

JAMES E. "JIM" KING, JR.
PRESIDENT



Charles J. Beck
Interim
Public Counsel

ORIGINAL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o THE FLORIDA LEGISLATURE
111 WEST MADISON ST.
ROOM 812
TALLAHASSEE, FLORIDA 32399-1400
850-488-9330

JOHNNIE BYRD
SPEAKER



September 3, 2003

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

RE: Docket No. 030868-TL

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COMMISSION
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Dear Ms. Bayó:

Enclosed are an original and fifteen copies of Citizens' Motion to Dismiss Sprint-Florida, Inc.'s Petition for filing in the above-referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,

H F. Mann
Associate Public Counsel

HFM/dsb

Enclosures

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition by Sprint–Florida, Inc.)
To Reduce Its Network Access Charges)
Applicable To Intrastate Long Distance)
In A Revenue-Neutral Manner)

Docket No. 030868-TL
Filed: September 3, 2003

CITIZENS' MOTION TO DISMISS SPRINT–FLORIDA, INC.'S PETITION

The Citizens of Florida ("Citizens"), through the Office of Public Counsel and pursuant to Section 120.54(5), Florida Statutes (2003), and Rule 28-106.204, Florida Administrative Code, hereby file their motion with the Florida Public Service Commission ("Commission") to dismiss the petition of Sprint–Florida, Inc. ("Sprint" or "Company") in this docket. In support of this request, Citizens state that:

1) On August 27, 2003, Sprint filed its petition with the Commission, pursuant to section 364.164, Florida Statutes (2003), to reduce its switched network access rates applicable to intrastate long distance in a revenue-neutral manner.

2) The Legislature, in section 364.164(1), explicitly delineates several specific criteria, all of which the Commission must consider in determining whether to grant or deny the Company's petition.

3) One of these criteria, section 364.164(1)(c), commands the Commission to consider whether granting the Company's petition will "[r]equire intrastate switched network access rate reductions to parity over a period of not less than 2 years or more than 4 years."

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4) Sprint, in paragraph 4 of its petition, purports to reduce intrastate switched access rates to parity in a revenue neutral manner over a two-year period. This claim is repeated in paragraphs 24 and 25.

5) Sprint's witness, John Felz, claims on page 20 of his testimony, to reduce intrastate access rates to the target interstate levels over a two-year period. Concomitantly, Mr. Felz asserts that "Sprint will increase rates for basic local telecommunication services over that same two-year period." Mr. Felz also states that Sprint will implement 50% of the total switched network access rate reduction and corresponding revenue-neutral increase to basic telecommunication services in year 1. The remaining rate reduction and revenue-neutral increases to basic local telecommunication service rates will be accomplished in year 2."

6) On page 21, Mr. Felz quantifies the rate increases for residential basic local service recurring rates of "\$3.23 in year 1 and \$3.63 in year 2."

7) Sprint's further testimony, however, belies these claims of rate changes "over a two-year period."

8) Sprint incorporates the testimony and exhibits of Dr. Kenneth Gordon, who has presented testimony for all three petitioners - - Sprint, BellSouth, and Verizon. Dr. Gordon testifies to the virtues of having all three of his clients filing at the same time.

9) On page 13, lines 20-23, Dr. Gordon states that the benefits from this are threefold. "First, to the extent that basic local rates are simultaneously adjusted closer to their costs throughout the territory of the three companies

serving 98 percent of the ILEC customers, the better competition will be benefited and market entry enhanced.”

10) On page 14, line 17, he continues with the second reason simultaneous action by all three companies, Sprint, BellSouth and Verizon, is beneficial. “End-users normally make their purchase decisions based in large part on relative price differences among providers. If the rate-rebalancing is not implemented across all companies simultaneously, end-users will make these decisions based on incomplete and imperfect information as they see some providers’ rates increasing while other providers’ rates remain the same (at least temporarily).” And further, on page 15, “[c]oordinated rate rebalancing across all companies will ensure that potential competitors are not artificially disadvantaged when introducing new service offers by artificial boundaries, and that customers are not disadvantaged by incorrect and incomplete information driving their purchase decisions.” Finally, his third reason, on line 9, for all three companies effecting their rate changes simultaneously is the benefit to end users statewide. “IXCs will be able to implement more meaningful price reductions if they can aggregate their access cost reductions into a single round of pricing changes.”

