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From: mfeil@mail.fdn.com
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To: Filings@psc.state.fl.us
Subject: RE: E-Filing for FPSC Docket No. 040156-TP
Attachments: Docket No. 040156 FDN Prehearing Statement.doc

To: Division of the Commission Clerk and Administrative Services

Please find attached for filing in the captioned docket FDN Communication's Prehearing Statement.

In accordance with the Commission's e-filing procedures, the following information is provided:

(a) The person responsible for this filing is:

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(b) Docket No. and Title: 040156-TP, Petition for arbitration of amendment to interconnection agreements with certain competitive local exchange carriers and commercial mobile radio service providers in Florida by Verizon Florida Inc.

(c) The party on whose behalf the document is filed: Florida Digital Network, Inc. d/b/a FDN Communications

(d) Number of pages of the document: 13 pages.

(e) Description of each document attached: Prehearing Statement of Florida Digital Network, Inc. d/b/a FDN Communications.

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FPSC-COMMUNICATIONS

FDN has only recently intervened and has not served any discovery or had any discovery served on it. FDN intends on participating in any depositions scheduled for this matter.

Accordingly, at this time, FDN has not provided to staff a list of enumerated discovery exhibits or prefiled exhibits.

C. Statement of Basic Position

The Commission should not permit Verizon, or any carrier, to be the sole arbiter of matters involving the interpretation or implementation the FCC's or this Commission's rules and orders. Significant and genuine changes in law should be negotiated by the parties and incorporated into an interconnection agreement or amendment, filed with and approved by the Commission. Unresolved disputes should be resolved in accordance with the parties' agreements and, where necessary, arbitrated. The changes in law brought about by the TRO and TRRO should be reflected in interconnection agreements or amendments consistent with the proposals of the Competitive Carrier Group, ATT and MCI. Verizon's proposals to be the sole authority for interpreting and implementing changes in law respecting UNE status must be rejected. Additionally, Verizon's "no facilities" and routine network modification proposals must be rejected as inconsistent with FCC directives and anticompetitive.

D – F. Statement of Issues and Positions

Below is a list of issues, as identified in the Commission's Order on Procedure and FDN's tentative positions on those issues. References below to any agreement with another party are based FDN's review of the available pre-filed testimony of the parties; FDN may alter its position prior to issuance of the prehearing order, based on its review of the other parties' prehearing statements.

1. **Should the Amendment include rates, terms, and conditions that do not arise from federal unbundling regulations pursuant to 47 U.S.C. sections 251 and 252, including issues asserted to arise under state law or the Bell Atlantic/GTE Merger Conditions?**

FDN: Agree with Competitive Carrier Group.

2. **What rates, terms, and conditions regarding implementing changes in unbundling obligations or changes of law should be included in the Amendment to the parties' interconnection agreements?**

FDN: No new implementation language is appropriate for inclusion in an Amendment or interconnection agreement.

3. **What obligations under federal law, if any, with respect to unbundled access to local circuit switching, including mass market and enterprise switching (including Four-Line Carve-Out switching), and tandem switching, should be included in the Amendment to the parties' interconnection agreements?**

FDN: Agree with Competitive Carrier Group.

4. **What obligations under federal law, if any, with respect to unbundled access to DS1 loops, unbundled DS3 loops, and unbundled dark fiber loops should be included in the Amendment to the parties' interconnection agreements?**

FDN: Agree with ATT.

5. **What obligations under federal law, if any, with respect to unbundled access to dedicated transport, including dark fiber transport, should be included in the Amendment to the parties' interconnection agreements?**

FDN: Agree with ATT

6. **Under what conditions, if any, is Verizon permitted to re-price existing arrangements which are no longer subject to unbundling under federal law?**

FDN: Agree with Competitive Carrier Group.

7. **Should Verizon be permitted to provide notice of discontinuance in advance of the effective date of removal of unbundling requirements?**

FDN: Agree with Competitive Carrier Group.

8. **Should Verizon be permitted to assess non-recurring charges for the disconnection of a UNE arrangement or the reconnection of service under an alternative arrangement? If so, what charges apply?**

FDN: Agree with Competitive Carrier Group.

9. **What terms should be included in the Amendments' Definitions Section and how should those terms be defined?**

FDN: Agree with Competitive Carrier Group.

10. **Should Verizon be required to follow the change of law and/or dispute resolution provisions in existing interconnection agreements if it seeks to discontinue the provisioning of UNEs?**

FDN: Agree with Competitive Carrier Group.

11. **How should any rate increases and new charges established by the FCC in its final unbundling rules or elsewhere be implemented?**

FDN: Agree with Competitive Carrier Group

12. **Should the interconnection agreements be amended to address changes arising from the TRO with respect to commingling of UNEs with wholesale services, EELs, and other combinations? If so, how?**

FDN: Agree with ATT.

13. **Should the interconnection agreements be amended to address changes arising from the TRO with respect to conversion of wholesale services to UNEs/UNE combinations? If so, how?**

FDN: Agree with ATT.

14. **Should the ICAs be amended to address changes, if any, arising from the TRO with respect to:**

- a) **Line splitting;**
- b) **Newly built FTTP loops;**
- c) **Overbuilt FTTP loops;**
- d) **Access to hybrid loops for the provision of broadband services;**
- e) **Access to hybrid loops for the provision of narrowband services;**
- f) **Retirement of copper loops;**
- g) **Line conditioning;**
- h) **Packet switching;**
- i) **Network Interface Devices (NIDs);**
- j) **Line sharing?**

If so how?

