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September 27, 2001

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

011285-TP

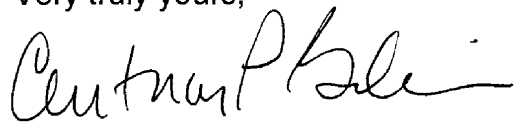
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COMMISSION  
CLERK

Re: Docket No.  
Petition of Verizon Florida Inc. for Approval of Agreement with Allegiance  
Telecom of Florida, Inc. Supplementing Adopted Terms

Dear Ms. Bayo:


Please find enclosed for filing an original and five copies of Verizon Florida Inc.'s  
Petition for Approval of Agreement with Allegiance Telecom of Florida, Inc.  
Supplementing Adopted Terms. The agreement consists of a total of seven pages.  
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.

Very truly yours,

  
Kimberly Caswell

KC:tas  
Enclosures

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DOCUMENT NUMBER-DATE

12186 SEP 27 01

FPSC-COMMUNICATION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Petition of Verizon Florida Inc. for Approval )  
of Agreement With Allegiance Telecom of )  
Florida, Inc. Supplementing Adopted Terms )  
\_\_\_\_\_ )

Docket No. 011285-TP  
Filed: September 27, 2001

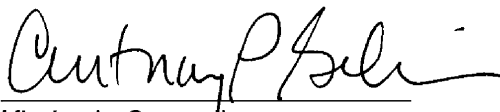
**PETITION OF VERIZON FLORIDA INC. FOR APPROVAL OF  
AGREEMENT WITH ALLEGIANCE TELECOM OF FLORIDA, INC.  
SUPPLEMENTING ADOPTED TERMS**

Verizon Florida Inc. (Verizon), formerly known as GTE Florida Incorporated, files this petition before the Florida Public Service Commission (Commission) seeking approval of an agreement supplementing adopted terms of its interconnection, resale and unbundling agreement with Allegiance Telecom of Florida, Inc. (Allegiance). In support of this petition, Verizon states:

Allegiance's 252(i) adoption of the terms of the Verizon/Pathnet, Inc. interconnection, resale and unbundling agreement (Underlying Agreement) was approved by the Commission on June 14, 2001 in Docket No. 010742-TP. The Dispute Resolution language (attached as Appendix 1) replaces in its entirety Article III, Section 18 in the Adopted Terms of the Underlying Agreement. The Resale Attachment language (attached as Appendix 2) replaces in its entirety Article VI in the Adopted Terms of the Underlying Agreement.

Verizon respectfully requests that the Commission approve the attached agreement and that Verizon be granted all other relief proper under the circumstances.

Respectfully submitted on September 27, 2001.

By:   
Kimberly Caswell  
P. O. Box 110, FLTC0007  
Tampa, Florida 33601-0110  
Telephone No. (813) 483-2617

Attorney for Verizon Florida Inc.

DOCUMENT NUMBER DATE  
12186 SEP 27 01  
FPSC-COMMISSION CLERK

**AGREEMENT  
BETWEEN**

**VERIZON FLORIDA INC. F/K/A GTE FLORIDA INCORPORATED  
AND  
ALLEGIANCE TELECOM OF FLORIDA, INC.**

**SUPPLEMENTING ADOPTED TERMS**

THIS AGREEMENT is by and between Verizon Florida Inc. f/k/a GTE Florida Incorporated (“Verizon”) and Allegiance Telecom of Florida, Inc. (“Allegiance”), Verizon and Allegiance being referred to collectively as the “Parties” and individually as a “Party”. This Agreement covers services in the State of Florida (the “State”).

WHEREAS, Allegiance has previously adopted terms (the “Adopted Terms”) of the Interconnection, Resale and Unbundling Agreement between Verizon and Pathnet, Inc. (“Underlying Agreement”) pursuant to Section 252(i) of the Telecommunications Act of 1996 (the “Act”);

WHEREAS, the Underlying Agreement was approved by the Commission’s Order dated September 25, 2000 in Docket No. 000837 and Allegiance’s adoption of the Adopted Terms was approved by the Commission’s Order dated June 14, 2001 in Docket No. 010742;

WHEREAS, during discussions between Verizon and Allegiance concerning Allegiance’s adoption of the Adopted Terms, Allegiance notified Verizon that it desired to supplement the Adopted Terms with this Agreement; and

WHEREAS, pursuant to Section 252(a)(1) of the Act, and without waiving any of their rights to challenge the legality of the Adopted Terms, the Parties now wish to supplement the Adopted Terms as follows<sup>1</sup>;

