

**DISCLAIMER**

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**IN THE MATTER OF**

**VERIZON VIRGINIA, INC.**

**CASE NO. PUC-2002-00046**

**To verify compliance with the  
conditions set forth in 47 U.S.C. § 271(c)**

**HEARING EXAMINER'S RULING**

**May 2, 2002**

On May 1, 2002, Cox Virginia Telcom, Inc. ("Cox") filed a Motion to Compel ("Motion") responses by Verizon Virginia, Inc. ("Verizon") to data requests Cox propounded on April 24 and 25, 2002. Verizon filed its objections to Cox's data requests on April 29, 2002

Verizon objected to several of the requests made by Cox on the grounds that the requests called for Verizon to undertake special studies. Included within these requests were Cox Set II, Requests 9, 12-15, 22-23 and 46, and Cox Set III, Requests 6 and 7. For four other requests, Verizon agreed to provide the information as requested by Cox, but for a truncated period of time. For example, Verizon shortened the period covered by Cox Set II, Requests 40 and 42 from three years to one year. For Cox Set II, Requests 41 and 43, Verizon reduced the requested period from three years to two months.

In its Motion, Cox argued that Verizon should be compelled to provide answers to Cox's requests to the extent Verizon possesses information on the topics requested. As to the shortened time periods, Cox maintained that it needed the requested three years of data to show the erratic nature of these issues.

On May 2, 2002, Verizon filed a response to Cox's Motion. In its response, Verizon agreed to respond to all of Cox's requests except for Cox Set II, Requests 9 and 23, and subparts of Cox Set II, Requests 12 and 46, and Cox Set III, Request 7. For these requests, Verizon argued that the required special study would be exceedingly burdensome and time consuming and that such effort, if made, would yield information with little or no probative value.

The Commission's Rules of Practice and Procedure establish an extremely broad standard for discovery.

Interrogatories or requests for production of documents may relate to any matter not privileged, which is relevant to the subject matter involved. . . . It is not grounds for objection that the information sought will be inadmissible at the hearing if the information appears reasonably calculated to lead to the discovery of admissible evidence.<sup>1</sup>

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<sup>1</sup> 5 VAC 5-20-260.

Specifically, Cox's Motion to Compel is granted as to information that is retrievable from its system. However, Verizon is not obligated to manually review and analyze the requested information. Instead, Verizon may make the requested information available for review by Cox. In the example provided by Verizon, it indicated that the information may be archived:

and to recover this data in a form that allows it to be analyzed would alone take weeks. Even once the data has been retrieved, it is not in a form that would allow for a general electronic review, which means that for at least some of the analysis, Verizon VA would be obligated to undertake a manual review of this very large amount of data.<sup>2</sup>

Verizon would be required to inform Cox of the fact that the requested information is archived and provide Cox with the date the requested information could be made available. Verizon may, but would not be required to undertake a manual review of the requested data.

Moreover, it is difficult to tell from Verizon's response whether it continues to limit the time periods for any of Cox's requests. To the extent time periods are at issue, I find that information may be requested for multiple periods and that trends of problems or performance may be relevant. I note that the OSS test, which Verizon relies upon in its application, began in February 2000. Thus, some of the test occurred well outside of the narrow period Verizon suggests is relevant.

**Accordingly**, Verizon is directed to provide responses as indicated above in a timely manner. Responses to the original requests were due within seven calendar days. For purposes of calculating the due date for the responses directed by this Ruling, Verizon may subtract the days beginning with the filing of its objection and ending with the filing of this Ruling.

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Alexander F. Skirpan, Jr.

Hearing Examiner

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<sup>2</sup> Verizon's response at 4.