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COMMISSION
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-M-E-M-O-R-A-N-D-U-M-

DATE: September 1, 2010

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Analysis (Trueblood) *PT*
Office of the General Counsel (Teitzman) *AT*
Office of Public Information (Muir, DeMello) *cm* *ED* *WJZ*

RE: Docket No. 100327-TL – Petition by Verizon Florida LLC for waiver of Rule 25-4.040(2), F.A.C.

AGENDA: 9/14/10 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: Statutory Deadline 10/13/10

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\RAD\WP\100327.RCM.DOC

Case Background

On June 14, 2010, Verizon Florida LLC (Verizon), an incumbent local exchange telecommunications company (ILEC), filed a petition for a permanent rule waiver pursuant to Section 120.542, Florida Statutes (F.S.), and Rule 28-104.002, Florida Administrative Code (F.A.C.). Verizon seeks relief from Rule 25-4.040(2), F.A.C., which requires Verizon to furnish a copy of a telephone directory that lists local residential and business telephone numbers to each of its subscribers.

If approved, the waiver relieves Verizon of the requirement to provide up-front a printed copy of the residential white pages directory. The residential white pages directory would be

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available via the Internet, or a subscriber could request a printed copy or a CD-ROM version, free of charge, by calling a toll-free telephone number. Subscribers would continue to receive an up-front printed copy of directories that include the business and government white pages, the consumer guides, and business yellow pages.

On June 30, 2010, staff requested additional information from Verizon regarding several aspects of the waiver request. On July 15, 2010, staff received responses to its inquiry from Verizon. Notice of Verizon's permanent waiver request was published in the Florida Administrative Weekly on July 2, 2010, and no written comments were received during the 14-day comment period. The Commission has jurisdiction in this matter pursuant to Sections 120.542, 350.127 and 364.02(1), F.S.

Discussion of Issues

Issue 1: Should the Commission approve Verizon's request for a permanent waiver of the residential directory requirement of Rule 25-4.040(2) F.A.C.?

Recommendation: No. The Commission should deny Verizon's request for a permanent waiver of the residential directory requirement of Rule 25-4.040(2), F.A.C., and instead grant a temporary waiver for two years. During the two years while the waiver is in effect, the Commission should require Verizon and staff to solicit feedback from Florida consumers to determine how they feel about the discontinuance of an up-front copy of the residential white pages directory. (Trueblood)

Staff Analysis: A person affected by a Commission rule may petition the Commission for a waiver of that rule pursuant to Section 120.542, F.S., and Rule 28-104.002, F.A.C. The Commission has statutory authority to grant this waiver under Section 120.542(2), F.S., which states in part:

Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute¹ will be or has been achieved by other means by the person and when the application of a rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver.

Rule 28-104.002, F.A.C., states in part:

(2) The petition must include the following information:

(g) The specific facts that demonstrate a substantial hardship or a violation of principles of fairness that would justify a waiver or variance for the petitioner;

(h) The reason why the variance or the waiver requested would serve the purposes of the underlying statute;

Rule 25-4.040(2), F.A.C., states in part:

Each subscriber served by a directory shall be furnished one copy of that directory for each access line. Subject to availability, additional directories shall be

¹ Section 364.02(1), F.S., defines basic local telecommunications service to include an alphabetical directory listing.

provided by the local exchange telecommunications company, which may charge a reasonable fee therefor.

Pursuant to Rule 25-4.040, F.A.C., certain information must be included in the directory such as an alphabetical listing of all local subscribers except those subscribers with unlisted or unpublished telephone numbers; an alphabetical listing designated as "Poison Information Center" and a local telephone number where the exchange served has local calling to a Poison Information Center; a description of the local calling scope; name of individual exchanges included and directory publication date; 911 instructions; information regarding repair service, directory assistance, service disconnection procedures, and emergency interrupt; business and payment offices; No Sales Solicitation; and inside wiring policy.

Conditions for Granting A Waiver of Rule

When considering a waiver of a rule, two conditions must be met in order for the waiver to be granted. Specifically, the petitioner must demonstrate how the purpose of the underlying statute would be achieved through other means and how the petitioner would suffer a substantial hardship if the waiver is not granted. To achieve the purpose² of the underlying statute, Verizon asserts that a printed copy or a CD-ROM version of the residential white pages directory would be provided to subscribers free of charge, upon request, and subscribers would also be able to access the directory information through Internet websites.

