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December 11, 2003

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
& Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
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Re: Docket No. 981834-TP & 990321-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of Sprint Communications Company Limited Partnership and Sprint-Florida, Incorporated are the original and 15 copies of Sprint's Motion for Clarification and Reconsideration of Order Nos. PSC-03-1358-FOF-TP.

Copies are being served on the parties in this docket pursuant to the attached certificate of service.

Please acknowledge receipt of this filing by stamping and initialing a copy of this letter and returning same to my assistant. If you have any questions, please do not hesitate to call me at 850/847-0244.

Sincerely,

Susan S. Masterton

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**CERTIFICATE OF SERVICE
DOCKET NO. 981834-TP & 990321-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic and U.S. mail this 11th day of December, 2003 to the following:

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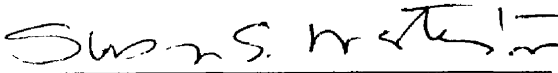
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Susan S. Masterton

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Competitive Carriers for
Commission action to support local
competition in BellSouth
Telecommunications, Inc.'s service territory.

DOCKET NO. 981834-TP

In re: Petition of ACI Corp. d/b/a Accelerated
Connections, Inc. for generic investigation to
ensure that BellSouth Telecommunications,
Inc., Sprint-Florida, Incorporated, and GTE
Florida Incorporated comply with obligation to
provide alternative local exchange carriers
with flexible, timely, and cost-efficient
physical collocation.

DOCKET NO. 990321-TP

Filed: December 11, 2003

**SPRINT'S MOTION FOR CLARIFICATION AND RECONSIDERATION OF
ORDER NOS. PSC-03-1358-FOF-TP**

Pursuant to Rules 25-22.060 and 28-106.204, F.A.C., Sprint-Florida, Incorporated and Sprint Communications Company Limited Partnership (hereinafter "Sprint") file this Motion for Clarification and Reconsideration of Order No. PSC-03-1358-FOF-TO, issued by the Florida Public Service Commission ("Commission") on November 26, 2003 ("Order"). Specifically, Sprint seeks clarification or, in the alternative, reconsideration of the Commission's decision on Issue 1 relating to payment of nonrecurring fees. In addition, Sprint seeks reconsideration of the Commission's decision on Issue 7 relating to AC power.

Reconsideration is appropriate when the decision-maker ignored, misinterpreted or misapplied the law applicable to the evidence in the proceeding or overlooked and failed to consider the significance of certain evidence. See, Diamond Cab Co. V. King, 146 So. 2d

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889 (Fla. 1962). Sprint respectfully submits that in its resolution of Issues 1 and 7 the Commission misinterpreted the applicable law and overlooked or failed to consider the significance of certain key evidence. Therefore, Sprint requests that the Commission reconsider its ruling on these issues for the reasons set forth below.

ISSUE 1A: When should an ALEC be required to remit payment for non-recurring charges for collocation space?

Application Fee

On this issue, Sprint seeks clarification of the Order relating to payment of the nonrecurring application fee. In ordering that the nonrecurring application fee should be paid when the CLEC receives a response to the application from the ILEC, the Commission states that “by billing in this manner ILECs would avoid having to refund the fee if the application were not a Bona Fide application or if there was no space available in the requested central office.” (Order at 13) This statement appears to directly conflict with the ruling by the Commission in this docket in Order No. PSC-99-1744-PAA-TP (PAA Order), which specifically allows the ILEC to charge the CLEC for the costs associated with processing an application, whether or not space is denied.

Specifically, in the PAA Order the Commission recognizes that the ILEC incurs certain expenditures in processing an application and, when space is denied, requires the ILEC to refund only that portion of the application fee that exceeds expenses incurred by the ILEC in processing the application (PAA Order at 10). While the PAA Order implicitly assumes that the application fee will be paid up front, Sprint is not requesting that the Commission reconsider its ruling to the extent that it provides that the fee should be billed at

the conclusion of the application processing activity, that is, when the space availability response is provided. Rather, Sprint is asking for clarification that the Order does not intend to preclude ILECs from continuing to recover the costs they incur during the processing activity.

ILECs do incur certain costs in processing an application, even when the ILEC ultimately determines that no space is available or that insufficient space is available to meet the CLEC's request. (Davis Rebuttal, Tr. 343) As Mr. Davis stated in his testimony:

Sprint maintains a list of closed offices on our website (www.sprint.com/regulatory). An ALEC should consult the list prior to submitting an application. Even though a Sprint office is not on the "closed" list, it doesn't mean that we will be able to meet the ALEC's specific needs. The ALEC may be asking for more space than what is available. Meanwhile Sprint has incurred the costs for the processing the application as explained above and should be compensated. (Davis Rebuttal, Tr. 343)

Sprint requests that the Commission clarify that the Order is not intended to overrule the decision in the PAA Order and that, to the extent that an ILEC incurs costs in processing an application, the ILEC is entitled to recover those costs, even if space is denied.

