only is this restriction unneeded in the modern competitive world, which is moving away at warp speed from a la carte telecommunications service pricing, but it is also an active deterrent to providing good customer service. This unneeded regulatory requirement forces valuable customer time in these already lengthy New Connect and Transfer contacts to be spent discussing with and having customers select basic service options (i.e., standalone local calling plans). That is time wasted when two thirds of eligible customers, moments later in the contact, opt for a service package that includes a local calling plan, thereby obviating the earlier standalone basic service order.

12. Moreover, and perhaps most importantly, many such customers express puzzlement and/or irritation about having to make the standalone basic service choice earlier in the contact after they subsequently select a service package -- e.g., saying in words or substance, "Why didn't you tell me about packages in the first place?" or "Why'd we have to spend all that time getting me to select just local service when what I wanted was a package?"

13. Verizon PA only seeks to be able to better meet the needs of its New Connect and Transfer customers. Instead of forcing them to pick a standalone basic service, Verizon would first advise the customer up front of the least expensive local service option, next go directly to the customer's toll PIC/LPIC, and then, based on the PIC/LPIC and other needs information gleaned from talking with the customer, discuss with the customer what

³ The "packages" Verizon PA sold in the late 1980's that led to the Consent Order provisions in general and this restriction in particular were not true "packages" as we have today, but rather individual services that were offered together for the total price of their standalone service rates (i.e., with no discount other

individual services or service package are the best fit for the customer's needs. Where the best fit for the customer is individual a la carte services, then the customer will be asked to select a standalone local calling plan. But coming as it will later in the contact, that will be an informed recommendation by Verizon PA, and an informed choice by the customer, one that will not be cancelled out – as now – by the customer's subsequent selection of a package later in the contact.

14. Under the proposed revised contact flow to accommodate the requested Exhibit F changes, Verizon PA would continue to make clear in a modified transition statement, in accordance with amended paragraph 5 of Exhibit F, that only a local calling plan is required, and that all other services are optional and not required for basic service. Illustratively, the revised New Connect Contact Flow would look like this:

New Connect Contact Flow- (changes in bold italics)

- o Welcome
- o Service Address
- o Credit Verification
- o *Special Needs Disclosure*
- o *Lifeline/LinkUp America [These two bulleted items are being placed earlier in the flow]*
- o Listings
- o Billing Name and Address
- o **Basic:** "Mr./Ms. Customer, Verizon offers Basic Local service for \$____/mo. It is our least expensive service. We have several *other* local, *regional and long distance* calling plans and packages. I'll be asking you a few questions to recommend the best plan *or package* for you." *[we would no longer negotiate and have the customer select a local calling plan at this time unless the customer so desires]*
- o **Transition:** "~~[In addition,]~~ *Only a local calling plan is required. [we have]* All other services [, which] are optional and not required for Basic service."
- o **Equal Access Toll Statement:** "You have a choice of Local and Long Distance providers. I can send you a list. Do you know who you would like for Local toll service? Do you know who you would like for LD service?"
- o Have customer select toll PIC and LPIC.

than perhaps a small discount for purchasing multiple CLASS services) without making clear what services were required (*i.e.*, basic) and what were optional.

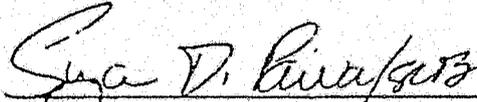
After these steps are completed, and dependent upon whether the customer selected Verizon PA for his or her PIC and LPIC, as approximately 70% of Verizon PA's customer do, the consultant would recommend the services, plan(s) or package that best meets the customer's needs. Once the customer has made his or her service selections, the consultant will recap the customer's order, including reviewing the standalone price of the local calling plan the customer has purchased individually or as part of a package. This recap, reinforcing the disclosures at the start of the contact, will further highlight that the customer has the option to buy only a local calling plan and that that is all that is required.

15. Except for the elimination of paragraph 3 and amendment of paragraph 5, Verizon PA would continue to comply with all other provisions of Exhibit F that are still effective (*see* footnote 2 above).

16. None of the other ILECs, CLECs, wireless or VOIP providers in Pennsylvania has to go through the two-step basic, then other services sales process Verizon PA now must conduct with all New Connect and Transfer customers. This competitive imbalance also supports the lifting of this restriction going forward. *See also* 66 Pa. C.S. § 3011(13) ("the regulatory obligations imposed upon the incumbent local exchange telecommunications companies should be reduced to levels more consistent with those imposed upon competing alternative service providers.")

WHEREFORE, for all the reasons detailed above, Verizon PA respectfully requests that the Commission modify the Consent Order entered in Docket No. C-8817271 by eliminating paragraph 3, and amending paragraph 5 of Exhibit F.

Respectfully submitted,



Suzan D. Faiva (Atty No. 53853)
Verizon Pennsylvania Inc.
1717 Arch Street, 10th Floor
Philadelphia, PA 19103
(215) 466-4755

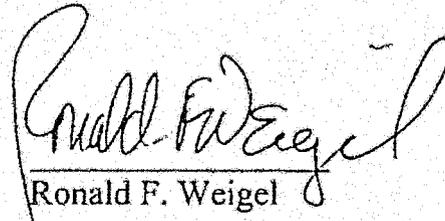
Dated: August 10, 2006

Attorney for Petitioner
Verizon Pennsylvania Inc.

VERIFICATION

I, Ronald F. Weigel, state that I am Director, Government Relations, for Verizon Pennsylvania Inc. ("Verizon PA"), and that as such I am authorized to make this verification on its behalf. I have reviewed Verizon PA's Petition for Modification of Consent Order and verify that the facts contained therein are true to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C. S. § 4904, relating to unsworn falsification to authorities.

Date: August 9, 2006


Ronald F. Weigel

CERTIFICATE OF SERVICE

I, Suzan D. Paiva, hereby certify that I have this day served true copies of the Petition of Verizon Pennsylvania Inc. for Modification of Consent Order, 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 10th day of August, 2006.

VIA FIRST CLASS U.S. MAIL

Johnnie Simms, Esquire
Office of Trial Staff
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

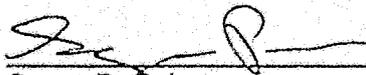
William R. Lloyd, Jr., Esquire
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17102

Philip F. McClelland, Esquire
Office of Consumer Advocate
Forum Place, 5th Floor
555 Walnut Street, 5th Floor
Harrisburg, PA 17101-1923

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



Suzan D. Paiva
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COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
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IRWINA. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
consumer@paoca.org

August 23, 2006

ORIGINAL

James J. McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Petition of Verizon Pennsylvania, Inc. For
Modification of Consent Order
Docket No. ~~P~~ C-00881727

Dear Secretary McNulty:

Enclosed please find for filing an original and three (3) copies of the Office of Consumer Advocate's Answer in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,

Shaun A. Sparks
Assistant Consumer Advocate
PA Attorney I.D. # 87372

Enclosures

cc: All parties of record
*90400

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SECRETARY'S BUREAU
PA PUC
2006 AUG 23 PM 4:08

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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P.A. PUC
SECRETARY'S BUREAU

Petition of Verizon Pennsylvania, Inc. :
: Docket No. ~~P~~ C-00881727
For Modification of Consent Order :

ANSWER OF
THE OFFICE OF CONSUMER ADVOCATE

I. INTRODUCTION

On August 10, 2006, Verizon Pennsylvania, Inc. ("Verizon" or "Company") filed a Petition for Modification of the Consent Order entered by the Public Utility Commission ("PUC" or "Commission") in June 1990 in Docket No. C-00881727 ("Consent Order"). Verizon asks the PUC to grant modifications of the Consent Order so that Verizon may change the order in which its customer service representatives inform new customers and transferring customers about stand alone and bundled telephone service offerings. In support, Verizon points to changes in the marketplace for telephone services and regulatory changes, including Act 183 of 2004.

Pursuant to Section 5.572(e),¹ the Office of Consumer Advocate ("OCA") hereby answers the Verizon Petition for Modification. The OCA submits that if the Commission wishes to consider the Verizon Petition for Modification, the Commission must also require Verizon to modify its tariff provisions so that customers who purchase bundled service packages will be permitted to receive the Lifeline 135 discount.² That is, customers who qualify for Lifeline 135

¹ 52 Pa.Code § 5.572(e)

² The Verizon tariff currently on file with the Commission expressly excludes lifeline customers from taking advantage of the cost savings and benefits that Verizon claims to provide in its bundled service offerings. See e.g., Verizon Tariff 500, Section 45, Sheet 18

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must be able to receive the \$7.67 federal Universal Service Fund discount³ as a credit against local usage regardless whether the local service is purchased on a stand-alone basis or as part of a bundle of services. At present, Verizon's Lifeline 135 tariff prohibits Lifeline 135 customers from purchasing a package of local, toll and optional services⁴

Verizon states in support of its Petition that roughly 70% of its new or moving customers purchase telecommunications services as packages.⁵ If packages are in fact the most economical method to obtain Verizon service, then the Commission should hold Verizon to its word that it provides consumers with the least-cost option when consumers contact Verizon to obtain new service connections. The OCA submits that there is no valid reason for Verizon to prevent lifeline customers from receiving the most economical telephone service options that Verizon may offer.

OCA submits that the Verizon's Lifeline 135 restriction is discriminatory and contrary to both Section 3019(e) and 3019(f)(2) as well as the general policy goals of Chapter 30.⁶ Section 3019(f)(2) expressly allows such customers "to subscribe to any number of other eligible telecommunications carrier telecommunications services at the tariffed rates for such services."⁷ Verizon's prohibition against Lifeline discounts for customers who buy packages

³ Lifeline 135 customers are eligible for the sum of the Tier 1 and Tier 2 discount established under federal Lifeline regulations. 47 C.F.R. § 54.403(a)(1), (2). This amounts to a credit against the subscriber line charge of \$5.92 and \$1.75 credit against local usage.

⁴ Verizon's Lifeline 135 Service is set forth in Tariff Pa. P.U.C. - No. 1, Section 22G, Part B.3 states "An applicant for Residence Lifeline Service may choose any of the Telephone Company's tariffed optional customer-elected services at the applicable rate, charges and regulations for each service provided. Lifeline 135 customers may not subscribe to any packaged or bundled offerings that include local, toll and optional services." Verizon Pennsylvania Inc. Tariff Pa. P.U.C. - No. 1, Section 22G, 2d revised Sheet 2 (effective September 20, 2005).

⁵ Petition ¶ 11.

⁶ Section 3019 sets forth the Commission's additional powers and duties under the new version of Chapter 30. Section 3019(e) preserves the Commission's authority and duty to ensure that "local exchange telecommunications companies do not make or impose unreasonable preferences, discriminations or classifications for protected services and other noncompetitive services." 66 Pa.C.S. § 3019(e). Section 3019(f)(1) requires all eligible telecommunications carriers in Pennsylvania to "provide Lifeline service to all eligible telecommunications customers who subscribe to such service." 66 Pa.C.S. § 3019(f)(1).

⁷ 66 Pa.C.S. § 3019(f)(2).

also makes no sense in light of the Verizon statements that packages are often the most economical and popular services that they offer.

Contrary to Verizon's statements, granting Verizon's request for greater marketing flexibility regarding packages will not benefit low income customers if these customers are prohibited from receiving the Lifeline 135 discount. For all the reasons that Verizon gives to increase its ability to sell economic packages of telephone services to customers, the Company must also permit customers who buy such packages to receive the Lifeline 135 discount to which they are entitled under the Federal Universal Service Fund and the Act 183 amendments to Chapter 30.

II. ANSWER

A. Introduction

Verizon's Petition for Modification asks the Commission to relieve Verizon of the obligation to complete the sale of basic local service before the Verizon representative provides the new customer or transfer customer with information about optional services and packages. Verizon states that customers want to hear about and expect to hear about savings offered by bundled services.⁸ Verizon states that grant of the request for relief will reduce customer confusion and annoyance and "permit the customer to select the standalone or package services that best meet the customer's needs"⁹ At the same time, Verizon refuses to allow those customers to receive the Lifeline 135 discount that they would receive if they buy each local service and all other services a la carte.

⁸ Petition ¶¶ 9, 10.

⁹ Petition ¶¶ 7, 11, 12.

Verizon cites to Section 3016(c)(2) which expressly allows local exchange carriers to offer local service in combination with other services at a single price.¹⁰ Verizon asks the Commission to recognize that Verizon's packages offer services "for a flat rate that is less than the total of the standalone rates for the individual services."¹¹ Verizon suggests that the lighter regulatory burden is necessary to move towards parity with other competitors.¹²

The OCA is not opposed to modification of the Consent Order to better reflect the needs and expectations of today's telecommunications customers. However, any modification of the Consent Order must be consistent with all of the new provisions and policy goals of Act 183, which includes Section 3019(f)(2). Section 3019(f)(2) expressly eliminated the old practice of forcing low income customers eligible for the federal Lifeline discount to choose between discounted local service without other optional services or full price local service with optional services. Section 3019(f)(2) and Section 3016(e)(2) should be construed in harmony, not – as Verizon appears to do – as requiring low income customers to choose between the benefits of universal service support or the savings of bundled services.

B. The Commission Has Jurisdiction Over Verizon Ordering and Subscription Procedures And Policies.

Act 183 contains express authority for the Commission to regulate the ordering and subscription procedures and policies of Verizon. Section 3019(e) of Act 183 provides the following:

§ 3019. Additional powers and duties

(e) UNREASONABLE PREFERENCES.-- Nothing in this chapter shall be construed to limit the authority of the commission to ensure that local exchange telecommunications companies do not make or impose

¹⁰ Petition ¶ 8.

¹¹ Petition ¶ 9, under the "2006" column of the chart.

¹² Petition ¶¶ 9, 16.

unreasonable preferences, discriminations or classifications for protected services and other noncompetitive services.

66 Pa. C.S. §3019(e). This statute clearly provides that the Commission has authority to ensure that consumers have equal access to telecommunications services regardless of the competitive or non-competitive status of the service in question, or the economic circumstances of the consumer seeking to purchase the service.

C. Verizon's Lifeline 135 Restriction Violates Section 3019(f)(2)

Verizon is subject to specific regulatory benefits and obligations as a "local exchange carrier (LEC) and "eligible telecommunications carrier" (ETC) under Chapter 30 as enacted by Act 183. OCA submits that the provisions of Chapter 30 must be construed in harmony so that the public and Verizon's customers benefit from Verizon's overlapping roles.¹³ Verizon's current tariff and proposed modification of the Consent Order are not consistent with the law. The OCA submits that resolution of this conflict is necessary to ensure that when Verizon sales consultants discuss what services best meet a customer's needs, that low-income customers can obtain telephone service at the lowest possible cost.

The Commission has already examined the policy and statutory changes reflected in Section 3019(f), passed as part of Act 183.¹⁴ In the Lifeline and Link-Up Order, the Commission acknowledged that "Act 183 expressly mandates significant changes to Pennsylvania's universal service programs."¹⁵ Prior to Act 183, the Commission had not allowed ETCs such as Verizon to permit Lifeline customers to purchase more than one vertical

¹³ Royal Indemnification Co. v. Adams, 309 Pa. Super. 233, 244, 455 A.2d 135, 141 (1983); see, also Collegeville Boro v. Philadelphia Suburban Water Co., 377 Pa. 636, 653, 105 A.2d 722, 730 (1954) ("Statutes should be construed in harmony with existing law, repeal by implication is to be avoided").

¹⁴ In Re. Lifeline and Link-Up, Docket No. M-00051871, Opinion at 5-6, 13-15 (May 23, 2005) ("Lifeline and Link-Up Order").

¹⁵ Id. at 5.

service. The General Assembly changed that with Section 3019(f)(2) which allows all eligible customers who "subscribe to Lifeline service shall be permitted to subscribe to any number of other eligible telecommunications carrier services at the tariffed rates for such services."¹⁶ Although the PUC's past restrictions had been directed at vertical or optional services, in the Lifeline and Link-Up Order the Commission recognized the breadth of Section 3019(f)(2) and ruled "[t]hat in accordance with 66 Pa.C.S. § 3019(f)(2), all ETCs shall permit customers who subscribe to Lifeline service to subscribe to any number of other telecommunication services including vertical services at the tariffed rates for such services."¹⁷ OCA submits that Verizon's position that low income customers eligible for Lifeline 135 cannot subscribe to optional services as part of an economical bundle or package makes no sense and is contrary to Section 3019(f)(2).

D. Verizon's Lifeline 135 Restriction Forces Low Income Customers To Choose Between The Lifeline Discount And Economical Packages

In support of its Petition for Modification, Verizon states that flat rate packages offer customers savings over the stand-alone rates for the individual services.¹⁸ Additionally, Verizon states that the calling needs and patterns of customers have changed, such that

[m]ore toll calling is occurring due to substantially reduced toll rates and more widely dispersed family and friends. And that toll calling, in many cases, is flat rated from "all you can eat" packages.¹⁹

The OCA submits that low income customers may have the same need for a combination of local service, toll and vertical services to meet their individual calling needs as other customers.

However, Verizon's prohibition against the availability of the Lifeline 135 discount to customers

¹⁶ Lifeline and Link-Up Order at 6.

¹⁷ Id. at 26 (Ordering Paragraph 6).

¹⁸ Petition ¶ 4, "2006" column of chart.

¹⁹ Id.

who purchase a package of services unreasonably denies Lifeline 135 customers the benefits of a credit against the federal subscriber line charge and control over their spending for telephone services through the purchase of a flat rate package.

To illustrate, Verizon customers pay approximately \$12.23 to \$13.33/month for Local Area Unlimited Service.²⁰ If the customer also buys Caller ID (\$7.95/month), Call Waiting (\$5.00 /month), and Voice Mail (\$ 8.00/month.) separately, the optional services add another \$20.95 to the customer's bill for a total bill of \$33.18 to \$34.28 per month.²¹ In contrast, the same customer could purchase Verizon's Local Package that provides for unlimited local calling, unlimited direct-dialed local directory assistance calls plus three compatible vertical services for \$27.95/month.²² Likewise, Verizon's Regional Essentials package that provides for unlimited local calling, unlimited regional toll calling, voice mail, caller ID, call waiting, and a choice of call forwarding for \$36.00/month.²³ If the same customer wanted unlimited long distance with a similar mix of vertical calling features, the customer could choose the Verizon Freedom Essentials package at 39.95/month.²⁴ Under each of these scenarios the Verizon customer is purchasing protected local services as well other services which are not protected services and may be competitively priced. Section 3016(e) permits Verizon to offer and bill these services as a singly-priced bundle.²⁵ The OCA submits, however, that the authority to offer bundles of services, which include protected local service, cannot negate or trump the promotion of federal and state universal service policy.

²⁰ See <https://www22.verizon.com/ForYourHome/NewConnect/OrderLocalServicePackages.aspx> (last visited

²¹ See http://www22.verizon.com/Foryourhome/sas/sas_con_LongDescription.aspx (last visited August 21, 2006).

²² See <https://www22.verizon.com/ForYourHome/NewConnect/OrderLocalServicePackages.aspx> (last visited August 21, 2006).

²³ See <https://www22.verizon.com/ForYourHome/NewConnect/OrderSetupNewService.aspx> (last visited August 21, 2006).

²⁴ See <https://www22.verizon.com/ForYourHome/NewConnect/OrderSetupNewService.aspx> (last visited August 21, 2006).

