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Public Service Commission

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-M-E-M-O-R-A-N-D-U-M- COMMISSION CLERK

DATE: January 13, 2005

TO: Kay Flynn, Division of Commission Clerk and Administrative Services

FROM: Sally Simmons, Division of Competitive Markets & Enforcement *SAS*
Beth Keating, Office of the General Counsel
Victor McKay, Office of the General Counsel *VSM*

RE: Request to Administratively Close Docket No. 041226-TP

On October 20, 2004, BellSouth Telecommunications, Inc. filed a request for approval of an amendment to interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. and OnePoint Communications - Georgia, LLC. The CLEC withdrew from conducting business in Florida on January 22, 2004. BellSouth withdrew this filing on January 10, 2005. Given there are no pending issues that need to be addressed by the Commission, staff requests this docket be administratively closed, pursuant to Section 2.07.C.2.d of the APM.

OK to close 1/14/05 hwr

cc: Commission Clerk and Administrative Services (H. Wang)

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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Kimberly Caswell
Vice President and General Counsel, Southeast
Legal Department



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

Phone 813 483-2606
Fax 813 204-8870
kimberly.caswell@verizon.com

January 11, 2001

Ms. Blanca S. Bayo, Director
Division of Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

010047-TP

Re: Docket No.
Petition for Approval of Second Amendment to Interconnection, Resale and
Unbundling Agreement between Verizon Florida Inc. and Business Telecom,
Inc.

Dear Ms. Bayo:

Please find enclosed for filing an original and five copies of Verizon Florida Inc.'s
Petition for Approval of Second Amendment to Interconnection, Resale and
Unbundling Agreement with Business Telecom, Inc. The amendment consists of a
total of four pages. Service has been made as indicated on the Certificate of Service.
If there are any questions regarding this matter, please contact me at (813) 483-2617.

Very truly yours,

Kimberly Caswell

KC:tas
Enclosures

DOCUMENT NUMBER-DATE

00492 JAN 11 2001

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Approval of Second Amendment)
to Interconnection, Resale and Unbundling)
Agreement between Verizon Florida Inc. and)
and Business Telecom, Inc.)
_____)

Docket No. 010047-TP
Filed: January 11, 2001

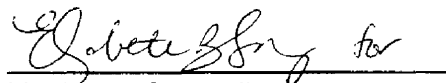
**PETITION OF VERIZON FLORIDA INC. FOR APPROVAL OF
SECOND AMENDMENT TO INTERCONNECTION, RESALE AND UNBUNDLING
AGREEMENT WITH BUSINESS TELECOM, INC.**

Verizon Florida Inc. (Verizon) (formerly, GTE Florida Incorporated) files this petition before the Florida Public Service Commission seeking approval of the Second Amendment to the Interconnection, Resale and Unbundling Agreement which Verizon has entered with Business Telecom, Inc. (BTI). In support of this petition, Verizon states:

On February 20, 1998, Verizon filed a petition for approval of its interconnection, resale and unbundling agreement with BTI, which was approved by the Commission on June 1, 1998 in Docket No. 980266-TP. Verizon respectfully requests that the Commission approve the attached Second Amendment to said agreement and that Verizon be granted all other relief proper under the circumstances.

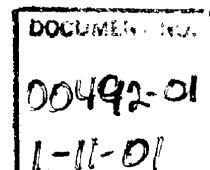
Respectfully submitted on January 11, 2001.

By:



Kimberly Caswell
P. O. Box 110, FLTC0007
Tampa, Florida 33601-0110
Telephone No. (813) 483-2617

Attorney for Verizon Florida Inc.



