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August 28, 2003

VIA FEDERAL EXPRESS

Mrs. Blanca S. Bayo
Director, Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

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Re: Petition by AT&T Communications of the Southern States, LLC
And TCG South Florida for Arbitration of Interconnection
Agreement with Sprint-Florida, Incorporated Under the
Telecommunications Act of 1996
Docket No.: 030296-TP

Dear Mrs. Bayo:

Please find enclosed for filing in your office the original and fifteen (15) copies of AT&T Communications of the Southern States, LLC and TCG of South Florida (collectively "AT&T") Responses to Staff's Second Set of Interrogatories (Nos. 9-19), AT&T's Renewed Motion for Protective Order, and AT&T's Renewed Motion in Limine Regarding Compensation for VOIP Traffic.

Please stamp two (2) copies of the Response and Motions in the usual manner and return to us via our courier.

If you have any questions, please do not hesitate to contact me at 404-888-7437.

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Sincerely yours,
Loretta A. Cecil
Loretta A. Cecil

Enclosure(s)

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FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Arbitration of)
Unresolved Issues Resulting From) Docket No.: 030296-TP
Negotiations with Sprint-Florida,)
Inc. for Interconnection Agreement,)
By AT&T Communications of the) Filed: August 28, 2003
Southern States, LLC d/b/a AT&T)
And TCG South Florida)

AT&T RESPONSES TO STAFF'S

SECOND SET OF INTERROGATORIES (NOS. 9 -19) AND

AT&T'S RENEWED MOTION FOR PROTECTIVE ORDER AND

AT&T'S RENEWED MOTION IN LIMINE

REGARDING COMPENSATION F OR VOIPTRAFFIC

AT&T Communications of the Southern States, Inc. and TCG South Florida ("AT&T"), pursuant to Rules 25-22.034 and 25-22.035, 28-106.204, AND 28-106.303, Florida Administrative Code and Rules 1.340 and 1.280, Florida Rules of Civil Procedure, hereby submit the following Responses to Florida Public Service Commission Staff ("Staff") Second Set of Interrogatories (Nos. 9-19) ("Interrogatories") to AT&T; (2) renews AT&T's prior Motion for Protective Order and requests that the Florida Public Service Commission ("Commission") enter a Protective Order finding that AT&T is not required to answer Interrogatory No. 9 of Staff's Second Set of Interrogatories; and (3) renews AT&T's prior Motion in Limine that compensation for voice over internet protocol ("VOIP") is not an appropriate issue in this proceeding.

DOCUMENT NUMBER-DATE

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INTERROGATORIES :

9. Please refer to the rebuttal testimony of David Talbott, page 36, lines 11-14, where he states that “in its ‘intercarrier Compensation Notice of Proposed Rulemaking,’ the FCC will determine how all telecommunications carriers, including local and long distance carriers, will compensate each other.” During the pendency of that proceeding, how will Sprint be compensated, and at what rate will it be compensated, for interstate and interstate toll traffic that is terminated over local trunks using VoIP technology?

OBJECTION: AT&T objects to this Interrogatory on the grounds that the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, the request is overly broad, oppressive, and seeks information that is beyond the scope of this proceeding.

With respect to the scope of this proceeding, in the June 19, 2003 testimony of David L. Talbott filed on behalf of AT&T in this proceeding (“Talbot Testimony”), AT&T set forth its position that determining compensation for Voice Over Internet Protocol (“VOIP”) calls is not an appropriate issue to be decided in this proceeding.¹ As AT&T described in the Talbot Testimony, in Docket No. 000075-TP,² the Commission previously determined that compensation regarding VOIP traffic was not “ripe” for consideration.³ Subsequent to the Commission’s Order in Docket No. 000075-TP, on October 18, 2002, AT&T filed with FCC its “Petition For

¹ Talbot Testimony at Pages 64-71.

² *In Re: Investigation into Appropriate Methods to Compensate Carriers for Exchange of Traffic Subject to Section 251 of the Telecommunications Act of 1996*, Florida PSC Docket No. 000075-TP, FL PSC Order PSC-02-1248-FOF-TP, September 10, 2002, at Page 37 (“*Florida Reciprocal Compensation Order*”).

³ *Id.* at Page 37.

