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October 10, 2003

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Ms. Blanca S. Bayo, Director
Division of Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket Nos. 030851-TP & 030852-TP - Modifications to Orders Establishing
Procedure

Dear Ms. Bayo:

I am writing to advise you that Verizon Florida Inc. (Verizon) will be filing only a "triggers" case in the currently docketed Florida Triennial Proceeding. Under the current state of the law, Verizon will not be filing a "potential deployment" case addressing operational and economic impairment issues during the nine-month period the FCC has allotted for initial non-impairment cases.

Because Verizon's filing in the nine-month case will be limited to a "triggers" case, the Commission should modify the procedural schedule to put in place an expedited "triggers" track. This approach has several benefits.

First, it maximizes judicial economy and the resources of the parties by dramatically reducing the number and complexity of issues in the case, and, consequently, the scope of discovery, the length and complexity of the testimony, hearings and briefing, and the time required to craft a decision. The "triggers" case for each of the network elements is simple and straightforward. The FCC has made clear that the "triggers" are "keyed to objective criteria" and governed by "bright-line rules." TRO at ¶ 498. In contrast, the "potential deployment" case is far more complex. That case involves the consideration of a host of complex criteria, including potential CLEC revenue sources and market demand assumptions, the full range of costs properly included in a CLEC business case, and a variety of potential operational issues.

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Therefore, it is good policy to establish a "triggers" track to curtail the length and scope of the proceedings.¹

Second, establishing an expedited "triggers" track would allow the Commission to resolve Verizon's case in only a portion of the nine months allotted by the FCC (especially since Verizon's Florida service territory is contiguous and relatively small). Resolving Verizon's case up front would establish regulatory certainty quickly, thereby promoting investment, and encouraging innovation, in today's flagging telecommunications sector.²

Third, establishing an expedited "triggers" track would be consistent with the approach advocated by the FCC. The FCC made clear that the states should examine the triggers "first in their analyses." TRO at ¶ 461. Moreover, the FCC notes the benefits of doing so:

We adopt triggers as a principal mechanism for use by states in evaluating whether requesting carriers are in fact not impaired in a particular market. . . . The use of triggers keyed to objective criteria can avoid the delays caused by protracted proceedings and can minimize administrative burdens. Our selection of various thresholds is based on our agency expertise, our interpretation of the record, and our desire to provide bright-line rules to guide the state commission in implementing section 251.

TRO at ¶ 498 (footnotes omitted).

Significantly, Verizon's recommended approach need not impinge on the time that the Commission and the other parties have to conduct a subjective "potential deployment" case. Verizon's "triggers" case could be conducted in parallel with those cases, so as not to take any of the nine months allotted to them. It is good policy to run the cases in parallel, as opposed to serially, because the case put forward by each carrier will raise different issues, and the number and complexity of the issues should determine the schedule of each carrier's case.

¹ The document requests and interrogatories that AT&T recently propounded on Verizon demonstrate the benefits of establishing a separate "triggers" track. By definition, Verizon's "triggers" case will focus on whether non-affiliated CLECs are serving customers in a given market area, at particular locations, or along particular transport routes through their own facilities or through non-Verizon wholesale facilities. Nevertheless, AT&T's discovery focuses in large part on complex and contentious economic, operational and competitive issues that have no bearing on a "triggers" case. Carving out a separate "triggers" track would obviate the need for the parties and the Commission to address these irrelevant discovery questions.

² Of course, other companies might also choose to take advantage of the expedited "triggers" track.

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In Verizon's pending Response to the Orders Establishing Procedure, filed on September 24, 2003, Verizon set out a schedule to be used in its "triggers" case. For the reasons stated in Verizon's Response, the schedule set forth in the Response would be appropriate for its "triggers" case. However, the schedule recommended therein need not run its course before the commencement of any nine-month "potential deployment" case. As stated above, even if it starts before another carrier's comprehensive potential deployment case, Verizon's "triggers case" could run in parallel with the early portions of that more extensive case, thereby addressing the timing concerns that were raised at the October 6th Procedural Conference.

In sum, the Commission should establish an expedited "triggers" case in view of the Company's decision not to file a potential deployment case. This would benefit the Commission and the Parties, and it would not encroach on the time the Commission has to adjudicate the cases put forward by other parties.

Please contact me if you have any questions or comments regarding this matter.

Sincerely,

Handwritten signature of Richard A. Chapkis in black ink, written in a cursive style. The signature includes the initials "BF" at the end.

Richard A. Chapkis
Vice President & General Counsel –
Southeast Region

RAC:tas