To the extent that the Commission intended to overrule the decision in the PAA Order regarding the ILEC's ability to recover the costs it incurs in processing an application, Sprint requests that the Commission reconsider its ruling. The evidence in the record is clear that an ILEC, in fact, incurs costs in processing an application to determine if space is available. These costs are detailed in the testimony of Sprint's witness Davis. (Tr. 343) The Act clearly allows ILECs to recover the costs they incur in providing interconnection interconnection and unbundled network elements, including collocation, to CLECs. (47

U.S.C. §§ 251(c) and 252(d)) Therefore, the Commission should reconsider its ruling to the extent that it results in the ILEC not being entitled to recover those costs under certain circumstances. The Commission should reconsider and revise its Order to make it clear that, when the response is provided, the application fee, or at least a portion of the fee, may still be due to recover the ILEC's cost of processing the application, whether or not the space requested by the CLEC is determined to be available.

CLECs Use of Certified Vendors

Sprint also seeks clarification of the Commission's order as it relates to the use of certified contractors by CLECs.¹ This issue was not included in the issues set forth in the procedural order in this docket (Order No. PSC-02-1513-FOF-TP) to be addressed in the testimony of the parties. Rather, it was raised at the hearing through cross-examination and the Commission requested that Sprint address the issue in its brief. (Tr. 392) In its brief, Sprint stated that it allows CLECs to do collocation construction work in their collocation space in accordance with FCC regulations. The Commission concurred with Sprint's practice, but Sprint is concerned that, in doing so, the Commission appeared to require that ILECs limit a CLEC's ability to do collocation construction work to the CLEC's space. (Order at 14)

It appears from the statements made at the hearing (Tr. 103, 258) and statements in

¹In reviewing the transcript of the Agenda Conference at which the Commission rendered its decision on the staff recommendation that was the basis for this order, it appears that the Commission intended to direct staff to remove the section in the recommendation relating to the issue of certified contractors and merely to include a recognition that the issue was raised and an acknowledgement that it is addressed by FCC regulations in the analysis for the purposes of the final order. To the extent that the Order is in error and the Commission chooses to direct staff to correct the Order consistent with its original ruling, Sprint's concerns

the briefs of the parties (AT&T Brief at 3; Covad Brief at 2-3) that BellSouth allows CLECs to employ certified contractors (including the CLECs themselves if they are certified by BellSouth) to perform collocation construction work, including certain work in the common areas of the central office. It appears the BellSouth's practices were a key factor in BellSouth's agreement that collocation space preparation work could be billed after the work is completed, consistent with the Commission's decision on this issue. As a result, Sprint is considering adopting BellSouth's practices that allow CLECs to employ certified contractors to perform collocation construction work. Sprint asks that the Commission clarify, consistent with FCC regulations, that an ILEC is not required to allow CLECs to do construction work outside the CLEC's collocation space but that the ILEC may do so, in accordance with terms of the interconnection agreement between the parties.

ISSUE 7: Should an ALEC have the option of an AC power feed to its collocation space?

Sprint respectfully requests that the Commission reconsider its decision requiring ILECs to allow CLECs to have the option of obtaining AC power for their collocation arrangements as long as the arrangements comply with the National Electric Code and all other applicable electric and building codes. In reaching its decision, the Commission appears to have relied heavily on statements of Sprint's witness Fox and Verizon's witness Bailey made at the hearing that modify the positions of the parties as stated in their prefiled testimony. While Mr. Fox and Mr. Bailey did agree that, under limited circumstances, their concerns about safety issues associated with allowing CLECs to use AC power to power

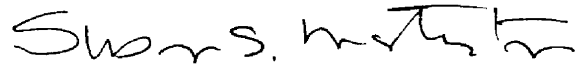
should be addressed and the clarification requested by Sprint would not be necessary.

collocation equipment would be addressed (Tr. 326, 550) the Commission failed to capture all of the conditions that underlay the witnesses' agreement. Specifically, the hypothetical proposed by Commissioner Davidson included an assurance that a CLEC's use of AC power would pose no potential for harm to the ILEC's equipment or operations (Tr. 261, 550) This condition is not reflected in the Commission's decision.

The record amply demonstrates the potential for harm that a CLEC's use of AC power in its collocation space could cause to the ILEC's equipment. Mr. Fox explains that, if a CLEC were to use AC power "beyond testing purposes, the CLEC would have to install an uninterruptible power supply (UPS), and such installation could cause safety issues such as acid battery leaks." (Tr. 291) In addition, Mr. Bailey details the potential safety hazards if a CLEC uses AC power and must place equipment to convert that AC power to DC power. (Tr. 468, 488-489) The Commission recognized the concerns expressed regarding safety (Order at 46), but failed to adequately address them in its decision. Sprint requests that the Commission reconsider its decision and require that, in addition to meeting applicable electric and building codes, a CLEC must demonstrate that its use of AC power will not endanger the ILEC's equipment or operations.

WHEREFORE Sprint requests that the Commission grant Sprint's Motion for Clarification and Reconsideration of the Order and clarify and reconsider the Order as set forth by Sprint in this Motion.

Respectfully submitted this 11th day of December 2003.

A handwritten signature in black ink that reads "Susan S. Masterton". The signature is written in a cursive style with a horizontal line underneath it.

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