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<sup>1</sup> Verizon stated several reservations of rights in its May 30, 2001 letter to Allegiance, which included that:

- a) Verizon does not provide the Terms to Allegiance as either a voluntary or negotiation agreement. The filing and performance by Verizon of the Terms does not in any way constitute a waiver by Verizon of any position as to the Terms or a portion thereof, nor does it constitute a waiver by Verizon of all rights and remedies it may have to seek review of the Terms, or to seek review in any way of any provisions included in these Terms as a result of Allegiance’s 252(i) election.
- b) On January 25, 1999, the Supreme Court of the United States (“Court”) issued its decision on the appeals of the Eighth Circuit’s decision in *Iowa Utilities Board*. Specifically, the Supreme Court modified several of the FCC’s and the Eighth Circuit’s rulings regarding unbundled network elements and pricing requirements under the Act.

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*AT&T Corp. v. Iowa Utilities Board*, 119 S. Ct. 721 (1999). Certain provisions of the Terms may be void or unenforceable as a result of the Court's decision of January 25, 1999, the United States Eighth Circuit Court of Appeals' decision in Docket No. 96-3321 regarding the FCC's pricing rules, and the current appeal before the U.S. Supreme Court regarding the FCC's new UNE rules. Moreover, nothing herein shall be construed as or is intended to be a concession or admission by Verizon that any provision in the Terms complies with the rights and duties imposed by the Act, the decisions of the FCC and the Commissions, the decisions of the courts, or other law, and Verizon expressly reserves its full right to assert and pursue claims arising from or related to the Terms.

- c) Verizon reserves the right to deny Allegiance's adoption and/or application of the Terms, in whole or in part, at any time:
- (1) when the costs of providing the Terms to Allegiance are greater than the costs of providing them to Pathnet;
  - (2) if the provision of the Terms to Allegiance is not technically feasible; and/or
  - (3) to the extent that Verizon otherwise is not required to make the Terms available to Allegiance under applicable law.
- d) For avoidance of doubt, please note that adoption of the Terms will not result in reciprocal compensation payments for Internet traffic. Verizon has always taken the position that reciprocal compensation was not due to be paid for Internet traffic under section 251(b)(5) of the Act. Verizon's position that reciprocal compensation is not to be paid for Internet traffic was confirmed by the FCC in the Order on Remand and Report and Order adopted on April 18, 2001 ("*FCC Remand Order*"), which held that Internet traffic constitutes "information access" outside the scope of the reciprocal compensation obligations set forth in section 251(b)(5) of the Act. (See Order on Remand and Report and Order, In the Matters of: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68 (rel. April 27, 2001) ¶44.) Accordingly, any compensation to be paid for Internet traffic will be handled pursuant to the terms of the *FCC Remand Order*, not pursuant to adoption of the Terms. (For your convenience, an industry letter distributed by Verizon explaining its plans to implement the *FCC Remand Order* can be viewed at Verizon's Customer Support Website at URL [www.verizon.com/wise](http://www.verizon.com/wise) (select Verizon East Customer Support, Resources, Industry Letters, CLEC).) Moreover, in light of the *FCC Remand Order*, even if the Terms include provisions invoking an intercarrier compensation mechanism for Internet traffic, any reasonable amount of time permitted for adopting such provisions has expired under the FCC's rules implementing section 252(i) of the Act. (See, e.g., 47 C.F.R. Section 51.809(c).)

It is Allegiance's position that Verizon's Adoption Letter, dated May 30, 2001, forms no part of this Agreement Supplementing Adopted Terms ("Supplemental Agreement") or the Terms. Verizon did not seek Allegiance's assent to its reservation of rights and Allegiance did not and does not give it. Allegiance does not concur with Verizon's legal arguments contained in the May 30, 2001 letter in connection with this Supplemental Agreement or with the Terms.

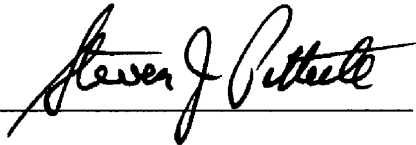
NOW, THEREFORE, in consideration of the mutual promises, provisions and covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The Dispute Resolution language attached as Appendix 1 will replace in its entirety, Article III, Section 18 in the Adopted Terms of the Underlying Agreement.
2. The Resale Attachment language attached as Appendix 2 will replace in its entirety, Article VI in the Adopted Terms of the Underlying Agreement.

IN WITNESS WHEREOF, each Party has executed this Agreement and it shall be effective upon execution by both Parties.\*

VERIZON FLORIDA INC.

