DOCKET FILE COPY ORIGINAL

RECEIVED
DEC 19 2001
FCC MAIL ROOM

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matters of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms	)	CC Docket No. 98-171
	)	
Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990	)	CC Docket No. 90-571
	)	
Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size	)	CC Docket No. 92-237 NSD File No. L-00-72
	)	
Number Resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116

PROTECTIVE ORDER

Adopted: December 11, 2001 **Released: December 12, 2001**

By the Chief, Accounting Policy Division:

1. On November 1, 2001, Verizon Communications (Verizon) submitted data in the above-captioned proceeding in support of a study conducted by the Cambridge Strategic Management Group (CSMG) on the impact of a proposed universal service contribution methodology (hereinafter "study data").[1] In accordance with section 0.459 of the Commission's rules, Verizon submitted the study data as proprietary and requested that it not be made routinely

[1] *See* Letter from W. Scott Randolph, Verizon Communications, to Magalie R. Salas, Federal Communications Commission, filed November 1, 2001 (*Verizon Confidential Ex Parte*). The results of CSMG's study were included in an *ex parte* filed in the above-captioned proceeding on October 17, 2001. *See* Letter from W. Scott Randolph, Verizon Communications, to Magalie R. Salas, Federal Communications Commission, filed October 17, 2001.

available for public inspection.[2] In support of its request, Verizon explained that the study data is an internal work product of CSMG.[3] In this Order, we authorize examination of the study data, subject to compliance with this Protective Order.

2. Pending any future determination on the issue of confidentiality, the study data submitted by Verizon will be made available for inspection subject to this Protective Order. This Protective Order should facilitate the prompt and orderly exchange of the study data. Subject to compliance with this Protective Order, Authorized Representatives may inspect the study data for which Verizon has requested confidential treatment in this proceeding by contacting the following Verizon representative:

W. Scott Randolph, Director—Regulatory Affairs
Verizon Communications
1300 I Street, NW
Suite 500E
Washington, DC 20005
(202) 515-2530

3. This Protective Order is intended to facilitate and expedite the review of materials containing trade secrets and commercial or financial information obtained from a "Submitting Party" and which is privileged or confidential. It reflects the manner in which "Confidential Information," as that term is defined herein, is to be treated. The Protective Order is not intended to constitute a resolution of the merits concerning whether any Confidential Information would be released publicly by the Commission upon a proper request under the Freedom of Information Act or other applicable law or regulation, including section 0.442 of the Commission's rules, 47 C.F.R. § 0.442.

4. Definitions.

a. Authorized Representative. "Authorized Representative" shall have the meaning set forth in Paragraph 10.

b. Commission. "Commission" means the Federal Communications Commission or any arm of the Commission acting pursuant to delegated authority.

c. Confidential Information. "Confidential Information" means (i) information submitted to the Commission by the Submitting Party that has been so designated by the Submitting Party and which the Submitting Party has determined in good faith constitutes trade secrets or commercial or financial information which is privileged or confidential within the meaning of Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4); (ii) information submitted to the Commission by the Submitting Party that has been so designated by the Submitting Party and which the Submitting Party has determined in good faith falls within the terms of Commission orders designating the items for treatment as Confidential Information; and (iii) information that the Commission has allowed to be examined off-site and that otherwise

[2] *See Verizon Confidential Ex Parte.*

[3] Verizon's study data includes spreadsheets prepared by CSMG with inputs on demographic data, projections on industry minutes of use, lines, and revenues, and universal service fund size and contribution base projections. *Id.*

complies with the requirements of this paragraph. Confidential Information includes additional copies of and information derived from Confidential Information.

d. Declaration. "Declaration" means Attachment A to this Protective Order.

e. Reviewing Party. "Reviewing Party" means a person or entity participating in this proceeding or in good faith filing a document in this proceeding.

f. Submitting Party. "Submitting Party" means a person or entity that seeks confidential treatment of Confidential Information pursuant to this Protective Order.

5. Claim of Confidentiality. The Submitting Party may designate information as "Confidential Information" consistent with the definition of that term in Paragraph 4 of this Protective Order. The Commission may, *sua sponte* or upon petition, pursuant to sections 0.459 and 0.461, 47 C.F.R §§ 0.459 and 0.461, determine that all or part of the information claimed as "Confidential Information" is not entitled to such treatment.

6. Procedures for Claiming Information is Confidential. Confidential Information submitted to the Commission shall be filed under seal and shall be marked in bold print, "CONTAINS PRIVILEGED AND CONFIDENTIAL INFORMATION - DO NOT RELEASE." Confidential Information shall be segregated by the Submitting Party from all non-confidential information submitted to the Commission. To the extent a submission contains both Confidential Information and non-confidential information, the Submitting Party shall designate the specific portions of the submission claimed to contain Confidential Information and shall, where feasible, also submit a redacted version not containing Confidential Information.

