

Kimberly Caswell
Vice President and General Counsel, Southeast
Legal Department

DISTRIBUTION CENTER ORIGINAL
02 MAR 12 AM 10:43



FLTC0007
201 North Franklin Street (33602)
Post Office Box 110
Tampa, Florida 33601-0110

Phone 813 483-2606
Fax 813 204-8870
kimberly.caswell@verizon.com

March 11, 2002

Ms. Blanca S. Bayo, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RECEIVED FPSC
02 MAR 12 PM 2:30
COMMISSION
CLERK

Re: Docket No. 990649B-TP
Investigation into Pricing of Unbundled Network Elements (Sprint/Verizon track)

Dear Ms. Bayo:

Please find enclosed for filing in the above matter an original and 15 copies of Verizon Florida Inc.'s Motion to Compel Discovery. Service has been made as indicated on the Certificate of Service. If there are any questions regarding this filing, please contact me at 813-483-2617.

Sincerely,

for Kimberly Caswell
Kimberly Caswell

KC:tas
Enclosures

AUS
CAF
CMP
COM
CTR
ECR
GCL
OPC
MMS
SEC
OTH

RECEIVED & FILED
RLM
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
02866 MAR 12 08

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into pricing of unbundled)
network elements (Sprint/Verizon track))
_____)

Docket No. 990649B-TP
Filed: March 11, 2002

MOTION TO COMPEL DISCOVERY

Pursuant to Rules 28-106.204 and 28-106.206 of the Florida Administrative Code, and Rule 1.380 of the Florida Rules of Civil Procedure, Verizon Florida Inc. ("Verizon"), by and through its undersigned counsel, hereby submits this Motion to Compel Discovery requesting the Florida Public Service Commission ("Commission") to order AT&T Communications of the Southern States, LLC, ("AT&T"), MCI WorldCom, Inc. ("MCI") and Florida Digital Network, Inc. ("FDN") (together, "the ALEC Coalition") to supplement their responses immediately to fully respond to Verizon's First Request for Production of Documents ("First Request").

On February 8, 2002, Verizon served the ALEC Coalition with its First Request. The ALEC Coalition responded on March 1, 2002 ("Response"), albeit one day late. For the reasons stated below, the ALEC Coalition's answers to each of the 13 document requests posed by Verizon are entirely incomplete and unresponsive. Accordingly, and because the documents requested are integral to Verizon's review and analysis of Dr. Ankum's testimony and preparation of its surrebuttal testimony, which is due to be filed on March 18, 2002, Verizon respectfully submits this Motion to Compel Discovery to order the ALEC Coalition to supplement its responses immediately.

DOCUMENT NUMBER 100

02866 MAR 12 2002

FPSC-COMMISSION CLERK

Document Request Nos. 1-13:

Verizon's First Request contained 13 requests for relevant, non-privileged documentation. To each request, regardless of the particular document asked for, the ALEC Coalition responded with the same statement: "All responsive documents have been produced attached to Dr. Ankum's testimony." See Exhibit A. Although the ALEC Coalition filed its usual litany of general objections "for the purpose of complying with the ten-day requirement set forth in Order No. PSC-00-0540-PCO-TP,"¹ it never specifically objected to any of the 13 document requests.

The ALEC Coalition has made no meaningful attempt to respond to Verizon's discovery. There are 12 exhibits attached to Dr. Ankum's Rebuttal Testimony (one of which is Dr. Ankum's curriculum vitae). In their responses, the ALEC Coalition never specifies which documents purport to respond to which of Verizon's requests for production of documents. Indeed, the ALEC Coalition cannot do so; even a cursory review of the First Request alongside Dr. Ankum's testimony attachments reveals that none of these documents respond to the specific items in the First Request. If the ALEC Coalition believes any of Dr. Ankum's testimony attachments are, in fact, responsive, then Verizon asks the Commission to order the ALEC Coalition to specify which documents respond to which requests for production of documents. If, as is more likely the case, no responsive documents exist, then Verizon asks the Commission to order the ALEC Coalition to state that this is the case.

In addition, the ALEC Coalition's Response is at times inconsistent with particular answers given to Verizon's First Set of Interrogatories. For example, in response to

Verizon's Interrogatory No. 17,² the ALEC Coalition claims that the documentation requested is "proprietary" and cannot be produced. However, in response to Document Request No. 9, which asks for production of the very same documents as listed in Interrogatory No. 17, the ALEC Coalition asserts their standard answer that "[a]ll responsive documents have been produced . . ." See Exhibit A. Therefore, it is unclear to Verizon whether the documents exist. Moreover, if they do exist and they are proprietary, then they must nevertheless be produced under the protective agreements Verizon and the parties in the ALEC Coalition have executed in this proceeding.

In sum, the ALEC Coalition has failed to produce any documentation whatsoever in response to Verizon's First Request regardless of whether they have stated that responsive documents exist or not. The ALEC Coalition's offering of a mere general reference to prior documents or submissions without any specificity as to where the particular information or documentation may be found does not constitute a sufficient answer, even if the documents had actually been provided. And if no responsive documents have been provided, then a statement saying that they have been is false, and grounds for imposition of sanctions.

Accordingly, Verizon respectfully requests that the ALEC Coalition be ordered to supplement its responses immediately by providing all responsive documents or stating that there are no documents responsive to the particular request.

