

ORIGINAL



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January 27, 2004

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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CLERK

JAN 27 PM 4:39

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Re: Docket No. 030851-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of Sprint-Florida, Incorporated and Sprint Communications Limited Partnership are the original and 15 copies of Sprint's Prehearing statement and the original and 15 copies of Sprint's Objections to BellSouth's discovery requests.

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 850/599-1560.

Sincerely,

Susan S. Masterton

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- CAF _____
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- MMS _____
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- OTH _____

Enclosure

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Susan S. Masterton

(+ Signed Protective Agreement)

CERTIFICATE OF SERVICE
DOCKET NO. 030851-TP & 030852-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic and U.S. mail this 27th day of January, 2004 to the following:

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising) DOCKET NO. 030851-TP
from Federal Communications Commission's)
Triennial UNE review: Local Circuit Switching) FILED: January 27, 2004
for Mass Market Customers.)
_____)

SPRINT'S PREHEARING STATEMENT

Pursuant to the Order No., Order No. PSC-03-1054-PCO-TP and Order No. PSC-04-0061-PCO-TP, Sprint-Florida, Incorporated and Sprint Communications Company Limited Partnership (collectively "Sprint") file this Prehearing Statement.

A. **WITNESSES:** Sprint proposes to call the following witnesses to offer testimony in this docket:

| WITNESS: | ISSUES: |
|---|------------------------|
| Terry J. Alleman (Direct) | 3 |
| Dr. Brian K. Staihr (Direct, Rebuttal and Surrebuttal) | 1, 2, 4, 5 (e) and (f) |
| Kent W. Dickerson (Direct, Rebuttal and Surrebuttal) | 5 |

Sprint has listed the witnesses for whom Sprint believes testimony will be filed, but reserves the right to supplement that list if necessary.

EXHIBITS:

| | | |
|-------------------|-------|---------------------------------|
| Brian K. Staihr | BKS-1 | BellSouth Winback Letter |
| | BKS-2 | BellSouth Winback Advertisement |
| Kent W. Dickerson | KWD-1 | DS0 to DS1 Crossover |
| | KWD-2 | Protective Agreement Provision |
| | KWD-3 | BellSouth Letter to Blanca Bayo |

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|-------|---|
| KWD-4 | Summary of Collocation Buildout NPV Differences (CONFIDENTIAL) |
| KWD-5 | Calculation of DC Power Consumption Understatement (CONFIDENTIAL) |
| KWD-6 | BACE Model Scenario Summary |
| KWD-7 | BACE Model Sales Costs Inputs (CONFIDENTIAL) |
| KWD-8 | BellSouth Inputs NPV Analysis (CONFIDENTIAL) |

Sprint has listed the exhibits Sprint believes will be introduced, but reserves the right to introduce additional exhibits at the hearing or other appropriate points.

C. BASIC POSITION: Sprint is both an ILEC and a CLEC in Florida. Therefore, Sprint is uniquely situated to understand the needs of both providers and purchasers of unbundled network elements, and to understand the competitive impacts of the availability or lack of availability of unbundled elements on providers and purchasers. Sprint's positions on the issues in this proceeding reflect this balance, are consistent with the rulings and policies of the FCC, as set forth in its Triennial Review Order, and should be adopted by the Commission.

The Commission must have clear factual findings in making any decision that CLECs are not impaired without access to unbundled mass market local switching or risk creating a situation in which competitive choices will be virtually non-existent in some Florida markets. Neither BellSouth nor Verizon has demonstrated sufficiently that the triggers set out by the FCC have been met. Neither has BellSouth provided any competent, substantial evidence to support its claim that CLECs can economically deploy their own mass market local switches in any BellSouth markets. Therefore, the Commission should deny BellSouth's and Verizon's claims of no impairment and deny their requests to be relieved of their obligations to provide access to unbundled local switching to serve mass market customers in Florida.

D-F. ISSUES AND POSITIONS:

Issue 1: For purposes of this proceeding, what are the relevant markets for purposes of evaluating mass market impairment and how are they defined?

Sprint's Position: The relevant markets for purposes of evaluating mass market impairment are Metropolitan Statistical Areas (MSAs) as defined by the U.S. Census Bureau. The geographical unit for evaluating impairment represents the geographic area throughout which the concept of impairment will be evaluated. In another words, it must be acknowledged that the mass market is found throughout the entire MSA, not merely portions of the MSA as explained in Mr. Staihr's testimony.

