

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the establishment of operations support systems permanent performance measures for incumbent local exchange telecommunications companies.
(VERIZON FLORIDA TRACK)

DOCKET NO. 000121C-TP
ORDER NO. PSC-03-0761-PAA-TP
ISSUED: June 25, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION ORDER APPROVING STIPULATION ON
VERIZON FLORIDA INC. PERFORMANCE MEASUREMENT PLAN

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein regarding approval of the stipulation on Verizon Florida Inc. performance measurement plan is preliminary in nature and will become final unless a person whose interests are substantially affected by that portion of the Order files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Background

Docket No. 000121-TP was opened to develop permanent performance metrics for the ongoing evaluation of operations support systems (OSS) provided for alternative local exchange carriers' (CLECs) use by incumbent local exchange carriers (ILECs). Associated with the performance metrics is a monitoring and

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enforcement program that ensures CLECs receive nondiscriminatory access to the ILEC's OSS. Performance monitoring is necessary to ensure that ILECs are meeting their obligation to provide unbundled access, interconnection and resale to CLECs in a nondiscriminatory manner. Additionally, it establishes a standard against which this Commission and CLECs can measure performance over time to detect and correct any degradation of service provided to CLECs.

Docket No. 000121-TP consists of three phases. Phase I began with workshops conducted by our staff with members of the CLEC and ILEC communities. These workshops were held on March 30, 2000, August 8, 2000, and December 13, 2000. The purpose of Phase I was to determine and resolve any policy and legal issues in this matter. Phase II involved establishing permanent metrics for BellSouth Telecommunications, Inc. (BellSouth), including a specific monitoring and enforcement program. By Order No. PSC-01-1819-FOF-TP (Final Order), issued September 10, 2001, we established permanent performance measures and benchmarks as well as a voluntary self-executing enforcement mechanism (Performance Assessment Plan) for BellSouth. By Order No. PSC-02-0187-FOF-TP, issued February 12, 2002, as amended by Order No. PSC-01-0187A-FOF-TP, issued March 13, 2002, BellSouth's Performance Assessment Plan was approved.

With the completion of Phase II, we began Phase III of this docket, which entails the establishment of performance metrics and a performance monitoring and evaluation program for Verizon and Sprint. By Order No. PSC-02-0503-PCO-TP, issued April 11, 2002, Docket No. 000121-TP was divided into three subdockets: (1) 000121A-TP, in which filings directed toward the BellSouth track would be placed; (2) 000121B-TP, in which filings directed toward the Sprint track would be placed; and (3) 000121C-TP, in which filings directed toward the Verizon track would be placed.

On May 17, 2002, Verizon filed its initial response to our data request for proposed permanent performance measures in Florida. On June 28, 2002, initial comments on Verizon's proposal were filed by interested parties.

Taking into consideration the information provided by Verizon and the comments provided by interested parties, our staff developed an independent proposal for Verizon OSS permanent

performance measurements and submitted it for comment on November 15, 2002. Comments on the proposal were filed December 4, 2002, and supplemental comments were filed with us on December 18, 2002.

On February 18, 2003, our staff presented its recommendation to us, recommending Verizon implement a modified version of the Performance Measurement Plan the company is subject to in California. Based on our concerns and those expressed by Verizon over staff's recommendation, we set the issue for hearing in July 2003. In the interim, we ordered that Verizon report its performance in Florida using the same metrics ordered by the FCC as a requirement of the GTE/Bell Atlantic merger.

During the period between the February agenda conference and the scheduled hearing date, Verizon, along with AT&T, MCI, and Covad, entered into a regular schedule of discussions aimed at devising a Performance Measurement Plan that be would acceptable to the negotiating parties and this Commission. In mid-May 2003, the parties announced they had reached agreement. The parties presented the settlement agreement to our staff who reviewed the proposed plan and believed it to be acceptable for use for Verizon Florida.

This Order addresses the proposed approval and adoption of the "Joint Motion to Approve Stipulation on a Performance Measurement Plan for Verizon Florida Inc." (the stipulation) for the establishment and implementation of operations support systems permanent performance measures for the Verizon Track, Docket Number 000121C-TP.

Jurisdiction

We are vested with jurisdiction over this matter pursuant to Sections 364.01(3) and (4)(g), Florida Statutes. Pursuant to Section 364.01 (3), Florida Statutes, the Florida legislature has found that regulatory oversight is necessary for the development of fair and effective competition in the telecommunications industry. To that end, Section 364.01 (4)(g), Florida Statutes, provides, in part, that the Commission shall exercise its exclusive jurisdiction in order to ensure that all providers of telecommunications service are treated fairly by preventing anticompetitive behavior.

Furthermore, the FCC has encouraged the states to implement performance metrics and oversight for purposes of evaluating the status of competition under the Telecommunications Act of 1996.

Discussion of Issues

The CLECs and Verizon have negotiated for approximately three months, beginning shortly after the February 18, 2003 Commission agenda conference, with the aim of developing a comprehensive set of performance metrics and supporting administrative infrastructure that would be acceptable to all parties involved. The resulting product of these negotiations is the "Joint Motion to Approve Stipulation on a Performance Measurement Plan for Verizon Florida Inc." (the stipulation) (Attachment "A").

As was our staff's recommendation of February 18, 2003, the stipulation is based on the California plan. However, the stipulation identifies a process for the flow through of changes ordered by the California Public Utilities Commission to the measures in effect in Florida. The parties agree that the review process in California will consider and satisfactorily resolve such issues. In the event that it does not, any party can apply to the Florida Public Service Commission for resolution, as defined in the stipulation.

Accordingly, while the Commission by this Order approves the stipulated agreement between and among the parties, it neither cedes jurisdiction nor abrogates any responsibility that we may have to review any change which may be proposed for the state of Florida as a result of changes which may arise in the California plan.

In sum, the stipulation contains 44 measures, and supporting administrative provisions which provide for the following:

- Report Requirements
- Report Process
- Auditing
- Review Procedures
- Service Order Types
- Definitions of Terms/Acronyms

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- Implementation Timeline for Performance Measure Changes
- Procedures for Implementing Changes Ordered by the California Public Utilities Commission

We find that the performance measures and administrative policies contained in this stipulated agreement shall apply uniformly for all CLECs that provide service in Verizon's Florida Territory, such that Verizon would be subject to only one set of measures for all carriers with which it conducts wholesale business. We believe this will promote uniformity, predictability and stability in the provision of local exchange service in Verizon's Florida territory.

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that the Joint Motion to Approve Stipulation on a Performance Measurement Plan for Verizon Florida Inc. is hereby granted as discussed in the body of this Order. It is further

ORDERED that the pending Petition to Intervene in this matter is hereby rendered moot. It is further

ORDERED that the provisions of this Order are issued as proposed agency action, and shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that If no person whose substantial interests are affected files a protest within 21 days of the issuance date of this Order, the Order shall become final upon the issuance of a Consummating Order. Thereafter, this docket shall remain open until: 1) completion of the development of a Florida-specific Verizon Performance Measurements Plan; 2) full implementation of the Verizon OSS Performance Measurements; 3) Verizon measurement reporting systems for CLECs are completely and accurately operational; 4) completion of the first review of performance

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measurements by the California Public Utilities Commission; and 5) the completion of the first third-party audit of the PMP while applicable to Verizon Florida.

By ORDER of the Florida Public Service Commission this 25th Day of June, 2003.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

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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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

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Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 16, 2003.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.