



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

IN REPLY PLEASE
REFER TO OUR FILE

December 2, 2005

William B. Peterson Esquire
Verizon Pennsylvania Inc
1717 Arch Street
Philadelphia Pa 19103

DOCUMENT
FOLDER

Re: Cynthia Young-Nelson v. Verizon Pennsylvania Inc
C-20042785

Dear Mr. Peterson:

On November 29, 2005, Cynthia Young-Nelson filed Exceptions to the Initial Decision of Administrative Law Judge Cynthia Williams Fordham in the above captioned matter. Our review of the Exceptions revealed that no certificate of service or other indications of service accompanied that filing. Accordingly, we have enclosed a copy of the Exceptions for your use. This shall constitute service of the Exceptions for purposes of 52 Pa. Code §5.533.

Pursuant to 52 Pa. Code §5.535, you shall have ten (10) days from the date of service of the enclosed Exceptions to reply. The Exceptions were filed November 29, 2005. Although the Exceptions were timely filed, due to the failure of Cynthia Young-Nelson to note service on Verizon Pennsylvania Inc, and in order to avoid prejudice to either party, we shall deem the filing date to be the date of this letter for purposes of Section 332(h) of the Public Utility Code, 66 Pa. C.S. §332(h), relating to the time for Commission consideration of Exceptions.

Sincerely,

James J. McNulty
Secretary

DOCKETED
DEC 23 2005

Enclosure

nvl

cc: Cynthia Young-Nelson
1601 Clifton Avenue
Sharon Hill Pa 19079
Office of Special Assistants
Document Folder

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PA.F.U.C.
SECRETARY'S BUREAU

Act 294

Case Identification:

C-20042785; Cynthia Young-Nelson v. Verizon PA, Inc.

Initial Decision By:

ALJ Cynthia Williams Fordham

Deadline for Return to OSA:

December 5, 2005

This decision has not been reviewed by OSA.

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DEC 06 2005

OFFICE OF SPECIAL ASSISTANTS

* * * * *

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Wendell J. Holland /lw

Commissioner

DEC 5, 2005

Date

DOCKETED
DEC 07 2005

**DOCUMENT
FOLDER**

Act 294

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C-20042785; Cynthia Young-Nelson v.
Verizon PA, Inc.

Initial Decision By:

ALJ Cynthia Williams Fordham

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This decision has not been reviewed by OSA.

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DEC 06 2005

OFFICE OF SPECIAL
ASSISTANTS

* * * * *

I want full Commission review of this decision.

Commissioner

Date

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James H. Cawley

Commissioner

12/05/2005

Date

Dave

Act 294

Case Identification:

C-20042785; Cynthia Young-Nelson v.
Verizon PA, Inc.

Initial Decision By:

ALJ Cynthia Williams Fordham

Deadline for Return to OSA:

December 5, 2005

This decision has not been reviewed by OSA.

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* * * * *

I want full Commission review of this decision.

Commissioner

Date

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Bill Shane / DBL

Commissioner

11/28/2005

Date

Act 294

Case Identification: C-20042785; Cynthia Young-Nelson v. Verizon PA, Inc.

Initial Decision By: ALJ Cynthia Williams Fordham

Deadline for Return to OSA: December 5, 2005

This decision has not been reviewed by OSA.

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* * * * *

I want full Commission review of this decision.

Commissioner

Date

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X *John J. ...*
Commissioner

12-5-05
Date

Act 294

Case Identification:

C-20042785; Cynthia Young-Nelson v.
Verizon PA, Inc.

Initial Decision By:

ALJ Cynthia Williams Fordham

Deadline for Return to OSA:

December 5, 2005

This decision has not been reviewed by OSA.

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DEC 06 2005

OFFICE OF SPECIAL
ASSISTANTS

* * * * *

I want full Commission review of this decision.

Commissioner

Date

I do not want full Commission review of this decision.

