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January 8, 2010

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

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COMMISSION
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Re: Docket No. 090313-PU
Complaint of Mad Hatter Utility, Inc. and Paradise Lakes Utility, LLC Against
Verizon Florida LLC

Dear Ms. Cole:

Enclosed for filing in the above-referenced matter are an original and seven copies of Verizon Florida LLC's Prehearing Statement. Also enclosed is a diskette with a copy of the Prehearing Statement in Word format. Service has been made as indicated on the Certificate of Service. If there are any questions regarding this filing, please contact me at (770) 284-3620.

Sincerely, *DL*

Dulaney L. O'Roark III

Dulaney L. O'Roark III

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Enclosures

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing were sent via electronic mail on January 8, 2010 to the following:

Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Mad Hatter Utility, Inc.
Paradise Lakes Utility, LLC
2348 Raden Drive
Land O' Lakes, FL 34639-5136

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Tallahassee, FL 32301

DL for

Dulaney L. O'Roark III
Dulaney L. O'Roark III

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Mad Hatter Utility, Inc. and) Docket No. 090313-PU
Paradise Lakes Utility, LLC Against)
Verizon Florida LLC) Filed: January 8, 2010
_____)

VERIZON FLORIDA LLC'S PREHEARING STATEMENT

In accordance with Order No. PSC-09-0631-PCO-PU, Verizon Florida LLC ("Verizon") hereby files this prehearing statement.

1. Witnesses

Verizon has prefiled the following testimony:

Direct and Rebuttal Testimony of Deborah B. Kampert (addressing Issues 1, 2, 3A, 3B and 4)

Rebuttal Testimony of Donald W. Cowart (addressing Issue 3B)

2. Exhibits

To date, Verizon has not identified any exhibits to be introduced at the hearing. Verizon reserves the right to introduce exhibits at the hearing or other appropriate points.

3. Verizon's Basic Position

The complaint filed by Mad Hatter Utility, Inc. ("Mad Hatter") and Paradise Lakes Utility, LLC (collectively, "Claimants") raised three sets of issues. First, Claimants asserted that their service was not working on four B1 lines serving their water treatment facilities. Second, they requested a refund for the period those B1 lines were not in service. Third, they claimed they did not receive service for a number of years

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over four lines to their lift stations and requested a refund for those services. From the outset, Verizon has sought to address the customers' service issues, investigate their claims and provide an appropriate refund. Verizon will continue to seek to resolve the outstanding issues before the hearing in this case.

With respect to the B1 service issue, Verizon worked with Claimants to identify the problems and fix each of them. Verizon determined that two of the lines had defective copper pairs and two of the lines had been cut. Service over all four lines has been restored, so this issue has been resolved.

The complaint states that Complainants discovered that the B1 lines were out of service in the summer of 2008. Verizon does not have records reflecting that Complainants ever called Verizon's repair service number and reported a trouble. Instead, counsel for Complainants sent a letter to a Verizon engineer dated August 7, 2008 concerning the alleged outages. A Verizon representative called the lines in question and they appeared to be working. Verizon does not have records reflecting further activity (either by Complainants or Verizon) concerning these lines before the complaint was filed. Verizon is willing to provide a refund of \$2457 that would cover the period from when Verizon was notified of a service problem on the lines (August 7, 2008) until service was restored.

With respect to the lift station lines, based on Verizon's investigation it appears that GTE (Verizon's predecessor) installed the four lines in question in 1995 and used them to provide alarm monitoring service until at least 1999. It appears that Mad Hatter was billed for those services during that time and that Mad Hatter paid for those services. In 1999, Mr. Cowart (then with GTE) met with Mr. DeLucenay (with Mad

Hatter) about these services and subsequently informed him that Verizon intended to discontinue the services. Mr. DeLucenay told Mr. Cowart that Mad Hatter wished to continue receiving the services and Mr. Cowart understood that Mr. DeLucenay would be calling Verizon's business office to discuss the matter. Verizon's records do not reflect what arrangements Mad Hatter may have discussed or agreed to with GTE's business office in 1999. GTE (and later Verizon) subsequently sent bills for services provided over these lines to Mad Hatter and Mad Hatter paid them. To Verizon's knowledge, the first time Mad Hatter raised a dispute about these bills was when it filed its complaint in this case in 2009. Verizon has confirmed that as of the time the complaint was filed, it was not providing service over the four lines in question, but its records do not reflect when service was discontinued. Verizon is willing to resolve this dispute by providing a credit of \$6553 for the period covered by the four-year statute of limitations.

