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February 21, 2001

Ms. Blanca S. Bayo, Director  
Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket No. 990362-T1  
Initiation of Show Cause Proceeding Against GTE Communications Corporation  
for Apparent Violation of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider  
Selection

Dear Ms. Bayo:

Please find enclosed for filing an original and fifteen copies of Verizon Select Services  
Inc.'s Opposition to The Office of Public Counsel's Motion to Determine Scope of  
Proceeding in the above matter. Service has been made as indicated on the Certificate  
of Service. If there are any questions regarding this matter, please contact me at  
813-483-2617.

Sincerely,

*KC* Kimberly Caswell

KC:tas  
Enclosures

- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMP \_\_\_\_\_
- COM 3
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- LEG 1
- OPC \_\_\_\_\_
- PAI \_\_\_\_\_
- RGO \_\_\_\_\_
- SEC 1
- SER \_\_\_\_\_
- OTH \_\_\_\_\_

RECEIVED & FILED  
*[Signature]*  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

02409 FEB 21 01

FPSC-RECORDS/REPORTING

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Initiation of Show Cause Proceeding ) Against GTE Communications Corporation for ) Apparent Violation of Rule 2504.118, F.A.C., ) Local, Local Toll, or Toll Provider Selection ) <hr style="width: 50%; margin-left: 0;"/> )	Docket No. 990362-TI Filed: February 21, 2001
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**VERIZON SELECT SERVICES INC.'S OPPOSITION TO THE OFFICE OF PUBLIC COUNSEL'S MOTION TO DETERMINE SCOPE OF PROCEEDING**

Verizon Select Services, Inc. (VSSI) (formerly GTE Communications Corporation) asks the Commission to deny the Motion to Determine the Scope of Proceeding (Motion), filed by the Office of Public (OPC) on February 9, 2001. OPC's Motion improperly seeks a premature ruling on a fundamental factual and legal issue in dispute in this case.

As OPC states, the Commission has designated the following issues in this case:

- (1) During the time period of December 15, 1997 through September 30, 1999, did GTE Communications Corporation (n/k/a Verizon Select Services Inc.) willfully violate Rule 25-4.118, Florida Administrative Code, which prohibits unauthorized carrier changes?
- (2) If so, how many willful violations were there, and what is the appropriate action, penalty, and/or fine amount to be imposed by the Commission for such violations?

OPC states that "[a]lthough the wording of the issues is plainly not limited to the 209 complaints identified by staff, Verizon now claims that the proceeding may not look at any claims of slamming other than the 209 complaints." (Motion at 2.) OPC concludes that while Verizon agreed to the issues as formulated, "the company has apparently changed its mind" about the scope of the proceeding." (Motion at 3.)

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FPSC-RECORDS/REPORTING

VSSI has done nothing of the kind. It has always been Verizon's position that this proceeding must be resolved on the basis of the 209 complaints Staff closed as apparent slamming infractions and that are referenced in Staff witness Kennedy's Direct Testimony and in the show cause order. VSSI witnesses Caliro and Owens affirm that the Commission should consider only the 209 complaints, and Mr. Caliro notes that the legal aspects of this position will be addressed in Verizon's posthearing brief.

OPC witness Poucher, on the other hand, contends that the Commission should consider not just complaints that it received and closed, but that may have gone through other channels, including the FCC, VSSI, and other ILECs. Mr. Poucher attempts to support OPC's position with testimony and voluminous exhibits, and presents his estimate of "rule violations" that occurred during the period at issue.

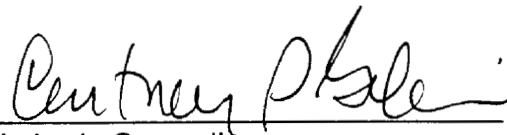
VSSI and OPC obviously differ as to the number of complaints the Commission should consider in determining whether VSSI committed any willful violations of the slamming rule. But the designated issues allow both parties to express their respective positions. They do not constrain VSSI from arguing that the Commission should consider only the 209 complaints Staff closed--nor do they foreclose OPC from arguing that the Commission should consider a broader range of potential complaints that it never received.

VSSI agrees that the Commission's task in this case is to determine how many willful violations, if any, VSSI committed during the period at issue. In deciding this case, the Commission will follow the procedure it always does. It will evaluate the written and oral testimony of all witnesses, as well as the parties' posthearing briefs. After examining all the evidence, the Commission may choose to believe VSSI's

position that VSSI committed no willful slamming violations, or it may believe OPC's estimate of the purported extent of VSSI's willful violations. Or it may believe OPC's estimate of violations, but conclude that none of them were willful. But the Commission need not (and practically, cannot) define the basis for its decision now, before that decision is even undertaken. There is no reason for the Commission to determine--before the hearing even occurs and before all the evidence is in--the number of complaints it will consider in deciding this case. OPC's request for the Commission to prejudge a key disputed factual and legal issue is improper.

For these reasons, VSSI asks the Commission to deny OPC's Motion.

Respectfully submitted on February 21, 2001.

By:   
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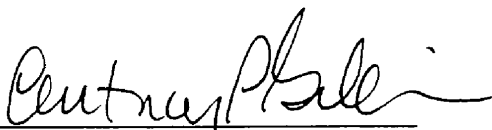
Attorney for Verizon Select Services Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that copies of Verizon Select Services, Inc.'s Opposition to The Office of Public Counsel's Motion to Determine Scope of Proceeding in Docket No. 990362-TI were sent via overnight delivery on February 20, 2001 to:

Lee Fordham  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Charles J. Beck, Deputy Public Counsel  
Office of Public Counsel  
111 W. Madison Street, Room 812  
Tallahassee, FL 32399-1400

  
by Kimberly Caswell