

ORIGINAL



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December 22, 2003

Ms. Blanca S. Bayó, Director  
Division of the Commission Clerk  
& Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

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DEC 22 PM 4:46

Re: Docket No. 001503-TP


Dear Ms. Bayó:

Enclosed for filing on behalf of Sprint-Florida, Incorporated are the original and 15 copies of Sprint's Response to Protest of Public Counsel.

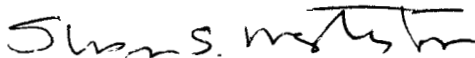
Copies are being served on the parties in this docket pursuant to the attached certificate of service.

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.

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\_\_\_\_\_  
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Sincerely,



Susan S. Masterton

Enclosure

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**CERTIFICATE OF SERVICE  
DOCKET NO. 001503-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. mail on this 22<sup>nd</sup> day of December, 2003 to the following:

ALLTEL Communications, Inc.  
c/o Ausley Law Firm  
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Tallahassee, FL 32302

AT&T Communications of the Southern  
States, Inc.  
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BellSouth Telecommunications, Inc.  
Nancy White/M. Goggin/R. D. Lackey  
c/o Nancy H. Sims  
150 South Monroe Street, Suite 400  
Tallahassee, FL 32301-1556

Florida Cable Telecommunications  
Assoc., Inc.  
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Tallahassee, FL 32399-0850

  
Susan S. Masterton

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Cost Recovery and )  
Allocation of Issues for Number )  
Pooling Trials in Florida )

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Docket No. 001503-TP  
Filed: December 22, 2003

**SPRINT FLORIDA, INCORPORATED'S RESPONSE**  
**TO PROTEST OF PUBLIC COUNSEL**

Pursuant to the Florida Administrative Code and Florida Statutes, Sprint-Florida, Incorporated ("Sprint") files its response to the Protest filed by the Office of Public Counsel ("OPC") in the above captioned matter. Specifically, Sprint states the following:

**Introduction**

On April 5, 2002 the Commission issued Order No. PSC-02-0466-PAA-TP in this docket authorizing companies that had incurred costs in implementing state thousand block number pooling to file petitions for recovery of the costs of the companies' participation in the trials. Order No. PSC-02-0466-PAA-TP set forth criteria that must be met by a company seeking to recover its costs, including 1) the company demonstrated a net increase in costs as a result of the implementation of the state-ordered number pooling; 2) the company demonstrated that the costs for state number pooling would not have been incurred "but for" the implementation of the number pooling and that the costs were incurred "for the provision of" the state number pooling; 3) the costs for which recovery was claimed were "new" costs; 4) the costs for which recovery was claimed were Florida-specific costs; and 5) the company proposed to recover the costs on a competitively neutral basis.

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On September 30, 2002, Sprint filed its Petition seeking recovery of its Florida-specific number pooling costs. On November 10, 2003, by Order No. PSC-03-1270-PAA-TP, the Commission found that Sprint's Petition demonstrated that Sprint met the requirements set forth in Order No. 02-0466-PAA-TP<sup>1</sup>. On November 26, 2003, the Office of the Public Counsel filed a protest of the Commission's PAA Order granting Sprint's Petition. The OPC had previously filed a protest of Commission Order No. PSC-03-1096-PAA-TP, granting BellSouth's Petition for number pooling cost recovery.

### **The Commission has the authority to grant Sprint's Petition**

In its protest of the Commission's Order granting Sprint's Petition, the OPC argues that the Commission lacks authority to grant Sprint's petition and that the Order violates the price regulation provisions of ch. 364, Florida Statutes. (OPC Protest at ¶ 7) Sprint disagrees with OPC's assertions. As set forth in Order No. 03-1270-PAA-TP, the Commission has both federal and state authority to approve Sprint's recovery of the costs it incurred to implement Florida number pooling trials. (Order at pages 9-12)

Pursuant to Section 251 (e) of the Telecommunications Act of 1996, the FCC delegated to the Florida Commission the authority to implement state number pooling trials and the obligation to allow carriers to recover the costs associated with such trials in several orders, addressing the Florida Commission's request to be given the authority to implement state trials and also addressing issues of number pooling and cost recovery generally.<sup>2</sup> The Commission exercised this federally delegated authority pursuant to its

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<sup>1</sup> In granting Sprint's Petition, the Commission excluded certain salaried labor costs proposed for recovery by Sprint on the basis that a portion of the costs were not "new costs" and that the remainder were not incremental costs, consistent with its ruling on BellSouth's Petition in Order No. PSC-03-1096-PAA-TP.

