

Kimberly Caswell
Vice President and General Counsel, Southeast
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ORIGINAL
verizon

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June 27, 2002

Ms. Blanca S. Bayo, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

001556-TL

Re: Verizon Florida Inc. - Request for Refund of Overpayments of Regulatory
Assessment Fees

Dear Ms. Bayo:

I am responding to your letter of March 14, 2002, which notifies Verizon Florida Inc. (Verizon) of the procedure for obtaining refund of overpayments of regulatory assessment fees made by Verizon because of the Commission's erroneous interpretation of Florida Statutes section 364.336. In the letter, you ask for justification of the amount of refund sought and a copy of Verizon's contract with Verizon Directories Corp. (Directories) for the period of the refund.

Section 364.336 of the Florida Statutes requires "each telecommunications company" under the Commission's jurisdiction to pay regulatory assessment fees on "its gross operating revenues derived from intrastate business." The Commission had interpreted this statute to require Verizon to pay regulatory assessment fees not only on its revenues, but also on the directory advertising revenues of Directories, a separate corporation that is not a telecommunications company and is not subject to the Commission's jurisdiction.

Verizon consistently protested this interpretation of section 364.336. In addition to informal contacts between Verizon and Commission Staff, Verizon wrote a number of letters over the years taking issue with the Commission's imputation of Directories' revenues to Verizon for purposes of calculating Verizon's regulatory assessment fee. (See, e.g., letters from Verizon to Bureau of Fiscal Services dated July 25, 1996, July 31, 2000, January 30, 2001, July 27, 2001, and January 29, 2002.) On October 13,

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2000, Verizon filed a Petition for Declaratory Statement asking the Commission to declare that it is not required to pay regulatory assessment fees on the yellow pages advertising revenues earned and booked by Directories.

The Commission rejected Verizon's interpretation of section 364.336 and continued to require it to pay regulatory assessment fees on Directories' revenues. (Order no. PSC-01-0097-DS-TL, Jan. 11, 2001.) Verizon appealed the Commission's decision to the Florida Supreme Court, which ruled in Verizon's favor in a February 14, 2002 opinion. The Court held that "nothing in the plain language of section 364.336 serves as a basis for allowing the Commission to impute revenues to Verizon from Directories in the regulatory assessment fee calculus." (*Verizon Florida Inc. v. Jacobs, et al.*, 810 So. 2d 906, 909 (Fla. 2002).)

Because the Commission erroneously required Verizon to pay regulatory assessment fees on Directories' revenues, Verizon is entitled to a refund of the fees it paid on Directories' revenues. In accordance with Florida Statutes section 215.26, Verizon seeks a refund of overpayments from January 1, 2000 to December 31, 2001. These overpayments total \$630,572. This figure is calculated as follows.

The directory revenues reported on line 30 of Verizon's regulatory assessment fee returns dated January 17, 2001 (covering all of 2000) and January 15, 2002 (covering all of 2001) were \$203,216,214 and \$235,626,003, respectively, for a total of \$438,842,217. From this total, Verizon subtracted \$18,460,809 for revenues earned and booked by Verizon for white pages services, such as non-published and non-listed numbers. (The Verizon Florida revenues for 2000 and 2001, respectively, were \$9,556,480 and \$8,904,329.) Directories' revenues included in the regulatory assessment fee base were thus \$420,381,408 for 2000 and 2001. This figure multiplied by the regulatory assessment fee rate of .0015 equals \$630,572.

Enclosed is Verizon's Application for Refund. Also enclosed is a copy of Verizon's contract with Directories. This contract has been in effect since January 1, 2000. Section 1.6.1 specifies that Directories (the "Publisher") may sell advertising in the telephone directories it produces and distributes, and Verizon (the "Carrier") "shall have no right or interest in any revenues received by Publisher in connection with such advertising sale."

The contract between Verizon and Directories is, by its terms, proprietary and requires the parties to seek confidential status for it. (Section 4.8.) Verizon thus requests confidential treatment for the entire contract under Florida Statutes section 364.183(1). Please return the contract to me when you have verified the amount of refund due Verizon. I understand this request protects the contract from public disclosure.

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Please contact me if any further information is required for the State Comptroller to issue the refund in accordance with Florida Statutes section 215.26.

Sincerely,



Kimberly Caswell

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KC:tas
Enclosures

STATE OF FLORIDA
OFFICE OF THE COMPTROLLER
APPLICATION FOR REFUND

Section 215.26, Florida Statutes, states in part: "Applications for refunds as provided in this section shall be filed with the Comptroller, except as otherwise provided herein, within 3 years after the right to such refund shall have accrued else such right shall be barred." Three years is generally interpreted as meaning three years from the date of payment into the State treasury. The Comptroller has delegated the authority to accept applications for refund to the unit of State government which initially collected the money.

Pursuant to the provisions of Rule 3A-44.020, Florida Administrative Code, and Section 215.26, Florida Statutes, or Section _____, Florida Statutes, I hereby apply for a refund of moneys I paid into the State treasury, which are subject to refund. The following information is submitted to substantiate the claim.

Name: Verizon Florida Inc. FEIN or SS No: 59-0397520
 Address: c/o Michelle Robinson, P. O. Box 110, Mail Code: FLTC0616, Tampa, FL 33601-0110.
 Amount: \$630,572 Date Paid: 7/31/00; 1/30/01; 7/27/01; and 1/29/02

Reason for Claim: The Florida Supreme Court ruled that the Florida Public Service Commission had no authority to require Verizon Florida Inc. to pay regulatory assessment fees on the revenues of Verizon Directories Corp. Verizon Fla. Inc. v. Jacobs, 810 So. 2d 906 (Fla. 2002).

CERTIFIED TRUE AND CORRECT this 27th day of June, 2002
 Signature: [Handwritten Signature]

* Must be completed if authority is other than Section 215.26, Florida Statutes.

 (FOR AGENCY USE ONLY)

Agency recommends approval of the above claim and submits the following information to substantiate the claim: Amount of recommended refund \$ _____.

The amount requested above was originally deposited into the State treasury as a part of the funds deposited on State Treasurer's Receipt No. _____ dated _____.

NAME OF ACCOUNT: _____

ACCOUNT CODE											

Statutory Authority for Collection: _____
 It is requested that payment be made from the following account:

NAME OF ACCOUNT: _____

ACCOUNT CODE											

CERTIFIED TRUE AND CORRECT this _____ day of _____ 19____

 Agency Signature of Authorized Person

 Title