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Sent: Thursday, March 19, 2009 9:01 AM
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Subject: e-filing (Dkt. No. 080278-TL)
Attachments: 080278 OPC First Motion to Compel.sversion.doc

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 080278-TL

In re: Joint petition for show cause proceedings against Verizon Florida LLC for apparent violation of Rule 25-4.070, F.A.C., Customer Trouble Reports, and impose fines, by the Office of the Attorney General, Citizens of the State of Florida, and AARP.

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 27 pages.

e. The document attached for electronic filing is the Citizens' First Motion to Compel .

(See attached file: 080278.OPC First Motion to Compel.sversion.doc)

Thank you for your attention and cooperation to this request.

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DOCUMENT NUMBER-DATE

02367 MAR 19 8

3/19/2009

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for show cause proceedings against Verizon Florida LLC for apparent violation of Rule 25-4.070, F.A.C., Customer Trouble Reports, and impose fines, by the Office of the Attorney General, Citizens of the State of Florida, and AARP.

Docket No. 080278-TL

Filed March 19, 2009

Citizens' First Motion to Compel

The Citizens of Florida, through the Office of Public Counsel, file this motion requesting the Prehearing Officer to issue an order requiring Verizon Florida LLC (Verizon) to produce each of the documents requested by the Citizens First Set of Requests for Production of Documents to Verizon (Nos. 1-14) dated January 28, 2009, as explain further in this motion. In support Citizens state the following:

Citizens served our first set of requests for production of documents to Verizon on January 28, 2009, consisting of fourteen separate requests. Verizon filed both general objections to all requests and specific objections to each of the requests. The net result of the objections is that Verizon objected to any and all discovery related to this proceeding and refused to produce any documents whatsoever.

General Objections

Verizon filed a series of general, boiler-plate objections to all of the discovery requests. The Prehearing Officer should reject all of the general objections.

DOCUMENT NUMBER-DATE

02367 MAR 19 8

FPSC-COMMISSION CLERK

First, Verizon objected to all requests based on its position that the Commission lacks statutory authority to apply the service objectives contained in Rule 25-4.070 to Verizon. Citizens adopt our Response in Opposition to Verizon's Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff's Response in Opposition to Verizon's Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, as our response to this general objection. The Commission has statutory authority to apply the service objectives contained in Rule 25-4.070 to Verizon. In any event, this issue should be taken up at the conclusion of the hearing with the other issues in the case. The Prehearing Officer should reject this objection to all discovery.

Second, Verizon objected to all discovery to the extent it purports to impose obligations different from, or which go beyond, obligations in the Florida Rules of Civil Procedure or the Rules of the Commission. This is just a boiler-plate objection; Verizon does not explain how any or all of the requests impose obligations different from, or which go beyond, obligations in the Florida Rules of Civil Procedure or the Rules of the Commission. The Prehearing Officer should reject this objection.

Third, Verizon objects to all requests to the extent they seek documents protected by privilege. Verizon does not, however, identify any such documents in this general objection, as required by Rule 1.280(b)(5) of the Florida Rules of Civil Procedure. Without describing the nature of any such responsive

documents, OPC is unable to assess the applicability of any claim of privilege. The Prehearing Officer should reject this general objection.

Fourth, Verizon objects to the discovery requests to the extent they are vague or ambiguous. Verizon, however, does not say how the requests are vague or ambiguous, so it is impossible to assess this objection or respond to the objection. The Prehearing Officer should reject this general objection.

Fifth, Verizon objects to the request to the extent they seek confidential information. Commission Rule 25-22.006 delineates specific procedures to deal with claims of confidentiality with respect to discovery requests, but Verizon ignores the rule and fails to invoke any of the protections provided by the rule. The Prehearing Officer should reject this general objection.

Sixth, Verizon objects to the requests to the extent the documents are available through public sources. Verizon does not identify any such requests, nor would the availability of documents from another source excuse Verizon from producing such documents if they are in the company's possession, custody or control. The Prehearing Officer should reject this general objection.

Seventh, Verizon claims to reserve the right to amend, replace, supersede, or supplement its responses. Neither the Commission's Rules nor the Rules of Civil Procedure afford Verizon such a right. The Prehearing Officer should reject this general objection.