²⁵ 66 Pa.C.S. §3016(e)

Verizon's argument that "the rise and increasing ubiquity of service packages combining basic, toll and nonbasic services for a favorable fixed price"²⁶ justifies modification of the Consent Order also justifies making these packages available to customers who receive the Lifeline 135 discount. As shown in the comparisons above, Verizon's practice requires Lifeline 135 eligible customers to choose between the benefits of universal service policy or the most economical packages that serve their needs. Unless the Verizon Lifeline 135 prohibition against combining the Lifeline 135 discount with the benefits of packages is eliminated, Verizon's proposed modification of the Consent Order will perpetuate and entrench the practices that the OCA submits violate Section 3019(f)(2).

E. Pennsylvania Universal Service Policy Favors Enrollment of Eligible Customers In Lifeline 135

In the Lifeline and Link-Up Order, the Commission evaluated the combined force of changes in federal regulations and eligibility criteria as well as the state universal service policies established by Section 3019(f). In addition to requiring carriers to modify their tariffs so as to allow "customers who subscribe to Lifeline service to subscribe to any number of other telecommunications services...,"²⁷ the Commission took steps to increase the enrollment of Pennsylvanians eligible for Lifeline 135 assistance but not yet enrolled. The Commission changed the eligibility criteria to allow for eligibility based solely on proof of household income at or below 135% of federal poverty guidelines based on proof of household participation in the National Free School Lunch program.²⁸ The Commission specifically noted that increasing Lifeline 135 enrollment would provide low income Pennsylvanians with discounted service and future protection against federal increases in the subscriber line charge:

²⁶

Petition ¶ 10.

²⁷

Lifeline and Link-Up Order at 26.

²⁸

Lifeline and Link-Up Order at 22.

The federal USF low-income program is designed to help low-income consumers' bills remain affordable as the FCC continues to raise the subscriber line charge (SLC), which currently is capped at \$6.50 per line on all monthly phone bills. If our program eligibility is more restrictive than the federal rules, and the SLC continues to increase, we may be doing a disservice to Pennsylvanian low-income ratepayers.²⁹

OCA submits that Verizon's practice of not allowing low income customers to receive the Lifeline 135 discount and purchase local service as part of a package of services is likely to decrease participation by Pennsylvanians in Lifeline 135. Indeed, according to Verizon some 70% of new and moving customers buy packages.³⁰ OCA submits that this outcome deprives low income customers of the protection against future increases in the federal line charge, contrary to Pennsylvania's universal service policy goals. Given the content of intercarrier compensation reform plans proposed to the Federal Communications Commission, OCA submits that this need to protect low income customers is very real.³¹

F. Verizon's Communication and Sale of Services to Customers Must Comply With Both Chapter 15 and Chapter 30.

In its Petition, Verizon cites to Section 3016(e) as authority for Verizon's offering of bundles of services, which include both protected local exchange service and other, competitively priced services.³² The OCA does not dispute that Verizon may include basic local service, otherwise referred to as protected services, in bundles. However, OCA submits that Verizon's communication and sale of these bundles or packages must be conducted in a way that does not discriminate against or otherwise prevent low income Pennsylvanians from benefiting

²⁹ Lifeline and Link-Up Order at 27.

³⁰ Petition ¶ 14.

³¹ OCA notes that the PUC has initiated a workshop at Docket No. M-00061972 to address the "Missoula Plan" and how it may impact Pennsylvania intrastate access rates and other state policy concerns.

³² Petition ¶ 8.

from both Chapter 30's support for innovative marketing and pricing of packages and promotion of universal service. Section 3019(f)(3) expressly requires:

Whenever a prospective customer seeks to subscribe to local exchange telecommunications service from an eligible telecommunications carrier, the carrier shall explicitly advise the customer of the availability of Lifeline service and shall make reasonable efforts, where appropriate to determine whether the customer qualifies for such service and, if so, whether the customer wishes to subscribe to such service.³³

In its Petition, Verizon proposes to revise the sales consultant script to screen for customers eligible for Lifeline 135 service earlier in the customer contact.³⁴ Whether Verizon's proposed change is reasonable depends not only on when the Verizon sales consultant addresses Lifeline eligibility but also whether the resulting sale of services meets the needs of the customer.

As set forth above, the OCA submits that the Verizon's restriction against a Lifeline 135 customer's purchase of local service as part of a bundle of other services is not designed to meet the needs of the low income customer. Nothing in Chapter 30 relieves Verizon of its obligation under Section 1501 to provide reasonable and adequate service.³⁵ The provision of rate and service information in response to a customer inquiry is such a public utility service.³⁶ The Commission should not grant Verizon's Petition for Modification unless the prohibition against Verizon Lifeline 135 customers purchasing bundles is eliminated and Verizon's revised script for communication and sale of services to all customers, low income and not, satisfy the provisions of both Section 1501 and Chapter 30.

³³ 66 Pa.C.S. § 3019(f)(3).

³⁴ Petition ¶ 14.

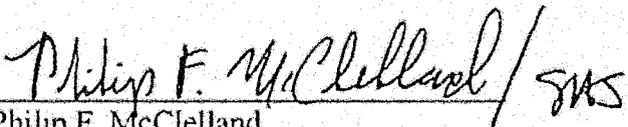
³⁵ 66 Pa.C.S. § 1501.

³⁶ AT&T Communications of Pa. v. Pa. P.U.C., 568 A.2d 1362 (Pa. Cmwlth. 1990).

III. CONCLUSION

The Office of Consumer Advocate respectfully requests that if the Public Utility Commission considers the Verizon Petition for Modification of the Consent Order in Docket No. C-00881727, the Commission must condition this grant on elimination from the Verizon Lifeline 135 tariff of the prohibition against the purchase of bundled service packages by Lifeline 135 recipients.

Respectfully submitted,


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Senior Assistant Consumer Advocate (Pa. Bar # 23165)

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Assistant Consumer Advocate (Pa. Bar # 61138)

For: Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048

Dated: August 23, 2006

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CERTIFICATE OF SERVICE

Re: Petition of Verizon Pennsylvania, Inc. for Modification of Consent Order
Docket No. P- _____

I hereby certify that I have this day served a true copy of the foregoing document, Answer of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 23rd day of August, 2006.

SERVICE BY INTER-OFFICE MAIL

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Pa. Public Utility Commission
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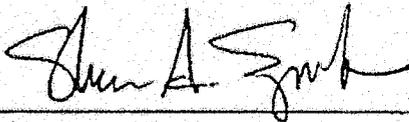
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COMMONWEALTH OF PENNSYLVANIA

DATE: September 1, 2006

SUBJECT: C-00881727

TO: Office of Special Assistants

FROM: James J. McNulty, Secretary *KB*

David Barasch, Consumer Advocate
v.
The Bell Telephone Company of Pennsylvania, Inc.

Attached is a copy of a Petition for Modification of Consent Order, filed by Verizon Pennsylvania Inc. in connection with the above docketed proceeding.

This matter is assigned to your Office for appropriate action.

Attachment

ksb

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In Re Petition of Verizon Pennsylvania Inc. :
For Modification of Consent Order : Docket No. C-00881727

**VERIZON PENNSYLVANIA INC. REPLY TO OCA'S
ANSWER SEEKING AFFIRMATIVE RELIEF**

Verizon Pennsylvania Inc. ("Verizon PA") hereby responds to the Answer of the Office of Consumer Advocate ("OCA") to Verizon PA's August 10, 2006 Petition for Modification of Consent Order. OCA does not oppose the relief sought by Verizon PA, but rather seeks only to insert its own unrelated request for affirmative relief against Verizon PA by asking the Commission to require Verizon PA to provide the Lifeline 135 discount on bundled service packages. Pursuant to 52 Pa. Code § 5.63, Verizon PA provides the following Reply to OCA's Answer seeking affirmative relief. Verizon PA is simultaneously filing a Motion to Dismiss the OCA's Lifeline demands pursuant to 66 Pa. Code § 5.62(a) because these issues are not properly joined with the issues raised in Verizon PA's Petition.¹ If that Motion is granted, the Commission need not reach the issues in OCA's Answer or this Reply.²

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REGISTRAR & CLERK

¹ Verizon PA is also simultaneously moving for judgment on the pleadings on the issues raised in its Petition because OCA has not refuted or denied them, and in fact admits that it "is not opposed" to the sales presentation modifications Verizon PA seeks. (OCA Answer at 4).

² Because OCA's request for relief is not set forth in numbered paragraphs, Verizon PA cannot respond in numbered paragraphs.

REPLY

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 plans. Under Act 183, Lifeline service is a "discounted rate *local* service offering" as defined by FCC regulations. 66 Pa. C.S. § 3012 (emphasis added). The federal rules define Lifeline as "a retail *local* service offering" that is available only to "qualifying low-income consumers," and requires Lifeline service to include, among other things, "local usage" and "access" to an interexchange carrier's network (but not discounted interexchange service). 47 C.F.R. § 54.101 and § 54.401 (emphasis added). As then-Vice-Chairman Bloom recognized in connection with the *Global Order*, when the Commission first addressed the establishment of a Lifeline plan in Pennsylvania in 1994, it was careful to note that "the purpose of a lifeline . . . is to ensure [that] just the most basic, limited local phone service is universally available."³ It is not the purpose of Lifeline to enable discounted access to higher cost packages including extensive vertical features, unlimited nationwide calling, advanced services and the like.

OCA's broad request to expand the 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. OCA would convert Lifeline from ensuring discounted basic local service for those who could not otherwise

³ *Joint Petition of Nextlink Pennsylvania, Inc., et al*, Docket No. P-00991648-49 (Opinion and Order entered September 30, 1999) ("Global Order"), Bloom Dissent (quoting former-Commissioner Hanger's Motion, adopted by the Commission, directing Bell Atlantic-Pennsylvania, Inc. to file a Lifeline plan at Docket No. P-00930715, public meeting of December 15, 1994).

afford it, to discounting premium services that Lifeline was never intended to fund. As the Wisconsin state commission recognized in denying a similar broad request, “[r]equiring providers to discount every package of service which happens to contain the services specified in the Lifeline rule . . . would constitute an impermissible drain on monies in the universal service fund.”⁴

This Commission has always made a considered effort not to expand Lifeline beyond what the Commission viewed as necessary to satisfy its original purpose of ensuring affordable basic local service to those with limited incomes. Even in expanding Lifeline service in the *Global Order* to allow very limited access to vertical features in order to increase Lifeline penetration, the Commission was careful to note that unlimited access to costly products beyond those necessary to allow local calling “could be self-defeating.”⁵ To the extent Lifeline customers – who by definition have very limited incomes available to pay for their essential services -- are encouraged by OCA’s proposal to forego the traditional basic Lifeline service in favor of purchasing expensive premium service packages including unlimited toll and long distance plans, broadband and the like, they may soon find, as the Commission cautioned in the *Global Order*, “that their telephone service is no more affordable than it was without the assistance,” and perhaps even less affordable.

⁴ *Determination Regarding Compliance with Wis. Admin Code § PSC 160.062(1) in the Provision of Lifeline Benefits to Low-Income Customers*, 2003 Wisc. PUC LEXIS 649 (Wis. PSC, October 24, 2003).

⁵ *Global Order* at 165-167. See also *Petition of North Pittsburgh Telephone Company for Recognition of an Exogenous Event under its Alternative Regulation Plan; North Pittsburgh Telephone Company Price Stability Index/Service Price Index Filing for Year 2003*. Docket No.s P-00032038 and P-0981437 (Opinion and Order entered October 22, 2004) (refusing to approve a settlement with OCA providing for unlimited access to vertical features for Lifeline customers (pre-Act 183) because it would be contrary to the limitations set forth in the *Global Order*).

OCA attempts to convince the Commission to accept its entire argument based on an isolated example of a basic local package with few features and no long distance calling. (OCA Answer at 7). In fact, OCA's sweeping argument goes far beyond that limited scenario. OCA would allow Lifeline 135 customers to subscribe to and obtain the discount on any bundled or packaged services 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). Lifeline was never intended to subsidize these sorts of service packages. While OCA appeals to the cost-saving value of these kinds of plans – which generally allow unlimited, flat-rated nationwide toll and long distance calling – it is not the purpose of Lifeline to assist customers with truly limited incomes to purchase these sorts of plans, but only to ensure affordable *local* calling and access to the ability to make toll calls. As to OCA's example, OCA complains that its hypothetical Lifeline customer who wishes to buy Caller ID, Call Waiting and Voice Mail would have to pay the tariffed rates for those individual services – but 66 Pa.C.S. § 3019(f)(2) specifically requires that Lifeline customers purchase those services “at the tariffed rates,” not at a bundled or package rate much less a discounted Lifeline rate.

Specifically, 66 Pa.C.S. § 3019(f)(2) states that Lifeline subscribers “shall be permitted to subscribe to any number of other eligible telecommunications carrier telecommunications services *at the tariffed rates* for such services.” OCA claims that this provision means that the Lifeline 135 discount must apply to bundled and packaged services. This argument makes no sense. Even if service bundles or packages were “services” under Section 3019(f)(2), which they are not, OCA is not requesting that

Lifeline eligible customers be allowed to subscribe to bundles or packages "at the tariffed rates"-- it is requesting that they be allowed to subscribe to packages at *discounted* rates. The statute does not support that demand. Contrary to OCA's legal argument, nowhere does Act 183 say that the Lifeline discount must apply to bundles or packages of services, even though the Legislature was clearly aware of the importance of packaged services in the marketplace when the statute was enacted. *See, e.g.*, 66 Pa. C.S. § 3016(e). Act 183 incorporates the federal definition of Lifeline as a discounted "local" service -- not a discounted package of local, long distance and other premium calling options. 66 Pa. C.S. § 3012. Thus, while other individual service options remain available to Lifeline customers at "tariffed" rates, the availability of discounted service is limited to basic local service.

At page 9 of its Answer, OCA makes the wholly unsupported claim that if Lifeline 135 customers are not permitted to purchase discounted packages, then this "is likely to decrease participation by Pennsylvanians in Lifeline 135." (OCA Answer at 9). But OCA has not even made an effort to demonstrate that such a decrease has in fact occurred.⁶ OCA has not demonstrated that Pennsylvania's telephone penetration levels have deteriorated at all, much less to an extent that might warrant the major expansion of the Lifeline program that OCA seeks. To the contrary, the FCC's most recent statistics on the issue show that Pennsylvania's telephone subscriber penetration as of April, 2005

⁶ Similarly, OCA's claim that this substantial expansion of Lifeline is necessary as "protection against future increases in the federal line charge" (OCA Answer at 9) is premature. No such increases have occurred, and thus there is no basis for OCA's demand.

is 95.6% -- above the national average of 93.8%.⁷ Accordingly, OCA has simply failed to come forward with any facts to support its hypothesis that Lifeline eligible customers are not subscribing to Lifeline because the discount does not apply to packages. On this basis alone, the Commission should dismiss OCA's request.

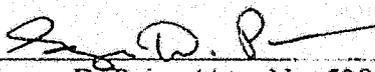
Finally, OCA fails to acknowledge the substantial costs of the systems changes that would be required to expand the Lifeline 135 discount in the manner it seeks. If the Commission were to grant OCA's sweeping demand to substantially expand availability of the Lifeline 135 discount to packages and bundles, this change would not be without costs to the industry. Verizon PA, for one, would have to make extensive ordering and billing system changes to apply the discount to service packages. Verizon PA did not build the capability to apply the discount into the system when it developed the packages, because it never anticipated that it would have to apply the discount to those offerings. While Verizon PA has not been able to calculate the exact cost of these system changes at this time, it reserves the right to submit testimony detailing these expenses if the Commission chooses to consider the merits of OCA's request. Any adoption of OCA's proposal would also require the Commission to establish a means to reimburse Verizon PA and other affected carriers for these expenses.⁸

⁷ FCC Report, Trends in Telephone Service as of April 2005, Table 16.2, available at www.FCC.gov.

⁸ Indeed, in Act 183 the Legislature expressed the intention to avoid imposing new, unfunded Lifeline obligations on carriers. See 66 Pa. C.S. § 3019(f)(6) (any new Lifeline discounts must be fully subsidized by the federal universal service fund).

CONCLUSION

For the foregoing reasons, the Commission should deny the relief sought in OCA's Answer to Verizon PA's Petition.


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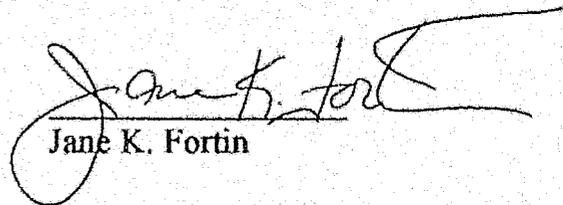
Dated: September 15, 2006

Attorney for Petitioner
Verizon Pennsylvania Inc.

VERIFICATION

I, Jane K. Fortin, state that I am the Director of Public Policy of Verizon Pennsylvania Inc. ("Verizon PA"), and that as such I am authorized to make this verification on its behalf. I have reviewed Verizon Pennsylvania Inc.'s Reply to the Office of Consumer Advocate's Answer Seeking Affirmative Relief, and verify that the facts contained therein are true to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: September 15, 2006


Jane K. Fortin

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

In Re Petition of Verizon Pennsylvania Inc. :
For Modification of Consent Order : Docket No. C-00881727

**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**

Verizon Pennsylvania Inc ("Verizon PA") hereby responds to the Answer of the Office of Consumer Advocate ("OCA") to Verizon PA's August 10, 2006 Petition for Modification of Consent Order. OCA does not oppose the relief sought by Verizon PA, but rather seeks only to insert its own unrelated request for affirmative relief against Verizon PA by asking the Commission to require Verizon PA to provide the Lifeline 135 discount on bundled service packages. Given OCA's lack of opposition on the merits, Verizon PA moves pursuant to 52 Pa. Code § 5.102 for judgment on the pleadings immediately granting the modification to the Consent Order sought in Verizon PA's Petition. The OCA Lifeline issues should be severed and disposed of separately after the Commission grants judgment on the pleadings on the uncontested request for relief set forth in the Petition. Verizon PA also moves to dismiss OCA's request for a change to the Lifeline requirements, which is not properly raised in an Answer to the Petition in this proceeding under the standards 52 Pa Code § 5.62(a), but should have been raised in a separate OCA petition.¹

¹ If the Commission chooses to address the merits of the OCA's issues in this docket, however, Verizon PA is also simultaneously filing a Reply to OCA's request for affirmative relief in the form of these Lifeline claims pursuant to 52 Pa. Code § 5.63(a).

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INTRODUCTION

OCA's "Answer" to Verizon PA's Petition is remarkable for what it does *not* say. OCA never refutes, denies or contests any of the substantive allegations of the Petition. It never even attempts to claim that there is any public benefit to retaining the anachronistic requirement that Verizon PA's sales representatives must complete the sale of standalone basic service, whether the customer wants or needs that service at all, before they may inform customers of the full array of service options that might better meet their needs -- a requirement that applies to no other telephone carrier in Pennsylvania. Rather than contesting the merits of Verizon PA's Petition, OCA admits that it "is not opposed to modification of the Consent Order to better reflect the needs and expectations of today's telecommunications customers." (OCA Answer at 4).

OCA should have stopped there, by simply supporting what it acknowledges to be a pro-customer improvement in the terms of this sixteen-year-old Consent Order. Instead -- and not for the first time -- OCA demands its pound of flesh in exchange for allowing Verizon PA pro-consumer relief that it should support unconditionally. The Commission should not allow OCA needlessly to delay implementation of a sales presentation improvement that the OCA admits is in the public interest by filing an "Answer" that does not answer the Petition at all, but is devoted almost exclusively to extracting unrelated concessions to further expand Lifeline.

