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September 5, 2003

D. BRUCE MAY, JR.
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VIA HAND DELIVERY

Blanca S. Bayo
Division of Commission Clerk and
Administrative Services
Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED FPSC
03 SEP - 5 PM 4:40
COMMISSION
CLERK

Re: In re: Petition of Verizon Florida Inc. (f/k/a GTE Florida Inc.) against Teleport Communications Group, Inc. and TCG South Florida, for review of a decision by The American Arbitration Association in accordance with Attachment 1 Section 11.2(a) of the Interconnection Agreement between GTE Florida Inc. and TCG South Florida, Docket No. 030643-TP

Dear Ms. Bayo:

Enclosed for filing are the original and seven (7) copies of the Request for Confidential Classification submitted by Verizon Florida, Inc. ("Verizon") in the referenced proceeding. Also enclosed is a separate, sealed box marked "Confidential" containing one copy of the confidential information subject to the request highlighted in transparent yellow ink. TCG has asserted that some of this information is confidential. The material TCG asserts as confidential has been highlighted in transparent green ink. Pursuant to Florida Administrative Code Rule 25-22.006(5), two redacted copies of the confidential material accompany the filing and are available for public inspection.

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FPSC-BUREAU OF RECORDS

Confidential DNs 08381-03 thru 08383-0

Request

DOCUMENT NUMBER-DATE

08380 SEP-5 03

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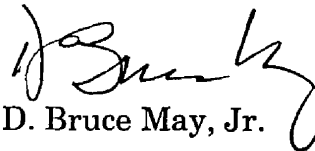
*Redacted DNs
08384-03 thru*

Blanca Bayo
September 5, 2003
Page 2

For our records, please acknowledge your receipt of this filing on the enclosed copy of this letter. Thank you for your consideration.

Sincerely,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read "D. Bruce May, Jr.", written over the printed name.

D. Bruce May, Jr.

DBM:kjg
Enclosures

cc: Felicia Banks (via hand-delivery)
Jeremy L. Susac (via hand-delivery)
Marsha Rule (via hand-delivery)
Charles Beck (via hand-delivery)

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In Re:)	
)	
)	
Petition of Verizon Florida Inc.)	
(f/k/a GTE Florida Inc.) against)	
Teleport Communications Group, Inc. and)	
TCG South Florida, for review)	
of a decision by The American Arbitration)	
Association in accordance with Attachment 1)	Docket No. 030643-TP
Section 11.2(a) of the Interconnection)	
Agreement between GTE Florida Inc. and)	Filed: September 5, 2003
TCG South Florida)	
)	

**REQUEST OF VERIZON FLORIDA INC.
FOR CONFIDENTIAL CLASSIFICATION**

Verizon Florida Inc. ("Verizon"), pursuant to Commission Rule 25-22.006, respectfully requests that portions of its Petition for Review ("Petition"), the Motion to Dismiss filed by Teleport Communications Group, Inc. and TCG South Florida (collectively, "TCG"), and Verizon's Opposition to TCG's Motion to Dismiss in the above-captioned matter be treated as proprietary confidential business information pursuant to Sections 364.183(1) and (3), Florida Statutes. In support of its request, Verizon states:

1. Verizon seeks confidential treatment for the following portions of its Petition, as highlighted in yellow ink on Appendix A attached hereto:

- Page 4, ll. 2-4;
- Page 6, n.5, parenthetical;
- Pages 16-18, ¶¶ 26-28, except n. 26;
- Pages 19-20, ¶¶ 31-32;
- Page 21, ¶ 34 ll. 2-5;
- Exhibit B
- Exhibit C

DOCUMENT NUMBER-DATE
08380 SEP-5 8
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Exhibit F
Exhibit G
Exhibit H
Exhibit I (except for publicly available documents attached thereto)
Exhibit M (except for publicly available documents attached thereto)
Exhibit N (except for publicly available documents attached thereto)
Exhibit O
Exhibit P
Exhibit Q

Verizon also seeks confidential treatment for the following portions of its Opposition to TCG's Motion to Dismiss, as highlighted in yellow ink on Appendix B attached hereto:

Page 10 ll. 6-21 & n.4, parentheses;
Page 11, ll. 15-16, citation only.
All exhibits to Verizon's Opposition to TCG's Motion to Dismiss

Finally, Verizon seeks confidential treatment for the following portions of TCG's Motion to Dismiss (as highlighted in yellow ink on Appendix C attached hereto) and has so informed TCG¹:

Pages 2-3, ¶¶ 5&6;
Page 11 n.5;
Page 12 n.6.