Eighth, Verizon objects to the requests to the extent they seek to impose an obligation on Verizon to respond on behalf of subsidiaries, affiliates, or other persons. The requests for documents request Verizon to produce documents

within its possession, custody or control, as permitted by Rule 1.350(a) of the Florida Rules of Civil Procedure. The Prehearing Officer should reject this general objection.

Ninth, Verizon objects to discovery requests “to the extent they seek information that is not reasonably calculated to lead to the discovery of admissible evidence and not relevant to the subject matter of this proceeding. This objection takes liberties with the provisions of Rule 1.280(b) of the Florida Rules of Civil Procedure, which states that parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action. The Rule also notes that it is not ground for objection that the information sought will be admissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. In any event, Verizon has not shown in this objection how any of the requests are irrelevant. The Prehearing Officer should reject this general objection.

Specific Objections

The specific requests for documents, Verizon’s objection to each request, and Citizens’ response to those objections follows:

Document Request 1. Please provide all documents in your possession, custody or control which describe, analyze, or critique Verizon’s performance related repair or clearance of out-of-service trouble reports.

Verizon's Objection: Verizon objects to this request on the ground that the Commission lacks statutory authority to apply the service objectives in Rule 25-4.070 to price-regulated companies and to services that are subject to effective competition and therefore lacks jurisdiction over this proceeding. Verizon further objects to this request on the grounds that it is ambiguous, overbroad, unduly burdensome because as written it would require Verizon to conduct a manual and electronic company-wide search of all documents ever created or received that conceivably could pertain to out-of-service trouble reports. Moreover, this request is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information outside the temporal scope of this proceeding.

Citizens' Response: Citizens adopt our Response in Opposition to Verizon's Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff's Response in Opposition to Verizon's Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, in response to Verizon's claim that the Commission lacks jurisdiction. With respect to Verizon's objection on the grounds that it is ambiguous, overbroad, unduly burdensome because as written it would require Verizon to conduct a manual and electronic company-wide search of all responsive documents ever created or received, Citizens believe that a search of the files of employees reasonably expected to have information responsive to these document requests would be appropriate. With respect to Verizon's objection that the request seeks documents "outside the temporal

scope of this proceeding,” the document requests served by Citizens were specifically limited to documents created on or after January 1, 2005. It is entirely appropriate to request documents created a reasonable length of time before the rule violations at issue in this case because practices and procedures would likely have been set in place before 2007 that affect the number of violations in 2007 and 2008. Also, in order to show that the violations which occurred in 2007 and 2008 were willful, it is relevant to look at patterns of procedures and behavior set in place before 2007 and 2008. Such patterns of procedures and behavior would explain the reasons for the violations in 2007 and 2008, thereby showing that the violations were willful.

Document Request 2. Please provide all documents in your possession, custody or control which describe, analyze, or critique Verizon’s performance related repair or clearance of service affecting trouble reports.

Verizon’s Objection: Verizon objects to this request on the ground that the Commission lacks statutory authority to apply the service objectives in Rule 25-4.070 to price-regulated companies and to services that are subject to effective competition and therefore lacks jurisdiction over this proceeding. Verizon further objects to this request on the grounds that it is ambiguous, overbroad, unduly burdensome because as written it would require Verizon to conduct a manual and electronic company-wide search of all documents ever created or received that conceivably could pertain to service-affecting troubles reports. Moreover, this request is neither relevant nor reasonably calculated to lead to the discovery of

admissible evidence because it seeks information outside the temporal scope of this proceeding.

Citizens' Response: Citizens adopt our Response in Opposition to Verizon's Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff's Response in Opposition to Verizon's Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, in response to Verizon's claim that the Commission lacks jurisdiction. With respect to Verizon's objection on the grounds that it is ambiguous, overbroad, unduly burdensome because as written it would require Verizon to conduct a manual and electronic company-wide search of all responsive documents ever created or received, Citizens believe that a search of the files of employees reasonably expected to have information responsive to these document requests would be appropriate.

Document Request 3. Please provide the document described at <http://www.psc.state.fl.us/dockets/cms/docketFilings2.aspx?docket=080278> as 04801-08 06/05/2008 Verizon (O'Roark) - (CONFIDENTIAL) Responses to staff's service quality data request dated 4/22/08.

