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Public Service Commission

August 18, 2003

VIA ELECTRONIC FILING

Honorable Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW - Portals II, TW-A325
Washington, DC 20554

Re: CC Docket No. 03-157, Verizon Petition for Expedited Forbearance from the Commission's Current Pricing Rules for the Unbundled Network Element Platform

Dear Ms. Dortch:

Forwarded herewith are Comments of the Florida Public Service Commission in the above docket with regard to Verizon's Petition for Expedited Forbearance.

Should you have additional questions, you may contact Greg Shafer, the primary staff person in this docket, at (850) 413-6958.

Sincerely,

/ s /

Cynthia B. Miller, Esquire
Office of Federal and Legislative Liaison

CBM:tf

cc: The Honorable Michael K. Powell, Chairman
The Honorable Kathleen Q. Abernathy, Commissioner
The Honorable Michael J. Copps, Commissioner
The Honorable Kevin J. Martin, Commissioner
The Honorable Jonathan S. Adelstein, Commissioner
Brad Ramsay, NARUC
Qualex International, Inc.

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

In the Matter of)	
)	
Petition for Expedited Forbearance From the)	WC Docket No. 03-157
Commission's Current Pricing Rules for the)	
Unbundled Network Element Platform)	
)	

**COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION
REGARDING VERIZON'S PETITION FOR FORBEARANCE**

The petition by the Verizon Telephone Companies (Verizon, petitioner) asks the FCC to: (1) grant expedited forbearance, pursuant to section 10 of the Telecommunications Act of 1996, 47 U.S.C. § 160, from its decision permitting carriers to collect per-minute access charges from long distance carriers; and (2) forbear from applying its current TELRIC pricing rules to the Unbundled Network Element Platform (UNE-P). Further, the petition recommends the FCC move expeditiously to reform its current TELRIC pricing rules and “. . . move to a standard based on the incumbent's actual forward-looking costs rather than the hypothetical network construct that underlies TELRIC.”

The Florida Public Service Commission supports the notion that a comprehensive national review of the TELRIC pricing methodology is appropriate and that the collection of access charges by UNE-P carriers is an issue worthy of further analysis and review. However, on purely procedural grounds we oppose the requested relief as not well suited for a forbearance petition.

The TELRIC Pricing Standard

Attachment B to the petition has itemized, by state, proceedings conducted by more than 20 state utility commissions to set rates for Unbundled Network Elements, some of those proceedings only recently completed and some ongoing. The FPSC's own evidentiary proceeding relating to UNE pricing specifically for Verizon was only recently concluded and is stayed temporarily pending judicial

review.¹ The resulting rates have yet to be implemented and the impact to Florida's telecommunications market is unknown.

To the degree that a portion of the relief sought by the petitioner is to have the FCC initiate a review of the TELRIC pricing standard, the FPSC supports such a review once more is known regarding UNE availability, i.e., subsequent to the release of the Triennial Review Order. A separate proceeding to review TELRIC pricing standards, with FCC-defined parameters, will provide all parties an equal opportunity to state their support for, or opposition to, the current situation and provide a thorough analysis to support their positions on the identified issues. We believe this is a more direct and appropriate mechanism to achieve the best outcome for all parties. Further, the FPSC has previously indicated its support for a review of UNE costing and pricing standards once a thorough assessment of markets is complete.² We do appreciate the need to move forward expeditiously in this matter and not delay, indefinitely, a thorough review of the TELRIC standard.

The FCC has indicated in recent months that a review of the TELRIC costing methodology may soon be forthcoming. However, to date, no Public Notice, Notice of Proposed Rulemaking or Notice of Inquiry has been issued. A pleading cycle has not been established, no indication of the scope of the review has been issued, and no tentative conclusions have been put forth. The relief sought by the petitioner from the TELRIC pricing standard may be more appropriate after a proceeding has been

¹PSC-02-1574-FOF-TP, issued Nov. 15, 2002 stayed by order PSC-03-0896-PCO-TP. Florida Supreme Court case no.SC02-2647, filed December 17, 2002.

²*Ex Parte* Letter to Chairman Powell, CC Docket No. 01-338, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; and CC Docket No. 96-98, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996.

initiated if the scope of that proceeding might reasonably provide for a similar outcome. In addition, the FPSC is anxiously awaiting the pending Triennial Review Order that may lead to the removal of certain UNEs from the national list and may render a portion of the requested relief moot if, for example, Florida were to determine that no impairment existed for a UNE component of UNE-P.

Application of Access Charges to UNE-P

The FPSC believes that Verizon's request that the FCC forbear from its rule that permits access charges to be collected from interexchange carriers (IXCs) by competitive local exchange carriers (CLECs) using UNE-P under the exchange access service provision raises concerns that warrant investigation by the FCC. In a similar vein to the TELRIC review, the FPSC believes that a separate proceeding is merited to consider the various issues surrounding the existing rule, perhaps in the context of the ongoing Access Reform Docket or the Intercarrier Compensation docket. Once again, the FPSC is mindful that continually delaying such matters into the future does little to address the concerns of the petitioner or to provide needed certainty to the marketplace. Therefore, we encourage a time frame for examining this issue that is similar to that required of the forbearance petition itself.

Conclusion

The FPSC opposes the petition on procedural grounds because we believe a forbearance petition is not the appropriate vehicle to further consider the issues raised by the petition. However, we believe a comprehensive national review of the TELRIC pricing standard is appropriate once the details of the Triennial Review Order are known and that the access charge issue raised by the petition is, at a minimum, worthy of further examination. In addition, we are sensitive to the time frame inherent in the petition and urge the FCC to initiate proceedings on the identified issues as expeditiously as possible

once the Triennial Review Order is issued. However, we believe that separate proceedings rather than a petition for forbearance, are the proper vehicles and oppose the petition on that basis.

Respectfully Submitted,

/ s /

Cynthia B. Miller, Esquire
Office of Federal & Legislative Liaison

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DATED: August 18, 2003

