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December 2, 2002

Ms. Blanca S. Bayo, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 021061-TP
Petition of CNM Networks, Inc. for declaratory statement that CNM's phone-to-
phone Internet protocol (IP) telephony is not "telecommunications" and that
CNM is not a "telecommunications company" subject to Florida Public Service
Commission jurisdiction

Dear Ms. Bayo:

Please find enclosed an original and 15 copies of Verizon Florida Inc.'s
Reply to CNM Networks, Inc.'s Motion to Dismiss Petitions for Intervention, or, in the
Alternative, To Conduct a Generic Proceeding or Rulemaking or To Stay Pending
FCC Action for filing in the above matter. 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.

Sincerely,

Kimberly Caswell (dm)

Kimberly Caswell

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Enclosures

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of CNM Networks, Inc. for) Docket No. 021061-TP
declaratory statement that CNM's phone-to-) Filed: December 2, 2002
phone Internet protocol (IP) telephony is not)
"telecommunications" and that CNM is not a)
"telecommunications company" subject to)
Florida Public Service Commission jurisdiction)
_____)

**VERIZON FLORIDA INC.'S REPLY TO CNM NETWORKS, INC.'S
MOTION TO DISMISS PETITIONS FOR INTERVENTION, OR, IN THE ALTERNATIVE,
TO CONDUCT A GENERIC PROCEEDING OR RULEMAKING OR
TO STAY PENDING FCC ACTION**

Verizon Florida Inc. (Verizon) replies to CNM Networks, Inc.'s Motion to Dismiss Petitions for Intervention, or, in the Alternative, to Conduct a Generic Proceeding or Rulemaking or to Stay Pending FCC Action.

On October 18, 2002, CNM Networks, Inc. (CNM) filed a Petition for Declaratory Statement asking the Commission to determine that CNM's provision of phone-to-phone IP telephony is not "telecommunications" and that CNM is not a "telecommunications company" under this Commission's jurisdiction. Verizon and at least nine other companies have petitioned for intervention. On November 19, 2002, CNM asked the Commission to dismiss all motions for intervention or, in the alternative, open a generic proceeding or stay this one.


Verizon does not oppose a generic investigation or rulemaking. In fact, CNM's Petition is improperly styled as a request for declaratory ruling. A declaratory ruling must be limited to a petitioner's particular set of circumstances. *See, e.g., Florida Dep't of Business and Professional Reg. v. Investment Corp. of West Palm Beach et al.*, 747 So. 2d 374, 376 (Fla. 1999). But CNM seeks a broad determination that IP telephony is not "telecommunications" subject to regulation by this Commission. That determination

will necessarily be generic and not limited to CNM's specific facts. Given CNM's own requested relief and the demonstrated level of interest in this proceeding, a generic proceeding is likely inevitable. In fact, the nature of IP telephony was initially an issue in the Commission's ongoing generic reciprocal compensation docket, but the parties agreed then that it was premature to address the issue. CNM is now forcing the issue.

If the Commission maintains this case as a declaratory proceeding, then Verizon opposes CNM's Motion to Dismiss Verizon's Petition for Intervention. Verizon has met the standard for intervention under Commission Rule 28-106.205 because its interests will be affected through this proceeding. As noted, CNM seeks what is unavoidably a generic ruling about the nature of IP telephony for regulatory purposes. This ruling will, among other things, affect compensation between Verizon and others for IP telephony.

Verizon asks the Commission to deny CNM's Motion to Dismiss Verizon's Petition for Intervention or to render that Motion moot by converting this proceeding into a generic investigation or rulemaking.

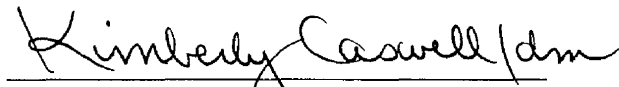
Respectfully submitted on December 2, 2002.

By: 
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(813) 483-2617

Attorney for Verizon Florida Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of Verizon Florida Inc.'s Reply to CNM Networks, Inc.'s Motion to Dismiss Petitions for Intervention, or, in the Alternative, To Conduct a Generic Proceeding or Rulemaking or To Stay Pending FCC Action in Docket No. 021061-TP were sent via U.S. mail on December 2, 2002 to the parties on the attached list.



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