

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: March 1, 2004

**RENEWED AND MODIFIED OBJECTIONS OF NETWORK
TELEPHONE CORPORATION TO
VERIZON'S FIRST SET OF INTERROGATORIES,
VERIZON'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS,
VERIZON'S FIRST REQUESTS FOR ADMISSIONS**

Network Telephone Corporation ("Network Telephone"), through its undersigned counsel, reiterates and adds to the objections to Verizon Florida, Inc.'s ("Verizon") First Set of Interrogatories, First Request for Production of Documents, and First Requests for Admissions (collectively, the "First Discovery Requests") to Network Telephone that Network Telephone filed on a preliminary basis on February 17, 2004.

**FIRST OBJECTION—THE FIRST DISCOVERY REQUESTS FAIL TO ADHERE TO
THE TIME FRAME FOR DISCOVERY ESTABLISHED IN THIS PROCEEDING**

1. Network Telephone objects to Verizon's First Discovery Requests in their entirety because they were not served timely. Order On Procedure No. PSC-03-1265-PCO-TP required parties to serve all discovery such that responses would be due no later than February 25, 2004. Verizon served its First Discovery Requests on Network Telephone on February 10, 2004. The applicable response period of 20 days impermissibly would fall outside the established discovery cutoff date. Verizon failed to adhere to the time frame for discovery established for this proceeding. Accordingly, Network Telephone is not required to respond to Verizon's First

Discovery Requests.¹

While the first objection is dispositive of the matter, Network Telephone will state its additional objections to Verizon's First Discovery Requests.

GENERAL OBJECTIONS

In addition to the above objection, Network Telephone asserts the following general objections to Verizon's First Set of Interrogatories, First Request for Production of Documents, and First requests for Admissions (together, "Verizon's First Discovery Requests"):

2. Network Telephone objects to the "Instructions" and "Definitions" sections and the individual items of Verizon's First Discovery Requests to Network Telephone to the extent that they are overly broad, unduly burdensome and oppressive, and/or excessively time consuming and expensive. For example, Network Telephone objects to discovery requests that are unrelated to activities or conditions in Verizon's service area as overbroad because they are unrelated to any legitimate discovery need of Verizon and are therefore unduly burdensome. Network Telephone does not provide service in Verizon's service area and has no facilities or collocations in Verizon's service area. Accordingly, this objection applies to all of Verizon's First Discovery Requests.

3. Network Telephone objects to Verizon's First Discovery Requests to the extent they seek irrelevant information and are not reasonably calculated to lead to the discovery of

¹ Network Telephone apprised Verizon of its objection based on governing time frames and asked Verizon to withdraw the untimely discovery, but thus far Verizon has refused to do so.

admissible evidence. In that regard, Network Telephone objects, among other things, to any discovery request that seeks information that is unrelated to or inconsistent with the methodology and parameters of the analysis of impairment prescribed by the FCC in its Triennial Review Order. Further, discovery requests that are unrelated to conditions or activities within Verizon's service area are irrelevant to Verizon's litigation position and not reasonably calculated to lead to the discovery of admissible evidence. Because Network Telephone does not provide service in Verizon's service area, and because Network Telephone does not have facilities or collocations in Verizon's service area, this objections applies to all of Verizon's First Discovery Requests.

4. Network Telephone objects to Verizon's First Discovery Requests to the extent they are vague, ambiguous, imprecise, and utilize terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these items.

5. Network Telephone objects to Verizon's First Discovery Requests to Network Telephone to the extent that they purport to impose discovery obligations on Network Telephone that exceed the scope of discovery allowed by the applicable Florida Rules of Civil Procedure. By way of illustration and not limitation, Network Telephone objects to interrogatories and requests for documents that would require Network Telephone to create information or a document that does not exist or prepare information in a manner in which Network Telephone does not maintain it. Network Telephone also objects to efforts to impose "continuing" obligations that exceed the requirements of governing rules.

6. Network Telephone objects to Verizon's First Discovery Requests to the extent that they seek discovery of materials and/or information protected by the attorney/client privilege, the work product doctrine, the accountant/client privilege, and any other applicable

privilege.