Given that OCA has admitted the allegations of Verizon PA's Petition by failing to oppose or deny them, and that no other party has even commented on, much less opposed, this relief, the Commission should immediately enter judgment on the pleadings granting Verizon PA's Petition.

In addition, the Commission should sever OCA's Lifeline arguments and dispose of them on a separate track because Lifeline is not addressed in the Consent Order that is the sole subject of this Petition. Since the Commission has in recent years addressed the scope of Lifeline obligations in generic dockets in which all affected carriers could participate, the Commission should then dismiss the OCA's Lifeline issues without prejudice. If OCA wishes to make these arguments, it should file its own petition rather than raising them through the back door in a transparent attempt to extract an unjustified price for otherwise uncontested relief in an unrelated case.

If the Commission nonetheless chooses to reach the merits of the OCA's unrelated claims in this docket, however, then OCA's sweeping request to expand the Lifeline 135 discount to an unspecified universe of bundles and packages should be denied on the merits for the reasons set forth in Verizon PA's separate Reply. The Lifeline discount was never intended to be used to enable the purchase of deluxe packages of unlimited long distance and other services, some running more than \$50 a month, to which the OCA now seeks to apply it. The purpose of Lifeline 135 is to enable persons with limited income to afford basic local telephone service needed to connect them with essential services, like police, fire and medical, hence, the term "Lifeline." OCA has provided no factual or legal basis to expand Lifeline into a general entitlement to discounted telecommunications services far beyond the basic local service required by Act 183 and the federal rules.

**MOTION FOR JUDGMENT ON THE PLEADINGS ON
THE ISSUES RAISED IN THE PETITION, AND TO SEVER
THE LIFELINE ISSUES RAISED IN OCA'S ANSWER AND
DISPOSE OF THEM ON A SEPARATE TRACK**

Pursuant to 52 Pa. Code § 5.102, the Commission should grant judgment on the pleadings if “there is no genuine issue as to a material fact and the moving party is entitled to judgment as a matter of law.” Here, the OCA has not denied any of the contentions of the Petition; in fact, it admits that it is “not opposed” to the modification of the Consent Order that Verizon PA seeks. (OCA Answer at 4). Accordingly, the Commission must accept the allegations of the Petition as true. *See* 52 Pa. Code § 5.61(b) and (c) (an Answer must “admit or deny specifically all material allegations” and failure to answer results in the relevant facts to be deemed admitted).

Because the OCA has not opposed or denied the allegations of the Petition, there is no need for further litigation over this uncontested change to the Consent Order. Accordingly, the Commission should enter judgment on the pleadings resolving that portion of the case and should direct that the Consent Order be immediately modified in the manner requested in Verizon PA's Petition.

The fact that the OCA has raised new issues in its Answer does not preclude the Commission from entering judgment on the pleadings on the uncontested issues raised in the Petition. It is well-settled that the Commission may enter partial judgment on the pleadings disposing of less than all the issues in the case.² Thus, even if the Commission considers OCA's unrelated demands to be part of this case – which it should not – it should immediately grant judgment on the pleadings on the relief sought by Verizon

² *See, e.g., Springirth v. National Fuel Gas Distribution Corporation*, Docket No. C-902786, 1991 Pa. PUC LEXIS 44 (Opinion and Order entered April 12, 1991).

PA's Petition. It should then sever the OCA arguments and dispose of them on a separate track.³

There is no valid reason to continue to subject all of Verizon PA's new and transfer customers - the vast majority of whom are not Lifeline eligible and have no interest in the OCA's arguments - to the annoying and confusing requirement that a customer finish a complete transaction to buy standalone basic service before she is allowed information on service options that might better meet her needs, while the Commission disposes of OCA's Lifeline argument. Not only would Verizon's numerous non-Lifeline eligible customers benefit from an immediate change in the sales presentation, but OCA admits that Verizon's proposal would have immediate benefits to Lifeline-eligible customers as well because Verizon would "screen for customers eligible for Lifeline 135 service earlier in the customer contact." (OCA Answer at 10). Indeed, Act 183 requires Verizon to "explicitly advise the customer of the availability of Lifeline service" and to "make reasonable efforts where appropriate to determine whether the customer qualifies for such service and, if so, whether the customer wishes to subscribe to the service." 66 Pa. C.S. § 3019(f)(3). Verizon will at the time of those contacts inform those customers of their options - and if the options later change as a result of OCA's unrelated request to apply the discount to packages then Verizon will begin informing them of those changed options. However, OCA articulates no reason why all

³ See *Petition for Streamlined Form of Regulation and Network Modernization Plan of Citizens Telephone Company of Kecksburg*; *Petition for Suspension under Section 251(f)(2) of the Telecommunications Act of 1996 of Citizens Telephone Company of Kecksburg*, Docket No. P-00971229, 1998 Pa. PUC LEXIS 22 (Opinion and Order entered May 1, 1998) (severing issues raised under Section 252(f) of the Telecommunications Act from network modernization issues raised under Chapter 30, to be disposed of on separate tracks).

prospective new and transfer Verizon customers should continue to endure the confusing and annoying mandatory sale of standalone basic services while OCA litigates its argument that the Lifeline 135 discount should apply to packages.

For the foregoing reasons and the reasons set forth in Verizon's uncontested Petition, the Commission should immediately enter judgment on the pleadings granting the relief sought in the Petition without further proceedings, and should sever the OCA Lifeline issues to be disposed of on a separate track.

**MOTION TO DISMISS THE OCA'S LIFELINE
ARGUMENTS, WITHOUT PREJUDICE TO OCA'S ABILITY
TO FILE ITS OWN PETITION IN THE PROPER FORUM**

After the Commission disposes of the request made in the Petition, and severs the OCA issues, it then should consider whether it is proper for OCA's Lifeline arguments to be raised through an answer submitted in a docket relating to a petition to modify a 1990 Consent Order that has nothing to do with Lifeline. Verizon PA submits that this is not the proper forum for OCA's claims, and that OCA's Answer should be dismissed without prejudice, subject to OCA's right to file its own Petition raising these issues in the proper manner.

Lifeline requirements are not a part of this 1990 Consent Order, the terms of which are the sole subject of this Petition. That Consent Order relates specifically to Verizon PA's sales practices and procedures – not to what services are subject to the Lifeline discount. In fact, Lifeline did not even exist at the time the Consent Order was entered. Rather, Lifeline in Pennsylvania originated several years later in a separate docket relating to Verizon PA's predecessor, Bell Atlantic-Pennsylvania, Inc.'s, request

for an alternative form of regulation.⁴ Most recently, Lifeline requirements have been addressed on an industry-wide basis in generic proceedings allowing the participation of all affected carriers, such as the *Global Order*⁵ and the *Lifeline/Link-up Order*.⁶ OCA's sweeping new Lifeline demands, therefore, have no place in this case.

Moreover, given that one of OCA's arguments is that Act 183 requires as a matter of law that the Lifeline 135 discount be applied to packages, the OCA should have raised these issues in a proceeding in which all affected carriers could participate. Indeed it should have raised these arguments in the Lifeline/Link-Up proceeding in which the Commission recently considered what changes were required in light of Act 183.⁷ Having failed to raise these arguments in the proper forum, the OCA should not be permitted to delay and complicate this straightforward Verizon PA Petition by raising them here.

Parties do not have the unfettered right to raise whatever issue they wish in response to a Petition. Rather, as the OCA itself has argued to this Commission in

⁴ *Petition of Bell Atlantic-Pennsylvania, Inc. for Ratification of Lifeline Service Settlement Agreement*, Docket No. P-00950958 (Opinion and Order Entered August 4, 1995).

⁵ *Joint Petition of Nextlink Pennsylvania, Inc., et al*, Docket No. P-00991648-49 (Opinion and Order entered September 30, 1999) ("Global Order").

⁶ *Re: Lifeline and Link-Up Programs*, Docket No. M-00051871 (Opinion and Order entered May 23, 2005) ("Lifeline/Link-Up Order").

⁷ If the Commission were to rule that Act 183 requires a further expansion of Lifeline to packages, many carriers other than Verizon PA would be affected. In the Lifeline/Link-Up Order the Commission recognized that after Act 183, only eligible telecommunications carriers ("ETCs") are required to provide Lifeline service. However, the Commission noted that this still leaves a large number of carriers subject to Lifeline obligations, including all ILECs, a number of CLECs and two wireless companies, and resellers may resell the ILECs' Lifeline services at a discount. Also, the Commission "encourage[d]" facilities-based CLECs to seek ETC status, and some may have done so since this order was issued. See Lifeline/Link-Up Order at 13-14.

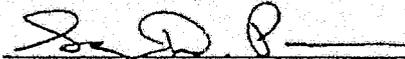
another proceeding, 52 Pa. Code § 5.62 limits the issues that may be raised in an “answer seeking affirmative relief” *only* to those issues that raise “common issues of law or fact” with those at issue in the original Petition.⁸ OCA’s arguments about applying the Lifeline 135 discount to bundles and packages do not share common issues of law and fact with Verizon PA’s request to make its sales presentation more helpful to its customers. As discussed above, Verizon PA’s sales representatives will inform Lifeline-eligible customers of the services to which the discount applies, and if requirements change they will inform customers of those changes, but the question of what services *should* be eligible for the discount has nothing to do with the sales presentation and nothing to do with this Consent Order.

Accordingly, OCA’s Answer should be dismissed without prejudice.

⁸ *In Re Carnegie Natural Gas Company Show Cause Proceeding; In Re Carnegie Natural Gas Annual Gas Cost Rate Filing and Irwin A. Popowsky, Consumer Advocate v. Carnegie Natural Gas Company*, Docket No. P-890383; M-78050055 F090; C-903026, 1991 Pa. PUC LEXIS 50 (Opinion and Order entered March 28, 1991) (noting that the OCA had moved to dismiss an answer seeking affirmative relief because OCA argued that since “the affirmative relief requested by Carnegie is unrelated to the specific audit recommendations that gave rise to this proceeding, Carnegie’s request for affirmative relief is insufficient in form and substance and must be dismissed [citing 52 Pa. Code § 5.62].”

CONCLUSION

For the foregoing reasons the Commission should enter judgment on the pleadings granting the relief sought in Verizon's Petition and should dismiss the OCA's Answer.



Suzan D. Paiva (Atty No. 53853)
Verizon Pennsylvania Inc.
1717 Arch Street, 10th Floor
Philadelphia, PA 19103
(215) 466-4755

Dated: September 15, 2006

Attorney for Petitioner
Verizon Pennsylvania Inc.

Suzan DeBusk Paiva
Assistant General Counsel
Pennsylvania



1717 Arch Street, 10W
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Tel: (215) 466-4755
Fax: (215) 563-2658
Suzan.D.Paiva@Verizon.com

September 15, 2006

VIA UPS OVERNIGHT DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

RECEIVED

SEP 15 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**RE: In Re Petition of Verizon Pennsylvania Inc.
For Modification of Consent Order
Docket No. C-00881727**

Dear Secretary McNulty:

Enclosed please find the original and three (3) copies of Verizon Pennsylvania Inc.'s Motion for Judgment on the Pleadings on its Petition, Motion to Dismiss or Sever OCA Issues and Reply to OCA's Answer Seeking Affirmative Relief, in the above matter.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

DOCUMENT
FOLDER

Suzan D. Paiva

SDP/slb
Enclosure

VIA UPS DELIVERY
cc: Mitchell Miller, Bureau of Consumer Services
Lenora Best, Bureau of Consumer Services
Attached Certificate of Service

58

CERTIFICATE OF SERVICE

I, Suzan D. Paiva, hereby certify that I have this day served true copies of Verizon Pennsylvania Inc.'s Motion for Judgment on the Pleadings on its Petition, Motion to Dismiss or Sever OCA Issues and Reply to OCA's Answer Seeking Affirmative Relief, 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 15th day of September, 2006.

VIA FIRST CLASS U.S. MAIL

Johnnie Simms, Esquire
Office of Trial Staff
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

William R. Lloyd, Jr., Esquire
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17102

Shaun Sparks, Esquire
Office of Consumer Advocate
Forum Place, 5th Floor
555 Walnut Street, 5th Floor
Harrisburg, PA 17101-1923

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SEP 15 2006

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU


Suzan D. Paiva
Assistant General Counsel
Verizon Pennsylvania Inc.
1717 Arch Street, 10W
Philadelphia, PA 19103
(215) 466-4755

COMMONWEALTH OF PENNSYLVANIA

DATE: September 19, 2006

SUBJECT: C-00881727

TO: Office of Special Assistants

FROM: James J. McNulty, Secretary *KB*

David Barasch, Consumer Advocate
vs
Bell Telephone Co. of Penna., Inc.

Attached is a copy of a Motion for Judgment on the Pleadings on its Petition, Motion to Dismiss or Sever OCA Issues and Reply to OCA's Answer Seeking Affirmative Relief, filed by Verizon Pennsylvania Inc. in connection with the above docketed proceeding.

This matter is assigned to your Office for appropriate action.

Attachment

ksb

DOCUMENT
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DOCKETED

SEP 19 2006

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560 (In PA only)

IRWINA. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
consumer@paoca.org

October 10, 2006

ORIGINAL

James J. McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Petition of Verizon Pennsylvania, Inc. For
Modification of Consent Order
Docket No. C-00881727

Dear Secretary McNulty:

Enclosed please find for filing an original and three (3) copies of the Office of Consumer Advocate's Answer In Opposition to Verizon Pennsylvania Inc.'s Motion for Judgment on the Pleadings or Alternative Relief in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,

Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138

Enclosures

cc: All parties of record
Cheryl Walker Davis/OSA
*90400

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ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Verizon Pennsylvania, Inc. :
: Docket No. C-00881727
For Modification of Consent Order :

2006 Nov 06 11:33:53
SECRETARY'S BUREAU

ANSWER OF
THE OFFICE OF CONSUMER ADVOCATE
IN OPPOSITION TO VERIZON PENNSYLVANIA INC.'S
MOTION FOR JUDGMENT ON THE PLEADINGS
OR ALTERNATIVE RELIEF

I. INTRODUCTION

Verizon Pennsylvania Inc. (Verizon) has asked through its Petition in this proceeding to modify the 1990 Consent Order that determines how Verizon may offer packages of services to its customers.¹ On August, 10, 2006, Verizon filed its Petition to more easily sell packages by emphasizing that 65% of its customers buy these packages, that it seeks to "better meet the needs" of its customers, and will promise to sell such services as the "best plan or package for you."² On August 23, 2006, OCA filed an Answer stating, "[t]he Commission should not grant Verizon's Petition for Modification unless the prohibition against Verizon Lifeline 135 customers purchasing bundles is eliminated and Verizon's revised script for communication and sale of services to all customers, low-income and not, satisfy the provisions of Section 1501 and Chapter 30."³

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¹ See Barasch v. Bell Telephone Company of Pennsylvania, 73 Pa. PUC 108 (1990)(Consent Order)

² Verizon Petition at ¶¶ 4, 5, 6.

³ OCA Answer at 10.

On September 15, 2006, Verizon filed a 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 (Verizon Motion) that requested a) judgment on the pleadings, or b) partial judgment on the pleadings followed by the severance and then dismissal of the OCA's Answer without prejudice.⁴ On the same day, Verizon filed a Reply to OCA's Answer (Verizon Reply). Verizon offers the Reply in the event the Commission does not grant Verizon's Motion to Dismiss the OCA Answer. As each of these pleadings substantially overlap and support the same Motion, the OCA will address points raised in each of them through this Answer.

II. ANSWER

A. Verizon Has Failed to Address the Fundamental Contradiction and Unfairness in Its Revised Script as It Pertains to Lifeline Customers.

Verizon begins its Motion by recounting its view that the OCA really does not oppose the relief that Verizon has requested, but instead charges that the OCA wishes to address an unrelated issue concerning the sale of service bundles to Verizon Lifeline customers. Motion at 1-4, 7-8. Verizon argues that the issues that OCA has raised are unrelated and should not delay the quick approval of its request.⁵ It is clear that Verizon has failed to recognize the fundamental problem with its revised script as recounted in the OCA Answer.⁶

As noted above, Verizon seeks to revise its sales script in order to "better meet the needs" of its customers where 65% of its customers now purchase bundles and will explain in its

⁴ Verizon served these pleadings on the OCA by first class mail.

⁵ Verizon Motion at 4.

⁶ OCA in its Answer explained that where packages are the most economical option for some customers, the PUC "should hold Verizon to its word" that all consumers including Lifeline customers should get the least cost option. OCA Answer at 2.

prepared script that it will "recommend the best plan or package for you."⁷ If only this were accurate, the OCA would not object. For Lifeline customers, however, Verizon will not make the "best plan or package" available.

The fundamental problem that the OCA has with Verizon's Petition is that it fails to provide Lifeline⁸ customers with the benefits that are promised to all customers. Lifeline customers will not get the "best plan or package," but Verizon will relegate Lifeline customers to the services that only 35% of the Verizon customers now choose to purchase purchase.

OCA urges the Commission not to approve a sales script that promises more than it produces. This may well give rise to future complaints where Lifeline customers are promised "the best plan or package for you,"⁹ but are forced to buy needed services "a la carte" when a much lower priced package is available. The problem of excluding Lifeline customers from these service packages is inextricably linked with the script that Verizon proposes.

It is essential that, if a Verizon sales representative recounts to any prospective customer that Verizon will offer for sale the "best plan or package for you,"¹⁰ then Verizon must do so.¹¹ More specifically, Verizon cannot make such a recitation to a Lifeline customer who requests a number of vertical services or who would like to make a reasonable number of regional or long-distance toll calls, and then silently exclude all of the offers that would make available the lowest bills for the service used. Yet this is precisely what the revised script would do unless the Lifeline prohibition is changed.

⁷ Verizon Motion at 4, 5, and 6.

⁸ Throughout this Answer, the OCA will generally refer to Lifeline services. However, in this proceeding the only Verizon Lifeline service at issue is Lifeline 135, which is fully funded from the federal Universal Service Fund (USF).

⁹ Verizon Petition at 6.

¹⁰ Verizon Motion at 6.

¹¹ OCA Answer at 10, citing 66 Pa.C.S. § 1501 and AT&T Communications of Pa. v. Pa. P.U.C., 578 A.2d 1362 (Pa. Cmwlth. 1990).

The script revision is both inconsistent and unfair. Verizon's proposal prevents potential bundled package savings from reaching low-income customers that may need these savings the most. In the aftermath of the General Assembly's revision to its Lifeline policy in Section 3019 of Act 183 and the PUC's subsequent ruling in its revision to its Lifeline policy through In Re: Lifeline and Link-Up, there is no longer any justification for Verizon's contradictory and inequitable policy.¹² Everyone should be concerned that all customers, and particularly Lifeline customers, get the best deal for their money. Lifeline customers should particularly receive the most economical service available. Where packages offer the best deal, Lifeline customers should have that advantage, just as all other customers can take those economies of service. It is exceedingly unfair to charge low-income customers the highest prices for a given set of services, when a lower priced package is available. This is particularly unfair after promising such customers that this is the "best plan or package for you."

The script proposed by Verizon cannot stand. The Commission must carefully consider a script to sell services as it pertains to all of Verizon's customers. As noted by Verizon in its Reply, OCA does not oppose modification of the Consent Order and a revised script so long as it is consistently and fairly applied to all.¹³ The best means by which the proposed script can be approved is by removing the current prohibition on Lifeline customers receiving the most economic package of services to meet their needs.¹⁴

¹² In Re: Lifeline and Link-Up, Docket No. M-00051871, Opinion at 5-6, 13-15 (May 23, 2005) (Lifeline and Link-Up Order).

