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February 24, 2004

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

HAND DELIVERY

030852-TP

COMMISSION
CLERK

04 FEB 24 PM 4:23

RECEIVED-FPSC

Re: FPL FiberNet, LLC's Objections to Subpoena, Motion to Quash Subpoena and Motion for Protective Order

Dear Ms. Bayo:

Enclosed please find the original and fifteen copies of FPL FiberNet, LLC's Objections to Subpoena, Motion to Quash Subpoena and Motion for Protective Order.

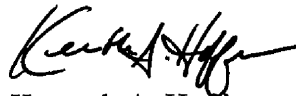
Please acknowledge receipt of these documents by date-stamping the enclosed copy of this letter and returning it to the undersigned.

RECEIVED & FILED



FPSC-BUREAU OF RECORDS

Sincerely,


Kenneth A. Hoffman

KAH/tls
Enclosures

AUS _____
CAF _____
CMP _____
COM 5 _____
CTR _____
ECR _____
GCL _____
OPC _____
MMS _____
SEC 1 _____
OTH _____

DOCUMENT NUMBER-DATE

02722 FEB 24 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising)
from Federal Communications Commission's) Docket No. 030852-TP
triennial UNE Review; Location-Specific)
Review for DS1, DS3, and Dark Fiber Loops) Filed: February 24, 2004
and Route-Specific Review for DS1, DS3 and)
Dark Fiber Transport.)
_____)

**FPL FIBERNET, LLC'S OBJECTIONS TO SUBPOENA,
MOTION TO QUASH SUBPOENA
AND MOTION FOR PROTECTIVE ORDER**

The Non-Party Subpoena recipient, FPL FiberNet, LLC ("FPL FiberNet"), by and through its undersigned counsel, hereby objects and moves to quash that certain Subpoena Duces Tecum for Deposition (copy attached) directed to J. F. Leon, registered agent for FPL FiberNet, LLC, that was faxed by attorney David Mendel, counsel for Verizon Florida Inc. ("Verizon") to Wade Litchfield, counsel for FPL FiberNet on February 19, 2004, and mailed to the Florida Power & Light Company general office headquarters and received by Mr. Leon on February 20, 2004, lawful service of said Non-Party Subpoena being required under Florida law to bring FPL FiberNet within the Commission's jurisdiction. FPL FiberNet further objects to the Non-Party Subpoena pursuant to Rules 1.351 and 1.410, Florida Rules of Civil Procedure, and to the extent necessary, moves for entry of a protective order under Rule 1.280(c), Florida Rules of Civil Procedure. As grounds therefor and for good cause, FPL FiberNet states as follows:

1. On February 19, 2004, counsel for FPL FiberNet received by telecopier a "courtesy copy" of the Non-Party Subpoena. On February 20, 2004, Mr. Leon, registered agent for FPL FiberNet, received by U.S. Mail a copy of the same Non-Party Subpoena. The Non-Party Subpoena was not personally served as required under Rule 1.410(d), Florida Rules of Civil Procedure, Rule

DOCUMENT NUMBER DATE

02722 FEB 24 3

FPSC-COMMISSION CLERK

28-106.212, Florida Administrative Code, and other applicable and governing law. It is well settled that parties to proceedings may be served with discovery without the necessity of serving a subpoena. See e.g., Fla.R.Civ P. 1.310, 1.340, 1.350 and 1.370. However, traditional forms of discovery may not be sought from a non-party until jurisdiction of the court has been established over those non-parties; rather, discovery to the non-parties must be procured through means of a duly-served subpoena. Far Out Music v. Jordan, 438 So.2d 912, 913 (Fla. 3rd DCA 1983). Based on Verizon's failure to lawfully serve the Non-Party Subpoena on FPL FiberNet, and the unreasonable and oppressive nature and scope of the Non-Party Subpoena, the same must be quashed as contrary to law. See Fla.R.Civ.P. 1.410(c), (d) and (e).

