

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 DIRECT TESTIMONY

3 OF

4 MICHAEL R. HUNSUCKER

5
6
7 Q. Please state your name and business address.

8
9 A. My name is Michael R. Hunsucker. I am Director-
10 Regulatory Policy, for Sprint Corporation. My
11 business address is 6360 Sprint Parkway, Overland
12 Park, Kansas 66251.

13
14 Q. Please describe your educational background and work
15 experience.

16
17 A. I received a Bachelor of Arts degree in Economics and
18 Business Administration from King College in 1979.

19
20 I began my career with Sprint in 1979 as a Staff
21 Forecaster for Sprint/United Telephone - Southeast
22 Group in Bristol, Tennessee, and was responsible for
23 the preparation and analysis of access line and minute
24 of use forecasts. While at Southeast Group, I held

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1 various positions through 1985 primarily responsible
2 for the preparation and analysis of financial
3 operations budgets, capital budgets and Part 69 cost
4 allocation studies. In 1985, I assumed the position
5 of Manager - Cost Allocation Procedures for Sprint
6 United Management Company and was responsible for the
7 preparation and analysis of Part 69 allocations
8 including systems support to the 17 states in which
9 Sprint/United operated. In 1987, I transferred back
10 to Sprint/United Telephone - Southeast Group and
11 assumed the position of Separations Supervisor with
12 responsibilities to direct all activities associated
13 with the jurisdictional allocations of costs as
14 prescribed by the FCC under Parts 36 and 69. In 1988
15 and 1991, respectively, I assumed the positions of
16 Manager - Access and Toll Services and General Manager
17 - Access Services and Jurisdictional Costs responsible
18 for directing all regulatory activities associated
19 with interstate and intrastate access and toll
20 services and the development of Part 36/69 cost
21 studies including the provision of expert testimony as
22 required.

23

1 In my current position as Director - Regulatory Policy
2 for Sprint/United Management Company, I am responsible
3 for developing state and federal regulatory policy and
4 legislative policy for Sprint's Local
5 Telecommunications Division. Additionally, I am
6 responsible for the coordination of regulatory/
7 legislative policies with other Sprint business units.

8

9 Q. Have you previously testified before state Public
10 Service Commissions?

11

12 A. Yes. I have previously testified before state
13 regulatory commissions in South Carolina, Florida,
14 Illinois, Pennsylvania, Nebraska, Georgia, Maryland
15 and North Carolina.

16

17 Q. What is the purpose of your testimony?

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19 A. The purpose of my testimony is to provide Sprint's
20 response to Issue 3 - Are certain provisions of the
21 contract: a) in conflict with decisions of the FCC or
22 the Commission, promulgated subsequent to the
23 execution of the Agreement; or b) rendered
24 insufficiently clear to be effectuated as a result of

1 subsequent invalidation of the FCC's rules or orders
2 that were in effect at the time the Agreement was
3 entered into?

4

5 Q. What are the appropriate sections of the contract that
6 provide the basis for Sprint's assertion that certain
7 provisions of the contract are in conflict with
8 current FCC or Commission rules and regulations?

9

10 A. Part A, Section 2.2 on the contract states:

11 "In the event the FCC or the Commission promulgates
12 rules or regulations or issue orders, or a court with
13 appropriate jurisdiction issues orders which conflict
14 with or make unlawful any provision of this Agreement,
15 the Parties shall negotiate promptly and in good faith
16 in order to amend the Agreement to substitute contract
17 provisions which are consistent with such rules,
18 regulations, or orders."

19

20 In addition, Part A Section 6 provides that in the
21 event any rules or regulations are held invalid, the
22 Parties shall promptly renegotiate any provisions of
23 the Agreement, which in the absence of such

1 invalidated rule or regulation, are insufficiently
2 clear to be effectuated.

