

ORIGINAL

060042-TP

Matilda Sanders

From: Jenkins, Mary Lou [Mjenkins@abelband.com]
Sent: Wednesday, January 18, 2006 2:28 PM
To: Filings@psc.state.fl.us
Cc: Leigh.a.hyer@verizon.com; David Christian; Patrick Wiggins; Beth Salak; lchew@frk.com; Cox, Will; McMonagle, Sandra
Subject: E-filing - New Docket - Complaint
Attachments: 20060118141121450.pdf

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TITLE:

Franklin Templeton Companies, LLC Complaint Against Verizon Florida Inc.

FILED ON BEHALF OF:

Franklin Templeton Companies, LLC

ATTACHMENT (21 pages):

Cover Letter (1 page)
Complaint (12 pages)
Exhibit A: Agreement, Florida ICB (7 pages)
Certificate of Service (1 page)

DOCUMENT NUMBER-DATE

00460 JAN 18 06

FPSC-COMMISSION CLERK

1/18/2006

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Please refer to our file number: 15828-1

January 18, 2006

BY E-MAIL

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

Re: ***Complaint of Franklin Templeton Companies, LLC Against
Verizon Florida Inc.***

Dear Mrs. Bayo:

Please find attached the Complaint of Franklin Templeton Companies, LLC against Verizon Florida Inc.

If you have any questions, please feel free to contact me.

Very truly yours,

ABEL BAND, CHARTERED

s/William P. Cox

William P. Cox, Esq.
Attorneys for Franklin Templeton Companies, LLC

WPC:aer
Attachments

SARASOTA, FLORIDA

VENICE, FLORIDA

DENVER, COLORADO

ABEL BAND, CHARTERED

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DOCUMENT NUMBER-DATE

00460 JAN 18 06

FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of
Franklin Templeton Companies, LLC

against

Docket No. _____

Verizon Florida Inc.,
_____ /

Filed: January 18, 2006

**FRANKLIN TEMPLETON COMPANIES, LLC COMPLAINT
AGAINST VERIZON FLORIDA INC.**

Pursuant to sections 120.569, 364.01, and 364.19, Florida Statutes, rules 25-4.110, 25-22.036 and 28-106.201, Florida Administrative Code, Franklin Templeton Companies, LLC ("Franklin Templeton") files this Complaint against Verizon Florida Inc. ("Verizon"). In support of its Complaint, Franklin Templeton states:

PARTIES

1. The Petitioner Franklin Templeton is a Delaware limited liability corporation formed on December 19, 2000, and authorized to do business in the state of Florida. Franklin Templeton Corporate Services, Inc. ("FTCS") is a Delaware corporation formed on October 1, 1998. FTCS changed its name on July 12, 2000, to Franklin Templeton Companies, Inc., and subsequently merged into Franklin Templeton on January 1, 2001. FTCS initiated the telecommunications service agreement with Verizon at issue in this Complaint.¹ Because FTCS was merged into Franklin Templeton, Franklin Templeton is the successor in interest to the Verizon agreement.

¹ Due to a scrivener's error, FTCS was incorrectly referred to in the Verizon agreement as "Franklin Templeton Corporate Service, Inc."

2. Franklin Templeton's address is One Franklin Parkway, San Mateo, California 94403-1906. Franklin Templeton maintains Florida offices at 100 North Fountain Parkway, St. Petersburg, Florida 33716.

3. Verizon is a Florida corporation authorized to do business in the state of Florida. Verizon's address is 201 N. Franklin Street, FLTC0007, Tampa, Florida 33602.

4. All pleadings, correspondence, notices, staff recommendations and orders filed, served, or issued in this docket should be served on the following on behalf of Franklin Templeton:

Lawrence Chew, Esquire
Franklin Templeton Companies, LLC
960 Park Place, 2nd Floor
San Mateo, CA 94403
(650) 525-7180 (telephone)
lchew@frk.com

William Cox, Esquire
Abel Band, Chartered
240 South Pineapple Avenue
Post Office Box 49948
Sarasota, Florida 34230-6948
(941) 364-2733 (telephone)
(941) 366-3999 (facsimile)
wcox@abelband.com

JURISDICTION

5. The Florida Public Service Commission ("Commission") has jurisdiction over the claims asserted in this Complaint pursuant to Chapters 120 and 364, Florida Statutes, and such jurisdiction is consistent with the December 28, 2000, agreement between Franklin Templeton and Verizon, described further below.