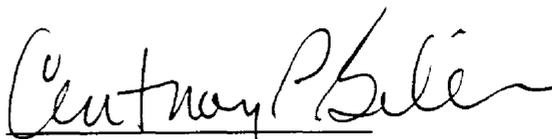
¹ *In re: Investigation into pricing of unbundled network elements*, AT&T, MCI and FDN's Objections to Verizon Florida, Inc.'s First Request for Production of Documents, Docket No. 990649B-TP (filed Feb. 18, 2002).

² Interrogatory No. 17 reads: "With respect to Dr. Ankum's Rebuttal Testimony at page 57, lines 11-18, please list all studies, analyses, and other documents Dr. Ankum relied upon in developing his three recommended drop lengths." The ALEC Coalition responded: "Dr. Ankum's recommendation is based on his review of proprietary documents in a large number of cost proceedings. He is not able to provide those documents."

CONCLUSION

For the foregoing reasons, Verizon respectfully requests that this Commission grant this Motion to Compel Discovery and order the ALEC Coalition to provide full and complete responsive answers to Verizon's First Request for Production of Documents immediately.

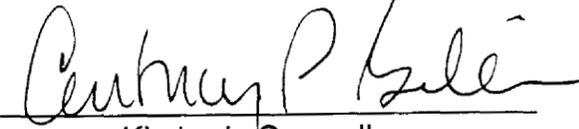
Respectfully submitted on March 11, 2002.

By: 
Kimberly Caswell
Post Office Box 110, FLTC0007
Tampa, Florida 33601
Telephone: 813-483-2617

Attorney for Verizon Florida Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of Verizon Florida Inc.'s Motion to Compel Discovery in Docket No. 990649B-TP were sent via electronic mail and U.S. mail on March 11, 2002 to the parties on the attached list.


for Kimberly Caswell

Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Pennington Law Firm *
Marc W. Dunbar
Karen M. Camechis
215 S. Monroe St., 2nd Floor
Tallahassee, FL 32301

AT&T *
Marsha Rule
101 N. Monroe Street
Suite 700
Tallahassee, FL 32301-1549

BellSouth Telecommunications *
Nancy B. White
c/o Nancy H. Sims
150 South Monroe St., Suite 400
Tallahassee, FL 32301-1556

Florida Cable Telecomm. Assoc. *
Michael A. Gross
246 East 6th Avenue, Suite 100
Tallahassee, FL 32303

Florida Public Tele. Assoc.
Angela Green
2292 Wednesday Street
Suite 2
Tallahassee, FL 32308

MCI WorldCom Inc. *
Donna Canzano McNulty
The Atrium Building, Suite 105
325 John Knox Road
Tallahassee, FL 32303-4131

John Spilman
Broadslate Networks Inc.
675 Peter Jefferson Parkway
Suite 310
Charlottesville, VA 22911

Brent E. McMahan
VP-Reg./Govt. Affairs
Network Telephone Corp.
815 South Palafox Street
Pensacola, FL 32501

Time Warner Telecom *
Carolyn Marek
233 Bramerton Court
Franklin, TN 37069

Joseph McGlothlin *
McWhirter Reeves Law Firm
117 S. Gadsden Street
Tallahassee, FL 32301

Stephen C. Reilly
Office of Public Counsel
111 W. Madison Street
Room 812
Tallahassee, FL 32399-1400

Bruce May
Holland Law Firm
315 S. Calhoun Street
Suite 600
Tallahassee, FL 32301

Richard D. Melson *
Gabriel E. Nieto
Hopping Law Firm
123 S. Calhoun Street
Tallahassee, FL 32314

Jim Lamoureux*
Virginia Tate*
AT&T
1200 Peachtree Street
Suite 8100
Atlanta, GA 30309

Mark Buechele
Supra Telecommunications
Koger Center-Ellis Building
1311 Executive Center Drive
Suite 200
Tallahassee, FL 32301-5027

Vicki Gordon Kaufman *
McWhirter Reeves Law Firm
117 South Gadsden Street
Tallahassee, FL 32301

Gregory J. Darnell *
MCI WorldCom Inc.
Six Concourse Parkway
Suite 3200
Atlanta, GA 30328

Charles Rehwinkel *
Susan Masterton*
Sprint-Florida
1313 Blairstone Road
MC FLTLHO0107
Tallahassee, FL 32301

Marc B. Rothschild
Swidler & Berlin
3000 K Street NW, Suite 300
Washington, DC 20007-5116

Catherine F. Boone *
Covad Comm. Co.
10 Glenlake Parkway
Suite 650
Atlanta, GA 30328-3495

George S. Ford*
Chief Economist
Tel Communications Inc.
101 S. Harbour Island Blvd.
Tampa, FL 33602

Jonathan E. Canis
Michael B. Hazzard
Kelley Drye & Warren
1200 19th St. NW, 5th Floor
Washington, DC 20036

Rodney L. Joyce
Shook Hardy & Bacon LLP
600 14th St. N.W., Suite 800
Washington, DC 20005-2004

Tracy W. Hatch/Floyd R. Self*
Messer Law Firm
115 S. Monroe Street
Suite 701
Tallahassee, FL 32302

Eric Branfman/Morton Posner *
Swidler & Berlin
3000 K Street NW, Suite 300
Washington, DC 20007-5116

Florida Digital Network, Inc.
390 North Orange Avenue
Suite 2000
Orlando, FL 32801

Charles Pellegrini
Patrick Wiggins
Katz Kutter Law Firm
106 East College Avenue
2th Floor
Tallahassee, FL 32301

Network Access Solutions Corp.
13650 Dulles Technology Drive
Herndon, VA 20171-4602

John D. McLaughlin, Jr.
KMC Telecom III, Inc.
1755 North Brown Road
Lawrenceville, GA 30034