3

4 **Q. Please overview your role in the negotiation and**
5 **arbitration of the interconnection Agreement between**
6 **Sprint and MCImetro?**

7

8 **A. At the point in time that this contract was being**
9 negotiated, I was responsible for the development of
10 Sprint regulatory and legislative policy, just as I am
11 today. My role was to support the lead negotiators in
12 the negotiations process by reviewing specific
13 contract language to make a determination of whether
14 the language was consistent with the Telecom Act and
15 the FCC's rules and also whether the language was
16 consistent with Sprint's regulatory positions on the
17 issues.

18

19 I was also Sprint's witness in the arbitration between
20 the two parties before this Commission.

21

22 **Q. In regards to Part A, Section 2.2 of the contract,**
23 **please explain Sprint's position relative to the term**
24 **"in conflict".**

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A. Sprint asserts that the term "in conflict" means inconsistent with. Sprint asserts that Section 2.2, when read as a whole would lead one to no other interpretation of the meaning of "in conflict" except "inconsistent with". The first part of the section uses the words "conflict with or make unlawful". The key conjunction used in this sentence is "or". Thus a provision can either "conflict with" or be "unlawful". There is no requirement that the provision of the contract must be both - it is simply an either or standard. Additionally, the second part of the sentence places a clear requirement on both parties to act "in good faith in order to amend the Agreement to substitute contract provisions which are consistent with such rules, regulations, or orders." The defining words that establish the intent of the provision are "consistent with". Thus, the parties, both MCImetro and Sprint, are required to make changes to the sections of the Agreement that are not consistent with the rules, regulations, or orders of the FCC and/or the Commission. It is very evident that when Section 2.2 is read, in whole, that the term "conflict with" should be interpreted as "inconsistent

1 with" as was clearly Sprint's intent when negotiating
2 the contract.

3

4 Q. MCImetro asserts in their Complaint that the change in
5 law required under Section 2.2 is that "there is a
6 conflict with the law only if it is impossible both to
7 obey the law and to perform the contract." Do you
8 agree with this interpretation?

9

10 A. No, I do not. As discussed above, the intent of
11 Section 2.2 was to require both parties to make
12 changes to the contract based upon the promulgation of
13 rules, regulations and orders that are inconsistent
14 with the original contract. Section 2.2 of the
15 Agreement contains no language regarding obeying the
16 law or contract performance. In fact, based upon
17 MCImetro's interpretation, there would have been no
18 need for the provision to be in the contract as it
19 would be highly unlikely that any provision of the
20 contract would ever be deemed unlawful and incapable
21 of being provided. This result is the logical outcome
22 of MCI's position because both the FCC and this
23 Commission have consistently held that parties are
24 free to negotiate mutually agreeable contract terms

1 that differ from the generic rules and orders of the
2 FCC or the Commission.

3
4 In addition, under MCImetro's interpretation, no
5 decision by this Commission would have any effect on
6 the Agreement unless the Commission specifically
7 stated that the provision was unlawful. This
8 interpretation would nullify the effect of Commission
9 decisions in many generic proceedings that have been
10 rendered or are under consideration by this
11 Commission, including the generic collocation docket,
12 the generic reciprocal compensation docket, the
13 generic performance measurements docket, and the UNE
14 pricing docket. MCImetro has previously taken the
15 position in dockets before this Commission that the
16 Commission has the authority to render generic
17 decisions that govern the relationships of all ILECs
18 and ALECS in Florida.

19

20 Q. Has this Commission ever issued an order that
21 superseded an existing interconnection agreement?

22

23 A. Yes. In Order No. PSC-99-1744-PAA-TP, in Dockets No.
24 981834-TP and 990321-TP, the Commission specifically

1 required that "the timeframes contained in these
2 procedures shall supersede time frames that may be
3 contained in current collocation agreements in
4 Florida...". However, under MCImetro's interpretation
5 of the change of law provisions in the Parties'
6 interconnection Agreement, a question would still
7 remain, that is, is the provision in the existing
8 Agreement unlawful and, if not, thus unaffected by the
9 Commission's decision. This is hardly the outcome
10 that the Commission intended, yet, MCImetro's
11 interpretation of the change in law provision would
12 force this result. Clearly, this result was never
13 intended by either party in the development of the
14 interconnection Agreement.