Thomas J. Fitzpatrick

Commissioner

12/5/05

Date

ORIGINAL

Hawke

McKeon

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Kennard LLP

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

December 15, 2005

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

DOCUMENT
FOLDER

2005 DEC 15 PM 3:42
SECRETARY'S BUREAU

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RE: Cynthia Young-Nelson v. Verizon Pennsylvania Inc.; Docket No. C-20042785;
REPLIES OF VERIZON PENNSYLVANIA INC. TO EXCEPTIONS
FILED BY CYNTHIA YOUNG-NELSON

Dear Mr. McNulty:

Enclosed, for filing with the Commission in connection with the above-captioned matter, are an original and three (3) copies of The Replies of Verizon Pennsylvania Inc. to Exceptions filed by Cynthia Young-Nelson. A copy of this document has been served in accordance with the attached Certificate of Service.

If you have any questions with regard to this filing, please direct them to me. Thank you for your attention to this matter.

Very truly yours,

Katherine E. Lovette
Counsel for Verizon Pennsylvania Inc.

Enclosures

cc: Honorable Cynthia W. Fordham
Cynthia Young-Nelson

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

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ADMINISTRATIVE LAW JUDGE
CYNTHIA W. FORDHAM

CYNTHIA YOUNG-NELSON,

Complainant

v.

VERIZON PENNSYLVANIA INC.,

Respondent

DOCUMENT
FOLDER

Docket No. C-20042785

DOCKETED
DEC 29 2005

REPLIES OF VERIZON PENNSYLVANIA INC.
TO EXCEPTIONS FILED BY
CYNTHIA YOUNG-NELSON

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PA PUC
SECRETARY'S BUREAU

2005 DEC 15 PM 3:42

Katherine E. Lovette
Hawke McKeon Sniscak & Kennard, LLP
Harrisburg Energy Center
100 North Tenth Street
PO Box 1778
Harrisburg, PA 17105-1778
(717) 236-1300

DATED: December 15, 2005

Counsel for Verizon Pennsylvania Inc.

INTRODUCTION

Verizon Pennsylvania Inc. ("Verizon PA" or "Company"), by its counsel in this matter, Hawke McKeon Sniscak & Kennard LLP, hereby submits its Replies to the Exceptions filed in the above-captioned matter by Cynthia Young-Nelson ("Complainant"). The Complainant filed these Exceptions in response to the October 20, 2005 Initial Decision ("I.D.") of Administrative Law Judge ("ALJ") Cynthia W. Fordham. Verizon PA submits that the Initial Decision issued by ALJ Fordham fully considers the arguments set forth in the pleadings filed in this proceeding and that her decision to dismiss Ms. Young-Nelson's Formal Complaint was proper based on the facts presented in this case as well as the applicable law. Nothing contained in the Complainant's Exceptions supports modification of the ALJ's findings and conclusions. The Commission should, therefore, adopt the Initial Decision without modification.

Verizon PA further notes that the Complainant's Exceptions are not set forth in numbered paragraphs as required by the Commission's regulation at 52 Pa. Code § 5.533. Additionally, the Complainant failed to identify any specific findings of fact or conclusions of law to which she takes exception, and she failed to cite to any record evidence in support of her Exceptions. Her Exceptions should be denied on these grounds. In any event, Verizon PA has attempted to respond as thoroughly as possible to the Exceptions Complainant appears to have raised.

REPLY TO EXCEPTION REGARDING TESTIMONY OF MS. ROBIN SPENCE

The Complainant suggests in paragraph one of her "Exceptions" that Robin Spence acknowledged she illegally used the Complainant's phone line. She does not, however, identify any specific findings or conclusions to which she takes exception, nor does she provide any explanation whatsoever about how or why this contention warrants reversal of any findings or conclusions put forth by the ALJ. Further, the Complainant did not cite to any record evidence in support of this Exception. To the contrary, the record evidence fully supports ALJ Fordham's conclusion that the Complainant failed to prove Ms. Spence intentionally tampered with her phone line. (I.D. at 19).

