



Richard A. Chapkis
Vice President -- General Counsel, Southeast Region
Legal Department

FLTC0007
201 North Franklin Street (33602)
Post Office Box 110
Tampa, Florida 33601-0110

Phone 813 483-1256
Fax 813 273-9825
richard.chapkis@verizon.com
September 24, 2003

106 East College Avenue, Suite 810
Tallahassee, FL 32301

Phone 850.222.6300
Fax 850.222.2912

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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

Re: Docket No. 030851-TP
Implementation of requirements arising from Federal Communications
Commission's triennial UNE Review: Local Circuit Switching for Mass Market
Customers

Docket No. 030852-TP
Implementation of requirements arising from Federal Communications
Commission's triennial UNE Review: Location-Specific Review for DS1, DS3,
and Dark Fiber Loops and Route-Specific Review for DS1, DS3 and Dark Fiber
Transport

Dear Ms. Bayo:

Please find enclosed for filing an original and 15 copies of Verizon Florida Inc.'s
Response to Orders Establishing Procedure in the above matters. Service has been
made as indicated on the Certificate of Service. If there are any questions regarding
this filing, please contact me at 813-483-1256.

Sincerely,

AUS _____
CAF _____
CMP _____
COM 5 Richard Chapkis
CTR _____
ECR _____ RC:tas
GCL _____ Enclosures
GPC _____
MMS _____
SEC 1
JTH _____

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

09173 SEP 24 8

FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of Verizon Florida Inc.'s Response to Orders Establishing Procedure in Docket Nos. 030851-TP and 030852-TP were sent via hand-delivery(*) and U.S. mail(**) on September 24, 2003 to:

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

Nancy White c/o Nancy Sims(**)
BellSouth Telecomm. Inc.
150 S. Monroe Street, Suite 400
Tallahassee, FL 32301-1556

Tracy Hatch(**)
AT&T
101 N. Monroe, Suite 700
Tallahassee, FL 32301

Michael Gross(**)
Florida Cable Telecomm. Assn.
246 East 6th Avenue
Tallahassee, FL 32303

Susan Masterton(**)
Charles Rehwinkel
Sprint-Florida
1313 Blairstone Road
MC FLTLHO0107
Tallahassee, FL 32301

Donna McNulty(**)
MCI WorldCom, Inc.
1203 Governors Square Blvd.
Suite 201
Tallahassee, FL 32301-2960



Richard Chapkis

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising)
from Federal Communications Commission's)
triennial UNE Review: Local Circuit Switching)
for Mass Market Customers)
_____)

Docket No. 030851-TP
Filed: September 24, 2003

In re: Implementation of requirements arising)
from Federal Communications Commission's)
triennial UNE Review: Location-Specific)
Review for DS1, DS3, and Dark Fiber Loops)
and Route-Specific Review for DS1, DS3 and)
Dark Fiber Transport)
_____)

Docket No. 030852-TP

**VERIZON FLORIDA INC.'S RESPONSE TO
ORDERS ESTABLISHING PROCEDURE**

Pursuant to Florida Administrative Code Rule 28-106.204, Verizon Florida Inc. (Verizon) files this Response to the Commission's Orders Establishing Procedure. Specifically, the Commission should allow for an initial, expedited review of the FCC's mandated triggers. These "triggers" are objective, bright-line tests that were created by the FCC in large part to provide state commissions with a simplified and accelerated way to determine non-impairment. It is for this reason that the FCC has declared that state commissions should evaluate these triggers first.¹ The triggers have the potential to ease administrative burdens and to curtail the length and scope of the proceedings. If the Commission makes a finding of no impairment based on the triggers for switching and transport, no further review of impairment factors is required.

¹ See, e.g., TRO ¶ 461 ("[W]e determine that states should examine these triggers first in their analysis").

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

I. INTRODUCTION

On September 22, 2003, this Commission issued Order Nos. PSC-03-1054-PCO-TP and PSC-03-1055-PCO-TP ("Orders") in the above-listed dockets. These Orders establish the Controlling Dates in the proceedings.² The Commission should put in place an initial, expedited "triggers" track. This approach would maximize judicial efficiencies and the resources of the parties by providing an opportunity for the Commission to decide many of the issues up front and in only a portion of the allotted nine months. Verizon sets forth its proposed procedural schedule in Section III below.

II. THIS COMMISSION SHOULD ANALYZE THE FCC MANDATED TRIGGERS ON AN EXPEDITED BASIS.

As the FCC has suggested, the Commission should analyze the "triggers" first. A consideration of these "triggers," which were created by the FCC, is mandatory. All of the network elements that are potentially at issue in the Commission's nine-month case have applicable triggers.³ These triggers are "a principal mechanism for use by states in evaluating whether requesting carriers are in fact not impaired in a particular market."⁴ In adopting these triggers, the FCC has emphasized they are "keyed to objective criteria" and "provide bright-line rules;" these triggers allow state commissions to "avoid the delays caused by protracted proceedings and can minimize administrative burdens."⁵ Triggers have the potential to provide a simple solution to the Commission's review: if a trigger is satisfied, then the Commission must make a finding of no

² Orders at page 13, respectively.