Verizon's Objection: Verizon objects to this request on the ground that the Commission lacks statutory authority to apply service objectives in Rule 25-4.070 to price-regulated companies and to services that are subject to effective competition and therefore lacks jurisdiction over this proceeding. Verizon further objects to this request because it is neither relevant nor reasonably calculated to

lead to the discovery of admissible evidence to the extent it seeks data provided in Docket 080278 pertaining to sales incentive programs, sales call monitoring, ethics training, and metrics not at issue in this proceeding.

Citizens' Response: Citizens adopt our Response in Opposition to Verizon's Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff's Response in Opposition to Verizon's Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, in response to Verizon's claim that the Commission lacks jurisdiction. This document, which was moved from docket 080000 to this docket by staff, appears to pertain to matters which may explain why the violations by Verizon were willful and as such, this document may very well go to the heart of the purpose of this show cause investigation.

Document Request 4. Please provide each Verizon Florida monthly and year to date operations report that provides the performance results for the state of Florida as a whole regarding all answer time, installation and repair service quality or performance measurements.

Verizon's Objection: Verizon objects to this request on the ground that the Commission lacks statutory authority to apply the service objectives in Rule 25-4.070 to price-regulated companies and to services that are subject to effective competition and therefore lacks jurisdiction over this proceeding. In addition, Verizon objects to this request on the grounds that it is overbroad and unduly burdensome to the extent it purports to require the production of reports not

made and distributed on a systematic basis. Verizon further objects to this request on the ground that it is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks documents concerning answer time and installation metrics not at issue in this proceeding, and to the extent it seeks information outside the temporal scope of this proceeding.

Citizens' Response: Citizens adopt our Response in Opposition to Verizon's Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff's Response in Opposition to Verizon's Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, in response to Verizon's claim that the Commission lacks jurisdiction. With respect to Verizon's objection on the grounds that it is ambiguous, overbroad, unduly burdensome because as written it would require Verizon to conduct a manual and electronic company-wide search of all responsive documents ever created or received, Citizens believe that a search of the files of employees reasonably expected to have information responsive to these document requests would be appropriate. Citizens accept the objection regarding answer time and installation metrics.

Document Request 5. Please provide copies of the Florida budgets for Verizon's overall statewide O&M, installation, repair and business office operations that were adopted at the beginning of 2005, 2006, 2007, 2008 and 2009.

Verizon's Objection: Verizon objects to this request on the ground that the Commission lacks statutory authority to apply the service objectives in Rule 25-4.070 to price-regulated companies and to services that are subject to effective competition and therefore lacks jurisdiction over this proceeding. In addition, Verizon objects to this request on the grounds that it is overbroad and unduly burdensome to the extent it purports to require the production of budgets not made and distributed on a systematic basis. Verizon further objects to this request on the ground that it is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks documents concerning business office operations and installations, which are not at issue in this proceeding, and to the extent it seeks documents outside the temporal scope of this proceeding.

Citizens' Response: Citizens adopt our Response in Opposition to Verizon's Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff's Response in Opposition to Verizon's Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, in response to Verizon's claim that the Commission lacks jurisdiction. With respect to Verizon's objection on the grounds that it is ambiguous, overbroad, unduly burdensome because as written it would require Verizon to conduct a manual and electronic company-wide search of all responsive documents ever created or received, Citizens believe that a search of the files of employees reasonably expected to have information responsive to these document requests would be appropriate. With respect to

Verizon's objection that the request seeks documents "outside the temporal scope of this proceeding," the document requests served by Citizens were specifically limited to documents created on or after January 1, 2005. It is entirely appropriate to request documents created a reasonable length of time before the rule violations at issue in this case because practices and procedures would likely have been set in place before 2007 that affect the number of violations in 2007 and 2008. Also, in order to show that the violations which occurred in 2007 and 2008 were willful, it is relevant to look at patterns of procedures and behavior set in place before 2007 and 2008. Such patterns of procedures and behavior would explain the reasons for the violations in 2007 and 2008, thereby showing that the violations were willful. Citizens accept the objection concerning business office operations, but not about installation. Citizens believe that the same employees may be used for either installation or repair, and therefore information about both is relevant to show the allocation of resources to repair.