2. The Non-Party Subpoena does not expressly state which rule it has purportedly issued under, but the only authority for issuance of a subpoena for the taking of a deposition is Rule 1.410, Florida Rules of Civil Procedure. Rule 1.410(e) provides that the person to whom a subpoena is directed may object to the production on or before the date of compliance, which, according to the Non-Party Subpoena, is either February 23, 2004, or February 25, 2004. FPL FiberNet filed initial objections to the Non-Party Subpoena on February 23, 2004, notwithstanding that the Non-Party Subpoena imposed an unreasonable burden in terms of the compliance dates for the production of documents pursuant to the Non-Party Subpoena (February 23 or 25) and for the deposition of Mr. Leon (February 25). As noted in Trawick's Florida Practice and Procedure, "[a]t least five days notice should be given to local attorneys and ten days notice to out-of-town attorneys," when scheduling depositions. See, Trawick, Fla.Prac. & Proc., §16-5. Under Rule 1.410(e)(1), the objection is self effectuating and the party serving the subpoena (a legal requirement that Verizon has failed to meet) is not entitled to inspect and copy requested materials except pursuant to an order

from the Commission.

3. In addition to imposing an unreasonable burden in terms of the return dates for the Responses, the Non-Party Subpoena is ambiguous in terms of its due dates. The Non-Party Subpoena commands Mr. Leon to appear for and provide documents at a deposition on February 25, 2004, while at the same time requiring delivery of those same documents on February 23, 2004.

4. Rule 1.410(e)(1) authorizes a party to seek a protective order under Rule 1.280(c), Florida Rules of Civil Procedure. In this case, it is clear that Verizon is attempting to do indirectly what it cannot do directly by attaching written discovery under Rules 1.340, 1.350 and 1.370, Florida Rules of Civil Procedure, to a non-party, FPL FiberNet. Further, Verizon is attempting to improperly and unlawfully secure the names of customers of FPL FiberNet, information which is commercially sensitive, confidential and proprietary business information.

5. On December 18, 2003, Verizon served a set of written discovery on FPL FiberNet that is virtually identical to the written discovery attached to its Non-Party Subpoena. Verizon subsequently withdrew that discovery, indicating that it had been submitted in the wrong docket, and reissued it on December 22, 2003. FPL FiberNet served its objections to the discovery as a matter of procedural courtesy to Verizon, not because FPL FiberNet had any obligation to do so as a non-party. On February 2, 2004, Verizon served a second set of written discovery on FPL FiberNet, again contrary to the scope of permissible discovery under Florida law. Once again, as a matter of procedural courtesy only, FPL FiberNet submitted its objections to Verizon's second set of written discovery. Now, a week before the close of discovery in this proceeding, Verizon issues a Non-Party Subpoena that is received by FPL FiberNet's registered agent on Friday, February 20, 2004, seeking responses to improperly issued written discovery on Monday, February 23, 2004, and those same

responses in addition to a deposition on Wednesday, February 25, 2004. Verizon's failure to pursue proper means of discovery from non-parties within the reasonable bounds, scope and time periods permissible under Florida law should not now be rewarded.

6. FPL FiberNet notes that the third group of documents which Verizon seeks through its Non-Party Subpoena are "Responses to the Switching and Remote Switches data requests as required by Florida Public Service Commission in its November 12, 2003 data request." ("Staff Data Requests"). The Staff Data Requests were propounded by Commission staff on November 12, 2003 to FPL FiberNet, and FPL FiberNet provided the documents in response to the Staff Data Requests on December 3, 2003. FPL FiberNet's response included extensive information regarding the location, configuration, and capacity of its telecommunications network. However, in the non-confidential version of its response, FPL FiberNet redacted the names of its customers from the materials. Disclosure of such information to other telecommunications companies, including incumbent local exchange carriers such as Verizon, would afford such entities an unfair and improper competitive advantage.

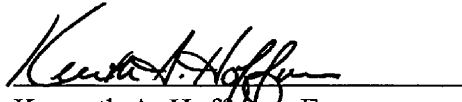
7. As a courtesy, and in response to an informal request by Verizon, FPL FiberNet provided the redacted version of its response to the Staff Data Request to Verizon, via e-mail, on December 30, 2003. This is the same information that FPL FiberNet had furnished to BellSouth on December 5, 2003, and to date, BellSouth has not sought further information from FPL FiberNet.

