

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against GTE Communications Corporation (n/k/a Verizon Select Services Inc.) For apparent violation of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider Selection.

DOCKET NO. 990362-TI  
ORDER NO. PSC-01-0671-PCO-TI  
ISSUED: March 19, 2001

ORDER ON MOTION TO DETERMINE SCOPE OF PROCEEDINGS

The Commission opened this docket to address numerous complaints against Verizon Select Services, Inc. f/k/a GTE Communications Corporation (Verizon) for unauthorized carrier changes in violation of Rule 25-4.118, Florida Administrative Code. Verizon offered the Commission a settlement agreement to resolve the matter, which the Commission approved by Proposed Agency Action Order No. PSC-00-1348-PAA-TI, issued July 26, 2000. The Office of Public Counsel (OPC) protested the PAA order on August 16, 2000. An evidentiary hearing has been set for this proceeding, as requested.

OPC filed a Motion to Determine Scope of Proceedings on February 9, 2001. OPC seeks to determine which alleged slamming violations the Commission will address in this proceeding. OPC wants clarified whether the Commission will consider only the 209 slamming complaints filed at the Commission and identified in the PAA order, or whether the "proceeding will encompass all willful slamming violations by Verizon." (OPC Motion, p. 1) OPC believes that the issues as they are currently defined do not limit the proceeding to the 209 complaints filed at the Commission, which OPC states is contrary to Verizon's position in Joseph P. Caliro's rebuttal testimony prefiled on January 31, 2001.

On February 21, 2001, Verizon filed a response in Opposition to the Office of Public Counsel's Motion to Determine Scope of Proceeding. Verizon argues that OPC's motion should be denied because further clarification of the scope of the proceeding is not necessary at this time. Verizon explains that although the parties disagree over whether the Commission should ultimately consider the additional slamming complaints identified by OPC, the issues in the

DOCUMENT NUMBER-DATE

03441 MAR 19 2001

FPSC-RECORDS/REPORTING

case are broad enough as stated to accommodate both positions. According to Verizon:

the designated issues allow both parties to express their respective positions. They do not constrain [Verizon] from arguing that the Commission should consider only the 209 complaints Staff closed--nor do they foreclose OPC from arguing that the Commission should consider a broader range of potential complaints that it never received.

[Verizon] agrees that the Commission's task in this case is to determine how many willful violations, if any, [Verizon] committed during the period at issue.

(Verizon Opposition, p. 2) Verizon contends that OPC is asking the Commission to improperly prejudge the case, without conducting an evidentiary proceeding.

The Order Establishing Procedure in this docket, Order No. PSC-00-1835-PO-TI, issued October 6, 2000, identified two issues. They are:

- (a) During the time period of December 15, 1997 through September 30, 1999, did GTE Communications Corporation (n/k/a Verizon Select Services, Inc.) willfully violate Rule 25-4.118, Florida Administrative Code, which prohibits unauthorized carrier changes?
- (b) If so, how many willful violations were there, and what is the appropriate action, penalty, and/or fine amount to be imposed by the Commission for any such violations?

These are the only issues addressed by Verizon, OPC, and staff in their prehearing statements. No party has objected to these issues or raised additional issues. The above issues frame the scope of the testimony already prefiled in the case.

The issues are framed broadly enough to permit OPC to introduce and defend evidence of any Verizon violations of Rule

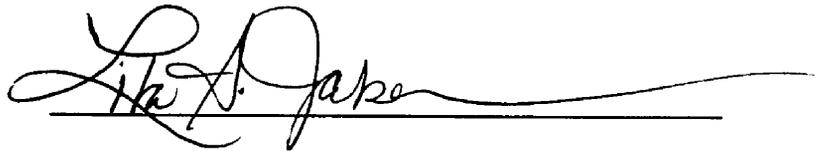
ORDER NO. PSC-01-0671-PCO-TI  
DOCKET NO. 990362-TI  
PAGE 3

4.118, Florida Administrative Code, within the period at issue and broadly enough to permit Verizon to introduce and defend evidence rebutting OPC's view. Therefore, the Office of Public Counsel's Motion to Determine Scope of Proceeding is granted as discussed in the body of this Order.

It is, therefore

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that the Office of Public Counsel's Motion to Determine Scope of Proceeding is granted as discussed in the body of this Order.

By ORDER of Commissioner Lila A. Jaber, as Preferring Officer, this 19th day of March, 2001.

A handwritten signature in black ink, appearing to read "Lila A. Jaber", is written over a horizontal line. The signature is fluid and cursive.

LILA A. JABER  
Commissioner and Preferring Officer

( S E A L )

MAH

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

ORDER NO. PSC-01-0671-PCO-TI  
DOCKET NO. 990362-TI  
PAGE 4

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, if issued by a Preferring Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, 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.