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October 31, 2007 – **VIA ELECTRONIC MAIL**

Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No.
Petition of Verizon Florida LLC for Approval to Eliminate IntraLATA Toll
Customer Contact Protocols

Dear Ms. Cole:

The above-referenced Petition is enclosed for filing. Service has been made as indicated on the Certificate of Service. If there are any questions regarding this filing, please contact me at (813) 483-1256.

Sincerely,

s/ Dulaney L. O’Roark III

Dulaney L. O’Roark III

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Enclosures

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Verizon Florida LLC)	Docket No.
For Approval to Eliminate IntraLATA)	Filed: October 31, 2007
Toll Customer Contact Protocols)	
_____)	

**VERIZON FLORIDA LLC'S PETITION FOR APPROVAL TO ELIMINATE
INTRALATA TOLL CUSTOMER CONTACT PROTOCOLS**

Verizon Florida LLC petitions the Commission for approval to eliminate the intraLATA toll customer contact protocols that the Commission ordered in 1998¹ and modified in 2002.² Under those protocols, Verizon informs new customers that they have a choice of intraLATA toll carriers and offers to read a list of toll providers in random order. This message is no longer helpful to consumers, who have long become accustomed to competition by telecommunications providers. If anything, the prescribed information is now confusing because it omits other options for intraLATA toll service such as wireless carriers, VoIP providers, cable companies and prepaid service providers. Indeed, the Florida legislature recognized the vigorous competition that now exists for intraLATA toll services when it substantially deregulated intrastate toll service in 2003 and 2005. Despite this legislation, there has been little reason to seek the removal of the protocols until now because Verizon has been required to comply with parallel federal requirements for interstate toll service. Now that the FCC has removed those requirements, the stage has been set for the Commission to eliminate the corresponding state protocols.

¹ In Re: Generic Consideration of Incumbent Local Exchange (ILEC) Business Office Practices and Tariff Provisions in the Implementation of IntraLATA Presubscription, Docket No. 970526-TP, Order No. PSC-98-0710-FOF-TP (May 22, 1998)(“1998 Customer Contact Protocol Order”).

² In Re: Petition by Verizon Florida Inc. for approval to revise customer contact protocol, Docket No. 011497-TL, Order No. PSC-02-0362-PAA-TL (March 19, 2002)(“2002 Customer Contact Protocol Order”).

I. BACKGROUND

InterLATA presubscription, which allows customers to use the preselected interLATA service provider of their choice by dialing 1 plus the area code and telephone number of the called party, was implemented after the 1984 divestiture of AT&T. Until the 1990s, intraLATA toll calls in Florida continued to be handled by the local exchange carrier when the customer used a 1+ dialing pattern. That changed after the Commission opened a docket in 1993 to address whether “intraLATA presubscription should be implemented to complement interLATA presubscription and to further open the local exchange company (LEC) toll market to competition.”³ In its 1995 IntraLATA Presubscription Order, the Commission required the four largest Florida ILECs, including Verizon’s predecessor, GTE Florida Incorporated (“GTE Florida”), to implement intraLATA presubscription by December 31, 1997.⁴ The Commission also approved the parties’ stipulation that “when new customers sign up for service they should be made aware of their options of intraLATA carriers in the same fashion as for interLATA carriers.”⁵

The genesis of these intraLATA customer contact protocols was a complaint filed by interexchange carriers (“IXCs”) in 1996 against BellSouth Telecommunications, Inc. (“BellSouth”) alleging improper marketing practices. Among other things, the Commission ruled that BellSouth’s proposed method of communicating intraLATA service options to new customers created a bias in favor of BellSouth and therefore

³ In Re: Investigation into IntraLATA Presubscription, Docket No. 930330-TP, Order No. PSC-95-0203-FOF-TP (Feb. 13, 1995)(“1995 IntraLATA Presubscription Order”) at 6.

⁴ *Id.* at 26.

⁵ *Id.* at 39.

required BellSouth to use specified customer contact protocols.⁶ The Commission also prohibited BellSouth from marketing its intraLATA toll service to a new customer unless the customer raised the subject.⁷

The Commission then initiated a generic proceeding to determine whether the restrictions imposed on BellSouth should be applied to the other ILECs in Florida, even though there had been no allegations of marketing abuses by those carriers. In its 1998 Customer Contact Protocol Order, the Commission approved the parties' agreement that, with respect to communications to new customers by the ILECs, no action by the Commission was required because:

The ILECs assert and the other parties agree not to contest in this proceeding, that their interLATA and intraLATA procedures for communicating information about toll choices are consistent and in compliance with PSC Order No. PSC-95-203-FOF-TP, which states that 'when new customers sign up for service they should be made aware of their options of intraLATA carriers in the same fashion as for interLATA carriers.' The procedures are the same in that the ILEC asks each customer if he has a choice of carrier. If the customer does not, then the ILEC will read a random list of carriers.⁸

Thus, the Commission continued to require ILECs to mirror the federal scripting requirements at the state level.

