

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.

DOCKET NO. 030867-TL

In re: Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.

DOCKET NO. 030868-TL

In re: Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc.

DOCKET NO. 030869-TL

In re: Flow-through of LEC switched access reductions by IXC's, pursuant to Section 364.163(2), Florida Statutes.

DOCKET NO. 030961-TI
ORDER NO. PSC-03-1303-PCO-TL
ISSUED: November 14, 2003

ORDER ON OPC'S SECOND MOTIONS TO COMPEL VERIZON

On August 27, 2003, Verizon Florida Inc. (Verizon), Sprint-Florida, Incorporated (Sprint), and BellSouth Telecommunications, Inc. (BellSouth), each filed petitions pursuant to Section 364.164, Florida Statutes, and respective Dockets Nos. 030867-TL, 030868-TL, and 030869-TL have been opened to address these petitions in the time frame provided by Section 364.164, Florida Statutes. During the 2003 Regular Session, the Florida Legislature enacted the Tele-

DOCUMENT NUMBER DATE

11377 NOV 14 8

PSC-COMMISSION OF FRK

Competition Innovation and Infrastructure Enhancement Act (Tele-Competition Act or Act). The Act became effective on May 23, 2003. Part of the new Tele-Competition Act is the new Section 364.164, Florida Statutes, whereby the Legislature established a process by which each incumbent local exchange telecommunications carrier (ILEC) may petition the Commission to reduce its intrastate switched network access rate in a revenue-neutral manner. This matter has been set for hearing on December 10-12, 2003.

On September 17, 2003, the Office of Public Counsel (OPC) filed its First Motion to Compel Answers to Interrogatories From Verizon Florida, Inc. and its First Motion to Compel Production of Documents From Verizon Florida, Inc. (Motions to Compel). On September 24, 2003, Verizon filed its Responses to OPC's First Motions to Compel. By Order No. PSC-03-1155-PCO-TL, issued October 20, 2003, OPC's First Motions to Compel were granted in part and denied in part.

On September 18, 2003, OPC filed its Second Motions to Compel Answers to Interrogatories and PODs. On September 25, 2003, Verizon filed its response to OPC's Motions. This Order addresses OPC's Second Motions to Compel.

I. ARGUMENT

A. OPC's Motion

In support of its Motions, OPC states that on September 12, 2003, Verizon served its Initial Objections to its Second Set of Interrogatories and First Set of Production of Documents dated September 5, 2003. OPC asserts that Verizon lists twelve "initial" and "preliminary" objections to its discovery, none of which identifies a single interrogatory or request for production of documents (PODs) to which any or all of them may apply. OPC claims that as such Verizon has presented to it a wonderful game of "read the Company's mind." OPC asserts emphatically that these "initial" and "preliminary" objections of Verizon are wholly inapplicable to its discovery requests. OPC goes through each of "initial" and "preliminary" objections made by Verizon, regarding the interrogatories and PODs.

OPC cites to the Order Establishing Procedure, Order No. PSC-03-0994-PCO-TL, which instructs the parties regarding discovery that "Any objection to . . . discovery requests shall be made within five business day of service of the discovery request." OPC contends that it does not believe 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. OPC argues that not one of these "initial" and "preliminary" objections made by Verizon identifies a single interrogatory or POD to which it might apply. OPC states that if these objections were actually applicable to it's discovery, OPC would be faced with the impossible task of responding directly to these "initial" and "preliminary" objections, all of which address nothing in particular. OPC contends that these objections are wholly inappropriate and totally irrelevant to its discovery requests.

OPC states that after listing their "initial" and "preliminary" objections, Verizon identifies some specific objections to particular discovery requests, as required by the Florida Rules of Civil Procedure. OPC then proceeds to identify the specific objections by interrogatory and POD and its responses to same which are summarized below.

B. Verizon Argument

Verizon states that in regard to its use of general objections, nothing in Order No. PSC-03-0994-PCO-TL precludes the use of general objections and, in light of the expedited discovery time frames in this proceeding, Verizon's use of general objections - in which it lists standard discovery objections and reserves its rights - is entirely appropriate. Verizon further states that in this instance, Verizon has not refused to respond to a single interrogatory based on its general objections. Verizon contends that it has interposed specific objections to those interrogatories that seek information beyond the scope of discovery in this proceeding, and Verizon has only exercised its right not to respond where it has interposed specific objections.

