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RECORDS AND
REPORTING

January 3, 2001

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 990362-TI

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of Citizens' Response and Objection to Verizon's Request for a Temporary Protective Order for filing in the above-referenced docket.

Also enclosed is a 3.5 inch diskette containing the Petition in MS Word. Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

Charles J. Beck
Deputy Public Counsel

CJB/dsb
Enclosures

- APP _____
- CAF _____
- CMP _____
- COM 3
- CTR _____
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DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Initiation of Show Cause Proceeding) Docket 990362-TI
Against GTE Communications)
Corporation for Apparent Violation of)
Rule 25-4.118, F.A.C., Local, Local)
Toll, or Toll Provider Selection.) Filed: January 3, 2001
_____)

**CITIZENS' RESPONSE AND OBJECTION TO VERIZON'S REQUEST FOR A
TEMPORARY PROTECTIVE ORDER**

The Citizens of Florida (Citizens), by and through Jack Shreve, Public Counsel, file this response and objection to the request for a temporary protective order filed by Verizon Select Services, Inc. (Verizon) on December 18, 2000.

1. During the month of December, 2000, Citizens filed two sets of documents that will be offered into evidence during the hearing in this case: (1) the prefiled testimony and exhibit of R. Earl Poucher, witness for the Citizens of Florida, and (2) the deposition of Verizon employee Larry Commons, along with an accompanying exhibit of Verizon documents used during the deposition.

2. On December 18, 2000, Verizon filed a request for a temporary protective order. Verizon asked the Commission to treat the testimony, deposition, and exhibits as confidential in their entirety through a period of time

extending 21 days past the hearing date, at which point Verizon will file a specific request for confidentiality. The hearing is scheduled for March 28, 2001.

3. Rule 25-22.006(6)(c), Florida Administrative Code, provides the following:

“(6) Discovery...

(c) When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from Section 119.07(1), F.S. If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under Paragraph (a) above. If the information is not to be used in a proceeding before the Commission, then Public Counsel shall return the information to the utility in accordance with the record retention requirements of the Department of State.

4. The testimony of Citizens' witness Poucher discusses and evaluates information gleaned from documents produced by Verizon in response to discovery requests. Similarly, the deposition of Verizon employee Commons discusses and explains documents produced in response to discovery requests. Verizon's request for a temporary protective order of both Mr. Poucher's testimony and Mr. Commons' deposition is based on its unsubstantiated claim of confidentiality covering every line of every document provided to Citizens in response to discovery requests.

5. According to Rule 25-22.006(6)(c), Florida Administrative Code, Verizon is required to file a specific request for a protective order now -- not later -- because these documents, and the testimony about the documents, will be used in the proceeding. If the Commission allows Verizon's misreading of Rule 25-22.006(6)(c) to stand, the inevitable result will be that all significant evidence at the hearing will be confidential and closed to the public. To make matters worse, the information would be confidential without Verizon ever making a showing before hearing that any of the information is entitled to confidential treatment.

6. The Commission has previously taken strong positions on the side of open government. For example, in Commissioner Clark's *Order Denying Request for Confidentiality*, order no. PSC-97-1416-CFO-TI issued November 13, 1997, Commissioner Clark stated:

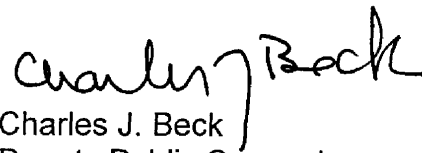
"The right of access to governmental records is an important and long standing Florida tradition embodied in both Florida Statutes and the Declaration of Rights provision of the state Constitution. The Public Records Law is to be liberally construed in favor of open government, and exemptions from disclosure are to be narrowly construed so they are limited to their stated purpose. Seminole County v. Wood, 512 So. 2d 1000 (Fla. 5th DCA 1987), rev. denied 520 So. 2d 586 (Fla. 1986). The determination of whether information is proprietary confidential business information is a matter of discretion. Florida Society of Newspaper Editors, Inc. v. Florida Public Service Commission, 543 So. 2d 1262, 1265 (1st DCA 1989) Rehearing Den. June 12, 1989. When determining whether information should be deemed confidential, the Commission should weigh the public interest in disclosing the information with the potential harm to the entity if the information were disclosed." *Order Denying Request for Confidentiality* at 3.

See also Commissioner Jacob's *Order on Reconsideration of Order No. PSC-98-0768-CFO-TL*, order no. PSC-98-0811-CFO-TL issued June 18, 1998.

7. Verizon cites an order issued by a prehearing officer (order no. psc-00-1140-PCO-TL issued June 23, 2000) as support for its request. That order dealt with the confidentiality of documents identified by Citizens for use at a hearing that has not yet been held. While we disagree with that order, the order did not deal with testimony that will be offered at hearing, as does Verizon's current request. There can be no question that the testimony of Citizens' witness R. Earl Poucher, and the deposition of Verizon employee Larry Commons, will be offered at hearing. The only question is whether the Commission will allow that testimony and deposition to be confidential, and thus likely requiring the closing of the evidentiary hearing to the public, without even requiring Verizon to specifically justify its claim of confidentiality. Citizens believe that no trade secrets are disclosed in the testimony or exhibit of either person.

8. The evidence in this proceeding will review the extent of Verizon's willful violations of the Commission's slamming rules. This is the public's business, and the openness of the proceeding should not be thwarted by Verizon's procedural efforts to make all significant evidence confidential at the hearing.

WHEREFORE, the Citizens respectfully request the Prehearing Officer to deny Verizon's request for a temporary protective order and instead require Verizon to file a specific request for a protective order justifying every claim of confidentiality.



Charles J. Beck
Deputy Public Counsel
Fla. Bar. No. 217281

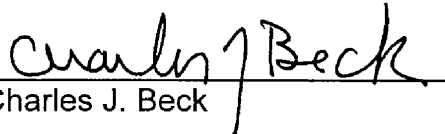
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Attorneys for the Citizens
of Florida

**DOCKET NO. 990362-TI
CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by
U.S. Mail or hand-delivery to the following parties on this 3rd day of January,
2001.


Charles J. Beck

Lee Fordham
Division of Legal Services
Fla. Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Kimberly Caswell
Verizon Florida Incorporated
P.O. Box 110, FLTC0007
Tampa, FL 33601-0110