FACTUAL BACKGROUND

6. On or about December 28, 2000, Defendant entered into an agreement, Florida ICB FL0002476, ("Agreement") with Plaintiff to provide Plaintiff with telecommunications services at Plaintiff's offices in Pinellas County, Florida: 100 North Fountain Parkway, St. Petersburg, Florida 33716, and 205 Ninth Street North, St. Petersburg, Florida ("Ninth Street Office"). A true and correct copy of the Agreement is attached hereto and marked as Exhibit "A".

7. Under the Contract, Verizon would provide Franklin Templeton with an OC-12 SONET Ring Route ("SONET Ring"). The Contract specifically called for Verizon to provide Franklin Templeton with a custom fiber optic three (3) node OC-12 SONET ring route with nodes at two Franklin Templeton office locations, 100 North Fountain Parkway, Building #1, St. Petersburg, Florida, (Carillon Node) and 205 9th Street North, St. Petersburg, Florida, (Burlington Node) and the third node at Verizon's Feathersound Central Office. This custom fiber ring would be (and was) used by Franklin Templeton for its own self-specified telecommunications services between its offices in the Tampa Bay area for its own exclusive use. These private services for Franklin Templeton included Franklin Templeton's carriage of interexchange and local carrier access on the SONET Ring.

8. The Agreement provided that the SONET Ring would be provided at the rates, charges, and terms set forth in the Agreement. The Agreement is expressly subject to Florida law and the regulation of the Florida Public Service Commission ("Florida PSC"), including all applicable Verizon tariffs unless inconsistent with the Agreement and any changes or modifications by the Florida PSC pursuant to its lawful authority.

9. The Agreement was in effect for a three-year term following installation of the SONET Ring. Verizon's first billing to Franklin Templeton for the node electronics, transport, and riders associated with the SONET Ring service occurred in January 2001, with actual installation of the SONET Ring having been completed in mid-December 2000. With the exception of Franklin Templeton's requested removal of the node for the 9th Street location in April 2002 and the subsequent addition of DS-1 riders, there were no known changes to Verizon's provision of SONET Ring service to Franklin Templeton until the expected removal of the SONET Ring in October 2004, which was in conjunction with the installation of the replacement fiber ring by Time Warner Communications ("Time Warner").

10. Given the pending expiration of the Agreement in December 2003, Franklin Templeton initiated negotiations for a new agreement with Verizon in September 2003, with limited response from Verizon. Between December 2003 to May 2004, Franklin Templeton and Verizon negotiated for a renewal of the Agreement or termination of the SONET Ring service. In December 2003, despite the fact that Franklin Templeton's traffic patterns for the SONET service did not change from the initial installation of service under the Agreement, Verizon proposed a new agreement for provision of SONET "diverse route" services and determined that the new agreement should be based on FCC tariffs because allegedly only approximately 15% of the traffic on Franklin Templeton's SONET Ring was intrastate. Verizon also intended to apply certain non-recurring charges to the service provided to Franklin Templeton purportedly because the service allegedly was migrating from a Florida intrastate service to an FCC-regulated, interstate-tariffed service.

Franklin Templeton's Discovery of Verizon Billing Errors

11. *Double Compensation for the SONET Ring.* Instead of continuing service from Verizon at the end of the term of the Agreement, Franklin Templeton rejected Verizon's proposed new agreement and planned to transition the SONET Ring service to its new telecommunications service provider, Time Warner. At that time, in May 2004, Franklin Templeton discovered several billing irregularities for the SONET Ring services provided to date by Verizon. First, Franklin Templeton was paying AT&T for "Total Service" access for telecommunications services provisioned to Franklin Templeton's Fountain Parkway location, which were carried by Verizon on the private Franklin Templeton fiber ring. ("Total Service" means that AT&T charges Franklin Templeton for the complete circuit from AT&T's network point of presence ("POP") to the Fountain Parkway location.) At the same time, without Franklin Templeton's agreement or knowledge, Verizon charged Franklin Templeton for DS-1 rider circuits on the SONET Ring to transport the same traffic for which Franklin Templeton was paying AT&T. As a result, Verizon was unjustly compensated twice for the identical circuits.

