

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

In the Matter of)	File Nos.: EB-09-SE-218; EB-11-SE-010
)	
Verizon)	Acct. No.: 201032100034
)	
)	FRN: 0010790335

ORDER

Adopted: March 14, 2012

Released: March 14, 2012

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) of the Federal Communications Commission and Verizon.¹ The Consent Decree resolves and terminates the Bureau's investigations into Verizon's compliance with the Commission's regulations in 47 C.F.R. Part 4 regarding the reporting of network outages.

2. The Bureau and Verizon have negotiated a Consent Decree that resolves the matters in the above-captioned investigations. A copy of the Consent Decree is attached hereto and incorporated herein by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigations.

4. In the absence of material new evidence relating to these matters, we conclude that our investigations raise no substantial or material questions of fact as to whether Verizon possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 503(b) of the Act,² and Sections 0.111 and 0.311 of the Rules,³ the Consent Decree attached to this Order **IS ADOPTED**.

¹ "Verizon" means the regulated, wholly owned subsidiaries of Verizon Communications Inc. and their successors and assigns.

² 47 U.S.C. §§ 154(i), 503(b).

³ 47 C.F.R. §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that the above-captioned investigations **ARE TERMINATED**.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Tamara Preiss, Vice President, Federal Regulatory Affairs, Verizon, 1300 I Street, N.W., Suite 400 West, Washington, D.C. 20005.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau

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Verizon)	NAL/Acct No.: 201032100034
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CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and Verizon,¹ by their respective authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigations into Verizon's compliance with the Commission's regulations in 47 C.F.R. Part 4 regarding the reporting of network outages.

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
 - (d) "Communications Laws" means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Verizon is subject by virtue of its business activities, including but not limited to, the outage reporting requirements under Section 4.9 of the Commission's rules
 - (e) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
 - (f) "Compliance Plan" means the compliance obligations and compliance program described in this Consent Decree at Paragraph 9.
 - (g) "Effective Date" means the date on which the Bureau releases the Adopting Order.
 - (h) "Investigations" means (1) the investigation under File Number EB-09-SE-

¹ "Verizon" means the regulated, wholly owned subsidiaries of Verizon Communications Inc. and their successors and assigns.

218, commenced by the Bureau's January 4, 2010 letter of inquiry² regarding Verizon's compliance with Section 4.11 of the Rules, 47 C.F.R. § 4.11; and (2) the investigation under File Number EB-11-SE-010, commenced by the Bureau's March 29, 2011 letter of inquiry³ regarding Verizon's compliance with Section 4.9(f) of the Rules, 47 C.F.R. § 4.9(f).

- (i) "Parties" means Verizon and the Bureau, and each is a "Party."
- (j) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.
- (k) "Verizon" or "Company" means the regulated, wholly owned subsidiaries of Verizon Communications Inc. and their successors and assigns.

II. BACKGROUND

2. Pursuant to Section 4.9(f) of the Rules,⁴ a wireline communications provider is required to submit to the Commission an electronic Notification within 120 minutes after discovering that it has experienced a network outage of at least 30 minutes duration that: (1) potentially affects at least 900,000 user minutes of either telephony or paging; (2) affects at least 1,350 DS3 minutes; (3) potentially affects any special offices or facilities (as defined in paragraph (b) of Section 4.5 of the Rules); or (4) potentially affects a 911 special facility (as defined by paragraph (e) of Section 4.5 of the Rules). Within 72 hours after discovering such an outage, a wireline communications provider is required to submit electronically an Initial Communications Outage Report, and within 30 days after discovering such an outage, a wireline communications provider is required to submit electronically a Final Communications Report.⁵ Section 4.9(f) of the Rules also requires that the Notification and the Initial and Final reports shall comply with all of the requirements of Section 4.11 of the Rules, which include a requirement that the communications provider submit and attest that it has submitted, a true, complete and accurate Final Report that contains all pertinent information, including any information that was not contained in its Initial Report.⁶

3. On July 6, 2009, Verizon experienced a reportable network outage. On July 31, 2009, Verizon submitted a timely Final Report concerning that outage. On January 4, 2010, the Bureau issued a letter of inquiry (LOI) to Verizon initiating an investigation regarding Verizon's compliance with the Part 4 of the Rules.⁷ Verizon submitted a response to the LOI on February 3, 2010.⁸ On July 9, 2010, the Bureau issued a notice of apparent liability proposing a monetary forfeiture of \$25,000.⁹

² See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Kathleen Grillo, Vice President, Federal Regulatory, Verizon (Jan. 4, 2010).

