

Ruth Nettles

080234-TP

From: Scobie, Teresa A (TERRY) [terry.scobie@verizon.com]
Sent: Wednesday, October 28, 2009 4:03 PM
To: Filings@psc.state.fl.us
Cc: Charles Murphy; David Christian; De O'Roark; Demetria Clark; Douglas Nelson; J. R. Kelly; Marsha Rule; Patty Christensen; Stephen Rowell; Timisha Brooks
Subject: Docket No. 080234-TP - Joint Motion Seeking Commission Approval of Settlement Agreement
Attachments: 080234 Joint Settlement Motion 10-28-09.pdf



The attached is submitted for filing in Docket No. 080234-TP on behalf of Verizon Florida LLC and the Office of Public Counsel by

Dulaney L. O'Roark III
P. O. Box 110, MC FLTC0007
Tampa, Florida 33601-0110
(678) 259-1449
de.oroark@verizon.com

The attached document consists of a total of 11 pages - cover letter (1 page), Joint Motion (2 pages), Settlement Agreement (7 pages) and Certificate of Service (1 page).

Terry Scobie
Legal Secretary II
Verizon Legal Department
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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

10/28/2009

Dulaney L. O'Roark III
Vice President & General Counsel, Southeast Region
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5055 North Point Parkway
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Phone 678-259-1449
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October 28, 2009 – **VIA ELECTRONIC MAIL**

Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 080234-TP
Implementation of Florida lifeline program involving bundled service packages
and placement of additional enrollment requirements on customers

Dear Ms. Cole:

Enclosed for filing in the above matter is a Joint Motion Seeking Commission Approval of Settlement Agreement. Service has been made as indicated on the Certificate of Service. If there are any questions regarding this filing, please contact me at (678) 259-1449.

Sincerely,

s/ Dulaney L. O'Roark III

Dulaney L. O'Roark III

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Enclosures

DOCUMENT NUMBER-DATE

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of Florida lifeline program) Docket No. 080234-TP
involving bundled service packages and) Filed: October 28, 2009
placement of additional enrollment requirements)
on customers)
_____)

**JOINT MOTION SEEKING COMMISSION
APPROVAL OF SETTLEMENT AGREEMENT**

Verizon Florida LLC ("Verizon") and the Office of Public Counsel ("OPC") (collectively, the "Parties") file this joint motion requesting the Florida Public Service Commission to approve the attached settlement agreement. In support of this joint motion, the Parties show the following:

1. The Parties have entered into a settlement agreement that avoids the time, expense and uncertainty associated with adversarial litigation, in keeping with the Commission's long-standing policy and practice of encouraging parties in contested proceedings to settle issues whenever possible. That settlement agreement is attached to this joint motion as Attachment 1.

2. The Parties believe that the settlement agreement serves the public interest and accordingly request the Commission to accept and approve it expeditiously as filed and to dismiss Issues 1 and 3 in Docket No. 080234-TP without prejudice.

3. Verizon, OPC and other parties are contemporaneously filing a similar motion in Docket No. 080278-TL because the settlement agreement resolves all issues raised in that docket.

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WHEREFORE, the Parties respectfully request the Commission issue an order approving the attached settlement agreement and dismissing Issues 1 and 3 in this docket without prejudice.

Respectfully submitted on October 28, 2009.

By: s/ Dulaney L. O'Roark III
Dulaney L. O'Roark III
Verizon Florida LLC
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By: s/ Charles Beck
J. R. Kelly
Charles Beck
Office of Public Counsel
c/o The Florida Legislature
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beck.charles@leg.state.fl.us

2. Verizon will provide the service credits described in Paragraph 1 within 90 days after this Settlement Agreement takes effect, dividing the credits evenly among customers who receive residential local exchange telecommunications service as of the date the Settlement Agreement takes effect. Verizon will provide reports concerning the payment of these credits in accordance with Rule 25-4.114, Florida Administrative Code.

3. This Settlement Agreement will resolve all matters that were or might have been addressed by the Commission in Docket No. 080278-TL related to Rule 25-4.070, Florida Administrative Code, and resolves any claims concerning Verizon's alleged violation of Rule 25-4.070, Florida Administrative Code, taking place at any time up to and including the date the Settlement Agreement takes effect.

4. To resolve Issues 1 and 3 in Docket No. 080234-TP, Verizon will provide the Lifeline discount to all eligible customers who request the discount going forward (after Verizon begins offering it) and receive regulated telecommunications service packages (including packages with long distance and voice mail) except for service packages or bundles that include unregulated services such as VoIP, high speed Internet access or cable television. Verizon will begin offering the discount described in the preceding sentence within 90 days after this Settlement Agreement takes effect. As a result of this resolution, Issues 1 and 3 will be dismissed without prejudice.

