

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Mad Hatter Utility, Inc.,
and Paradise Lakes Utility, LLC against
Verizon Florida, Inc.

DOCKET NO. 090313-PU
ORDER NO. PSC-10-0021-PCO-PU
ISSUED: January 7, 2010

ORDER GRANTING VERIZON FLORIDA LLC'S MOTION FOR PROTECTIVE ORDER

On May 15, 2009, Mad Hatter Utility, Inc. and Paradise Lakes Utility, LLC ("MHU and PLU") filed a complaint against Verizon Florida, LLC (Verizon), requesting that Verizon provide an accounting and refund of charges for services associated with telephone lines in their water treatment plants and lift stations. An issue identification meeting was held on August 18, 2009. This matter has been set for an administrative hearing on February 3, 2010.

On December 30, 2010, MHU and PLU notified Verizon of plans to depose Verizon's witnesses, Deborah B. Kampert and Donald Cowart. On December 31, 2010, MHU and PLU notified Verizon of the matters on which examination is requested, one of which relates to the circumstances and facts surrounding the under road boring by Verizon or its agents or contractors at or near 1638 Osprey Lane, Lutz, Florida and the subsequent inspection of the collapsed road at that location several months later, on or about August 17, 2007. On January 4, 2010, Verizon filed a Motion for Protective Order directing that MHU and PLU not inquire into this particular matter, on the grounds that this matter is beyond the scope of discovery in this case. Staff's Counsel contacted MHU/PLU's Counsel to inquire whether a response to Verizon's Motion would be filed and was notified that MHU/PLU opposed Verizon's Motion, but would not be filing a response.

The scope of discovery is addressed in Rule 1.280(b)(1), Florida Rules of Civil Procedure, which states:

Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action ... It is not grounds for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

This Commission has broad discretion in resolving discovery disputes. See Order No. PSC-98-0465-FOF-TL, issued March 31, 1998, in Docket No. 970808-TL; Orlowitz v. Orlowitz, 199 So. 2d 97 (Fla 1967). To fall within the scope of discovery, there must be a logical connection between the information sought and the issues in the case. See Order No. PSC-98-0465-FOF-TL, issued March 31, 1998, in Docket No. 970808-TL; Cazares v. Calderbank, 435 So. 2d 377, 379 (Fla. 5th DCA 1983).

DOCUMENT NUMBER-DATE

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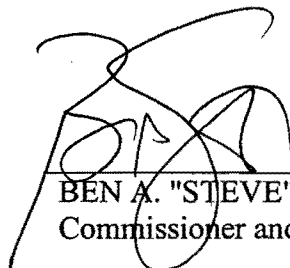
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The scope of discovery under the Florida Rules of Civil Procedure is liberal. This standard is not, however, without limit. Whereas MHU and PLU's witness, Larry Deluceney, addresses the matter of the under road boring by Verizon or its agents or contractors, in his prefiled and rebuttal testimony. Verizon stated in its motion that it will move to strike these portions of Mr. Deluceney's testimony in a separate pleading. There is not a logical connection between this matter and the issues¹ presented in this docket. As such, I find that it is appropriate to limit the scope of MHU and PLU's examination of witnesses as it relates to the dispute concerning the under road boring by Verizon because such discovery is not relevant to the issues in this case nor would it reasonably lead to admissible evidence. Therefore, questions about the under road boring by Verizon or its agents or contractors fall outside the scope of discovery allowed under Rule 1.280(b)(1), and Verizon's Motion for Protective Order is, therefore, granted.

Based on the foregoing, it is

ORDERED by Commissioner Ben A. "Steve" Stevens III, as Prehearing Officer, that the Motion for Protective Order filed by Verizon Florida LLC is granted.

By ORDER of Commissioner Ben A. "Steve" Stevens III, as Prehearing Officer, this
7th day of January, 2010.



BEN A. "STEVE" STEVENS III
Commissioner and Prehearing Officer

(S E A L)

TJB

¹ Issue 1: Can the Florida Public Service Commission grant the relief sought by Mad Hatter and/or Paradise Lakes against Verizon?

Issue 2: Are the claims by Mad Hatter and/or Paradise Lakes against Verizon barred by any legal doctrines?

Issue 3: (a) Since January 1, 1994, what products or services that were billed by Verizon to Mad Hatter and/or Paradise Lakes remain in dispute?

(b) What relief, if any, is appropriate to address the above-referenced dispute between Verizon and Mad Hatter / Paradise Lakes?

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.