Declaratory Ruling That Phone-To-Phone IP Telephony Services Are Exempt From Access Charges.”⁴ Recognizing the pendency of *AT&T’s FCC VOIP Petition*, on December 31, 2002 in Docket No. 0216061-TP,⁵ the Commission declined to address whether Phone-To-Phone IP telephony services constitute “telecommunications” under Florida law, noting that the “. . . the FCC currently considering a similar matter.”⁶ In such Order, the Commission also specifically found that “. . . it would be administratively inefficient” to make such a determination while this FCC proceeding was underway.”⁷

Additionally, as AT&T indicated in Talbott’s Testimony, Sprint is fully engaged in *AT&T’s FCC VOIP Petition*, having filed Comments with the FCC on December 18, 2002, Reply Comments on January 24, 2003, and an Exparte Presentation on March 13, 2003. In its Comments, Sprint indicated that it “. . . agree[d] with AT&T that there was a pressing need for the [FCC] to clarify whether Phone-To-Phone VOIP traffic should be subject to or exempt from access charges.”⁸ Moreover, in urging the FCC to so rule, Sprint specifically brought to the FCC’s attention that this Commission had dismissed CNM’s Petition. Sprint stated:

⁴ *In the Matter of Petition for Declaratory Ruling That AT&T’s Phone-To-Phone IP Telephony Services Are Exempt From Access Charges*; WC Docket No. 02-361 (“*AT&T FCC VOIP Petition*”).

⁵ *In Re: Petition of CNM Networks, Inc. for Declaratory Statement that CNM’s Phone-To-Phone Internet Protocol (IP) Technology Is Not “Telecommunications” and that CNM Is Not a “Telecommunications Company” Subject to Florida Public Service Commission Jurisdiction*, FL PSC Docket No. 021061-TP, FL PSC Order PSC-02-1858-FOF-TP, December 31, 2002, at Page 1 (*Florida CNM Networks, Inc. Order*).

⁶ *Florida CNM Networks, Inc. Order* at Page 3.

⁷ *Id.*

On December 17, 2002, the Florida PSC dismissed a petition filed by CNM Networks, Inc. for a declaratory statement that Phone-To-Phone IP telephony is not telecommunications (PSC Docket No. 0216061-TP). The PSC cited, among other factors, the instant proceeding before the FCC as a reason to defer action at the state level at this time. Thus, it is clear that at least some state PUC's expect the FCC to assume a leadership role in this matter and clarify this *national policy*.⁹

Accordingly, because (1) Sprint is engaged in the current FCC proceeding dealing with VOIP traffic; (2) Sprint agrees that the FCC should decide compensation for VOIP as a matter of *national policy*, and (3) it is highly unlikely that the Commission will "overrule" itself and decide what compensation, if any, is appropriate for VOIP traffic only six (6) months after issuing its *Florida CNM Networks, Inc. Order*, AT&T objects to any Interrogatories dealing with VOIP calls because responding to such Interrogatories will not provide the Commission with relevant information regarding compensation for VOIP calls. In this respect, even if AT&T is capable of providing such information, AT&T's information would be that of only one CLEC operating in Florida, thus providing the Commission with incomplete information regarding an issue which the Commission already has determined will have industry-wide ramifications.¹⁰

Moreover, in response to Sprint's Motion to Compel regarding VOIP discovery, on July 22, 2003, AT&T filed its Response to Sprint's Motion to Compel, Motion for Protective Order and Motion in Limine Regarding

⁸ *AT&T FCC VOIP Petition*, Sprint Comments at Page 9.

⁹ *Id.* at Pages 9-10 [emphasis added].

Compensation for VOIP Traffic ("AT&T's VOIP Motions"). Oral argument regarding AT&T's VOIP Motions was heard by the Presiding Officer on July 24, 2003, and the Presiding Officer currently has AT&T's VOIP Motions under consideration. Pending a determination by the Presiding Officer, AT&T should not be required to respond to VOIP discovery from Staff. Accordingly, AT&T hereby renews and incorporates herein AT&T's Motion for Protective Order and Motion in Limine relative to Interrogatory No. 9.

10. Please refer to the rebuttal testimony of David Talbott, page 48, lines 1-5, where he states that "the FCC's ISP Remand Order did not specifically address situations where a party reaches its ISP via a toll dialing pattern, largely because it was generally accepted in the industry that such calls were long distance calls, subject to applicable toll and access charges."

(1) Is it AT&T's position that if an end-user with dial-up Internet access must make a toll call to reach the Internet provider, that access charges apply to that call?