5. This Settlement Agreement will take effect the day after it is approved by the Commission. The Parties understand that the Commission's decision will be reflected in a final order.

6. No Party to this Settlement Agreement will request, support or seek to impose a change in the application of any provision of this Settlement Agreement. Provided the Commission approves the Settlement Agreement, each Party waives its right to request further administrative or judicial proceedings concerning any an all matters which were or might have been addressed by the Commission in resolving Docket No. 080278-TL, except proceedings to enforce this Settlement Agreement. This waiver of the right to further administrative or judicial proceedings shall include, but not be limited to: a petition for a formal proceeding, in the form provided by Rule 28-106.201 or 28-106.2015, Florida Administrative Code; a motion for reconsideration of the decision in this matter in the form prescribed by Rule 25-22.060, Florida Administrative Code; or a notice of appeal to initiate judicial review by the Florida Supreme Court pursuant to Rule 9.110, Florida Rules of Appellate Procedure, in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

7. This Settlement Agreement is contingent on the Commission's accepting the entire Settlement Agreement, which acceptance shall include the Commission's explicit recognition that its order approving this Settlement Agreement (i) resolves all matters that were or might have been addressed in Docket No. 080278-TL related to Rule 25-4.070, Florida Administrative Code, and resolves any claims concerning Verizon's alleged violation of Rule 25-4.070, Florida Administrative Code, taking place at any time up to and including the date the Settlement Agreement takes effect; and (ii) dismisses Issues 1 and 3 in Docket No. 080234-TP without prejudice.

8. This Settlement Agreement resolves all matters in Docket No. 080278-TL and Issues 1 and 3 in Docket No. 080234-TP in accordance with Section 120.57(4),

Florida Statutes. Docket No. 080278-TL will be closed effective on the date the Commission order approving this Settlement Agreement is final. The submission of this Settlement Agreement by the parties is in the nature of an offer to settle. Consequently, if this Settlement Agreement is not accepted and approved without modification by an order not subject to further proceedings or judicial review, then the settlement proposal is rejected and the Settlement Agreement shall be considered null and void and of no further force or effect.

9. If the Commission does not accept the Settlement Agreement in its entirety pursuant to its terms, (i) this document shall not be admissible in any hearing on the matters established by either of these Dockets, or in any other docket or forum; and (ii) no Party to this Settlement Agreement waives any position on any issue that it could have otherwise asserted in any docket in which it is a party, as if this document had never been developed and written. This Settlement Agreement shall not constitute an admission of liability.

10. This Settlement Agreement is being executed in duplicate originals, with an original to be filed by the Parties in Docket No. 080278-TL and by Verizon and OPC in Docket No. 080234-TP.

11. This Settlement Agreement may be executed in counterpart originals and a facsimile of an original signature shall be deemed an original.

12. This Settlement Agreement constitutes a single, integrated written contract expressing the entire agreement between the Parties and superseding all other agreements, representations and understandings on the subject matter hereof. There is

no other agreement, oral or written, expressed or implied, between the Parties with respect to the subject matter hereof, except this Settlement Agreement.

The Parties evidence their acceptance and agreement with the provisions of this Settlement Agreement by their signatures:

By: 
Dulaney L. O'Roark III
Verizon Florida LLC
P. O. Box 440, MC FLTC0007
Tampa, Florida 33601-0110
Email: de.oroark@one.verizon.com

By: _____
Cecilia Bradley
Office of Attorney General
The Capitol – PL01
Tallahassee, FL 32399-1050
cecilia.bradley@myfloridalegal.com

By: _____
J. R. Kelly
Charles Beck
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
kelly.jr@leg.state.fl.us
beck.charles@leg.state.fl.us

By: _____
Michael B. Twomey
AARP
P. O. Box 5256
Tallahassee, FL 32314-5256
miketwomey@talstar.com

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By:

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By:



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By:

J. R. Kelly
Charles Beck
Office of Public Counsel
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By:

Michael B. Twomey
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By:

Cecilia Bradley
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The Capitol – PL01
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cecilia.bradley@myfloridalegal.com

By:

Charlie Beck

J. R. Kelly
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By:

Charlie Beck, for

Michael B. Twomey
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing were sent via electronic mail and/or U.S. mail on October 28, 2009 to:

Charles Murphy/Timisha Brooks
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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s/ Dulaney L. O'Roark III