Document Request 6. Please provide all year end budget variance reports pertaining to the budgets referenced in the preceding request for documents, along with any variations in budgeted amounts and all of the explanations of those variations that were furnished to higher management.

Verizon's Objection: Verizon objects to this request on the ground that the Commission lacks statutory authority to apply the service objectives in Rule 25-4.070 to price-regulated companies and to services that are subject to effective

competition and therefore lacks jurisdiction over this proceeding. In addition, Verizon objects to this request on the grounds that it is overbroad and unduly burdensome to the extent it purports to require the production of budget variance reports not made and distributed on a systematic basis. Verizon further objects to this request on the ground that it is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks documents concerning business office operations and installations, which are not at issue in this proceeding, and to the extent it seeks documents outside the temporal scope of this proceeding.

Citizens' Response: Citizens adopt our Response in Opposition to Verizon's Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff's Response in Opposition to Verizon's Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, in response to Verizon's claim that the Commission lacks jurisdiction. With respect to Verizon's objection on the grounds that it is ambiguous, overbroad, unduly burdensome because as written it would require Verizon to conduct a manual and electronic company-wide search of all responsive documents ever created or received, Citizens believe that a search of the files of employees reasonably expected to have information responsive to these document requests would be appropriate. If a budget or variance report is not made or distributed on a systematic basis, it should still be produced because it would still be relevant to this proceeding. Citizens accept the objection concerning business office operations, but not about installation.

Citizens believe that the same employees may be used for either installation or repair, and therefore information about both is relevant to show the allocation of resources to repair. With respect to Verizon's objection that the request seeks documents "outside the temporal scope of this proceeding," the document requests served by Citizens were specifically limited to documents created on or after January 1, 2005. It is entirely appropriate to request documents created a reasonable length of time before the rule violations at issue in this case because practices and procedures would likely have been set in place before 2007 that affect the number of violations in 2007 and 2008. Also, in order to show that the violations which occurred in 2007 and 2008 were willful, it is relevant to look at patterns of procedures and behavior set in place before 2007 and 2008. Such patterns of procedures and behavior would explain the reasons for the violations in 2007 and 2008, thereby showing that the violations were willful.

Document Request 7. Please provide a copy of the performance goals that are utilized in the annual performance reviews for the departmental heads of Verizon Florida's installation, repair and business office operations applicable for years 2007, 2008, and 2009, including each department head's results for 2007 and 2008 submitted to higher management in the annual performance review process.

Verizon's Objection: Verizon objects to this request on the ground that the Commission lacks statutory authority to apply the service objectives in Rule 25-4.070 to price-regulated companies and to services that are subject to

effective competition and therefore lacks jurisdiction over this proceeding. In addition, Verizon objects to this request on the ground that the phrase “department heads” is vague and ambiguous. Verizon further objects to this request on the grounds that it is overbroad and neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks documents that pertain to installation and business office operations, which are not at issue in this proceeding, and seeks documents outside the temporal scope of this proceeding. Verizon also objects to this request to the extent it calls for the production of sensitive personnel records maintained on a confidential basis.

Citizens’ Response: Citizens adopt our Response in Opposition to Verizon’s Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff’s Response in Opposition to Verizon’s Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, in response to Verizon’s claim that the Commission lacks jurisdiction. The term “department head” is not vague or ambiguous as used in this request; it refers to the person directly in charge of the areas specified. Citizens accept the objection concerning business operations, but not about installation. Citizens believe that the same employees may be used for either installation or repair, and therefore information about both is relevant to show the allocation of resources to repair. With respect to Verizon’s objection that the request seeks documents “outside the temporal scope of this proceeding,” the document requests served by Citizens were specifically limited to documents created on or after January 1, 2005. It is entirely appropriate to

request documents created a reasonable length of time before the rule violations at issue in this case because practices and procedures would likely have been set in place before 2007 that affect the number of violations in 2007 and 2008. Also, in order to show that the violations which occurred in 2007 and 2008 were willful, it is relevant to look at patterns of procedures and behavior set in place before 2007 and 2008. Such patterns of procedures and behavior would explain the reasons for the violations in 2007 and 2008, thereby showing that the violations were willful. With respect to the objection to sensitive personnel records maintained on a confidential basis, the provisions of Commission Rule 25-22.006 enable Verizon to claim confidentiality and obtain a protective order while producing the documents.