Issue 2: In defining the relevant geographic areas to include in each of the markets, how should the following factors be taken into consideration and what relative weights should they be assigned:

- a) **the locations of mass market customers actually being served by CLECs;**

Sprint's Position: The TRO suggested that this data cannot be taken at face value. Given the de minimus number of mass market customers being served, and mostly by enterprise switches, Sprint does not believe this to be a significant factor in determining the relevant geographic area for the market definition.

- b) **the variation in factors affecting CLECs' ability to serve each group of customers; and**
- c) **CLECs' ability to target and serve specific markets profitably and efficiently using currently available technologies?**

Sprint's Position: Both these TRO directions are relevant and instructive for defining the geographic market and should, therefore, be given more weight. Of particular significance are the efficiencies that are gained from the scope of the market. These efficiencies are not limited to only the cost of provisioning service, but also reflect the cost of marketing services. For example, market areas are generally related to the reach of advertising media, i.e., newspaper, radio and television. Thus, Sprint has proposed that while there may be variations within a

market area which will affect a CLEC's ability to serve, e.g., UNE-L prices, the market should not be so narrowly defined as diminish the value of a CLEC's marketing expenses and potential economics of scope.

- Issue 3: a) Does a batch cut process exist that satisfies the FCC's requirements in the Triennial Review Order? If not, in which markets should the Commission establish a batch cut process?**
- b) For those markets where a batch cut process should be established, what volume of loops should be included in the batch?**
 - c) For those markets where a batch cut process should be established, what specific processes should be employed to perform the batch cut?**
 - d) For those markets where a batch cut process should be established, is the ILEC capable of migrating multiple lines that are served using unbundled local circuit switching to CLECs' switches in a timely manner?**
 - e) For those markets where a batch cut process should be established, should the Commission establish an average completion interval performance metric for the provision of high volumes of loops?**
 - f) For those markets where a batch cut process should be established, what rates should be established for performing the batch cut processes?**
 - g) Are there any markets in which a batch hot cut process need not be implemented? If so, for those markets where a batch cut process need not be established because absence of such a process is not impairing CLECs' ability to serve end users using DS0 loops to serve mass market customers without access to unbundled local circuit switching,**
 - (i) what volume of unbundled loop migrations can be anticipated if CLECs no longer have access to unbundled local circuit switching;**
 - (ii) how able is the ILEC to meet anticipated loop migration demand with its existing processes in a timely and efficient manner; and**
 - (iii) what are the nonrecurring costs associated with the ILEC's existing hot cut process?**

Sprint's Position: Sprint-Florida is not challenging the FCC's finding of impairment in any of its markets, therefore, the Commission need not review Sprint-Florida's hot cut process. In any

event, Sprint-Florida's current hot cut process does not present impairment and there is no need for the Commission to require Sprint-Florida to establish a batch hot cut process.

Issue 4: a) In which markets are there three or more CLECs not affiliated with each other or the ILEC, including intermodal providers of service comparable in quality to that of the ILEC, serving mass market customers with their own switches?

Sprint's Position: The identification of markets in which three or more CLECs are serving mass market customers with their own switches is more than just a counting exercise. The TRO lays out specific criteria that must be met before any CLEC can be counted toward meeting the triggers, including that enterprise switches do not count toward meeting the triggers, that the CLEC switches must serve a non de minimis number of mass market customers in the market, that the CLEC must be serving or capable of serving throughout the market, and that the CLEC must be actively serving the market and likely to continue to do so. BellSouth and Verizon have failed to demonstrate that the self-provisioning triggers are met in any of the markets identified in the testimony of their witnesses.

b) In which markets are there two or more CLECs not affiliated with each other or the ILEC, including intermodal providers of service comparable in quality to that of the ILEC, who have their own switches and are offering wholesale local switching to customers serving DS0 capacity loops in that market?

Sprint's Position: The identification of markets in which the wholesale triggers are met also involves more than just a counting exercise. In order to be counted as meeting the triggers, a wholesale provider must be "operationally ready and willing to provide wholesale service to all competitive providers in the designated market." In addition, the wholesale provider must be actively providing voice service "used to serve the mass market." Finally, the market in which wholesale triggers are purported to apply must be able to support "multiple, competitive supply."