¹³ See OCA Answer at 4-5, 6-8.

¹⁴ As set forth in Section E. below, the OCA would be willing to modify its request so that Lifeline customers would only be permitted to sign up for the most economical (lowest priced) packages for local, regional and long distance toll services. The highest priced current package which OCA would then make available to Lifeline customers would be the \$39.95 per month Verizon Freedom Essentials package. This modification would address the concern raised in Verizon's pleadings that Lifeline customers should not have access to very high priced premium packages.

B. There Is No Need for Hearings on This Matter.

Verizon complains that OCA will needlessly delay the implementation of its revised sales presentation. Motion at 2. OCA submits that further delay – particularly related to hearings on this issue – is not necessary. Verizon has clearly laid out the script that it wishes to use to sell its packages more easily. In the pleadings filed, OCA has laid out its concerns on legal and policy grounds. OCA submits that the PUC may decide this issue based upon the pleadings filed without any further delay.

C. It Is Not Necessary to Litigate This Issue In a Different Forum.

Verizon further argues that this issue should be resolved in a different forum, which may involve other carriers.¹⁵ It is not necessary, and would unreasonably delay the resolution of this matter, to transfer this issue to another forum involving other carriers. Verizon is unique in having a script that it is required to use when it sells its telecommunications services. The existence of such a script in this proceeding relates to a complaint action and settlement that was resolved years ago relating to allegations about unfair and misleading sales practices. No other carriers are affected by these requirements. Enlarging this case to sweep in other carriers would be unwarranted and unnecessary.

Moreover, OCA submits that not all carriers follow Verizon's practice of prohibiting Lifeline customers from purchasing service bundles. For example, Commonwealth Telephone Company (CTCo) offers discounted "Custom Calling Feature Packages" of various types. The CTCo feature packages are available to residential service customers without restrictions.¹⁶ There are no restrictions in CTCo's Tariff regarding the availability of the packages for Lifeline customers. Embarq (previously Sprint) also offers a large range of packages that include vertical

¹⁵ Verizon Motion at 7

¹⁶ Commonwealth Telephone Company, Supp. No. 80, Telephone – PA P.U.C No. 23, Section 6, Original Sheet 23A 1.

services and toll calls, without restriction excluding Lifeline customers.¹⁷ These instances demonstrate that there is no legal or policy requirement, statutory or otherwise, that restricts Lifeline customers from purchasing service packages. Since Verizon has chosen to implement its policy of preventing Lifeline customers from receiving the most economical bundled packages, there is no reason why this issue need be considered more broadly than in this proceeding.

D Services that May Be Supported by Universal Service Funds Are No Longer Restricted to Local Telephone Service.

In its Motion, Verizon also argues that Lifeline customers should not be permitted to purchase bundled packages because the “purpose of Lifeline 135 is to enable persons with limited income to afford basic local telephone service needed to connect them with essential services, like police, fire and medical.”¹⁸ OCA has previously explained how the statutory revisions of Act 183 eliminated the service purchase restrictions related to Lifeline and did not place any new restrictions in their place.¹⁹ As the Commission has considered the legislative revisions in Act 183, it has appropriately determined that these legislative changes allow “customers who subscribe to Lifeline service to subscribe to any number of other telecommunications services.”²⁰ The Commission was correct when it issued that order and should continue to enforce that determination in this proceeding.

Nonetheless, Verizon continues to cite to Vice Chairman Bloom’s 1999 Opinion in the Global Order asserting the purpose of Lifeline was only to support basic local calling.²¹ OCA respectfully submits that it is no longer appropriate to argue the merits of the Global Order or

¹⁷ The United Telephone Company of Pennsylvania, Informational Tariff for Competitive Services, Supp. No. 14, Sec. 2, Fourth Revised Page 4-8.1.

¹⁸ Verizon Motion at 3.

¹⁹ OCA Answer at 2, 4-5.

²⁰ Lifeline and Link-Up Order at 26.

²¹ Verizon Reply at 2.

Vice Chairman Bloom's Opinion some seven years after its issuance. Verizon fails to recognize that Act 183 explicitly reversed that aspect of Commission policy and fundamentally changed the nature of required Lifeline services in Pennsylvania.

Verizon attempts to cite statutes, federal requirements and another state regulatory decision in order to make its point that Lifeline rate reductions were only intended to relate to basic local service. This is not correct.

The FCC has specifically rejected the suggestion that Lifeline services, as defined by the FCC, may not include bundled services. The FCC decided that the same services that would be supported in high cost areas would also be supported for Lifeline customers.²² When commenting on the nature of those services, GTE, now a part of Verizon, proposed that carriers should not receive universal service support unless they offered services on an unbundled basis.²³ This would have prohibited carriers that only offer bundled packages from receiving Lifeline or high cost support. The FCC rejected this proposal. It explained that customers should be free to choose which type of supported services they would purchase, bundled or unbundled, and "consumers would choose to receive service from the carrier that offers the service package that best suits the consumer's needs."²⁴ Thus, the FCC clearly did not prohibit carriers from offering bundled services as a part of Lifeline.

Verizon also argues that Section 3019(f)(2) does not apply to bundles.²⁵ Verizon seems to argue that, while an individual vertical service is covered by Section 3019(f)(2), when such "services" are combined into a package, the collection of network functions can no longer be considered a "service," but is now a different "bundle" or "package" and so Section 3019(f)(2)

²² In the Matter of Federal-State Joint Board on Universal Service, Report and Order, 1997, ¶ 384 (FCC Universal Service Order)

²³ FCC Universal Service Order at ¶ 86.

²⁴ *Id.*

²⁵ Verizon Answer at 4.

does not apply. The definition of "service" in the Public Utility Code does not track Verizon's narrow definition. Under the Code, a "service" is defined in its "broadest and most inclusive sense."²⁶ "Service" applies to "any and all acts done, rendered or performed, and any and all things furnished, or supplied . . . in the performance of [utilities'] duties under this part to their patrons" Clearly, under the Code, whether Verizon sells Caller ID alone, or might sell Caller ID and Call Waiting as a package, both must be considered as a service under the Public Utility Code.

Verizon misstates the issue by suggesting that the OCA does not wish Lifeline customers to purchase packages at tariffed rates under Section 3019(f)(2), but wants Lifeline customers to be able to purchase packages at a discounted rate.²⁷ What OCA advocates is entirely consistent with the statute. Section 3019(f)(2) allows all customers who subscribe to the "Lifeline service" to purchase other "telecommunications services at the tariffed rates."²⁸ Under the terms of Section 3019(f)(2), customers are able to purchase any services, whether local area unlimited or Caller ID, at the tariffed rate. Many of Verizon's packages are, in fact, included in the Company's Informational Tariffs, as are the individual vertical services like Caller ID.²⁹ The "Lifeline service" consists of a credit of federal USF money that is applied to the overall bill. Significantly, because Verizon is fully reimbursed by the federal USF under the Lifeline 135 program, Verizon is fully paid for all services purchased by the Lifeline consumer at the tariffed rate. The discount that the Lifeline consumer receives is merely the reflection of the federal USF Lifeline credit that Verizon receives as partial payment for the consumer's bill.

²⁶ 66 Pa.C.S. § 102

²⁷ See Verizon Reply at 5. The Verizon services at issue are listed in the Verizon Informational Tariff for Competitive Services at Verizon Pennsylvania, Inc., Pa. P.U.C. No. 500, Section 45.

²⁸ 66 Pa.C.S. § 3019(f)(2)

²⁹ Verizon Pennsylvania, Inc., Informational Tariff for Competitive Services, Pa. P.U.C. No. 500, Section 45, Original Sheet 1-19 and Section 29C-2, 2nd Revised Sheet 4.

As explained in the OCA Answer, Verizon's Lifeline tariff restrictions will also put those low income Lifeline consumers who choose a bundle of services at risk of increased costs if the federal subscriber line charge is raised.³⁰ Verizon's statement that it is "premature" for the Commission and OCA to worry about protection against future subscriber line charge increases is incorrect.³¹ As noted in the OCA Answer, the Commission has itself recognized that only low income consumers who are enrolled in Lifeline will be protected against potential future increases in the federal subscriber line charge.³² As noted in the OCA Answer, proposed intercarrier compensation reform in the form of the Missoula Plan may result in such an increase.³³ Since OCA filed its Answer, the FCC's Wireline Competition Bureau has also granted Verizon Communications' request to increase the end user line charge (aka the federal subscriber line charge) in those service areas where the charge is currently below the \$6.50 cap in order to recover additional Local Number Portability costs.³⁴ As a result, Verizon Pennsylvania consumers may see an increase in their federal subscriber line charge, unless they are receiving the Lifeline discount.³⁵ Lifeline eligible customers who drop or forgo lifeline enrollment in order to take a more economic bundled package will pay these higher SLC rates.

Verizon also attempts to support its assertion that Lifeline customers should not be able to purchase packages by stating that the Wisconsin Public Service Commission denied a similar "broad request."³⁶ The Wisconsin case does not fully support Verizon's broad argument. The

³⁰ OCA Answer at 8-9.

³¹ See Verizon Reply at 5

³² OCA Answer at 8-9.

³³ *Id.* at 9, fn. 31.

³⁴ See In the Matter of Verizon's Petition for Waiver of the Commission's Rules to Treat Unrecovered Local Number Portability Costs as Exogenous Costs under Section 61.45(d), CC Docket No. 95-116, DA 06-1859 (FCC WCB Sept. 14, 2006)(Verizon Exogenous Cost Order). The "end user line charge" is "a flat-rated charge imposed on end users to recover the interstate-allocated portion of local loop costs." The EUCL is also referred to as the subscriber line charge. The EUCL is currently capped at \$6.50 pursuant to FCC regulations. *Id.* at fn. 8.

³⁵ Verizon Exogenous Cost Order at ¶¶ 16, 17.

³⁶ Verizon Answer at 3

Wisconsin case denied Lifeline enrolled consumers the opportunity to receive the substantial Wisconsin Lifeline reduction from the state-funded Wisconsin Universal Service Fund for MCI's most expensive local, toll, vertical service and long distance service packages.³⁷ Of the four packages offered by MCI, the company offered an explicit Lifeline discount on the two lowest price plans. No Lifeline discount was offered on the two more expensive plans.³⁸ The Wisconsin PSC was concerned that the Wisconsin Lifeline rules would require the application of a \$10 "standard lifeline credit" to the \$49.95 plan, and would then apply a further lifeline reduction to bring the overall price of the package to \$15.³⁹ Accordingly, the Wisconsin PSC determined that it would not apply the very substantial state lifeline credit to the \$49.95 Neighborhood Complete plan, as the size of the reduction under Wisconsin's rules would have been "an impermissible drain on monies in the universal service fund."⁴⁰ As noted above, however, the Lifeline discount was made available on the Company's two lower-priced packages.

The OCA emphasizes that the problem triggering the Wisconsin MCI Determination case does not exist in Pennsylvania under the Lifeline 135 program. Under Lifeline 135, there are no matching state funds and the rate reduction in Pennsylvania will not vary depending upon the size of the package purchased. No matter how large or small the package price may be, the lifeline reduction will remain the same and will be entirely funded by the federal USF. Thus, the particular problems that triggered the Wisconsin ruling do not exist here.

³⁷ Determination Regarding Compliance with Wis. Admin Code § PSC 160.062(1) in the Provision of Lifeline Benefits to Low-Income Customers, 2003 Wis. PUC LEXIS 649 (Wis. PSC, October 24, 2003) (Wisconsin MCI Determination)

³⁸ *Id.* at 1, 2.

³⁹ *Id.* at 2.

⁴⁰ *Id.*

Other states have also supported the application of lifeline benefits to packages. Vermont has considered an issue quite close to the one addressed in the present proceeding and decided that Vermont would require the lifeline reduction to be applied to packages. As of May 2006, Verizon Vermont has allowed lifeline customers to purchase packages of services and receive the lifeline discount. Thus, Verizon's Vermont affiliate is doing exactly what Verizon says would be contrary to universal service principles for Pennsylvania. In 2005, the Vermont Public Service Board ruled on an incentive regulation plan for Verizon Vermont. At that time, Verizon Vermont had

a policy that limits the availability of Lifeline to residential customers who take local service either through the "low use" or "standard use" option for local service. Thus, a customer cannot retain a Lifeline credit if he or she subscribes to a bundled service.⁴¹

The Vermont Department of Public Service (Department) advocated that the Board "require Verizon to continue to offer the Lifeline credit to customers that take bundled services."⁴² In support the Department explained

Verizon's policy means that low income customers cannot take advantage of discounts that are available only through service bundles. Thus, these customers must give up their Lifeline credit if they want to take advantage of Verizon services that bundle toll and basic services.⁴³

The Department noted that "the FCC has already prohibited telephone companies from declining to provide Lifeline credits when customers purchase vertical services...."⁴⁴ Verizon Vermont opposed the change based on a perceived conflict with universal service public policy goals.

⁴¹ Re Verizon New England, Inc. dba Verizon Vermont, 244 PURth 173, 240 (VT PSB 2005)(Verizon Vermont) (footnotes omitted).

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

Specifically Verizon Vermont argued, "the bundled packages, because they include toll and vertical services, should not qualify for Lifeline support."⁴⁵

The Vermont Board ruled against Verizon Vermont and accepted the Department's recommendation. As the Vermont Board explained

The Lifeline credit is intended to facilitate the connectivity of low-income customers, thus promoting universal service. However, neither the Board nor the FCC limits the services to which the customers who are eligible for Lifeline may subscribe or (absent non-payment of charges) the amount of usage that these customers incur.⁴⁶

The Vermont Board took specific note of the FCC's April 2004 decision In the Matter of Lifeline and Link-Up.

Thus, the FCC recently declined "to adopt rules prohibiting Lifeline/Link-Up customers from purchasing vertical services, such as Caller ID, Call Waiting, and Three-Way calling." Thus, Lifeline customers may purchase vertical services and still retain their Lifeline credit.⁴⁷

The Vermont Board examined Verizon Vermont's practice of restricting Lifeline customers from the purchase of bundles.

Verizon's condition, however, essentially imposes a limitation on the types of services that a Lifeline customer may purchase. The bundles of services represent a discount over the otherwise applicable rates that Verizon is willing to offer customers that subscribe to the service and pay the monthly charge. These customers essentially pay the basic rate, plus an added charge that reflects the customers' subscription to a group of services, which may include intrastate toll service.⁴⁸

The Vermont Board concluded that Verizon Vermont's restriction was unreasonable.

Since the discount is largely based upon the customer's subscription to the bundle of vertical and toll services, we see no

⁴⁵ *Id*

⁴⁶ *Id*

⁴⁷ *Id*, quoting In the Matter of Lifeline and Link-Up, WC Docket No. 03-109, FCC 04-87, ¶ 53 (Apr. 29, 2004).

⁴⁸ *Id*

reason that Lifeline customers should lose their credit for local service in order to subscribe to this service.⁴⁹

Verizon Vermont and the Department subsequently entered into a memorandum of understanding (MOU) which set forth amendments to the Verizon Vermont incentive regulation plan's broadband deployment and other provisions.⁵⁰ The MOU affirmed, "the tariff filing offering bundled service packages to Lifeline customers will be implemented."⁵¹ The Vermont Board approved the MOU as providing public benefits and in the public interest.

Today Verizon Vermont allows low income customers to receive both the state Lifeline discount and the savings offered by a variety of bundles of services. The Verizon Vermont tariffs now contain explicit language that "This service package will be available for Lifeline customers beginning on May 1, 2006."⁵²

E. The OCA Would Agree To Limit The Availability of Lifeline Discounts To The Most Economic Verizon Local, Regional and Long Distance Packages.

Verizon also complains in its Motion and Reply that the lifeline benefit should not be available to the highest priced packages.⁵³ OCA has argued above that there are strong reasons to permit Lifeline customers to make this decision for themselves. Nonetheless, the OCA submits that it would be a reasonable compromise to restrict the types and prices of packages to which Lifeline customers can subscribe. In the OCA Answer, OCA listed the following services as illustrating the type of packages that would be most valuable to Lifeline consumers:

⁴⁹ *Id.*

⁵⁰ Re Verizon New England, Inc. dba Verizon Vermont, 248 PUR4th 212 (VT PSB April 27, 2006)(Verizon Vermont II)

⁵¹ *Id.* at 218

⁵² *See, e.g.* Verizon New England, Inc. Tariff PSB VT No. 20, Exchange and Network Services Part A Section 15, Pages 8-1 (Verizon Local Package Extra /Verizon Local Package), 15 (Verizon Regional Package Extra), 17-18 (Verizon Regional Package), 19-20 (Verizon Regional Package Unlimited). Verizon Vermont tariffs may be accessed through <https://retailgateway.bcl.gte.com.1490/>.

⁵³ Verizon Motion at 3, Verizon Reply at 4.

Local Package: \$27.95/month.

Regional Essentials: \$36.00/month.

Freedom Essentials: \$39.95/month.⁵⁴

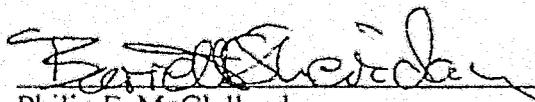
These packages represented the lowest priced current package in each of three categories: A. Local and three vertical services only; B. Local, three vertical services and regional toll; C. Local, three vertical services, regional toll, and long distance. By permitting Lifeline customers to subscribe to these popular and economic packages in each of these three categories, the Company would be fulfilling the promise in its script to offer customers "the best package for you." OCA suggests that it would be a reasonable compromise to restrict the types of packages available with the Lifeline discount to the lowest priced package in each of these three categories. OCA recognizes that the price and composition of the lowest priced packages available in each category will likely change over time and therefore the described Lifeline-available packages would also be subject to change. Even so, 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. The OCA submits that it makes no sense to deny the benefits of the lowest-priced, most economical packages to those customers who need them the most.

⁵⁴ OCA Answer at 7

III. CONCLUSION

OCA respectfully requests that the Commission deny the Verizon Motion and condition grant of the Verizon Petition for Modification of the Consent Order on changes to Verizon's practices and tariffs as set forth herein and supported in the OCA Answer to Verizon's Petition.

Respectfully submitted,



Philip F. McClelland
Senior Assistant Consumer Advocate (Pa. Bar # 23165)

Barrett C. Sheridan
Assistant Consumer Advocate (Pa. Bar # 61138)

For: Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048

Dated: October 10, 2006

00091012.3

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, Office of Consumer Advocate Answer in Opposition to Verizon Pennsylvania Inc.'s Motion for Judgment on the Pleadings or Alternative Relief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 10th day of October, 2006.

SERVICE BY INTER-OFFICE MAIL

Mitchell A. Miller
Lenora M. Best
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Pa. Public Utility Commission
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*90384

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: December 13, 2006
2. BUREAU AGENDA NO. DEC-2006-OSA-0325* (REV)

3. BUREAU: Office of Special Assistants

4. SECTION(S):
5. PUBLIC MEETING DATE:

6. APPROVED BY: December 21, 2006

Director: C.W. Davis 7-1827

Mgr/Spvr: R.A. Marinko 3-3930

Legal Review:

DOCUMENT
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7. PERSONS IN CHARGE: M. Samuel 3-0697
8. DOCKET NO.: C-00881727
9. EFFECTIVE DATE OF FILING:

A. Arnold 7-8032

N/A

10. (a) CAPTION (abbreviate if more than 4 lines)
(b) Short summary of history & facts, documents & briefs
(c) Recommendation

DOCKETED
JAN 10 2007

(a) Petition of Verizon Pennsylvania Inc. for Modification of Consent Order

(b) On August 10, 2006, Verizon Pennsylvania Inc. (Verizon PA) filed a Petition seeking modification of a Consent Order entered by the Commission on June 15, 1990 at Docket No. C-00881727. The requested modification would relieve Verizon PA of the obligation to complete the sale of basic service before its representatives provide a new customer or a transfer customer with information about optional services and packages. On August 23, 2006, the Office of Consumer Advocate (OCA) filed an Answer to the Petition in which it submits that it does not oppose the modification on the condition that Verizon should be required to eliminate its practice which prohibits Verizon Lifeline 135 customers from purchasing bundled packages. On September 15, 2006, Verizon filed a Reply to the OCA's Answer as well as a Motion for Judgment on the Pleadings on its Petition and a Motion to Sever and Dismiss the issues raised in OCA's an Answer seeking affirmative relief. On October 10, 2006, OCA filed Answer in Opposition to Verizon PA's Motion for Judgment and a compromise proposal.