Document Request 8. Please provide a copy of all service quality measurement reports that Verizon has received each month from Verizon headquarters since January 1, 2007, that compares the service quality and customer satisfaction results for Verizon Florida as compared to other Verizon subsidiaries.

Verizon's Objection: Verizon objects to this request on the ground that the Commission lacks statutory authority to apply the service objectives in Rule 25-4.070 to price-regulated companies and to services that are subject to effective competition and therefore lacks jurisdiction over this proceeding. In addition, Verizon objects to this request on the grounds that it is overbroad and neither relevant nor reasonably calculated to lead to the discovery of admissible

evidence to the extent it seeks documents concerning (i) reports concerning the service quality and customer satisfaction results of other Verizon subsidiaries, (ii) reports that do not relate to Verizon's repair services, and (iii) reports outside the temporal scope of this proceeding.

Citizens' Response: Citizens adopt our Response in Opposition to Verizon's Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff's Response in Opposition to Verizon's Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, in response to Verizon's claim that the Commission lacks jurisdiction. Citizens will not object to restricting the scope of documents produced to Verizon's regulated Florida services that relate to Verizon's repair services. With respect to Verizon's objection that the request seeks documents "outside the temporal scope of this proceeding," the document requests served by Citizens were specifically limited to documents created on or after January 1, 2005. It is entirely appropriate to request documents created a reasonable length of time before the rule violations at issue in this case because practices and procedures would likely have been set in place before 2007 that affect the number of violations in 2007 and 2008. Also, in order to show that the violations which occurred in 2007 and 2008 were willful, it is relevant to look at patterns of procedures and behavior set in place before 2007 and 2008. Such patterns of procedures and behavior would explain the reasons for the violations in 2007 and 2008, thereby showing that the violations were willful.

Document Request 9. Please provide a copy of all Executive and higher management complaints received by Verizon from customers during year 2007 and 2008.

Verizon's Objection: Verizon objects to this request on the ground that the Commission lacks statutory authority to apply the service objectives in Rule 25-4.070 to price-regulated companies and to services that are subject to effective competition and therefore lacks jurisdiction over this proceeding. In addition, Verizon objects to this request on the grounds that it is overbroad, unduly burdensome, and neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks all complaints without limitation by subject matter to the allegations in this proceeding, and to the extent it concerns documents outside the temporal scope of this proceeding.

Citizens' Response: Citizens adopt our Response in Opposition to Verizon's Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff's Response in Opposition to Verizon's Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, in response to Verizon's claim that the Commission lacks jurisdiction. Citizens accept a limitation that the complaints should relate to repair services. With respect to Verizon's objection that the request seeks documents "outside the temporal scope of this proceeding," the document requests served by Citizens were specifically limited to documents created on or after January 1, 2005. It is entirely appropriate to request

documents created a reasonable length of time before the rule violations at issue in this case because practices and procedures would likely have been set in place before 2007 that affect the number of violations in 2007 and 2008. Also, in order to show that the violations which occurred in 2007 and 2008 were willful, it is relevant to look at patterns of procedures and behavior set in place before 2007 and 2008. Such patterns of procedures and behavior would explain the reasons for the violations in 2007 and 2008, thereby showing that the violations were willful.

Document Request 10. Please provide a copy of the Verizon strategic market plans originated since July 1, 2005, for years 2006, 2007, 2008 and 2009 that quantify or relate to the company's strategy on the deployment of FIOS or the replacement of basic service customers served by copper with fiber-based facilities, including any documents that relate to the conversion strategy for basic service customers to package plans or broadband service.

Verizon's Objection: Verizon objects to this request on the ground that the Commission lacks statutory authority to apply the service objectives in Rule 25-4.070 to price-regulated companies and to services that are subject to effective competition and therefore lacks jurisdiction over this proceeding. In addition, Verizon objects to this request on the grounds that it is overbroad and neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks documents concerning FiOS deployment strategy, any alleged customer conversion strategy, and other subjects outside the scope

of this proceeding, and to the extent it seeks documents outside the temporal scope of this proceeding.

