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October 1, 2003

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Mrs. Blanca S. Bayó  
Director, Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**Re: Docket Nos. 981834-TP and 990321-TP (Generic Collocation)**

Dear Ms. Bayó:

Enclosed are an original and fifteen copies of Verizon Florida Inc.'s Response to AT&T's Motion to Compel Discovery to Verizon Florida Inc., which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,



Daniel McCuaig

cc: All Parties of Record  
Charles Schubart

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**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition of Competitive Carriers for Commission action to support local Competition in BellSouth Telecommunications Inc.'s service territory	) ) ) ) ) _____ )	Docket No. 981834-TP
In re: Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.	) ) ) ) ) ) ) ) ) _____ )	Docket No. 990321-TP

**VERIZON FLORIDA INC.'S RESPONSE TO AT&T'S MOTION TO COMPEL  
DISCOVERY TO VERIZON FLORIDA INC.**

Verizon Florida Inc. ("Verizon") urges the Commission to reject AT&T Communications of the Southern States, LLC's ("AT&T") Motion to Compel Discovery to Verizon Florida Inc. ("Motion to Compel"):

1. In its June 11, 2003 Order Approving Agreement, the Commission designated Issue 6B ("If power is charged on a per-amp-used basis or on a fused capacity basis, how should the charge be calculated and applied?") as among those to be addressed at this proceeding's Phase I Hearing in August.<sup>1</sup>

2. AT&T challenged this determination in its Motion for Modification of the Procedural Schedule. AT&T argued that "the policy question on charges for electric power should not be determined without also looking at the cost issues leading to the

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<sup>1</sup> Order Approving Agreement, Order No. PSC-03-0702-FOF-TP, Docket Nos. 981834-TP & 990321-TP (June 11, 2003), at 4.

development of the rates for electric power consumption,” and thus that the Commission should not decide Issue 6B until *after the Phase II Hearing*.<sup>2</sup>

3. The Commission squarely rejected AT&T’s argument in its Order Denying Motion for Modification of Procedural Schedule. The Commission found that “[t]he parties have been on notice for quite some time when Issues 6A-6C would be addressed, . . . [and] there appears to be no undue prejudice that will result from maintaining the current schedule and no other overriding reason to do otherwise.”<sup>3</sup>

4. The parties have also had extensive notice that the question whether DC power should be metered would be addressed in conjunction with Issue 6B. Indeed, the technical witnesses for both Verizon and AT&T addressed the metering question in their December 2002 *direct testimony*.<sup>4</sup>

5. The Phase I Hearing concluded on August 12, 2003, following extensive discovery, prefiled testimony, live testimony, and briefing regarding Issue 6B, including the question of power metering. Post-Hearing Briefs addressing Issues 1-8 have now been submitted, and the Commission is scheduled to rule on those Issues at its November 4, 2003 Agenda. Thus, the only Issues that remain open in this proceeding are 9A, 9B, and 10, which collectively address the rates, terms, and conditions to be set for collocation elements.<sup>5</sup>

6. On August 27, 2003, AT&T served Verizon with its Third Set of Interrogatories (Nos. 12-14). Notwithstanding the Commission’s clear declaration that

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<sup>2</sup> AT&T’s Motion for Modification of the Procedural Schedule, filed in Docket Nos. 981834-TP & 990321-TP on July 24, 2003, at 3.

<sup>3</sup> Order Denying Motion for Modification of Procedural Schedule, Order No. PSC-03-0910-PCO-TP, Docket Nos. 981834-TP & 990321-TP (Aug. 7, 2003), at 4.

<sup>4</sup> Ries Direct at 13; King Direct at 9-10.

the record for Phase I Issues closed with the conclusion of the Phase I hearing, AT&T's Interrogatory Nos. 13 and 14 (which seek *no* cost data) focus exclusively on issues that, if relevant at all, were addressed exhaustively as part of Issue 6B in the first phase of this litigation. AT&T's discovery requests thus amount to yet another attempt to move Issue 6B into the second phase of this proceeding.

7. On September 5, 2003, Verizon filed its Initial Objections to AT&T's Third Set of Interrogatories, noting specifically, *inter alia*, that the information AT&T seeks is not relevant to Issues 9-10, the *only* Issues for which the record remains open.

8. On September 16, 2003, Verizon answered AT&T Interrogatory No. 12, which could conceivably go to costs, and stood on its objections to Interrogatory Nos. 13 and 14.

9. On September 25, 2003, AT&T filed its Motion to Compel. AT&T argues that Interrogatory Nos. 13 and 14 are relevant to Phase II of this proceeding for two reasons: (1) "The information sought regarding Verizon's usage and usable capacity is essential in determining the existing utilization factor"; and (2) "The information sought in discovery is necessary to determine Verizon's growth expectations, which are relevant to issues of pricing and cost."<sup>6</sup>

10. AT&T did not confer with Verizon prior to filing its Motion to Compel, as required under Rule 28-106.204(3) of the Florida Administrative Code.

11. AT&T's reasons for seeking this information are unpersuasive. Verizon's power cost study does *not* contain a utilization factor that accounts for usable capacity built ahead demand (commonly referred to as a "fill factor") and does not otherwise

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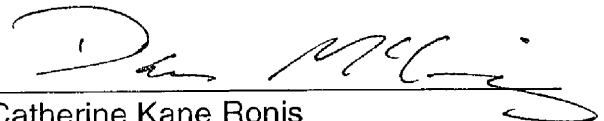
<sup>5</sup> See Order Approving Agreement at 4.

capture the costs of building power ahead for future expected growth.<sup>7</sup> The only “utilization factor” contained in Verizon’s study is an efficiency factor to account for necessary spare batteries and the like.

12. Thus, AT&T’s purported reason for seeking this information is nothing more than a pretext. AT&T is obviously unhappy with the testimony by all three ILEC witnesses at the August hearings that they build power for ALECs on a committed basis.<sup>8</sup> AT&T had adequate opportunity to cross examine all of these witnesses, and could have asked for the information it now seeks. As the Commission has made clear, however, the record for Phase 1 of the proceeding is now closed.

For the foregoing reasons, Verizon respectfully requests that the Commission deny AT&T’s Motion to Compel.

Respectfully submitted,



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Dated: October 1, 2003

Attorneys for Verizon Florida Inc.

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<sup>6</sup> Motion to Compel at 2.

<sup>7</sup> See Verizon FL Exhibit BKE-1 at 187-193.

<sup>8</sup> See, e.g., 8/11/03 Tr. at 169-205 (Milner); *id.* at 214-53 (Milner); *id.* at 360-77 (Davis); 8/12/03 Tr. at 393-443 (Davis); *id.* at 523-37 (Bailey); *id.* at 625-91 (King).

**CERTIFICATE OF SERVICE**

**Docket No. 981834-TP and 990321-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via FedEx or First Class U.S. Mail this 1st day of October, 2003 to the following:

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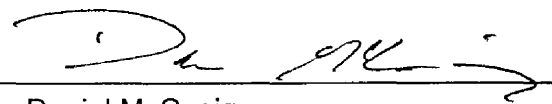
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