**SECOND AMENDMENT TO THE
INTERCONNECTION, RESALE AND UNBUNDLING AGREEMENT
BETWEEN
VERIZON FLORIDA INC., f/k/a GTE FLORIDA INCORPORATED,
AND
BUSINESS TELECOM, INC.**

THIS SECOND AMENDMENT TO THE INTERCONNECTION, RESALE AND UNBUNDLING AGREEMENT ("Amendment") is entered into on this 15th day of December, 2000, by and between Verizon Florida Inc., f/k/a GTE Florida Incorporated ("Verizon"), and Business Telecom, Inc. ("BTI") (Verizon and BTI being referred to collectively as the "Parties" and each individually as a "Party"). This Amendment amends the Interconnection, Resale and Unbundling Agreement pertaining to services provided by Verizon and BTI in the state of Florida (the "State").

RECITALS

WHEREAS, BTI and Verizon are Parties to an Interconnection, Resale and Unbundling Agreement (the "Agreement") negotiated pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 (the "Act");

WHEREAS, the Agreement was approved by the Florida Public Service Commission's ("Commission") Order dated May 12, 1998 in Docket No. 980266;

WHEREAS, the Agreement, as previously amended, shall terminate or has terminated effective November 21, 2000 ("Termination Date");

WHEREAS, Verizon and BTI are currently in good faith negotiations regarding an interconnection agreement pursuant to Section 251 and 252 of the Act to replace the Agreement (the "New Interconnection Agreement");

WHEREAS, BTI did not commence negotiations in a manner to permit the time schedule set forth in Section 252 of the Act to be completed before the Agreement expired or was terminated;

WHEREAS, BTI has maintained that the Commission would not permit an interruption in service even though the Agreement will terminate or has been terminated; and

WHEREAS, in light of the foregoing, and subject to the terms and conditions set forth herein, the Parties agree to further amend the term of the Agreement.

AMENDMENT

NOW, THEREFORE, in consideration of the mutual promises, provisions and covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The Parties hereby agree that Article III, Section 2.1 of the Agreement shall be amended and restated in its entirety to read:

Unless the Parties have sooner entered into a new agreement pursuant to Sections 251 and 252 of the Act, this Agreement shall remain in effect until May 21, 2001 ("Amended Termination Date"). If the Parties enter into a new agreement prior to the Amended Termination Date, this Agreement shall terminate on the effective date of the new agreement. If, on the Amended Termination Date, the Parties have not entered into a new agreement but are engaged in good faith negotiations under Sections 251 and 252 of the Act for a new agreement, this Agreement shall continue in effect on a month-to-month basis from the Amended Termination Date (i) until this Agreement has been replaced by a new agreement, or (ii) until terminated by either Party upon thirty (30) days written notice to the other Party, whichever is earlier. After the Amended Termination Date, either Party shall have the right to terminate the continuing month-to-month term upon thirty (30) days written notice for any reason whatsoever.

2. Except as provided herein, all other provisions contained in the Agreement and previous amendments thereto, including but not limited to all other terms, conditions and reservations of rights, shall remain unchanged and in full force and effect. Capitalized terms used, but not defined herein, shall have the meaning proscribed to them in the Agreement.

3. The Parties intend that, regardless of when this Amendment is approved by the Commission, the effective date of this Amendment shall be November 21, 2000 (the "Amendment Effective Date"). In light of this, the Parties hereby agree that their obligations pursuant to the Amendment shall remain in effect during the period when the Commission reviews and approves this Amendment, notwithstanding the Commission's possible initial rejection thereof during such period.

4. By entering into this Amendment, Verizon does not waive any right, and hereby expressly reserves each and all of its rights, to challenge and/or defend the legality of certain arbitrated terms, rates and/or charges included in the Agreement ("Arbitrated Terms")¹, including its rights to assert or continue to assert that: (a) certain of the

¹ Certain of the rates and charges incorporated into the Agreement were taken from the previously arbitrated Interconnection, Resale and Unbundling Agreement between GTE (now Verizon) and AT&T, which was approved by the Commission's Order dated July 18, 1997 in Docket No. 960847-TP. Verizon's reservation of rights and positions regarding the incorporation into the Agreement of such arbitrated rates and charges are set forth in Article III, Section 44 of the Agreement. Verizon reiterates those reservation of rights and positions as if fully set forth herein. In addition, Verizon further reserves its rights pursuant to the Agreement in the event that such arbitrated rates and charges are impacted due to changes in legal

