

DISCLAIMER

This electronic version of an SCC order is for informational purposes only and is not an official document of the Commission. An official copy may be obtained from the [Clerk of the Commission, Document Control Center](#).

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

June 10, 2002

On May 31, 2002, Cavalier Telephone, L.L.C. ("Cavalier") filed three sets of data requests, totaling 116 requests on Verizon Virginia, Inc. ("Verizon"). According to Verizon, Cavalier's second set of data requests was not served in any manner on Verizon until June 3, 2002. On June 4, 2002, Verizon filed objections to the first and third set of data requests. On that day, Verizon also filed a Motion for a Protective Order from Cavalier Telephone, LLC's First, Second, and Third Sets of Data Requests ("Protective Motion"). On June 6, 2002, Cavalier filed its Motion to Compel Discovery Responses by Verizon to First and Third Sets of Data Requests Propounded by Cavalier Telephone, LLC and Response to Verizon's Motion for Protective Order ("Motion to Compel"). On June 6, 2002, Verizon filed objections to Cavalier's second set of data requests.

In its Protective Motion, Verizon contended that most of Cavalier's data requests are copies of questions propounded in three separate Commission proceedings, Case No. PUC-2002-00002, Case No. PUC-1999-00101, and Case No. PUC-2001-00213.¹ Furthermore, Verizon argued that Cavalier's data requests "are abusive and intended to harass in violation of the Commission's Rules of Practice and Procedure, and they are also beyond the scope of discovery in this case."²

In its Motion to Compel, Cavalier pointed to portions of its own testimony to demonstrate the relevance of its interrogatories. Moreover, Cavalier's counsel "reconfirm[ed] that Cavalier's requests were not served as any form of 'retaliation,' or for any other improper purpose."³ Further, Cavalier contended that since the discovery period was still open, "Verizon cannot seek to impute bad faith or improper motives to Cavalier."⁴

On March 15, 2002, Verizon began this proceeding with the filing of its 271 application. The Commission's *Preliminary Order*⁵ established a procedural schedule, which, among other

¹ Protective Motion at 1.

² *Id.* at 2.

³ Cavalier Motion to Compel at 17.

⁴ *Id.*

⁵ *In the Matter of Verizon Virginia Inc.'s Compliance with the conditions set forth in 47 U.S.C. § 271(c)*, Case No. PUC-2002-00046, Preliminary Order on Verizon Virginia Inc.'s Compliance With the Conditions Set Forth in 47 U.S.C. § 271(c) (March 20, 2002) ("*Preliminary Order*").

things, designated May 3, 2002, as the date for filing prepared direct testimony and exhibits by interested participants, such as Cavalier; set May 31, 2002, as the date for Verizon to file its rebuttal testimony; and fixed June 17, 2002, as the date for the beginning of the hearing.

It is unusual for the Commission to specify a close to the discovery period. Generally, this is not a problem as most discovery is served in time for the serving party to receive responses in time to prepare their testimony or rebuttal testimony. Discovery after the filing of testimony, but before the hearing, tends to be specific to another party's prefiled testimony. Such discovery usually is rather limited as its practical use is for cross-examination, clarification of positions, or to further settlement negotiations. The volume and nature of Cavalier's data requests go well beyond the level of discovery contemplated for this late a date during the procedural schedule for this matter. Therefore, regardless of the source of Cavalier's questions, or Cavalier's intended purpose, I find that Cavalier's three sets of data requests, at this point in the proceeding, are overly burdensome. Accordingly,

IT IS DIRECTED that Verizon's Protective Motion is hereby granted and Cavalier's Motion to Compel is hereby denied.

Alexander F. Skirpan, Jr.
Hearing Examiner