Verizon asserts that in recent years subscribers have used the printed directories less and instead uses alternate methods such as Internet directories, directories in wireless and wireline devices, and specialized directories provided by organizations. The Gallup Organization through a contractual arrangement with Verizon conducted a study that shows that the percentage of households using stand-alone residential white pages has dropped from 28 percent in 2005 to 11 percent in 2008.³ Supplemental information from the study that relates to the above percentages was provided under confidential cover to the Commission by Verizon, and reviewed by staff.

Verizon also asserts that the requirements of Rule 25-4.040(2), F.A.C., imposes a substantial hardship in economical and environmental terms because subscribers using the residential white pages listing have greatly declined and the cost incurred to publish and distribute them can no longer be justified. Verizon estimates that each year numerous directories are produced and distributed that are not used by many subscribers and asserts that more than a 1000 tons of paper and the energy costs associated with printing, binding, and distributing these directories could be saved if the waiver is granted. Verizon stated that under the current arrangement it would not realize any immediate savings because the cost to publish and deliver the directories is borne by the publisher, SuperMedia LLC. (SuperMedia). However, Verizon maintains that the waiver would enable SuperMedia to operate more efficiently and reduce the possibility of Verizon having to absorb the costs of publishing and distributing the directories if SuperMedia is not successful.

² Rule 25-4.040, F.A.C., requires that subscribers shall be provided a copy of the directory and that certain information must be included in the directory.

³ Verizon considers certain back up information that was provided staff from the Gallup Organization 2005 and 2008 study to be proprietary based upon a contractual agreement.

Staff notes that Verizon's waiver request is similar to AT&T Florida's waiver request that was addressed by the Commission in 2009 regarding the discontinuance of up-front distribution of residential white pages listing to each of its subscribers. In the AT&T Florida case, the Commission determined that the purpose of the underlying statute would be met through alternate means. It also was discussed during the Agenda Conference that the Commission has various options to consider when determining if the petitioner would suffer a hardship if the waiver was not granted. AT&T Florida explained that the hardship is an environmental hardship because AT&T Florida is required to provide printed copies of the white pages directories and 2.5 million CD-ROMs, even though the number of subscribers using them continues to decline. The Commission denied AT&T Florida's permanent rule waiver and instead granted a two-year temporary waiver⁴ of Rule 24-4.040(2), F.A.C., and instructed AT&T Florida and the Commission staff to solicit feedback from Florida consumers regarding the change. Verizon points out that the two-year temporary waiver granted to AT&T Florida has been in effect since July 2009 and allowed the Commission opportunity to evaluate how it impacts Florida consumers over an extended period of time. Accordingly, Verizon asks that the Commission grant similar relief on a permanent basis.

Notification of Changes to the Automation Delivery of Directories

Staff believes proper and timely notification to subscribers regarding the discontinuance of up-front delivery of the printed residential white pages directory and how they can, upon request, receive a free copy of the residential white pages is crucial. Verizon attached the following examples to its petition and submits that subscribers throughout its Florida service territory would be notified of the changes regarding the delivery of the residential directory and the options available to them through these communications:

- a Verizon press release that would be sent to various newspapers, radio stations, television stations and also available through online sources. (Attachment A)
- a quarterly Verizon bill message that would first appear on Florida subscribers' bills the month the directory is scheduled to be delivered. (Attachment B)
- a notice in 14-point type on Verizon's Superyellowpages page cover and the 911 page of the directory. (Attachment C)
- a SuperMedia⁵ notice and explanation that would be placed in the front pages of the superyellowpages directory in the consumer guide section that would provide a toll-free telephone number for ordering a free printed residential directory or a CD-ROM version. In the Guide subscribers also would be provided the following website for accessing residential telephone numbers: www.verizon.com/whitepages. (Attachment D)

⁴See Order No. PSC-09-0492-PAA-TL, issued July 8, 2009, in Docket No. 090082-TL, In re: Petition by BellSouth Telecommunication, Inc., for Waiver of Rule 25-4.04(2), Florida Administrative Code.

⁵ SuperMedia LLC (formerly Idearc Media LLC) is Verizon's directory publisher and distributor of the directories.

- a notice on SuperMedia's webpage, and on Verizon's webpage.

