

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17120**

**Cynthia Mosco**

**v.**

**Verizon Pennsylvania LLC**

**Public Meeting April 14, 2022**

**3006579-OSA**

**Docket No. C-2018-3006579**

**MOTION OF VICE CHAIRMAN JOHN F. COLEMAN, JR.**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of Verizon Pennsylvania LLC (Verizon PA) to the Initial Decision (ID) issued in the above-captioned proceeding. Replies to Exceptions were filed by the Complainant. For the reasons stated below, I propose to grant the Exceptions of Verizon PA, in part, and to modify the ID.

**Background**

The Formal Complaint filed at the above-captioned docket alleges a reliability, safety or quality problem with the Complainant's telephone service. Specifically, the Complainant alleges that Verizon PA refused to repair her copper lines and insisted that she be switched to fiber for her telephone service at her residence.<sup>1</sup> Following a hearing, an ID was issued sustaining the Complaint and assessing a civil penalty of \$25,900 on Verizon PA. The ID finds that Verizon PA failed to render adequate and reasonable telephone service to the Complainant. Additionally, the ID finds that Verizon PA failed to adequately explain the equipment and operation of the fiber optic network to the Complainant but did not assess a civil penalty related to this finding.

**Disposition**

**Verizon PA Exception Nos. 1 and 2**

According to Verizon PA in Exception No. 1, the ID incorrectly finds that it failed to maintain its network, even though Verizon PA had available and deployed fiber optic lines to provide telephone service to the Complainant's Service Location. Verizon PA argues the ID, essentially, recommends that it should be penalized because the customer refused fiber migration even though the copper line was past its useful life and required multiple repairs. Further, Verizon PA contends the ID assumes that the customer can control the type of facilities it uses to serve the Complainant. Exc. at 3. Verizon PA objects, that it ". . . should not be penalized because the customer refused to allow access to her home to upgrade the service with the best available facilities." Exc. at 4.

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<sup>1</sup> Fiber optics or fiber is a technology in which light is used to transport information from one point to another. Fiber consists of thin filaments of glass through which light beams are transmitted over long distance carrying enormous amounts of data. Harry Newton, *Newton's Telecom Dictionary*, 338 (CPM Books 21st ed. 2005). See I.D. at 1, n.1.

In its Exception No. 2, Verizon PA excepts to the \$25,900 civil penalty in the ID. Verizon PA states the ID incorrectly found violations of certain Commission regulations and Section 1501 of the Public Utility Code (Code), 66 Pa. C.S. § 1501 “for failing to maintain and/or provide continuous service over the copper facilities and failure to take reasonable measures to prevent interruptions of service.” Verizon PA argues that it took reasonable measures to maintain its network and provide continuous, uninterrupted service. Verizon PA argues that it “repeatedly attempted to move Ms. Mosco’s service to the upgraded fiber facilities but she refused to grant the access necessary to do so.” Exc. at 8.

I note that whatever technology Verizon PA uses to provide landline telephone service, it must support the provision of adequate, reliable, safe, efficient, reasonable, and reasonably continuous service.<sup>2</sup> At the same time, the Complainant cannot control the type of facilities Verizon PA uses to provide her telephone service, and the Commission does not have the authority to require Verizon PA to provide a copper line to the Complainant.<sup>3</sup>

Upon review of the record, Verizon PA does not dispute that the Complainant had trouble with her telephone service over an extended period. Verizon PA’s Exh. #1 clearly indicates the Complainant had numerous problems with her telephone service from May 31, 2018 to October 8, 2019. These problems included service outages, with one of the outages involving health and safety concerns. See I.D. at 19 discussing service outage of June 1, 2018, which was a medical emergency. Thus, the record supports that the Complainant’s telephone service was not reliable, adequate, or reasonably continuous as required by Section 1501 of the Code.

Nevertheless, I do not believe the record supports a \$25,900 civil penalty here. I believe the Complainant’s refusal to migrate her telephone service from copper to fiber mitigates against such a large civil penalty. Verizon PA took reasonable steps to provide continuous, uninterrupted service by repeatedly recommending that the Complainant switch her telephone service from copper to fiber. However, based on the evidentiary record, the Complainant refused Verizon PA’s recommendation each time to have her telephone line migrated to fiber. Tr. at 43, 61. In my view, Verizon PA should not be penalized to the tune of almost \$26,000 for unreliable service when it was the customer who refused the permanent fix to her service problems.

Rather, I propose a total civil penalty of \$2,000. This penalty amount includes \$1,000 for failure to take substantial action in a timely manner when Complainant reported a telephone service outage and medical emergency on June 1, 2018 in violation of Section 63.57(a) of the Commission’s regulations, 52 Pa. Code § 63.57(a), and Section 1501 of the Code. I note that this penalty is consistent with our action in *Eernisse v. Verizon Pennsylvania LLC* (Order entered January 15, 2014). The total civil penalty also includes \$1,000 for the 18 days in late 2018/early 2019 that the Complainant was unable to receive incoming telephone calls in violation of Section 1501 of the Code. I believe this civil penalty amount properly reflects both the nature and duration of the violations and the Complainant’s refusal to migrate her service to fiber, which would have allowed her to avoid the chronic service problems that she experienced. Consequently, I propose to grant Verizon PA’s exception nos. 1 and 2 in part.

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<sup>2</sup> *Fox v. Verizon Pennsylvania LLC*, Docket No. C-2016-2576094 (Order entered July 12, 2018).

<sup>3</sup> See *Altman v. Verizon Pennsylvania, LLC*, Docket No. C-2015-2515583 (Order entered November 18, 2016).

Verizon PA Exception No. 3

In its Exception No. 3, Verizon PA excepts to any conclusion that it violated Section 1501 of the Code by failing to explain fiber migration to the Complainant. I agree with Verizon PA that its actions in this regard did not violate Code Section 1501. As noted by Verizon PA, the ID itself found that “numerous Verizon representatives” spoke to the customer about fiber migration and that “at various times representatives of Verizon visited her home” to explain the issues and answer her questions in person. ID at 22. I also agree that just because the Complainant was not satisfied with Verizon PA’s explanations in this regard does not mean that service was unreasonable. Therefore, I propose to grant Verizon PA’s Exception No. 3.

Verizon PA Exception No. 4

In its Exception No. 4, Verizon PA excepts to the ID’s failure to set clear guidance for “similar situations in the future” involving migrations to fiber service. Verizon PA, in the context of this proceeding, requests that the Commission make clear that the filing of a formal complaint does not stay Verizon PA’s ability to suspend and terminate service to a customer who refuses access for a fiber migration that is permitted under FCC rules for repair or copper retirement. Upon review, I believe that adequate guidance already exists in this area via the FCC rules and regulations, the Code and the Commission’s regulations, and Commission precedent. Therefore, I propose to deny Verizon PA’s Exception No. 4.

**THEREFORE, I MOVE THAT:**

1. The Exceptions filed by Verizon Pennsylvania LLC at the above-captioned docket are granted, in part, consistent with this Motion.
2. The Initial Decision issued at the above-captioned docket is modified consistent with this Motion.
3. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.

Date: April 14, 2022



JOHN F. COLEMAN, JR., VICE CHAIRMAN