RESPONSE: No. Access charges should not apply to this call. However, as a practical matter, in today's billing environment, access charges would apply to this call because intercarrier compensation is determined by originating and terminating NPA NXX codes. Notwithstanding, the *FCC's ISP Remand Order* provides either party the option to rebut the presumption of what constitutes ISP bound traffic. Thus, AT&T has the opportunity to argue that this call is ISP traffic subject to the FCC's ISP Remand Order which prohibits the assessment of access charges to ISP bound traffic.

RESPONSE PROVIDED BY: David L. Talbott

(2) If your response to (1) is negative, please explain what intercarrier compensation would apply to the call described in (1).

RESPONSE: See AT&T's response to No. Interrogatory 10(1) above.

RESPONSE PROVIDED BY: David L. Talbott

¹⁰ *Florida CNM Networks, Inc. Order at Page 3.*

11. For purposes of the following request, please refer to the rebuttal testimony of AT&T witness Talbott, page 3, lines 5-10.

(1) Will Sprint be required to interconnect with AT&T at POIs in addition to those that currently exist?

RESPONSE: Sprint will not be required to interconnect with AT&T at any additional POIs in the areas where Sprint and AT&T are currently interconnected. However, if AT&T enters new Sprint markets in Florida, Sprint would be required to interconnect with AT&T in those new markets.

RESPONSE PROVIDED BY: David L. Talbott

(2) If the response to (1) is affirmative, will these additional POIs be on AT&T's network?

RESPONSE: As stated on Page 2 of Mr. Talbott's Rebuttal Testimony, Sprint would interconnect with AT&T's network at such points as mutually agreed to by the Parties, or lacking mutual agreement, at each AT&T switch serving the terminating AT&T end user.

RESPONSE PROVIDED BY: David L. Talbott

(3) If the response to (2) is affirmative, will AT&T unilaterally designate these additional POIs?

RESPONSE: See AT&T's Response 11(2).

RESPONSE PROVIDED BY: David L. Talbott

12. For purposes of the following request, please refer to the rebuttal testimony of AT&T witness Talbott, page 5, footnote 4.

(1) Does AT&T currently obtain jointly provided special access circuits from, e.g., BellSouth territory to a Sprint tandem?

RESPONSE: Yes.

RESPONSE PROVIDED BY: David L. Talbott

(2) If the response to (1) is not affirmative, please clarify the intent of this footnote.

RESPONSE: N/A, by virtue of AT&T's response to Interrogatory No. 12(1) above.

RESPONSE PROVIDED BY: David L. Talbott

(3) Does AT&T have any switches located in Sprint's territory?

RESPONSE: Yes.

<u>LATA</u>	<u>SWITCH</u>	<u>STREET</u>	<u>CITY</u>	<u>STATE</u>	<u>OCN</u>	<u>OCN NAME</u>
93902	FTMYFLMADSO	4290 Colonial Blvd.	Ft. My.	FL	7421	ATT Local

RESPONSE PROVIDED BY: David L. Talbott

(4) If the response to (3) is affirmative, please describe how AT&T connects its switches located in Sprint's territory to Sprint switches (presumably tandems) for the exchange of traffic.

RESPONSE: AT&T's originating traffic is sent to Sprint on special access purchased from Sprint. Sprint delivers its originating traffic using its own dedicated transport.

RESPONSE PROVIDED BY: David L. Talbott

13. For purposes of the following request, please refer to the rebuttal testimony of AT&T witness Talbott, page 9, lines 19-21. Please identify any and all documents that substantiate this claim.

RESPONSE: It is commonly understood within the industry that "intraswitch" calls are less costly to switch than calls between two switches. For example, if a Sprint subscriber places a local call to another Sprint subscriber served by the same Sprint switch, the call would be completed on an "intraswitch" basis. If, on the other hand, the same Sprint subscriber places a call to an AT&T subscriber, that call would be switched by Sprint's switch to AT&T's switch, and then by AT&T's to the AT&T subscriber. Clearly, this is more expensive than simply connecting the two Sprint subscribers served by the same Sprint switch on an "intraswitch basis." *See*, Statement of James Zolnierek, Ph.D., Policy Department, Telecommunications Division, Illinois Commerce Commission, at Page 39-40, filed on June 4, 2003 in Illinois Commerce Commission Docket No. 03-0239, *AT&T Communications of Illinois, Inc., Verified Petition for Arbitration of Interconnection Rates, Terms and Conditions and related Arrangements With Illinois Bell Telephone Company (SBC Illinois) Pursuant to Section 252(b) of the Telecommunications Act of 1996 ("Illinois Arbitration Docket")*, and Initial Brief of the Staff of the Illinois Commerce Commission, at Page 39-40, filed on June 25, 2003 in the same *Illinois Arbitration Docket*. Both of these documents have been provided by AT&T in response to Staff POD No. 4.