(c) The Office of Special Assistants (OSA) recommends: (1) that the Commission adopt the proposed draft Tentative Opinion and Order which tentatively grants Verizon's Petition with certain conditions and the compromise proposal condition requested by the OCA in its October 10, 2006 Answer; (2) that the Tentative Opinion and Order be issued for comments and reply comments and published in the *Pennsylvania Bulletin*, and (3) that if no adverse comments are received, the Tentative Order shall become final without further Commission action; otherwise, a subsequent Opinion and Order addressing the Comments will be issued.

Order Doc. No 636608v1

Calendar Doc No 644678v1

11. MOTION BY: Commissioner Chm. Holland
Commissioner Pizzingrilli - Yes
Commissioner Fitzpatrick - Yes
SECONDED: Commissioner Cawley
Commissioner

CONTENT OF MOTION: Staff recommendation adopted.

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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(717) 783-5048
800-684-6560 (in PA only)

IRWINA POPOWSKY
Consumer Advocate

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consumer@paoca.org

February 2, 2007

James J. McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

ORIGINAL

Re: Petition of Verizon Pennsylvania, Inc. For
Modification of Consent Order
Docket No. C-00881727

Dear Secretary McNulty:

Enclosed please find for filing an original and ten (10) copies of the Office of Consumer Advocate's Comments in Support of the Public Utility Commission's Tentative Order in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,

Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138

BTL

Enclosures

cc: All parties of record
Cheryl Walker Davis/OSA

*90400

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PA PUBLIC
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Petition of Verizon Pennsylvania, Inc. :
: Docket No. C-00881727
For Modification of Consent Order :

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COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE
IN SUPPORT OF THE PUBLIC UTILITY COMMISSION'S
TENTATIVE ORDER

ORIGINAL

I. Introduction

The Office of Consumer Advocate (OCA) submits the following Comments in support of the Public Utility Commission's (Commission's) Tentative Order in the above-captioned proceeding and requests that the Tentative Order be made final.

On December 26, 2006, the Commission entered a Tentative Order ruling on Verizon Pennsylvania Inc.'s (Verizon) August 2006 Petition for Modification of the 1990 Consent Order that determines how Verizon may offer basic local service and packages or bundles of services to its customers.¹ Verizon requested the change in the Consent Order so Verizon "might better meet the needs" of its customers where the majority of customers purchase local service as part of a package or bundle.² The OCA filed an Answer to the Verizon Petition which contended that there was a conflict between Verizon's commitment to sell customers the best package for their needs and Verizon's practice of not allowing customers eligible for the Lifeline 135 (Lifeline) discount to receive both the Lifeline discount and the savings offered by

¹ See Barasch v. Bell Telephone Company of Pennsylvania, 73 Pa PUC 103 (1990)(Consent Order).
² Verizon Petition at ¶¶ 4, 5, 6.

purchasing a bundle of services. Further pleadings by Verizon and the OCA brought the matter before the PUC for resolution of the questions of law and policy presented by Verizon's petition.

The Commission has issued a Tentative Order which addresses Verizon's request for relief and the OCA's concerns that Verizon customers eligible for the Lifeline discount be allowed to purchase local service and other telecommunications services either singly or as part of a bundle. The Tentative Order would grant Verizon's request for modification of the Consent Order subject to the following conditions:

- 1) Verizon continues to notify all residential customers upfront of the least expensive basic service option, as required by Section 69.191. Tentative Order at 13; 52 Pa. Code § 69.191;
- 2) Within 20 days from the date a final order is entered in this proceeding and "consistent with the relief granted by this Tentative Opinion and Order", Verizon must modify the language in its Lifeline Tariff which presently restricts Lifeline customers from ordering bundled services. Tentative Order at 14;
- 3) Verizon must offer to Lifeline customers packages of the type identified in the OCA's compromise proposal as set forth in the OCA Answer in Opposition to Verizon's Motion for Judgment on the Pleadings. Tentative Order at 10-11, 12-13. The type of packages identified by OCA would include Verizon's least cost Local Package (local service with vertical services), Regional Essentials (local, vertical services and regional toll), and Freedom Essentials (local, vertical services, regional toll, and long distance). Id. at 11;
- 4) "[A]ny proposed 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" shall be subject to plain language review by the Commission's Bureau of Consumer Services. Tentative Order at 14;
- 5) Verizon provides a disclosure statement and otherwise complies with the Commission's directions regarding treatment of customer accounts in the event the bundled package customer fails to pay the package charge, until such time as the PUC makes a final determination in the Rulemaking Re: Provision of Bundled Service Package Plans at a Single Monthly Rate by Local Exchange Carriers at Docket No. L-00060179. Tentative Order at 14-15.

In the Tentative Order, the Commission considers and interprets federal universal service policy and Sections 1501, 3016(c)(2), 3019(e), 3019(f)(2) of the Public Utility Code, and Commission orders and rulemakings regarding Lifeline service and consumer protections related to the offering of bundled services. The OCA supports the Commission's Tentative Order and submits that it represents a reasonable resolution of the issues raised in Verizon's Petition and the OCA's pleadings in response to the Petition.

II. Comments

The OCA strongly recommends that the Commission adopt the Tentative Order in its entirety as the final action of the Commission. The Tentative Order strikes an appropriate balance between the goal of promoting universal service as embodied in the Lifeline program and allowing Lifeline eligible customers economical choices in their purchase of local and other telecommunication services. The Tentative Order properly identifies other consumer protections which apply to Verizon's offer of and billing for bundles or packages which include protected, local calling services.

The OCA submits that adoption of the Tentative Order requirement that Verizon make available to Lifeline customers the lowest cost packages in the categories identified in the OCA compromise proposal is a reasonable outcome. This requirement is a necessary part of any changes by Verizon as to how it sells packages of bundled services to new customers or customers who move to a new location. The OCA submits that the Tentative Order properly recognizes that while the names and prices of various Verizon packages may change, Lifeline customers should be able to subscribe to the most economical packages in each of three categories: 1) unlimited local service bundled with vertical services; 2) unlimited local service

bundled with vertical services and regional toll; and 3) unlimited local service bundled with vertical services, regional toll, and long distance.³ Each of these types of service may be of great value to different Lifeline-eligible customers, and OCA agrees with the Tentative Order that these customers should not have to forego the Lifeline discount in order to obtain the most economical package of services to meet their calling needs.

Verizon therefore should modify its Lifeline tariff to conform with the Tentative Order and should also remove any inconsistent language in any tariff or informational tariff that describes each of the three types of packages covered by the Commission's Order.

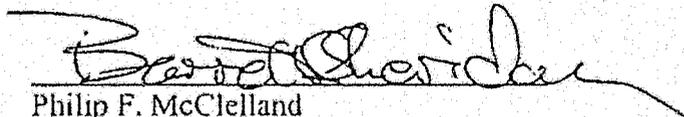
The OCA fully supports the Commission's other findings of law and policy and mandated consumer protections as within the Commission's authority and discretion pursuant to Section 1501 and Chapter 30 of the Public Utility Code, as amended by Act 183 of 2005. 66 Pa.C.S. §§ 1501, 3011 et seq.

³ OCA recognizes that the bundled pricing and number of vertical services, for example, may change in the future. OCA believes that the PUC's Tentative Order would not restrict such changes so long as the Lifeline consumers can continue to receive the lowest price bundled package in such categories.

III. CONCLUSION

OCA respectfully requests that the Commission adopt the Tentative Order as the final action of the Commission, for the reasons set forth above and in the related OCA pleadings.

Respectfully submitted,



Philip F. McClelland
Senior Assistant Consumer Advocate (Pa. Bar # 23165)

Barrett C. Sheridan
Assistant Consumer Advocate (Pa. Bar # 61138)

For: Irwin A. Popowsky
Consumer Advocate

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555 Walnut Street
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(717) 783-5048

Dated: February 2, 2007
00092444 doc.2

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, Office of Consumer Advocate's Comments in Support of the Public Utility Commission's Tentative Order, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 2nd day of February, 2007.

SERVICE BY INTER-OFFICE MAIL

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John A. Levin
Law Bureau
Pa. Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

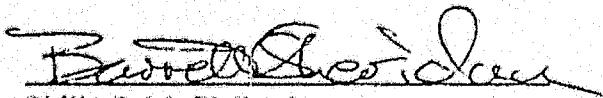
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Suzan D. Paiva, Esq.
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Philadelphia, PA 19103

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Office of Small Business Advocate
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Barrett C. Sheridan
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Suzan DeBusk Paiva
Assistant General Counsel



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Fax: (215) 563 2658
Suzan.D.Paiva@Verizon.com

ORIGINAL

February 2, 2007

VIA UPS OVERNIGHT DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**RE: In Re Petition of Verizon Pennsylvania Inc.
For Modification of Consent Order
Docket No. C-00881727**

Dear Secretary McNulty:

Enclosed please find the original and nine (9) copies of Verizon Pennsylvania Inc.'s Comments on the Public Utility Commission's Tentative Order, in the above-named matter.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

BTL

Suzan D. Paiva
Suzan D. Paiva

SDP/slb
Enclosure

VIA UPS DELIVERY
cc: Mitchell Miller, Bureau of Consumer Services
Lenora Best, Bureau of Consumer Services
John Levin, Law Bureau
Cheryl Walker Davie, Office of Special Assistants
Attached Certificate of Service

**DOCUMENT
FOLDER**

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CERTIFICATE OF SERVICE

I, Suzan D. Paiva, hereby certify that I have this day served true copies of Verizon Pennsylvania Inc.'s Comments on the Commission's Tentative Order, 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).

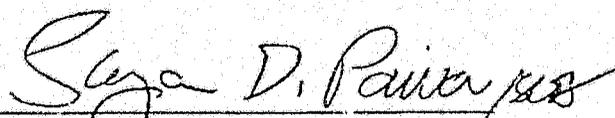
Dated at Philadelphia, Pennsylvania, this 2nd day of February, 2007.

VIA UPS DELIVERY

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FEB 02 2007

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In Re Petition of Verizon Pennsylvania Inc. :
For Modification of Consent Order : Docket No. C-00881727

ORIGINAL

**VERIZON PENNSYLVANIA INC.'S COMMENTS
REGARDING TENTATIVE ORDER**

Verizon Pennsylvania Inc. ("Verizon PA") submits these Comments on the Tentative Order entered December 26, 2006 and published in the Pennsylvania Bulletin on January 13, 2007.

The Tentative Order correctly grants Verizon PA's unopposed request to eliminate the outdated and anti-customer requirement that Verizon PA must sell standalone basic service to all prospective customers before being permitted to inform them of other options that may better meet their needs. There is no dispute that this modification to Verizon PA's initial customer contact is in the public interest, and so the Tentative Order should have stopped there.

Instead, it improperly conditions this relief on a "*quid pro quo*" of requiring Verizon PA to agree to the Office of Consumer Advocate's ("OCA's") wholly unrelated demand to permit Lifeline 135 customers to order certain packages at a discount. The Commission's regulations do not allow OCA to raise an unrelated request for relief as the price for favorable action on Verizon PA's Petition, and the Commission should not have considered this request. More importantly, this Commission should not establish a precedent of conditioning substantively unopposed relief – relief that is concededly in the public interest – on acquiescence to unrelated demands. If it wishes to consider OCA's Lifeline request, the Commission should do so separately on the merits and allow

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Verizon PA the opportunity to oppose it without delaying or risking its positive and unopposed modification to the 1990 Consent Order.

The Tentative Order also imposes a redundant and factually unsupported requirement that Verizon PA separately “disclose” to both prospective and current customers that they will not lose basic service for failure to pay the bundled service package charge. But Verizon PA has already been complying with this requirement for a decade by routinely providing such notice to customers when they subscribe to a package. There is no basis for the Tentative Order to require Verizon to incur the expense and burden of re-notifying its embedded base of package customers, and no party requested that Verizon be required to do so. Accordingly, this requirement should be eliminated in the Final Order.

I. The Tentative Order Improperly Conditions Relief from Outdated Sales Script Requirements on an Unrelated Requirement to Expand the Lifeline 135 Discount to Packages.

In its Petition, Verizon PA asked the Commission to modify a sixteen-year-old Consent Order to permit Verizon PA to discuss with prospective customers its various packages of services without first completing a sale of standalone basic service. As Verizon PA explained, this anachronistic requirement to “sell” basic service first – while it may have been appropriate sixteen years ago – is no longer in the best interests of consumers, and in fact often results in annoying delays and confusion for Verizon PA’s customers rather than providing useful information to them. Verizon PA’s experience has shown that most customers prefer packages and do not want to be forced to make theoretical decisions to purchase standalone basic service that they do not want, and to

which they will not end up subscribing, before hearing about the service packages that actually meet their needs.

The Tentative Order would grant this relief to Verizon, finding that dispensing with this outdated requirement will “allow Verizon and its new customers to complete the sale of services in an efficient manner.” (Tentative Order at 13). Nevertheless, the Tentative Order improperly conditions this relief on a wholly unrelated demand by OCA, set forth in its Answer, that Verizon PA expand the availability of the Lifeline 135 discount to certain bundled service packages. In making this demand, however, OCA never attempted to claim that consumers in any way benefit from the anachronistic requirement to sell basic service first,¹ nor does the Tentative Order make any finding that eliminating this requirement is somehow not in the public interest unless the Commission also imposes additional Lifeline conditions – indeed, the Tentative Order makes no attempt to link the two issues at all.

There is no valid reason to continue to subject all of Verizon PA’s new and transfer customers – the vast majority of whom do not qualify for Lifeline discounts in any event and have no interest in the expansion of Lifeline discounts – to the annoying and confusing requirement that they agree to buy standalone basic service before they are allowed to learn about any other service options that may better meet their needs. Given this fact, it is improper for the Commission to condition this relief by requiring that Verizon PA buy it with an expansion to the Lifeline 135 discount – a regulatory imposition that this Commission does not have independent authority to impose under

¹ Indeed, rather than contesting the merits of Verizon PA’s Petition, OCA conceded in its Answer that it “is not opposed to modification of the Consent Order to better reflect the needs and expectations of today’s telecommunications customers.” (OCA Answer at 4).

Act 183. Instead, if OCA wishes to pursue an expansion of the Lifeline 135 discount beyond basic local exchange service, the Commission should sever that issue from the request for relief in Verizon PA's Petition and consider it separately on its own merits. It should not permit OCA to impose an unrelated and unjustified price on the pro-consumer relief requested in Verizon PA's Petition.

Parties do not have the unfettered right to raise whatever issue they wish in response to a Petition. Rather, as the OCA itself has argued to this Commission in another proceeding, 52 Pa. Code § 5.62 limits the issues that may be raised in an "answer seeking affirmative relief" *only* to those issues that raise "common issues of law or fact" with those at issue in the original Petition.² The Tentative Order, however, makes no attempt to show how expanding eligibility for the Lifeline 135 discount to certain of Verizon PA's bundled service packages raises "common issues of law or fact" with Verizon PA's request to modify the 1990 Consent Order. Nor could it, because the requisite commonality is clearly absent. Instead, the Tentative Order attempts to bypass this procedural requirement by concluding that OCA is not actually "seeking relief against Verizon" at all (and thus presumably not seeking "affirmative relief" for the purposes of 52 Pa. Code § 5.62) because "Verizon is fully reimbursed by federal USF" and "fully paid for all services by the Lifeline consumer at the tariffed rate." (Tentative

² *In Re Carnegie Natural Gas Company Show Cause Proceeding; In Re Carnegie Natural Gas Annual Gas Cost Rate Filing and Irwin A. Popowsky, Consumer Advocate v. Carnegie Natural Gas Company*, Docket No. P-890383; M-78050055 F090; C-903026, 1991 Pa. PUC LEXIS 50 (Opinion and Order entered March 28, 1991) (noting that the OCA had moved to dismiss an answer seeking affirmative relief because OCA argued that since "the affirmative relief requested by Carnegie is unrelated to the specific audit recommendations that gave rise to this proceeding, Carnegie's request for affirmative relief is insufficient in form and substance and must be dismissed [citing 52 Pa. Code § 5.62]."

Order at 13). The Tentative Order further concludes that any administrative costs “associated with Act 183 compliance” are merely “a cost of doing business.”³ (*Id.*) This reasoning is fundamentally flawed.

First, the term “affirmative relief” is not limited to requests that would impose uncompensated costs on Verizon PA. To the contrary, the term is much broader and includes any request for Commission action that could be maintained as an independent cause of action. *See* Black's Law Dictionary (8th ed. 2004) (defining “affirmative relief” as “[t]he relief sought by a defendant by raising a counterclaim or cross-claim that could have been maintained independently of the plaintiff's action.”). Here, the OCA could have – and properly should have – filed its own separate petition requesting that the Commission expand the availability of Lifeline 135 discounts to bundled service packages, and thus the relief it seeks is “affirmative relief” under the common legal definition of that term. Second, the affirmative relief that OCA seeks is clearly “against Verizon PA” because the OCA is asking the Commission to order Verizon PA to take a particular action – *i.e.*, to modify its systems to allow Lifeline 135 customers to order packages at a discount. Thus, OCA's request falls within the ambit of 52 Pa. Code §

³ The characterization of these administrative costs as “associated with Act 183 compliance” is wrong. Nowhere does the Commission find that Act 183 *mandates* that Verizon PA offer Lifeline discounts on packages – it merely finds (without explanation) that OCA's request “appears to be consistent with the new changes that were brought about by Act 183.” (Tentative Order at 13). Thus, the costs that Verizon PA would incur to comply with the “condition” imposed by the Commission in the Tentative Order would *not* be a “cost of Act 183 compliance” but would rather be a cost of complying with the Commission's directives, not the General Assembly's. Indeed, the General Assembly clearly expressed the intention to avoid imposing new, unfunded Lifeline obligations on carriers as a result of Act 183. *See* 66 Pa. C.S. § 3019(f)(6) (any new Lifeline discounts must be fully subsidized by the federal universal service fund).

5.62(a) and is improper unless it raises "common issues of law or fact" with those at issue in the original Petition.

But as explained above, the Tentative Order makes no attempt to explain how the affirmative relief requested by OCA raises "common issues of law or fact" with Verizon PA's request to modify the 1990 Consent Order. Lifeline requirements were not a part of that Consent Order, which relates specifically to Verizon PA's sales practices and procedures – not the rates or terms of the service itself, such as whether a Lifeline discount is available to a particular customer. Indeed, Verizon PA's Lifeline service did not even exist in 1990. And as Verizon PA indicated in its Motion for Judgment on the Pleadings, Verizon PA's sales representatives already inform Lifeline-eligible customers of the services to which the discount applies; if the substantive requirements for Lifeline change, Verizon PA's representatives will inform customers of those changes. The question of what services *should* be eligible for the discount, however, has nothing to do with the sales presentation and nothing to do with the Consent Order at issue in Verizon PA's Petition. Therefore, the requirements of 52 Pa. Code § 5.62(a) have not been met, and the Tentative Order's proposal to condition the modification of the Consent Order on an expansion of Lifeline availability should be rejected.