BellSouth and Verizon have failed to demonstrate that the wholesale triggers are met in any of the markets identified in the testimony of their witnesses.

- Issue 5: a) In which markets are there either two wholesale providers or three self-provisioners of local switching not affiliated with each other or the ILEC, serving end users using DS1 or higher capacity loops? Where there are, can these switches be used to serve DS0 capacity loops in an economic fashion?**
- b) In which markets are there any carriers with a self-provisioned switch, including an intermodal provider of service comparable in quality to that of the ILEC, serving end users using DS0 capacity loops?**
- c) In which markets do any of the following potential operational barriers render CLEC entry uneconomic absent access to unbundled local circuit switching:**
- 1. The ILEC's performance in provisioning loops;**
 - 2. difficulties in obtaining collocation space due to lack of space or delays in provisioning by the ILEC; or**
 - 3. difficulties in obtaining cross-connects in the ILEC's wire centers?**
- d) In which markets do any of the following potential economic barriers render CLEC entry uneconomic absent access to unbundled local circuit switching:**
- 1. the costs of migrating ILEC loops to CLECs' switches; or**
 - 2. the costs of backhauling voice circuits to CLECs' switches from the end offices serving the CLECs' end users?**
- e) Taking into consideration the factors in (a) through (d), in what markets is it economic for CLECs to self-provision local switching and CLECs are thus not impaired without access to unbundled local circuit switching?**

Sprint's Position: BellSouth's decision to unreasonably prevent external users from having access to critical areas of the BACE Model's calculations, inputs, subroutines and results renders BellSouth's potential deployment case an unverifiable "black box." Because no external audit or evaluation can be made of the BACE Model, BellSouth has failed to provide any competent, substantial evidence to support its assertions that it is economic for CLECs to self-provision local

switching to serve the mass market and, therefore, that CLECs are not impaired without access to unbundled local switching in any of BellSouth's markets.

- f) **For each market, what is the appropriate cut-off for multiline DS0 customers (where it is economic to serve a multiline customer with a DS1 loop)? That is, taking into account the point at which the increased revenue opportunity at a single location is sufficient to overcome impairment and the point at which multiline end users could be served economically by higher capacity loops and a CLEC's own switching (and thus be considered part of the DS1 enterprise market), what is the maximum number of DS0 loops that a CLEC can serve using unbundled local switching, when serving multiline end users at a single location?**

Sprint's Position: The appropriate cut-off for multiline DS0 customers, that is, the point at which a multi-line DS0 customer is served more efficiently using a DS-1 capacity loop, is 12 or more.

Issue 6: If the triggers in §51.319(d)(2)(iii)(A) have not been satisfied for a given ILEC market and the economic and operational analysis described in §51.319(d)(2)(iii)(B) resulted in a finding that CLECs are impaired in that market absent access to unbundled local switching, would the CLECs' impairment be cured if unbundled local switching were only made available for a transitional period of 90 days or more? If so, what should be the duration of the transitional period?

Sprint's Position: Given Sprint's position that BellSouth has failed to provide any competent evidence that it is economic for a CLEC to self-provision switches in any of its markets, Sprint has no position on this issue at this time.

G. STIPULATIONS: None.

H. PENDING MOTIONS: Sprint's Motion to Compel BellSouth, filed on January 13, 2004.

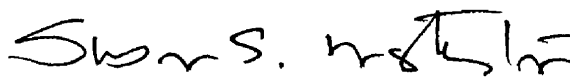
I. PENDING CONFIDENTIALITY REQUESTS:

Sprint-Florida, Incorporated's Request for Confidential Classification filed on January 22, 2004

Sprint Communications Company Limited Partnerships's Request for Confidential Classification filed on January 22, 2004.

J. **COMPLIANCE WITH ORDER ON PREHEARING PROCEDURE:** While Sprint has endeavored and will continue to endeavor to comply with the Order on Prehearing Procedure, the difficulties in timely obtaining and reviewing discovery and other parties' pre-filed testimony (especially supplemental testimony) in this proceeding may necessitate Sprint requesting leave to file supplemental testimony outside the time frames for pre-filed testimony established by the Order on Prehearing Procedure.

RESPECTFULLY SUBMITTED this 27th day of January 2004.



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