

**Ruth Nettles**

090313 - PU

**From:** Scobie, Teresa A (TERRY) [terry.scobie@verizon.com]  
**Sent:** Tuesday, January 05, 2010 3:30 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** David Christian; Clark, Demetria Germaine; John Wharton; Kampert, Deborah B (DEBBY); Marshall Deterding; O'Roark, Dulaney L; Timisha Brooks  
**Subject:** Docket No. 090313-PU - Verizon Florida LLC's Motion for Protective Order  
**Attachments:** 090313 VZ FL Motion for Protective Order 1-5-10.pdf



The attached is submitted for filing in Docket No. 090313-PU on behalf of Verizon Florida LLC by

Dulaney L. O'Roark III  
P. O. Box 110, MC FLTC0007  
Tampa, Florida 33601-0110  
(770) 284-3620  
de.oroark@verizon.com

The attached document consists of a total of four pages - cover letter (1 page), Motion (2 pages) and Certificate of Service (1 page).

Terry Scobie  
Legal Secretary II  
Verizon Legal Department  
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DOCUMENT NUMBER-DATE

00075 JAN-5 2010

1/5/2010

FPSC-COMMISSION OFFICE

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January 5, 2010 – **VIA ELECTRONIC MAIL**

Ann Cole, Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket No. 090313-PU  
Complaint of Mad Hatter Utility, Inc. and Paradise Lakes Utility, LLC Against  
Verizon Florida LLC

Dear Ms. Cole:

Enclosed for filing in the above-referenced complaint is Verizon Florida LLC's Motion for Protective Order. Service has been made as indicated on the Certificate of Service. If there are any questions regarding this filing, please contact me at (770) 284-3620.

Sincerely,

s/ Dulaney L. O'Roark III

Dulaney L. O'Roark III

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Enclosure

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FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Complaint of Mad Hatter Utility, Inc. and ) Docket No. 090313-PU  
Paradise Lakes Utility, LLC Against ) Filed: January 5, 2010  
Verizon Florida LLC )  
\_\_\_\_\_ )

**VERIZON FLORIDA LLC'S MOTION FOR PROTECTIVE ORDER**

Verizon Florida LLC ("Verizon") moves for a protective order with respect to the deposition notice served by Mad Hatter Utility, Inc. and Paradise Lakes Utility, LLC ("Claimants") in this docket on December 31, 2009. The notice states that Claimants intend to take the deposition of Verizon pursuant to Rule 1.310(b)(6), Florida Rules of Civil Procedure, on January 8, 2010. The notice sets out three matters on which examination is requested, one of which relates to a dispute concerning alleged sewer pipe damage that has nothing to do with this docket. Pursuant to Rule 1.280, Florida Rules of Civil Procedure, Verizon requests a protective order directing that Claimants not inquire into this matter because it is beyond the scope of discovery in this case.<sup>1</sup>

This docket concerns Claimants' request for a refund of charges for services associated with four telephone lines for their water treatment plants and four telephone lines for their lift stations. The Order Establishing Procedure sets out five issues to be addressed in this docket, all of which relate to Claimants' request for a refund. Two of the matters on which examination is requested in the deposition notice relate to these issues, and Verizon does not object to designating a representative to address them. Claimants should not, however, be permitted to use the discovery process to obtain information about a wholly unrelated dispute.

<sup>1</sup> Counsel for Verizon has conferred with counsel for Claimants and understands that they will oppose this motion.

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The portion of the notice to which Verizon objects requests deposition testimony concerning:

The circumstances and facts surrounding the under road boring by Verizon or its agents or contractors at 1638 or near Osprey Lane, Lutz, Florida and the subsequent inspection of the collapsed road at that location several months later, on or about August 17, 2007.

Claimants' witness, Mr. DeLucenay, addressed this claim in his prefiled direct and rebuttal testimony, purportedly to show Verizon's lack of responsiveness. Whether Verizon was or was not responsive in dealing with a dispute about damaged sewer pipe, however, has no bearing on any of the issues in this case. Moreover, the Commission lacks jurisdiction to award money damages,<sup>2</sup> so it is not a tribunal that could address the sewer pipe claim. Accordingly, Verizon will move to strike these portions of Mr. DeLucenay's testimony in a separate pleading. For purposes of this motion, Verizon simply requests that Claimants not be allowed to obtain discovery in this docket concerning the unrelated sewer damage claim.

For the foregoing reasons, Verizon requests that its Motion be granted.

Respectfully submitted on January 5, 2010.

By: /s/ Dulaney L. O'Roark III  
P. O. Box 110, MC FLTC0007  
Tampa, Florida 33601-0110  
Telephone: 770-284-3620  
Facsimile: 770-284-3008

Attorney for Verizon Florida LLC

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<sup>2</sup> See *Southern Bell Tel. and Tel. Co. v. Mobile America Corp.*, 291 So.2d 199 (Fla. 1974).

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that copies of the foregoing were sent via electronic mail on January 5, 2010 to the following:

Timisha Brooks, Staff Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Mad Hatter Utility, Inc.  
Paradise Lakes Utility, LLC  
2348 Raden Drive  
Land O' Lakes, FL 34639-5136

F. Marshall Deterding, Esq.  
Rose Law Firm  
2548 Blairstone Pines Drive  
Tallahassee, FL 32301

s/ Dulaney L. O'Roark III