The following year Verizon sought authorization to recommend its own intraLATA service after offering to read the list of competing carriers, as it was permitted to do when communicating with new customers concerning interLATA service. After rejecting

⁶ In Re: Complaint of Florida Interexchange Carriers Association, MCI Telecommunications Corporation, and AT&T Communications of the Southern States, Inc. Against BellSouth Telecommunications, Inc., Docket No. 960658-TP; In Re: Investigation into IntraLATA Presubscription, Docket No. 930330-TP, Order No. PSC-96-1569-FOF-TP at 6 (Dec. 23, 1996).

⁷ *Id.*

⁸ 1998 Customer Contact Protocol Order, Att. A at 2 (May 22, 1998).

Verizon's initial petition in 1999,⁹ the Commission approved Verizon's renewed request in 2002.¹⁰ The Commission found that "current market data illustrates a significant increase in consumer awareness of intraLATA toll competition and intraLATA toll market share now held by competitors." It went on to state that "[t]he increase in competition leads to our finding that our goals behind the customer contact protocols, to ensure that competition for intraLATA toll service developed and that customers are educated about intraLATA toll competition, have been met."¹¹

The Florida legislature followed the Commission's lead in recognizing that the intrastate toll market is fully competitive when it substantially deregulated intrastate interexchange services. In 2003, the legislature revised the definition of "telecommunications company" to exclude an "intrastate interexchange telecommunications company," thus exempting intrastate interexchange companies from substantial regulation.¹² In 2005, the legislature went one step farther and exempted intrastate interexchange telecommunications services from "oversight by the commission, except to the extent delineated in [Chapter 364] or specifically authorized

⁹ In Re: Petition of GTE Florida Incorporated for declaratory statement that its intraLATA customer contact protocol complies with Order PSC-95-0203-FOF-TP, Docket No. 990157-TL, Order No. PSC-99-0955-FOF-TP (May 11, 1999).

¹⁰ 2002 Customer Contact Protocol Order.

¹¹ *Id.* at 8.

¹² See 2003 Fla. Laws ch. 32; Florida Statutes, § 364.02(14)(g). Specifically, intrastate interexchange telecommunications companies were required to pay certain taxes and fees and remained subject to sections 364.04 (schedules of rates, tolls, rentals, contracts and charges), 364.10(3)(a) and (d) (Lifeline requirements), 364.163 (network access services provided by local exchange telecommunications companies to other telecommunications companies), 364.285 (penalties), 364.336 (regulatory assessment fees), 364.501 (underground excavation damage prevention), 364.603 (slamming) and 364.604 (billing practices). Intrastate interexchange telecommunications companies also were required to "provide the commission with the current information as the commission deems necessary to contact and communicate with the company [and to] continue to pay intrastate switched network access rates or other intercarrier compensation to the local exchange telecommunications company or the competitive local exchange telecommunications company for the origination and termination of interexchange telecommunications service."

by federal law.”¹³ After the 2005 legislation became effective, there was little point in attempting to change the Florida customer contact protocols, however, because substantially similar FCC requirements still applied to interLATA service. That is no longer the case because two months ago the FCC eliminated its equal access scripting requirement for carriers such as Verizon.¹⁴ Now that federal equal access scripting is no longer required, the time has come to eliminate the parallel requirements for intraLATA toll customer contact protocols.

II. ARGUMENT

IntraLATA toll customer contact protocols should no longer be required because (i) the protocols have outlived their purpose for the reasons recently articulated by the FCC when it removed equal access scripting requirements for interLATA toll service; (ii) retaining the protocols would undermine the effectiveness of the FCC’s elimination of the interLATA scripting requirements; and (iii) removing the protocols would be consistent with the deregulatory scheme that has been adopted by the Florida legislature.

A. The IntraLATA Toll Customer Contact Protocols Have Outlived Their Purpose for the Reasons Articulated by the FCC.

In its recent order, the FCC emphasized that market conditions had changed substantially since it adopted equal access scripting:

¹³ 2005 Fla. Laws ch. 132; Florida Statutes, § 364.011.

¹⁴ In Re: Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements, WC Docket No. 02-112; 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission’s Rules, CC Docket No. 00-175; Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services, WC Docket No. 06-120, FCC 07-159, Report and Order and Memorandum and Order (rel. Aug. 31, 2007).