There is no evidence anywhere in the record of Ms. Spence using the Network Interface Device ("NID") outside of the Complainant's house to place calls. All of the record evidence indicates that, in the few instances when Ms. Spence did connect her phone to a NID, it was the one attached to the back of her own house. (Tr. at 24, 87, 97). There is no testimony from either the Complainant or anyone else of ever having seen Ms. Spence connect a phone to the Complainant's NID. In fact, Ms. Spence specifically denied ever having done so. (Tr. at 97). She only ever acknowledged connecting a phone to the NID attached to the back of her own house, and never to the NID attached to the Complainant's house. (Tr. at 70, 73, 77, 80, 86, 87, 97).

The record evidence also proves that Verizon PA's technicians investigated the Complainant's allegation of illegal use of her phone line on at least three different occasions during the time period at issue here. The dates of these investigations were December 30, 2003, January 1, 2004 and January 13, 2004. (Tr. at 46). No indication of an illegal connection to the

Complainant's phone line was ever found by the technicians. (Tr. at 47). In fact, no such evidence of an illegal connection exists in the record.

The record evidence fully supports the ALJ's findings and conclusions concerning the actions of Ms. Spence. Accordingly, the Complainant's Exception on this point must be denied.

REPLY TO EXCEPTION REGARDING TESTIMONY OF JANICE ROBERTS AND NANCY FORBES

The Complainant appears to suggest in her Exceptions that testimony presented by Janice Roberts and Nancy Forbes supports her position that Ms. Spence illegally tapped into the Complainant's phone line to place calls. She again fails, however, to cite to any specific record evidence in support of this position, or to any findings or conclusions to which she takes exception. She again provides no explanation as to how the testimony of these two witnesses supports her position. She merely mentions that these two individuals testified on her behalf. This "Exception" should be denied on these grounds alone, as neither the Commission nor Verizon PA should have to guess at the Complainant's meaning or reasoning.

A review of the record shows that the testimony of neither Ms. Roberts nor Ms. Forbes supports the Complainant's position that her line was used in an illegal manner. Ms. Roberts merely stated at the hearing:

I do recall Ms. Spence admitting to having a friend of hers who was employed by the phone company at the time had told her, because her phone would shut off, in case of an emergency, she said, how to go to the rear of her property and plug in and get service. She did admit to doing that and that pretty much was about it, our involvement in it.

(Tr. at 24-25).

Ms. Forbes testified, "[t]he only thing that I can recall is Robin, you know, admitted to using the line, but not using it to the amount that the bill was at that time." (Tr. at 28).

As discussed above, the evidence shows that Ms. Spence connected a telephone on several occasions, for emergency purposes, to the NID attached to the back of her own house. (Tr. at 70, 73, 77, 80, 86, 87, 97). She never connected her phone to the NID at the Complainant's residence (Tr. at 97). There is nothing in the testimony of either Ms. Roberts or Ms. Forbes that contradicts this evidence. Accordingly, the Complainant's Exception on this point must be denied.

REPLY TO EXCEPTION REGARDING COMPLAINANT'S NOVEMBER 19, 2005 MEETING AT HER HOME WITH "JANET HOLMES"

In the third paragraph of the Complainant's Exceptions, the Complainant refers to a conversation she claims to have had with a woman named Janet Holmes. She indicates that Ms. Holmes stated she would testify on her behalf. In fact, Ms. Holmes did not testify at the hearing. Complainant subpoenaed 3 witnesses, Ms. Spence, Ms. Roberts and Ms. Forbes, who all testified at the hearing, but Complainant did not subpoena a "Janet Holmes." There is no evidence in the record about Ms. Holmes or any knowledge she may have of any events related to this proceeding. The Complainant may not attempt to support her Exceptions by making factual averments about information that is not in the record in this proceeding. Accordingly, this Exception is completely without support in the record and must be denied.