12. *Improper Charging for FDDI Circuit.* Second, upon Franklin Templeton's 2004 review of Verizon's first bill for the SONET ring service in 2001, Franklin Templeton discovered that it was invoiced by Verizon for a fiber distributed data interface ("FDDI") connection between the Fountain Parkway location and the 9th Street location in St. Petersburg. That 100 Mbps bandwidth was to be replaced by an OC-3 (155 Mbps) and carried on the SONET Ring. In fact, the fiber cable run between those two sites (FDDI connection) was used to complete the SONET Ring configuration. Franklin Templeton purchased the SONET ring services from Verizon with the intention of replacing the FDDI connection. At no point was Franklin Templeton charged for the OC-3 or the DS-3 riders contained in the Agreement, but

instead Verizon erroneously continued to charge for the FDDI circuit, which was to have been replaced by the OC-3 connection, when the 9th Street location was closed in April 2002. The invoicing occurred for 17 months following the time of installation in December 2000 through the closure of the 9th Street location in April 2002. From January 2001 to May 2002, Verizon billed Franklin Templeton \$7,160.00 per month (or a total of \$121,720.00) for a separate FDDI circuit between the Fountain Parkway and 9th Street customer locations even though that circuit was presumably part of the SONET Ring and therefore also included in the SONET Ring service charges.

13. *Unauthorized Use of Franklin Templeton's SONET Ring by Other Carriers.*

Third, Verizon sold access to AT&T for the provisioning of the AT&T Total Access service channels on the same custom or private fiber ring which Franklin Templeton was using and for which Franklin Templeton was paying Verizon for service. In addition, Verizon was selling another DS-3 on that ring to another carrier, carrying the backup for carrier Equant's DS-3 circuit from Equant's Miami POP to the Fountain Parkway location.

14. *Excessive Early Termination Fee.* Finally, in April 2002, Franklin's 9th Street location was closed. As a result, in May 2002, Franklin Templeton terminated the node or Customer Designated Location at the 9th Street location. In response, Verizon unilaterally terminated Franklin Templeton's SONET Ring, continued to bill Franklin Templeton for route diversity to the Fountain Parkway location and for node electronics, but stopped billing for the transportation and riders. At the same time, Verizon invoiced Franklin an early termination charge for the SONET Ring of \$46,321.65. This charge resulted from Verizon's arbitrary and unilateral decision to change the classification of the SONET Ring to "a diverse route" because of Franklin Templeton's dropping of the single node, despite the fact that the Agreement did not

require that all three nodes be maintained for the life of the Agreement. In effect, Verizon arbitrarily charged a termination charge for the entire ring for the dropping of a single node, instead of applying a termination charge for the single node that was dropped.

15. *Verizon Overcharge.* In total, Verizon invoiced and Franklin Templeton paid approximately \$750,000.00 for the SONET Ring and other associated services between January 1, 2001, and December 31, 2004. Following Verizon's termination of the 9th Street location and the SONET Ring in May 2002, Franklin Templeton's "Customer specified communications services" only used six PRI circuits. However, Verizon continued to allow other interexchange carriers to "use" the SONET Ring and continued to charge Franklin Templeton amounts that were not related to the "Customer specified communications services" but rather were incurred because of these other carriers' unauthorized use of the SONET Ring. As a result and in combination with the double compensation for the SONET Ring, the improper charging for the FDDI circuit, and the excessive early termination fee, Verizon overcharged Franklin Templeton approximately \$275,000.00 to \$300,000.00 in total from 2001 to 2004.