The EA Scripting Requirement was designed to foster fair competition in the provision of stand-alone long distance service at a time when competition in the provision of stand-alone long distance service was nascent and there was little, if any, competition in the provision of local exchange service. Since that time, market conditions have changed substantially, greatly reducing the benefits of the EA Scripting Requirement.¹⁵

The FCC pointed to two significant changes in the telecommunications market. First, the FCC cited the “significant evidence that the stand-alone long distance market is becoming a fringe market,” giving way to competition between service bundles including packages of local and long distance services offered by traditional landline companies as well as by wireless carriers, cable companies and VoIP providers.¹⁶ Second, the FCC noted that “the minority of customers that still take stand-alone service now have additional options available for making long distance calls,” including wireless services and transaction services such as prepaid cards.

The FCC concluded that equal access scripting was no longer helpful, and possibly harmful, to consumers, stating that “[i]nstead of increasing consumer awareness of competitive alternatives, we find that the artificially narrow focus of the EA Scripting Requirement may, in fact, confuse or mislead consumers and cause them not to investigate alternative means of making long distance calls.”¹⁷ The FCC further found “that competition for stand-alone long distance services would function better absent the potential marketplace-distorting effects of the current EA scripting requirement.”¹⁸

¹⁵ *Id.* at ¶ 120.

¹⁶ *Id.* at ¶ 121.

¹⁷ *Id.* at ¶ 122.

¹⁸ *Id.*

The FCC's conclusions apply with equal force to Florida intraLATA toll service. That service is included in the same bundles of local and long distance service described by the FCC that are offered by traditional wireline carriers, wireless carriers, cable companies and VoIP providers. And those customers that still have a stand-alone long distance carrier for their intraLATA calls may choose instead to make those calls on their wireless phones or using an alternative service provider such as a prepaid service. Just as the FCC judged that its scripting requirements were, if anything, creating customer confusion by focusing customers on a limited range of options, the intraLATA toll customer contact protocols also are likely to confuse if not mislead customers. Because the customer contact protocols have outlived their purpose, they should be removed.

B. IntraLATA Toll Customer Contact Protocols Should Be Removed to Maintain Consistency Between Federal and State Requirements.

The Commission consistently has sought to retain the same requirements for state customer contact protocols as have existed for federal equal access scripting. When the Commission first established intraLATA presubscription in 1995, it did so in part "to complement interLATA presubscription"¹⁹ and accordingly required customers to "be made aware of their options of intraLATA carriers in same fashion as for interLATA carriers."²⁰ In 1998, GTE Florida's approach to communicating with new customers about intraLATA service passed muster because it was consistent with the approach it took for interLATA service.²¹ Likewise, in 2002, the Commission permitted Verizon to

¹⁹ 1995 IntraLATA Presubscription Order at 6.

²⁰ *Id.* at 39.

²¹ 1998 Customer Contact Protocol Order, Att. A at 2 (May 22, 1998).

recommend its own intraLATA service, which had long been allowed by the FCC on the interLATA side.

Now that the federal equal access scripting requirement has been removed, regulatory consistency should be maintained by eliminating the parallel state requirements. If the customer contact protocols were to remain, much of the benefit of the federal order would be lost because Verizon representatives would still have to read scripts similar to those the FCC has just eliminated. To make matters worse, customer confusion could be heightened because the focus now would be exclusively on intraLATA toll service, to the exclusion of all other long distance services, even though few customers are likely to understand the difference. In short, the Commission should adhere to its practice of maintaining consistency with the FCC's scripting rules, and accordingly should eliminate the state requirement.

C. Removal of the Protocols Would Be Consistent with the Deregulation of IntraLATA Services by the Legislature.

As already noted, the legislature substantially deregulated intrastate interexchange telephone service in 2003 and 2005. Those legislative actions raise doubt about whether the Commission even has jurisdiction any longer to require ILECs to follow a specified customer contact protocol concerning intraLATA service. Even if the Commission concludes that it has such jurisdiction, however, the deregulatory approach taken by the legislature confirms that eliminating the protocols is a move in the right direction. Now that the Commission, legislature and FCC have reached the same conclusions (expressly or implicitly) about long distance competition and customer choices, the time has come to take the protocols off the books.

III. CONCLUSION

For the foregoing reasons, Verizon respectfully requests that its petition be granted.

Respectfully submitted on October 31, 2007.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing were sent via U. S. mail on
October 31, 2007 to:

Patrick Wiggins, Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

s/ Dulaney L. O'Roark III