The individual interrogatories or PODs specific arguments are addressed below. Further, the decision relating to each

interrogatory and POD is addressed under that individual interrogatory and POD.

II. DECISION

After reviewing the parties' motions and responses, as well as the interrogatories and PODs in questions, OPC's Motions to Compel shall be granted in part and denied in part in the manner and for the reasons set forth below.

Rule 1.280(b) states that:

It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

However, certain of the requests appear to be burdensome; therefore, those requests are limited as set forth below. The information will be limited as set forth below.

A. Interrogatories

Interrogatory No. 24:

OPC states that Verizon specifically objects to its Interrogatory No. 24 which asks Verizon to provide 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.

OPC contends that this docket is about the access charges that Verizon collects from interexchange carriers(IXC), based on the volume of traffic Verizon transports for each of the IXC's operation in Florida. OPC states that it understands that Verizon does not collect access charges from its own long distance subsidiary. OPC argues that this interrogatory seeks information

regarding the amount of interexchange long distance traffic the company handles for its 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. OPC contends that if this Commission is to fully understand 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.

OPC also argues that Verizon witness Gordon states that "economic activity in Florida will increase in Florida as a result of the companies' plans because rebalancing generates substantial customer benefits" and he states that, "consumers will likely increase their purchases of those services whose price has come down." OPC cites Section III and IV of witness Gordon's testimony which 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. OPC asserts that this discovery request directly addresses the issue of intrastate toll price reductions that Florida consumers may or may not, experience. OPC states that it objects to Verizon's contention that the statute limits discovery to the most recent 12 months. OPC asserts that 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 of its witnesses and it is neither vague nor relevant. OPC asserts that the Company's reliance on Section 364.164(3), Florida Statutes, is misplaced. OPC contends that the discovery limitation address in that section pertains only to the rate adjustment filings identified in Section 364.164(2), Florida Statutes, and further addressed in Section 364.164(3) and 364.164(7), Florida Statutes.

Verizon in its response, contends that OPC's argument is untenable. Verizon contends that first, it cannot be reasonably argued that long distance companies will not pass through the access reductions to their customers. Verizon asserts that Section 364.163(2), Florida expressly requires a long distance company to "decrease its intrastate long distance revenues by the amount

necessary to return the benefits of such reduction to both its residential and business customers." Second, OPC contends the manner in which the long distance companies pass through access reductions is outside the scope of the four issues to be considered by the Commission under Section 364.164(1), Florida Statutes. OPC argues that third, even if the Commission were to determine that whether and how long distance companies will pass through the access reductions is within the scope of the proceeding, the information requested would not help the Commission to understand this issue.

Verizon contends that forth, OPC is prohibited from seeking the amount of interexchange long distance traffic that Verizon handles for its long distance affiliate by the discovery limitations imposed by Section 364.163(3), Florida Statutes. Verizon argues that Section 364.164(3), Florida Statutes, plainly states that "[a]ny discovery or information requests under this section shall be limited to verification of historical pricing units. . ." Verizon argues that even if the Commission construes this subsection broadly, it should not be required to respond to this interrogatory because its Petition does not focus on the amount of interexchange long distance traffic that Verizon handles for its long distance affiliate. Verizon asserts that OPC's attempt to argue that Subsection 364.163(3), Florida Statutes, discovery limitation only apply to certain subsection is misplaced. Verizon contends that by the plain language of the statute, the discovery limitation applies to discovery requests under all the section, not just certain subsections.

Decision

For the reasons fully articulated in Order No. PSC-03-1155-PCO-TL, issued October 20, 2003, on OPC's First Motions to Compel, the language in Section 364.164(3), Florida Statutes, limits discovery only on discovery regarding the pricing units upon which the party's petition is based. Thus, to the extent the discovery request goes to information not related to the "pricing units upon which the party's petition is based," discovery as permitted under the Florida Rules of Civil Procedures, is not limited to a 12-month historical review.

Further, at the November 3, 2003, Agenda Conference, this Commission voted to consolidate the IXC flow-through docket with these petitions. Thus, Verizon's argument that this information is beyond the matters to be addressed by this Commission regarding its petition is inapplicable. In addition, its argument that the information would not help this Commission is inconsistent with this Commission's recent decision mentioned above.

Based on the foregoing, this discovery request appears relevant. Thus, Verizon shall respond to this discovery request.