11) BellSouth’s other witnesses, Mr. Ruscilli and Mr. Hendrix, both identify the effective dates of BellSouth’s reductions in intrastate switched network access rate, and increases in average single-line residential basic local service line rates. These dates are January 1, 2004, and January 1, 2005.

12) Dr. Gordon confirms that the effective dates for corresponding changes in access charge and basic residential rates for Sprint are also to be January 1, 2004, and January 1, 2005.

13) Consequently, notwithstanding the Company's assertion that the intrastate access charge decrease and the corresponding rate increases for the residential customers will take place over a two-year period, the plain fact is that the rate changes, as proposed by Sprint, would take place over a one-year period, or twelve months.

14) The language of section 364.164(1)(c) is plain and simple. Sprint, among other specific requirements, must require intrastate switched network access rate reductions to parity over a period of "not less than two years." The statute's wording does not allow for a loose interpretation of effecting those rate reductions and corresponding rate increases over a period of twelve months, as Sprint sets forth in its filing before this Commission. Rate increases on the first of January in the next two successive years does not comply with the statutory mandate that the rate changes take place over a period of *not less than* two years. The Merriam Webster dictionary¹ describes a "year" variously as "the period of about 365 1/4 solar days required for one revolution of the earth around the sun" or "12 months that constitute a measure of age or duration." The statutory definition of "over a period of not less than two years" must therefore encompass a period of not less than 24 months. Rate increases on January first of the next two successive years obviously fails to meet this criteria.

¹ <http://www.m-w.com/dictionary.htm>

15) Neither does the statute appear to anticipate a "spot" revision by a company to correct such fatal deficiencies. The petition should either be accepted as having facially met the basic requirements of the statute under whose authority it has been filed, or rejected if it has failed in that regard.

16) Sprint, in filing its petition pursuant to the authority of section 364.164, has not met the requirements imposed by that same statute. While Citizens do not advocate that the Company's petition be dismissed with prejudice, we strongly believe that the petition should be rightly dismissed without prejudice, with leave to file anew, with a new established filing date, when it does comply with the basic requirements of the statute

Wherefore, the Citizens move this Commission to dismiss, without prejudice, the petition of Sprint-Florida, Inc., and require the Company to file anew its petition in conformance with section 364.164.

Respectfully submitted,

CHARLES J. BECK
Interim Public Counsel
Florida Bar No. 217821



H F. Rick Mann
Associate Public Counsel
Florida Bar No. 0763225

Office of Public Counsel
C/o The Florida Legislature
111 W. Madison Street
Room 812
Tallahassee, FL 32399-140
(850) 488-9330

Attorneys for Florida's Citizens

DOCKET NO. 030868-TL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand-delivery to the following parties on this 3rd day of September, 2003.

Beth Keating, Esquire
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

John P. Fons, Esquire
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302

Tracy Hatch/Chris McDonald
AT&T Communications
101 North Monroe Street, Ste. 700
Tallahassee, FL 32301


Michael A. Gross, Esquire
Florida Cable Telecomm. Assn.
246 East 6th Avenue
Tallahassee, FL 32303

Donna McNulty
MCI WorldCom, Inc.
1203 Governors Square Blvd.
Suite 201
Tallahassee, FL 32301-2960

Brian Sulmonetti
MCI WorldCom
Concourse Corporate Center Six
Six Concourse Pkwy., Ste. 3200
Atlanta, Georgia 30328

Susan Masterson, Esquire
Sprint-Florida, Incorporated
P.O. Box 2214
Tallahassee, FL 32316

Charles Rehwinkel, Esquire
Sprint-Florida, Incorporated
1313 Blair Stone Road
FLTH00107
Tallahassee, FL 32301



H F. Mann