Franklin Templeton's Requests to Verizon Regarding Billing Errors

16. On June 10, 2004, counsel for Franklin Templeton notified Robert Darrah, regional sales manager for Verizon based in St. Petersburg, Florida, of the billing irregularities and demanded that Verizon cease and desist from the practices described above. On November 23, 2004, Mr. Tom Busch from Franklin Templeton informed Verizon that all of Franklin Templeton's services had been transitioned off the SONET Ring to another carrier, including the AT&T "Total Services" traffic, and therefore Verizon should remove its equipment from the Franklin Templeton locations and cease all billing for the SONET Ring service. Much to

Franklin Templeton's surprise, Verizon responded that the SONET Ring could not be terminated because the equipment and circuits were still being used by a number of interexchange carriers, including but not limited to AT&T, Equant, Caribbean Telecom, and MCI. Verizon informed Franklin Templeton that the customers of record for these services on the SONET Ring were these interexchange carriers, not Franklin Templeton, and therefore Verizon could not disconnect the circuits absent authorization from the relevant carriers. Verizon was unable to produce any documentation showing that Franklin Templeton had authorized these carriers' use of the SONET Ring for which it had been paying.

17. The presence of these carriers on the SONET Ring without Franklin Templeton's authorization or approval has caused Franklin Templeton to be overcharged for the telecommunications services actually provided by Verizon over the term of the Agreement. The Agreement clearly states that the SONET Ring is to be used for "Customer specified telecommunications services" (See Exhibit "A", paragraph 1). In contrast with this provision of the Agreement, it appears that Verizon's wholesale entity unilaterally allowed the interexchange carriers to use Franklin Templeton's SONET Ring, thereby increasing the total costs that Franklin Templeton incurred and paid to Verizon for telecommunications services. In addition to the amount Franklin Templeton paid to Verizon for the SONET Ring, Franklin Templeton also paid the interexchange carriers for the access services that the carriers were allegedly obtaining from Verizon.

18. On January 21, 2005, counsel for Franklin Templeton notified Verizon's Mr. Darrah of the overbilling and overpayment problems and demanded immediate refund from Franklin Templeton's overpayment. Verizon has failed to provide a meaningful response since that communication. In the meanwhile, Verizon continues to bill Verizon for non-SONET Ring related services while claiming that Franklin Templeton still owes for past due SONET Ring-

related services. Franklin Templeton has declined to pay the overcharged amount (alleged past due amount) to date for the reasons described above, particularly in light of the Franklin Templeton's overpayment and the refund due from Verizon.

CAUSES OF ACTION

Count I: Verizon Materially Breached the Telecommunications Service Agreement.

19. Franklin Templeton incorporates by reference the allegations of paragraphs 1 through 18 of this Complaint, as though fully set forth here.

20. The Commission has the power to regulate telecommunications service contracts between telecommunications companies and their patrons and has exclusive jurisdiction to serve as a surrogate for competition for monopoly services provided by local exchange telecommunications companies.

21. Verizon willfully and with gross negligence engaged in the conduct described above so as to materially breach the Agreement with Franklin Templeton for telecommunications services.

22. The acts and misconduct described above constitute material breaches of the Agreement. Verizon charged Franklin Templeton and Franklin Templeton paid for services at rates over and above the agreed upon rates in the parties' Agreement. Verizon also provided the agreed upon services at different terms and conditions than those specified in the Agreement. Specifically and as described above, Verizon violated the Agreement by (1) charging Franklin Templeton for the same service twice for significant time periods during the term of the Contract through charges for the SONET telecommunications service that were identical to telecommunications services procured at the same time from AT&T; (2) charging an early

termination fee in excess of that authorized under the Contract following Franklin Templeton's closing of its Ninth Street Office; (3) charging additionally for a FDDI circuit that was already part of the applicable service charge for the SONET telecommunication service under the Contract; and (4) permitting unauthorized third party telecommunications providers to utilize the private fiber ring designated for Franklin Templeton's service as procured from Verizon.

23. As a direct and consequential result of these breaches of contract, Franklin Templeton has been harmed in that its costs for telecommunications services and payments to Verizon increased significantly above the rates established in the parties' Agreement.

Count II: Verizon Has Violated Section 364.051(5)(b), Florida Statutes, and Rule 25-4.110, Florida Administrative Code.