<sup>2</sup> Order No. FCC 99-249, released September 15, 1999, *In the Matter of the Florida Public Service Commission Petition to the Federal Communications Commission for Expedited Decision for Grant of Authority to Implement Number Conservation*, CC Docket No. 96-98; Order No. FCC 00-104, released March 31, 2000, *In the Matter of Number Resource Optimization*, CC Docket No. 99-200; Order No. FCC

authority over number administration set forth in s. 364.16 (4), Florida Statutes, in accordance with section 364.01, Florida Statutes, directing the Commission in the exercise of its statutory jurisdiction.

Contrary to the OPC's assertion, the Commission's authority to allow carriers to recover the costs associated with number pooling is not constrained by the price regulation scheme set forth in s. 364.051, F.S. Rather, mechanisms to recover number pooling costs are outside the scope of the price regulation scheme and may be recovered in a manner approved by the Commission pursuant to its state and federal authority over number administration.

**Sprint's Approved Cost Recovery Mechanism meets the requirements of the Commissions' Order**

OPC asserts that Sprint should not be allowed to recover its number pooling costs as approved by the Commission because Sprint has already recovered these costs through rates for basic and nonbasic services. Sprint disagrees. Rather, Sprint's costs that were approved by the Commission for recovery, meet the criteria established in Commission Order No. PSC-02-0466-PAA-TP, in that they are the result of a net increase in costs to Sprint as a result of its implementation of state number pooling; the costs would not have been incurred "but for" number pooling and were incurred "for the provision of" of number pooling; they are "new" costs, in that they must have been incurred subsequent to the implementation of thousand block number pooling; they are Florida-specific costs; and Sprint has proposed to recover the costs through a competitively neutral cost

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00-429, released December 29, 2000, *In the Matter of Numbering Resource Optimization; Petition of Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, 717*, CC Dockets No. 96-98 and 99-200; Order No. FCC 01-362, released December 28, 2001, *In the Matter of Numbering Resource Optimization; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Telephone Number Portability*, CC Docket Nos. 96-98 and 99-200.

recovery mechanism. The costs were not, and could not, have been recovered through the basic and nonbasic price increases implemented pursuant to the price regulation scheme set forth in s. 364.051, F.S.

**Issues to be considered at hearing**

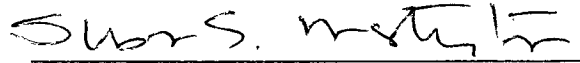
In its Protest, the OPC sets forth a number of issues that OPC believes must be resolved by the Commission at the requested hearing. Sprint disagrees that the issues designated by the OPC are relevant to the Commission's consideration of its authority to grant number pooling cost recovery and whether the cost recovery the Commission approved is consistent with FCC and FPSC Orders. Rather, Sprint agrees with the list of issues offered by BellSouth in its Response to the OPC's Petition, filed on November 12, 2003. That is, Sprint believes that the following issues are the appropriate issues to be addressed by the Commission pursuant to the OPC's Protest:

- a. What authority was granted to the Florida Public Service Commission by FCC Order No. 99-249?
- b. What number pooling cost recovery requirements were set forth by the FCC?
- c. What number pooling cost recovery requirements were set forth by the Florida Public Service Commission?
- d. What is the basis of authority under which the Florida Public Service Commission allowed Sprint to recover the costs of number pooling?
- e. Is the manner by which the Florida Public Service Commission allowed Sprint to recover the costs of number pooling consistent with FCC policy?
- f. Would Sprint have incurred number pooling costs without state-mandated number pooling?

WHEREFORE, Sprint requests that the Commission enter judgment in its

favor and against OPC, denying the relief requested by OPC in the Protest and granting Sprint any other relief deemed appropriate under law.

RESPECTFULLY submitted this 22nd day of December, 2003.

Handwritten signature of Susan S. Masterton in black ink, written over a horizontal line.

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ATTORNEY FOR SPRINT