

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Implementation of Requirements Arising  
From Federal Communications Commission  
Triennial UNE Review: Local Circuit Switching  
For Mass Market Customers

---

Docket No. 030851-TP

In re: Implementation of Requirements Arising  
From Federal Communications Commission's  
Triennial UNE Review; Location-Specific  
Review for DS1, DS3 and Dark Fiber Loops,  
And Route-Specific Review for DS1, DS3 and  
Dark Fiber Transport.

---

Docket No. 030852-TP

Filed: October 2, 2003

**The Florida Competitive Carriers Association's  
Opposition to Verizon Florida's Request for an  
Expedited "Trigger" Proceeding**

The Florida Competitive Carriers Association ("FCCA"), pursuant to rule 28-106.204, Florida Administrative Code, files this Response in Opposition to Verizon Florida's Request for an Expedited "Trigger" Proceeding. For the reasons set out below, Verizon's request should be denied.

1. On September 24, 2003, Verizon Florida ("Vz-FL") filed its Response<sup>1</sup> to the Order Establishing Procedure, Order No. PSC-03-1054-PCO-TP, in the above-styled matter. While denominated a "Response," the Vz-FL filing requests a fundamental change in the manner by which the Commission would conduct the proceedings to discharge its duties as required by the FCC's Triennial Review Order (hereinafter, "TRO"). Vz-FL requests that the Commission establish a separate "expedited 'triggers' track" that would have the parties presenting evidence

---

<sup>1</sup> To the FCCA's knowledge, no "response" to a Procedural Order is permitted.

prematurely, without the benefit of the discovery necessary to obtain the information required to prepare and present the Commission the evidence it must have in order to make the many important decisions required by the TRO. The decisions that the Commission will be required to make in these proceedings will be critical to the future of the development of the competitive telecommunications markets in the state of Florida, and will directly affect the choices that will be available to all Florida consumers for their telecommunications services. As a result, it is critically important that the Commission not make these decisions hastily in a vacuum or in an “expedited” proceeding lacking a fully developed evidentiary record. Accordingly, Vz-FL’s request for an “expedited trigger” proceeding should be denied.

2. In contrast to the Vz-FL’s proposal, the joint proposal of FCCA and BellSouth, which was presented to the Commission in a September 10, 2003 letter (hereinafter, “Joint Proposal”) presents a well thought-out proposal that was negotiated by the sponsoring parties. The Joint Proposal will permit all parties to conduct the discovery necessary to prepare and present their cases in order to provide the Commission with the record it needs to make the decisions required by the TRO. In the September 10, 2003 Joint Proposal, the sponsoring parties noted that the TRO requires proceedings that state commissions across the nine states of BellSouth’s region must conduct simultaneously. The Joint Proposal suggested that this Commission conduct one of the first proceedings in the region. Based on discussions between the sponsoring parties, the Joint Proposal recognized that the interested parties in the mass market local switching case and the High Capacity Loops and Transport case would likely be different. The Commission properly recognized the fundamental differences between these two proceedings and thus opened two separate dockets. Based on the anticipated discovery that will be needed in each proceeding in order for the parties to prepare and present their cases, the

parties sponsoring the Joint Proposal successfully negotiated suggested filing dates for Direct, Rebuttal and Surrebuttal testimony, taking into account the discovery and preparation time needed to present the evidence the Commission must have in order to establish a fully developed record for the numerous decisions it will be required to make in these dockets.

3. In addition, the parties sponsoring the Joint Proposal indicated in their September 10, 2003 letter that they were negotiating, and had substantially completed, an agreement dealing with (i) how expedited discovery (region-wide) would be conducted, (ii) processes for expedited electronic service of pleadings and other filings, and (iii) the exchange and protection of confidential information via a Protective Agreement. The parties have completed those negotiations and will be prepared to present those agreed-upon matters to the Prehearing Officer and Staff for review during the October 6, 2003 Procedural Conference.

4. In contrast to the Joint Proposal, Vz-Fl's "expedited triggers track" proposal presented in its September 24, 2003 "Response" was submitted without the benefit of any other party's input, does not appear to recognize the fact that different parties will be participating in the mass market local switching case (Docket 030851-TP) and the High Capacity Loop and Transport case (Docket 030852-TP), and ignores those parties' needs to conduct discovery in order to fully and fairly present their cases to the Commission.

5. The schedule proposed by Vz-FL also is totally unrealistic. Assuming that the Prehearing Officer adopted and issued a scheduling Order implementing Vz-FL's proposed schedule at its October 6, 2003 Conference, the parties would have less than 30 days to put in place a Protective Agreement for the exchange and use of confidential information, conduct discovery, and prepare and present their direct cases regarding "triggers" on November 3, 2003. Then, less than 30 days after the filing of their direct case, the parties would have less than 30

days to conduct discovery on the other parties' direct case, and prepare and present their rebuttal case on December 1, 2003. Not only is this schedule completely impractical – especially in light of the fact that there will be similar cases pending in every other state in the region -- it would result in the creation of a hastily and ill-prepared record for the Commission to use to make important decisions that will fundamentally affect the manner in which competitive telecommunications services are provided to Florida's mass market and enterprise customers. The Joint Proposal, in contrast, was carefully negotiated between and developed by the sponsoring parties to allow the full development of a record for the Commission to use in making these important decisions.