24. Franklin Templeton incorporates by reference the allegations of paragraphs 1 through 18 of this Complaint, as though fully set forth here.

25. Section 364.051(5)(b), Florida Statutes, regarding provision of nonbasic services by local exchange telecommunications companies states as follows, in pertinent part:

(b) The commission shall have continuing regulatory oversight of nonbasic services for purposes of ensuring resolution of service complaints, preventing cross-subsidization of nonbasic services with revenues from basic services, and ensuring that all providers are treated fairly in the telecommunications market. ...

26. Rule 25-4.110(2), Florida Administrative Code, regarding "Customer Billing for Local Exchange Telecommunications Companies", states as follows, in pertinent part:

(2) Each billing party shall set forth on the bill all charges, fees, and taxes which are due and payable.

27. Therefore, a billing party, such as Verizon, may not bill a customer, such as

Franklin Templeton, for charges, fees, and taxes that are not due and payable by charging excessive fees. Further, Verizon's practices of charging Franklin Templeton for services procured from AT&T represents clear unfair and discriminatory treatment of both providers and customers in the telecommunications market. Verizon's practices described above of overcharging for services rendered and early termination fees, receiving double compensation for the same service, and allowing other telecommunications carriers to use facilities paid for by Franklin Templeton for its own exclusive use are therefore clear and willful violations of Section 364.051(5)(b) and Rule 25-4.110(2), which have resulted in direct harm to Franklin Templeton as described above.

PRAYER FOR RELIEF

28. Wherefore, for the reasons stated above, Franklin Templeton respectfully requests that the Commission issue an Order:

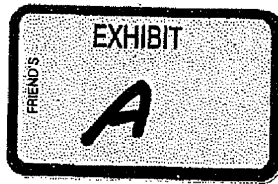
- (1) Requiring an evidentiary hearing to the extent necessary to make a determination as to any disputed facts;
- (2) Finding and concluding that Verizon has willfully, materially and with gross negligence breached its obligations and violated the Agreement for telecommunications services in Florida between Franklin Templeton and Verizon by overcharging Franklin Templeton for services rendered;
- (3) Finding and concluding that Verizon violated Section 364.051(5)(b), Florida Statutes, and Rule 25-4.110(2), Florida Administrative Code;
- (4) Awarding appropriate refunds, credits, reparations, and interest for the violation of the Agreement resulting in Franklin Templeton's overpayments to the full extent of the Commission's authority;

- (5) Awarding appropriate refunds, credits, reparations, and interest for the violation of Section 364.051(5)(b), Florida Statutes, and Rule 25-4.110(2), Florida Administrative Code, to the full extent of the Commission's authority; and
- (6) Granting such other and further relief as the Commission deems just and proper.

Respectfully submitted,

s/ William P. Cox

William P. Cox, Esq.
Abel Band, Chartered
240 South Pineapple Avenue
Post Office Box 49948
Sarasota, Florida 34230-6948
(941) 364-2733 (telephone)
(941) 366-3999 (facsimile)
wcox@abelband.com
Attorneys for Franklin Templeton
Companies, LLC



**AGREEMENT
FLORIDA ICB FL0002476**

This Agreement is entered into between Verizon Florida Inc. in its capacity as an incumbent local exchange carrier (Verizon), located at One Tampa City, 201 North Franklin, Tampa, Florida, and Franklin Templeton Corporate Service, Inc., (Customer) with local Offices located at 100 North Fountain Parkway, St. Petersburg, FL 33716. Verizon and the Customer are each individually referred to as "a Party" and collectively referred to as "the Parties".

In consideration of the mutual covenants and promises contained herein, the Parties hereto agree as follows:

1. **Services.** Verizon shall provide for the Customer a Custom Fiber Optic Three (3) Node OC12 SONET Ring Route with Nodes at two Customer locations, 100 North Fountain Parkway, Building #1, St. Petersburg, and 205 9th Street North, St. Petersburg, and at one the Feathersound Verizon Central Office ("C.O."), to allow the Customer to utilize this Cable Route for the provision of Customer specified telecommunications services. This Custom Fiber Optic OC12 Ring Route shall be provided at the rates, charges and terms set forth in this Agreement and in Attachment A, which are collectively referred to as "this Agreement." All facilities furnished by Verizon under this Agreement shall remain the property of Verizon.