8. FPL FiberNet is not an official party of record to the above-styled proceeding, and FPL FiberNet's filing should in no way be construed as an intervention or appearance either as a party or an interested person in connection with this proceeding.

WHEREFORE, FPL FiberNet respectfully requests the Prehearing Officer to enter an order

quashing the Non-Party Subpoena in question and determine that the objections raised by FPL FiberNet to the Non-Party Subpoena support a determination by the Prehearing Officer that the discovery not be had. To the extent necessary, FPL FiberNet also moves for a Protective Order under Rule 1.280(c) precluding the discovery sought by Verizon pursuant to the discovery attached to the Non-Party Subpoena and that FPL FiberNet not be required to disclose to Verizon commercially sensitive, proprietary and confidential business information.

Respectfully submitted,



Kenneth A. Hoffman, Esq.
Rutledge, Ecenia, Purnell & Hoffman, P.A.
P. O. Box 551
Tallahassee, Florida 32302
(850) 681-6788 (telephone)
(850) 681-6515 (telecopier)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by US Mail to the following on the 24th day of February, 2004:

Adam Teitzman, Esq. **Via US Mail**
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Room 370
Tallahassee, Florida 32399-0850

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Wake Forest, NC 27587-5900

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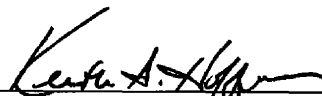
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Washington, DC 20037



Kenneth A. Hoffman

Feb 17 04 12:12p

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Docket No. 030852-TP
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.

SUBPOENA DUCES TECUM
FOR DEPOSITION

THE STATE OF FLORIDA

TO: J.R. Leon, Registered Agent for FPL Fibernet, LLC, 9250 W. Flaeler Street, Miami, FL 33174

YOU ARE COMMANDED to appear before a person authorized by law to take depositions at the Verizon office of David Christian, Verizon Regulatory Director, 106 E. College Avenue, Suite 810, Tallahassee, Florida 32301, on Wednesday, February 25, 2004, at 2:00 p.m., or at such other time and place as may be mutually agreed upon by counsel, to testify in this action, and to have with you at that time and place the following:

- (1) Responses to Verizon's First Request for Admissions, First Set of Interrogatories, and First Request for Production of Documents to FPL Fibernet, LLC dated February 16, 2004 (see Attachment A);
- (2) Responses to Verizon's First Set of Interrogatories relating to loop facilities (see Attachment B); and
- (3) Responses to the Switching and Remote Switches data requests as required by the Florida Public Service Commission in its November 12, 2003 data request (see Commission website).

A copy of the documents described above should also be delivered by Monday, February 23, 2004 to the Verizon office of David Christian at the address above.

OR IN THE ALTERNATIVE, you may appear before a person authorized by law to take depositions by telephone on Wednesday, February 25, 2004, at 2:00 p.m., to testify in this action, and to have the documents described above delivered by Monday, February 23, 2004 to the Verizon office of David Christian, Verizon Regulatory Director, 106 E. College Avenue, Suite 810, Tallahassee, Florida 32301.

These items will be inspected and may be copied at that time. You will not be required to surrender the original items.

YOU ARE SUBPOENAED to appear by the following attorney(s) and, unless excused from this subpoena by these attorneys or the Commission, you shall respond to this subpoena as directed.

DATED on February 13, 2004.

Blanca S. Bayo, Director
Division of the Commission Clerk and
Administrative Services
Florida Public Service Commission

(S E A L)

By: Kay Flynn
Kay Flynn, Chief, Bureau of Records

Richard A. Chapkis, Vice President & General Counsel
201 N. Franklin Street, FLTC0717
Tampa, Florida 33602
Telephone: (813) 483-1256
Attorney for Verizon Florida Inc.