FDN: Agree with Competitive Carrier Group.

15. **What should be the effective date of the Amendment to the parties' agreements?**

FDN: When an Amendment conforming to the Commission's decision in this proceeding is filed and deemed approved.

16. **How should CLEC requests to provide narrowband services through unbundled access to a loop where the end user is served via Integrated Digital Loop Carrier (IDLC) be implemented?**

FDN: By spare copper or UDLC where available. **If neither is available, whatever method Verizon elects must be both a lawful and a practical solution. Verizon's proposal to construct a new loop and bill the entire cost to the CLEC is neither lawful nor practical.**

17. Should Verizon be subject to standard provisioning intervals or performance measurements and potential remedy payments, if any, in the underlying Agreement or elsewhere, in connection with its provision of

- a) unbundled loops in response to CLEC requests for access to IDLC-served hybrid loops;**
- b) Commingled arrangements;**
- c) Conversion of access circuits to UNEs;**
- d) Loops or Transport (including Dark Fiber Transport and Loops) for which Routine Network Modifications are required;**
- e) ~~Batch hot cut, large job hot cut, and individual hot cut processes.~~**

FDN: Agree with Competitive Carrier Group.

18. How should sub-loop access be provided under the TRO?

FDN: Agree with Competitive Carrier Group.

19. Where Verizon collocates local circuit switching equipment (as defined by the FCC's rules) in a CLEC facility/premises, should the transmission path between that equipment and the Verizon serving wire center be treated as unbundled transport? If so, what revisions to the Amendment are needed?

FDN: Agree with ATT.

20. Are interconnection trunks between a Verizon wire center and a CLEC wire center, interconnection facilities under section 251(c)(2) that must be provided at TELRIC?

FDN: Agree with ATT.

21. What obligations under federal law, if any, with respect to EELs should be included in the Amendment to the parties' interconnection agreements?

- a) What information should a CLEC be required to provide to Verizon as certification to satisfy the service eligibility criteria (47 C.F.R. Sec. 51.318) of the**

TRO in order to (1) convert existing circuits/services to EELs or (2) order new EELs?

FDN: Agree with ATT.

b) Conversion of existing circuits/services to EELs:

(1) Should Verizon be prohibited from physically disconnecting, separating or physically altering the existing facilities when a CLEC requests a conversion of existing circuits/services to an EEL unless the CLEC requests such facilities alteration?

FDN: Agree with ATT.

(2) In the absence of a CLEC request for conversion of existing access circuits/services to UNE loops and transport combinations, what types of charges, if any, can Verizon impose?

FDN: Agree with ATT.

(3) Should EELs ordered by a CLEC prior to October 2, 2003, be required to meet the TRO's service eligibility criteria?

FDN: Agree with ATT.

(4) For conversion requests submitted by a CLEC prior to the effective date of the amendment, should CLECs be entitled to EELs/UNE pricing effective as of the date the CLEC submitted the request (but not earlier than October 2, 2003)?

FDN: No position at this time.

c) What are Verizon's rights to obtain audits of CLEC compliance with the service eligibility criteria in 47 C.F.R. 51.318?

FDN: Agree with ATT.

22. How should the Amendment reflect an obligation that Verizon perform routine network modifications necessary to permit access to loops, dedicated transport, or

dark fiber transport facilities where Verizon is required to provide unbundled access to those facilities under 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51?

FDN: Agree with Competitive Carrier Group.

23. Should the parties retain their pre-Amendment rights arising under the Agreement, tariffs, and SGATs?

FDN: Agree with Competitive Carrier Group.

24. Should the Amendment set forth a process to address the potential effect on the CLECs' customers' services when a UNE is discontinued?

FDN: Agree with Competitive Carrier Group.

25. How should the Amendment implement the FCC's service eligibility criteria for combinations and commingled facilities and services that may be required under 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51?

FDN: Agree with Competitive Carrier Group.

26. Should the Commission adopt the new rates specified in Verizon's Pricing Attachment on an interim basis?

FDN: No.

G. Stipulated Issues

FDN is unaware of any stipulated issues for this proceeding at the time of serving this filing.

H. Pending Motions

FDN has no pending motions at the time of serving this filing. FDN's Petition to Intervene, served March 25, 2005, is pending.

I. Pending Confidentiality Issues

FDN is not aware of any pending confidentiality issues raised by FDN at the time of serving this filing.

J. Order Establishing Procedure Requirements

To FDN's knowledge, at the time of serving this filing, there are no requirements of the Order on Procedure that cannot be complied with.

K. Decisions or Pending Decisions

Decisions by the FCC on the March 28, 2005, motions for reconsideration or clarification to the TRRO and any court rulings on any appeals of or mandamus petitions regarding the TRRO pending or to be filed with the D.C. Circuit Court of Appeals may preempt or otherwise impact the Commission's ability to resolve any of the above issues. Otherwise, FDN is not aware of and FCC or court decision that has or may preempt or otherwise impact the Commission's ability to resolve any of the above issues

L. Objections to Expert Qualifications

At this time, FDN does not intend to voir dire any witnesses as to their expert qualifications. However, FDN reserves its right to conduct cross examination of the witnesses as to the bases for their opinions.

Respectfully submitted this 30th of March, 2005

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I HEREBY CERTIFY that a true copy of the foregoing has been furnished to the following
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