

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

ORIGINAL

Linda Lesko v. Verizon North, Incorporated: Docket No.
Extended Area Service complaint. : C-00014886

Initial Prehearing Telephone Conference. :
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Pages 1 through 20 State Office Building
300 Liberty Avenue
Pittsburgh, Pennsylvania 15222

Friday, May 18, 2001

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

JOHN H. CORBETT, JR., Administrative Law Judge

APPEARANCES:

LINDA LESKO
460 Leidy Lane
Johnstown, Pennsylvania 15909
(Pro se)

JANET C. MILLER, Esquire
Malatesta, Hawke & McKeon, LLP
100 North Tenth Street
Harrisburg, Pennsylvania 17101
(For the Respondent)

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(None.)

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FOR IDENTIFICATION IN EVIDENCE

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FORM 2

P R O C E E D I N G S

10:00 a.m.

1
2
3 ADMINISTRATIVE LAW JUDGE JOHN H. CORBETT, JR.: We
4 will go on the record at this time. This is the time and
5 place scheduled for a telephonic prehearing conference on
6 the complaint of Linda Lesko versus Verizon North,
7 Incorporated. This complaint was docketed with the
8 Pennsylvania Public Utility Commission at C-00014886.

9 I am Administrative Law Judge John Corbett and I have
10 been assigned to hear this case and to render an initial
11 decision. We have on the telephone this morning, Linda
12 Lesko representing herself, and Janet Miller representing
13 Verizon North, Incorporated.

14 For the benefit of the parties and also for the
15 record, I would alert you to the fact that I am sitting in
16 a hearing room in Pittsburgh with a court reporter. The
17 court reporter is running some tape recording equipment, so
18 I will alert the parties to the fact that everything that
19 we say while we are on the record is being tape recorded.

20 I would ask that only one party at a time talk and in
21 that way, we will get a clear record of what transpires
22 here this morning. If, on the other hand, you don't hear
23 something that is said, then please feel free to interrupt
24 and ask me to have the party repeat whatever was said that
25 you missed.

1 With those preliminary remarks out of the way, we
2 will turn to the matter at hand. Ms. Lesko, I have read
3 your complaint and the answer filed by Verizon North, and
4 if I am reading your complaint correctly, you are alleging
5 that you live in an area called Vinco, V-i-n-c-o,
6 Pennsylvania which at the present time is in the Johnstown
7 telephone exchange of Verizon North, and you are requesting
8 the ability to call toll-free to the 472 exchange in
9 Ebensburg. Have I stated your complaint correctly?

10 MS. LESKO: Yes, you did.

11 JUDGE CORBETT: What we do at a prehearing
12 conference like this is we try to, first of all, see if the
13 parties can settle the case among themselves, see if there
14 is some common ground that the two sides can come together
15 to reach an accommodation that would satisfy the complaint.
16 If not, then we would set up a procedure that we would go
17 forward at some future date with the hearing on the merits
18 of your complaint.

19 This morning, we are not going to hear any testimony
20 from either side concerning this matter. We are only going
21 to review some matters to see if, first of all, we can
22 settle it and then if we can't, see what needs to be done
23 to set this up for a hearing.

24 In reviewing this matter, one thing that strikes me
25 is the possibility of perhaps looking at the situation

1 where there may be an optional calling plan that is
2 available in your area to Ebensburg that might satisfy your
3 concerns.

4 Ms. Miller, can you first of all tell us, is there
5 any type of optional calling plan that is available here
6 that you know of?

7 MS. MILLER: Not that I am aware of for calls
8 specifically from Johnstown to Ebensburg.

9 JUDGE CORBETT: Okay. Do the parties think it may
10 be worthwhile to just talk among yourselves for a few
11 minutes to perhaps get some information from each other to
12 see if there is some basis here for the parties to resolve
13 this matter?

