

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

In re: Implementation of Florida lifeline program involving bundled service packages and placement of additional enrollment requirements on customers.

DOCKET NO. 080234-TP
ORDER NO. PSC-09-0782-AS-TP
ISSUED: November 18, 2009

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
NANCY ARGENZIANO
NATHAN A. SKOP
DAVID E. KLEMENT

FINAL ORDER ACCEPTING JOINT SETTLEMENT AGREEMENT

BY THE COMMISSION:

I. Case Background:

On May 15, 2008, Attorney General Bill McCollum (Attorney General), the Citizens for the State of Florida (Citizens), and AARP, (collectively, the Petitioners) filed a joint petition requesting that the Florida Public Service Commission (Commission) issue a Show Cause Order against Verizon Florida LLC (Verizon) requiring Verizon to show cause why it should not be penalized approximately \$6.5 million for the company's apparent violation of Rule 25-4.070, F.A.C., Customer Trouble Reports. The Petitioners allege that the rate at which Verizon meets the performance standard for Rule 25-4.070, F.A.C., has declined in recent years and was below the required 95% compliance standard. The Petitioners allege that Verizon willfully violated our telephone service quality rule, Rule 25-4.070, F.A.C., two hundred and sixty-two (262) times in 2007. On June 9, 2008, Verizon filed a response and answer to the Joint Petition. Verizon requested that we deny the Petitioners request to issue a Show Cause Order.

By Order No. PSC-09-0015-SC-TL, issued January 5, 2009, we ordered Verizon to show cause in writing why it should not be penalized in the amount of \$2.62 million, for a total of two hundred sixty-two apparent violations of Rule 25-4.070, F.A.C., during 2007. We further ordered Verizon to show cause why it should not be penalized in the amount of \$1.94 million, for a total of one hundred ninety-four apparent violations of Rule 25-4.070, F.A.C., during 2008.

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FPSC-COMMISSION CLERK

On January 26, 2009, Verizon filed a Request for an Administrative Hearing pursuant to Rule 28-106.2015(5), F.A.C. An Order Establishing Procedure, Order No. PSC-09-0107-PCO-TL, was issued on February 23, 2009. On March 4, 2009, Verizon filed a Motion to Modify Order Establishing Procedure, Bifurcate Proceeding, and Suspend Discovery Not Related to Jurisdictional Issues. On April 6, 2009, the Prehearing Officer held a meeting to discuss scheduling matters in this Docket. Verizon's Motion to Bifurcate Proceeding and Suspend Discovery not Related to Jurisdictional Issues was denied by the Prehearing Officer by Order No. PSC-09-0244-PCO-TL, issued April 22, 2009. The Order also modified Order No. PSC-09-0107-PCO-TL reflecting changes to the controlling dates for this case.

Several meetings were held between the Petitioners, Verizon, and our staff to discuss settlement negotiations and other aspects of this docket. In a meeting on October 7, 2009, the Petitioners agreed in principle to a settlement presented by Verizon. On October 10, 2009, the Petitioners and Verizon filed a joint motion for postponement of the prehearing conference scheduled for October 15, 2009. On October 28, 2009, Verizon and the Petitioners filed a joint motion seeking our approval of a settlement agreement. The settlement agreement, jointly entered by Verizon and the Petitioners, has been offered to resolve the issues in Docket No. 080278-TL. Also, the settlement agreement proposed resolutions for Issues 1 and 3¹ in Docket No. 080234-TP, as discussed below.

Docket No. 080234-TP

On April 24, 2008, Docket No. 080234-TP, In Re: Implementation of Florida lifeline program involving bundled service packages and placement of additional enrollment requirements on customers, was established to address the application of the Lifeline discount to bundled service packages. Verizon's current policy is to deny the Lifeline discount to applicants who subscribe to bundled service packages. However, by Order No. PSC-08-0417-PAA-TP, issued June 23, 2008, we ordered that pursuant to 47 C.F.R. § 54.403(b) and consistent with Chapter 364, Florida Statutes, eligible telecommunications carriers (ETC) are required to apply the Lifeline discount to the basic local service rate or the basic local service rate portion of any service offering which combines both basic and nonbasic services. On July 14, 2008, Verizon protested our proposed agency action order and requested a hearing. On September 15, 2008, Order No. PSC-08-0594-PCO-TP, Order Establishing Procedure was issued and a list of issues for the docket were identified. A hearing was conducted on March 2, 2009.