Attachments

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: February 16, 2004

**VERIZON FLORIDA INC.'S
FIRST REQUEST FOR ADMISSIONS (NOS. 1-2),
FIRST SET OF INTERROGATORIES (NOS. 1-23) AND
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS (NOS. 1-11) TO
FPL FIBERNET, LLC**

Verizon Florida Inc. ("Verizon") hereby requests that FPL Fibernet, LLC ("Respondent") respond to the following Combined Requests for Admission, Interrogatories, and Production of Documents (collectively, "Requests"). These Requests are to be answered by the Respondent's corporate officers, employees, or agents who know the requested information and are authorized to respond on behalf of Respondent, with said answers being served upon Verizon within 20 calendar days of service of these Requests pursuant to Order No. PSC-03-1265-PCO-TP. These Requests are continuing in nature and therefore require Respondent to submit supplemental answers or documents should additional responsive information become known or documents supplied in response prove to be incorrect or defective.

I. INSTRUCTIONS

A. If you object to any part of a Request, answer all parts of such Request to which you do not object, and as to each part to which you do object, set forth the specific basis for the objection.

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, LLC
Page 2

B. If you claim any form of privilege or other protection from disclosure as a ground for withholding information responsive to a Request contained in a non-written communication, state the following with respect to the non-written communication:

1. The date;
2. The identity of each of the participants in the non-written communication;
3. The identity of each person present during all or any part of the non-written communication;
4. A description of the non-written communication that is sufficient to identify the particular communication without revealing the information for which a privilege or protection from non-disclosure is claimed;
5. The nature of your claim of non-discoverability (e.g., attorney-client privilege); and
6. Each and every fact on which you rest your claim of privilege or other protection from disclosure, stated with sufficient specificity to permit Verizon to make a full determination as to whether your claim is valid.

C. If you claim any form of privilege or other protection from disclosure as a ground for withholding information responsive to a Request contained in a document, set forth with respect to the document:

1. The date and number of pages;

Verizon Florida Inc.'s First Request For Admissions (Nos. 1-2),
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Production of Documents (Nos. 1-11) to FPL Fibernet, LLC
Page 3

2. The identity of the author(s) or preparer(s);
3. The identity of the addressee, if any;
4. The title;
5. The type of tangible thing (e.g., letter, memorandum, telegram, chart, report, recording disc);
6. The subject matter (without revealing the information as to which privilege or protection from non-disclosure is claimed);
7. The identity of each person who has received the document or to whom knowledge of the contents of the document was communicated;
8. The identity of the present custodian(s);
9. The nature of your claim of non-discoverability (e.g., attorney-client privilege); and
10. The facts on which you rest your claim of privilege or other protection from disclosure, stated with sufficient specificity to permit Verizon to make a full determination as to whether your claim is valid.

D. On each Request response, list the name and title of the person or persons who prepared the response or who is responsible for the information contained therein.

Verizon Florida Inc.'s First Request For Admissions (Nos. 1-2),
First Set of Interrogatories (Nos. 1-21) and First Request For
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communication whether sent or received or neither, and other written records or recordings, in whatever form, stored or contained in or on whatever medium including computerized or digital memory or magnetic media.

F. The term "date" shall mean the exact day, month and year, if ascertainable, or if not, the best approximation thereof, including relationship to other events.

G. The term "person" or "persons" means and includes any individual, committee, task force, division, department, company, contractor, state, federal or local government agency, corporation, firm, association, partnership, joint venture or any other business or legal entity.

H. The terms "identify" and "identity" when used with reference to a natural person mean to state his or her full name, present or last known address, present or last known telephone number, present or last known place of employment, position or business affiliation, his or her position or business affiliation at the time in question, and a general description of the business in which he or she is engaged.

I. The terms "identify" and "identity" when used with respect to any other entity mean to state its full name, the address of its principal place of business and the name of its chief executive officers.

J. The terms "identify" and "identity" with respect to a document mean to state the name or title of the document, the type of document (e.g., letter, memorandum, telegram, computer input or output, chart, etc.), its date, the person(s) who authored it, the person(s) who signed it, the person(s) to whom it was addressed, the person(s) to whom it was sent, its general subject matter, its present location, and

Verizon Florida Inc.'s First Request For Admissions (Nos. 1-2),
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IV. INTERROGATORIES: DEDICATED TRANSPORT

