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September 25, 2003

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

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COMMISSION
CLERK

Re: Docket No. 030867-TL
Petition of Verizon Florida Inc. to Reform Its Intrastate Network Access and Basic
Local Telecommunications Rates in Accordance with Florida Statutes, Section
364.164

Dear Ms. Bayo:

Please find enclosed for filing an original and 15 copies of Verizon Florida Inc.'s
Response to Citizens' Second Motion to Compel Production of Documents in the above
matter. Service has been made as indicated on the Certificate of Service. If there are
any questions regarding this filing, please contact me at 813-483-1256.

Sincerely,

Richard Chapkis

RC:tas
Enclosures

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FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of Verizon Florida Inc.'s Response to Citizens' Second Motion to Compel Production of Documents in Docket No. 030867-TL were sent via electronic mail and hand-delivery(*) or overnight delivery(**) on September 25, 2003 to:

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A handwritten signature in cursive script that reads "Richard Chapkis". The signature is written in black ink and is positioned above a horizontal line.

Richard Chapkis

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Verizon Florida Inc. to Reform)
Its Intrastate Network Access and Basic Local)
Telecommunications Rates in Accordance with)
Florida Statutes, Section 364.164)
_____)

Docket No. 030867-TL
Filed: September 25, 2003

**VERIZON FLORIDA INC.'S RESPONSE TO CITIZENS'
SECOND MOTION TO COMPEL PRODUCTION OF DOCUMENTS**

Verizon Florida Inc. (Verizon) respectfully submits this Response to Florida Citizens' (Citizens) Second Motion to Compel Production of Documents (Second Motion to Compel).

I. INTRODUCTION

This case involves the specific issues to be considered by the Commission under Section 364.164(1), Florida Statutes.¹ The Citizens have served an overbroad and burdensome request seeking documents that are: (1) beyond the scope of the issues to be considered by the Commission; and (2) outside the discovery limitations established by the Legislature. Verizon would prefer not to have to raise a series of objections, but Citizens' requests fail to recognize the limited subject matter of this proceeding and the discovery limitations the statute enacted for its conduct. Notwithstanding the oppressive nature of the Citizens' document request, Verizon has produced all non-privileged, documents in its possession that relate to the issues that are appropriately considered in this proceeding. Accordingly, the Citizens' Second Motion to Compel should be denied in its entirety.

¹ Hereinafter, all statutory references are to the Florida Statutes.

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II. VERIZON'S OBJECTIONS TO CITIZENS' DOCUMENT REQUESTS ARE PROPER AND SHOULD BE SUSTAINED.

As an initial matter, the Citizens take issue with Verizon's use of general objections.

Nothing contained within Order No. PSC-03-0994-POC-TL precludes the use of general objections, and in light of the expedited discovery timeframes in this proceeding, Verizon's use of general objections – in which it lists standard discovery objections and reserves its rights – is entirely appropriate. See, e.g., Order No. PSC-03-0223-PCO-TP and Order No. PSC-02-1613-PCO-GU (prior proceedings in which parties availed themselves of general objections without any FPSC preclusion or prohibition concerning such use).

In this instance, Verizon has not withheld any documents based on its general objections. Verizon has interposed specific objections to requests that seek documents outside the proper scope of discovery, and Verizon has only exercised its right not to produce documents where it has interposed specific objections.

In order to present a self-contained document, Verizon first states verbatim the Request, Verizon's objection and Public Counsel's argument supporting why documents should be produced. Verizon then demonstrates why production should not be required. As discussed below, Verizon's specific objections are well founded and should be sustained.

Request No. 37:

Provide, in electronic format, the company's (and/or the related long distance affiliate) intrastate pricing units/volumes separately for MTS, and all "other optional calling plans" (all "other optional calling plans" should be provided separately if available, or on a combined basis), and provide this information for both residential and business customers. The above information should be provided for day, evening, and night/weekend categories.

The information should be provided for both the test period, and the year prior to the test period. Please also provide all supporting documents.

Specific Objection to Request No. 37:

In addition to its General Objections, which are incorporated herein by reference, Verizon objects to this request on the grounds that it seeks information relating to Verizon's long distance affiliate, which is not a party to this case, and is therefore overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. Moreover, Verizon objects to this request, as it relates to Verizon Florida Inc., on three grounds. First, it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding. Verizon Florida Inc. does not pay access charges, and thus will not receive an access rate reduction to be flowed through to residential and business customers under Florida Statutes, Section 364.163 (2). Second, this request seeks information precluded from discovery by the limitations imposed by Florida Statutes, Section 364.164(3). Specifically, it seeks information about end-user long distance services, but such services are not the subject of Verizon's Petition. To the extent end-user long distance service prices will be impacted by granting Verizon's Petition, the resulting long distance prices are required to be flowed through pursuant to Section 364.163(2), Florida Statutes. Therefore, for purposes of reaching a decision on Verizon's Petition, the Commission must assume that the flow-through of access rate reductions will take place as required by law. Third, this request seeks information regarding "pricing unit" information beyond the most recent 12-month period, which is beyond the scope of inquiry permitted by Section 364.164(3), Florida Statutes.

