

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20544**

In the Matter of Amendment of the Commission's Ex Parte Rules and Other Procedural Rules	WC Docket No. 10-43
In the Matter of Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization	WC Docket No. 10-44

COMMENTS OF VERIZON¹ AND VERIZON WIRELESS

In these two Notices of Proposed Rulemakings,² the Commission has proposed revisions to its procedural rules that are intended to increase the transparency and efficiency of the agency. Verizon supports most of the proposed changes and offers these specific comments on several of particular interest.

Ex Parte NPRM

Completeness and Accuracy of Memoranda Summarizing Oral Ex Parte Presentations:

Verizon supports the Commission's proposal to allow two business days for parties to file *ex parte* notices after making an oral *ex parte* presentation.³ The Commission has proposed rule

¹ In addition to Verizon Wireless, the Verizon companies participating in this filing ("Verizon") are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

² *Amendment of the Commission's Ex Parte Rules and Other Procedural Rules*, Notice of Proposed Rulemaking, 25 FCC Rcd 2403 (2010) ("*Ex Parte NPRM*"); *Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization*, Notice of Proposed Rulemaking, 25 FCC Rcd 2430 (2010) ("*Procedural Reform NPRM*").

³ *Ex Parte NPRM*, ¶ 10.

changes that would generally require more detailed *ex parte* notices than the current rule requires,⁴ and the two-day filing window would make it easier for commenters to comply.

Preference for Electronic Filings: Verizon agrees that Rule 1.1206(b) should be modified so that, with limited exceptions, parties are to file all written *ex parte* presentations in docketed presentations electronically through the Commission's Electronic Comment Filing System (ECFS).⁵

ECFS is easily accessible and efficient. Recent enhancements to the system, including adding the ability to perform a full-text search of filings, improved the system's usability and make ECFS an even more essential tool for anyone interested in participating in an FCC proceeding. Increased use of ECFS reduces the administrative burden of following FCC proceedings, and it reduces Commission Staff's administrative burdens, as ECFS allows easy online access to filed documents.

The proposed new rule 1.1206(b) would codify an exception to the electronic filing requirement in case of undue hardship.⁶ That exception should explicitly state that parties need not file confidential materials electronically.

Similarly, while machine-readable filings generally make research and docket tracking far easier, the Commission's rules should make clear that parties may remove metadata from all filings. Metadata is content embedded in certain files that parties do not intend to share with others. For example, metadata can include an editor's name and initials, or prior document revisions or hidden text or table cells. If filed, this information, which is impractical to clean

⁴ *Id.* ¶ 8.

⁵ *Id.* ¶ 16.

⁶ *Id.*

from some files, could allow a third party access to a party's confidential information, including attorney-client communications or attorney work product.

Further, the Commission should not require parties to file redacted versions of confidential material in machine-readable format. In order to prepare a machine-readable redacted copy, a party must manually redact confidential information from native files, re-scan, and perform optical character recognition of the re-scanned document. This practice is both time-consuming and may disrupt the format of the native documents. So, while electronic filings generally should be in machine-readable format, the requirement to file in machine-readable format should not apply when the filings are either confidential materials (in which no electronic filing should be required at all) or redacted versions of confidential filings.

Finally, some filings, such as maps or other large data files, can be impractical to file electronically and impossible to submit in a machine-readable format. The Commission should not require parties to file any maps or other network schematics electronically, and the Commission should create an exception to the electronic filing requirement for those and similarly other large data files. In this case, parties could file a brief written statement indicating that they have made a confidential filing.

The Sunshine Period Prohibition and Exceptions: Verizon agrees that the Commission should modify rule 1.1203(b) to start the Sunshine period at midnight following the Sunshine notice; this change would create a bright-line standard and eliminate ambiguity and confusion about the timing of Sunshine.⁷

⁷ *Id.* ¶ 25.

The Commission also proposes that *ex parte* notices that must be filed through ECFS during the Sunshine period should be due within four hours of the oral presentation.⁸ This proposal is reasonable.

The Commission should not modify its rules, however, to permit replies to *ex parte* notices during the Sunshine period. The Sunshine period of repose provides a valuable quiet period in which the Commission can finalize decisions. The Commission is correct that information gathered through permitted presentations “can be important to the Commission’s ability to reach the best possible decisions on proposed orders subject to a Sunshine period restriction,”⁹ Allowing replies to *ex parte* notices filed during Sunshine – which today are permitted only in limited circumstances if an exception to Sunshine applies – would open the floodgates to unsolicited filings during Sunshine, defeating the purpose of the Sunshine Period.

Disclosure Statements: The Commission should require filers to provide a disclosure statement in connection with their filings.¹⁰ The current rules allow group filers, such as the Ad Hoc Telecommunications Users Committee, to comment without ever disclosing their membership.