Limiting requests for affirmative relief in answers to issues that have "common issues of law or fact" is not merely a question of mechanical procedure that the Commission may choose to ignore, but is a question of substantial fairness. As Verizon PA noted in its Reply to OCA's Answer, 66 Pa. C.S. § 3019(f)(2) does not require Verizon to provide the Lifeline 135 discount on bundled service packages; it merely permits Lifeline 135 customers to purchase services other than a local service offering "*at*

the tariffed rates” rather than at a discount. Had OCA properly brought its request to make packages available to Lifeline 135 customers as a separate Petition, the OCA would have been required to prove the merits of its request, and the Commission would have been required to determine whether 66 Pa. C.S. § 3019(f)(2) properly confers jurisdiction on the Commission to require Verizon to offer discounts on packages.

Here, however, the Tentative Order avoids that legal question altogether by making expansion of the Lifeline 135 discount to certain Verizon package offerings the *quid pro quo* for unrelated relief requested by Verizon in its Petition.⁴ As a result, Verizon PA would be forced either to forego the clearly pro-consumer relief it sought in its Petition – relief that the Commission determined and OCA conceded was in the public interest to grant – or agree to a price that has nothing to do with the sales presentation relief it requested, effectively waiving its right to appeal in the process. For this reason, the imposition of unrelated conditions on otherwise proper requests for relief is an illegitimate exercise of power that violates due process. Moreover, it creates a regulatory regime in which Verizon PA must “pay” for every increment of regulatory relief it receives by making concessions that the Commission could not otherwise lawfully impose.

Therefore, Verizon PA respectfully requests that the Commission in its Final Order modify the Tentative Order insofar as it imposes, as a condition to relieving Verizon PA of the requirement to sell basic service before discussing package offerings with its prospective customers, that Verizon PA offer Lifeline 135 customers the option

⁴ The Tentative Order makes no finding that it has statutory authority to *require* Verizon PA to expand the Lifeline 135 discount to packages – it merely finds that OCA’s proposed condition “appears to be consistent” with Act 183. (Tentative Order at 13).

to purchase certain packages at a discount. If the Commission wishes to consider OCA's request to expand the availability of the Lifeline 135 discount beyond basic local service, then it should sever the issue from Verizon PA's request for relief and consider it on its own merits.

II. Any Requirement that Verizon PA Expand the Availability of the Lifeline 135 Discount to Certain Packages is Contrary to Act 183 and Contrary to the Intent and Purpose of Lifeline Service.

Even if the Commission were to consider OCA's request on its own merits, however, the Commission lacks the authority to impose an obligation on Verizon PA to expand the Lifeline 135 discount beyond basic service offerings. Specifically, 66 Pa. C.S. § 3019(f)(2) states that Lifeline subscribers "shall be permitted to subscribe to any number of other eligible telecommunications carrier telecommunications services *at the tariffed rates* for such services." OCA claims that this provision means that the Lifeline 135 discount must apply to bundled and packaged services. This argument, however, makes no sense. OCA is not requesting that Lifeline eligible customers be allowed to subscribe to bundles or packages "at the tariffed rates"—it is requesting that they be allowed to subscribe to packages at *discounted* rates. The statute does not support that demand. Contrary to OCA's legal argument, nowhere does Act 183 say that the Lifeline discount must apply to bundles or packages of services, even though the Legislature was clearly aware of the importance of packaged services in the marketplace when the statute was enacted. *See, e.g.*, 66 Pa. C.S. § 3016(e). Act 183 incorporates the federal definition of Lifeline as a discounted "local" service – not a discounted package of local, long distance and other premium calling options. 66 Pa. C.S. § 3012. Thus, while other individual non-basic service options remain available to Lifeline customers at "tariffed"

rates (for example, Caller ID, Call Waiting and Voice Mail), the availability of discounted service is limited to basic local service.

Indeed, under Act 183, Lifeline service is explicitly defined as a “discounted rate *local* service offering.” 66 Pa. C.S. § 3012 (emphasis added). The federal rules likewise define Lifeline as “a retail *local* service offering” that is available only to “qualifying low-income consumers,” and requires Lifeline service to include, among other things, “local usage” and “access” to an interexchange carrier’s network (but not discounted interexchange service). 47 C.F.R. § 54.101 and § 54.401 (emphasis added). As then-Vice-Chairman Bloom recognized in connection with the *Global Order*, when the Commission first addressed the establishment of a Lifeline plan in Pennsylvania in 1994, it was careful to note that “the purpose of a lifeline . . . is to ensure [that] just the most basic, limited local phone service is universally available.”⁵ It is not the purpose of Lifeline to enable discounted access to higher cost packages including extensive vertical features, unlimited nationwide calling, and the like.

It is not sufficient to claim, as the Tentative Order does, that Verizon PA is fully reimbursed by federal USF funds for the Lifeline 135 discount or that the discount is separately credited on the customer’s bill (regardless of whether those statements are true or not). (Tentative Order at 13). Previously, this Commission has made a considered effort *not* to expand Lifeline beyond what the Commission viewed as necessary to satisfy its original purpose of ensuring affordable basic local service to those with limited

⁵ *Joint Petition of Nextlink Pennsylvania, Inc., et al*, Docket No. P-00991648-49 (Opinion and Order entered September 30, 1999) (“Global Order”), Bloom Dissent (quoting former-Commissioner Hanger’s Motion, adopted by the Commission, directing Bell Atlantic-Pennsylvania, Inc. to file a Lifeline plan at Docket No. P-00930715, public meeting of December 15, 1994).

incomes. Even in expanding Lifeline service in the *Global Order* to allow very limited access to vertical features in order to increase Lifeline penetration, the Commission was careful to note that unlimited access to costly products beyond those necessary to allow local calling “could be self-defeating.”⁶ To the extent Lifeline customers – who by definition have very limited incomes available to pay for their essential services – are encouraged by OCA’s proposal to forego the traditional basic Lifeline service in favor of purchasing expensive premium service packages including unlimited toll and long distance plans, they may soon find, as the Commission cautioned in the *Global Order*, “that their telephone service is no more affordable than it was without the assistance,” and perhaps even less affordable. The Tentative Order provides no justification for departing from prior Commission policy in this regard.

Therefore, the Commission should eliminate the Tentative Order’s requirement that Verizon PA expand the availability of the Lifeline 135 discount beyond basic service as inconsistent with Act 183’s requirement that Lifeline customers pay the “tariffed rates” for non-basic services and inconsistent with the Commission’s long-standing policy to limit the expansion of the availability of the Lifeline 135 discount.

⁶ *Global Order* at 165-167. See also *Petition of North Pittsburgh Telephone Company for Recognition of an Exogenous Event under its Alternative Regulation Plan; North Pittsburgh Telephone Company Price Stability Index/Service Price Index Filing for Year 2003*, Docket Nos. P-00032038 and P-0981437 (Opinion and Order entered October 22, 2004) (refusing to approve a settlement with OCA providing for unlimited access to vertical features for Lifeline customers (pre-Act 183) because it would be contrary to the limitations set forth in the *Global Order*).

III. The Commission's Tentative Requirement that Verizon Provide Disclosure Statements to its Embedded Base of Package Customers is Unnecessary and Redundant.

In the Tentative Order, the Commission orders that "Verizon shall not be permitted to immediately terminate basic service for failure by the bundled package customer to pay the package charge," but must instead "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." (Tentative Order at 15). Verizon PA, however, has *already* been complying with that requirement for nearly ten years.

The Commission originally granted Verizon PA a waiver of 52 Pa. Code § 64.21 and other Chapter 64 sections to permit Verizon PA to offer bundled service packages on June 12, 1997. As a condition of that waiver, Verizon PA agreed that it would comply with the objectives of Chapter 64 for the "preservation of the residential customers' basic service" and accordingly "no customer will lose basic service as a result of his or her failure to pay singly priced service package charges."⁷ Verizon also agreed to notify all residential customers who order "singly priced service packages" and who are affected by the waiver that they will not lose their basic service if they fail to pay their package charges. (*Id.*) Although Verizon PA is now statutorily authorized, as a result of Act 183, to offer packages to its customers under 66 Pa. C.S. § 3016(e)(2), Verizon continues to comply with the conditions in the Commission's June 12, 1997 order for its package customers, and there has been no allegation or evidence to the contrary in the record of

⁷ *Petition of Bell Atlantic-Pennsylvania, Inc. For Expedited Modification of Consent Order and Waiver of Certain Chapter 64 Requirements*, No. C-00881727 (Opinion and Order entered July 12, 1997) at 3.

this proceeding. Indeed, there is no factual record here at all because this Commission inserted these requirements into the Tentative Order on its own initiative.⁸

Had the Tentative Order merely restated the requirements to which Verizon PA originally agreed ten years ago, Verizon would have had no objection, since it already complies with those requirements. However, the Commission went one step further to require that Verizon PA provide a new, separate "disclosure statement," subject to the Commission's review, to notify its customers that they will not lose basic service for failure to pay the bundled service package charge, and to provide this "disclosure statement" not just to new or prospective customers, but to "all customers currently subscribed to a bundled service package."

This requirement is both unnecessary and unduly burdensome. Verizon PA's existing package customers *already* received a disclosure of the nonpayment provisions of the Commission's 1997 waiver order when they subscribed to their packages. This information was and is routinely provided to all package customers in the fulfillment letter sent to them when they first subscribe to the package.⁹ There has been no allegation and there is no evidence whatsoever on the record here that Verizon PA either failed to make this disclosure to any package customers, or that the existing notice

⁸ By effectively denying Verizon notice and an opportunity be heard and present evidence on the imposition of this surprise requirement, the Tentative Order would, if adopted, also deny Verizon due process.

⁹ The pertinent portion of Verizon PA's fulfillment letter states that: "If you receive a Toll Suspension Notice and you fail to pay the overdue Toll charges specified in the Notice, your [package] will be suspended and you will lose the ability to make regional toll and long distance calls. You will not, however, lose your local telephone service." The letter further informs the customer that if it pays its overdue toll charges within the designated period, service will be restored with any applicable restoral charge, but "if your Toll service has been permanently terminated and your [package] has been removed, you will not lose your local telephone service."

somehow fails to provide adequate notice to existing customers of their rights under the Commission waiver order. Even OCA, the only party to respond to Verizon PA's original Petition, never raised any such allegations. The Tentative Order provides no explanation why, given the disclosures that Verizon PA has already made to its embedded base of package customers, Verizon PA should be required to *re-notify* those customers now.¹⁰ Such a redundant requirement would be expensive and time-consuming while providing no incremental benefit to Verizon PA's customers.

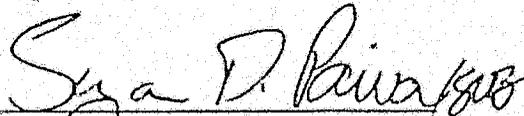
For as long as the Chapter 64 rules require it, Verizon PA will, of course, continue to notify its *new* package customers, as it has for the past decade, that they will not lose their basic service if they fail to pay the full package charge. However, the Commission should modify those portions of the Tentative Order that would impose a costly "re-notification" requirement for the existing package customer base.

¹⁰ The September 23, 2003 Secretarial Letter at Docket No. M-00031747 and the June 22, 2006 Proposed Rulemaking Order at Docket No. L-00060179, which are cited as authority for this further notification requirement, (Tentative Order at 14), do not support imposing this requirement on Verizon PA. These directives collectively dealt with the Commission's grant of blanket temporary Chapter 64 waivers allowing LECs lacking package waivers to continue to sell packages, pending permanent rule modifications reflecting package sales, provided that such LECs complied with conditions imposed in prior formal waiver orders. These conditions included, for LECs who obtained waivers only *after* they began selling packages, the same notification to the existing package customer base that is tentatively being required of Verizon PA here. But this requirement was *not* a condition of the package waiver Verizon obtained ten years ago, because Verizon PA obtained its waiver *before* it sold its first package, and accordingly, there was no embedded base of package customers to whom such notice could have been directed. Where formal or blanket temporary waivers have been granted to LECs *after* their package sales have started, by contrast, such notice does go to an embedded base of customers who have never received the information in the notice. But for Verizon PA., this notice makes even less sense now than it would have in 1997, because now it would not only be unnecessary but also duplicative of information package customers have already received.

CONCLUSION

For the foregoing reasons, the Commission should modify the Tentative Order insofar as it imposes a requirement to expand the Lifeline 135 discount beyond basic local service as a condition to the relief requested by Verizon PA in its Petition. The Commission should further eliminate the obligation in the Tentative Order that Verizon PA must re-notify its existing package customers that they will not lose their basic service for nonpayment of package charges.

Respectfully submitted,



Leigh A. Hyer (Atty No. 204714)

Suzan D. Paiva (Atty No. 53853)

Verizon Pennsylvania Inc.

1717 Arch Street, 10th Floor

Philadelphia, PA 19103

(215) 466-4755

Dated: February 2, 2007

Attorneys for Petitioner

Verizon Pennsylvania Inc.

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

PENNSYLVANIA UTILITY LAW PROJECT
118 LOCUST STREET
HARRISBURG, PA 17101-1414
(717) 232-2719

February 2, 2007

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

ORIGINAL

RE: Petition of Verizon Pennsylvania, Inc.
For Modification of Consent Order
Docket No. C-00881727

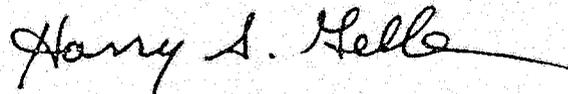
Dear Secretary McNulty,

Enclosed please find an original and 3 copies of Comments submitted by the Pennsylvania Utility Law Project (PULP) to the above referenced docket. Certificate of Service is attached.

Thank you for your attention to this matter. As always, please feel free to contact me with any questions.

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Yours truly,



Harry S. Geller, Esq.
Executive Director
Pennsylvania Utility Law Project

SECRETARY'S BUREAU
PULP

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Verizon Pennsylvania, Inc. :
: Docket No. C-00881727
For Modification of Consent Order :

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ORIGINAL

COMMENTS OF
THE PENNSYLVANIA UTILITY LAW PROJECT
IN SUPPORT OF
THE TENTATIVE ORDER OF
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

The Pennsylvania Utility Law Project (PULP) provides statewide representation, advice and support in energy and utility matters on behalf of low income consumers as part of the non-profit Pennsylvania Legal Aid Network. These comments are submitted in support of the Pennsylvania Public Utility Commission's Tentative Order in the above-captioned proceeding and of our request that the Tentative Order be made final.

PULP supports the general proposition that eligible low-income consumers presently receiving Lifeline discounts as well as those desiring to participate in Lifeline be provided the option to purchase both basic and optional services, bundled or unbundled, which they freely and knowledgably determine to best meet their economic and/or personal household needs. These customers should not be required to forego the Lifeline discount in order to exercise their discretion as consumers regarding the best services for their particular household.

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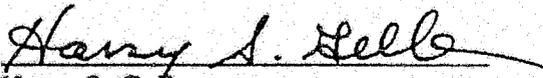
Although the Tentative Order entered in this matter does not provide for the fully unfettered options of Lifeline consumer choices which we favor, we recognize that in its present form it is a compromise which provides present and potential Lifeline customers the ability to receive their discount while maintaining their ability to have at least a minimum level of limited economical telecommunication options.

PULP strongly supports conditioning of the approval of Verizon's request to modify the Consent Order as outlined in the Tentative Order. The conditions, as restated briefly below, embody necessary protections to ensure that consumers are informed of their options and are enabled to make knowledgeable and informed choices. These conditions should not be reduced or modified in the final Order.

1. Verizon must notify all residential customers upfront of the least expensive basic service option, as required by Section 69.191;
2. Verizon must modify the language in its Lifeline Tariff which presently restricts Lifeline customers from ordering bundled services;
3. Verizon must offer to Lifeline customers options which include the essential components of Verizon's various packaged categories identified by the OCA as least cost Local Package, Regional Essentials and Freedom Essentials; and
4. Verizon must submit scripts and any proposed changes to essential customer contact programs for plain language review by the Commission's Bureau of Consumer Service.

Although supporting the Tentative Order as reasonable and requesting that it be made final, PULP continues to be concerned that restrictions imposed on Lifeline participants purchase options have in the past acted to create barriers to the increased Lifeline enrollment supported by Chapter 30 and the FCC. It is therefore respectfully requested that the Commission continue to monitor the levels of Lifeline participation and enrollment to ensure that the telecommunications purchase limitations placed on Lifeline participants as a result of this Order do not impede or limit a robust Lifeline enrollment growth.

Respectfully submitted by:



Harry S. Geller
John Gerhard
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101-1414
(717) 232-2719

February 2, 2007

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Verizon Pennsylvania, Inc. :
: Docket No. C-00881727
For Modification of Consent Order :

CERTIFICATE OF SERVICE

I hereby certify that I have today served a true copy of the foregoing document upon the parties, listed below by first class mail in accordance with the requirements of §1.54 (relating to service by a party).

Office of Consumer Advocate:

Philip F. McClelland
Senior Assistant Consumer Advocate
Barrett C. Sheridan
Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, Pennsylvania 17101-1923

**Attorney for Petitioner
Verizon Pennsylvania, Inc.:**

Susan D. Paiva
Verizon Pennsylvania, Inc.
1717 Arch Street, 10th Floor
Philadelphia, PA 19013

Dated this 2d day of February, 2007



Harry S. Geller
Pennsylvania Utility Law Project

Suzan DeBusk Paiva
Assistant General Counsel



Verizon Pennsylvania Inc.
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Philadelphia, PA 19103

Tel. (215) 466-4755
Fax. (215) 563-2658
Suzan.D.Paiva@Verizon.com

ORIGINAL

February 12, 2007

VIA UPS OVERNIGHT DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S OFFICE

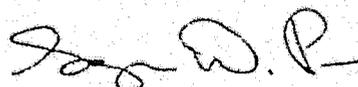
**RE: In Re Petition of Verizon Pennsylvania Inc.
For Modification of Consent Order
Docket No. C-00881727**

Dear Secretary McNulty:

Enclosed please find the original and nine (9) copies of Verizon Pennsylvania Inc.'s Reply Comments on the Public Utility Commission's Tentative Order, in the above-named matter.

If you have any questions, please do not hesitate to contact me.

Very truly yours,


Suzan D. Paiva

**DOCUMENT
FOLDER**

SDP/slb
Enclosure

VIA UPS DELIVERY
cc: Mitchell Miller, Bureau of Consumer Services
Lenora Best, Bureau of Consumer Services
John Levin, Law Bureau
Cheryl Walker Davis, Office of Special Assistants
Attached Certificate of Service

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FEB 9 2007

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PA PUBLIC UTILITY COMMISSION
REGULATORY BUREAU

In Re Petition of Verizon Pennsylvania Inc. :
For Modification of Consent Order : Docket No. C-00881727

**VERIZON PENNSYLVANIA INC.'S REPLY
COMMENTS REGARDING TENTATIVE ORDER**

Verizon Pennsylvania Inc. ("Verizon PA") submits these Reply Comments responding to the Comments filed on February 2, 2007 by the Office of Consumer Advocate ("OCA") and the Pennsylvania Utility Law Project ("PULP") relating to the Tentative Order entered December 26, 2006 and published in the Pennsylvania Bulletin on January 13, 2007.