2. All of the information that Verizon has designated as confidential, including both textual redactions and exhibits, has been designated as confidential in order to protect the confidentiality of the private alternative dispute resolution ("ADR") process undertaken by the parties pursuant to their binding interconnection agreement that the Commission has approved ("Interconnection Agreement"). The Interconnection Agreement establishes an ADR mechanism, including private arbitration, that the parties must follow before asking the Commission to adjudicate any dispute over the terms and conditions of that agreement. Section 13.1 of the ADR Attachment to the Interconnection Agreement provides that the parties "will

¹ TCG has made a separate request that certain portions of Verizon's Petition and Opposition to TCG's Motion to Dismiss be kept confidential. Those portions of Appendices A and B that are subject to TCG's request for confidentiality have been highlighted in green ink.

treat the arbitration proceeding including the hearings and conferences, discovery, or other related events, as confidential, except as necessary in connection with a judicial challenge to, or enforcement of, an award, or unless otherwise required by an order or lawful process of a court or governmental body.” Interconnection Agreement, Attach. 1, § 13.1. Through this provision, the parties clearly expressed their intent that any arbitration proceedings conducted pursuant to the agreement’s ADR provisions would remain private and confidential.

3. In accordance with the terms of the Interconnection Agreement, Verizon has sought confidential treatment of the pleadings filed in the underlying proceeding before the American Arbitration Association, supporting evidentiary submissions, as well as the Arbitrator’s interim and final decisions. Verizon has redacted those portions of its Petition for Review and its Opposition to TCG’s Motion to Dismiss that describe and/or quote from the Arbitrator’s decision. Verizon additionally has redacted the pleadings from the arbitration that were attached as Exhibits to Verizon’s Petition for Review.

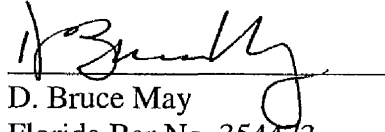
4. In the case of all of the material listed above, the information is intended to be and is treated by Verizon as private and Verizon has not disclosed it to other persons. Indeed, disclosure of such information would cause harm to Verizon’s business operations. *See* § 364.183(3), Fla.Stat. Although the information does not fall within one of the statutory examples set forth in section 364.183(3)(a)-(f), Verizon’s business operations would be harmed by the disclosure of such information because it would make it more difficult for Verizon to pursue private ADR. Respect for confidentiality is essential to preserving the willingness of parties to settle disagreements through ADR. As one court noted in recognizing a broad privilege against disclosure of mediation proceedings, ADR has flourished “because the parties were assured that the information would remain confidential, that attempts to use the information provided during

a mediation in a subsequent litigation are rare, and that a court would probably exclude the information from trial.” *In re RCM Sports Group, Inc.*, 277 B.R. 415, 430 (Bkcy. N.D. Ga. 2002). “[T]he evidence is strong that parties engage in mediation” – and arbitration – “with an expectation that the information will remain protected from future use by other parties. Therefore, it seems logical to assume that once this expectation is removed, the willingness of those parties . . . to engage in mediation, with full knowledge that the information will not be protected from disclosure . . . would decrease.” *Id.* Protecting the confidentiality of the underlying private arbitration proceedings here would thus promote parties’ willingness to engage in private arbitration in the future. To grant Verizon’s request therefore serves stated Commission policy goals. *See Order Granting Motion to Dismiss, Petition for Expedited Enforcement of Interconnection Agreement with Verizon Florida Inc. by Teleport Communications Group, Inc. and TCG South Florida*, Order No. PSC-02-1705-FOF-TP, Docket No. 021006-TP (Fla. Pub. Serv. Comm’n Dec. 6, 2002), at 7 (affirming the Commission’s policy of “encourag[ing] the continued use of arbitration and negotiation”).

WHEREFORE, Verizon respectfully requests that the information identified as confidential in Appendices A, B and C hereto be classified as confidential and exempt from the Public Records Act, Chapter 119, Florida Statutes, and Article I, Section 24(a) of the Florida Constitution.

Respectfully submitted this 5th day of September, 2003.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Bruce May", is written over a horizontal line.

D. Bruce May
Florida Bar No. 354473
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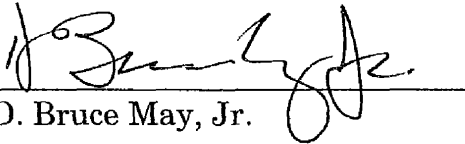
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September 5, 2003

CERTIFICATE OF SERVICE

I HEREBY CERTIFY and a true and correct copy of the foregoing was hand delivered to: Felicia Banks, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850; Marsha E. Rule, Rutledge, Ecenia, Purnell & Hoffman, P.A., 215 S. Monroe Street, Suite 420, Tallahassee, Florida 32301-1840 and Charles Beck, Office of Public Counsel, 111 West Madison Street, Suite 812, Tallahassee, Florida 32399 all on this 5th day of September, 2003.


D. Bruce May, Jr.

TAL1 #270380 v5