15

16 **Q. From a regulatory policy perspective, how did Sprint**
17 **approach the negotiations process under the Telecom**
18 **Act and the FCC's rules?**

19

20 **A.** Sprint has always sought to negotiate interconnection
21 agreements within a given regulatory frame work - that
22 is, Sprint has fully recognized the existing rules and
23 regulations but has always been aware that these rules
24 and regulations would change over time. Therefore, it

1 has always been important that Sprint include change
2 of law provisions in the contract sufficient to
3 require conformance of the contract to the changing
4 rules and regulations. Sprint approached negotiations
5 of the Agreement with MCImetro within this same
6 regulatory frame work.

7

8 In addition, Sprint is both an ILEC and an ALEC and
9 Sprint was fully aware that this meant that sometimes
10 the changes would be favorable to Sprint as an ILEC
11 and sometimes the changes would be unfavorable to
12 Sprint as an ILEC. The direction of the change did
13 not matter, however, as the goal was to recognize that
14 amendments reflecting regulatory changes should be
15 made to the contract, and to ensure that such changes
16 could be made to the contract by either party.

17

18 Q. Was it Sprint's intent that the Parties' Agreement be
19 a never ending agreement with the ability to modify
20 the terms of the Agreement residing solely with MCI?

21

22 A. No. As explained above, Sprint intended that the
23 change of law provisions would provide either party an
24 opportunity to initiate changes to the Agreement to

1 reflect the changing regulatory environment.
2 MCImetro's interpretation would allow it unfettered
3 discretion to require Sprint to amend the Agreement to
4 adopt only those changes that are favorable to
5 MCImetro, while forever foreclosing Sprint from
6 incorporating those changes that might be favorable to
7 Sprint. Because of the Most Favored Nation
8 requirements imposed on ILECs by section 252(i) of the
9 Act, discussed in more detail later in my testimony,
10 this interpretation would essentially bind Sprint
11 forever in its relationship with all ALECs in Florida
12 to contract provisions that have been made otherwise
13 irrelevant or obsolete through regulatory or industry
14 evolution.

15
16 Q. What services is MCImetro purchasing from Sprint under
17 the existing contract?

18
19 A. As contained in the testimony of John Clayton,
20 MCImetro has placed 60 orders with Sprint in Florida.
21 58 of the orders have been for local number
22 portability while the remaining two were for directory
23 listings. The only other service between the two
24 parties is the mutual exchange of traffic.

1

2 Q. Based on your assessment, what business risk does
3 MCImetro face through the termination of the existing
4 contract?

5

6 A. While I do not have access to MCImetro's business
7 plans, based on the number of orders placed with
8 Sprint under the existing contract, it is my opinion
9 that there is limited business risk to MCImetro by
10 termination of the existing contract.

11

12 Q. Would you agree that Sprint also faces limited
13 business risks?

14

15 A. Absolutely not. The existing Agreement with MCImetro
16 is a comprehensive agreement that provides for resale,
17 unbundled network elements and reciprocal
18 compensation. There are numerous provisions in the
19 contract that are inconsistent with FCC and/or
20 Commission rules and regulations. Section 252(i) of
21 the Telecom Act allows carriers other than MCImetro to
22 employ a Most Favored Nations (MFN) regulation whereby
23 they can opt-in to the MCImetro contract. If Sprint
24 is required to provide service to MCImetro under a

1 contract that is inconsistent with the FCC's and/or
2 Commission's rules, any other carrier providing
3 service in Sprint's territory can operate under the
4 outdated terms of the contract simply by notifying
5 Sprint that they wish to use the MFN to opt-in to the
6 MCImetro contract. This places substantial risk on
7 Sprint as an ILEC in the state of Florida. In
8 addition, Sprint's ILEC will potentially have to make
9 services available to competitors in a manner that
10 Sprint's ALEC will not be able to enjoy from other
11 ILECs in the state. This clearly places Sprint in a
12 lose-lose situation, as an ILEC and an ALEC, and
13 creates substantial business risk.

