

ORIGINAL

JAMES E. "JIM" KING, JR.  
PRESIDENT



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STATE OF FLORIDA  
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JOHNNIE BYRD  
SPEAKER



September 18, 2003

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk  
and Administrative Services  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

RE: Docket No. 030867-TL

RECEIVED FPSC  
03 SEP 18 PM 3:43  
COMMISSION  
CLERK

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of Citizens' Second Motion to Compel Production of Documents from Verizon Florida, Inc. for filing in the above-referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

H F. Mann  
Associate Public Counsel

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16  
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HFM/dsb

Enclosures

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FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Petition of Verizon Florida Inc. to Reform )  
Its Intrastate Network Access and Basic Local ) Docket No.: 030867-TL  
Telecommunications rates in Accordance with )  
Florida Statutes, Section 364.164 ) Filed: September 18, 2003  
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**CITIZENS' SECOND MOTION TO COMPEL PRODUCTION OF  
DOCUMENTS FROM VERIZON FLORIDA, INC.**

The Citizens of Florida (Citizens), through the Office of Public Counsel, pursuant to Rule 28-106.204, Florida Administrative Code, and Rules 1.280, 1.340, 1.350, and 1.380, Florida Rules of Civil Procedure, request the Prehearing Officer issue an order compelling Verizon Florida, Inc. ("Verizon" or "Company") to immediately produce all documents described in the paragraphs identified below.

1. On September 12, 2003, Verizon served its Initial Objections to Citizens' Second Set of Production of Documents, dated September 5, 2003.

2. Verizon lists thirteen of these "initial" and "preliminary" objections to Citizens' discovery, none of which identifies a single request for production of documents to which any or all of them may apply. As such, the Company has presented to Citizens a wonderful game of "Read the Company's Mind."

3. Citizens assert categorically that these "initial" and "preliminary" objections of Verizon are wholly inapplicable to Citizens' discovery requests. The following are what the Company suggests are appropriate discovery objections made pursuant to the Florida Rules of Civil Procedure:

1. Verizon objects to each request to the extent that it seeks to impose an obligation on Verizon to respond on behalf of subsidiaries, affiliates, or

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other persons that are not parties to this case on the grounds that such request is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

2. Verizon objects to each request to the extent that it is intended to apply to matters other than Florida intrastate operations subject to the jurisdiction of the Commission. Verizon objects to each such request as being irrelevant, overly broad, unduly burdensome, and oppressive.

3. Verizon objects to each request to the extent that it seeks documents that are exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

4. Verizon objects to each request to the extent that it is vague, ambiguous, overly broad, imprecise, or to the extent that it utilizes terms that are subject to multiple interpretations and are not properly defined or explained for purposes of this discovery. Any documents provided by Verizon in response to the Second Set will be provided subject to, and without waiver of, the foregoing objection.

5. Verizon objects to each request to the extent that it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding. Verizon will attempt to state in its responses each instance where this objection applies.

6. Verizon objects to providing documents to the extent that they are already in the public record before the Commission.

7. Verizon objects to the Second Set to the extent that it seeks to have Verizon create documents not in existence at the time of the request.

8. Verizon objects to each request to the extent that it seeks to impose obligations on Verizon that exceed the requirements of the Florida Rules of Civil Procedure or Florida Law.

9. Verizon objects to each request to the extent that it seeks to impose obligations on Verizon that exceed the requirements of Florida Statutes, Section 364.164(3).

10. Verizon objects to each request to the extent that responding to it would be unduly burdensome, expensive, oppressive, or excessively time consuming.

11. Verizon objects to each request to the extent that it is not limited to any stated period of time and, therefore, is overly broad and unduly burdensome.

12. In light of the short period of time Verizon was afforded to respond to the Second Set, discovery and the development of Verizon's position are necessarily ongoing, and Verizon's response may be subject to supplementation or further refinement. Verizon therefore reserves the right, at its discretion, to supplement or modify its response. However, Verizon does not assume an affirmative obligation to supplement its answers on an ongoing basis.

13. Verizon is a large corporation with employees located in many different locations in Florida and in other states. In the course of its business, Verizon creates countless documents that are not subject to Commission or FCC retention of records requirements. These documents are kept in numerous

locations that are frequently moved from site to site as employees change jobs or as the business is reorganized. Verizon will conduct a search of those files that are reasonably expected to contain the requested information. To the extent that the Second Set purports to require more, Verizon objects on the grounds that compliance would impose an undue burden or expense.

4. The Prehearing Officer, Commissioner Bradley, in his Order Establishing Procedure, No. PSC-03—0994-PCO-TL, instructed the parties regarding discovery, that “Any objection to . . . discovery requests shall be made within five business day of service of the discovery request.”