³ The triggers are quite clear and concise. For example, the switching trigger concerns whether there are 3 unaffiliated carriers serving the mass market with their own switches. The FCC's September 17, 2003 Errata has removed considerations of whether a CLEC that self-provisions switching is "operationally ready," or "willing to provide service to all customers in the designated market," or "capable of economically serving the entire market," from the switching triggers analysis.

⁴ TRO at 498.

⁵ *Id.*

impairment; if not, the Commission may then need to consider certain operational and economic issues identified by the FCC, if the ILEC decides to continue to pursue its claim of no impairment in the face of the Commission's determination that the relevant trigger has not been satisfied. It is for all of these reasons that the FCC has "determine[d] that states should examine these triggers first in their analyses."⁶

The Commission should therefore start its nine-month proceeding with a review of the relevant triggers. The most efficient way to proceed is to allow ILECs the option to file initial testimony in which they demonstrate, for each network element they contest, the relevant markets in which they believe the FCC's triggers have been satisfied. CLECs can then attempt to refute these showings in their testimony. At the conclusion of the "trigger" phase of the proceedings, the Commission should determine whether the relevant trigger has been satisfied for a particular network element. As part of this conclusion, the Commission will necessarily determine the relevant market definitions; these market determinations will be carried forward and used in any subsequent, related proceedings. Verizon's proposed approach allows the Commission and the parties that opted to participate in the "triggers" portion of the case to determine quickly whether additional proceedings are necessary, while allowing the Commission to devote its resources only to those aspects of the proceeding that prove to be necessary and relevant. It is an approach that is consistent with the intent of the FCC in adopting triggers in the first place.

⁶ TRO at 461.

III. PROCEDURAL SCHEDULE

Verizon submits the following procedural schedule using the tables contained in the respective Orders. The schedule set forth below would run simultaneously with the nine-month case until a decision is reached in the “triggers” portion of the case. As explained above, at this point one of two things would happen: 1) the Commission would either make a finding of no impairment, in which case the impairment analysis would end or 2) if the Commission found impairment to exist, the remainder of the schedule in the orders would resume, if the ILEC decided to press forward with its case by demonstrating that CLECs are operationally and economically capable of serving customers in the relevant markets.

(1)	Issue Identification	October 6
(2)	Direct Testimony and Exhibits	November 3
(3)	Direct Testimony and Exhibits (staff, if any)	November 13
(4)	Rebuttal Testimony and Exhibits	December 1
(5)	Rebuttal Testimony and Exhibits (staff, if any)	December 9
(6)	Prehearing Statements	December 23
(7)	Surrebuttal Testimony	December 23
(8)	Prehearing Conference	January 9
(9)	Prehearing Order	January 14
(10)	Hearing	January 28
(11)	Transcript Due	February 4
(12)	Briefs	February 11
(13)	Staff Recommendation	March 3
(14)	Special Agenda	March 17
(15)	Final Order	March 31

IV. THE HOT CUT PROCESS SHOULD BE REVIEWED IN A SEPARATE AND PARALLEL PROCEEDING.

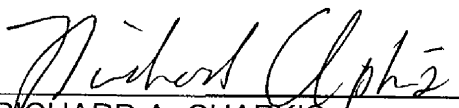
If any ILEC challenges the FCC's impairment finding for unbundled switching in a particular market, the Commission will likely have to review that ILEC's batch hot cut process. Verizon believes that this review should be done in a parallel proceeding. Moreover, because any review of an ILEC's batch hot cut process will be highly technical and specific for each ILEC that challenges the FCC's impairment presumption, this review should be done using both a collaborative workshop and a hearing. This approach will ensure that the batch hot cut process does not needlessly delay the Commission's completion of the nine-month case. It will also encourage all parties to focus on a process that is both workable and uniform – factors about which both CLECs and ILECs will be greatly concerned, regardless of the outcome of any impairment analysis. The use of both a workshop and a hearing will discipline the process and keep the collaborative process on track.

V. CONCLUSION

For all of the foregoing reasons, the Commission should grant Verizon's request to add a "triggers" schedule to this docket.

Respectfully submitted on September 24, 2003.

By:


RICHARD A. CHAPKIS
201 North Franklin Street, FLTC0717
P. O. Box 110
Tampa, FL 33601
Tel: 813-483-1256
Fax: 813-273-9825
e-mail: richard.chapkis@verizon.com

Attorney for Verizon Florida Inc.