RESPONSE PROVIDED BY: David L. Talbott

14. For purposes of the following request, please refer to the rebuttal testimony of AT&T witness Talbott, page 12, lines 5-10.

(1) Referring to the parenthetical on line 7, should the word "not" be omitted?

RESPONSE: Yes.

RESPONSE PROVIDED BY: David L. Talbott

(2) If the response to (1) is not affirmative, please reconcile with the witness' prior discussion that Sprint's UNE rates are less than the special access rates paid by AT&T.

RESPONSE: N/A, by virtue of AT&T's response to Interrogatory No. 14(1) above.

RESPONSE PROVIDED BY: David L. Talbott

(3) If Sprint agrees to pay a proportionate share of the special access facilities used by AT&T to connect to Sprint's switches, would AT&T allow Sprint to use these trunks (properly engineered) to transport Sprint's originated traffic?

RESPONSE: Yes.

RESPONSE PROVIDED BY: David L. Talbott

(4) If the response to (3) is affirmative, would AT&T still reserve the right to designate POIs on AT&T's network to which Sprint would be required to deliver its originated traffic?

RESPONSE: No. AT&T would to concede to Sprint's language that both parties POIs would be on Sprint's network.

RESPONSE PROVIDED BY: David L. Talbott

(15) For purposes of the following request, please refer to the rebuttal testimony of AT&T witness Talbott, page 13, lines 13-20 through page 14, lines 1-2.

(1) Please explain how the situation described constitutes a price squeeze.

RESPONSE: A price squeeze develops when Sprint charges AT&T special access rates for facilities which are then used to transport Sprint originated traffic, but for which Sprint only wants to reimburse AT&T at Sprint “TELRIC” UNE rates.

Special access rates (which AT&T must obtain from Sprint) are almost 450% *higher* than Sprint’s “TELRIC” UNE rates for dedicated transport. For example, Sprint’s monthly recurring “TELRIC” UNE rate for transport is based on “point to point” locations. The monthly “point to point” rate for DS1 transport from Ft. Myers, Florida to Naples, Florida is \$176.29. In comparison, Sprint’s fixed monthly rate for DS1 dedicated access is \$50 (in Zone 1) and a monthly charge of \$20 per mile of transport. The mileage between Ft. Myers, Florida and Naples, Florida is thirty-nine (39) miles. Thus, under Sprint’s dedicated access tariff, the monthly transport charge between these two municipalities would be \$20 X 39 miles = \$780 + \$50 fixed monthly charge for a total monthly charge of \$830.

Despite the fact that its DS1 dedicated access rate is 450% *higher* than Sprint’s “TELRIC” UNE rate for DS1 dedicated transport, Sprint wants to use these facilities obtained by AT&T from Sprint to transport Sprint originated traffic and reimburse AT&T only at the Sprint “TELRIC” UNE rate. This price differential represents pure profit for Sprint which it can use to “price squeeze” AT&T out the market.

RESPONSE PROVIDED BY: David L. Talbott

- (2) Please explain how 47 C.F.R. Section 51.703(b) says anything about a price squeeze.

RESPONSE: Although “price squeeze” does not appear in 47 C.F.R. Section 51.703(b) *per se*, clearly the language “[a] LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC’s network. . . .” prevents a price squeeze because LEC’s cannot “price squeeze” their competitors out of the market when such competitors are transporting a LEC’s originating traffic.

RESPONSE PROVIDED BY: David L. Talbott

- (3) Please explain how the situation described constitutes a violation of 47 C.F.R. Section 51.703(b) (i.e., please identify what charges Sprint is assessing AT&T associated with Sprint-originated traffic).

RESPONSE: See AT&T’s response to Interrogatory No. 15(1) and 15(2) above.

RESPONSE PROVIDED BY: David L. Talbott

- (16) For purposes of the following request, please refer to the rebuttal testimony of AT&T witness Talbott, page 20, lines 17-28.
- (1) Please identify any known state commission orders which have required an ILEC to construct facilities outside of its exchange boundaries for a meet point arrangement with a CLEC.