Interrogatory No. 25:

OPC states that Verizon specifically objects to its Interrogatory No. 25 which asks Verizon to provide 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. OPC refers to the arguments it made to Verizon's objection to Interrogatory No. 24. Verizon refers to its response to OPC's Motion to Compel regarding Interrogatory No. 24.

Decision

For the reasons articulated under the decision in Interrogatory No. 24, this discovery request appears relevant to the extent that this question does not call for information related to the revenues upon which the ILECs Petition were based. Thus, Verizon shall respond to this discovery request.

Interrogatory No. 26:

OPC states that Verizon specifically objects to its Interrogatory No. 26 which asks Verizon to provide 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. Explain if this includes any PICC. OPC refers to the arguments it made to Verizon's objection to Interrogatory No. 24. Verizon refers to its response to OPC's Motion to Compel regarding Interrogatory No. 24.

Decision

For the reasons articulated under the decision in Interrogatory No. 24, this discovery request appears relevant. Thus, Verizon shall respond to this discovery request.

Interrogatory No. 27:

OPC states that Verizon specifically objects to its Interrogatory No. 27 which asks Verizon to assume that the company's proposal is adopted and provide all information to show that the decrease in residential long distance rates (from the low-through impact) will equal or exceed the increase in residential local rates. Provide all supporting calculations, assumptions, and explanations, and provide information in electronic format. Explain how this can be determined if the time period that long distance rate reductions will be in place is not known or determinable. OPC refers to the arguments it made to Verizon's objection to Interrogatory No. 24. OPC also contends that Verizon has stated in its objection that it does not collect fees for access to the local exchange network from its long distance affiliate. OPC asserts that it merely wants to clarify whether or not the Verizon long distance customers will benefit from the proposals of the company.

Verizon refers to its Response to OPC's Motion to Compel to Interrogatory No. 24.

Decision

For the reasons articulated under the decision in Interrogatory No. 24, this discovery request appears relevant. However, this request is limited to all information in Verizon's possession or control. Thus, Verizon shall respond to this discovery request as limited above.

Interrogatory No. 28:

OPC states that Verizon specifically objects to its Interrogatory No. 28, which asks Verizon to assume that the company's proposal is adopted without changes (and that the company, and/or its long distance affiliate would flow-through the rate reductions) provide the company's best estimate of the flow-through impact on reduced long distance rates for the company (and/or its affiliate), and reduced long distance rates generally for all of the Florida long distance market for all other carriers. In addition, assuming that the proposals for the other two LECs are adopted without change, provide the company's best estimate of how the combined flow-through impact of all LECs affects the long distance rates generally for all of the Florida long distance market for all other carriers. This information can be expressed as the best estimate impact of the reduction in average long distance revenues per minute, or some other basis for long distance rates. Provide all supporting calculations and explanations. OPC refers to the arguments it made to Verizon's objection to Interrogatory No. 24.

Verizon refers to its Response to OPC's Motion to Compel to Interrogatory No. 24.

Decision

This discovery request is over broad regarding the portion of the question which asks Verizon to provide ". . . and reduced long distance rates generally for all of the Florida long distance market for all other carriers. In addition, assuming that the proposals for the other two LECs are adopted without change, provide the company's best estimate of how the combined flow-through impact of all LECs affects the long distance rates generally for all of the Florida long distance market for all other carriers. This information can be expressed as the best estimate impact of the reduction in average long distance revenues per minute, or some other basis for long distance rates." This request is over broad because it requires the company to respond for all carriers in the long distance market, which is clearly beyond information that would be readily available to the company. Thus, Verizon shall not be required to respond to this portion of the

discovery request. However, the remainder of the request appears relevant and Verizon shall respond.

Interrogatory No. 29:

OPC states that Verizon specifically objects to its Interrogatory No. 29, which asks Verizon to address the following regarding potential long distance rate reductions for the company (and/or its long distance affiliate):

- (a) Explain if the company (and/or its long distance affiliate) will flow-through access reductions to long distance rates, and provide its best estimates of rates it will offer for each long distance service assuming its rebalancing proposal is adopted. Explain why the company will not reduce rates if this is the case.
- (b) Explain the time period the company will maintain its reduced long distance rates, before it subsequently increases long distance rates and explain the rationale for this approach.
- (c) Explain if the company will lower its "intrastate" long distance rates to match (or go below) the rates of all similar lower priced "interstate" long distance rates. Provide and list of these long distance services, and explain why the company will or will not reduce its intrastate rates to match (or go below) interstate rates.