Verizon asserts that its yellow pages directories would have a blow-in⁶ hard card insert that includes a notice regarding the change to the residential white pages directory. In response to staff's inquiry, Verizon provided supplemental information on July 15, 2010, to clarify several aspects of the petition and also attached colored copies of SuperMedia's Superyellowpages cover and the 911 page. Further, Verizon states that the online White Pages would be available to customers by the delivery start date and that the directory it provides to its residential customers free of charge would also be provided to CLEC customers free of charge.

Verizon points out that in the message that would appear in its subscribers bills that directories delivered in Florida would not include a residential white pages listing. Verizon also asserts that except for Tampa, St. Petersburg, Clearwater, Zephyrhills, Palmetto, and Bradenton, all of its directories currently include business and residential white pages plus the yellow pages in the same directory. Verizon states that the waiver would allow Verizon to eliminate up-front delivery of residential white pages for most cities in its Florida territory, but in some markets it might not be cost-effective to do so. Accordingly, Verizon states that the residential white pages directory might not be eliminated in some markets with a small residential white page listing.

Conclusion

The permanent waiver request recognizes advances in technology while protecting the interests of subscribers who want to continue to receive a free printed residential white pages directory. It also provides an alternate directory plan that would allow the residential white pages directory to be made available to Florida consumers.

Staff believes the purpose of Rule 25-4.040(2), F.A.C. and its underlying statute, Section 364.02(1), F.S., would be achieved through the alternate directory plan offered by Verizon, which includes printed listings or CD-ROMs available upon request at no charge and online Internet access via Verizon's and SuperMedia's websites. Staff notes that at the July 2009 Agenda Conference, when deliberating AT&T Florida's request for waiver, the Commission considered several types of hardships that would satisfy Section 120.542(2) F.S. Staff notes that Verizon's waiver request is similar to the AT&T Florida request.

Based upon the information submitted for Verizon's waiver request, and consistent with past Commission decisions, staff recommends that the Commission deny Verizon's request for a permanent waiver of the residential directory requirement of Rule 25-4.040(2), F.A.C., and instead grant a temporary waiver for two years. During the two years while the waiver is in effect, the Commission should require Verizon and staff to solicit feedback from Florida consumers to determine how they feel about the discontinuance of an up-front copy of the residential white pages directory.

⁶ According to Verizon's staff, a blow-in hard card is a large removable card that is inserted or blown in the directory that is printed on two sides on 8 ½ by 5 ½ semi-gloss card stock.

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Issue 2: Should this docket be closed?

Recommendation: No. If the Commission approves staff's recommendation, the resulting Order will be issued as a Proposed Agency Action. The Order will become final upon issuance of a Consummating Order, if no person whose substantial interests are affected timely files a protest within 21 days of the issuance of the Order. This docket should remain open pending the implementation of the Commission's decision and for purposes of soliciting and reviewing consumer feedback. (Teitzman)

Staff Analysis: If no protest is filed during the protest period the resulting Order will become final. However, the docket should remain open for the purpose of soliciting and reviewing consumer feedback.

ATTACHMENT A

DRAFT

Florida OKs Verizon's request to stop automatic delivery of printed white pages

Tallahassee, Florida (August 5) – The Florida Board of Public Utilities today granted Verizon Florida's request to provide customers with an online, electronic version of the white pages as the primary means to access residential telephone directory information. Customers may request that a free printed or CD ROM directory be sent to them by mail.

Beginning in December 2010, Verizon directories delivered in Florida will not include residential White Pages listings. Print directories will continue to be delivered, containing business and government White Pages, information pages and the Yellow Pages. All White Pages listings will be accessible at www.verizon.com/whitepages, and the residential print and CD ROM versions will be available free, on request.

In July, Verizon requested a waiver of the existing requirement to deliver residential White Pages to improve efficiency and reduce the environmental impacts associated with printed directories. The company noted that significant resources are expended annually to print and automatically distribute directories to customers who may not want or use them.

White Pages usage has decreased considerably due to the internet and mobile search. Gallop estimates the usage for residential white page directories had dropped to about 11% in 2008. In addition, White Pages print directories are a stress on recycling efforts and often end up taking valuable landfill space. This effort is expected to keep approximately 1,134 tons of paper out of the Florida waste stream.

