

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Verizon North, Inc. for Approval of an	)	
Alternative Form of Regulation of Basic	)	Case No. 08-989-TP-BLS
Local Exchange Service and Other Tier 1	)	
Services Pursuant to Chapter 4901:1-4,	)	
Ohio Administrative Code.	)	

---

**MOTION FOR EXTENSION OF TIME TO FILE A REPLY  
TO VERIZON’S MEMORANDUM IN RESPONSE  
AND  
REQUEST FOR AN EXPEDITED RULING  
BY  
THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

---

The Office of the Ohio Consumers’ Counsel (“OCC”) moves the Public Utilities Commission of Ohio (“PUCO” or “Commission”) for a five-day extension of the time to file a reply memorandum in this proceeding that involves potential rate increases for Ohio consumers.<sup>1</sup> Such an extension may be granted for “good cause.”<sup>2</sup> Also, OCC requests an expedited ruling pursuant to Ohio Adm. Code 4901-1-12(C) which allows for “an immediate ruling” for extensions that do not exceed five days.

OCC’s Motion is necessitated by the filing of more than 80 pages of supplementary material by the applicant in this proceeding, Verizon North, Inc. (“Verizon”), in its response to OCC’s Opposition. The supplementary material – which is approximately 30% as large as the original Application – contains new information that was not submitted with the Application. The supplementary material thus requires

---

<sup>1</sup> This motion is filed pursuant to Ohio Adm. Code 4901-1-12 and Ohio Adm. Code 4901-1-13(A).

<sup>2</sup> Ohio Adm. Code 4901-1-13(A).

extensive examination and analysis, which cannot be reasonably accomplished within the time allotted by the Commission's October 10, 2008 Entry ("October 10 Entry") setting the procedural schedule in this proceeding, for OCC to reply to Verizon's response.

The reasons why this Motion and Request should be granted are fully set forth in the following memorandum in support.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS' COUNSEL

/s/ Terry L. Etter

Terry L. Etter, Counsel of Record  
David C. Bergmann  
Assistant Consumers' Counsel

**Office of the Ohio Consumers' Counsel**

10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
Phone: 614-466-8574  
[etter@occ.state.oh.us](mailto:etter@occ.state.oh.us)  
[bergmann@occ.state.oh.us](mailto:bergmann@occ.state.oh.us)

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of	)	
Verizon North, Inc. for Approval of an	)	
Alternative Form of Regulation of Basic	)	Case No. 08-989-TP-BLS
Local Exchange Service and Other Tier 1	)	
Services Pursuant to Chapter 4901:1-4,	)	
Ohio Administrative Code.	)	

---

**MEMORANDUM IN SUPPORT**

---

The PUCO's rules allow for granting extensions to file pleadings when "good cause" is shown.<sup>3</sup> There is good cause for granting OCC's motion, as explained below.

On August 29, 2008,<sup>4</sup> Verizon filed the above-referenced Application for basic service alternative regulation ("basic service alt. reg.") in 24 exchanges.<sup>5</sup> In the Application, Verizon seeks the authority to raise its basic service rates charged to customers in the 24 exchanges by \$1.25 per month, and the rate for basic Caller ID charged to customers by \$0.50 per month.<sup>6</sup>

On October 17, 2008, OCC filed its Opposition to Verizon's Application, pursuant to the Commission's basic service alt. reg. rules.<sup>7</sup> In the Opposition, OCC

---

<sup>3</sup> Ohio Adm. Code 4901-1-13(A).

<sup>4</sup> Because of Verizon's clerical error, OCC was not served a copy of the Application until September 2, 2008. The procedural timelines were adjusted accordingly by the October 10 Entry (at 2).

<sup>5</sup> The exchanges are Ashland, Athens, Bowling Green, Brunswick, Cambridge, Chesapeake, Circleville, Delaware, Englewood, Jackson, Marion, Medina, Montrose, New Philadelphia, Norwalk, Plain City, Port Clinton, Portsmouth, Sylvania, Tipp City, Trotwood, Troy, Wadsworth and Wilmington.

<sup>6</sup> Ohio Adm. Code 4901:1-4-11(A).

<sup>7</sup> Ohio Adm. Code 4901:1-4-09(F).

showed that under the Commission's rules, Verizon should be denied basic service alt. reg. for 22 of the exchanges named in the Application.<sup>8</sup>

In the October 10 Entry, the PUCO granted Verizon the opportunity to respond to OCC's Opposition to the Application.<sup>9</sup> Verizon was given ten days to file a response to OCC's Opposition and OCC was given five days to reply to Verizon's response.<sup>10</sup>

Verizon filed its response to OCC's Opposition on October 27, 2008. In addition to a 20-page "Memorandum in Response" ("Memorandum") to OCC's Opposition, Verizon filed a Supplement containing more than 80 pages of material regarding white pages listings in some exchanges and Time Warner Cable's service territory.

The two pleadings are inextricably intertwined. To support the arguments in its Memorandum, Verizon makes numerous references to the Supplement.<sup>11</sup> Verizon also relied on the Memorandum to "serve as the Memorandum in Support of Verizon's alternative motion" for leave to file the Supplement.<sup>12</sup> In addition, Verizon stated that its "Memorandum in Response ... together with this Supplement should be deemed controlling."<sup>13</sup>

Thus, in order to provide the Commission with a comprehensive reply to Verizon's filings, OCC will need to conduct considerable examination and analysis of the

---

<sup>8</sup> Verizon should be denied basic service alt. reg. for all of the exchanges named in the Application except Norwalk and Tipp City.

