

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for show cause proceedings against Verizon Florida LLC for apparent violation of Rule 25-4.070, F.A.C., Customer Trouble Reports, and impose fines, by the Office of the Attorney General, Citizens of the State of Florida, and AARP.

DOCKET NO. 080278-TL
ORDER NO. PSC-09-0642-PCO-TL
ISSUED: September 22, 2009

ORDER GRANTING MOTIONS FOR TEMPORARY PROTECTIVE ORDER

On April 24, 2009, pursuant to Section 364.183, Florida Statutes (F.S.), and Rule 25-22.006(6)(c), Florida Administrative Code (F.A.C.), Verizon Florida LLC (Verizon) filed a Motion for Temporary Protective Order to exempt from Section 119.07(1), Florida Statutes (F.S.), confidential information included in its responses to the Office of Public Counsel's (OPC) First and Second Requests for Production of Documents (PODs) in this proceeding.

On June 11, 2009, also pursuant to Section 364.183, F.S., and Rule 25-22.006(6)(c), F.A.C., Verizon filed a Motion for Temporary Protective Order to exempt from Section 119.07(1), F.S., confidential information included in its responses to OPC's First Set of Interrogatories and Third Request for PODs in this proceeding.

Verizon states that it has been authorized by counsel for OPC to represent that OPC does not object to the granting of either of the two Motions for Temporary Protective Order (Motions). No other party filed a response to the Motions, and the time for doing so has expired.

Verizon contends that its responses to OPC's discovery requests include, among other things, internal management communications, reports, analyses, budgets, and similar documents relating to matters including Verizon's internal operations and operating procedures, repair performance and results, employee performance goals, employee headcount, staffing levels, resource allocation, customer commitment performance, customer line information, customer survey results, and customer complaints, which Verizon treats confidentially.

Verizon further contends that the confidential documents fall within section 364.183(3)(a), F.S., which provides that "trade secrets" fall within the definition of "proprietary confidential business information," and section 364.183(3)(e), F.S., which provides that "proprietary confidential business information" includes "information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information." According to Verizon, if competitors were able to acquire the detailed and sensitive information in the confidential documents requested by OPC, they could more easily develop entry and marketing strategies to ensure success in competing with Verizon. This would afford them an unfair advantage while severely jeopardizing Verizon's competitive position. This unfair advantage skews the operation of the market, to the ultimate detriment of the consumer.

DOCUMENT NUMBER-DATE

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Rule 25-22.006(6), F.A.C., codifies this Commission's policy regarding the protection of confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(c), F.A.C., states, in pertinent part:

When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from Section 119.07(1), F.S. If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under paragraph (a) above.

Upon consideration, Verizon's Motions for Temporary Protective Order are granted. Verizon has made sufficient assertions that the material should be protected from disclosure pursuant to Rule 25-22.006(6)(c), F.A.C., while OPC reviews the information to determine what information will be used in this proceeding. If the information is used in this proceeding, Verizon shall file a specific request for a protective order pursuant to Rule 25-22.006(6)(a), F.A.C.

Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that Verizon Florida LLC's Motions for Temporary Protective Order are granted pursuant to the terms and conditions set forth in the body of this Order.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 22nd day of September, 2009.



NATHAN A. SKOP
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.