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August 25, 2004

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Ms. Blanca S. Bayo, Director
Division of the Commission Clerk
And Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 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.

Dear Ms. Bayo:

Please find enclosed an original and 15 copies of Verizon Florida Inc.'s Motion For
Extension of Time for filing in the above-referenced matter. 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,

A handwritten signature in blue ink that reads "Richard A. Chapkis".

Richard A. Chapkis

RAC:mcp
Enclosures

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition of Verizon Florida Inc. for Arbitration of an Amendment to Interconnection Agreements with Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in Florida Pursuant to Section 252 of the Communications Act of 1934, as Amended, and the *Triennial Review Order*

Docket No. 040156-TP

**VERIZON FLORIDA INC.'S
MOTION FOR EXTENSION OF TIME**

Pursuant to Rule 28-1-6.204, Florida Administrative Code, Verizon Florida Inc. (Verizon) respectfully requests that the Commission grant it a ten-day extension of time, from August 30, 2004 to September 9, 2004, to file an amended petition consistent with the Commission's July 12, 2004 Order (Order No. PSC-04-0671-FOF-TP). The extension of time is necessary to allow Verizon to conform its proposed *TRO* Amendment to the *Interim Rules Order* released by the FCC on August 20, 2004.¹

In support of its motion, Verizon alleges as follows:

On February 20, 2004, Verizon filed a petition for arbitration to amend Verizon's interconnection agreements with CLECs to reflect the rules promulgated in the FCC's *Triennial Review Order*.²

¹ Order and Notice of Proposed Rulemaking, *In the Matter of Unbundled Access to Network Elements, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313, CC Docket No. 01-338 (adopted July 21, 2004, released Aug. 20, 2004) (*Interim Rules Order*).

² Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 18 FCC Rcd 16978 (2003) (*Triennial Review Order*), vacated in part and remanded, *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) (*USTA II*).

On March 2, 2004, the D.C. Circuit issued its decision in *USTA II*, in which it affirmed in part and vacated in part the FCC's *Triennial Review Order*. In particular, the court struck down several of the unbundling obligations that the FCC imposed on incumbent carriers, while affirming the FCC in almost all respects in instances where the FCC eliminated or restricted the ILECs' network unbundling obligations.

On March 19, 2004, Verizon filed an updated petition to conform its *TRO Amendment* to the *USTA II* decision.

In March and April of 2004, various CLECs and CLEC groups filed motions to dismiss Verizon's Petition for Arbitration and the Update to the Petition for Arbitration.

On July 12, 2004, the Commission issued an order (Order No. PSC-04-0671-FOF-TP) dismissing Verizon's Updated Petition without prejudice on the grounds that it did not comply with the formal procedural requirements of Section 252 of the 1996 Telecommunications Act. In that Order, the Commission granted Verizon leave to file a corrected petition by August 30, 2004.

On August 20, 2004, the FCC issued its *Interim Rules Order* purportedly in response to the D.C. Circuit's *USTA II* decision. The FCC's interim rules impose "transitional" unbundling obligations with respect to the UNEs eliminated by the *USTA II* mandate (that is, mass-market switching, high-capacity loops, and dedicated transport). The FCC made clear, however, that its interim rules do *not* affect the ILECs' rights to proceed with change-of-law proceedings, like this arbitration. To the contrary, the *Interim Rules Order* explicitly encourages such proceedings, to assure a "speedy transition" to any permanent regime definitively eliminating unbundling requirements for the UNEs at issue. *Id.* ¶ 22. In this regard, the FCC "expressly preserve[d] incumbent

LECs' contractual prerogatives to initiate change of law proceedings to the extent consistent with their governing interconnection agreements." (*Interim Order*, ¶ 22.) These proceedings are free to "presume the absence of unbundling requirements for switching, enterprise market loops, and dedicated transport, so long as they reflect the transition regime . . . Thus, whatever alterations are approved or deemed approved by the relevant state commission may take effect quickly if our final rules in fact decline to require unbundling of the elements at issue, or if new unbundling rules are not in place by six months after Federal Register publication of this Order." (*Id.* at ¶ 23.)

To give Verizon an opportunity to analyze the interim rules and make any appropriate changes to its proposed TRO amendment, Verizon requests an extension of the filing deadline for its revised petition for arbitration to September 9, 2004. Verizon's filing will include an updated version of its draft TRO Amendment and a description of changes made to the amendment since the filing of Verizon's Amended Petition on March 19, 2004. The filing will also propose a schedule reflecting completion of this arbitration in time for the FCC's adoption of its final rules, to meet the FCC's objective of a speedy transition to the new regime.

Extension of the filing deadline is in the interest of all parties since it helps to ensure that parties do not devote resources to analyzing a *TRO* amendment that requires revision due to recent FCC orders. Verizon contacted most of the parties with which it intends to arbitrate,³ and, to date, no party has objected to the Commission

³ The only parties that were not contacted, against which Verizon intends to arbitrate, are those parties for which Verizon did not have a telephone number or an e-mail address.

granting Verizon an extension.⁴ Accordingly, in the interest of administrative efficiency, Verizon respectfully requests that the Commission extend the filing deadline until September 9, 2004.

For the foregoing reasons, Verizon's request to extend the deadline for filing its Amended Petition to September 9, 2004, should be granted.

Respectfully submitted,



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August 25, 2004

⁴ MCImetro Access Transmission Services, Metropolitan Fiber Systems of Florida, Inc. Intermedia Communications, Inc., and LecStar Telecom, Inc. have affirmatively stated that they do not object. As of the filing of this motion, the other parties had not responded to Verizon's request.

CERTIFICATE OF SERVICE

I hereby certify that copies of Verizon Florida Inc.'s Motion For Extension of Time in Docket No. 040156-TP were sent via U.S. mail on August 25, 2004 to the parties on the attached list.

Richard A. Chapkis

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**Parties of Record and Interested Parties
Docket No. 040156-TP**

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