OPC refers to the arguments it made to Verizon's objection to Interrogatory No. 24. Verizon refers to its response to OPC's Motion to Compel regarding Interrogatory No. 24.

Decision

For the reasons articulated under the decision in Interrogatory No. 24, this discovery request appears relevant to the extent it is related to Florida. Thus, Verizon shall respond to this discovery request as limited to Florida.

Interrogatory No. 30:

OPC states that Verizon specifically objects to its Interrogatory No. 30, which asks Verizon to assume that the LEC (and/or its long distance affiliate) and other long distance carriers will flow-through long distance rate reductions to customers. Explain what actions the Florida Commission should take if the LEC and/or other long distance carriers subsequently increase their long distance rates (to negate all or some impact of the access flow-through) within a 6-month period, 1 year period, or some other period. Explain why local rates should be permanently increased if long distance rates will not be permanently decreased, or at least decreased for some substantial time period.

OPC refers to the arguments it made to Verizon's objection to Interrogatory No. 24. Verizon refers to its response to OPC's Motion to Compel regarding Interrogatory No. 24.

Decision

For the reasons articulated under the decision in Interrogatory No. 24, this discovery request appears relevant. Thus, Verizon shall respond to this discovery request.

Interrogatory No. 32:

OPC states that Verizon specifically objects to its Interrogatory No. 32, which asks Verizon to explain all proof that access reductions will be flowed through equitably to both residential and business customers of the LEC (and/or its long distance affiliate) and other carriers, or indicate if carriers could choose to flow-through the entire impact of the access reduction to business long distance customers (and not residential long distance customers). Provide all information to support the company's statements or opinion. OPC contends that Verizon's testimony is replete with claims of the numerous benefits customers will receive as a result of the proposals of the company, including witness Danner's discussion of the customer benefits resulting from lower toll charges, and witness Gordon's statements describing the benefits from reduced intrastate toll prices. OPC contends that it has a right to seek this discovery that is highly relevant to the testimony submitted in this case. OPC asserts that this request is

neither overly broad nor is it oppressive for the Company to provide. OPC states that finally, the Company's reliance on Section 364.164(3), Florida Statutes, is misplaced. OPC asserts 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 364.164(7), Florida Statutes.

Verizon contends that its initial specific objection to this interrogatory that it is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules, should be sustained for the reasons set forth therein. Verizon asserts that subject to the foregoing, Section 364.163(2), Florida Statutes, expressly requires a long distance company to "decrease its intrastate long distance revenues by the amount necessary to return the benefits of such reduction to both its residential and business customers."

Decision

For the reasons articulated under the decision in Interrogatory No. 24, this discovery request appears relevant. More over, contrary to Verizon's assertion, this interrogatory is not beyond the scope of the Petition and its testimony. Verizon's witness addresses this issue; thus, OPC is entitled to seek discovery regarding this issue. Thus, Verizon shall respond to this discovery request.

Interrogatory No. 33:

OPC states that Verizon specifically objects to its Interrogatory No. 33, which asks Verizon to provide all known, quantifiable and explicit "net" benefits ("net" benefits implies showing both "positive" and "negative" impacts and showing that the positive impacts exceed the negative impacts) that will accrue to the average residential customer as a result of the access reduction and rebalance to local rates, assuming the company's proposal is adopted. Also, provide the known duration (time period) of each benefit. Benefits may include (but not be limited to) net reductions in rates paid by customers, and any other benefits determined by the company. OPC contends that Verizon's objection to this specific request appears to be an attempt to go

backward in time. OPC asserts that the Commission has already determined that it has a right to seek discovery regarding the testimony of company witnesses. OPC contends that it would be burdensome and repetitive to cite all of the company testimony that has been submitted by its witnesses who have lauded the multiple benefits to residential customers resulting from approval of the Verizon proposals. OPC asserts that this request relates specifically to the claims of the Company's witnesses emphasized throughout their own testimony. OPC refers back to its responses to OPC motions to compel production of and answers to their first sets of PODs and Interrogatories, respectively, as well as OPC's motion to compel production of their second set of PODs, as well as OPC's responses to the above-stated objections, in this motion to compel, by Verizon based upon a lack of relevance.