14 MS. MILLER: Your Honor, while I would be more than
15 happy to speak with Ms. Lesko off the record and explain
16 why the company is not prepared to provide toll-free from
17 Johnstown to Ebensburg, given that that is the company's
18 position and the traffic numbers don't warrant the
19 provision of that service, I'm not sure that we are going
20 to be able to resolve the matter.

21 JUDGE CORBETT: Okay. Well, sometimes I think that
22 perhaps even just exchanging information may be helpful
23 particularly in a case like this.

24 Ms. Lesko, would you like to take just a few minutes
25 to discuss this matter with Ms. Miller off the record to

1 see what information she can give you concerning this
2 matter and to perhaps see the position of Verizon North?

3 MS. LESKO: That's fine with me because I'm really
4 asking for help and assistance to see if this can be done.

5 JUDGE CORBETT: All right. Let's take a few
6 minutes. It may be worthwhile to exchange some information
7 and perhaps the two sides can come together to see the
8 viewpoint of the other side and perhaps resolve this.

9 What I will do is in a minute I will leave the
10 hearing room so that I don't hear your discussions and you
11 can talk openly and freely among yourselves, try to see the
12 viewpoint of the other party and see what you could
13 possibly accomplish as far as settlement is concerned.

14 The Commission encourages settlement, particularly in
15 cases like this, and I believe it's better for the parties
16 to try to resolve these kind of matters between themselves
17 rather than have me hear a case and then later write a
18 decision that may be unsatisfactory to everyone.

19 The court reporter in the hearing room is John Spin,
20 and Mr. Spin will remain here in the hearing room to
21 monitor the telephone equipment. While you are discussing
22 this matter off the record, he will not be taking down what
23 you are saying and he will shut off the tape recorder so
24 your discussions will be off the record.

25 If you will give me just a minute to leave the

1 hearing room, you may begin your discussion. We are off
2 the record.

3 (Discussion off the record.)

4 JUDGE CORBETT: We are back on the record. It is
5 now approximately 10:31 and the parties have had an
6 opportunity to discuss this matter. Have the parties been
7 able to reach any kind of understanding or accommodation in
8 this matter?

9 MS. MILLER: Your Honor, although we had a very nice
10 discussion about the Commission's regulations and what all
11 was involved in pursuing an extended area service case, the
12 company's position, at least at this point, is that
13 extended area service from Johnstown to Ebensburg is not
14 required due to the level of toll traffic being made.

15 However, I am willing to discuss with my client the
16 possibility of an optional calling plan or even the
17 possibility of offering extended area service. Based on
18 the company's current position, though, I believe Ms. Lesko
19 wishes to go forward with her complaint.

20 JUDGE CORBETT: Okay. Is that your position, Ms.
21 Lesko?

22 MS. LESKO: It seems to be that way from my
23 understanding. May I ask you a question?

24 JUDGE CORBETT: Well, that depends. That puts me in
25 an awkward position because I cannot give you legal advice,

1 but I can answer questions concerning procedure and so on.

2 MS. LESKO: Well, how do I go about getting a
3 traffic study for this area? I have lived here, it will be
4 24 years and asking neighbors -- I was a teacher -- asking
5 parents who have been here, none of us have ever received
6 this study information to send in.

7 How are we being polled if we never received
8 anything? As I said, I have lived here 24 years and have
9 never received anything. Very close neighbors, within a
10 mile or two from me, have never received anything.

11 JUDGE CORBETT: There are several different terms
12 that you were using interchangeably. You are using traffic
13 study and polling in the same reference and they are two
14 different things.

15 Traffic studies are done internally, as I understand
16 it, using information that the telephone company obtains
17 from customers' bills and their switching equipment and so
18 forth.

19 A polling occurs after certain levels of traffic are
20 found to occur between certain exchanges. That's using the
21 traffic usage information. Then a polling is done under
22 Commission regulations. Those two are two separate terms,
23 and I think I can give you that general information.

