

August 27, 2007

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PUCO

Ms. Renee J. Jenkins  
Director of Administration  
Secretary of the Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio 43215

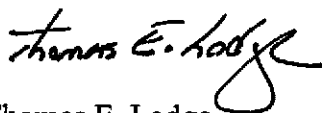
RE: William Mitchell v. Verizon Wireless, PUCO Case No. 07-897-TP-CSS

Dear Ms. Jenkins:

Enclosed is an original and ten (10) copies of the Answer and Motion to Dismiss of Verizon Wireless, to be filed in connection with the above-referenced matter.

Thank you for your assistance. If you have any question, please feel free to call.

Respectfully yours,



Thomas E. Lodge

cc: Jay Agranoff, Attorney Examiner  
William Mitchell  
Jason Holldorff, Esq.

Enclosures

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Technician ADW Date Processed 8/27/07

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

William Mitchell,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 07 – 897 – TP – CSS
	)	
Verizon Wireless,	)	
	)	
Respondent.	)	

**ANSWER AND MOTION TO DISMISS OF VERIZON WIRELESS**

NEW PAR, d/b/a Verizon Wireless (“Verizon Wireless”), in accordance with Ohio Admin. Code §4901-9-01, hereby submits its Answer and Motion to Dismiss the Complaint in this matter.

**Answer**

1. For its Answer to the Complaint herein, Verizon Wireless denies the salient allegations of the Complaint for want of information.
2. Answering further, Verizon Wireless states that the Commission lacks subject-matter jurisdiction over the Complaint.

**Motion to Dismiss**

Verizon Wireless moves the Commission to dismiss the Complaint in that the Complaint addresses retail operations of Verizon Wireless, over which the Commission lacks subject-matter jurisdiction. A Memorandum in Support of this Motion is set forth below.

**Memorandum in Support of Motion to Dismiss**

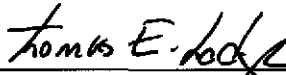
The Complaint alleges that the Complainant, Mr. Mitchell, is a Verizon Wireless customer for retail services. The Complaint further alleges a dispute between Mr. Mitchell and Verizon Wireless relating to his wireless service plan and the charges associated with it.

Without addressing the merits of Mr. Mitchell's allegations, Verizon Wireless submits that this Commission cannot lawfully hear the Complaint. The Commission's jurisdiction to address consumer complaints has been the subject of several proceedings since the development of Commercial Mobile Radio Service ("CMRS," or wireless service), but the most succinct statement of the matter was published in December, 1999: "[T]he Commission finds that, as stated above, the Commission's jurisdiction extends only to the provision of wholesale CMRS service."<sup>1</sup>

The Complaint alleges that Mr. Mitchell is a retail customer for wireless service, not a reseller. As a result, and again without comment on the merits of the Complaint, Verizon Wireless submits that the Commission lacks subject-matter jurisdiction over its allegations and should dismiss this proceeding.

Respectfully submitted,

NEW PAR, d/b/a Verizon Wireless

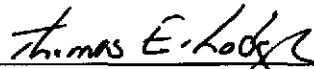
  
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Thomas E. Lodge (0015741)  
Carolyn S. Flahive (0072404)  
THOMPSON HINE LLP  
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Its Attorneys

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<sup>1</sup> *In the Matter of the Commission Investigation Into the Alternative Regulatory Treatment of Commercial Mobile Radio Service Providers*, Case No. 97-1700-TP-COI, Finding and Order (December 16, 1999) at 19. See also *In the Matter of the Review of the Commission's Minimum Telephone Service Standards Found in Chapter 4901:1-5 of the Ohio Administrative Code*, Case No. 05-1102-TP-ORD, Entry on Rehearing (July 11, 2007), Appendix at Rule 4901:1-5-01(II)(excluding wireless service from newly-adopted minimum telephone service standards).

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served by first-class United States mail, postage prepaid, and electronic delivery, to the persons listed below, on this 27<sup>th</sup> day of August 2007.

  
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Thomas E. Lodge

William Mitchell  
2289 Oxford Road  
Upper Arlington, OH 43221

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