4. Verizon's Positions on Specific Questions of Fact, Law and Policy

Issue 1 presents an issue of law, while Issues 2-4 present mixed questions of fact, law, and policy.

ISSUE 1: CAN THE FLORIDA PUBLIC SERVICE COMMISSION GRANT THE RELIEF SOUGHT BY MAD HATTER AND/OR PARADISE LAKES AGAINST VERIZON?

VERIZON'S POSITION: Verizon does not dispute the Commission's authority to address the refund issues in this case. The Commission does not, however, have the authority to award attorneys' fees.

ISSUE 2: ARE THE CLAIMS BY MAD HATTER AND/OR PARADISE LAKES AGAINST VERIZON BARRED BY ANY LEGAL DOCTRINES?

VERIZON'S POSITION: Yes. Claimants' claims concerning the lift station lines are barred to the extent they seek recovery beyond the four-year statute of limitations. Moreover, their claims are further limited by the doctrines of laches and unclean hands, by estoppel, and by their failure to mitigate.

ISSUE 3A: SINCE JANUARY 1, 1994, WHAT PRODUCTS OR SERVICES THAT WERE BILLED BY VERIZON TO MAD HATTER AND/OR PARADISE LAKES WATER TREATMENT PLANTS REMAIN IN DISPUTE?

VERIZON'S POSITION: Charges for services provided over the four B1 lines to Claimants' water treatment plants remain in dispute. Two of these lines were installed in 2006 and two were installed in 2007. After the complaint was filed in this case, Verizon repaired these lines and they remain in service.

ISSUE 3B: SINCE JANUARY 1, 1994, WHAT PRODUCTS OR SERVICES THAT WERE BILLED BY VERIZON TO MAD HATTER AND/OR PARADISE LAKES LIFT STATION LOCATIONS REMAIN IN DISPUTE?

VERIZON'S POSITION: Charges for services provided over the four lines to Claimants' lift stations remain in dispute. These lines were installed in 1995 and were used to provide alarm monitoring services through at least some point in 1999. Verizon's records do not reflect what arrangements the parties may have discussed or agreed to in 1999. GTE (and later Verizon) subsequently sent bills for services provided over these lines to Mad Hatter and Mad Hatter paid them.

ISSUE 4: WHAT RELIEF, IF ANY, IS APPROPRIATE TO ADDRESS THE ABOVE-REFERENCED DISPUTE BETWEEN VERIZON AND MAD HATTER/PARADISE LAKES?

VERIZON'S POSITION: Verizon proposes to provide a refund of \$2457 regarding the four water treatment plant lines and \$6553 regarding the four lift station lines.

5. Stipulated Issues

There are no stipulated issues.

6. Pending Motions and Other Matters

Verizon intends to file three motions before the prehearing conference. First, it will file a motion requesting to strike portions of Mr. DeLucenay's direct and rebuttal testimony concerning an unrelated sewer damage issue. Second, Verizon will file a motion for a partial summary order requesting the Commission to rule that Claimants may not recover attorneys' fees in this case and that their refund claims are subject to the four-year statute of limitations. Third, because resolution of these matters should promote settlement of the outstanding issues in this case, Verizon will file a motion for a continuance of the hearing scheduled for February 3, 2010.

7. Pending Requests for Confidentiality

Verizon has no outstanding requests for confidential classification.

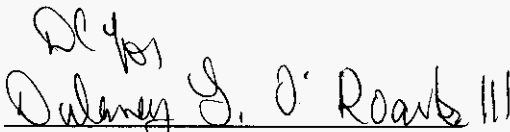
8. Objections to a Witness's Qualifications as an Expert

Verizon has no objections to a witness's expert qualifications at this time.

9. Procedural Requirements

As noted in Section 6, Verizon intends to file a motion for continuance so that the Commission can address a motion for partial summary order that Verizon will file concerning the attorneys' fees and statute-of-limitations issues. Resolution of those matters should promote settlement of the outstanding issues in this case.

Respectfully submitted on January 8, 2010.

By: 
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