SuperMedia LLC is the official publisher of the Verizon directories.

ATTACHMENT B

Consumer Choice: White Pages Proposal
Draft Verizon Bill Message for Florida:

Florida White Pages Change

Beginning in December 2010, most directories delivered in Florida will not include residence White Pages listings. All White Pages listings can be accessed at www.verizon.com/whitepages . To order a free print or CD ROM copy of your local residential White Pages, please call 1-800-888-8448.

ATTACHMENT C



**GET THE JOB DONE
RIGHT, OR WE'LL
STEP IN AND MAKE
IT RIGHT:**

Look inside for businesses
backed by the SuperGuarantee.SM
Brought to you by SuperMedia.

Sign up and get details on
superguarantee.com

WE MAKE IT EASY TO SPOT THE GOOD GUYS.

superyellowpages

superpages.comSM

supermedia The Official Publisher
of Yellow Pages Directories

ANYTOWN

MONTH 2010-2011 AREA CODES 123, 455, 769

Includes listings for: Anytown Anytown Anytown Anytown Anytown Anytown Anytown Anytown
Anytown Anytown Anytown Anytown Anytown Anytown Anytown Anytown
Includes Listings of All Local Exchange Telephone Companies / ©2010 SuperMedia LLC. All Rights Reserved.

*Complete details of participation in the guarantee program can be found online at www.superguarantee.com



Order directories, stop delivery of this directory, or obtain a free copy of the residential white pages call 1-800-888-8448

ATTACHMENT C

EMERGENCY CALLS ONLY

911



Emergency for Text Telephone (TTY) Users

Fire Police Sheriff Ambulance

For Nonemergency Calls Consult the Government Listings



**Poison Control Center
(Voice/TTY) 1-800-222-1222**

SELECTIVE BLOCKING

Prevents your name and telephone number from being displayed on Caller ID devices, one call at a time. However, this will NOT prevent your telephone number from displaying on calls placed to toll-free and cost-per-call numbers (see page 10, Area Code listings under WATS and CPC numbers), or on calls placed to 911 emergency services.
Press * 6 7. Listen for the one confirmation tone, then place your call. This service works on an individual call basis. Once you hang up, the blocking is no longer in effect. Order # 25029

VERIZON COMPLAINT RESOLUTIONS

Verizon wants to provide excellent service. If your problem has not been resolved, after contacting an employee or supervisor, please call your Verizon Complaint Resolutions Department.

All Calling Areas **1-800-483-7988**

FLORIDA PUBLIC SERVICE COMMISSION INQUIRIES
CUSTOMERS OF UTILITIES AND COMPANIES REGULATED BY THE COMMISSION WHO HAVE FIRST CONTACTED SUCH A FIRM CONCERNING A PROBLEM, AND ARE NOT SATISFIED BY THE CORRECTIVE ACTION TAKEN MAY CONTACT:
COMISION DE SERVICIO PÚBLICO DEL ESTADO DE LA FLORIDA
TODOS LOS CLIENTES DE UTILIDADES Y EMPRESAS REGULADAS EN LA FLORIDA QUE HAYAN INICIADO CONTACTO CON DICHA ENTIDAD Y NO ESTÉN SATISFECHOS CON LA RESOLUCIÓN DE SU QUEJIA Y/O INVESTIGACIÓN PUEDEN DIRIGIRSE A:

THE FLORIDA PUBLIC SERVICE COMMISSION
DIVISION OF SERVICE, SAFETY AND CONSUMER ASSISTANCE
2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-8153
PHONE TOLL-FREE (TDD & VOICE) 1-800-342-3552
FACSIMILE TOLL-FREE 1-800-511-0809

INTERNET E-MAIL ADDRESS FOR FILING COMPLAINTS:
CONTACT@PSC.STATE.FL.US
INTERNET ADDRESS FOR RETRIEVING INFORMATION:
<http://www.psc.state.fl.us/>

For your convenience, please find the White Pages for this directory online at www.Verizon.com/whitepages. To order directories, stop delivery of this directory, or obtain a free copy for the residential white pages call 1-800-888-8448.

