

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Verizon Florida Inc. (f/k/a GTE Florida Incorporated) and SBC National, Inc. d/b/a SBC Telecom, Inc. for acknowledgement of adoption of collocation and DS3 terms of interconnection agreement between SBC Telecom, Inc. and Verizon Northwest Incorporated (f/k/a GTE Northwest).

DOCKET NO. 001718-TP
ORDER NO. PSC-01-0603-FOF-TP
ISSUED: March 13, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER ACKNOWLEDGING ADOPTION OF COLLOCATION
AND DS3 TERMS OF PRE-MERGER INTERCONNECTION AGREEMENT

BY THE COMMISSION:

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).

Our staff contacted Verizon and advised the company 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, we would have to address this petition as a negotiated agreement instead of as an adoption.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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 Telecommunications Act of 1996 (the 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.

While the agreement was crafted pursuant to the terms of the 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

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be established on a state-specific basis pursuant to 47 U.S.C. §252 to the extent applicable.

Since the requested adoption is pursuant to FCC Merger Conditions, and the Merger Conditions confer no jurisdiction on this Commission, we believe that we do not have jurisdiction to approve or deny this adoption. However, acknowledging this petition is appropriate because we will 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.

Therefore, we believe that acknowledgment of the agreement is appropriate for the reasons set forth previously; thus we hereby acknowledge it pursuant to Section 364.01(4), Florida Statutes, wherein the Legislature requires the Commission to encourage and promote competition. We note that if, in the future, we receive related petitions filed pursuant to these merger conditions, or petitions filed under similar circumstances, we may investigate other means of addressing such petitions.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that 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 Verizon Northwest Incorporated f/k/a GTE Northwest Incorporated and SBC Telecom, Inc.'s interconnection agreement, incorporated by reference in this Order, is hereby acknowledged. A copy of the agreement may be obtained as specified in the body of this Order. It is further.

ORDERED that this docket is hereby closed.

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By ORDER of the Florida Public Service Commission this 13th
Day of March, 2001.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

KMP/BK

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of

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Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.