14

15 Q. Please provide an overview of significant changes to
16 the FCC's and/or Commission's rules and regulations
17 that have occurred since the inception of the
18 contract?

19

20 A. Sprint has identified several provisions that it
21 believes are in conflict or inconsistent with
22 subsequent regulatory or judicial actions or have been
23 rendered insufficiently clear to be effectuated as a
24 result of the invalidation of certain FCC rules. These

1 provisions and the basis for Sprint's request for
2 renegotiation are enumerated in the matrix attached to
3 Sprint's May 24, 2001 letter to MCI (See Exhibit ____,
4 JC- 5, attached to John Clayton's Direct Testimony).

5
6 On July 18, 2000, in Iowa Utilities Board v. FCC, **
7 F.3rd **, (8th Cir. 2000), the 8th Circuit Court of
8 Appeals affirmed its decision to vacate FCC Rules
9 51.315 (c)-(f), which required ILECs to combine network
10 elements at a CLEC's request subject only to technical
11 feasibility requirements. The 8th Circuit decision was
12 issued subsequent to the execution of the Agreement. As
13 a result of the 8th Circuit decision, ILECs are only
14 required to not separate network elements; the network
15 element combinations that ILECs are required to provide
16 are limited. Several provisions of the Agreement
17 related to the provisioning of unbundled network
18 elements conflict with the 8th Circuit Court decision
19 or are insufficiently clear and therefore cannot be
20 effectuated as a result of the decision.

21
22 As stated on Sprint's matrix provided to MCImetro
23 (Exhibit ____, JC- 5, attached to John Clayton's Direct
24 Testimony), provisions that should be renegotiated
25 based on Sections 2.2 and 6 of the Agreement include

1 the definition of ☐ Combinations☐ and Section 2.5 of
2 Attachment III.

3
4 The term ☐ combinations☐ is defined in Part B of the
5 Agreement as the ☐ provision by Sprint of two (2) or
6 more connected Network Elements ordered by MCIIm to
7 provide its Telecommunications Services in a geographic
8 area or to a specific subscriber and that are placed on
9 the same order by MCIIm.☐ This definition clearly goes
10 beyond the current requirement not to separate network
11 elements by requiring Sprint to combine any elements
12 MCIIm places on the same order. The Florida Commission
13 has affirmed the FCC requirements regarding an ILEC's
14 obligation to combine UNEs in resolving several
15 arbitration petitions. While it is true that neither
16 the FCC or the FPSC has prohibited an ILEC from
17 entering into a voluntary agreement with an ALEC to
18 combine UNEs beyond what is required by the Act, for an
19 agreement to be voluntary, it must be based on a full
20 understanding of the applicable laws and rules. At the
21 time Sprint and MCIImetro entered into their
22 interconnection agreement, the FCC rules requiring
23 ILECs to combine UNEs at an ALEC's request were still
24 in effect, although subject to challenge. It was
25 exactly to accommodate the ultimate outcome of this
26 challenge and other subsequent judicial or regulatory
27 decisions that the change of law provisions in the

1 Agreement were designed to address. Because the
2 Agreement language conflicts with, and is therefore not
3 consistent with, current FCC rules and regulations
4 regarding UNE combinations, the Parties should engage
5 in good faith negotiations to amend the Agreement as
6 contemplated by Sections 2.2 and 6.