Citizens' Response: Citizens adopt our Response in Opposition to Verizon's Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff's Response in Opposition to Verizon's Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, in response to Verizon's claim that the Commission lacks jurisdiction. Documents related to FiOS deployment strategy and any customer conversion strategy are directly relevant to this proceeding, since such strategies would explain why the rule violations committed by Verizon were willful. With respect to Verizon's objection that the request seeks documents "outside the temporal scope of this proceeding," the document requests served by Citizens were specifically limited to documents created on or after January 1, 2005. It is entirely appropriate to request documents created a reasonable length of time before the rule violations at issue in this case because practices and procedures would likely have been set in place before 2007 that affect the number of violations in 2007 and 2008. Also, in order to show that the violations which occurred in 2007 and 2008 were willful, it is relevant to look at patterns of procedures and behavior set in place before 2007 and 2008. Such patterns of procedures and behavior would explain the reasons for the violations in 2007 and 2008, thereby showing that the violations were willful.

Document Request 11. Please provide a copy of all Verizon FPSC “warm transfer” complaints received by the company since January 1, 2007, along with any associated documents describing the complaint and its resolution.

Verizon’s Objection: Verizon objects to this request on the ground that the Commission lacks statutory authority to apply the service objectives in Rule 25-4.070 to price-regulated companies and to services that are subject to effective competition and therefore lacks jurisdiction over this proceeding. In addition, Verizon objects to this request on the grounds that it is overbroad, unduly burdensome, and neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks all “warm transfer” complaints and associated documents without limitation by subject matter to the allegations in this proceeding, and to the extent it seeks documents outside the temporal scope of this proceeding.

Citizens’ Response: Citizens adopt our Response in Opposition to Verizon’s Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff’s Response in Opposition to Verizon’s Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, in response to Verizon’s claim that the Commission lacks jurisdiction. Citizens accept the limitation that the complaints be limited to complaints related to repair. With respect to Verizon’s objection that the request seeks documents “outside the temporal scope of this proceeding,” the document requests served by Citizens were specifically limited to documents created on or after January 1, 2005. It is entirely appropriate to request

documents created a reasonable length of time before the rule violations at issue in this case because practices and procedures would likely have been set in place before 2007 that affect the number of violations in 2007 and 2008. Also, in order to show that the violations which occurred in 2007 and 2008 were willful, it is relevant to look at patterns of procedures and behavior set in place before 2007 and 2008. Such patterns of procedures and behavior would explain the reasons for the violations in 2007 and 2008, thereby showing that the violations were willful.

Document Request 12. Please provide any documentation that exists in the form of a monthly report that contains the number of complaints including complaint categories that have been registered by customers with employees of the company (as opposed to regulatory complaints or higher management complaints) since January 1, 2007.

Verizon's Objection: Verizon objects to this request on the ground that the Commission lacks statutory authority to apply the service objectives in Rule 25-4.070 to price-regulated companies and to services that are subject to effective competition and therefore lacks jurisdiction over this proceeding. In addition, Verizon objects to this request on the grounds that it is overbroad, unduly burdensome, and neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks all complaints and complaint categories without limitation by subject matter to the allegations in this

proceeding, and to the extent it seeks documents outside the temporal scope of this proceeding.

Citizens' Response: Citizens adopt our Response in Opposition to Verizon's Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff's Response in Opposition to Verizon's Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, in response to Verizon's claim that the Commission lacks jurisdiction. With respect to Verizon's objection that the request seeks documents "outside the temporal scope of this proceeding," the document requests served by Citizens were specifically limited to documents created on or after January 1, 2005. It is entirely appropriate to request documents created a reasonable length of time before the rule violations at issue in this case because practices and procedures would likely have been set in place before 2007 that affect the number of violations in 2007 and 2008. Also, in order to show that the violations which occurred in 2007 and 2008 were willful, it is relevant to look at patterns of procedures and behavior set in place before 2007 and 2008. Such patterns of procedures and behavior would explain the reasons for the violations in 2007 and 2008, thereby showing that the violations were willful. Citizens accept a limitation on the scope of documents produced to repair.

Document Request 13. Please provide a copy of the year-end head counts of actual and equivalent employees (if available) for each operational

entity in Florida and the total for Verizon Florida since December 31, 2005 and each year thereafter.