24 Is there anything you would like to add to that, Ms.
25 Miller?

1 MS. MILLER: No, Your Honor, that's a correct
2 explanation. Polling occurs after the calling levels have
3 been met.

4 MS. LESKO: Then may I ask, Ms. Miller, how do we
5 see that this particular are is given that to fill out
6 information on it? The people in this area just aren't
7 getting it.

8 MS. MILLER: You wouldn't be polled until the
9 calling levels that we talked about, the 50 percent and the
10 5.5, have been met. In the case of Johnstown to Ebensburg
11 calls, that has not occurred to date.

12 MS. LESKO: Actually I had called the PUC several
13 years ago and just never followed through. When we had
14 talked to them then, what we thought we had found out was
15 that most of this is being done through contacting --
16 asking people in 525, 266, 269, that type of exchange, and
17 they are not going to want Ebensburg.

18 The 322 is sort of like this little Vinco area only.
19 I walk every day and a mile up the road Mineral Point which
20 is the same street, but it just -- I don't know why they
21 re-addressed or addressed it differently. Those would be
22 the type of people who would probably benefit from being
23 able to call 472. Now 472 can call us, but we can't call
24 them.

25 MS. MILLER: That's not unusual that you can call

1 some place but they can't call you or the opposite
2 direction. To the best of my knowledge, Ms. Lesko, the
3 Johnstown has never been polled, but it -- it hasn't been
4 polled recently, I should say. It would not be polled
5 until the calling -- let me go back.

6 It may have been polled for calling to a different
7 exchange, but to the best of my knowledge, it has not been
8 polled for calling from Johnstown to Ebensburg. The entire
9 exchange of Johnstown would only be polled if the calling
10 levels that are set forth in the Commission's regulations
11 have already been met or if an Administrative Law Judge
12 such as Judge Corbett decided that as the result of a
13 formal complaint, that polling was appropriate.

14 And Judge Corbett is correct, the traffic study
15 information itself gathered internally by the company from
16 customer bills and from switch information and it is
17 presented to the Commission, but it is not released to the
18 general public. That is because the information is
19 competitively sensitive.

20 MS. LESKO: That's understandable. How would it be
21 possible to have just this immediate area -- find out their
22 feelings as far as being able to call 472? I know
23 approximately here again, when 749 was at that time
24 given the privilege of being able to call Johnstown
25 numbers, just that particular town was given that

1 privilege, not the entire 749 exchange, from what I
2 understand.

3 That's what I understand through Trudy Meyers,
4 through Mark Single, who had done that for the 749 Nanty
5 Glo people. How can that be done for this area? Vinco is
6 a like a very small town. We are approximately 5,000 in
7 population. It's not like a -- it's a little community.

8 JUDGE CORBETT: I think you are asking for legal
9 advice and I certainly cannot give it to you, and I think
10 that puts Ms. Miller in a difficult situation, too, because
11 she is giving you advice as to how to present your case,
12 how you can present sufficient information for you to
13 prevail on your complaint, and that's a rather difficult
14 thing to do.

15 You do have the right to have legal representation in
16 this proceeding.

17 MS. LESKO: Isn't that expensive for one person to
18 do that?

19 JUDGE CORBETT: Well, to hire an attorney, I would
20 imagine it is, yes. One of the things we were going to
21 discuss this morning during this conference is whether you
22 intend to present only your testimony or do you have other
23 people who are also interested in this that you would like
24 to have testify in support of this complaint.

25 That's what we would like to get into this morning if

1 we can move into that now. Will you be testifying on your
2 own behalf?

3 MS. LESKO: I would be glad to be questioned, but I
4 don't understand what you do to find out how many people
5 are interested in this initially. Is there a form that you
6 would circulate throughout the community or do you get a
7 petition from the PUC or from Verizon or something?

8 The people I know -- there are many people in the
9 community that I don't know, so how would I go about
10 getting information to find out is it, you know, actually
11 worth doing or is there just a handful in this area that
12 would want it? Maybe some people don't care if they pay
13 for a call to Ebensburg.