1. Identify all fiber optic transport facilities in Florida that you own, by street address of its origination and termination points (or if no termination point, by the location of a fiber ring), as well as a description of the route between those points. (For purposes of responding to this question, your own transport facilities include facilities that you own solely or jointly, as well as facilities that you have obtained from another entity on a long-term, indefeasible right of use basis.) (For the definitions of transport facilities or transport services for this and all other interrogatories, see Instruction M.)
2. For each transport facility identified in response to Question 1, provide a map in an electronic form (such as MapInfo, Arcview, or another GIS program) showing its location.
3. For each transport facility identified in response to Question 1, identify the number of fibers in the fiber cable(s) you deployed.
4. For each transport facility identified in response to Question 1, identify the number of fibers that you activated (i.e., "lit") through the attachment of optronics.
5. For each transport facility identified in response to Question 1, identify by the 11-digit CLLI code, all incumbent LEC switches and wire centers in Florida to which the transport facility is directly or indirectly connected.
6. For each incumbent LEC switch or wire center identified in response to Question 5, identify the optical speed at which the facilities connected to each is operating.
7. For each incumbent LEC switch or wire center identified in response to Question 5, identify the capacity or capacities of services (e.g., DS-1, DS-3) carried by your transport facilities to and/or from the incumbent LEC switch or wire center.
8. For each incumbent LEC switch or wire center identified in response to Question 5, identify where you have fiber that has not been "lit" through the attachment of optronics (i.e., dark fiber) and the number of unlit fibers in each transport facility terminating at that location.
9. Identify by the 11-digit CLLI code, all incumbent LEC switches or wire centers in Florida at which you have obtained dark fiber transport facilities from any supplier, including but not limited to from incumbent LECs.

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, LLC
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10. For each dark fiber facility identified in response to Question 9, state (a) whether you have activated the dark fiber through the attachment of optronics (i.e., whether the fiber is now "lit"), (b) the optical speed at which the facility operates, and (c) the capacity or capacities of services (e.g., DS-1, DS-3) carried by each such transport facility.
11. Identify all transport facilities in Florida that you use or possess but do not own, by street address of its origination and termination points, as well as a description of the route between those points. (For purposes of responding to this question, your own transport facilities include facilities that you own solely or jointly, as well as facilities that you have obtained from another entity on a long-term, indefeasible right of use basis.)
12. For each transport facility identified in response to Question 11, identify by the 11-digit CLLI code, all incumbent LEC switches and wire centers to which the transport facility is connected.
13. For each incumbent LEC switch or wire center identified in response to Question 12, identify the optical speed at which the transport facilities connected to each operates.
14. For each incumbent LEC switch or wire center identified in response to Question 12, identify the capacity or capacities of transport services (e.g., DS-1, DS-3) carried by the transport facility or facilities to and/or from the incumbent LEC switch or wire center.
15. For all transport facilities identified in response to Questions 11 and 12, identify the non-incumbent LEC supplier from which you have obtained the facility.
16. Identify all transport facilities in Florida that you make available to other carriers, or have offered to make available to other carriers by street address of its origination and termination points, as well as a description of the route between those points.
17. For each transport facility identified in response to Question 16, identify by the 11-digit CLLI code, all incumbent LEC switches and wire centers to which the transport facility is directly or indirectly connected.
18. For each incumbent LEC switch or wire center identified in response to Question 17, identify the optical speed at which the facilities connected to each operates.
19. For each incumbent LEC switch or wire center identified in response to Question 17, identify the capacity or capacities of services (e.g., DS-1, DS-3)

Verizon Florida Inc.'s First Request For Admissions (Nos. 1-2),
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carried by the transport facilities to and/or from the incumbent LEC switch or wire center.

20. For each incumbent LEC switch or wire center identified in response to Question 17, identify the carrier or carriers to which you make the transport facility available, or to which you have offered to make the facility available.
21. Identify the points in Florida at which local network facilities that you own or use are connected to the networks of carriers other than the incumbent LECs, including interconnection with other CLECs, interexchange carriers, or internet service providers at any point of presence, network access point, collocation hotel, data center, or similar facility (collectively or individually, "interconnection points" or "IPs").
22. Provide a list of the customer locations to which you have obtained high-capacity loop facilities or services from a supplier other than an ILEC (including wholesale providers and non-certificated providers), as well as the address of each location.
23. For each of the facilities identified in response to Question 1, please provide the following information:
 - a. The suppliers from whom you have obtained those facilities.
 - b. The capacity or capacities (e.g., DS-1, DS-3, voice-grade equivalent lines) obtained to each location.

