

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TOM PORTER INSURANCE	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO. 2005-00279
	)	
VERIZON WIRELESS	)	
	)	
DEFENDANT	)	

O R D E R

On July 5, 2005, Tom Porter Insurance filed with the Commission a formal complaint alleging that he had agreed to a one year contract in December 2003. Mr. Porter later increased his minutes to be used and was told that the contract would not be extended and was assured by Verizon Wireless (“Verizon”) that the contract would not be amended.

Pursuant to 807 KAR 5:001, Section 12(4)(a), the Commission, upon receipt of a formal complaint, must determine whether the complaint states a *prima facie*<sup>1</sup> case. If the Commission finds that the complaint does not state a *prima facie* case, it must provide the Complainant an opportunity to amend the complaint so that a *prima facie* case is stated.

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<sup>1</sup> “Such as will prevail until contradicted and overcome by other evidence.” Black’s Law Dictionary, 1188 (6<sup>th</sup> ed. 1990) (citing Pacific Telephone & Telegraph Co. v. Wallace, 75 P.2d 942, 947 (Or. 1938)).

The Commission finds that this formal complaint before the Commission fails to state a *prima facie* case. The complaint fails to provide pertinent information such as the dates when Mr. Porter allegedly contracted with Verizon, the phone number or account number, copies of contracts, copies of billing records, or copies of correspondence with Verizon. The complaint fails to state the specific actions of Verizon that he disputes.

IT IS THEREFORE ORDERED that:

1. The complaint is rejected for filing for failing to state a *prima facie* case.
2. Within 20 days of the date of this Order, Complainant may file an amended complaint with the Commission that states a *prima facie* case.
3. In the event Complainant fails to file within the allotted time, or submits an amended complaint that does not state a *prima facie* case, this case shall be closed and removed from the Commission's docket.

Done at Frankfort, Kentucky, this 19<sup>th</sup> day of July, 2005.

By the Commission

ATTEST:



Executive Director