Additionally, Verizon shall provide the following: (a) technicians during normal business hours of 8 a.m. to 5 p.m., Monday through Friday, and also, when available out side of the normal business hours; (b) dispatch service; and (c) diagnostic service and network monitoring from Verizon's Central Offices or Operations Center. Additionally, Verizon shall monitor the service on a twenty-four (24) hour basis with maintenance and repair as set forth in the agreement. Additionally, within two (2) hours of the issuance of a trouble ticket detailing the Customer's outage, Verizon will seek to dispatch a technician as required outside business hours.

Verizon agrees to reasonably cooperate in the performance of end-to-end testing and installation coordination with those equipment vendors and carriers which may be selected by the Customer.

2. **Term.** This Agreement shall be for three (3) years from the in-service date.
3. **Effective Date.** This Agreement shall become effective on the initial In-Service date of the Service subscribed to under the terms of this Agreement which shall be delineated in Paragraph four (4) of this Agreement.
4. **In-Service Date.** Service will be deemed established on the actual installation date as determined by Verizon, which will be the commencement of the initial contract period.

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5. **Commission/Tariffs/Other Applicable Charges.** This Agreement shall at all times be subject to such changes or modifications by the Florida Public Service Commission (Commission) as the Commission may from time to time direct in the exercise of its lawful jurisdiction.

This Agreement is subject to allowable federal, state and local surcharges and taxes.

This Agreement is governed by and subject to the terms and conditions contained in applicable Verizon tariffs, including Verizon's tariff rules on late payment charges, unless such tariffs are expressly inconsistent with the express terms of this Agreement, in which case the terms of this Agreement shall apply.

6. **Payment.** Customer shall be responsible for payment of all rates and charges from the in-service date of the Service notwithstanding any delay in the issuance of bills for services provided.

7. **Access.** Verizon and its authorized employees and contractors shall have the right of ingress to and egress from the Customer's premises where its facilities are installed in order to provide the Service, in accordance with Customer's reasonable security procedures.

8. **Default.** If Customer defaults in the payment of any amounts due hereunder, or violates any other provision of this Agreement, and if such default or violation is not cured within thirty (30) days after notice thereof from Verizon, Verizon may terminate this Agreement forthwith without any liability on the part of Verizon, and Customer shall be liable for any unpaid charges for the service incurred up to the time of the termination, plus any applicable basic termination liability charges as set forth in Attachment A. The remedies in this section for non-payment of any amounts due hereunder are in addition to any remedies available under Verizon's tariffs and may be applied at the option of Verizon.

9. **Limitation of Liability.** The liability of Verizon for any losses or damages arising out of the Services or this Agreement, including but not limited to defects, errors, delays, mistakes, omissions, or interruptions shall in all instances be limited to the pro rata charges to Customer for the periods during which the Service is so affected. Verizon shall in no instance be liable to Customer for any general compensatory, consequential, indirect, incidental, special or punitive damages, including but not limited to revenues or lost profits.

10. **Service Credit Allowance.** An out of service credit will apply for the SONET rate elements should the service be interrupted due to the Telephone Company's system's failure to switch to protected electronics and/or facilities within one (1) second in those locations connected to the Telephone Company surveillance system unless such interruptions are a result of conditions outside the Telephone Company's control.

Credit will be predicated on information provided by the Telephone Company's and the customer's network surveillance systems associated with this service arrangement. The out-of-service credit will be calculated based on the monthly rate element charges for that portion of the network rendered inoperative. A maximum limit of one month's recurring

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charge per rate element will be allotted for an interruption or series of interruptions within any one billing period.

11. **Force Majeure.** Verizon 's performance under this Agreement, or any obligation hereunder, shall be excused if said performance or obligation is prevented, restricted or interfered with due to any cause(s) beyond the reasonable control of Verizon or by reason of acts of God, war, revolution, civil commotion, acts of public enemy, embargo, fire, explosion, vandalism, inclement weather, earthquake, acts of the Government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing or boycotts, unavailability of facilities or equipment. Verizon shall not be liable for any delay or failure in its performance during the occurrence of such circumstances.