REPLY TO EXCEPTION 3 REGARDING COMPLAINANT'S BELIEF THAT SHE IS BEING HELD ACCOUNTABLE FOR CHARGES SHE DID NOT INCUR

In the last paragraph of her Exceptions, the Complainant alleges that she is being held responsible for the payment of charges she did not incur. Again, the Complainant fails to cite to any record evidence in support of her position, and she fails to explain how specific findings or

conclusions reached by the ALJ on this issue are in error. Her statement does not constitute a valid Exception in any event, because she is merely restating an argument that she already put forth at the hearing.

The ALJ correctly concluded that the Complainant failed to prove that someone outside of her home made the disputed calls, or that she was charged extra for calls that may have been made by Ms. Spence, given that the Complainant had flat rate plans which would not have resulted in additional charges for local calls. (I.D. at 20). The record evidence fully supports the ALJ's conclusions.

As noted several times above, Ms. Spence did not connect her telephone to the NID attached to the back of the Complainant's house. On the few occasions when she did connect her phone to a NID, it was the NID attached to her own house. (Tr. at 70, 73, 77, 80, 86, 87, 97). Accordingly, there is no evidence in the record that Ms. Spence ever tapped into the Complainant's telephone lines.

The record is also clear that the Complainant subscribed, during the time period in question here, to calling plans for each of her two lines which enabled her to make an unlimited number of local calls each month for no additional charge beyond the fixed, monthly fee for the plans. (Tr. at 115). Ms. Spence testified that she made approximately five calls via the direct connection to her NID, and that these calls were all local calls. (Tr. at 97, 104). She testified that she never made any calls that may have resulted in an additional charge, such as directory assistance, long distance, international, *69 or call trace calls. (Tr. at 97).

In the unlikely event that there was some type of connection between the Complainant's telephone lines and the NID attached to Ms. Spence's house, for which there is no support in the record, the few calls placed by Ms. Spence would not have resulted in any additional charges on

the Complainant's telephone bill because they were all local calls. The record in this case fully supports the ALJ's findings on this issue. Accordingly, the Complainant's Exception related to disputed charges must be denied.

CONCLUSION

For all of the reasons set forth above, Verizon Pennsylvania Inc. respectfully requests that the Commission deny the Exceptions filed by Cynthia Young-Nelson, adopt the Initial Decision of Administrative Law Judge Cynthia W. Fordham and dismiss the Formal Complaint filed at Docket No. C-20042785 in its entirety and without further hearing.

Respectfully submitted,



Katherine E. Lovette
Hawke McKeon Sniscak & Kennard I.L.P.
100 North Tenth Street
PO Box 1778
Harrisburg, PA 17105-1778
(717) 236-1300

DATED: December 15, 2005

Counsel for Verizon Pennsylvania Inc.

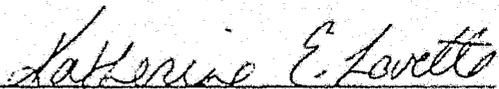
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the persons and in the manner indicated below.

Service by first class mail:

Cynthia Young-Nelson
1601 Clifton Avenue
Sharon Hill, PA 19079


Katherine E. Lovette

DATE: December 15, 2005

REC-11111
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PA PUC
SECRETARY'S BUREAU

DATE: December 23, 2005

SUBJECT: C-20042785

TO: Cheryl W. Davis, Director
Office of Special Assistants

FROM: James J. McNulty
Secretary
nvl

CYNTHIA YOUNG-NELSON
VS
VERIZON PENNSYLVANIA INC

Copies of the Initial Decision have been served upon all parties of interest.

Exceptions have been filed by:

CYNTHIA YOUNG-NELSON

Reply Exceptions have been received from:

DOCUMENT
FOLDER

DOCKETED
DEC 29 2005

cc: Susan Hoffner