6. Indeed, the Joint Proposal suggests that there be a 16-week period prior to the filing of the direct case on January 23, 2004 in the High Capacity Loop and Transport case (Docket No. 030852-TP). The sponsoring parties' schedule is designed to permit full discovery, accompanied by the necessary Protective Agreement, in order to develop the essential facts necessary to decide the issues raised in that proceeding. The sponsoring parties of the Joint Proposal are presently in discussions to develop an agreed upon set of discovery questions, which may be responded to subject to the Protective Agreement, to be served on the appropriate facilities-based CLECs. The sponsoring parties anticipate that these discovery answers will yield the necessary information to establish the high capacity transport routes and building locations where self-providers and wholesalers have facilities. Once this information is compiled and reviewed by the parties, the sponsoring parties anticipate that further discovery can be conducted to further narrow the areas of dispute, so that the Commission can be presented with a narrowed list of specific transport routes and building locations where the parties either have a "factual" dispute (i.e., the identified CLEC either is or is not a wholesaler) or an interpretive dispute (e.g.,

the TRO Rule either does or does not require the identified CLEC to have access to all floors in the building in order to qualify as a self-provider of high capacity loops at a specific location). The sponsoring parties of the Joint Proposal would expect to have all this information compiled and disputes identified, at the latest, by the suggested filing date for the rebuttal testimony (February 13, 2004).

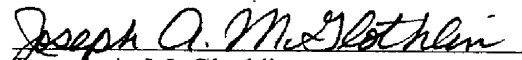
7. The Joint Proposal also recognizes that full and fair discovery, accompanied by the necessary Protective Agreement, will also be needed in order to present a complete record for the Commission's decisions in the mass market local switching case (Docket 030851-TP). The Commission has critical decisions to make concerning such issues as the definition of the relevant geographic market (i.e., wire center, MSA, LATA, etc.) for both the mass market switching triggers and for issues surrounding potential deployment. The TRO requires the Commission to consider a multitude of factors in making that decision (see, e.g., TRO, ¶¶ 495-96). It must also determine the DS0 "crossover" point, which distinguishes between mass market customers that may be entitled to be served with unbundled local switching, and enterprise customers, for whom access to unbundled local switching is not available (TRO, ¶ 497). These criteria must be established before the Commission can review the applicable "market" within which the switching triggers will be reviewed. Furthermore, the TRO requires the Commission, in applying the triggers, to determine whether CLECs identified as potentially meeting the trigger requirements are "actively providing" analog voice services (POTs) to residential and business customers (TRO, ¶ 499) and "are likely to continue to do so" in the future. (TRO, ¶ 500)

8. The Joint Proposal, recognizing that these and myriad other issues must be addressed within the 9-month time frame provided by the TRO, suggested a December 19, 2003

filing date for direct testimony in the mass market local switching case (Docket No. 030851-TP) and a January 23, 2004 filing date for the rebuttal testimony. Although these dates are themselves aggressive, the time frames are the minimum periods necessary to permit the parties to conduct adequate discovery and to prepare and present a full record for the Commission's consideration in making these important decisions.

9. In conclusion, the Commission should reject Vz-FL's proposal to establish an expedited "Trigger" proceeding. Vz-FL's proposal would fundamentally change the nature of these proceedings by short-circuiting the development of a full evidentiary record on which to base the critically important decisions that the Commission must make in these proceedings. The decisions that the Commission will be required to make regarding the existence of "triggers" will have profound impacts on the future of the development of the competitive telecommunications markets in the state of Florida, and the choices that will be available to all Florida consumers for their telecommunications services. Before making these decisions about the existence of triggers, the Commission is required by the TRO to consider a multitude of factors. Only a fully developed evidentiary record can provide the Commission with the critical information it needs to answer the questions posed by the TRO. For these reasons, Vz-FL's request for an "expedited trigger proceeding" should be denied. The Commission should develop a full and complete record prior to making the important decisions in this case, including those relating to "triggers."

**WHEREFORE**, Vz-FL's request for an "expedited trigger proceeding" should be denied.



Joseph A. McGlothlin

Vicki Gordon Kaufman

McWhirter, Reeves, McGlothlin, Davidson,  
Kaufman & Arnold, P.A.

117 South Gadsden Street

Tallahassee, Florida 32301

(850) 222-2525

(850) 222-5606 (fax)

[vkaufman@mac-law.com](mailto:vkaufman@mac-law.com)

Attorneys for Florida Competitive Carriers Association

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Competitive Carriers Association's Opposition to Verizon Florida's Request for an "Expedited Trigger Proceeding" has been provided by (\*) hand delivery or U.S. Mail this 2<sup>nd</sup> day of October 2003, to the following:

(\*) Commissioner Charles M. Davidson  
Office of the General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Tracy Hatch  
AT&T Communications of the  
Southern States, LLC  
101 North Monroe Street  
Suite 700  
Tallahassee, FL 32301

(\*) Beth Keating  
Office of the General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Michael Gross  
Florida Cable Telecommunications  
246 East 6<sup>th</sup> Avenue  
Tallahassee, FL 32302

Nancy White  
C/o Nancy Sims  
BellSouth Telecommunications, Inc.  
150 South Monroe Street, Suite 400  
Tallahassee, FL 32301-1556

Charles E. Watkins  
Covad Communications Company  
1230 Peachtree Street, NE  
19<sup>th</sup> Floor  
Atlanta, GA 30309

Richard Chapkis  
Verizon Florida, Inc.  
201 North Franklin Street  
MC: FLTC0717  
Tampa, FL 33602

Matthew Feil  
Florida Digital Network, Inc.  
390 North Orange Avenue  
Suite 200  
Orlando, FL 32801

Susan Masterton  
Sprint Communications Company  
1313 Blairstone Road  
Post Office Box 2214  
MC: FLTLHO0107  
Tallahassee, FL 32301

  
Joseph A. McGlothlin

Donna Canzano McNulty  
MCI WorldCom  
1203 Governors Square Boulevard  
Suite 201  
Tallahassee, FL 32301