7
8 The 8th Circuit Court of Appeals vacated subsections
9 (c) through (f) of Rule 51.315 because it determined
10 that requiring the ILEC to perform the functions
11 necessary to combine unbundled network elements was
12 inconsistent with 47 U.S.C. 251(c)(3). However,
13 Section 2.5 of Attachment III of the Agreement, states
14 that [w]here Sprint provides combined Network
15 Elements . . . Sprint shall perform, at its expense,
16 any work necessary to interconnect such Network
17 Elements. *Iowa Util. Bd. v. FCC*, ** F.3rd **, (8th
18 Cir. 2000). This provision of the Agreement goes
19 beyond existing rules 51.315(a) and (b) and is not
20 consistent with current law.

21
22 Another flaw with the Agreement is that it does not
23 address the specific combination recognized by the FCC
24 as the UNE platform (UNE-P). Sprint's standard
25 agreement contains provisions that specify the terms
26 and conditions for UNE-P. The specific elements that
27 constitute UNE-P are listed. The standard agreement

1 also contains language that addresses ordering and
2 provisioning requirements for UNE-P. There are
3 additional references to combinations scattered
4 throughout the Agreement that should be modified, such
5 as Section 1.2 in Part A and Section 2.4 in Attachment
6 III.

7
8 In the Iowa Utilities Board decision the 8th Circuit
9 also vacated FCC Rules 51.205 (a) (4) and 51.311 (c)
10 requiring ILECs to provide superior service quality at
11 a CLEC's request. Provisions in the Agreement related
12 to the service quality to be provided by Sprint to MCI
13 conflict with the 8th Circuit decision and remaining
14 FCC rules related to service quality. The Agreement
15 states that Sprint will provide Network Elements and
16 the connections between Network Elements on a priority
17 basis ¶ that is equal to or better than the priorities
18 Sprint provides to itself, Sprint's own subscribers, to
19 a Sprint Affiliate or to any other entity.¶ The 8th
20 Circuit stated that ¶ [n]othing in the statute requires
21 the ILECs to provide superior quality interconnection
22 to its competitors.¶ *Iowa Util. Bd. v. FCC*, ** F.3rd
23 **, (8th Cir. 2000). The provisions of the Agreement
24 are no longer consistent with the FCC rules which
25 require that the ILEC provide interconnection,
26 unbundled network elements and access to unbundled
27 network elements at a level of quality that is at least

1 equal in quality to that which the incumbent LEC
2 provides to itself. 47 C.F.R. 51.305(a)(3) and
3 51.311(b).

4
5 On January 25, 1999, in AT&T v. Iowa Utilities Board,
6 119 S.Ct. 721 (1999), the U.S. Supreme Court
7 invalidated FCC rules related to the network elements
8 an ILEC must unbundle for provisioning to CLECs in
9 accordance with the Act. On November 5, 1999, the FCC
10 issued the Third Report and Order in Docket No. 96-98
11 (UNE Remand Order) in response to the U.S. Supreme
12 Court decision, which revised the list of network
13 elements ILECs are required to provide on an unbundled
14 basis to requesting CLECs. The Supreme Court decision
15 and the UNE Remand Order were issued subsequent to the
16 execution of the Agreement. Several provisions of the
17 Agreement related to the provisioning of unbundled
18 network elements conflict with the UNE Remand Order or
19 are insufficiently clear and therefore cannot be
20 effectuated as a result of the Supreme Court decision
21 and subsequent FCC Order.

22
23 For example, the FCC limited an ILEC's obligation to
24 provide operator services and directory assistance on
25 an unbundled basis to only those areas where the ILEC
26 does not provide customized routing. 47 C.F.R. 319(f).

