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December 29, 2003

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-0870

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COMMISSION
CLERK
DEC 29 PM 4:38

Re: Docket No.: 030852-TP

Dear Ms. Bayo:

On behalf of XO Florida, Inc. (XO), enclosed for filing and distribution are the original and 15 copies of the following:

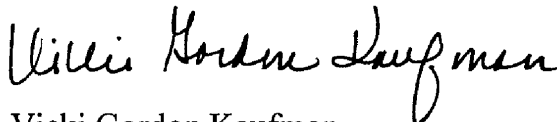
- ▶ XO Florida, Inc.'s Objections to Verizon Florida, Inc.'s First Request for Admissions (Nos. 1-2), First Set of Interrogatories (Nos. 1-2) and First Request for Production of Documents (Nos. 1-11).

Please acknowledge receipt of the above on the extra copy and return the stamped copy to me. Thank you for your assistance.

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FPSC-BUREAU OF RECORDS

Sincerely,



Vicki Gordon Kaufman

- AUS _____
- CAF _____
- CMP _____
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- GCL Enclosures
- OPC _____
- MMS _____
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- OTH _____

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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: December 29, 2003

**XO FLORIDA, INC.'S OBJECTIONS TO VERIZON FLORIDA, INC.'S FIRST
REQUEST FOR ADMISSIONS (NOS. 1-2), FIRST SET OF INTERROGATORIES (NOS.
1-21) AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-11)**

XO Florida, Inc. (XO), pursuant to Rule 28.106-206, Florida Administrative Code, and Rules 1.280, 1.340, 1.350, and 1.370, Florida Rules of Civil Procedure, files the following General Objections to Verizon Florida, Inc.'s (Verizon) First Request for Admissions (Nos. 1-2), First Set of Interrogatories (Nos. 1-21) and First Request for Production of Documents (Nos. 1-11) to XO. Verizon's discovery is outside the scope of permissible discovery in this case. XO is not a party to this case and thus has no legal obligation under the Florida Rules of Civil Procedure to respond to Verizon's discovery. XO reserves its right to all other appropriate objections and by filing these objections in no way intends to become a party to this case.

GENERAL OBJECTIONS

1. XO objects to Verizon's request for admissions, interrogatories, and requests for production. Each of these discovery vehicles is inappropriate and outside the scope of the Florida Rules of Civil Procedure and the Model Rules governing administrative practice because XO is **not** a party to this case.

2. In administrative proceedings, the Model Rules provide that: "parties may obtain discovery through the means and in the manner provided in Rules 1.280 through 1.400, Florida

Rules of Civil Procedure."¹

3. Rule 1.340, Florida Rules of Civil Procedure, provides that a "party may serve upon **any other party** written interrogatories. . . ."² Likewise, rule 1.350, provides that "[a]ny party may request **any other party** . . . to produce and permit the party making the request . . . to inspect and copy any designated documents . . ."³ Similarly, rule 1.370, provides that a "party may serve **upon any other party** a written request for the admission of the truth of any matters. . . ."⁴

4. The discovery rules cited above permit one party to serve discovery upon another **party** to a case. The Commission Staff recognized this when, on December 4, 2003, it withdrew interrogatories and requests for production which it had served on the Florida Cable Telecommunications Association, Inc. (FCTA). In its memo withdrawing the discovery, Staff stated:

FCTA is not an official party of record in Docket No. 030851-TP, and therefore is not required to respond to discovery requests pursuant to Rule 28-106.206, Florida Administrative Code, and Rule(s) 1.340 and 1.350, Florida Rules of Civil Procedure. Accordingly, the staff of the Florida Public Service Commission withdraws its First Set of Interrogatories and First Request for Production of Documents served on FCTA in Docket 030851-TP on November 25, 2003.

5. XO is not a party to this docket. Therefore, Verizon's discovery requests to XO are inappropriate and outside the bounds of permissible discovery pursuant to the Florida Rules of Civil Procedure.

¹ The Florida Administrative Procedures Act provides that discovery shall be conducted in administrative proceedings "in the manner provided in the Florida Rules of Civil Procedure." Section 120.569(2)(f), Florida Statutes.

² Emphasis added.

³ Emphasis added.

⁴ Emphasis added.

Dana Shaffer

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Attorneys for XO Florida, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing XO Florida, Inc.'s Objections to Verizon Florida, Inc.'s First Request for Admissions (Nos. 1-2), First Set of Interrogatories (Nos. 1-21) and First Request for Production of Documents (Nos. 1-11) to XO. has been provided by (*) hand delivery, (**) email and U.S. Mail this 29th day of December 2003, to the following:

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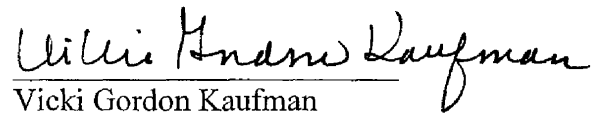
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