The OCA and PULP Comments are notable for what they do *not* say. They barely mention the significant pro-consumer relief that was the only reason Verizon PA filed this narrow petition in the first place, relief that will allow Verizon PA to modify its sales presentation to eliminate the outdated, confusing and time-consuming requirement to complete the sale of standalone basic service before notifying prospective customers of other available options. One can only conclude that OCA and PULP agree with this Commission that Verizon PA's requested modification to the consent order is in the public interest and should be adopted in the final order in this matter. Indeed, OCA has already conceded that it "is not opposed to modification of the Consent Order to better reflect the needs and expectations of today's telecommunications customers." (OCA Answer at 4).

As Verizon PA explained in its own Comments, the Commission should stop with permitting this simple and positive change in the sales presentation. Its final order should

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not go on to condition this uncontested and concededly pro-consumer relief on the wholly unrelated OCA demand that Verizon PA apply the Lifeline 135 discount to certain packages of bundled services -- a demand Verizon has disputed on the merits. OCA and PULP devote their comments to defending the Tentative Order's Lifeline requirement, but they fail to demonstrate why it would be appropriate to impose this Lifeline requirement as a condition to allowing Verizon PA to modify and improve its sales presentation.

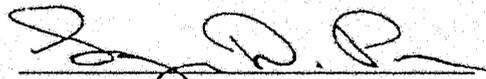
Verizon PA's opposition to this linkage is not merely a technical or procedural argument. Not only is it contrary to the Commission's own rules for it to consider OCA's unrelated request for affirmative relief, as discussed in Verizon PA's Comments, but the Commission should not establish a precedent that even substantively unopposed and pro-consumer relief must be purchased with other unrelated regulatory mandates. Such a precedent will only encourage parties like the OCA to insist on concessions every time a utility seeks Commission clearance to improve the regulatory process for itself and its customers. This precedent will also have a chilling effect on utilities that may well be reluctant in the future to seek leave to change unnecessary regulatory requirements that confuse and annoy their customers, when they know such changes could come with a heavy price in unrelated new regulatory burdens.¹

¹ For the reasons discussed, the Commission should not impose the Lifeline requirement as a *quid pro quo* for Verizon PA's requested relief and should eliminate this requirement from its final order. If it nonetheless includes a Lifeline requirement, however, it should confine the Lifeline 135 discount to the categories of Local Package (local and three vertical services) and Regional Essentials (local, three vertical and regional toll services). It should not expand Lifeline eligibility to the Freedom Essentials category, which in addition to intrastate services also contains interstate long distance service, because this Commission has no jurisdiction over interstate long distance service.

CONCLUSION

For the foregoing reasons and as described in Verizon PA's Comments, the Commission should modify the Tentative Order insofar as it imposes an unrelated requirement to expand the Lifeline 135 discount beyond basic local service as a condition to the relief requested by Verizon PA in its Petition. The Commission should further eliminate the obligation in the Tentative Order that Verizon PA must re-notify its existing package customers that they will not lose their basic service for nonpayment of package charges.

Respectfully submitted,



Leigh A. Hyer (Atty No. 204714)
Suzan D. Paiva (Atty No. 53853)
Verizon Pennsylvania Inc.
1717 Arch Street, 10th Floor
Philadelphia, PA 19103
(215) 466-4755

Dated: February 12, 2007

Attorneys for Petitioner
Verizon Pennsylvania Inc.

CERTIFICATE OF SERVICE

I, Suzan D. Paiva, hereby certify that I have this day served true copies of Verizon Pennsylvania Inc.'s Reply Comments on the Commission's Tentative Order, 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 12th day of February, 2007.

VIA UPS DELIVERY

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Harrisburg, PA 17120

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Office of Consumer Advocate
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555 Walnut Street, 5th Floor
Harrisburg, PA 17101-1923

William R. Lloyd, Jr., Esquire
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17102

Harry S. Geller, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101-1414

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PA PUBLIC UTILITY COMMISSION
REGULATORY BUREAU



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Verizon Pennsylvania Inc.
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Philadelphia, PA 19103
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COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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(717) 783-5048
800-684-6560 (in PA only)

RWINA POPOWSKY
Consumer Advocate

FAX (717) 783-7152
consumer@paoca.org

February 12, 2007

ORIGINAL

James J. McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg
400 North Street
Harrisburg, PA 17120

Re: Petition of Verizon Pennsylvania Inc. For
Modification of Consent Order
Docket No. C-00881727

Dear Secretary McNulty:

Enclosed please find for filing an original and ten (10) copies of the Office of Consumer Advocate's Reply Comments in Support of the Public Utility Commission's Tentative Order in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,

Barrett C. Sheridan
Assistant Consumer Advocate
PA Attorney I.D. # 61138

DOCUMENT
FOLDER

Enclosures

cc: All parties of record
Cheryl Walker Davis/OSA

*90400

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COMMISSION
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66

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF VERIZON :
PENNSYLVANIA INC. FOR :
MODIFICATION OF : Docket No. C-00881727
CONSENT ORDER :

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UTILITY COMMISSION
SECRETARY'S BUREAU

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REPLY COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE
IN SUPPORT OF THE PUBLIC UTILITY COMMISSION'S
TENTATIVE ORDER

DOCKETED
FEB 27 2007

I. INTRODUCTION

On December 26, 2006, the Commission entered a Tentative Order ruling on Verizon Pennsylvania Inc.'s (Verizon's) August 2006 Petition for Modification of the 1990 Consent Order that governs how Verizon offers basic local service and packages or bundles of services to its customers.¹ In its Petition, Verizon asked the Commission to recognize that customer needs and expectations have changed in the sixteen years since the Consent Order and to permit Verizon to change the structure of its sales contact with new or transferring customers. Tentative Order at 3. Verizon proposed that in the sales contact it would enable customers to select the services, whether stand-alone or packaged, that best meets the customer's needs. Id. OCA agreed that the Consent Order could be modified but only if Verizon was required to

¹ See Barasch v. Bell Telephone Company of Pennsylvania, 73 Pa. PUC 108 (1990)(Consent Order). In the Consent Order, the Commission approved a settlement agreement between Verizon's predecessor, Bell Telephone Company of Pennsylvania, the OCA, and other parties.

change restrictive Lifeline 135 tariff language and practices which would otherwise unreasonably prevent Lifeline 135-eligible customers from being offered the best plan or package to meet their needs. The Commission's Tentative Order grants Verizon's request for relief, but also agrees with the OCA that this relief must be conditioned on the removal of restrictive language in Verizon's Lifeline 135 tariff and a requirement that Verizon offer to Lifeline 135 eligible customers a reasonable choice of low-cost bundles or packages. Tentative Order at 12-14.

On February 2, 2007, the OCA and Pennsylvania Utility Law Project (PULP) separately filed comments in support of the Tentative Order and urged that the Tentative Order become the final action of the PUC. Verizon filed comments which request that the Commission modify the Tentative Order and remove the conditions related to Lifeline.² According to Verizon, the Commission erred or lacked jurisdiction to consider the interests of some customers, i.e. those eligible for Lifeline 135, in ruling on how Verizon may sell local and other services to all new customers or customers who are moving to a new location. As set forth in the OCA pleadings and these Reply Comments, however, the OCA submits that the Commission's Tentative Order is soundly based and supported as a matter of procedure, policy and law. The OCA submits that the Tentative Order with respect to the provision of low-cost packages to Lifeline 135 customers should become final without modification.

² Verizon also objected to an additional notice requirement in the Tentative Order. The Tentative Order proposed that Verizon "provide disclosure statements to all customers currently subscribed to a bundled service package..." regarding how Verizon would preserve local service in the event of underpayment of the charge for a bundle of services. Tentative Order at 15. In its comments, Verizon opposes the requirement that it give such notice to customers who are already Verizon customers subscribed to bundles or packages, based on consideration of cost and redundancy. Verizon Comments at 11-13. The OCA takes no position on this aspect of the Tentative Order.

II. REPLY COMMENTS

A. The Tentative Order Properly Ruled On Matters Ripe For Resolution

Verizon's Comments repeat arguments regarding the scope of issues for Commission review and resolution, specifically arguing that the question of how Verizon would treat customers eligible for Lifeline in the process of selling bundles of services should not have been addressed by the Commission in ruling on Verizon's Petition for Modification. Verizon Comments at 1-8. Based on its theory that the Lifeline issues raised by OCA are factually and legally unrelated to Verizon's request for greater flexibility in how it sells local service bundled with other services to all new customers, Verizon asks the Commission to modify the Tentative Order and remove the Lifeline related conditions. Id.

Verizon's argument that the Commission afforded Verizon improper or insufficient procedure is without merit. The Tentative Order provides a detailed review of the procedural posture of the case and appropriately provides a reasonable resolution of the legal and policy issues raised in the numerous pleadings. The OCA submits that Verizon availed itself of every opportunity to set forth its position regarding the issues raised in its original petition and the OCA's responsive pleadings. The OCA submits that Verizon Comments have not identified any procedural flaw which require modification of the Tentative Order. The connection between sales of local service to new customers in general and sales of local service to new customers who are eligible for Lifeline was already evident in Verizon's own petition, where Verizon acknowledged that the New Connect sales contact includes addressing customer eligibility for Lifeline. Verizon Petition at 6. As the original Consent Order approved a settlement of a formal complaint brought by OCA against Verizon's predecessor, the Commission properly considered in the Tentative Order the positions of both Verizon and the OCA in determining whether

modification of the Consent Order was in the public interest. Tentative Order at 12-13. The Tentative Order appropriately considers the public interest and the conditions that are appropriate to ensure that grant of Verizon's request for modification of the Consent Order will benefit the public interest. Id.

B. The Commission's Tentative Order Is Consistent With Act 183 And Properly Within The Commission's Jurisdiction And Authority.

Verizon asks the Commission to modify the Tentative Order because the Lifeline discount should only be available for the purchase of "basic local service," based substantially on Vice Chairman Bloom's opinion in the 1999 Global Order.³ Verizon Comments at 8-10. The OCA submits that the Commission reviewed Verizon's law and policy arguments in the Tentative Order and properly found them unpersuasive. Tentative Order at 7-10 (summary of Verizon's Motion and Reply to OCA's Answer), 13 (disposition). With the passage of Act 183 in 2004, the General Assembly established a new framework for Pennsylvania universal service policy which explicitly allows customers eligible for the federal universal service Lifeline discount to purchase both local service and all other telecommunications services. OCA Answer at 3-9. The Commission correctly determined that allowing Lifeline 135-eligible customers to make the choice between purchasing local service and other services on a stand-alone basis, or purchasing local service as part of an economical bundle "appears consistent with the new changes that were brought about by Act 183..." Tentative Order at 13.

Verizon's Comments overlook the fact that in 2005, the Commission recognized that "Act 183 expressly mandates significant changes to Pennsylvania's universal service program." OCA Answer at 5-6, 8-10; see In Re: Lifeline and Link-Up Programs, Docket No. M-

³ Re NextLink Pennsylvania, Inc., 93 Pa. PUC 172, 323 (1999)(Global Order)(Vice Chairman Bloom's separate opinion re Lifeline), [appellate history omitted]. Verizon also relies on the Commission's statement in the 1999 Global Order that restricting Lifeline customers to the purchase of one vertical service is intended to protect consumers. Verizon Comments at 10.

00051871, Final Order at 5-6 (May 23, 2005)(Lifeline and Link-Up Order). The Commission noted that Section 3019(f) legislated many changes to lifeline policy under the Global Order. In particular, Section 3019(f)(2) states:

All eligible telecommunications customers who subscribe to Lifeline Service shall be permitted to subscribe to any number of other telecommunications carrier telecommunications service at the tariffed rates for such services.

66 Pa.C.S. § 3019(f)(2). As a result, the Commission directed “[t]hat in accordance with 66 Pa. C.S. § 3019(f)(2), all ETCs shall permit customers who subscribe to Lifeline service to subscribe to any number of other telecommunications services including vertical services at the tariffed rates for such services.” In Re: Lifeline and Link-Up, Ordering ¶ 6; see OCA Answer at 3-5. The OCA submits that Verizon’s reliance on the 1999 Global Order is out-dated and misplaced and does not require modification of the Tentative Order.⁴

Nonetheless, Verizon suggests that the Commission lacks jurisdiction under Section 3019(f)(2) to require Verizon to “offer discounts on packages” which Verizon is allowed to offer pursuant to Section 3016(e). Verizon Comments at 7; 66 Pa.C.S. §§ 3016(e), 3019(f)(2). In the Tentative Order, the Commission noted OCA’s position that “the Verizon Lifeline 135 tariff restriction is discriminatory and contrary to both Sections 3019(e)(Unreasonable preference) and 3019(f)(2)(Lifeline service) of Chapter 30.” Tentative Order at 6; see 66 Pa.C.S. §§ 3019(e), 3019(f)(2). The OCA pleadings expressed concern that approval of Verizon’s sales script “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

⁴ As noted in the OCA Answer to Verizon’s original Petition, the Commission properly recognized in the 2005 Lifeline and Link-Up Order that Pennsylvanians eligible for the Lifeline 135 discount will not be protected against increases in the federal subscriber line charge (SLC) if they are not subscribed to Lifeline service. OCA Answer at 8-9. The Tentative Order would benefit Lifeline 135 eligible customers both at the time they select a package of services to purchase and as they continue as Verizon customers, in the event the SLC changes.

package' is available." Id. at 10. As the OCA explained in answer to Verizon's motion, the "at-tariffed rates" language in Section 3019(f)(2) could not reasonably be read to prevent customers who purchase local service as part of a package of services that are offered at a single price from receiving the Lifeline 135 discount. OCA Answer In Opposition to Verizon's Motion at 7-8. In reality, Verizon will bill the Lifeline eligible customer the single price for the package or bundle. Verizon will then credit the Lifeline 135 discount against the federal subscriber line charge and \$1.75 towards local service included in the package or bundle. Verizon will receive reimbursement for the Lifeline 135 credit from the federal Universal Service Fund (USF). Id. Whether a Lifeline 135 customer purchases local service and other services a la carte or as a singly priced bundle, Verizon is fully reimbursed by the federal USF for the amount of the Lifeline 135 credit. The Commission considered both positions and properly agreed with the OCA

that the Lifeline credit of \$7.67 is applied to the overall bill of Lifeline 135 customers. Verizon is fully reimbursed by the federal USF under the Lifeline 135 program and Verizon is fully paid for all services by the Lifeline consumer at the tariffed rate.

Tentative Order at 13. The Commission did not err in denying Verizon's Motion for Judgment on the Pleadings and request for related relief in the Tentative Order. Tentative Order at 13-14. Nor do Verizon's comments support modification of the Tentative Order

Verizon's argument that the Tentative Order conflicts with Section 3019(f)(6) is also without merit. Verizon Comments at 5. Section 3019(f)(6) states:

(6) No eligible telecommunications carrier shall be required to provide after the effective date of this section any new Lifeline service discount that is not fully subsidized by the Federal Universal Service Fund.

66 Pa.C.S. § 3019(f)(6). Verizon asks the Commission to read Section 3019(f)(6) as evidence of the General Assembly's "intention to avoid imposing new, unfunded Lifeline obligations on carriers as a result of Act 183." Verizon Comments at 5, n. 3. Verizon's comments do not support modification of the Tentative Order. The Commission correctly determined that requiring Verizon to allow Lifeline 135 customers to receive the discount on local service that is purchased as part of a bundle would not impose a new unfunded discount obligation. Tentative Order at 13. Instead, the Commission agreed with OCA that "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." Id. Indeed, there is no question that, by limiting the relief here to Lifeline 135 customers, Verizon will be fully reimbursed by the federal USF.

Contrary to Verizon's comments, the Tentative Order does not violate Act 183. Nor has the Commission exceeded its jurisdiction and authority in conditioning grant of Verizon's request for relief upon the lifting of restrictive language in Verizon's Lifeline 135 tariff and the requirement that Verizon offer Lifeline 135 customers the lowest cost bundles of services offered by Verizon. The Commission should adopt this part of the Tentative Order without modification.

C. The Commission Should Adopt The Tentative Order Which Properly Would Benefit New And Transferring Verizon Customers, Including Customers Eligible For Lifeline 135.

In its Comments, Verizon demands that the Commission modify the Tentative Order and eliminate the conditions related to Lifeline because there is no connection between the services eligible for the Lifeline discount and Verizon's sales presentation which is the subject of the Consent Order. Verizon Comments at 1-10. The OCA submits that the Commission properly concluded that grant of Verizon's request for relief "along with the OCA's proposed

compromise condition to eliminate the prohibition against Lifeline 135 customers from purchasing bundled package services is appropriate and in the public interest.” Tentative Order at 12-13. Verizon is subject to the Consent Order as a result of a settlement “in resolution of a Complaint filed by the OCA regarding deceptive sales practices by Verizon in marketing telephone services to residential customers.” Tentative Order at 2. Verizon’s current script was created to make certain that Verizon would sell services to its customers in a reasonable manner. Verizon continues to have an obligation to provide “reasonable and adequate” service pursuant to Section 1501. 66 Pa.C.S. § 1501; OCA Answer at 9-10.

In its Petition for Relief, Verizon noted that under its proposed changed sales script, customer service representatives would address a customer’s eligibility for Lifeline as part of the sales contact. Verizon Petition at 6. The OCA Answer clearly and directly raised the concern that Verizon stated that under the new script Verizon would sell to all customers the “best plan or package for you” but would not meet that standard for its Lifeline customers if Verizon continued to restrict Lifeline customers to the purchase of local service and optional services on an a la carte stand-alone basis. OCA Answer at 1-3. The OCA explained the unfairness and potentially discriminatory results as follows:

As noted above, Verizon seeks to revise its sales script in order to “better meet the needs” of its customers where 65% of its customers now purchase bundles and will explain in its prepared script that it will “recommend the best plan or package for you.” If only this were accurate, the OCA would not object. For Lifeline customers, however, Verizon will not make the “best plan or package” available.

The fundamental problem that the OCA has with Verizon’s Petition is that it fails to provide Lifeline customers with the benefits that are promised to all customers. Lifeline customers will not get the “best plan or package,” but Verizon will relegate Lifeline customers to the services that only 35% of the Verizon customers now choose to purchase.

OCA urges the Commission not to approve a sales script that promises more than it produces. This may well give rise to future complaints where Lifeline customers are promised "the best plan or package for you," but are forced to buy needed services "a la carte" when a much lower priced package is available. The problem of excluding Lifeline customers from these service packages is inextricably linked with the script that Verizon proposes.

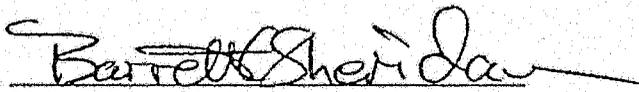
It is essential that, if a Verizon sales representative recounts to any prospective customer that Verizon will offer for sale the "best plan or package for you," then Verizon must do so. More specifically, Verizon cannot make such a recitation to a Lifeline customer who requests a number of vertical services or who would like to make a reasonable number of regional or long- distance toll calls, and then silently exclude all of the offers that would make available the lowest bills for the service used. Yet this is precisely what the revised script would do unless the Lifeline prohibition is changed.

OCA Answer to Verizon's Motion at 2-3. Verizon's argument that the Tentative Order should be modified because there is a lack of connection between the subject of the Consent Order and Verizon's sale and offering of local service to customers eligible for Lifeline 135 is without merit. In the Tentative Order, the Commission properly considered the interests of Verizon customers in general and the interests of low income customers eligible for Lifeline 135 assistance in particular in conditioning Verizon's request for relief on the compromise Lifeline changes identified by the OCA. Tentative Order at 12-14, 16-18.