ALLEGIANCE TELECOM OF  
FLORIDA, INC.

By: 

By: 

Name: Steven J. Pitterle

Name: Mary C. Albert

Title: Director - Negotiations  
Network Services

Title: Vice President, Regulatory and Interconnection

Date: 9/14/2001

Date: 9/6/01

\*Verizon has agreed to allow this Agreement to become effective upon execution in order to permit Allegiance to proceed with implementation of its competitive business strategies and plans prior to the approval of the Agreement by the Commission. Notwithstanding the possible rejection or modification of this Agreement by the Commission, the Parties agree that all of their obligations and duties hereunder shall remain in full force and effect pending the final disposition of the Commission review and approval process.

**18 Dispute Resolution**

18.1 Except as otherwise provided in this Agreement, any dispute between the Parties regarding the interpretation or enforcement of this Agreement or any of its terms shall be addressed by good faith negotiation between the Parties. To initiate such negotiation, a Party must provide to the other Party written notice of the dispute that includes both a detailed description of the dispute or alleged nonperformance and the name of an individual who will serve as the initiating Party's representative in the negotiation. The other Party shall have ten Business Days to designate its own representative in the negotiation. The Parties' representatives shall meet at least once within 45 days after the date of the initiating Party's written notice in an attempt to reach a good faith resolution of the dispute. Upon agreement, the Parties' representatives may utilize other alternative dispute resolution procedures such as private mediation to assist in the negotiations.

18.2 If the Parties have been unable to resolve the dispute within 45 days of the date of the initiating Party's written notice, either Party may pursue any remedies available to it under this Agreement, at law, in equity, or otherwise, including, but not limited to, instituting an appropriate proceeding before the Commission, the FCC, or a court of competent jurisdiction.

**ARTICLE VI**  
**RESALE ATTACHMENT**

**1. General**

Verizon shall provide to Allegiance, in accordance with this Agreement (including, but not limited to, Verizon's applicable Tariffs) and the requirements of Applicable Law (including, but not limited to, Sections 251(b)(1), 251(c)(4) and 271(c)(2)(B)(xiv) of the Act), Verizon's Telecommunications Services for resale by Allegiance; provided, that notwithstanding any other provision of this Agreement, Verizon shall be obligated to provide Telecommunications Services to Allegiance only to the extent required by Applicable Law and may decline to provide a Telecommunications Service to Allegiance to the extent that provision of such Telecommunications Service is not required by Applicable Law.

**2. Use of Verizon Telecommunications Services**

- 2.1 Verizon Telecommunications Services may be purchased by Allegiance under this Resale Attachment only for the purpose of resale by Allegiance as a Telecommunications Carrier. Verizon Telecommunications Services to be purchased by Allegiance for other purposes (including, but not limited to, Allegiance's own use) must be purchased by Allegiance pursuant to other applicable Attachments to this Agreement (if any), or separate written agreements, including, but not limited to, applicable Verizon Tariffs.
- 2.2 Allegiance shall not resell:
- 2.2.1 Residential service to persons not eligible to subscribe to such service from Verizon (including, but not limited to, business or other nonresidential Customers);
  - 2.2.2 Lifeline, Link Up America, or other means-tested service offerings, to persons not eligible to subscribe to such service offerings from Verizon;
  - 2.2.3 Grandfathered or discontinued service offerings to persons not eligible to subscribe to such service offerings from Verizon; or
  - 2.2.4 Any other Verizon service in violation of a restriction stated in this Agreement (including, but not limited to, a Verizon Tariff) that is not prohibited by Applicable Law.
  - 2.2.5 In addition to any other actions taken by Allegiance to comply with this Section 2.2, Allegiance shall take those actions required by Applicable Law to determine the eligibility of Allegiance Customers to purchase a service, including, but not limited to, obtaining any proof or certification of eligibility to purchase Lifeline, Link Up America, or other means-tested services, required by Applicable Law. Allegiance shall

indemnify Verizon from any Claims resulting from Allegiance's failure to take such actions required by Applicable Law.

2.2.6 Verizon may perform audits to confirm Allegiance's conformity to the provisions of this Section 2.2. Such audits may be performed in accordance with Section 10.5 of the General Terms and Conditions.

2.3 Allegiance shall be subject to the same limitations that Verizon's Customers are subject to with respect to any Telecommunications Service that Verizon grandfathers or discontinues offering. Without limiting the foregoing, except to the extent that Verizon follows a different practice for Verizon Customers in regard to a grandfathered Telecommunications Service, such grandfathered Telecommunications Service: (a) shall be available only to a Customer that already has such Telecommunications Service; (b) may not be moved to a new service location; and, (c) will be furnished only to the extent that facilities continue to be available to provide such Telecommunications Service.

