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August 7, 2003

Ms. Blanca Bayó, Director
Division of the Commission Clerk
& Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

via Overnight Mail

Re: Docket No. 990649B

Dear Ms. Bayó,

On behalf of Florida Digital Network, Inc., d/b/a FDN Communications ("FDN"), a party in the above docket, I write to confirm FDN's position regarding implementation of the final rates that the Commission approved in this docket for Verizon – Florida, Inc. ("Verizon"). Please find enclosed an original and seven copies of this letter.

On November 15, 2002, the Commission issued Order No. PSC-01-1574-FOF-TP ("Final Order") in the above docket whereby the Commission established the UNE rates which Verizon could charge CLECs.

On August 5, 2003, the Commission issued Order No. PSC-03-0896-PCO-TP ("Stay Order") in which the Commission granted Verizon's Motion for Mandatory Stay Pending Judicial Review.

At page 9 of the Stay Order, the Commission stated:

[W]e hereby grant Verizon's Motion for Mandatory Stay Pending Judicial Review with the condition that should Verizon's appeal fail, our approved rates will be deemed effective as of the issuance date of this Order. To be eligible for the full aforementioned refund back to the date of this Order, a CLEC must, within 90 days of the issuance of this Order, file with the Commission and send to Verizon a letter stating that the CLEC would have sought implementation of the rates ordered in this proceeding, absent the stay. This condition recognizes the varying effect of the rates on individual CLECs. Any CLECs that submit the required letter after the 90 days will only be eligible for a refund back to the filing date of their letter.

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390 North Orange Avenue Suite 2000 Orlando, FL 32801
407 835.0300 Fax 407 835.0309 www.fdn.com

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The purpose of this letter is to verify that, absent the stay, FDN would have sought implementation of the rates ordered in the Final Order. In fact, FDN affirmatively sought to implement the rates after the Final Order was issued. As verified by the e-mail correspondence attached hereto, FDN requested to incorporate the new rates in an amended interconnection agreement months before the Commission even voted on Verizon's Stay request. After first indicating that it was drafting an amendment to address the new rates, Verizon informed FDN of its position that "negotiations" on the amendment would be premature in light of the pending motions at the Commission.

Accordingly, by the terms of the Stay Order, FDN is entitled to have any refund in this proceeding made effective as of August 5, 2003, the date of Stay Order's issuance. This notwithstanding, FDN does not, by this filing, waive any right it may have to assert that the implementation of the Final Order should have been prior to the aforesaid date.

If you have any questions regarding the enclosed, please call me at 407-835-0460.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Feil", written over a horizontal line.

Matthew Feil
FDN Communications
General Counsel

Enclosure

C: Parties of Record

Matthew Feil

From: william.munsell@verizon.com
Sent: Monday, January 06, 2003 4:31 PM
To: Matthew Feil
Cc: TMazzola@rodericklinton.com
Subject: RE: FDN - Verizon Agreement

Matt, on getting the new UNE rates as an amendment to the current agreement, I understand we are very close to completion of the template. The person who will be handling the UNE amendment requests is Renee Ragsdale (renee.ragsdale@verizon.com). Please send Renee a request to amend the previous adoption with the new rates. Once that amendment is out I expect that the FL pricing file will also be updated (which I will use to update the subsequent agreement).

Matthew Feil

From: renee.ragsdale@verizon.com
Sent: Wednesday, February 05, 2003 8:37 AM
To: Matthew Feil
Subject: FL UNE rates

Matt,

Verizon has received your request for an amendment to implement the rates set forth in the Florida Commission's Order No. PSC-02-1574-FOF-TP ("UNE Order"). As you probably are aware, on December 2, 2002, AT&T and WorldCom filed a motion for partial reconsideration of the UNE Order. On December 16, 2002, Verizon filed a notice of appeal to the Florida Supreme Court of the Commission's UNE Order (Case No. SC02-2647). On the same day, Verizon filed with the FL Commission for a mandatory stay of its UNE Order pending completion of judicial proceedings.

On January 9, 2003, the FL Commission filed a motion with the Florida Supreme Court to dismiss or abate the Verizon appeal as premature. In that motion, the Commission argued that the court should allow the Commission to proceed with reconsideration and render a final appealable order. In paragraph 3 of its motion, the Commission states that the "motion for reconsideration is one that would affect the substance of the Commission UNE Order as to Verizon and the other parties." Based on the Commission's motion, Verizon understands that the Commission does not consider the UNE Order to be final until the Commission rules on the petitions for reconsideration, and does not expect Verizon to negotiate UNE rate amendments until that time. Thus, it would be premature to enter into such negotiations at this time.

Renee Ragsdale
Verizon Network Services
600 Hidden Ridge, HQE03B19
Irving, TX 75038
972-718-6889
972-718-1279 Fax