5. Citizens do not believe that that instruction envisioned a listing of any and all objections that might be available to a party in the event that some specific discovery request was made of that party to which one or more of those available objections could be claimed and argued.

6. Not one of the thirteen “initial” and “preliminary” objections made by Verizon identifies a single request for production of a document to which it might apply. If these objections were actually applicable to Citizens’ discovery, Citizens would be faced with the impossible task of responding directly to thirteen “initial” and “preliminary” objections, all of which address nothing in particular. Accordingly, these objections are wholly inappropriate and totally irrelevant to Citizens’ discovery requests and should accordingly be dispatched from consideration by the Commission.

7. After listing the above thirteen “initial” and “preliminary” objections to any and all of Citizens’ discovery as each of the objections may or may not apply, Verizon identifies some specific objections to particular discovery requests, as required by the

Florida Rules of Civil Procedure. Citizens' Production of Document Requests, the Company's objections, and Citizens' response to the objections follow below.

8. Request No. 37:

Provide, in electronic format, the company's (and/or the related long distance affiliate) intrastate pricing units/volumes separately for MTS, and all "other optional calling plans" (all "other optional calling plans" should be provided separately if available, or on a combined basis), and provide this information for both residential and business customers. The above information should be provided for day, evening, and night/weekend categories. The information should be provided for both the test period, and the year prior to the test period. Please also provide all supporting documents.

SPECIFIC OBJECTION:

In addition to its General Objections, which are incorporated herein by reference, Verizon objects to this request on the grounds that it seeks information relating to Verizon's long distance affiliate, which is not a party to this case, and is therefore overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. Moreover, Verizon objects to this request, as it relates to Verizon Florida Inc., on three grounds. First, it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding. Verizon Florida Inc. does not pay access charges, and thus will not receive an access rate reduction to be flowed through to

residential and business customers under Florida Statutes, Section 364.163 (2). Second, this request seeks information precluded from discovery by the limitations imposed by Florida Statutes, Section 364.164(3). Specifically, it seeks information about end-user long distance services, but such services are not the subject of Verizon's Petition. To the extent end-user long distance service prices will be impacted by granting Verizon's Petition, the resulting long distance prices are required to be flowed through pursuant to Section 364.163(2), Florida Statutes. Therefore, for purposes of reaching a decision on Verizon's Petition, the Commission must assume that the flow-through of access rate reductions will take place as required by law. Third, this request seeks information regarding "pricing unit" information beyond the most recent 12-month period, which is beyond the scope of inquiry permitted by Section 364.164(3), Florida Statutes.

**CITIZENS' RESPONSE:**

This docket is about the access charges that Verizon collects from interexchange carriers, based on the volume of traffic Verizon transports for each of the interexchange carriers operating in Florida. Citizens understand that Verizon does not collect access charges from its own long distance subsidiary. However, Citizens' seek information in this request regarding the amount of interexchange long distance traffic the company handles for its long distance subsidiary in Florida. This document request seeks to identify the amount of long distance traffic that Verizon handles for its own subsidiary, even though its subsidiary is not subject to access charges, as stated by Verizon in its

objection to this request. If the Commission is to understand fully the benefits that may or may not accrue to Florida's residential basic local exchange customers, it needs to know what impacts Verizon's proposals in this docket will have on all Florida long distance carriers in terms of the volume of traffic, applicable rates and the rates that will apply following the changes proposed by the Company in this docket. Furthermore, Verizon witness Gordon states that "Economic activity in Florida will increase in Florida as a result of the companies' plans because rebalancing generates substantial consumer benefits" and he states that, "consumers will likely increase their purchases of those services whose price has come down." (Page 4, lines 17-19) Sections III and IV of witness Gordon's testimony describes the customer benefits from the rebalancing proposal of the company, and on page 32 of his testimony he states that Florida consumers will use more toll services as a result of the reduction in intrastate toll prices. This discovery request directly addresses the issue of intrastate toll price reductions that Florida consumers may or may not, experience. Citizens object to Verizon's contention that the statute limits discovery to the most recent 12 months. If the Commission were to actually accept the Company's contention in this regard, then it would apply equally to testimony and substantial parts of witness Gordon's testimony would be stricken from the record. Citizens' discovery request relates to the testimony of its witnesses and it is neither vague nor relevant. Finally, the Company's reliance on section 364.164(3), Florida Statutes, is misplaced. Citizens assert that the discovery limitation addressed in that section pertains only to the rate adjustment filings identified in section 364.164(2), and further addressed in section 364.164(3) and section 364.164(7), Florida Statutes.

9. Request No. 38:



Provide, in electronic format, the company's (and/or the related long distance affiliate) average revenues per minute separately for MTS, and all "other optional calling plans" (all "other optional calling plans" should be provided separately if available, or on a combined basis), and provide this information for both residential and business customers. The information should be provided for both the test period, and each of the two years prior to the test period. Please provide all supporting documents.

