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Verizon users get free air time

*Cell phone company settles lawsuit that claimed overcharging
The Detroit News*

David Shepardson

DETROIT -- At least 500,000 Michigan residents would be eligible to receive free air time on their cellular phones as part of a proposed settlement of a class-action lawsuit against Verizon Communications that accuses the company of overcharging customers.

Verizon would distribute the free air time, which it estimates would total 30 million to 60 million minutes. It could be used with any carrier and at any time for domestic calls. Depending on cell phone usage, an individual could get as much as 120 minutes of free time.

The settlement, which is expected to be approved Thursday by a Wayne Circuit judge, stems from a four-year legal dispute over alleged overcharges made primarily on AirTouch cellular phones.

The lawsuit claimed that AirTouch defrauded customers by improperly charging them 8.2 cents each time they used their cell phones to call a landline phone.

AirTouch said it assessed the fee to recoup its costs from connecting the call to a landline phone. But defense lawyers said AirTouch didn't have such costs and was illegitimately pocketing some of the money.

AirTouch was bought by Vodafone Group in 1999, and many of its customers remained on similar plans when they were moved to Verizon, which was created by a joint venture of Vodafone and Bell Atlantic.

More than 100,000 current Verizon customers would automatically receive the free air time, said E. Powell Miller, an attorney for the Michigan customers. Those are customers who are still being charged the landline surcharge.

Others would have to file claim forms to get the free air time. Claim forms will be posted on the Internet if the settlement is approved as expected by Wayne Circuit Judge Kaye Tertzag. Lawyers for both sides have recommended approval.

The settlement covers any Michigan cellular phone user who was charged the fee after March 1993 by Cellular One, AirTouch or Verizon. Neither side has estimated what the settlement is worth in dollar amounts to consumers or what it would cost Verizon.

Agreement commended

Tertzag granted preliminary approval to the proposed settlement on April 18. Notices of the settlement then were mailed to 522,000 people, including 477,000 current Verizon Michigan customers. Legal advertisements detailing the settlement were published in The Detroit News and Detroit Free Press.

No one has filed any objections in court to the proposal. So far, only 58 customers have said they do not want to be part of the settlement.

Verizon customers who are currently being charged the landline fee would be allowed to switch to any other calling plan without charge. Many plans don't include the surcharge.

If the settlement is approved, people would have until January to fill out a one-page claim form, on which they must estimate cell phone usage. They must indicate that they didn't understand or agree to the landline charges.

Former AirTouch, Cellular One or Verizon cellular phone users aren't required to submit proof that they paid the charges, but Verizon

may challenge any customer's request.

"It's an excellent settlement and compromise," Miller said. "It was a hard-fought case over hotly disputed claims."

Scott Yaldo, a Birmingham lawyer, sued AirTouch in March 1999 over the alleged overcharges.

"Other companies weren't doing this," Yaldo said, who estimates that overcharges cost him \$5 or \$10 a month for at least two years. "I wanted to bring this to the attention of the company and let them know that this wasn't fair."

A Verizon spokeswoman in Michigan declined to comment, as did lawyers for the company. But in a filing, an attorney for AirTouch praised the proposed agreement.

"In today's world, where people must keep in touch with distant friends and family and where long-distance telephone use has dramatically increased, it is hard to imagine any class member who would not benefit from this type of settlement," wrote Larry Saylor, a Detroit attorney for AirTouch.

Verizon denies liability

The class-action lawsuit is a combination of two lawsuits, one filed in 1999 and the second filed two years later. Both suits made the same claim that the charge for calling a landline phone was improper.

Verizon has denied any wrongdoing.

"Although AirTouch denied liability of any kind and does not believe that it is liable for the claims asserted, AirTouch concluded that settlement was fair, reasonable and an adequate resolution," Saylor wrote. "The settlement offers substantial benefits to class members and serves the public interest."

AirTouch turned over 33,000 pages of material to plaintiffs' lawyers and made 14 people available for depositions.

The sides spent a year in mediation sessions with Richard Kaufman, a retired Wayne Circuit Court chief judge. In court documents, both sides praised Kaufman's efforts in reaching a settlement.

Tertzag will hold another hearing to set fees for the plaintiffs' lawyers, which will range from \$2 million to \$9 million and will be split between four law firms, Kaufman said. Verizon will foot the bills.

About the settlement

* Verizon will distribute cards issued by AT&T that are good for 60 to 120 minutes of free air time that can be used on any wireless or land-line carrier and at any time for domestic calls.

* Notices were mailed to about 522,000 people, including 477,000 current Verizon customers in Michigan. As many as 1.5 million additional former cell phone users could receive free air time.

* Verizon will have to notify current customers who are being charged the land-line fee and give them the option of switching to a plan that doesn't include the fee. Other plans have much lower rates.

* The proposed settlement agreement can be read online at www.hibbertgroup.com/passucci_v_airtouch.

* Claim forms will be available once the agreement is approved consumers will have 150 days to submit the forms. The claim forms can be accessed at the same Web address where the agreement is posted. Customers can also get the forms by writing to Miller Shea, PC 1301 W. Long Lake Road, Troy, MI 48098 or Glancy & Binkow, 1801 Avenue of the Stars, Los Angeles, CA 90067.

* For information, call (866) 601-6961.