1 However, the Agreement does not reflect this limitation
2 in Section 6.2.2 and 6.2.3 of Attachment VIII.

3
4 The FCC also modified rule 51.319(c) regarding the
5 ILECs obligation to provide local switching in the UNE
6 Remand Order. The ILEC is not required to provide
7 local switching in the top 50 Metropolitan Statistical
8 Areas in density zone 1 if the CLEC serves end-users
9 with four or more voice grade equivalents or lines
10 provided the ILEC provides access to combinations of
11 unbundled loops and transport (Enhanced Extended Links
12 or EELs). The provisions of the Agreement pertaining to
13 unbundled local switching in Section 7 of Attachment
14 III, do not contain these limitations. Nor does the
15 Agreement contain language to address provisioning
16 EELs.

17
18 On March 31, 1999, the FCC issued its First Report and
19 Order in Docket No. 98-147, (Advanced Services
20 Order), which sets forth numerous requirements
21 relating to an ILEC's provisioning of collocation space
22 to a requesting CLEC. On August 10, 2000, the FCC
23 issued its Order on Reconsideration in Docket No. 98-
24 147 containing additional requirements relating to the
25 provisioning of collocation. In December 1999 and May
26 2000 the Florida Commission also issued Order No. PSC-
27 99-1744-PAA-TP and Order No. PSC-00-0941-FOF-TP,

1 respectively, setting forth generic collocation
2 policies applicable to an ILEC's provisioning of
3 collocation space to CLECs in Florida. All of these
4 decisions were issued subsequent to the execution of
5 the Agreement. Several provisions of the Agreement
6 relating to the provisioning of collocation space
7 conflict with the FCC and Commission collocation
8 orders. In addition, several requirements of the FCC
9 and Commission collocation orders are not addressed in
10 the Agreement.

11
12 On March 17, 2000, the D.C. Circuit Court of Appeals
13 issued a decision in GTE v. FCC, 205 F.3d 416 (D.C.
14 Cir. 2000), vacating certain of the FCC rules relating
15 to collocation. The Agreement's provisions conflict
16 with the D.C. Circuit Court opinion regarding ILEC
17 provisioning of collocation space or are insufficiently
18 clear and therefore cannot be effectuated as a result
19 of the decision.

20
21 Specifically, the affected provisions relating to
22 collocation are found in Sections 2.3, 2.4, 2.5 and
23 2.23 of Attachment V of the Agreement.

24
25 The FCC clarified that the ILEC could not require
26 security escort, as specified in Section 2.3 of the
27 Agreement. However, the FCC implemented rules in its

1 March 31, 1999 Order, 51.323(i)(1)-(3), that permit
2 ILECs to impose reasonable security measures. The
3 Agreement is inconsistent with the FCC rules and order.

4
5 The D.C. Court of Appeals vacated the FCC's March 31,
6 1999 Order as to the FCC's interpretation of
7 ¶ necessary¶ and ¶ physical collocation.¶ Since the
8 Court's decision, the FCC has issued its Fourth Report
9 and Order, CC Docket No. 98-147, FCC 01-204, released
10 August 8, 2001. The Order further modifies the FCC's
11 collocation rules in particular and addresses the type
12 of equipment that may be collocated and the ability of
13 CLECs collocated in the ILEC's office to connect their
14 equipment. This order was published in the Federal
15 Register on August 20, 2001 and is now effective. The
16 provisions of the Agreement should be reviewed in light
17 of this decision.

18
19
20 On January 10, 2000, the FCC adopted Rule 51.233
21 related to CLEC degradation of service caused by the
22 deployment of advanced services. This rule was adopted
23 subsequent to the execution of the Agreement. Certain
24 provisions of the Agreement conflict with the FCC
25 interference rules. Specifically, provisions in
26 Attachment III of the Agreement, including sections
27 4.11, 4.4.2.3, and 6.3, address line conditioning in a

1 manner that conflicts with Rule 51.233. The Agreement
2 in Section 4.1.1 of Attachment III states that if
3 MCImetro uses a loop to provide a service that
4 interferes with other services the parties will
5 mutually agree upon a process to resolve the issue.
6 FCC rules 51.232 and 51.233 address the deployment of
7 advanced services and define the process to be followed
8 where a service degrades the performance of other
9 services. The parties should include provisions
10 implementing the FCC's deployment parameters and
11 process into their agreement.