12. **Customer Indemnification.** Customer hereby agrees to indemnify, defend and hold harmless Verizon from and against any claims, suits or disputes for libel, slander, infringement of patent, copyright or unauthorized use of any trademark, trade name or service mark arising out of the material, data, information or other content transmitted pursuant to the Service.

13. **Notice.** Any notice given or required to be given by one Party to the other pursuant to this Agreement shall be in writing and shall be served by one or more of the following methods: 1) by personal service, receipt of which shall be deemed to be on the date personally delivered; 2) by certified or registered Mail, or by a courier or overnight delivery service, receipt of which shall be deemed to be on the date such notice is acknowledged in writing by the receiving Party; or 3) by facsimile, receipt of which shall be deemed to be on the next Business Day (defined as a day on which the United States Mail is delivered) after transmission if sent by facsimile. The transmitting Party shall retain the facsimile transmission confirmation record. Said notice shall be sent or delivered to the Parties to their respective authorized representatives and to the addresses designated below, unless modified by giving notice pursuant to this Section:

If to Customer:

Attn.: ~~Mr. Martin L. Flanagan, Senior VP / C.F.O.~~
~~Franklin Templeton Corporate Service, Inc.~~
~~100 North Fountain Parkway~~
~~St. Petersburg, FL 33716~~
~~Telephone: (650) 312-5818~~
~~Facsimile: (650) 312-5828~~

Allen J. Gula,
President
Franklin Templeton
Corporate Service Technologies
Inc.
777 Mariners Island Blvd.
7th Floor
San Mateo, CA 94404
PH: 650-312-2110
FAX: 650-312-3528

If to Verizon:

Ms. Brenda Parsons, Branch Program Manager
Verizon Florida Inc.
1907 U.S. Highway 301 North
Tampa, FL 33619
Mail Code FLG1-620
Telephone: (813) 664-2441
Facsimile: (813) 664-2436

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EE
10-18-00 *ADN*
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With a copy to:

Mr. Eric Edgington, Esq.
Verizon Florida Inc.
Box 110, MC FLTC0007
Tampa, FL 33602
Facsimile: (813) 204-8870

14. **Modification/Waiver.** Any changes or modifications to this Agreement must be in writing and executed by both Parties. The waiver of any term or condition under this Agreement by either Party is not a waiver of any other term or waiver of the same term at any other time. Any waiver must be written and signed by the Parties.
15. **Assignment.** Neither this Agreement nor any interest herein of Customer may be assigned, or in any manner transferred by Customer without the prior written consent of Verizon. Any attempted assignment or transfer in contravention of the preceding sentence shall be null and void.
16. **Resale.** Customer shall not under any circumstances resell the Service provided under this Agreement.
17. **Captions/Headings.** Section or paragraph headings contained in this Agreement or any Addendum are for reference purposes only and shall not affect the meaning or interpretation of this Agreement or any Addendum.
18. **Construction.** This Agreement and the provisions contained in it, shall not be construed or interpreted for or against any party hereto because that party drafted or caused that party's legal representative to draft any of its provisions.
19. **Governing Law.** This Agreement shall at all times be governed by the laws of the State of Florida, excluding its choice of law rules, and by the regulations of the Commission.
20. **Entire Agreement.** Except for written amendments, supplements or modifications made after the execution of this Agreement in accordance with Paragraph 13 hereof, this Agreement represents the entire agreement between the Parties regarding the subject matter of this Agreement and supersedes all prior negotiations, representations and agreements, either oral or written, or made to any employee, officer, or agent of any Party. This Agreement and the provisions contained herein shall not be construed or interpreted for or against any Party hereto because that Party drafted or caused that Party's legal representative to draft any of its provisions.
21. **Authority.** The persons signing this Agreement on behalf of the Parties represent and warrant to have the respective Party's authority to execute this Agreement, and shall indemnify the other Party for any lack of such authority.