Citizens' Motion to Compel a Response to Request No. 37:

This docket is about the access charges that Verizon collects from interexchange carriers, based on the volume of traffic Verizon transports for each of the interexchange carriers operating in Florida. Citizens understand that Verizon does not collect access charges from its own long distance subsidiary. However, Citizens' seek information in this request regarding the amount of interexchange long distance traffic the company handles for its long distance subsidiary in Florida. This document request seeks to identify the amount of long distance traffic that Verizon handles for its own subsidiary, even though its subsidiary is not subject to access charges, as stated by Verizon in its objection to this request. If the Commission is to understand fully the benefits that may or may not accrue to Florida's residential basic local exchange customers, it needs to know what impacts Verizon's proposals in this docket will have on all Florida long distance carriers in terms of the volume of traffic, applicable rates and the rates that will apply following the changes proposed by the Company in this docket. Furthermore, Verizon witness Gordon states that "Economic activity in Florida will increase in Florida as a result of the companies' plans because rebalancing generates substantial consumer benefits" and he states that, "consumers will likely increase their purchases of those services whose price has come down." (Page 4, lines 17-19) Sections III and IV of witness Gordon's testimony describes the customer benefits from the rebalancing proposal of the company, and on page 32 of his testimony he states that Florida consumers will use more toll services as a result of the reduction in intrastate toll prices. This discovery request directly addresses the issue of intrastate toll price reductions that Florida consumers may or may not, experience. Citizens object to Verizon's contention that the statute limits discovery to the most recent

12 months. If the Commission were to actually accept the Company's contention in this regard, then it would apply equally to testimony and substantial parts of witness Gordon's testimony would be stricken from the record. Citizens' discovery request relates to the testimony of its witnesses and it is neither vague nor relevant. Finally, the Company's reliance on section 364.164(3), Florida Statutes, is misplaced. Citizens assert that the discovery limitation addressed in that section pertains only to the rate adjustment filings identified in section 364.164(2), and further addressed in section 364.164(3) and section 364.164(7), Florida Statutes.

Verizon's Response to Citizens' Motion to Compel a Response to Request No. 37:

Citizens argues that it is entitled to discover the amount of interexchange long distance traffic that Verizon handles for its long distance affiliate so that it may address "the issue of intrastate toll price reductions that Florida consumers may or may not experience." This argument is untenable for several reasons.

First, it cannot be reasonably argued that long distance companies will not pass through the access reductions to their customers. Section 364.163(2) expressly requires a long distance company to "decrease its intrastate long distance revenues by the amount necessary to return the benefits of such reduction to both its residential and business customers."

Second, the manner in which long distance companies pass through access reductions is outside the scope of the four issues to be considered by the Commission under Section 364.164(1).

Third, even if the Commission were to determine that whether and how long distance companies will pass through the access reductions is within the scope of the

proceeding, the information requested would not help the Commission to understand this issue.

Fourth, Citizens is prohibited from seeking the amount of interexchange long distance traffic that Verizon handles for its long distance affiliate by the discovery limitations imposed by Section 364.164(3). That section plainly states that “[a]ny discovery or information requests under this section shall be limited to a verification of historical pricing units . . .”² Even if the Commission broadly construes this subsection to mean that discovery is limited to issues addressed in Verizon’s Petition, as opposed the verification of historical pricing units (which it should not), Verizon should not be required to respond to this interrogatory because its Petition does not focus on the amount of interexchange long distance traffic that Verizon handles for its long distance affiliate. Citizens’ attempt to argue that the Subsection 354.164(3) discovery limitations only apply to certain subsections is misplaced. According to the plain language of the statute, the discovery limitation applies to discovery requests under all of the section, not just certain subsections.

Sixth, this request seeks information regarding "pricing unit" information beyond the most recent 12-month period, which is beyond the scope of inquiry permitted by Section 364.164(3), Florida Statutes. The Citizens claim that this limitation is inapplicable because Dr. Gordon’s testimony refers to events that took place more than one year ago. Citizens’ claim is wrong because Dr. Gordon’s testimony does not use such information to address pricing units.

² Emphasis added.

Request No. 38:

Provide, in electronic format, the company's (and/or the related long distance affiliate) average revenues per minute separately for MTS, and all "other optional calling plans" (all "other optional calling plans" should be provided separately if available, or on a combined basis), and provide this information for both residential and business customers. The information should be provided for both the test period, and each of the two years prior to the test period. Please provide all supporting documents.