7. Network Telephone objects to Verizon's First Discovery Requests to the extent that the items would require disclosure of information that constitutes trade secrets and/or confidential, proprietary business information, which either should not be disclosed at all or should be disclosed (provided the information is otherwise discoverable) only pursuant to the terms of a mutually acceptable confidentiality agreement and use of the Commission's rules and procedures relating to confidential and proprietary information.

8. Network Telephone objects to Verizon's First Discovery Requests to the extent that the items would require Network Telephone to provide information which is already in Verizon's possession or is in the public record before the Commission. To require Network Telephone to duplicate information that Verizon already has or is readily available to Verizon would be unduly burdensome and oppressive.

9. To the extent any interrogatories are not intended to relate to Florida intrastate operations, Network Telephone objects to such interrogatories as overbroad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. In asserting this objection, Network Telephone does not waive, and specifically preserves, Objections Nos, 2 and 3, relating to discovery requests that are unrelated to activities or conditions in Verizon's service area, above.

10. Network Telephone objects to interrogatories, requests for admissions, and/or requests for documents that require the identification or production of "all," "every," or "any" information or documents as overbroad and unduly burdensome.

11. Network Telephone objects to any discovery request that is not limited in time or is not limited to a period of time that is relevant to the issues before the Commission and/or

reasonably related to Verizon's legitimate discovery needs.

APPLICATION OF OBJECTIONS TO SPECIFIC DISCOVERY REQUESTS

Requests for Admission:

No. 1. Admit that Respondent states on its website, in words or in substance, that it offers transport facilities or services to other carriers.

Network Telephone asserts Objections Nos. 1, 2, 3.

No. 2. Admit that Respondent does not state on its website, in words or in substance, that it does not offer transport facilities or services to other carriers in Florida.

Network Telephone asserts Objections Nos. 1, 2, 3.

Interrogatories

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.)

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

3. For each transport facility identified in response to Question 1, identify the number of fibers in the fiber cable(s) you deployed.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

12. For each transport facility identified in response to Question 11, identify by the 11-digit CLLI code, all incumbent ILEC switches and wire centers to which the transport facility is connected.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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) carried by the transport facilities to and/or from the incumbent LEC switch or wire center.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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”).

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

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.

Network Telephone asserts Objections Nos. 1, 2, 3, and 7.

Requests to Produce Documents

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.

Network Telephone asserts Objections Nos. 1, 2, 3, 7, 10, 11

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.

Network Telephone asserts Objections Nos. 1, 7

3. Provide all documents that discuss or describe your willingness to provide dedicated transport in Florida to other carriers.

Network Telephone asserts Objections Nos. 1, 2, 3, 7, 10, 11

4. Provide all documents that discuss or describe the optical speeds at which your dedicated transport in Florida operates.

Network Telephone asserts Objections Nos. 1, 2, 3, 7, 10, 11

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.

Network Telephone asserts Objections No.s 1, 2, 3, 7, 10, 11

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.

Network Telephone asserts Objections Nos. 1, 2, 3, 7, 10, 11

7. Provide all documents that discuss or describe whether you are willing to provide dark fiber dedicated transport in Florida to other carriers.

Network Telephone asserts Objections Nos. 1, 2, 3, 7, 10, 11

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.

Network Telephone asserts Objections Nos. 1, 2, 3, 7, 10, 11

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.

Network Telephone asserts Objections Nos. 1, 2, 3, 7, 10, 11


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.

Network Telephone asserts Objections Nos. 1, 2, 3, 7, 10, 11

11. Provide the confidential filings with respect to dedicated transport that you made with the FCC in the Triennial Review docket.

Network Telephone asserts Objections Nos. 1, 2, 3, 7

All objections to Verizon's First Discovery Requests have been provided by undersigned counsel.


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Objections of Network Telephone Corporation to Verizon's First Set of Interrogatories, Verizon's First Request for Production of Documents, and Verizon's First Requests for Admissions has been provided by (*) hand delivery, (**) email and U.S. Mail this 1st day of March, 2004, to the following:

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