Form for Response to Questions 22 & 23		
Customer Locations Currently Served with Self-Deployed High-Capacity Loop Facilities		
Customer Address (Street, City, Zip)	Supplier	Capacity
[use as many lines as needed]		

V. REQUESTS FOR PRODUCTION OF DOCUMENTS: DEDICATED TRANSPORT

1. Provide all documents identifying the fiber optic dedicated transport in Florida that you make available, or have offered to make available (e.g., through lease, indefeasible right of use), to other carriers.
2. Provide all documents submitted in response to Staff's First Requests for Production of Documents (Nos. 1-7) and First Set of Interrogatories (Nos. 1-14) issued in this docket on December 10, 2003.

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, LLC
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3. Provide all documents that discuss or describe your willingness to provide dedicated transport in Florida to other carriers.
4. Provide all documents that discuss or describe the optical speeds at which your dedicated transport in Florida operates.
5. Provide all documents that discuss or describe the capacity or capacity of services (e.g., DS-1, DS-3) that you offer to other carriers, or have offered to other carriers.
6. Provide all documents that discuss or describe the capacity or capacity of services (e.g., DS-1, DS-3) that you offer in Florida to retail customers, or have offered to retail customers.
7. Provide all documents that discuss or describe whether you are willing to provide dark fiber dedicated transport in Florida to other carriers.
8. Provide all documents that discuss or describe the dedicated transport in Florida that you obtain from other non-incumbent LEC carriers, or have obtained from other non-incumbent LECs.
9. Provide all documents that discuss or describe the capacity or capacity of services (e.g., DS-1, DS-3) in Florida that you obtain from other non-incumbent LEC carriers, or have obtained from other non-incumbent LEC carriers.
10. Provide all documents that discuss or describe dark fiber in Florida that you obtain from other non-incumbent LEC carriers, or have obtained from other non-incumbent LEC carriers.
11. Provide the confidential filings with respect to dedicated transport that you made with the FCC in the Triennial Review docket. (See, e.g., FCC's Triennial Review Order, ¶ 392 n.1216).

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: February 16, 2004

**VERIZON FLORIDA INC.'S
FIRST SET OF INTERROGATORIES RELATING TO
LOOP FACILITIES (NOS. 1-5) TO
FPL FIBERNET, LLC**

Verizon Florida Inc. ("Verizon") hereby requests that FPL Fibernet, LLC ("Respondent") respond to the following interrogatories ("Requests"). These Requests are to be answered by the Respondent's corporate officers, employees, or agents who know the requested information and are authorized to respond on behalf of Respondent, with said answers being served upon Verizon within 20 calendar days of service of these Requests pursuant to Order No. PSC-03-1265-PCO-TP. These Requests are continuing in nature and therefore require Respondent to submit supplemental answers or documents should additional responsive information become known or documents supplied in response prove to be incorrect or defective.

I. INSTRUCTIONS

A. If you object to any part of a Request, answer all parts of such Request to which you do not object, and as to each part to which you do object, set forth the specific basis for the objection.

B. If you claim any form of privilege or other protection from disclosure as a ground for withholding information responsive to a Request contained in a non-written communication, state the following with respect to the non-written communication:

1. The date;
2. The identity of each of the participants in the non-written communication;
3. The identity of each person present during all or any part of the non-written communication;
4. A description of the non-written communication that is sufficient to identify the particular communication without revealing the information for which a privilege or protection from non-disclosure is claimed;
5. The nature of your claim of non-discoverability (e.g., attorney-client privilege); and
6. Each and every fact on which you rest your claim of privilege or other protection from disclosure, stated with sufficient specificity to permit Verizon to make a full determination as to whether your claim is valid.