³ See Letter from Ricardo M. Durham, Acting Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, to Kathleen Grillo, Senior Vice President, Federal Regulatory Affairs, Verizon (March 29, 2011).

⁴ 47 C.F.R. § 4.9(f).

⁵ *Id.*

⁶ 47 C.F.R. §4.11.

⁷ See *supra* note 2.

⁸ See Letter from Mark J. Montano, Assistant General Counsel, Verizon to Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau (Feb. 3, 2010).

⁹ *Verizon*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 9034 (Enf. Bur. 2010).

4. On March 29, 2011, the Bureau issued an LOI to Verizon, initiating a further investigation into Verizon's compliance with the network outage reporting requirements under Part 4 of the Rules.¹⁰ Verizon submitted a complete response to the LOI on May 26, 2011.¹¹ The Bureau and Verizon executed tolling agreements to toll the statute of limitations.¹²

III. TERMS OF AGREEMENT

5. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

6. **Jurisdiction.** Verizon agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

7. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission order.

8. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigations. In consideration for the termination of said Investigations, Verizon agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in these Investigations through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against Verizon concerning the matters that were the subject of these Investigations. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in these Investigations through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Verizon with respect to Verizon's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier to hold Commission authorizations.

9. **Compliance Plan.** For purposes of settling the matters set forth herein, Verizon agrees to implement within thirty (30) calendar days after the Effective Date a Compliance Plan relating to Verizon's future compliance with those portions of the Act, the Commission's Rules, and the Commission's Orders related to the Commission's network outage reporting requirements; represents that it has one or more management employees in each of its business units who has responsibility for compliance with each of the Communications Laws that are relevant to its operations, that there are at least 20 such management employees, and that, collectively, these management employees exercise responsibility for the Company's compliance with all of the Communications Laws that are relevant to the operations of the Company. The Company agrees that it will either maintain this compliance structure, or, if it makes changes, shall ensure that it maintains equivalent management oversight over

¹⁰ See *supra* note 3.

¹¹ See Letters from Mark J. Montano, Assistant General Counsel, Verizon, to Marlene H. Dortch, Secretary, Federal Communications Commission, (April 28, 2011 and May 26, 2011).

¹² See, e.g., Tolling Agreement Extension, File No. EB-11-SE-010, executed by and between John D. Poutasse, Acting Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, and Edward Shakin, Vice President and Associate General Counsel, Verizon (Aug. 17, 2011).

compliance with all Communications Laws that are applicable to the operations of the Company. The Compliance Plan will include, at a minimum, the following components:

- (a) **Compliance Officer.** Within thirty (30) calendar days of the Effective Date, Verizon shall designate a senior corporate manager to serve as the Compliance Officer for FCC network outage reporting, who will be responsible for implementing and administering Verizon's Compliance Plan.
- (b) **Compliance Processes.** Within sixty (60) days of the Effective Date:
 - a. Verizon shall modify its existing processes for gathering, analyzing, and reporting information about its network outages in order to ensure that such processes collect information known to Verizon about all public safety answering points ("PSAPs") affected by such outages, and Verizon shall include such information about the affected PSAPs in the Final Report it submits to the Commission pursuant to Part 4 of the Rules. In particular, the process will facilitate the accurate identification and inclusion in the Final Report of all reportable events that stem from a common cause.
 - b. For each of its PSAP customers, Verizon shall adjust the selective router trunk group "automatic busy percentage" setting to allow only a single trunk in a group to be removed from service automatically due to double wink failures. A "double wink failure" occurs when the selective router twice receives no signal or wink from the PSAP PBX to signify a particular trunk's ability to complete the call.
 - c. Verizon shall review its existing processes for gathering, analyzing, and reporting information about its network outages, and shall make any changes necessary for Verizon to detect and report events in which there is a loss of 911 call processing capabilities in one or more E-911 tandems/selective routers for at least 30 minutes duration.
- (c) **Compliance Training Program.** Verizon shall establish and maintain an FCC outage reporting training program addressing FCC network outage reporting requirements, as detailed below, for all employees and agents of Verizon who are responsible for analyzing technical information regarding Verizon's network outages, entering such information into any Verizon database(s) and/or record(s) that form the basis of Verizon's reporting of network outages to the Commission, and compiling and/or submitting Verizon's outage reports to the Commission (each employee or agent of Verizon who performs any of the foregoing duties shall be referred to herein as a "Covered Employee").
 - i. Verizon's network outage training program shall address, at a minimum, the following subjects in order to facilitate compliance with the FCC's network outage reporting Rules and this Consent Decree: (A) the Rules governing the reporting of network outages; (B) the information and calculations required by the Rules or otherwise necessary to determine whether an outage is reportable under the Rules; (C) the time periods within which notifications and reports of reportable outages must be submitted to the FCC; and (D) the standard internal operating procedures adopted by Verizon to identify and report those network outages that satisfy the FCC's reporting criteria and this Consent Decree ("Operating Procedures"). Verizon shall ensure that such Operating Procedures are in effect before beginning to administer the training required by this paragraph.

