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January 2, 2004

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COMMISSION  
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**VIA HAND DELIVERY**

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk and  
Administrative Services  
Florida Public Service Commission  
Betty Easley Conference Center, Room 110  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: FPL FiberNet LLC'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)  
Docket No. 030852-TP

Dear Ms. Bayó:

I enclose and hand you herewith for filing in the above-referenced docket, the original and fifteen (15) copies of FPL FiberNet's ("FPL FiberNet") 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).

Also included herewith is a computer diskette containing FPL FiberNet's Objections in WordPerfect. Please contact me should you or your Staff have any questions regarding this filing.

Sincerely,

R. Wade Litchfield

- AUS \_\_\_\_\_
  - CAF \_\_\_\_\_
  - CMP \_\_\_\_\_
  - COM \_\_\_\_\_
  - CTR \_\_\_\_\_
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  - OTH \_\_\_\_\_
- \_\_\_\_\_ RWL/ec  
 \_\_\_\_\_ Enclosures  
 \_\_\_\_\_ cc: Service List

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

**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: January 2, 2004
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**FPL FIBERNET, LLC'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)**

FPL FiberNet, LLC ("FPL FiberNet") hereby submits 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). FPL FiberNet is not a party to the above-captioned proceeding and submits these objections only as a procedural courtesy to Verizon. FPL FiberNet's filing should in no way be construed as an intervention or appearance either as a party or an interested party in connection with this matter. For the reasons set forth below, Verizon's discovery is impermissible under the Florida Rules of Civil Procedure, and the rules of and/or governing practice before this Commission. FPL FiberNet reserves the right to file supplemental objections that it may deem appropriate.

**GENERAL OBJECTIONS**

I. FPL FiberNet objects to Verizon's request for admissions, interrogatories, and requests for production. None of these is a permissible means of discovery given FPL FiberNet's status as a non-party to this proceeding. Neither the Florida Rules of Civil Procedure, the Uniform Rules of Procedure governing administrative practice ("Uniform Rules"), nor any other Commission Rule authorizes the use of such discovery vehicles by a party with respect to a non-party.

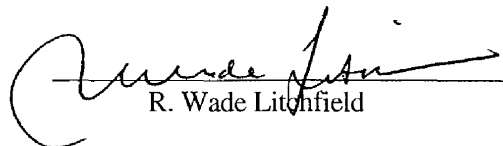
2. The Uniform Rules provide that “parties may obtain discovery through the means and in the manner provided in Rules 1.280 through 1.400, Florida Rules of Civil Procedure.” Section 28-106.206, F.A.C. Florida Rules of Procedure 1.340, 1.350, and 1.370, respectively, only allow the use of written interrogatories, requests for the production of documents, and requests for admission, as means of obtaining discovery from other “parties” to the proceeding. No other Uniform or Commission Rule authorizes the use of such devices to obtain discovery of a non-party. Verizon’s discovery, therefore, is impermissible.

3. Verizon should withdraw the improper discovery served upon FPL FiberNet. Alternatively, the pre-hearing officer in this proceeding should enter an order stating that the above-referenced discovery served upon FPL FiberNet by Verizon is impermissible under the Florida Rules of Civil Procedure and the rules of and/or governing practice before this Commission, rendering such discovery null and of no effect.

Respectfully submitted,

R. Wade Litchfield  
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Attorney for FPL FiberNet LLC

  
R. Wade Litchfield

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing FPL FiberNet LLC'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 FPL FiberNet has been furnished via electronic mail (\*\*) or U.S. Mail this 2<sup>nd</sup> of January 2004, to the following:

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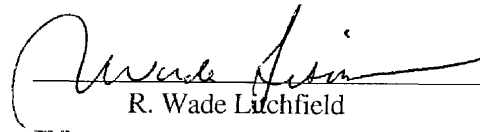
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