Verizon contends that its initial specific objection to this interrogatory that it is beyond the scope of its petition, should be sustained for the reasons set forth therein. Verizon also asserts that Section 364.164(1), Florida Statutes, establishes the issues that the Commission may consider in deciding whether to grant its Petition. Verizon contends that even if the Commission broadly construes Subsection 364.164(3), Florida Statutes, to mean that discovery is limited to issues addressed in its Petition (which it should not), discovery on issues beyond the scope of Section 364.164(1), Florida Statutes are irrelevant. Verizon contends that the Commission did not discuss or make any determination regarding whether parties may seek discovery of issues beyond the scope of Section 364.164(1), Florida Statutes. Verizon asserts that Section 364.164(3), Florida Statutes, establishes an additional, independent limitation on discovery. Verizon contends that the Commission discussed the scope of the limitation in Section 364.164(3), Florida Statutes, at the Agenda Conference on September 16, 2003, but did not make a determination regarding the scope of this limitation. Verizon contends that subject to the foregoing, Verizon has included in its Petition and supporting testimony the relevant customer benefits that will flow from the rate rebalancing.

Decision

For the reasons articulated under the decision in Interrogatory No. 24, this discovery request appears relevant. Thus, Verizon shall respond to this discovery request.

Interrogatory No. 35:

OPC states that Verizon specifically objects to its Interrogatory No. 35, which asks Verizon for those states which have reduced access and rebalanced local rates in the past few years such as indicated in witness Gordon's testimony (i.e. California, Illinois, Ohio, Massachusetts, Maine, and any others), to provide a list of services introduced or available in these states that are not available in other states that have not rebalanced local rates (to supposedly eliminate support). OPC contends that the burden of proof in this case rests with Verizon to prove that its proposals are in compliance with Florida Statutes and beneficial to residential customers. OPC asserts that the specific information in this request relates directly to conclusions that Verizon's experts have presented in their testimony. OPC argues that it has a right to test the validity of the conclusions of the Verizon witnesses with data that is readily available to the Company and its witnesses. OPC contends that it should not be required to go to other states to obtain data that Verizon or its witnesses must have in their possession in order to validate their own testimony.

Verizon asserts that OPC contends that it, not OPC, should be compelled to develop the information that OPC wants to oppose its Petition because it "must" have this information in its possession. Verizon asserts that this contention is wrong. Verizon claims that it does not have the requested information in its possession, and it is therefore appropriate for OPC to pursue this information on its own.

Decision

Verizon claims in its response that it does not have the information in its possession. However, to the extent that Verizon's expert witness relied on data in formulating his opinion,

Verizon shall produce that data and if no such data was relied upon Verizon shall clearly indicate such.

Interrogatory No. 36:

OPC states that Verizon specifically objects to its Interrogatory No. 36, which asks Verizon to provide an explanation of all increases in residential long distance rates for each service for the period January 2000 to the most recent date. For each service, provide the prior rate (and the date), the increased rate (and date of increase) and an explanation of the reason for the increase in long distance rates. OPC refers to the arguments it made to Verizon's objection to Interrogatory No. 24. Verizon refers to its response to OPC's Motion to Compel regarding Interrogatory No. 24.

Decision

This request appears to be over broad and unduly burdensome. Therefore, Verizon shall not be required to respond.

Interrogatory No. 37:

OPC states that Verizon specifically objects to its Interrogatory No. 37, which asks Verizon to address the following regarding long distance rates:

a) For the company (and/or its long distance affiliate) operations in Florida, provide a comparison and brief description of all current residential long distance calling plans and a comparison of the rates available on an "intrastate" basis and an "interstate" basis. Identify those similar "intrastate" and "interstate" long distance plans, and explain the reason for any difference in rates.

b) Explain if this situation of having different intrastate and interstate rates for similar calling plans is unique to the company's Florida operations, or if it is unique to states which have not rebalanced local rates and provide documentation to support this (such as comparing rates in other states of the company

operations, including states which have and have not rebalanced local rates).

c) For the company (and/or its long distance affiliate) operations in Florida, provide the name and a brief description of all current residential long distance calling plans that are available on an "interstate" basis, but not an "intrastate" basis. Explain why this situation exists and provide documentation to support this.

d) Explain if this situation of having certain "interstate" long distance calling plans (but not similar "intrastate" plans) is unique to the company's Florida operations, or if it is unique to states which have not rebalanced local rates and provide documentation to support this (such as comparing rates in other states of the company operations, including states which have and have not rebalanced local rates.)

e) For items (a) through (d) above, address these issues as it relates to those states which have rebalanced local rates in the past few years per the testimony of Dr. Gordon (i.e., California, Illinois, Ohio, Massachusetts, Maine, and others).

