

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into)
pricing of unbundled network)
elements (Sprint/Verizon track))
_____)

Docket No. 990649B-TP
Filed: February 25, 2002

EMERGENCY MOTION FOR PROTECTIVE ORDER

AT&T Communications of the Southern States, Inc. ("AT&T"), and MCI WorldCom, Inc. ("WorldCom"), pursuant to Rule 28-106.206, F.A.C., and Rule 1.280(c) of the Florida Rules of Civil Procedure, hereby move for entry of a protective order regarding the deposition of their expert witness, Sidney L. Morrison. In support, AT&T and WorldCom state:

1. On Monday, February 25, 2002, Verizon Florida, Inc. ("Verizon") electronically noticed the deposition of Sidney L Morrison, an expert witness for AT&T and WorldCom. (Copy attached as Exhibit "A" hereto). Although Mr. Morrison's residence and principal place of business are in the State of Colorado, the notice provides that the deposition will be held in Tampa, Florida, on Wednesday, February 27, 2002.

2. Prior to receipt of the deposition notice, AT&T and WorldCom advised Verizon that Mr. Morrison could be made available in Tallahassee, Florida, where the venue of this proceeding lies and where counsel for both AT&T and WorldCom reside. Alternatively, AT&T and WorldCom offered to arrange for a telephonic deposition. Nevertheless, Verizon unilaterally noticed the deposition for Tampa, where its counsel resides.

3. Verizon's unilateral scheduling of Mr. Morrison's deposition in Tampa would unduly prejudice AT&T and WorldCom by requiring both the witness and attorneys for AT&T and WorldCom to travel to a distant location of Verizon's choice.

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4. In proceedings of this nature, expert witnesses customarily are deposed where they reside or where venue lies. Nothing in the Florida Rules of Civil Procedure requires a party to make an expert witness available for deposition at a location unilaterally chosen by an opposing party. To the contrary, Rule 1.410(e)(2) provides that “[a] person may be required an examination *only* in the county wherein the person resides or is employed or transacts business in person or at such other convenient place as may be fixed by order of the court.” Fla. R. Civ. P. 1.410(e)(2) (emphasis added).

5. As noted above, Mr. Morrison does not reside or work in Tampa. Moreover, Verizon cannot point to any reason that Tampa is more convenient than either Tallahassee, where venue lies, or Colorado, where the witness resides, is employed, and transacts business. Accordingly, there is no basis for requiring Mr. Morrison and his client’s attorneys to travel to Tampa at Verizon’s behest.

6. Due to the travel time from Colorado to Florida, Mr. Morrison must fly out tomorrow (Tuesday, February 26, 2002) if he is to be deposed in Florida on Wednesday, February 27, 2002. Accordingly, AT&T and WorldCom request expedited consideration of this motion. If the Presiding Officer cannot act on the motion today, AT&T and WorldCom respectfully request that the deposition be postponed to a later date. In that regard, Mr. Morrison is available on March 14 and 15, 2002.


7. Pursuant to Rule 28-106.206(3), F.A.C., counsel for AT&T has conferred with counsel for Verizon, who advised that Verizon opposes this motion.

WHEREFORE, AT&T and WorldCom respectfully request entry of a protective order requiring Verizon to depose Sidney L. Morrison in Tallahassee, Florida, rather than Tampa,

Florida, as originally noticed by Verizon and, if necessary, postponing the deposition until a later date.

RESPECTFULLY SUBMITTED this 25th day of February, 2002.

HOPPING GREEN & SAMS, P.A.

By: 
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and

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(850) 222-0720

Attorneys for AT&T

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished to the following parties

by U.S. Mail this 25th day of February, 2002.

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States, Inc.
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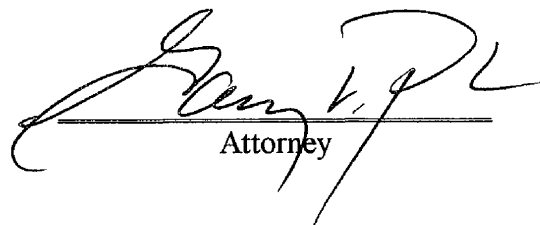
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* also be e-mail



Attorney

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into pricing of unbundled
network elements (Sprint/Verizon track))

Docket No. 990649B-TP
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NOTICE OF DEPOSITION

To: Tracy W. Hatch, Esq.
Messer, Caparello & Self
215 S. Monroe Street, Suite 701
Tallahassee, FL 32302

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Tallahassee, FL 32303

NOTICE IS HEREBY GIVEN that Verizon Florida Inc. (Verizon) will take the deposition of Sidney L. Morrison at the location and time indicated below:

2:00 p.m., Wednesday, February 27, 2002
Dreyer & Associates
One Tampa City Center, 17th floor
201 North Franklin Street
Tampa, Florida 33602
(813) 229-1545

Please have available all the work papers or other materials used by Mr. Morrison in the preparation of any testimony filed in this case or used by Mr. Morrison in the preparation of any responses to Verizon's discovery requests in this docket.

This deposition is being taken for purposes of discovery, for use at trial, or for any other purposes allowed under the Florida Rules of Civil Procedure and the Rules of the Florida Public Service Commission.

Please govern yourselves accordingly.

Kimberly Caswell
Post Office Box 110, FLTC0007
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Telephone: 813-483-2617

Attorney for Verizon Florida Inc.

EXHIBIT "A"