7. Storage of Confidential Information at the Commission. The Secretary of the Commission or other Commission staff to whom Confidential Information is submitted shall place the Confidential Information in a non-public file. Confidential Information shall be segregated in the files of the Commission, and shall be withheld from inspection by any person not bound by the terms of this Protective Order, unless such Confidential Information is released from the restrictions of this Order either through agreement of the parties, or pursuant to the order of the Commission or a court having jurisdiction.

8. Access to Confidential Information. Confidential Information shall only be made available to Commission staff, Commission consultants, and to counsel to the Reviewing Parties, or to a person designated by a Reviewing Party. Before counsel to a Reviewing Party or such other designated person may obtain access to Confidential Information, counsel or such other designated person must execute the attached Declaration. Consultants under contract to the Commission may obtain access to Confidential Information only if they have signed, as part of their employment contract, a non-disclosure agreement, or if they execute the attached Declaration.

9. Counsel to a Reviewing Party or such other person designated pursuant to Paragraph 8 may disclose Confidential Information to other Authorized Representatives to whom disclosure is permitted under the terms of paragraph 10 of this Protective Order only after advising such Authorized Representatives of the terms and obligations of the Protective Order. In addition, before Authorized Representatives may obtain access to Confidential Information, each Authorized Representative must execute the attached Declaration.

10. Authorized Representatives shall be limited to:

a. Counsel for the Reviewing Parties to this proceeding, including in-house counsel actively engaged in the conduct of this proceeding, and their associated attorneys, paralegals, clerical staff, and other employees, to the extent reasonably necessary to render professional services in this proceeding;

b. Specified persons, including employees of the Reviewing Parties, requested by counsel or such other person designated pursuant to Paragraph 8 to furnish technical or other expert advice or service, or otherwise engaged to prepare material for the express purpose of formulating filings in this proceeding; or

c. Any person designated by the Commission in the public interest, upon such terms as the Commission may deem proper.

11. Inspection of Confidential Information. Confidential Information shall be maintained by a Submitting Party for inspection at two or more locations, at least one of which shall be in Washington, D.C. Inspection shall be carried out by Authorized Representatives upon reasonable notice (generally not to exceed one business day) during normal business hours.

12. Copies of Confidential Information. The Submitting Party shall provide a copy of the Confidential Information to Authorized Representatives upon request and may charge a reasonable reproduction fee. Document copying fees shall not exceed twenty-five cents per page. Authorized Representatives may make additional copies of Confidential Information but only to the extent required and solely for preparation and use in this proceeding. Authorized Representatives must maintain a written record of any additional copies made and provide this record to the Submitting Party upon reasonable request. The original copy and all other copies of the Confidential Information shall remain in the care and control of Authorized Representatives at all times. Authorized Representatives having custody of any Confidential Information shall keep the Confidential Information properly secured at all times.

13. Filing of Declaration. Counsel for Reviewing Parties shall provide to the Submitting Party and the Commission a copy of the attached Declaration for each Authorized Representative within five (5) business days after the attached Declaration is executed, or by any other deadline that may be prescribed by the Commission.

14. Use of Confidential Information. Confidential Information shall not be used by any person granted access under this Protective Order for any purpose other than for use in this proceeding (including any subsequent administrative or judicial review) unless otherwise ordered by the Commission or a court of competent jurisdiction, shall not be used for competitive business purposes, and shall not be used or disclosed except in accordance with this Protective Order. This provision shall not preclude the use of any material or information that is in the public domain or has been developed independently by any other person who has not had access to the Confidential Information nor otherwise learned of its contents.

15. Pleadings Using Confidential Information. Submitting Parties and Reviewing Parties may, in any pleadings that they file in this proceeding, reference the Confidential Information, but only if they comply with the following procedures:

a. Any portions of the pleadings that contain or disclose Confidential Information must be physically segregated from the remainder of the pleadings and filed under seal;

b. The portions containing or disclosing Confidential Information must be covered by a separate letter referencing this Protective Order;

c. Each page of any Party's filing that contains or discloses Confidential Information subject to this Protective Order must be clearly marked: "Confidential Information included pursuant to Protective Order Granted to Verizon Communications in the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45; 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, CC Docket No. 98-171; Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571; Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, CC Docket No. 92-237, NSD File No. L-00-72; Number Resource Optimization, CC Docket No. 99-200; Telephone Number Portability, CC Docket No. 95-116."

d. The confidential portion(s) of the pleading, to the extent they are required to be served, shall be served upon the Secretary of the Commission, the Submitting Party, and those Reviewing Parties that have signed the attached Declaration. Such confidential portions shall be served under seal. They shall not be placed in the Commission's Public File unless the Commission directs otherwise (with notice to the Submitting Party and an opportunity to comment on such proposed disclosure). A Submitting Party or a Reviewing Party filing a pleading containing Confidential Information shall also file a redacted copy of the pleading containing no Confidential Information, which copy shall be placed in the Commission's public files. A Submitting Party or a Reviewing Party may provide courtesy copies of pleadings containing Confidential Information to Commission staff so long as the notation required by subsection c. of this paragraph is not removed.