Verizon and the Petitioners' settlement agreement offer addresses resolution of Verizon's apparent violation of Rule 25-4.070, F.A.C., Customer Trouble Reports, during 2007 and 2008 and to provide Lifeline discounts to all eligible customers who request the discount and receive regulated telecommunications service packages. We are vested with jurisdiction of these matters

¹ Issue 1- Under applicable law, may the Commission require Florida ETCs that charge federal End User Common Line charges, or equivalent federal charges, to apply the lifeline discount to bundled service offerings which include functionality that is comparable to that described at 47 CFR 54.101(a)(1)-(9) or Section 364.02(1), Florida Statutes?

Issue 3 - Should the Commission require each Florida ETC that charges federal End User Common Line charges, or equivalent federal charges, to apply the lifeline discount to its bundled services which include functionality that is comparable to that described at 47 CFR 54.101(a)(1)-(9) or Section 364.02(1), Florida Statutes?

pursuant to 47 U.S.C. § 254(f), and Sections 364.01(1) and (4), 364.025(1), 364.03, 364.10, 364.17, 364.18, and 364.285, Florida Statutes.

During 2007 and 2008 Rule 25-4.070(3) (a) and (b), F.A.C., Customer Trouble Reports, stated:

(a) Service Interruption: Restoration of interrupted service shall be scheduled to insure at least 95 percent shall be cleared within 24 hours of report in each exchange that contains at least 50,000 lines and will be measured on a monthly basis. For exchanges that contain less than 50,000 lines, the results can be aggregated on a quarterly basis. For any exchange failing to meet this objective, the company shall provide an explanation with its periodic report to the Commission.

(b) Service Affecting: Clearing of service affecting trouble reports shall be scheduled to insure at least 95 percent of such reports are cleared within 72 hours of the report in each exchange which contains at least 50,000 lines and will be measured on a monthly basis. For exchanges which contain less than 50,000 lines, the results can be aggregated on a quarterly basis.

II. Analysis:

To resolve the issues in Docket No. 080278-TL, on October 28, 2009, Verizon submitted a settlement agreement (Attachment A). Verizon, the Office of Public Counsel, the Attorney General, and AARP have stipulated to a settlement whereby Verizon will issue \$1.75 million in credits to its residential local exchange telecommunications service customers and make a contribution in the amount of \$250,000 to the General Revenue Fund, with no admission of liability or wrongdoing by Verizon. Verizon will provide the customer credits within 90 days after the settlement agreement is approved by us. The credits will be divided evenly among customers who receive residential local exchange telecommunications service as of the date the settlement agreement takes effect. Verizon will provide us with reports concerning the issuance of the customer credits in accordance with Rule 25-4.114, F.A.C., Refunds.

Verizon will also submit a payment in the amount of \$250,000 to us within 90 days after the issuance of the Final Order. Upon receipt of the payment, we will forward the payment to the Department of Financial Services for deposit into the General Revenue Fund.

In addition, as part of this Settlement Agreement, Verizon offers resolution for Issues 1 and 3 in Docket No. 080234-TP, In Re: Implementation of Florida lifeline program involving bundled service packages and placement of additional enrollment requirements on customers. Going forward, Verizon will provide the Lifeline discount to all eligible customers who request the discount and receive regulated telecommunications service packages, including packages with voice mail. Verizon will not offer the Lifeline discount for service packages or bundles that include unregulated services such as high speed internet access or cable television. Verizon will begin offering the discount within 90 days after the Settlement Agreement becomes effective.

