

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-01-0698-PCO-TI
ISSUED: March 20, 2001

ORDER GRANTING CITIZENS' FIRST MOTION TO COMPEL AND
CITIZEN'S REQUEST FOR RULING ON FIRST MOTION TO COMPEL
AND CONTINUING HEARING

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.

At issue here is whether two discovery requests sought by OPC in request numbers 17 and 18 of its sixth set of requests for production of documents, served on or about December 6, 2000 should be compelled. Specifically, OPC sought information from Verizon relating to compensation of GTECC's officers, as well as personal commitment and performance objectives and results for each of GTECC's officers for previous years. When the response to the production of documents was due, on January 9, 2001, Verizon objected to the requests because they were over broad, unduly burdensome, and in some cases vague and ambiguous.

In the Order Establishing Procedure, Order No. PSC-00-1835-PCO-TI, issued October 6, 2000, all objections to discovery requests or requests for clarification were to "be made within ten days of service of the discovery request." The purpose of this procedure was "to reduce delay in resolving discovery disputes."

OPC filed its First Motion to Compel on January 16, 2001, in which it sought production of the documents in response to request

DOCUMENT NUMBER-DATE

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numbers 17 and 18. OPC argues its motion should be granted because Verizon failed to timely object under the terms of the Order Establishing Procedure. In addition, OPC argues it needs the documents because they are reasonably likely to help explain why Verizon failed to take timely action to stop further slamming. Finally, OPC states that the requested discovery goes directly to the issue of whether Verizon's apparent violations are willful, as well as the appropriate penalty.

Verizon responded in opposition to OPC's Motion to Compel on January 23, 2001. According to Verizon, OPC's requests are over broad, unduly burdensome, and the terms used in the requests are vague and ambiguous. Verizon also argues that the requests call for documents relating to all officers of the Corporation, not just those having something to do with long distance sales, and, therefore, are not relevant to any issue in this proceeding. Verizon states that it is willing to work with OPC to determine which documents are potentially relevant and responsive to OPC's requests.

On February 8, 2001, OPC filed a Request for Ruling on First Motion to Compel, in which it alleged Verizon had failed to work with OPC as promised in its January 23, 2001 response. OPC renewed its request for an order compelling Verizon to produce documents in response to request numbers 17 and 18. Verizon filed its Opposition to the Office of Public Counsel's Request for Ruling on First Motion to Compel on February 20, 2001, in which it continued to argue that the documents were irrelevant, but, in an effort to be cooperative, it would continue to search for them.

As discussed above, Order No. PSC-00-1835-PCO-TI required parties to file clarifications to or objections to discovery requests within 10 days of the service of the original request. In this case, Verizon served its objections 34 days after OPC served its discovery request, and, thus, Verizon failed to meet the requirements of the Order Establishing Procedure. Because Verizon's objections were untimely filed, Citizens's First Motion to Compel and Citizen's Request for Ruling on First Motion to Compel are hereby granted.

Accordingly, Verizon shall comply with OPC's request within ten days of the date of this order. Note that the hearing is

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currently scheduled for March 28, 2001. This order necessitates that the hearing be continued.


It is, therefore

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that the Citizens' First Motion To Compel and Citizen's Request for Ruling on First Motion to Compel are hereby granted. It is further

ORDERED that Verizon Select Services, Inc.. shall respond within 10 days of the issuance of this order to the Office of Public Counsel's requests numbers 17 and 18 contained in Public Counsel's sixth set of requests for production. It is further

ORDERED that the hearing presently scheduled for March 28, 2001, will be continued until further notice.

By ORDER of Commissioner Lila A. Jaber, as Prehearing Officer, this 20th Day of March, 2001.



LILA A. JABER
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

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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, if issued by a Prehearing 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.