2.4 Allegiance shall not be eligible to participate in any Verizon plan or program under which Verizon Customers may obtain products or services which are not Verizon Telecommunications Services, in return for trying, agreeing to purchase, purchasing, or using, Verizon Telecommunications Services.

2.5 In accordance with 47 CFR § 51.617(b), Verizon shall be entitled to all charges for Verizon Exchange Access services used by interexchange carriers to provide service to Allegiance Customers.

### **3. Availability of Verizon Telecommunications Services**

3.1 Verizon will provide a Verizon Telecommunications Service to Allegiance for resale pursuant to this Attachment where and to the same extent, but only where and to the same extent, that such Verizon Telecommunications Service is provided to Verizon's Customers.

3.2 Except as otherwise required by Applicable Law, subject to Section 3.1, Verizon shall have the right to add, modify, grandfather, discontinue or withdraw, Verizon Telecommunications Services at any time, without the consent of Allegiance.

3.3 To the extent required by Applicable Law, the Verizon Telecommunications Services to be provided to Allegiance for resale pursuant to this Attachment will include a Verizon Telecommunications Service customer-specific contract service arrangement ("CSA") (such as a customer specific pricing arrangement or individual case based pricing arrangement) that Verizon is providing to a Verizon Customer at the time the CSA is requested by Allegiance.

### **4. Responsibility for Charges**

Allegiance shall be responsible for and pay all charges for any Verizon Telecommunications Services provided by Verizon pursuant to this Resale Attachment.

### **5. Operations Matters**

5.1 Facilities.



- 5.1.1 Verizon and its suppliers shall retain all of their right, title and interest in all facilities, equipment, software, information, and wiring, used to provide Verizon Telecommunications Services.
- 5.1.2 Verizon shall have access at all reasonable times to Allegiance Customer locations for the purpose of installing, inspecting, maintaining, repairing, and removing, facilities, equipment, software, and wiring, used to provide the Verizon Telecommunications Services. Allegiance shall, at Allegiance's expense, obtain any rights and authorizations necessary for such access.
- 5.1.3 Except as otherwise agreed to in writing by Verizon, Verizon shall not be responsible for the installation, inspection, repair, maintenance, or removal, of facilities, equipment, software, or wiring, provided by Allegiance or Allegiance Customers for use with Verizon Telecommunications Services.

5.2 Branding.

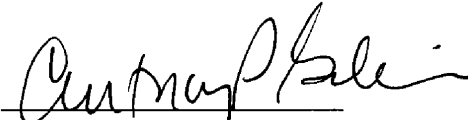
- 5.2.1 Except as stated in Section 5.2.2, in providing Verizon Telecommunications Services to Allegiance, Bell Atlantic shall have the right (but not the obligation) to identify the Verizon Telecommunications Services with Verizon's trade names, trademarks and service marks ("Verizon Marks"), to the same extent that these Services are identified with Verizon's Marks when they are provided to Verizon's Customers. Any such identification of Verizon's Telecommunications Services shall not constitute the grant of a license or other right to Allegiance to use Verizon's Marks.
- 5.2.2 To the extent required by Applicable Law, upon request by Allegiance and at prices, terms and conditions to be negotiated by Allegiance and Verizon, Verizon shall provide Verizon Telecommunications Services for resale that are identified by Allegiance's trade name, or that are not identified by trade name, trademark or service mark.
- 5.2.3 If Verizon uses a third-party contractor to provide Verizon Operator Services or Verizon Directory Assistance Services, Allegiance will be responsible for entering into a direct contractual arrangement with the third-party contractor at Allegiance's expense (a) to obtain identification of Verizon Operator Services or Verizon Directory Assistance Services purchased by Allegiance for resale with Allegiance's trade name, or (b) to obtain removal of trade name, trademark or service mark identification from Verizon Operator Services or Verizon Directory Assistance Services purchased by Allegiance for resale.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of Verizon Florida Inc.'s Petition For Approval of Agreement with Allegiance Telecom of Florida, Inc. Supplementing Adopted Terms was sent via overnight delivery(\*) on September 26, 2001 and via U.S. mail(\*\*) on September 27, 2001 to:

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

Allegiance Telecom of Florida, Inc.(\*\*)  
Attention: Gegi Leeger  
Director - ILEC Agreements  
1150 Connecticut Avenue, N.W., Suite 205  
Washington, DC 20036

  
\_\_\_\_\_  
Kimberly Caswell