C. If you claim any form of privilege or other protection from disclosure as a ground for withholding information responsive to a Request contained in a document, set forth with respect to the document:

1. The date and number of pages;

2. The identity of the author(s) or preparer(s);
3. The identity of the addressee, if any;
4. The title;
5. The type of tangible thing (e.g., letter, memorandum, telegram, chart; report, recording disc);
6. The subject matter (without revealing the information as to which privilege or protection from non-disclosure is claimed);
7. The identity of each person who has received the document or to whom knowledge of the contents of the document was communicated;
8. The identity of the present custodian(s);
9. The nature of your claim of non-discoverability (e.g., attorney-client privilege); and
10. The facts on which you rest your claim of privilege or other protection from disclosure, stated with sufficient specificity to permit Verizon to make a full determination as to whether your claim is valid.

D. On each Request response, list the name and title of the person or persons who prepared the response or who is responsible for the information contained therein.

II. DEFINITIONS

As used in these Requests, the following terms have the meaning as set forth below:

A. The terms "your company" shall include all of your subsidiaries and affiliates, including without limitation all former and present officers, attorneys, servants, agents, and representatives. For example, a request to AT&T includes without limitation TCG, and a request to MCI or WorldCom includes without limitation Intermedia.

B. The term "Verizon" shall include former GTE, including without limitation all former and present officers, attorneys, servants, agents, and representatives.

C. The terms "relates to" or "relating to" mean referring to, concerning, responding to, containing, regarding, discussing, describing, reflecting, analyzing, constituting, disclosing, embodying, defining, stating, explaining, summarizing, or in any way pertaining to.

D. The term "including" means "including, but not limited to."

E. The terms "document" or "documents" shall include, without limitation, any writings and documentary material of any kind whatsoever, both originals and copies (regardless of origin and whether or not including additional writing thereon or attached thereto), and any and all drafts, preliminary versions, alterations, modifications, revisions, changes and written comments of and concerning such material, including but not limited to: correspondence, letters, memoranda, notes, reports, papers, files, books, contracts, contract amendments or supplements, contract offers, and records of any sort (printed, recorded or otherwise) of any oral communication whether sent or received or neither, and

other written records or recordings, in whatever form, stored or contained in or on whatever medium including computerized or digital memory or magnetic media.

F. The term "date" shall mean the exact day, month and year, if ascertainable, or if not, the best approximation thereof, including relationship to other events.

G. The term "person" or "persons" means and includes any individual, committee, task force, division, department, company, contractor, state, federal or local government agency, corporation, firm, association, partnership, joint venture or any other business or legal entity.

H. The terms "identify" and "identity" when used with reference to a natural person mean to state his or her full name, present or last known address, present or last known telephone number, present or last known place of employment, position or business affiliation, his or her position or business affiliation at the time in question, and a general description of the business in which he or she is engaged.

I. The terms "identify" and "identity" when used with respect to any other entity mean to state its full name, the address of its principal place of business and the name of its chief executive officers.

J. The terms "Identify" and "identity" with respect to a document mean to state the name or title of the document; the type of document (e.g., letter, memorandum, telegram, computer input or output, chart, etc.), its date, the person(s) who authored it, the person(s) who signed it, the person(s) to whom it was addressed, the person(s) to whom it was sent, its general subject matter, its

present location, and its present custodian. If any such document was but is no longer in Respondent's possession or subject to its control, state what disposition was made of it and explain the circumstances surrounding, and the authorization, for such disposition, and state the date or approximate date thereof.

K. The terms "identify" and "identity" with respect to any non-written communication mean to state the identity of the natural person(s) making and receiving the communication, their respective principals or employers at the time of the communication, the date, manner and place of the communication, and the topic or subject matter of the communication.

L. The terms "and" and "or" have both conjunctive and disjunctive meanings as necessary to bring within the scope of the Requests.

M. The terms "transport services" or "transport facilities" include but are not limited to transport services or facilities that directly or indirectly connect a Verizon wire center or switch to another Verizon wire center or switch.

N. Terms not defined in these Requests shall have the respective meanings ascribed to such terms in this proceeding; if no meanings are ascribed to such terms in this proceeding, such terms shall have the ordinary and usual meanings.