Verizon's Objection: Verizon objects to this request on the ground that the Commission lacks statutory authority to apply the service objectives in Rule 25-4.070 to price-regulated companies and to services that are subject to effective competition and therefore lacks jurisdiction over this proceeding. In addition, Verizon objects to this request because the term "each operational entity in Florida" is vague and ambiguous. Verizon further objects to this request on the grounds that it is overbroad, unduly burdensome, and neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks documents outside the temporal scope of this proceeding.

Citizens' Response: Citizens adopt our Response in Opposition to Verizon's Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff's Response in Opposition to Verizon's Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, in response to Verizon's claim that the Commission lacks jurisdiction. With respect to Verizon's objection that the request seeks documents "outside the temporal scope of this proceeding," the document requests served by Citizens were specifically limited to documents created on or after January 1, 2005. It is entirely appropriate to request documents created a reasonable length of time before the rule violations at issue in this case because practices and procedures would likely have been set in place before 2007 that affect the number of violations in 2007 and 2008. Also, in

order to show that the violations which occurred in 2007 and 2008 were willful, it is relevant to look at patterns of procedures and behavior set in place before 2007 and 2008. Such patterns of procedures and behavior would explain the reasons for the violations in 2007 and 2008, thereby showing that the violations were willful. It is necessary to obtain documents about the number of employees by operational entity, such as repair, network operations, construction, installation and maintenance, because such comparisons will show changing resource allocations within the company. This is relevant to the issue of whether the violations were willful.

Document Request 14. Please provide a copy of all documents that relate to any Verizon policy or proposed policies that would shift resources from basic service customers to FIOS customers, or propose to degrade basic service quality in order to migrate those customers to FIOS.

Verizon's Objection: Verizon objects to this request on the ground that the Commission lacks statutory authority to apply the service objectives in Rule 25-4.070 to price-regulated companies and to services that are subject to effective competition and therefore lacks jurisdiction over this proceeding. In addition, Verizon objects to this request because it is vague, ambiguous in that it is not clear what OPC means by the term "policies that would shift resources from basic service customers to FiOS customers." Verizon further objects to this request on the grounds that it is overbroad, unduly burdensome, and neither relevant nor reasonably calculated to lead to the discovery of admissible

evidence to the extent it seeks documents outside the temporal scope of this proceeding.

Citizens' Response: Citizens adopt our Response in Opposition to Verizon's Motion to Bifurcate Proceeding and Suspend Discovery, as well as Prosecutorial Staff's Response in Opposition to Verizon's Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues, in response to Verizon's claim that the Commission lacks jurisdiction. With respect to Verizon's objection that the request seeks documents "outside the temporal scope of this proceeding," the document requests served by Citizens were specifically limited to documents created on or after January 1, 2005. It is entirely appropriate to request documents created a reasonable length of time before the rule violations at issue in this case because practices and procedures would likely have been set in place before 2007 that affect the number of violations in 2007 and 2008. Also, in order to show that the violations which occurred in 2007 and 2008 were willful, it is relevant to look at patterns of procedures and behavior set in place before 2007 and 2008. Such patterns of procedures and behavior would explain the reasons for the violations in 2007 and 2008, thereby showing that the violations were willful. Citizens are willing to limit the scope of the request to eliminate any reference to a company strategy designed to degrade basic service in order to accelerate migration to FIOS. Further, Citizens clarify this request to relate specifically to any budget or operations directives that relate to a corporate plan that would result in the transfer employee headcounts from providing service

from basic residential and business wireline operations to FIOS installation, maintenance or repair.

WHEREFORE, Citizens respectfully request the Prehearing Officer to issue an order requiring Verizon Florida LLC (Verizon) to produce each of the documents requested by the Citizens First Set of Requests for Production of Documents to Verizon (Nos. 1-14) dated January 28, 2009 as set forth in this motion.

Respectfully submitted,

s/ Charlie Beck
Charlie Beck
Deputy Public Counsel

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CERTIFICATE OF SERVICE

I, **HEREBY CERTIFY** that a true and correct copy of Citizens' First Motion to Compel has been furnished by electronic mail and U.S. Mail on this 19th day of March, 2009, to the following:

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