OPC refers to its response to Verizon Objection to Interrogatory Request No. 24. OPC asserts that Verizon has stated in its objection that it does not collect fees for access to the local exchange network from its long distance affiliate. OPC contends that its simply wants to clarify whether or not the Verizon long distance customers will benefit from the proposals of the company. OPC asserts that as indicated in its request, this information relates directly to the testimony of witness Gordon. Verizon refers to its response to OPC's Motion to Compel regarding Interrogatory No. 24.

Decision

For the reasons articulated under the decision in Interrogatory No. 24, this discovery request appears relevant. Although, there are concerns regarding the scope of subsection (a)

and (c) of this request, other than a generalized objection, Verizon did not articulate why responding to this request would be unduly burdensome. A blanket assertion of being unduly burdensome in this case is insufficient. Thus, Verizon shall respond to this discovery request.

Interrogatory No. 38:

OPC states that Verizon specifically objects to its Interrogatory No. 38, which asks Verizon to refer to witness Gordon's testimony addressing a list of states that have rebalanced rates in recent years (i.e. California, Illinois, Ohio, Massachusetts, Maine and others). For these states, to provide the following:

- a) Provide the amount of the reduction in long distance rates (or average reduction in rates) on a statewide basis by carriers, or provide examples of rate reductions for MTS and calling plans implemented by RBOCs and major IXC's in these states.
- b) Explain if these long distance rate reductions for MTS and other calling plans are still in place for the RBOCs and major IXC's in these states.
- c) If the original long distance rate reductions for MTS and other calling plans are not still in place, explain the length of time that these reductions were in place before they were subsequently increased and provide all explanation for reasons for these increases in rates if known.

OPC refers to the arguments it made to Verizon's objection to Interrogatory No. 24. OPC contends that in addition, Verizon's objection totally misses the point contained in its request. OPC asserts that witness Gordon has cited numerous states that have imposed rebalancing plans consistent with the recommendations made by the Verizon witnesses in this case. OPC contends that he cites those states to support Verizon's proposals. OPC claims that it is simply asking Verizon to produce evidence from those states that have been cited by their witness that will confirm the validity of the Company's witness' proposals in terms of customer benefits.

Verizon's initial specific objection to this interrogatory 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, should be sustained for the reasons set forth therein. Verizon claims that subject to the foregoing, Verizon responds that it does not have the requested information in its possession, and it is therefore appropriate for OPC to pursue this information on its own.

Decision

Verizon claims in its response that it does not have the information in its possession. However, to the extent that Verizon's expert witness relied on data in formulating his opinion, Verizon shall produce that data and if no such data was relied upon Verizon shall clearly indicate such.

B. Production of Document Requests

POD No. 37:

OPC states that Verizon specifically objects to its POD No. 37, which asks Verizon to 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.

OPC asserts that 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. OPC states that it understands that Verizon does not collect access charges from its own long distance subsidiary. OPC contends that however, it seeks information in this request regarding the amount of interexchange long distance traffic the company handles for its long distance subsidiary in Florida. OPC asserts that 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. OPC asserts that 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. OPC states that 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." OPC claims that Section 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 may or may not, experience. OPC contends that it objects to Verizon's contention that the statute limits discovery to the most recent 12 months. OPC asserts that 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. OPC asserts that its discovery request relates to the testimony of its witnesses and it is neither vague nor relevant. OPC states that finally, the Company's reliance on Section 364.164(3), Florida Statutes, is misplaced. OPC asserts that the discovery limitation addressed in that Section pertains only to the rate adjustment filings identified in Section 364.164(2), Florida Statutes, and further addressed in Section 364.164(3) and 364.164(7), Florida Statutes.