12
13 On January 19, 2001 the FCC issued Order No. 01-26, in
14 Docket No. 98-147, relating to the deployment of
15 advanced services. This decision was issued subsequent
16 to the execution of the Agreement. Certain provisions
17 of the Agreement conflict with the FCC's Order.

18
19 On April 27, 2001, the FCC issued its ISP Remand
20 Order, *Implementation of the Local Competition*
21 *Provisions in the Telecommunications Act of 1996;*
22 *Intercarrier Compensation for ISP-Bound Traffic*, CC
23 docket Nos. 96-98 and 99-68, Order on Remand and
24 Report and Order, FCC 01-131, addressing the
25 establishment of an interim regime on ISP compensation
26 that also affects compensation of all other local

1 traffic. The definition of Local Traffic in the
2 Agreement is inconsistent with the FCC's decision.

3

4 In conjunction with the ISP Remand Order, the FCC
5 issued its Notice of Proposed Rulemaking in *Developing*
6 *a Unified Intercarrier Compensation Regime*, CC Docket
7 No. 01-92, FCC 01-132 (released April 27, 2001),
8 indicating that even more changes may be occurring
9 soon in this area of the law. As an example, the
10 Intercarrier Compensation NPRM states the FCC's
11 interpretation that its rule relating to the tandem
12 switching component of the reciprocal compensation rate
13 is applicable to ALECs if they can demonstrate that
14 they either serve a comparable geographic area or
15 provide similar functionality. This is inconsistent
16 with the provisions in the Agreement that allow for the
17 tandem switching rate only if MCImetro provides similar
18 functionality.

19

20

21 Q. Could the existing contract be modified to incorporate
22 the aforementioned changes?

23

24 A. Yes, however, Sprint does not believe that this is the
25 most prudent decision on this issue. The
26 aforementioned changes are not intended to be a

1 complete list of all changes in rules and regulations.
2 The changes identified above are so significant that
3 the process of modifying the existing contract is not
4 simple at all. The changes needed to bring the four
5 year old Agreement into compliance with current law
6 are so numerous and so interwoven into the heart of
7 the Agreement that the most expedient course of action
8 is to replace the Florida Agreement in its entirety
9 with a new agreement. In Order No. PSC-97-0064-FOF-TP
10 dated January 17, 1997, relating to AT&T's arbitration
11 of an interconnection agreement with GTE, the
12 Commission recognized a concern that changes in the
13 industry, either regulatory or technical, could have a
14 significant impact on an existing agreement. Clearly,
15 the industry has experienced significant changes since
16 the inception of this contract that renders the
17 execution of a new contract as the most prudent course
18 of action.

19

20 Q. What is Sprint asking this Commission to do?

21

22 A. Sprint believes that the interpretation of the change
23 in law provision (Section 2.2) is self-evident when the
24 provision is read as a whole. Clearly, if a provision
25 of the agreement is inconsistent with a FCC or a

1 Commission rule or regulation, the parties are bound to
2 act in good faith to make the agreement consistent with
3 the rule or regulation adopted subsequent to the
4 execution of the agreements. In this particular
5 Agreement, Sprint believes that it is prudent to
6 terminate the Agreement and require the parties to
7 establish a new interconnection agreement because of
8 the numerous, material and comprehensive changes that
9 have occurred in the industry since the inception of
10 the Agreement. In addition, Sprint faces substantial
11 business risk to continue to operate under the existing
12 Agreement - business risk that is not similarly faced
13 by MCImetro. Sprint urges this Commission to require
14 MCImetro and Sprint to negotiate a new agreement to
15 replace the existing Agreement.

16

17

18 Does that conclude your testimony?

19

20 Yes.