14 I know if I had to bring my phone bills in to prove,
15 you know, how many calls I make to Ebensburg, I make very
16 few, but most people I know say to just say, we will call
17 you because it's toll-free. Being a teacher and hearing my
18 students talking, that's what they were telling each, you
19 know. It's a very common thing in this area.

20 JUDGE CORBETT: Again you are asking for legal
21 advice as to how to present your case. Very basically, I
22 can tell you that when you file a complaint, as you have
23 done in this case, and you bring this complaint before the
24 Commission, you, as the complainant, have the burden of
25 proving your case by a preponderance of the evidence.

1 By that I mean, that if you can pictures the scales
2 of justice, the evidence that you place on your side of
3 scale must be ever so slightly greater than the evidence
4 presented by the other side. If you do present evidence
5 that outweighs the evidence presented by the other side,
6 then you are entitled to prevail. You have met what is
7 called your burden of proof.

8 How you do that is a matter that I cannot advise you.
9 I have no way of knowing your community. That's something
10 that you have to educate me about.

11 MS. LESKO: Who would I go to to get a poll, how
12 many people are interested; what would be an acceptable way
13 of doing that?

14 JUDGE CORBETT: Again you are asking for legal
15 advice.

16 MS. LESKO: I don't know how to begin.

17 JUDGE CORBETT: May I suggest to you that you very
18 generally talk to the political leaders, community leaders
19 in your community and see what people are interested there.
20 Other than that, Ms. Lesko, I really cannot -- we're
21 getting into area where I feel very uncomfortable. I
22 really can't give you legal advice.

23 MS. LESKO: I do understand because I am very
24 uncomfortable having read where today was to be a three-way
25 type thing only, so I really haven't discussed this with a

1 lot of people. That's what I am asking, how do you do this
2 without getting yourself in an awkward or even illegal
3 situation.

4 JUDGE CORBETT: I don't think you have any problem
5 with an illegal situation. Whether you meet your burden of
6 proof and whether you are able to present your case and
7 still abide by the appropriate rules of procedure and
8 evidence, those are all matters that I can't give you
9 advice on.

10 I can understand your situation. I can perhaps
11 understand your frustration, but there are reasons,
12 although they may not be easily understood at the time, for
13 the Commission's regulations and there are reasons why
14 utilities perform certain actions.

15 Whether those actions meet the standards of
16 reasonableness and adequacy set forth in the Public Utility
17 Code is something for me to decide after you have presented
18 your case and Ms. Miller has presented her case on behalf
19 of the utility.

20 MS. LESKO: Okay, thank you.

21 JUDGE CORBETT: Does that help explain things for
22 you a little bit further?

23 MS. LESKO: Yes, it does, because I am completely in
24 the dark here.

25 JUDGE CORBETT: In think instead of, and Ms. Miller,

1 you can object if you want, but I think it may be
2 worthwhile to just put this matter off for a further
3 prehearing conference.

4 Between the time that we adjourn and the next
5 prehearing conference, Ms. Lesko, perhaps you can talk to
6 the people in your community and see if you really want to
7 pursue this complaint.

8 I'm not prejudging your complaint in any way, manner
9 or form. I want you to take the opportunity to see what
10 needs to be done to present your case. If you want to hire
11 an attorney, you could do that, or you can get together
12 with a number of people and do that. If you are interested
13 in pursuing this, you can come to the next prehearing
14 conference and tell us what you would like to do.

15 MS. LESKO: Okay.

16 JUDGE CORBETT: Does that sound reasonable to you,
17 Ms. Miller?

18 MS. MILLER: Yes, Your Honor, that's reasonable.

19 JUDGE CORBETT: In that way, if you want to go
20 forward with your complaint, Ms. Lesko, then we will
21 establish a hearing schedule and we will set up hearings.
22 Depending upon what we determine at the next prehearing
23 conference, we can either have you come to Pittsburgh or if
24 you are just going to testify on your own behalf with no
25 other witnesses, we could possibly do this by telephone.

