

State of Florida



Public Service Commission

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RECORDS AND REPORTING

DATE: FEBRUARY 8, 2001

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF COMPETITIVE SERVICES (ARANT) *KL KA SAS for WDH*
DIVISION OF LEGAL SERVICES (B. KEATING/K. PEÑA) *WMP*

RE: DOCKET NO. 001718-TP - PETITION BY VERIZON FLORIDA INC. (F/K/A GTE FLORIDA INCORPORATED) AND SBC NATIONAL, INC. D/B/A SBC TELECOM, INC. FOR ACKNOWLEDGMENT OF ADOPTION OF COLLOCATION AND DS3 TERMS OF INTERCONNECTION AGREEMENT BETWEEN SBC TELECOM, INC. AND VERIZON NORTHWEST INCORPORATED (F/K/A GTE NORTHWEST INCORPORATED). *bK*

AGENDA: 02/20/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001718.RCM

CASE BACKGROUND

On November 17, 2000, Verizon Florida Inc. f/k/a GTE Florida Incorporated (Verizon-Florida) and SBC National, Inc. d/b/a SBC Telecom, Inc. (SBCT-Florida) filed a petition with this Commission for approval of adoption of collocation and DS3 terms of the interconnection agreement between SBC Telecom, Inc. (SBCT-Washington) and Verizon Northwest Incorporated f/k/a GTE Northwest Incorporated (Verizon-Washington).

Staff contacted Verizon and advised that since the combination of specific terms and conditions with other terms and conditions create an agreement that has not been approved before by the Commission, staff would have to address this petition as a negotiated agreement instead of as an adoption.

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Verizon responded that this could not be filed as a negotiated agreement, since it is a pre-merger agreement pursuant to the Bell Atlantic/GTE Merger Conditions released by the FCC on June 16, 2000 in CC Docket No. 98-184, specifically, under paragraph 32 of the Most-Favored-Nation Provisions for Out-of Region and In-Region Arrangements. In paragraph 32, In-Region Pre-Merger Arrangements, it is specified that: "Terms, conditions, and prices contained in tariffs cited in Bell Atlantic/GTE's interconnection agreements shall not be considered negotiated provisions." Therefore, it is Verizon's position that this is not an agreement pursuant to the Telecom Act, but pursuant to the FCC Merger Conditions. The underlying DS3 and collocation agreement between Verizon-Washington and SBCT-Washington, along with the first and second amendments to this agreement, were approved by the Washington Utilities and Transportation Commission in Docket No. UT-993019.

Staff would like to note that this is the first time that the Commission is addressing an agreement pursuant to FCC Merger Conditions. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge Verizon Florida Inc. (f/k/a GTE Florida Incorporated) and SBC National, Inc. d/b/a SBC Telecom, Inc.'s adoption of Collocation and DS3 Terms of the Interconnection Agreement between SBC Telecom, Inc. and Verizon Northwest Incorporated (f/k/a GTE Northwest Incorporated)?

RECOMMENDATION: Yes. The Commission should acknowledge Verizon Florida Inc. and SBC National, Inc. d/b/a SBC Telecom, Inc.'s adoption of Collocation and DS3 Terms of the Interconnection Agreement between SBC Telecom, Inc. and Verizon Northwest Incorporated. (B. Keating, K. Peña, Arant)

STAFF ANALYSIS: Since the requested adoption is pursuant to FCC Merger Conditions, staff believes that this Commission does not have jurisdiction to approve or deny this adoption. However, acknowledging this petition is appropriate because we would be able to track agreement activity between these companies, should the companies request arbitration with us in the future or other companies choose to adopt this agreement.

While the agreement was crafted pursuant to the terms of the Telecommunications Act, it was approved pursuant to the Bell Atlantic/GTE Merger Conditions approved by the FCC. The Merger Conditions of paragraph 32 of Section IX expressly state that "Terms, conditions, and prices contained in the tariffs cited in Bell Atlantic/GTE's interconnection agreements shall not be considered negotiated provisions." The Merger Conditions also state that:

Exclusive of price and state-specific performance measures and subject to the Conditions specified in this Paragraph, qualifying interconnection arrangement or UNEs shall be made available to the same extent and under the same rules that would apply to a request under 47 U.S.C. §252(i), provided that the interconnection arrangements or UNEs shall not be available beyond the last date that they are available in the underlying agreement and that the requesting telecommunications carrier accepts all reasonably related terms and conditions as determined in part by the nature of the corresponding compromises between the parties to the underlying interconnection agreement. The price(s) for such interconnection arrangement or UNE shall be established on a state-specific basis pursuant to 47 U.S.C. §252 to the extent applicable.

The Merger Conditions confer no jurisdiction on the Commission. However, staff believes that acknowledgment of the agreement is appropriate for the reasons set forth previously.

Staff recommends acknowledgment of this agreement pursuant to Section 364.01(4), Florida Statutes, wherein the Legislature requires the Commission to encourage and promote competition.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. Since no other issues need to be addressed by this Commission, this docket should be closed upon issuance of the Commission Order. (B. Keating, K. Peña)

STAFF ANALYSIS: Since no other issues need to be addressed by this Commission, this docket should be closed upon issuance of the Commission Order.