III. INTERROGATORIES:

High-Capacity Loops (Dark Fiber, DS-1 or greater)

1. Please fill in the attached electronic spreadsheet "loop_company name.xls" for each Florida customer location for which your company has deployed high-capacity loop facilities. These facilities might be used either by your own retail customers, or by an unaffiliated carrier's customer. Include facilities for both those customers served entirely by your own facilities and those for customers served by attaching your own

optronics to activate dark fiber transmission facilities provided by another carrier.

2. For each location where Column P has been answered "N" or "No":
 - a. Please indicate whether or not your fiber is terminated in that location's Minimum Point of Entry (MPOE).
 - b. Explain how you have terminated its fiber to serve the customer at that location.
 - c. Explain the circumstances at that location that cause you not to have access to the entire customer location, including each individual unit within that location.

3. Provide a list of the customer locations to which you have obtained high-capacity loop facilities or services from a supplier other than an ILEC (including wholesale providers and non-certificated providers), as well as the address of each location.

4. For each of the facilities identified in response to Questions 3, please provide the following information:
 - a. The suppliers from whom you have obtained those facilities.
 - b. The capacity or capacities (e.g., DS-1, DS-3, voice-grade equivalent lines) obtained to each location.

Form for Response to Questions 3 & 4		
Customer Locations Currently Served with Self-Deployed High-Capacity Loop Facilities		
Customer Address (Street, City, Zip)	Supplier	Capacity
[use as many lines as needed]		

5. Please provide any and all documents that describe, discuss, or relate to the high capacity loop facilities that you offer to other carriers.

P.O. Box 029100, Miami, FL 33102-9100



January 2, 2004

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

RWL/ec
Enclosures
cc: Service List

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising)	Docket No. 030852-TP
from Federal Communications Commission's)	
triennial UNE Review: Location-Specific)	Filed: January 2, 2004
Review for DS1, DS3, and Dark Fiber Loops)	
and Route-Specific Review for DS1, DS3 and)	
Dark Fiber Transport)	

**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.

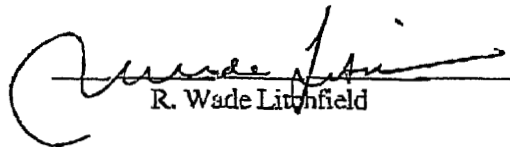
2. The Uniform Rules provide that "parties may obtain discovery through the means and in the manner provided in Rules 1.280 through 1.400, Florida Rules of Civil Procedure." Section 28-106.206, F.A.C. Florida Rules of Procedure 1.340, 1.350, and 1.370, respectively, only allow the use of written interrogatories, 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
Florida Authorized House Counsel
700 Universe Boulevard
Juno Beach, Florida 33408-0420
Tel: (561) 691-7101
Fax: (561) 691-7135

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 2nd of January 2004, to the following:

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jejennings@newsouth.com/khendrix@newsouth.com

Nuvox Communications Inc.
Bo Russell
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Greenville, SC 29601-2171

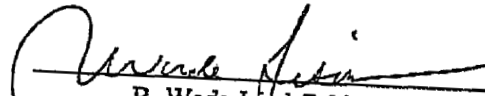
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Mailstop: KSOPHN0212-2A303
Overland Park, KS 66251-6100

Sprint (NC)
H. Edward Phillips, III
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Mailstop: NCWKFR0313-3161
Wake Forest, NC 27587-5900

(**) Sprint-Florida/Sprint Communications
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R. Wade Litchfield

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, LLC
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II. DEFINITIONS

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A. The terms "your company" shall include all of your subsidiaries and affiliates, including without limitation all former and present officers, attorneys, servants, agents, and representatives. For example, a request to AT&T includes without limitation TCG, and a request to MCI or WorldCom includes without limitation Intermedia.

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E. The terms "document" or "documents" shall include, without limitation, any writings and documentary material of any kind whatsoever, both originals and copies (regardless of origin and whether or not including additional writing thereon or attached thereto), and any and all drafts, preliminary versions, alterations, modifications, revisions, changes and written comments of and concerning such material, including but not limited to: correspondence, letters, memoranda, notes, reports, papers, files, books, contracts, contract amendments or supplements, contract offers, and records of any sort (printed, recorded or otherwise) of any oral