III. Decision:

We find that the Settlement Agreement resolves all matters in Docket No. 080278-TL and is in the public interest. At Agenda, the parties agreed to modify the settlement agreement such that Verizon will contribute \$125,000 to the General Revenue Fund and \$125,000 to promote the Lifeline and Linkup programs² in lieu of \$250,000 to the General Revenue Fund. Therefore, we find it appropriate to accept the provisions of the joint Settlement Agreement between Verizon Florida LLC, the Attorney General Bill McCollum, the Citizens for the State of Florida, and AARP, whereby Verizon Florida LLC will issue credits totaling \$1.75 million to residential local exchange telecommunications services customers, will contribute \$125,000 to the General Revenue Fund and \$125,000 to promote the Lifeline and Linkup programs and will provide Lifeline discounts to all eligible customers who request the discount and receive regulated telecommunications service packages. This settlement resolves the apparent violations of Rule 25-4.070, F.A.C., that occurred during 2007 and the first three quarters of 2008, and Issues 1 and 3 in Docket 080234-TP.

Verizon shall issue service credits within 90 days after the issuance of the Final Order in the amount of \$1.75 million to its residential local exchange telecommunications service customers. Verizon shall also provide a final report no later than May 15, 2010, verifying that the company has issued the customer credits. Verizon will also submit a payment in the amount of \$125,000 to this Commission within 90 days after the settlement becomes effective. Upon receipt of the payment, we will forward the payment to the Department of Financial Services for deposit into the General Revenue Fund. If Verizon fails to comply with the provisions of this Order, Docket No. 080278-TL shall remain open pending further action. Docket No. 080278-TL shall be closed administratively upon the submission of Verizon's final report verifying that the company issued the customer credits and upon receipt of the \$125,000 payment.

Verizon will begin providing the Lifeline discounts to all eligible customers who request the discount and receive regulated telecommunications service packages within 90 days after the settlement becomes effective, and Issues 1 and 3 in Docket No. 080234-TP will be dismissed without prejudice. Docket No. 080234-TP shall remain open pending further action.

² All disbursements shall be approved by OPC before being issued.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the provisions of the joint Settlement Agreement between Verizon Florida LLC, the Attorney General Bill McCollum, the Citizens for the State of Florida, and AARP, be accepted, whereby Verizon Florida LLC will issue credits totaling \$1.75 million to residential local exchange telecommunications services customers, will contribute \$125,000 to the General Revenue Fund and \$125,000 to promote the Lifeline and Linkup programs, and will provide Lifeline discounts to all eligible customers who request the discount and receive regulated telecommunications service packages, to resolve the apparent violations of Rule 25-4.070, F.A.C., that occurred during 2007 and the first three quarters of 2008, and Issues 1 and 3 in Docket 080234-TP. It is further

ORDERED that Verizon will issue service credits within 90 days after the issuance of the Final Order in the amount of \$1.75 million to its residential local exchange telecommunications service customers. It is further

ORDERED that Verizon shall also provide a final report no later than May 15, 2010, verifying that the company has issued the customer credits. Verizon will also submit a payment in the amount of \$125,000 to us within 90 days after the settlement becomes effective. Upon receipt of the payment, payment will be forwarded to the Department of Financial Services for deposit into the General Revenue Fund. It is further

ORDERED that should Verizon fail to demonstrate that it has complied with the provisions of this Order, Docket No. 080278-TL shall remain open pending further action. Docket No. 080278-TL shall be closed administratively upon the submission of Verizon's final report verifying that the company issued the customer credits and upon receipt of the \$125,000 payment. It is further

ORDERED that Verizon will begin providing the Lifeline discounts to all eligible customers who request the discount and receive regulated telecommunications service packages within 90 days after the settlement becomes effective, and Issues 1 and 3 in Docket No. 080234-TP will be dismissed without prejudice. It is further

ORDERED that Docket No. 080234-TP shall remain open pending further action.

By ORDER of the Florida Public Service Commission this 18th day of November, 2009.



ANN COLE
Commission Clerk

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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.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.