<sup>9</sup> The Commission's basic service alt. reg. rules do not provide for a response to an Opposition, or for a reply to that response, but Entries in each basic service alt. reg. case to date have allowed such filings.

<sup>10</sup> October 10 Entry at 2.

<sup>11</sup> See Memorandum at 11, 14, 15, 17.

<sup>12</sup> Supplement at 1.

<sup>13</sup> Id. at n. 1.

Supplement, which is approximately 30% as large as the original Application.<sup>14</sup> This cannot be reasonably done in the short time allotted under the October 10 Entry.

Complicating the matter is the fact that Verizon did not specifically seek leave to supplement its Application.<sup>15</sup> Verizon titled its submission, “Verizon’s Supplement to its Application and, in the Alternative, Motion for Leave to Supplement its Application.” Thus, Verizon filed the Supplement, with a motion for leave to file the Supplement only as an alternative to filing the Supplement as a procedural right. The legal issues involved in whether Verizon may seek leave to supplement its Application nearly two months after it was filed, and ten days after OCC filed its Opposition, must be addressed.

The procedural schedule of this proceeding, however, would require OCC to address the substance of the Supplement in less than half the time that OCC has to address whether Verizon should be allowed to file the Supplement at all, under Ohio Adm. Code 4901-1-12(B)(1).<sup>16</sup> Allowing OCC five additional days to file a reply to Verizon’s Response and its Supplement would allow OCC to address the substantive and procedural issues in one pleading.

In order to adequately protect consumers from the rate increases that could follow if Verizon’s application is granted, OCC requests a short extension to file a reply. The Commission has altered the procedural schedules of other basic service alt. reg. cases

---

<sup>14</sup> Because OCC’s analysis may find that discovery regarding the Supplement is needed, OCC reserves the right to ask the Commission to suspend the Application, reopen discovery and allow additional pleadings.

<sup>15</sup> The Commission’s basic service alt. reg. rules do not provide for supplementing applications. The only basic service alt. reg. rule addressing the issue, Ohio Adm. Code 4901:1-4-09(F), states that “[t]he commission, legal director, or attorney examiner may modify the time frames stated herein based upon a material modification filed subsequent to the initial application.”

<sup>16</sup> The October 10 Entry gave OCC five days to reply to Verizon’s response; under Ohio Adm. Code 4901-1-12(B)(1), OCC has 15 days to file a memorandum contra Verizon’s motion for leave to file the Supplement.

when the applicant submitted substantial supplemental information long after filing the Application.<sup>17</sup> The Commission should modify the procedural schedule in this proceeding.

Therefore, OCC respectfully requests a five-day extension for the filing of its reply. OCC has shown good cause for an extension of time, as required by Ohio Adm. Code 4901-13(A). Pursuant to Ohio Adm. Code 4901-12(C), “an immediate” ruling on this Motion can be issued without the filing of memoranda contra the motion. Given the brief time available before OCC’s filing date under the October 10 Entry, OCC requests an expedited ruling on this motion.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER  
CONSUMERS’ COUNSEL

/s/ Terry L. Etter  
Terry L. Etter, Counsel of Record  
David C. Bergmann  
Assistant Consumers’ Counsel

**Office of the Ohio Consumers’ Counsel**  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215-3485  
614-466-8574 (Telephone)  
[etter@occ.state.oh.us](mailto:etter@occ.state.oh.us)  
[bergmann@occ.state.oh.us](mailto:bergmann@occ.state.oh.us)

---

<sup>17</sup> See *In the Matter of the Application of AT&T Ohio For Approval of an Alternative Form of Regulation of Basic Local Exchange Service and Other Tier 1 Services Pursuant to Chapter 4901:1-4 Ohio Administrative Code*, Case No. 06-1013-TP-BLS, Entry (September 21, 2006).

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion for Extension of Time by the Office of the Ohio Consumers' Counsel was provided to the persons listed below electronically this 29<sup>th</sup> day of October 2008.

/s/ Terry L. Etter  
Terry L. Etter  
Assistant Consumers' Counsel

### **SERVICE LIST**

**DUANE W. LUCKEY**

Assistant Attorney General  
Chief, Public Utilities Section  
180 East Broad Street, 9<sup>th</sup> Floor  
Columbus, Ohio 43215-3793  
[duane.luckey@puc.state.oh.us](mailto:duane.luckey@puc.state.oh.us)

**THOMAS E. LODGE**

**CAROLYN S. FLAHIVE**  
Thompson Hine LLP  
10 West Broad Street, Suite 700  
Columbus, Ohio 43215-3435  
[thomas.lodge@thompsonhine.com](mailto:thomas.lodge@thompsonhine.com)  
[carolyn.flahive@thompsonhine.com](mailto:carolyn.flahive@thompsonhine.com)

**A. RANDALL VOGELZANG**

600 Hidden Ridge, HQE02J27  
Irving, Texas 75038  
[randy.vogelzang@verizon.com](mailto:randy.vogelzang@verizon.com)

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**10/29/2008 4:12:41 PM**

**in**

**Case No(s). 08-0989-TP-BLS**

Summary: Motion Motion for Extension of Time to file a Reply to Verizon's Memorandum in Response and Request for an Expedited Ruling by the Office of the Ohio Consumers' Counsel electronically filed by Mrs. Mary V. Edwards on behalf of Etter, Terry L. and Office of the Ohio Consumers' Counsel