SPECIFIC OBJECTION:

In addition to its General Objections, which are incorporated herein by reference, Verizon objects to this request on the grounds that it seeks information relating to Verizon's long distance affiliate, which is not a party to this case, and is therefore overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. Moreover, Verizon objects to this request, as it relates to Verizon Florida Inc., on three grounds. First, it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding. Verizon Florida Inc. does not pay access charges, and thus will not receive an access rate reduction to be flowed through to residential and business customers under Florida Statutes, Section 364.163 (2). Second, this request seeks information precluded from discovery by the limitations imposed by Florida Statutes, Section 364.164(3). Specifically, it seeks information about end-user long

distance services, but such services are not the subject of Verizon's Petition. To the extent end-user long distance service prices will be impacted by granting Verizon's Petition, the resulting long distance prices are required to be flowed through pursuant to Section 364.163(2), Florida Statutes. Therefore, for purposes of reaching a decision on Verizon's Petition, the Commission must assume that the flow-through of access rate reductions will take place as required by law. Third, this request seeks information regarding "pricing unit" information beyond the most recent 12-month period, which is beyond the scope of inquiry permitted by Section 364.164(3), Florida Statutes.

**CITIZENS' RESPONSE:**

See Citizens' Response to Verizon Objection to Production of Document Request No. 37, above.

10. Request No. 39:

Provide, in electronic format, the average intrastate toll/long distance usage charges (billed/invoiced amount) separately for customers of residential MTS, all other combined residential "optional calling plans", business MTS, and all other combined business "optional calling plans". Provide this information for the test period and the prior twelve months. Please also provide all supporting documents.

**SPECIFIC OBJECTION:**

In addition to its General Objections, which are incorporated herein by reference, Verizon objects to this request on the grounds that it seeks

information relating to Verizon's long distance affiliate, which is not a party to this case, and is therefore overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. Moreover, Verizon objects to this request, as it relates to Verizon Florida Inc., on three grounds. First, it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding. Verizon Florida Inc. does not pay access charges, and thus will not receive an access rate reduction to be flowed through to residential and business customers under Florida Statutes, Section 364.163 (2). Second, this request seeks information precluded from discovery by the limitations imposed by Florida Statutes, Section 364.164(3). Specifically, it seeks information about end-user long distance services, but such services are not the subject of Verizon's Petition. To the extent end-user long distance service prices will be impacted by granting Verizon's Petition, the resulting long distance prices are required to be flowed through pursuant to Section 364.163(2), Florida Statutes. Therefore, for purposes of reaching a decision on Verizon's Petition, the Commission must assume that the flow-through of access rate reductions will take place as required by law. Third, this request seeks information regarding "pricing unit" information beyond the most recent 12-month period, which is beyond the scope of inquiry permitted by Section 364.164(3), Florida Statutes.

**CITIZENS' RESPONSE:**

See Citizens' Response to Verizon Objection to Production of Document Request No. 37, above.

11. Request No. 40:

Assume that the company's proposal is adopted. Provide all documents in your possession, custody or control to show that the decrease in residential long distance rates (from the flow-through impact) will equal or exceed the increase in residential local rates. Please provide information in electronic format.

SPECIFIC OBJECTION:

In addition to its General Objections, which are incorporated herein by reference, Verizon objects to this request on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding. Verizon Florida Inc. does not pay access charges, and thus will not receive an access rate reduction to be flowed through to residential and business customers under Florida Statutes, Section 364.163 (2). In addition, this request seeks information precluded from discovery by the limitations imposed by Florida Statutes, Section 364.164(3). Specifically, it seeks information about end-user long distance services, but such services are not the subject of Verizon's Petition. To the extent end-user long distance service prices will be impacted by granting Verizon's Petition, the resulting long distance prices are required to be flowed through pursuant to Section

364.163(2), Florida Statutes. Therefore, for purposes of reaching a decision on Verizon's Petition, the Commission must assume that the flow-through of access rate reductions will take place as required by law.

**CITIZENS' RESPONSE:**

See Citizens' Response to Verizon Objection to Production of Document Request No. 37, above. Verizon has stated in its objection that it does not charge for access to the local exchange network by its long distance affiliate. The Citizens simply want to clarify whether or not the Verizon long distance customers will benefit from the proposals of the company and these documents requested are intended to assist in that determination.

Respectfully submitted,

CHARLES J. BECK  
Interim Public Counsel  
Florida Bar No. 217281



H F. Rick Mann  
Associate Public Counsel  
Florida Bar No. 763225

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(850) 488-9330  
Attorney for Florida's Citizens

**CERTIFICATE OF SERVICE  
DOCKET NO.: 030867-TL**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 18th day of September, 2003.

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Florida Public Service Commission  
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