Specific Objection to Request No. 38:

In addition to its General Objections, which are incorporated herein by reference, Verizon objects to this request on the grounds that it seeks information relating to Verizon's long distance affiliate, which is not a party to this case, and is therefore overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. Moreover, Verizon objects to this request, as it relates to Verizon Florida Inc., on three grounds. First, it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding. Verizon Florida Inc. does not pay access charges, and thus will not receive an access rate reduction to be flowed through to residential and business customers under Florida Statutes, Section 364.163 (2). Second, this request seeks information precluded from discovery by the limitations imposed by Florida Statutes, Section 364.164(3). Specifically, it seeks information about end-user long distance services, but such services are not the subject of Verizon's Petition. To the extent end-user long distance service prices will be impacted by granting Verizon's Petition, the resulting long distance prices are required to be flowed through pursuant to Section 364.163(2), Florida Statutes. Therefore, for purposes of

reaching a decision on Verizon's Petition, the Commission must assume that the flow-through of access rate reductions will take place as required by law. Third, this request seeks information regarding "pricing unit" information beyond the most recent 12-month period, which is beyond the scope of inquiry permitted by Section 364.164(3), Florida Statutes.

Citizens' Motion to Compel a Response to Request No. 38:

See Citizens' Response to Verizon Objection to Production of Document Request No. 37, above.

Verizon's Response to Citizens' Motion to Compel a Response to Request No. 38:

See Verizon's Response to Citizens' Motion to Compel a Response to Request No. 37, above.

Request No. 39:

Provide, in electronic format, the average intrastate toll/long distance usage charges (billed/invoiced amount) separately for customers of residential MTS, all other combined residential "optional calling plans", business MTS, and all other combined business "optional calling plans". Provide this information for the test period and the prior twelve months. Please also provide all supporting documents.

Specific Objection to Request No. 39:

In addition to its General Objections, which are incorporated herein by reference, Verizon objects to this request on the grounds that it seeks information relating to Verizon's long distance affiliate, which is not a party to this case, and is therefore overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. Moreover, Verizon objects to this request, as it relates to Verizon Florida Inc., on three

grounds. First, it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding. Verizon Florida Inc. does not pay access charges, and thus will not receive an access rate reduction to be flowed through to residential and business customers under Florida Statutes, Section 364.163 (2). Second, this request seeks information precluded from discovery by the limitations imposed by Florida Statutes, Section 364.164(3). Specifically, it seeks information about end-user long distance services, but such services are not the subject of Verizon's Petition. To the extent end-user long distance service prices will be impacted by granting Verizon's Petition, the resulting long distance prices are required to be flowed through pursuant to Section 364.163(2), Florida Statutes. Therefore, for purposes of reaching a decision on Verizon's Petition, the Commission must assume that the flow-through of access rate reductions will take place as required by law. Third, this request seeks information regarding "pricing unit" information beyond the most recent 12-month period, which is beyond the scope of inquiry permitted by Section 364.164(3), Florida Statutes.

Citizens' Motion to Compel a Response to Request No. 39:

See Citizens' Response to Verizon Objection to Production of Document Request No. 37, above.

Verizon's Response to Citizens' Motion to Compel a Response to Request No. 39:

See Verizon's Response to Citizens' Motion to Compel a Response to Request No. 37, above.

Request No. 40:

Assume that the company's proposal is adopted. Provide all documents in your possession, custody or control to show that the decrease in residential long distance rates (from the flow-through impact) will equal or exceed the increase in residential local rates. Please provide information in electronic format.

Specific Objection to Request No. 40:

In addition to its General Objections, which are incorporated herein by reference, Verizon objects to this request on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding. Verizon Florida Inc. does not pay access charges, and thus will not receive an access rate reduction to be flowed through to residential and business customers under Florida Statutes, Section 364.163 (2). In addition, this request seeks information precluded from discovery by the limitations imposed by Florida Statutes, Section 364.164(3). Specifically, it seeks information about end-user long distance services, but such services are not the subject of Verizon's Petition. To the extent end-user long distance service prices will be impacted by granting Verizon's Petition, the resulting long distance prices are required to be flowed through pursuant to Section 364.163(2), Florida Statutes. Therefore, for purposes of reaching a decision on Verizon's Petition, the Commission must assume that the flow-through of access rate reductions will take place as required by law.

Citizens' Motion to Compel a Response to Request No. 40:

See Citizens' Response to Verizon Objection to Production of Document Request No. 37, above. Verizon has stated in its objection that it does not charge for access to the local exchange network by its long distance affiliate. The Citizens simply want to clarify

whether or not the Verizon long distance customers will benefit from the proposals of the company and these documents requested are intended to assist in that determination.

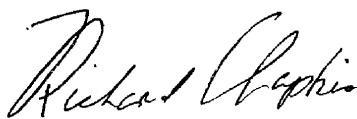
Verizon's Response to Citizens' Motion to Compel a Response to Request No. 40:

See Verizon's Response to Citizens' Motion to Compel a Response to Request No. 37, above.

III. CONCLUSION

For the foregoing reasons, the Commission should deny Citizens' Second Motion to Compel in its entirety.

Respectfully submitted on September 25, 2003.

By: 

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