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22. **Confidentiality.** Customer requests that its identity be kept confidential and not publicly disclosed by Verizon or the Commission, unless required by law.

VERIZON FLORIDA INC.

FRANKLIN TEMPLETON
CORPORATE SERVICE, INC.

By B. Reynolds

By [Signature]

Name Betty Reynolds

Name Allen T. Gula, Jr.,

Title Vice President Entertainment Group

Title President Franklin Templeton Technologies Corporate Service, Inc.

Date 11/12/00

Date Oct. 30, 2000

[Signature]

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LAW DEPT. [Signature]

ATTACHMENT A

Provided Customer signs and dates this Agreement on or before December 28th, 2000, Verizon shall provide the Service to Customer pursuant to the terms of this Agreement at the following rates, terms and charges. If Customer does not proceed by signing this Agreement by the date specified, this Service offering in its entirety will be deemed to have lapsed and this Agreement withdrawn and cancelled by Verizon effective December 29th, 2000.

Description of Service: Pursuant to ICB #FL0002476, Verizon shall provide for the Customer a Custom Fiber Optic Three (3) Node OC12 SONET Ring Route with Nodes at two Customer locations, 100 North Fountain Parkway, Building #1, St. Petersburg, and 205 9th Street North, St. Petersburg, and at the Feathersound Verizon Central Office ("C.O."), to allow the Customer to utilize this Cable Route for the provision of Customer specified telecommunications services.

Term of Service: The Agreement term for the provision of service shall be for Three (3) Years from the in-service date.

Location of Service: The Customer locations at 100 Fountain Parkway, Building #1, St. Petersburg, and 205 9th Street North, St. Petersburg, and at the Verizon Central Offices ("C.O.") St. Petersburg Main and Feathersound.

Charges:

A. Fixed Monthly Recurring Charges – (MRC)	
OC12 Customer Designated Location (CDL) Ring Connection at 100 N. Fountain Parkway, Building #1	\$4,050.00
OC12 Customer Designated Location (CDL) Ring Connection at 205 9 th Street North	\$4,050.00
OC12 C.O. Node at Verizon Feathersound C.O.	\$2,200.00
OC12 Dedicated Transport Charge, 9 Airline miles x 2 X \$240 per Airline Mile, St. Petersburg Main CDL to Feathersound C.O.	\$4,320.00
Total Fixed Monthly Recurring Charges	\$14,620.00
B. Additional Monthly Recurring Rate Elements*	
DS-1 Rider per CDL Location	\$75.00
DS-3 Rider per CDL Location	\$250.00
OC3c Rider per CDL Location	\$750.00

*These rate elements are considered month to month rates established by the Florida General Services Tariff, and therefore, the basic termination liability set forth below shall not apply.

C. Non-Recurring Charges – (NRC)

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OC12 CDL Connection at CDL, 100 Fountain Parkway, Bldg #1	\$6,000.00
OC12 CDL Connection at CDL, 205 9 th Street North	\$6,000.00
OC12 C.O. Node at Verizon Feathersound C.O.	\$3,000.00
Total Fixed Non-Recurring Charges	\$15,000.00

Basic Termination Liability - If for any reason the Customer terminates or discontinues the Service prior to the expiration of the three (3) year term, at the time of discontinuance or termination of service, Customer shall pay to Verizon an amount equal to twenty-five (25%) percent of the monthly charges times the number of months remaining in the term. Any such termination liability charge is due and payable in one lump sum within thirty (30) days of the termination or liability.

If Customer terminates this Agreement subsequent to the execution of this Agreement but prior to the installation of the Service by Verizon or prior to the In-Service Date, in lieu of the termination liability set forth above, Customer shall pay to Verizon all costs incurred by Verizon for service preparation.

Note: The Termination Liability for the any Customer specified tariffed telecommunications Service which may be separately provided over this Route is set forth in the Verizon Florida Tariffs.

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10-18-00
LAW DEPT.

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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of January, 2006, a true and correct copy of the foregoing **COMPLAINT** was served via e-mail and by United States mail, first class postage prepaid, addressed to the following:

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s/ William P. Cox _____

William P. Cox, Esq.