III. CONCLUSION

For the reasons set forth in the OCA Comments and above, the OCA respectfully requests that the Commission adopt the Tentative Order with respect to the availability of low-cost packages of services for Lifeline 135 customers as the final action of the Commission.

Respectfully submitted,



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Dated: February 12, 2007
00992615 doc

CERTIFICATE OF SERVICE

ORIGINAL

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

I hereby certify that I have this day served a true copy of the foregoing document, Office of Consumer Advocate's Reply Comments in Support of the Public Utility Commission's Tentative Order, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 12th day of February, 2007.

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PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. <u>REPORT DATE:</u> May 18, 2007	2. <u>BUREAU AGENDA NO.</u> MAY-2007-OSA-0106*
3. <u>BUREAU:</u> Office of Special Assistants	5. <u>PUBLIC MEETING DATE:</u> May 30, 2007
4. <u>SECTION(S):</u>	
6. <u>APPROVED BY:</u> Director: C.W. Davis 7-1827 Mgr/Spvr: R.A. Marinko 3-3930 Legal Review:	
7. <u>PERSONS IN CHARGE:</u> M. Samuel 3-0697 A. Arnold 7-8032	9. <u>EFFECTIVE DATE OF FILING:</u>
8. <u>DOCKET NO.:</u> C-00881727	N/A

**DOCUMENT
FOLDER**

DOCKETED
JUN 06 2007

10. (a) **CAPTION** (abbreviate if more than 4 lines)
 (b) **Short summary of history & facts, documents & briefs**
 (c) **Recommendation**

(a) Petition of Verizon Pennsylvania Inc. for Modification of Consent Order

(b) On August 10, 2006, Verizon Pennsylvania Inc. (Verizon PA) filed a Petition seeking modification of a Consent Order entered by the Commission on June 15, 1990, at Docket No. C-00881727. The requested modification would relieve Verizon PA of the obligation to complete the sale of basic service before its representatives provide a new customer or a transfer customer with information about optional services and packages. On August 23, 2006, the Office of Consumer Advocate (OCA) filed an Answer to the Petition in which it submits that it does not oppose the modification on the condition that Verizon should be required to eliminate its practice which prohibits Verizon Lifeline 135 customers from purchasing bundled packages. On September 15, 2006, Verizon filed a Reply to OCA's Answer as well as a Motion for Judgment on the Pleadings on its Petition and a Motion to Sever and Dismiss the issues raised in OCA's an Answer seeking affirmative relief. On October 10, 2006, OCA filed its Answer in Opposition to Verizon PA's Motion for Judgment and a compromise proposal. By Order entered December 26, 2006, the Commission tentatively granted Verizon's Petition, modified consistent with the OCA's compromise proposal, and sought comments from interested parties and published in the *Pennsylvania Bulletin*. Comments were filed by Verizon, OCA and the Pennsylvania Utility Law Project.

(c) The Office of Special Assistants (OSA) recommends that the Commission adopt the proposed Final Order which makes the Commission's December 26, 2006 Tentative Order final, consistent with the discussion therein.

Order Doc. No.66441.v1

Calendar Doc. No. 664421.v1

II. MOTION BY: Commissioner Cawley

Commissioner Pizzingrilli - Yes
Commissioner Fitzpatrick - Yes
Commissioner

SECONDED: Commissioner Chm. Holland

CONTENT OF MOTION: Postponement to Public Meeting of June 21, 2007 for the Commission's further consideration.

CONTINUED C-00881727

(c) The Office of Special Assistants (OSA) recommends that the Commission adopt the proposed Final Order which makes the Commission's December 26, 2006 Tentative Order final, consistent with the discussion therein.

Order Doc No 664411v1

Calendar Doc. No. 664421v1

11. MOTION BY: Commissioner Fitzpatrick

Commissioner Chm. Holland - Yes
Commissioner Cawley - Concurring &
Dissenting*

SECONDED: Commissioner Pizzingrilli

CONTENT OF MOTION: 1) Verizon's Petition for Modification of Consent Order be granted; 2) the Lifeline condition advocated by OCA be rejected; 3) the Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

*Vice Chairman Cawley's Statement Concurring in part & Dissenting in part attached.

PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105

Petition of Verizon Pennsylvania Inc.
For Modification of Consent Order

PUBLIC MEETING: June 21, 2007
JUN-2007-OSA-0106*

Docket No. C-00881727

STATEMENT OF VICE CHAIRMAN JAMES H. CAWLEY
CONCURRING IN PART AND DISSENTING IN PART

On June 21, 2007 the Commission disposed of the Staff recommendation on the Comments that addressed the Commission's Tentative Order in this matter. *Petition of Verizon Pennsylvania Inc. for Modification of Consent Order*, Docket No. C-00881727, Tentative Order entered December 26, 2006, 37 Pa.B. 287 (January 13, 2007), (Tentative Order). The majority, in accordance with the Motion of Commissioner Terrance J. Fitzpatrick, granted the Verizon Pennsylvania Inc. (Verizon PA) Petition without attaching the conditions proposed by the Office of the Consumer Advocate (OCA) which were termed as "unrelated." For the reasons that I verbally expressed during the Commission's Public Meeting and are further delineated below, I respectfully concur in part and dissent in part in the decision reached by the majority in this proceeding.

A. Modification of the Consent Order for Verizon PA Marketing Activities

I concur with the majority decision to modify the *Consent Order* in relation to Verizon PA's marketing of its services to residential end-user consumers. The relevant modification reflects the realities of a changing telecommunications services marketplace and is broadly consistent with the marketing practices currently followed by incumbent, competitive, and wireless providers of telecommunications services within Pennsylvania. I also note that the OCA itself did not object to the proposed Consent Order services marketing modification.

B. Availability of Service Bundles for Lifeline 135 Residential Customers

The position adopted by the majority grants Verizon PA's motion,¹ and largely relies on the Verizon PA Comment and Reply Comment submissions in reaching its adopted conclusion in this proceeding. However, in reaching the conclusion that somehow the conditions sought by the OCA in this matter were "unrelated" to the relief provided to Verizon PA, the majority decision fails to substantively address the following arguments that have been raised by the OCA in its Comment submissions and other pleadings. Some of these arguments – a number of which appear to have gone totally unanswered by Verizon PA itself – include the following in summary form:

1. Lifeline customers can be promised by Verizon PA "the best plan package for you" under the modified sales script, but they will be forced to purchase vertical services "a la carte" at a much higher price when a service bundle is available at a lower overall price.²
2. The OCA has provided information that there are other Pennsylvania incumbent local exchange carriers (ILECs) which do not restrict the availability of service bundles to their respective Lifeline customers. OCA states that The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania (Embarq PA - previously Sprint/The United Telephone Company of Pennsylvania), does not restrict the availability of bundled service packages to Lifeline customers where such packages include vertical services and toll calls.³
3. The Federal Communications Commission (FCC) has rejected the notion that Lifeline service, as the FCC defines it, may not include bundled services. The FCC did not prohibit carriers from offering bundled services as a part of Lifeline service.⁴
4. The OCA responds to the Verizon PA argument that Section 3019(f)(2) of Chapter 30, 66 Pa. C.S. § 3019(f)(2), does not apply to service bundles, by stating that Verizon's argument is based on a rather narrow-based interpretation where "services" combined into a "bundle" or "package" are no longer construed as a "service" and Section 3019(f)(2) no longer applies. The OCA brings forward the expansive definition of "service" under Section 102 of the Public Utility Code, 66 Pa.

¹ Verizon PA, 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, Docket No. C-00881727, filed on September 15, 2007.

² OCA, Answer of the Office of Consumer Advocate in Opposition to Verizon Pennsylvania Inc.'s Motion for Judgment on the Pleadings or Alternative Relief, Docket No. C-00881727, filed October 10, 2006, at 3, citing Verizon PA Petition at 6 (OCA Answer).

³ *Id.*, at 5-6, citing The United Telephone Company of Pennsylvania, Informational Tariff for Competitive Services, Suppl. No. 14, Sec. 2, Fourth Revised Page 4-8.1.

⁴ *Id.*, at 7, citing *In re Federal-State Joint Board on Universal Service*, FCC, Report and Order, 1997, ¶ 384; and *In re Lifeline and Link-Up*, (FCC Apr. 29, 2004), WC Docket No. 03-109, FCC 04-87, ¶ 53.

C.S. § 102, and argues in response that a package of Caller ID and Call Waiting services is a "service" in and of itself under the Public Utility Code.⁵

5. The OCA points out that at least in one other state served by a Verizon PA affiliate ILEC, Lifeline customers do not lose their federal credit support if they subscribe to bundles of vertical and toll services, and previous tariff restrictions to the contrary appear to have been eliminated.⁶

In my opinion, OCA's arguments have drawn a clear linkage between the adopted Consent Order services marketing modification for Verizon PA, and the availability of service bundles to Lifeline 135 customers. The OCA chose the optimal solution of avoiding protracted litigation – thus reasonably protecting the interests of the broader number of Verizon PA's residential customers who may wish to avail themselves of the Company's service bundles – while advancing a modest and *very relevant* proposal designed to also protect the interests of Verizon PA's Lifeline 135 customers. Verizon PA's Lifeline 135 customers constitute a small subset of the Company's residential customer base. I am not persuaded by Verizon PA's arguments that restrictions should continue to apply to the availability of service bundles for Lifeline 135 customers that have the result of increasing the price of legacy copper-based telecommunications services to Lifeline customers who need them but can ill-afford the Company's "a la carte" pricing for its vertical and toll services.

Many of Verizon PA's vertical services have been unilaterally classified by the Company as "competitive" under the provisions of Section 3016(b) of Chapter 30, 66 Pa. C.S. § 3016(b), and are no longer price-regulated by this Commission. It is an undisputed fact that when Verizon PA proceeded with its unilateral "competitive" classification of its vertical services, it also implemented price increases for the same services. On or about April 28, 2006, Verizon PA proceeded with the unilateral "self-classification" of services such as Call Waiting, Call Forwarding, Three Way Calling, and Caller ID per line as "competitive." In the same filing, Verizon PA also implemented rather counter-intuitive price increases for the same services since the term "competitive service pricing" is usually

⁵ OCA Answer, at 7-8.

⁶ *Id.*, at 11-13 and n. 52, citing in part *Re Verizon New England, Inc. d/b/a Verizon Vermont*, 244 PUR4th 173, 240 (VT Public Service Bd. 2005) (*Verizon Vermont I*); and *Re Verizon New England, Inc. d/b/a Verizon Vermont*, 248 PUR4th 212, (VT Public Service Bd. April 26, 2006) (*Verizon Vermont II*).

identified either with "stable prices" or even "price reductions." Some of these price increases for Verizon PA's residential customers were as follows:

<u>Services</u>	<u>Old Monthly Rate</u>	<u>New Monthly Rate</u>	<u>% Increase</u>
Call Waiting	\$4.50	\$5.00	11.11
Call Forwarding	\$3.00	\$3.50	16.67
Three Way Calling	\$4.00	\$4.50	12.50
Caller ID per line	\$7.50	\$7.95	6.00

Sources: Verizon PA Tariff Pa. P.U.C.-No. 500 filing at Docket No. R-00061511, April 28, 2006, effective May 1, 2006; Verizon PA & Verizon North Customer Notice pamphlet; Secretarial Letter, Docket No. R-00061511 *et al.*, issued on May 22, 2006; Verizon PA Tariff Pa. P.U.C.-No. 500 (Informational Tariff for Competitive Services), Sec. 29C-2, 3rd Rev. Sheet 4, ¶ 3.a.

It is beyond dispute that vertical services such as Call Waiting and Caller ID, which are usual appendages to basic local exchange telephone services, are already priced above their respective economic costs, and that further price increases on such services simply provide a higher level of profitability for their provider. In the case of Verizon PA's unilateral "competitive" classification of its vertical services for residential end-user consumers, the implemented price increases exceeded by far conventional measures of economic inflation, including the consumer price index for all urban consumers (CPI-U). The unadjusted 12-month increase of the CPI-U as of December 2006 was 2.5%.⁷ In addition, Verizon PA has availed itself of the Chapter 30 annual revenue and rate increases under its price change opportunity (PCO) mechanism both in 2006 and 2007. These annual revenue and rate increases have been mostly channeled to the Company's non-competitive and protected basic local exchange telephone services, including those basic services that are used by Verizon PA's Lifeline end-user consumers.

The Lifeline customers of Verizon PA are by definition financially the least capable of coping with substantial rate increases for basic and vertical telephone services that are needed in their households. It is also very doubtful that Verizon PA's Lifeline customers have ready access to the competitive alternatives for landline or wireless telecommunications services that are generally available to the broader segments of Verizon PA's ordinary residential end-user consumers. There are a very limited number of wireline and wireless competitive eligible telecommunications carriers (CETCs) that

⁷ U.S. Department of Labor, Bureau of Labor Statistics, *Consumer Price Index: December 2006*, (Washington, D.C., January 18, 2007). Internet accessible through <<http://www.bls.gov/CPI>>.

provide a Lifeline product within Pennsylvania. The availability of *affordable* basic and vertical telephone services to Lifeline customers is inextricably linked with the concept of preserving and enhancing the availability of universal telephone service, a concept that is enshrined in both federal and Pennsylvania law. It has consistently guided the regulatory actions of this Commission. *See generally* 66 Pa. C.S. § 3011(2).

There is no issue here that the unrestricted availability of a limited range of Verizon PA's service bundles, as suggested by the OCA, would provide much needed price discounts that would greatly enhance the affordability of these services for the Company's Lifeline customers, thus preserving and enhancing the universal telephone service concept. As I have previously pointed out, the annual average household telephone penetration rate in Pennsylvania has declined from 98.2% in 2002 – one of the highest in the nation – to 96.7% as of November 2006.⁸ Verizon PA is able to obtain a certain level of profit through the provision of service bundles to its regular residential consumers. Thus, I do not think that Verizon needs to extract a higher level of profit from its Lifeline customers through the restrictive “a la carte” provision and pricing of its vertical services. Such a profit extraction can inevitably lead to the outright unavailability of vertical services for Lifeline customers, something that would be contrary to the letter and the spirit of Section 3019(f) in Chapter 30, 66 Pa § 3019(f). In contrast, Verizon PA will not realize any financial losses through the availability of a limited range of service bundles to its Lifeline customers. Verizon PA receives federal Universal Service Fund (USF) support for its Lifeline customer program. This support amounted to \$13.09 million in 2004 and \$14.14 million in 2005.⁹ As the OCA has pointed out, the FCC has ruled that Lifeline customers can subscribe to service bundles without loss of this federal support.¹⁰

I am not convinced by arguments that are in part based on the more than seven-year old sole dissenting viewpoint of a past member of this Commission, especially when it appears that Verizon PA's affiliate ILEC in Vermont is required to offer service bundles to

⁸ Alexander Belifante, *Telephone Subscribership in the United States*, FCC, Industry Analysis and Technology Division, Wireline Competition Bureau, (Washington D.C., May 2007), Table 3, at 18, 20. The stated statistics account for the availability of wireless and “other” telephone services.

⁹ Federal-State Joint Board on Universal Service, *Universal Service Monitoring Report*, FCC, CC Docket No. 98-202, (Washington, D.C., 2006), Table 2-5, at 2-34.

¹⁰ OCA Answer at 7. *See also In re Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, (FCC, May 8, 1997), *Report and Order*, FCC 97-157, *slip op.*, ¶ 384, at 204-205; *In re Lifeline and Link-Up*, WC Docket No. 03-109, (FCC, April 29, 2004), *Report and Order and Further Notice of Proposed Rulemaking*, FCC 04-87, *slip op.*, ¶ 53, at 29.

Lifeline customers in that state, while Verizon PA refuses to partially lift related restrictions on the availability of service bundles to its Lifeline 135 customers in Pennsylvania.

By accepting this difference in regulatory approaches on the availability of bundled services for Lifeline customers in Pennsylvania and Vermont, this Commission delivers the undesirable message that Verizon's Lifeline customers in Vermont can have lower priced telecommunications services and, thus, better economic opportunities which will not be available for Verizon PA's Lifeline customers in Pennsylvania. The majority's decision in this matter also creates a regulatory asymmetry within Pennsylvania. Verizon PA is permitted to restrict the availability of service bundles to its Lifeline customers while Embarq PA does not have any such restrictions for its Lifeline customers.¹¹

Similarly, I am not persuaded that Verizon PA will face inordinate administrative costs in implementing the availability of service bundles for Lifeline 135 customers along the lines suggested by the OCA. Actually, the Company may expend more effort and incur larger administrative costs in explaining to existing and prospective Lifeline customers the reasons why a very limited range of service bundles is not available to them. Indeed, if other Pennsylvania ILECs -- as OCA has already pointed out -- have no restrictions on the availability of service bundles for Lifeline customers in Pennsylvania, and the centralized billing systems of Verizon Communications Corporation are already coping with the availability of service bundles for the Lifeline customers of Verizon PA's ILEC affiliate in Vermont, the administrative cost issue is effectively a nonissue.

I also agree with the OCA that Verizon PA's interpretation of Section 3019(f)(2) in Chapter 30, 66 Pa. C.S. § 3019(f)(2), does not oblige the Company's Lifeline customers to purchase vertical services at "a la carte" "tariffed" rates. Verizon PA appears to ignore the fact that both its vertical services and its service bundles for residential consumers are part and parcel of its Tariff 500, "Informational Tariff for Competitive Services." The Company's Tariff 500 has been in place for its competitive services since Verizon PA (ex-Bell Atlantic-Pennsylvania Inc.) entered a regulatory regime of alternative regulation in 1994 under the former statutory version of Chapter 30.¹² Thus, in the broader sense, although the

¹¹ See generally *The United Telephone Company of Pennsylvania, Tariff Telephone - Pa. P.U.C. No. 26, Suppl. No. 247, Sec. 13, 6th Rev. Sheet 1 to Orig. Sheet 5; and Tariff Telephone - Pa. P.U.C. No. 500 (Informational Tariff for Competitive Services), Suppl. No. 22, Sec. 2, 5th Rev. Page 4. See also Tentative Order, 37 Pa.B. 287 at 289.*

¹² Verizon PA makes Tariff 500 filings for its competitive services under its Amended Chapter 30 Plan. See *Verizon Pennsylvania Inc.'s Alternative Regulation Plan (modified in compliance with the Commission's Opinion and Order*

Commission does not exercise price regulation over Verizon PA's Tariff 500 vertical services and service bundles, these services and bundles are still offered under a "tariff." See also 66 Pa. C.S. § 3016(d)(3). Thus, there cannot be an automatic statutory inference that the competitive "a la carte" pricing should apply for the purchase of vertical services by Lifeline customers versus the single discounted price for a competitive service bundle.

It is my sincere hope that Verizon PA and the OCA will reach a reasonable compromise on the issues relating to the availability of service bundles for the Company's Lifeline customers. I continue to believe that the OCA's proposals on the availability of three service bundles for Lifeline customers constitute a very reasonable starting point for such a compromise. Verizon PA's Lifeline customers should not be placed at a level below that of Verizon's Lifeline customers in Vermont, and below the level of the Lifeline customers of at least one or two other ILECs that this Commission regulates in Pennsylvania.

For these reasons, I respectfully concur in part and dissent in part from the decision reached by the majority in this proceeding.



Dated: June 29, 2007

James H. Cawley
Vice Chairman