RESPONSE: All interconnection agreements approved by state commissions which *do not* include limitations that interconnection be limited to an incumbent local exchange carrier's ("ILEC") territory would be responsive. AT&T is not in a position to review all interconnection agreements which have been approved by state commissions. Thus, AT&T objects to Interrogatory No. 16 as being overly broad and oppressive. Notwithstanding this objections and without waiving the same, the Commission should note that the there is nothing in the *FCC's Local Competition Order* which limits the construction of interconnection facilities to the ILEC's exchange boundaries.

RESPONSE PROVIDED BY: David L. Talbott

- (2) Please identify any agreements entered into by AT&T and ILEC which require the ILEC to construct facilities outside of its exchange boundaries to establish a meet point arrangement with AT&T.

RESPONSE: *See*, AT&T's response to Interrogatory No. 16(1) above.

RESPONSE PROVIDED BY: David L. Talbott

17. For purposes of the following request, please refer to the rebuttal testimony of AT&T witness Talbott, page 23, lines 21-23.
- (1) By way of clarification, is it AT&T's position that all traffic types exchanged over a mid-span fiber meet would be subject to a bill and keep arrangement?

RESPONSE: Neither Party will charge the other Party for transport over the mid span fiber meet. AT&T's long distance operations is not transported over a mid span fiber meet arrangement, but instead is routed over switched access facilities. Accordingly, AT&T is not asserting that AT&T's long distance traffic is subject to "bill and keep" compensation. Only all traffic which is routed over a mid span fiber meet arrangement would be subject to "bill and keep" compensation, including all meet point billing and transit traffic.

RESPONSE PROVIDED BY: David L. Talbott

- (2) If the response to (1) is not affirmative, please identify what traffic type would not be subject to bill and keep, and identify the applicable form of compensation.

RESPONSE: N/A, by virtue of AT&T's response to Interrogatory No. 17(1).

RESPONSE PROVIDED BY: David L. Talbott

- (3) For AT&T traffic that transits a Sprint tandem where the third party terminating carrier assesses charges to Sprint, would AT&T reimburse Sprint for these charges?

RESPONSE: Yes.

RESPONSE PROVIDED BY: David L. Talbott

18. For purposes of the following request, please refer to the rebuttal testimony of AT&T witness Talbott, page 28, lines 4-9.

- (1) Please identify the "other LECs" that employ a billing "factor" to implement an originating carrier's local calling area compensation plan.

RESPONSE: AT&T is not providing a response to Interrogatory 18(1) because Issue 5 has been resolved between the Parties.

RESPONSE PROVIDED BY: David L. Talbott

- (2) Please identify all ILECs known to have implemented an originating carrier's local calling area compensation plan.

RESPONSE: AT&T is not providing a response to Interrogatory 18(2) because Issue 5 has been resolved between the Parties.

RESPONSE PROVIDED BY: David L. Talbott

- (3) For those ILECs identified in response to (b) who do not employ a billing "factor," please describe how they have implemented an originating carrier's local calling plan compensation plan.

RESPONSE: AT&T is not providing a response to Interrogatory 18(3) because Issue 5 has been resolved between the Parties.

RESPONSE PROVIDED BY: David L. Talbott

- (4) Please identify any orders in which the ILECs identified in response to (b) were directed to implement an originating carrier's local calling plan.

RESPONSE: AT&T is not providing a response to Interrogatory 18 (4) because Issue 5 has been resolved between the Parties.

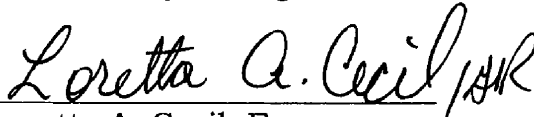
RESPONSE PROVIDED BY: David L. Talbott

19. For purposes of the following request, please refer to the rebuttal testimony of AT&T witness Talbott, page 40, lines 7-8. Please identify specifically where the FCC has asserted that phone-to-phone voice over internet protocol services is an information service.

RESPONSE: *See, Federal-State Joint Board on Universal Service, Report to Congress, 13 FCC Rcd. 11,501 (April 10, 1998), at Paras. 90-91.*

RESPONSE PROVIDED BY: David L. Talbott

Respectfully submitted this 28th day of August, 2003.



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Attorney for:
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CERTIFICATE OF SERVICE
DOCKET NO. 030296-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served electronically and U.S. Mail this 28th day of August, 2003 to the following:

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