The disclosure requirement should be based on a familiar model, such as the D.C. Circuit Court of Appeals’ disclosure rules.¹¹ And parties should not have to file the disclosure statement every time they make a filing with the Commission. Instead, after a filer submits an initial disclosure statement, the filer should be able to reference back to that statement in future

⁸ *Id.* ¶ 20.

⁹ *Id.* ¶ 23.

¹⁰ *Id.* ¶ 27.

¹¹ D.C. Cir. R. 26.1.

filings.¹² The initial statement should be presumed valid for at least a year, although the filer should have the obligation to file an updated statement if there is a material change in ownership or coalition membership.

Other Issues: While the Commission has not proposed any new rules specific to the *ex parte* implications of new media, if and when the Commission adopts rules, or when it modifies its *ex parte* rules to accommodate new media like blogs and Facebook, the Commission should not adopt more liberal disclosure rules for new media than for traditional *ex partes*. For example, the *Ex Parte NPRM* cites an October 2009 waiver of the Sunshine period prohibition on *ex parte* contacts made through the Open Internet Blog.¹³ If the Commission intends to include new-media contacts like these in future public records, as it did in the Open Internet inquiry, it should not permit *ex parte* contacts during the Sunshine period. If the blog were not included in the official record, this would not be a problem, but because it was, contacts made after Sunshine defeated the purpose of the Sunshine period. If new media – or, for that matter, old media or any other media – are to be included in the public record, the same restrictions that apply to traditional *ex parte* notices should apply.

Procedural Reform NPRM

Many of the Commission's proposals in the *Procedural Reform NPRM* are ministerial, and most of the others are noncontroversial proposals to streamline case administration. Verizon comments here on just a few of the proposals.

Expanded Use of the Formal Docket Process: The Commission should revise its rules so that the time to file oppositions to Petitions for Declaratory Ruling is not governed by the default

¹² *Ex Parte NPRM* ¶ 31.

¹³ *Id.* ¶ 33, n.72.

ten-day rule found in Rule 1.45(b).¹⁴ Instead, oppositions to Petitions for Declaratory Rulings should be treated like rulemakings: they should be docketed, and the Commission should specify filing dates in a public notice. Petitions for Declaratory Rulings often raise complicated questions or seek generic policy proclamations that require more than ten days for a response. And as a practical matter, interested parties often have less than ten days to respond, because they do not become aware of the petition when it is filed, because of delays in posting filings electronically. The Commission should change its rules to eliminate the impractical ten-day window for oppositions.

The Commission could expand the use of the formal docket process in other contexts, but it should avoid expanding it to Enforcement Bureau investigations. The Enforcement Bureau's ability to investigate discretely helps the Bureau get to the bottom of its investigations. Neither the Bureau nor the parties under investigation would benefit from subjecting investigations to the formal docket process. If and when the Bureau issues an order as a result of an investigation, the order is a public document that provides interested parties with the information they need concerning the investigation. While it would be appropriate to include complaint proceedings in the formal docket process, investigations should continue to be undocketed.

Enhanced Role for ECFS: Using ECFS in a broader array of dockets would benefit parties and benefit the Commission Staff, much like increased use of ECFS for *ex parte* filings.¹⁵ For example, requiring that parties use ECFS for all tariffs, including those that competitive local exchange carriers file, would dramatically improve the efficiency of the tariff process. As with *ex parte* filings, redacted versions of confidential filings should be filed electronically, but not

¹⁴ *Procedural Reform NPRM*, ¶ 11.

¹⁵ *Id.* ¶ 13.

the confidential filings themselves, and the redacted versions should not have to be machine-readable.¹⁶

Management of Dockets: The Commission should amend section 0.141 of its organizational rules to delegate authority to the Chief of the Consumer and Governmental Affairs Bureau to identify open dockets that should be closed, and to Staff to close the dockets, as the Commission has proposed.¹⁷ This will help the Commission to manage its dockets efficiently. Before Staff closes a proceeding, however, there should be a Public Notice identifying particular dockets as candidates for closure, with an opportunity to interested parties to comment.

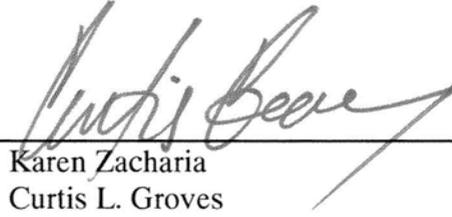
The Commission should also amend section 1.49 so that filings can be captioned only with the docket number or numbers particular to the issue or issues addressed in the filing, as proposed.¹⁸ This, too, will help the Commission's docket management and will help ensure that dockets do not become so large that they become unnecessarily unwieldy.

¹⁶ *Id.* ¶ 16.

¹⁷ *Id.* ¶ 19.

¹⁸ *Id.* ¶ 20.

Respectfully submitted,



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