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March 26, 2009 – **VIA ELECTRONIC MAIL**

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

Re: Docket No. 080278-TL  
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

Dear Ms. Cole:

Enclosed for filing in the above matter is Verizon Florida LLC’s Response to Citizens’  
First Motion to Compel Production of Documents. Service has been made as indicated  
on the Certificate of Service. If there are any questions regarding this filing, please  
contact me at 678-259-1449.

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: Joint Petition for show cause proceedings ) Docket No. 080278-TL  
against Verizon Florida LLC for apparent violation of ) Filed: March 26, 2009  
Rule 25-4.070, F.A.C., service availability, and )  
impose fines, by the Office of the Attorney General, )  
Citizens of the State of Florida, and AARP )  
\_\_\_\_\_ )

**VERIZON FLORIDA LLC'S RESPONSE TO CITIZENS'  
FIRST MOTION TO COMPEL PRODUCTION OF DOCUMENTS**

Verizon Florida LLC ("Verizon") opposes the First Motion to Compel Production of Documents ("Motion to Compel") filed by the Citizens of the State of Florida ("Citizens"). In Verizon's Motion to Modify Order Establishing Procedure, Bifurcate Proceeding and Suspend Discovery Not Related to Jurisdictional Issues ("Motion to Bifurcate"), Verizon has requested among other things that the Commission suspend discovery on nonjurisdictional matters and issue a protective order concerning outstanding discovery requests, including Citizens' First Set of Requests for Production of Documents ("Document Requests"). For the reasons explained in the Motion to Bifurcate, the Motion to Compel should be denied. If, however, the Commission does not deny the Motion to Compel in any respect, any required production should be made subject to the general and specific objections Verizon has raised.

**I. Background**

This case involves allegations in Commission Order No. PSC-09-0015-SC-TL concerning Verizon's repair service during 2007 and the first nine months of 2008. Verizon responded to the Order on January 26, 2009, denying the allegations and disputing the Commission's authority to apply the service repair objectives in question to a price-regulated company like Verizon. Shortly after Verizon filed its response, Citizens served

their Document Requests. On March 4, Verizon served timely objections and filed its Motion to Bifurcate in which it requested a protective order concerning the Discovery Requests. On the same day, Citizens moved to convene a scheduling conference, which Verizon did not oppose, and the Hearing Officer subsequently issued an order scheduling the preliminary conference for April 6. Citizens filed their Motion to Compel on March 19.

## **II. The Commission Should Not Allow Discovery to Proceed While Threshold, Dispositive Jurisdictional Issues Are Pending**

In its Motion to Bifurcate, Verizon noted that the threshold jurisdictional issue in this case is whether the Commission has the authority to apply service quality objectives to price-regulated carriers for the period in question. Verizon explained that none of the statutory provisions listed in Rule 25-4.070 authorizes service quality regulation of any sort for price-regulated companies, and that the jurisdictional issues are therefore dispositive. Because Verizon has raised serious jurisdictional issues, it requested that they be addressed first and that discovery concerning nonjurisdictional issues be suspended. For the same reason, the Motion to Compel should be denied because the Discovery Requests ask for the production of documents relating to nonjurisdictional issues only.

## **III. Verizon Has Asserted Valid General Objections**

Citizens take issue with Verizon's use of general objections, but nothing in the Commission's rules or orders precludes the use of general objections, and indeed asserting such objections is common practice. See, e.g., Order No. PSC-03-0223-PCO-TP and Order No. PSC-02-1613-PCO-GU (prior proceedings in which parties availed themselves of general objections without any Commission preclusion or prohibition concerning such use). Citizens' request that Verizon's general objections be rejected therefore should be denied.

To the extent any required production is required, it should be made subject to the general objections.

#### **IV. Verizon Has Asserted Valid Specific Objections**

Verizon has noted its specific objections to each of the Document Requests. For the reasons explained below, Verizon's specific objections should be upheld. For the Hearing Officer's reference, Verizon provides below each Document Request, Verizon's specific objections, Citizens' Response and Verizon's reply.

**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.

**Verizon's Reply:** For the reasons stated in its Motion to Bifurcate, Verizon should not be required to produce documents in response to this request. Further, Citizens' proposed limitation of its request to "a search of the files of employees reasonably expected to have information responsive to these document requests" is of little help because of the enormous breadth of the request. For example, taken literally, this request would require Verizon to produce every e-mail describing an individual repair involving the clearance of an out-of-service trouble report. Producing such documents would be extremely

burdensome and wasteful. To the extent any production is required, it should be limited to management reports assessing Verizon's out-of-service repair performance generally. Further, the scope of production should be limited to the period January 1, 2005 to September 30, 2008.

**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.

**Verizon's Reply:** For the reasons stated in its Motion to Bifurcate, Verizon should not be required to produce documents in response to this request. Further, Citizens' proposed limitation of its request to "a search of the files of employees reasonably expected to have information responsive to these document requests" is of little help because of the enormous breadth of the request. For example, taken literally, this request would require Verizon to produce every e-mail describing an individual repair involving the clearance of a service-affecting trouble report. Producing such documents would be extremely burdensome and wasteful. To the extent any production is required, it should be limited to management reports assessing Verizon's service-affecting repair performance generally. Further, the scope of production should be limited to the period January 1, 2005 to September 30, 2008.