- ii. Verizon shall prepare and provide to all Covered Employees a Verizon network outage internal on-line training course that summarizes each of the subjects addressed above. After completion of the training, Covered Employees will have the ability to access the network outage internal online training course on demand for reference purposes. Covered Employees also shall be advised of the regulatory consequences in the event that Verizon fails to comply with the FCC's outage reporting requirements.
 - iii. Covered Employees as of the Effective Date shall complete the network outage training program within sixty (60) calendar days of the Effective Date. New or re-assigned employees of Verizon who become Covered Employees thirty (30) days or more after the Effective Date shall complete the Compliance Training Program within thirty (30) calendar days of the date of their employment or re-assignment.
 - iv. Verizon shall repeat such training annually, and shall take such steps as are reasonable, necessary and appropriate to update and enhance the network outage internal on-line training course to ensure that it is accurate and complete.
- (d) **Outage Reporting.** Beginning sixty (60) calendar days after the Effective Date and thereafter, Verizon shall include in any NORS report filed with the Commission the date and time that Verizon discovered the outage was reportable using the following two separate fields: (1) Date Outage Determined Reportable and (2) Local Time Outage Determined Reportable (24 hr clock (nnnn)).
- (e) **Compliance Reports.** Verizon shall file Compliance Reports with the Bureau six (6) months after the Effective Date, twelve (12) months after the Effective Date and twenty-four (24) months after the Effective Date.
- i. Each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Verizon, stating that the Compliance Officer has personal knowledge that Verizon (A) has established and implemented the Compliance Plan; (B) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (C) is not aware of any instances of non-compliance with the terms and conditions of this Consent Decree.
 - ii. The certification shall be accompanied by a statement explaining the basis for the Compliance Officer's certification and must comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
 - iii. If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Verizon, shall provide the Commission with a detailed explanation of (A) each instance of non-compliance; (B) the steps that Verizon has taken or will take to remedy such non-compliance, including the schedule on which proposed remedial actions will be taken; and (C) the steps that Verizon has taken or will take to prevent the recurrence of any such non-compliance, including the schedule on which such preventive action will be taken.
 - iv. All Compliance Reports shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, with a copy submitted electronically to Kathy Harvey at Kathy.Harvey@fcc.gov and to JoAnn Lucanik at JoAnn.Lucanik@fcc.gov.

- (f) **Progress Assessment.** Beginning on the Effective Date, Verizon shall, at the request of the Bureau, meet with the Bureau once each 60-day period during the term of the Compliance Plan to discuss Verizon's adherence to the Compliance Plan and its performance under the Part 4 Rules. Verizon agrees to provide the Bureau with information the Bureau requests concerning these topics.
- (g) **Termination.** The provisions of this paragraph shall remain in effect for two (2) years from the Effective Date.

10. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to Section 208 of the Act against Verizon or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Verizon with the Act, the Rules, or Commission Orders.

11. **Voluntary Contribution.** Verizon agrees that it will make a voluntary contribution to the United States Treasury in the amount of ninety thousand dollars (\$90,000). The payment shall be made within thirty (30) calendar days after the Effective Date. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 02130004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Verizon will also send electronic notification on the date said payment is made to JoAnn.Lucanik@fcc.gov, Kathy.Harvey@fcc.gov, and Sam.Peoples@fcc.gov.

12. **Waivers.** Verizon waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order adopting the Consent Decree without change, addition, modification or deletion. Verizon shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Verizon nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Verizon shall waive any statutory right to a trial *de novo*. Verizon hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

13. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

14. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Verizon does not expressly consent) that provision will be superseded by such Commission Rule or order.

15. **Successors and Assigns.** Verizon agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

16. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the Communications Laws.

17. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

18. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

19. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

20. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

P. Michele Ellison
Chief
Enforcement Bureau

Date

Nicola Palmer
Senior Vice President – Global Network Operations & Engineering

Date