1 MS. LESKO: Thank you very much.

2 JUDGE CORBETT: If you are going to be calling a
3 number of witnesses, then that is not something that we can
4 handle by telephone.

5 MS. LESKO: Yes, I understand that.

6 JUDGE CORBETT: If the hearings are in person, they
7 will be in Pittsburgh.

8 MS. LESKO: Okay, thank you very much.

9 JUDGE CORBETT: Do you understand then, Ms. Lesko,
10 what we are doing this morning and what will be expected at
11 the next prehearing conference?

12 MS. LESKO: Well, I think I do. I hope I do so that
13 I am not wasting people's time.

14 JUDGE CORBETT: That is the bottom line, that we
15 want to make sure that you are given an opportunity to
16 present your complaint, but also on the other hand, we
17 don't want you to go through the expense, nor do we want
18 the ratepayers for Verizon North to pay the litigation
19 expenses in a case that you really don't want to pursue.
20 That's why we are going to have another prehearing
21 conference in this case.

22 MS. LESKO: That sounds very helpful. I really do
23 appreciate it very much.

24 JUDGE CORBETT: At the next prehearing conference,
25 you can tell us whether you wish to pursue your complaint,

1 and if you do, what witnesses you are going to present to
2 the best of your knowledge at that time, and we will set up
3 a hearing schedule.

4 If you don't want to pursue your complaint, you can
5 tell us at that conference that you don't want to pursue
6 your complaint and that will be the end of it.

7 MS. LESKO: Okay.

8 JUDGE CORBETT: Anything else, Ms. Miller?

9 MS. MILLER: Only when do you anticipate scheduling
10 the next prehearing conference?

11 JUDGE CORBETT: Ms. Lesko, how much time do you
12 think you would need to do your canvassing and see what you
13 want to do in this case?

14 MS. LESKO: I definitely need at least a week.
15 Whatever you...

16 JUDGE CORBETT: I'm thinking at least six weeks.
17 Our calendars are out that far in advance, so it would be
18 at least six weeks if not two months.

19 MS. LESKO: I'm willing -- both of you seem like you
20 are willing to help, so I will go along with that. That's
21 fine.

22 JUDGE CORBETT: All right. Ms. Miller, do you have
23 anything coming up that I should be alerted to?

24 MS. MILLER: My only conflict was in June and we
25 would be beyond that.

1 JUDGE CORBETT: Okay, yes.

2 MS. MILLER: I will be out of the country until the
3 20th of June.

4 JUDGE CORBETT: My calendar is running into July
5 now, so it would be at least in July some time. Any
6 conflicts in July for you, Ms. Lesko?

7 MS. LESKO: No, not at all.

8 JUDGE CORBETT: Ms. Miller, July is good for you?

9 MS. MILLER: It is, but I do have some hearings
10 already scheduled in July. The scheduler will handle
11 those.

12 MS. MILLER: I will let Steve know.

13 JUDGE CORBETT: With that, we will schedule this for
14 a further telephonic prehearing conference some time in the
15 middle part of July. We will see at that point what we
16 have and what we need to do.

17 Any further comments from either side?

18 MS. MILLER: No, Your Honor.

19 MS. LESKO: No. May I ask Ms. Miller if she will
20 check into options and somehow let me know so I know what
21 to tell people when I ask them what is available?

22 MS. MILLER: Certainly. I will get that information
23 and I will call you.

24 MS. LESKO: Ms. Miller, I must tell you that my
25 mother is elderly. A lot of times when people call, I

1 don't get the message.

2 MS. MILLER: Okay, I will call back.

3 MS. LESKO: If you don't mind, or if you want to
4 mail something, that's fine.

5 JUDGE CORBETT: Thank you both and you will receive
6 notice of the conference as you did for the one today.
7 That's all we have for this morning. The conference is now
8 adjourned.

9 (Whereupon, at 10:50 a.m., the prehearing conference
10 was adjourned.)

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C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that the foregoing proceedings were reported by me and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

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