Verizon in its response, contends that OPC's argument is untenable for several reasons. Verizon contends that first, it cannot be reasonably argued that long distance companies will not pass through the access reductions to their customers. Verizon asserts that Section 364.163(2), Florida Statutes, expressly requires a long distance company to "decrease its intrastate long distance revenues by the amount necessary to return the benefits of such reduction to both its residential and business customers." Second, OPC contends the manner in which the long distance companies pass through access reductions is outside the scope of

the four issues to be considered by the Commission under Section 364.164(1), Florida Statutes. OPC argues that third, even if the Commission were to determine that whether and how long distance companies will pass through the access reductions is within the scope of the proceeding, the information requested would not help the Commission to understand this issue. Verizon contends that forth, OPC is prohibited from seeking the amount of interexchange long distance traffic that Verizon handles for its long distance affiliate by the discovery limitations imposed by Section 364.164(3), Florida Statutes. Verizon argues that Section 364.164(3), Florida Statutes, plainly states that "[a]ny discovery or information requests under this section shall be limited to verification of historical pricing units. . ." Verizon argues that even if the Commission construes this subsection broadly, it should not be required to respond to this interrogatory because its Petition does not focus on the amount of interexchange long distance traffic that Verizon handles for its long distance affiliate. Verizon asserts that OPC's attempt to argue that Subsection 364.163(3), Florida Statutes, discovery limitation only apply to certain subsection is misplaced. Verizon contends that by the plain language of the statute, the discovery limitation applies to discovery requests under all the section, not just certain subsections. Verizon contends that sixth, 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. Verizon argues that OPC's claim that this limitation is inapplicable because testimony refers to events that took place more than one year ago. Verizon contends that OPC's claim is wrong because witness Gordon's testimony does not use such information to address pricing units.

Decision

For the reasons articulated under the decision in Interrogatory No. 24, this discovery request appears relevant. Thus, Verizon shall respond to this discovery request.

POD NO. 38:

OPC states that Verizon specifically objects to its POD No. 38, which asks Verizon to 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. OPC refers to its Response to Verizon Objection to Production of Document Request No. 37. Verizon also refers to its Response to OPC's Motion to Compel a Response to Request No. 37.

Decision

For the reasons articulated under the decision in Interrogatory No. 24, this discovery request appears relevant. Thus, Verizon shall respond to this discovery request.

POD NO. 39:

OPC states that Verizon specifically objects to its POD No. 39, which asks Verizon to 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," business MTS, and all other combined business "optional calling plans." Providing this information for the test period and the prior twelve months. Please provide all supporting documents. OPC refers to its Response to Verizon Objection to Production of Document Request No. 37. Verizon also refers to its Response to OPC's Motion to Compel a Response to Request No. 37.

Decision

For the reasons articulated under the decision in Interrogatory No. 24, this discovery request appears relevant. Thus, Verizon shall respond to this discovery request.

POD NO. 40:

OPC states that Verizon specifically objects to its POD No. 40, which asks Verizon to 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. OPC refers to its Response to Verizon Objection to Production of Document Request No. 37. OPC states that Verizon has stated in its objection that it does not charge for access to the local exchange network by its long distance affiliate. OPC states that it simply wants to clarify whether or not Verizon long distance customers will benefit from the proposals of the company and these documents requested are intended to assist in that determination.

Verizon also refers to its Response to OPC's Motion to Compel a Response to Request No. 37.

Decision

For the reasons articulated under the decision in Interrogatory No. 24, this discovery request appears relevant. Thus, Verizon shall respond to this discovery request.

C. Timeframes

In view of the short time frame for this proceeding, Verizon is directed to respond to the interrogatories and PODs for which the Motion to Compel has been granted within 7 days of the date of this Order. The responses shall be provided to OPC with a copies to the parties, including staff, by hand delivery or facsimile, to be received by no later than 5:00 p.m. on that date.

Based on the foregoing, it is

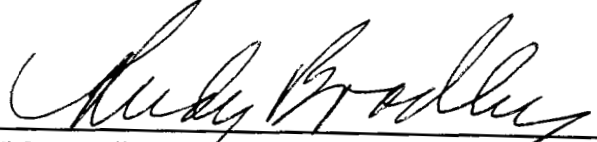
ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that the Office of Public Counsel's Second Motions to Compel discovery from Verizon Florida, Inc. is granted in part and denied in part as set forth in the body of this Order. It is further

ORDERED that Verizon Florida Inc. shall respond to the discovery requests set forth in the body of this Order within the time limits and in the manner described in the body of this Order. It is further

ORDER NO. PSC-03-1303-PCO-TL
DOCKETS NOS. 030867-TL, 030868-TL, 030869-TL, 030961-TI
PAGE 23

ORDERED that this Docket shall remain open pending resolution of the matters to be addressed at hearing.

By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this 14th Day of November, 2003.



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(S E A L)

PAC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or

ORDER NO. PSC-03-1303-PCO-TL
DOCKETS NOS. 030867-TL, 030868-TL, 030869-TL, 030961-TI
PAGE 24

wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.