16. Violations of Protective Order. Should a Reviewing Party that has properly obtained access to Confidential Information under this Protective Order violate any of its terms, it shall immediately convey that fact to the Commission and to the Submitting Party. Further, should such violation consist of improper disclosure or use of Confidential Information, the Violating Party shall take all necessary steps to remedy the improper disclosure or use. The Violating Party shall also immediately notify the Commission and the Submitting Party, in writing, of the identity of each party known or reasonably suspected to have obtained the Confidential Information through any such disclosure. The Commission retains its full authority to fashion appropriate sanctions for violations of this Protective Order, including but not limited to suspension or disbarment of attorneys from practice before the Commission, forfeitures, cease and desist orders, and denial of further access to Confidential Information in this or any other Commission proceeding. Nothing in this Protective Order shall limit any other rights and remedies available to the Submitting Party at law or equity against any party using Confidential Information in a manner not authorized by this Protective Order.

17. Termination of Proceeding. Unless otherwise ordered by the Commission or a court of competent jurisdiction, within two weeks after final resolution of this proceeding (which includes any administrative or judicial appeals), Authorized Representatives of Reviewing

Parties shall destroy or return to the Submitting Party all Confidential Information as well as all copies and derivative materials made. Authorized representatives shall certify in a writing served on the Commission and the Submitting Party that no material whatsoever derived from such Confidential Information has been retained by any person having access thereto, except that counsel to a Reviewing Party may retain two copies of pleadings submitted on behalf of the Reviewing Party and other attorney work product. Any confidential information contained in any copies of pleadings retained by counsel to a Reviewing Party or in materials that have been destroyed pursuant to this paragraph shall be protected from disclosure or use indefinitely in accordance with paragraphs 14 and 16 of this Protective Order unless such Confidential Information is released from the restrictions of this Protective Order either through agreement of the parties, or pursuant to the order of the Commission or a court of competent jurisdiction.

18. No Waiver of Confidentiality. Disclosure of Confidential Information as provided herein shall not be deemed a waiver by the Submitting Party of any privilege or entitlement to confidential treatment of such Confidential Information. Reviewing Parties, by viewing these materials: (a) agree not to assert any such waiver; (b) agree not to use material derived from any Confidential Information to seek disclosure in any other proceeding; and (c) agree that accidental disclosure of Confidential Information shall not be deemed a waiver of any privilege.

19. Additional Rights Preserved. The entry of this Protective Order is without prejudice to the rights of the Submitting Party to apply for additional or different protection where it is deemed necessary or to the rights of Reviewing Parties to request further or renewed disclosure of Confidential Information.

20. Effect of Protective Order. This Protective Order constitutes an Order of the Commission and an agreement between the Reviewing Party, executing the attached Declaration, and the Submitting Party.

21. Authority. This Protective Order is issued pursuant to sections 4(i) and 4(j) of the Communications Act, as amended, 47 U.S.C. §§ 154(i) and (j), section 0.457(d) of the Commission's rules, 47 C.F.R. § 0.457(d), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291.

FEDERAL COMMUNICATIONS COMMISSION

Katherine L. Schroder
Chief, Accounting Policy Division
Common Carrier Bureau

Attachment A to Protective Order

DECLARATION

In the Matters of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms	)	CC Docket No. 98-171
	)	
Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990	)	CC Docket No. 90-571
	)	
Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size	)	CC Docket No. 92-237 NSD File No. L-00-72
	)	
Number Resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116

I, _____,
hereby declare under penalty of perjury that I have read the Protective Order entered by the Accounting Policy Division on December 11, 2001, in this proceeding, and that I agree to be bound by its terms pertaining to the treatment of Confidential Information submitted by parties to this proceeding. I understand that the Confidential Information shall not be disclosed to anyone except in accordance with the terms of the Protective Order and shall be used only for purposes specified in the Protective Order. I acknowledge that a violation of the Protective Order is a violation of an order of the Accounting Policy Division. I acknowledge that this Protective Order is also a binding agreement with the Submitting Party.

(signed)_____

(name)_____

(representing)_____

(title)_____

(employer)_____

(address)_____

(phone)_____

(date)_____