Arbitrated Terms are unlawful, illegal and improper, including, without limitation, the positions stated in any pending or future Verizon court challenge regarding certain of the Arbitrated Terms; (b) the Arbitrated Terms do not afford Verizon the opportunity to recover its actual costs, as mandated by the Act and applicable law; (c) the Arbitrated Terms should not become effective until such time as the Commission has established an explicit, specific, predictable, sufficient and competitively neutral universal service mechanism that provides Verizon the opportunity to recover its actual costs; and (d) certain provisions of the FCC's First, Second, Third and Fourth Report and Order in FCC Docket No. 96-98 and other FCC orders or rules (collectively, the "FCC Orders") are unlawful, illegal and improper. Verizon further expressly reserves its past, present and future rights to challenge and seek review of any and all Arbitrated Terms or any permanent rates or charges established in any generic rate proceeding or any other proceeding, in any court or commission of competent jurisdiction or other available forum.

5. The Parties expressly agree that, for purposes of calculating reciprocal compensation, Local Traffic does not include Enhanced Service Provider (ESP) and Internet Service Provider (ISP) traffic, including, but not limited to, Internet traffic, 900/976, etc., and Internet Protocol (IP) based voice or fax telephony.

6. This Amendment constitutes the entire agreement of the Parties pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, proposals, and representations, whether written or oral, and all contemporaneous oral agreements, negotiations, proposals, and representations concerning such subject matter. No representations, understandings, agreements, or warranties, expressed or implied, have been made or relied upon in the making of this Amendment other than those specifically set forth herein.

7. If any provision in the Agreement or prior amendment(s) thereto conflicts with this Amendment, this Amendment shall control.

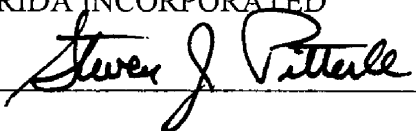
8. This Amendment shall be solely governed by and interpreted under applicable federal law and Florida law, without regard for any choice of law principles in Florida law.

9. This Amendment may be signed in counterparts and may be transmitted by facsimile.

requirements, including but not limited to the decisions by the United States Court of Appeals for the District of Columbia on March 7, 2000 (*See GTE Services Corp. et al. v. Federal Communications Commission and the United States of America*, No. 99-1176, consolidated with, No. 99-1201, 2000 U.S. App. LEXIS 4111 (D.C. Cir. 2000)) and the United States Court of Appeals for the Eighth Circuit on July 18, 2000 (*See Iowa Utilities Bd. et al. v. Federal Communications Commission and the United States of America*, No. 96-3321).

IN WITNESS WHEREOF, each Party has executed this Amendment and it shall be effective upon the Amendment Effective Date.

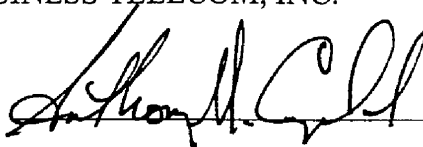
VERIZON FLORIDA INC., f/k/a GTE
FLORIDA INCORPORATED

By: 

Name: Steven J. Pitterle

Title: Director-Negotiations
Network Services

BUSINESS TELECOM, INC.

By: 

Name: Anthony M. Copeland

Title: EVP/General Counsel

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of Verizon Florida Inc.'s Petition for Approval of Second Amendment to Interconnection, Resale and Unbundling Agreement with Business Telecom, Inc. were sent via overnight delivery on January 10, 2001, to:

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

Business Telecom, Inc.
Attention: Anthony M. Copeland
4300 Six Forks Road, Suite 500
Raleigh, NC 27609


Kimberly Caswell