OTHER IMPORTANT NUMBERS

24-Hour Community Information, Referral Services, & Crisis Intervention Helpline (where available)	211	Insurance Consumer Helpline	1-877-693-5236
Abuse Hotline—Children, Disabled, or Elderly Persons Text Telephone (TTY) Customers	1-800-982-2873 1-800-453-5145	Missing Endangered Persons Information Clearinghouse	1-888-FLMISSING (1-888-356-4774)
AIDS Hotline English Counselors Consejeros Que Hablan Español Creole Text Telephone (TTY) Customers	1-800-352-2437 1-800-545-7432 1-800-243-7101 1-888-503-7118	National Center for Missing and Exploited Children Text Telephone (TTY) Customers	1-800-843-5678 1-800-826-7653
American Bio Recovery Association Trauma and Crime Scene Clean-Up Assistance	1-888-979-ABRA (2272)	National Hopeline Network—Suicide Prevention Hotline	1-800-SUICIDE (1-800-784-2433)
Bureau of Alcohol, Tobacco, and Firearms	Tampa 813-228-2184	National Response Center—Report Chemical/Oil Spills and Chemical/Biological Terrorism (Voice/TTY)	1-800-424-8802
Case Domestic Violence Center—Crisis Line Administration	727-898-3671 727-895-4912	National Suicide Prevention Lifeline	1-800-273-TALK (1-800-273-8255)
Coast Guard—Marine and Air Emergencies Only	St. Pete 727-896-6137	Poison Control Center (Voice/TTY)	1-800-222-1222
Consumer Services	1-800-435-7352	Police Department Communications for Nonemergencies	727-893-7780
County Disaster Planning and Assistance	727-464-3900	Rape Crisis	727-530-7233
Crisis Intervention and Suicide Prevention Emergency Mental Health	727-791-3131	Recovery, Inc. Self Help Mental Health	727-525-1749
Deaf and Hard of Hearing Services of Florida, Inc. TTY Customers	727-816-1314 727-816-1868	Runway Services	727-384-TEEN (8336) Or 1-800-RUNWAY (786-2929)
Deaf & Hearing Connection for Tampa	1-888-832-4314	The Haven of RCS Domestic Violence Center	727-442-4128
Drug Enforcement Administration	813-287-5160	Traveler Information Service	511
Federal Bureau of Investigation (FBI)	813-273-4566	U.S. Customs Service, Office of Investigation	813-348-1881
Florida Council on Compulsive Gambling, Inc.	1-888-236-4848	U.S. Marshal	813-274-6401
Florida Fish and Wildlife Conservation Commission Alligator Removal/Nuisance Emergencies & Violations	1-866-392-4286 1-888-404-3922	U.S. Secret Service	813-228-2636
Helpline—Crisis Counseling Information and Referral	211 or 727-562-1542	Vanished Children's Alliance 24-Hour Sighting Hotline	1-800-VANISHED (1-800-826-4743)
		Wildlife Rescue and Rehabilitation, Inc.	727-399-1525

To order directories or to stop delivery of this directory, call 1-800-888-8448.

ATTACHMENT D

Customer Info Guide



superGuarantee

Friend:

My name is Scott Klein, CEO of SuperMedia. We are the official publisher of the Verizon Print Directories, including this SuperYellowPages. I wanted to share with you some positive changes you will see in your SuperYellowPages. These enhancements are based on consumer feedback and research.

First and foremost, we've made it easier to spot the good guys. You know - contractors, painters, auto mechanics and other businesses you rely on to get the job done right. Our good guys are part of a super program designed to save you time and ease your mind. It is what we call the SuperGuarantee.

Just look for businesses backed by the SuperGuarantee shield in this SuperYellowPages and you can count on them to do the job right, or we will step in and make it right. Best part is the SuperGuarantee is absolutely free. Complete details can be found at the beginning of our yellow pages section containing our eligible businesses.

Going through the SuperYellowPages you will see white pages business listings, local emergency numbers, local government pages, special sections like Dining Your Way and money-saving coupons.

Based on our research and feedback, we've taken out the residential white pages. To receive a free copy of the complete residential white pages - in CD-ROM or printed versions - call 1-800-888-8448. An electronic version is available for free at www.verizon.com/whitepages.

If you want to adjust the number of directories you receive or remove yourself from directory distribution, call 1-800-888-8448 and select option two or go to <http://my.supermedia.com/directoryoptout/>. For a complete list of phone numbers of the directory publishers in your area, visit www.yellowpagesoptout.com.

Sincerely,

Scott W. Klein