**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.

**Verizon's Reply:** For the reasons stated in its Motion to Bifurcate, Verizon should not be required to produce documents in response to this request. Further, Citizens fail to rebut Verizon's relevance objection, which is that several of the documents that are part of the docket described in Request 3 pertain to sales incentive programs, sales call monitoring, ethics training, and metrics not at issue in this proceeding. In particular, many of the documents produced in response to Commission Staff's April 22, 2008 data requests relate to Business Office answer time, Repair Center answer time, service orders of all types, consumer complaints involving billing and other extraneous matters, and other issues that have no relevance to this case. Citizens are not entitled to conduct a fishing expedition. Accordingly, any required production should be limited to Verizon's responses to Staff's

April 22, 2008 data requests and the documents attached in response to requests 1(b), 2(b) and 4.

**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.

**Verizon's Reply:** For the reasons stated in its Motion to Bifurcate, Verizon should not be required to produce documents in response to this request. To the extent any production is required, it should be limited to reports created and distributed on a systematic basis that address repair service quality or performance measurements. Further, the scope of production should be limited to the period January 1, 2005 to September 30, 2008.

**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.

**Verizon's Reply:** For the reasons stated in its Motion to Bifurcate, Verizon should not be required to produce documents in response to this request. To the extent any production is required, it should be limited to budgets made and distributed on a systematic basis that address O&M, repair and installation (to the extent it relates to O&M and repair). Further, the scope of production should be limited to the period January 1, 2005 to September 30, 2008.

**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.

**Verizon's Reply:** For the reasons stated in its Motion to Bifurcate, Verizon should not be required to produce documents in response to this request. To the extent any production is required, it should be limited to budget variance reports made and distributed on a systematic basis that address O&M, repair and installation (to the extent it relates to O&M and repair). Further, the scope of production should be limited to the period January 1, 2005 to September 30, 2008.

**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.

**Verizon's Reply:** For the reasons stated in its Motion to Bifurcate, Verizon should not be required to produce documents in response to this request. To the extent any production is

required, it should be limited to documents concerning repair operations and installation operations (to the extent they relate to repair operations). Further, the scope of production should be limited to the period January 1, 2005 to September 30, 2008.

**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.

**Verizon's Reply:** For the reasons stated in its Motion to Bifurcate, Verizon should not be required to produce documents in response to this request. Moreover, Citizens' response fails to address Verizon's relevance objection to providing reports comparing its service quality and customer satisfaction results to other Verizon subsidiaries. Citizens' request seeks reports comparing Verizon's performance in Florida to the performance of Verizon's affiliates in other states, which can have no possible bearing on the issues in this case. The circumstances in each state are different, making such comparisons meaningless. Production therefore should not be required. Verizon also stands on its objection that this request asks for the production of documents outside the temporal scope of this proceeding.

**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.

**Verizon's Reply:** For the reasons stated in its Motion to Bifurcate, Verizon should not be required to produce documents in response to this request. To the extent any production is required, it should be limited to complaints relating to repair services from January 1, 2007 to September 30, 2008.

**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.

**Verizon's Reply:** For the reasons stated in its Motion to Bifurcate, Verizon should not be required to produce documents in response to this request. Moreover, Citizens fails to explain how Verizon's strategic market plans for FiOS deployment or any alleged customer conversion strategy could possibly be relevant to Verizon's repair performance. Citizens claim that those plans could demonstrate willfulness, but make no attempt to demonstrate why that is so. Because Verizon's FiOS strategic market plans are highly sensitive, their production should not be required without a strong showing of necessity. Such a showing is completely lacking here and production therefore should not be required. Verizon also stands on its objection that this request asks for the production of documents outside the temporal scope of this proceeding.

**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.

**Verizon's Reply:** For the reasons stated in its Motion to Bifurcate, Verizon should not be required to produce documents in response to this request. To the extent any production is required, it should be limited to complaints related to repair service from January 1, 2007 to September 30, 2008.

**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.

**Verizon's Reply:** For the reasons stated in its Motion to Bifurcate, Verizon should not be required to produce documents in response to this request. To the extent any production is required, it should be limited to complaints related to repair service from January 1, 2007 to September 30, 2008.

**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.

**Verizon's Reply:** For the reasons stated in its Motion to Bifurcate, Verizon should not be required to produce documents in response to this request. To the extent any production is required, it should be limited to documents relating to headcounts of repair technicians and other groups of employees who are capable of performing repair service. Providing headcounts for call center employees, for example, could have no possible relevance to this case, and should not be required. Further, the scope of production should be limited to the period January 1, 2005 to September 30, 2008.

**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.

**Verizon's Reply:** For the reasons stated in its Motion to Bifurcate, Verizon should not be required to produce documents in response to this request. To the extent any production is

required, it should be limited as described in the last two sentences of Citizens' response. Further, the scope of production should be limited to the period January 1, 2005 to September 30, 2008.

#### **IV. CONCLUSION**

For the foregoing reasons, Verizon respectfully requests that the Motion to Compel be denied.

Respectfully submitted on March 26 2009.

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## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that copies of the foregoing were sent via electronic mail on March 26, 2009 to:

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