AUSLEY & MCMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET
P.O. BOX 391 (ZIP 32302)
TALLAHASSEE, FLORIDA 32301
(850) 224-9115 FAX (850) 222-7560

March 15, 2004

BY HAND DELIVERY

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

Re: Docket Nos. 030867-TL, 030868-TL, 030869-TL and 030961-TO

Dear Ms. Bayo:

Enclosed for filing in the above-referenced dockets are the original and fifteen (15) copies of Sprint-Florida, Incorporated's Response in Opposition to Motion for Reconsideration and Request for Oral Argument of AARP.

Also enclosed is a diskette containing the above Response originally typed in Microsoft Word 2000 format, which has been saved in Rich Text format for use with Word Perfect.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to this writer.

Thank you for your assistance in this matter.

Yours truly,

John P. Fons

Enclosures

cc: Certificate of Service List

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Verizon Florida, Inc, to Reform Its Intrastate Network Access and Basic Local Telecommunications rated in Accordance with Florida Statutes, Section 364.164	Docket No. 030867-TL
In re: Petition of Sprint-Florida, Incorporated, To reduce intrastate switched network Access rates to interstate parity in Revenue neutral manner pursuant to Section 364.164(1), Florida Statutes	Docket No. 030868-TL
In re: Petition by BellSouth Telecommunications, Inc., To Reduce Its Network Access Charges Applicable to Intrastate Long Distance In A Revenue-Neutral Manner	Docket No. 030869-TL
In re: Flow-through of LEC Switched Access Reductions by IXC's, Pursuant to Section 364.163(2), Florida Statutes	Docket No. 030961-TO Filed: March 15, 2003

SPRINT-FLORIDA, INCORPORATED'S RESPONSE IN OPPOSITION TO MOTION FOR RECONSIDERATION AND REQUEST FOR ORAL ARGUMENT OF AARP

Sprint-Florida, Incorporated ("Sprint-Florida"), pursuant to Rules 25-22.060(b) and 28-106.204, Florida Administrative Code, respectfully opposes the Motion for Reconsideration ("Motion") and Request for Oral Argument ("Oral Argument Request") filed by AARP, stating as follows:

I. Introduction

The telecommunications industry (both local and long distance) has been in a state of transition since the 1970's, moving from one of monopoly to competition. Nowhere has this transition been more difficult than in Florida's residential basic local telecommunications service

market. The generally accepted view as to why this transition from monopoly to competition in the residential local service market in Florida has been so difficult is the presence of historical support of below-cost residential basic local service rates by over-priced intrastate switched network access rates. Until this artificial support is reduced or eliminated, there is simply no incentive for competitive local exchange companies and others to make the investment necessary to provide local service to the vast majority of Florida's residential consumers in competition with Sprint-Florida and/or the other incumbent local exchange companies ("ILECs"). In response to this dilemma, the Florida Legislature, in 2003, enacted the "Tele-Competition Innovation and Infrastructure Enhancement Act" ("2003 Act").

The 2003 Act established the mechanism by which this Commission would examine whether petitions filed by the ILECs to reduce intrastate switched network access rates in a revenue neutral manner would:

a.) Remove current support for basic local telecommunications services that prevents the creation of a more attractive competitive local exchange market for the benefit of residential consumers.
b.) Induce enhanced market entry.
c.) Require intrastate switched network access rate reductions to parity over a period of not less than 2 years or more than 4 years.
d.) Be revenue neutral as defined in subsection (7), within the revenue category defined in subsection (2).

Section 364.164(1)(a)-(d), Florida Statutes.

Pursuant to the 2003 Act, on August 27, 2003, Sprint-Florida filed a petition "To reduce intrastate switched network access rates to interstate parity in a revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes." ("Sprint-Florida Petition"). Docket No. 030868-TL was opened to address the Sprint-Florida Petition.[1] The Sprint-Florida Petition and Amended

[1] The Sprint-Florida Petition was dismissed by the Commission on September 30, 2003, with leave to amend within 48 hours to address the Commission's determination regarding the application of the two-year time frame in Section 364.164(1)(c), Florida Statues. On October 1, 2003, Sprint-Florida filed its amended petition and revised testimony.

Petition (collectively "Petition") was accompanied by pre-filed direct testimony and exhibits addressing each of the four factors upon which the Commission is required by the 2003 Act to support its decision. This supporting information, together with testimony and other information supplied by the competitive local exchange companies ("CLECs") and the interexchange carriers ("IXCs"), provided the basis for the Commission's Order on Access Charge Reduction Petitions (Order No. PSC-03-1469-FOF-TL) issued December 24, 2003 ("Order").

Based upon its thorough review of the extensive record evidence presented to it, based upon its determination of the credibility of the witnesses (both at the public and technical hearings), and based upon its regulatory expertise, the Commission made the following findings:

1. Intrastate access rates currently provide support for basic local telecommunications services that would be reduced by bringing such rates to parity with interstate access rates. *Order* at 21-22.

2. The existence of such support prevents the creation of a more attractive competitive local exchange market by keeping local rates at artificially low levels, thereby raising an artificial barrier to entry into the market by efficient competitors. *Order* at 24-26.

3. The elimination of such support will induce enhanced market entry into the local exchange market. *Order* at 38-39.

4. Enhanced market entry will result in the creation of a more competitive local exchange market that will benefit residential consumers through:

   a. increased choice of service providers;
   b. new and innovative service offerings, including bundles of local and long distance service, and bundles that may include cable TV service and high speed internet access service;
   c. technological advances;
   d. increased quality of service; and
   e. over the long run, reductions in prices for local service.

Order at 28-33.

5. The ILECs' proposals will reduce intrastate switched network access rates to parity over a period of not less than two years or more than four years. *Order* at 42-43.

6. The ILECs' proposal will be revenue neutral within the meaning of the statute, which permits access charge reductions to be offset, dollar for dollar, by increases in basic local service rates for flat-rate residential and single-line business customers. *Order* at 46-47.

7. Because of the mandatory flow-through provisions of Section 364.163, approval of the plans will be financially neutral to the IXCs, who are required to reduce their intrastate toll rates and charges to consumers to offset the benefit of any access charge reductions the IXCs receive. *Order* at 49-50.

8. Contrary to the position taken by the Attorney General in these proceedings, the statute does not require that implementation of the proposals be "bill neutral" to any particular customer or class of customers. *Order* at 30-31.

9. We are not mandated by Section 364.164 to consider the impact of the proposals on toll rates paid by residential consumers. However, consistent with the legislative history of the 2003 Act, we conclude that we are permitted to do so. In this regard, we find that many residential customers will benefit directly from the elimination of in-state connection fees and reductions in per-minute intrastate toll rates. We also find that residential customers as a whole will enjoy prices for toll services that are closer to economic costs, and therefore, will have less of a repressive effect on long distance usage. We also find that under the long distance rate reduction plans offered by the IXCs, residential customers as a whole will get a proportionate share of any toll rate reductions based on their share of total access minutes of use. *Order* at 52, 54, 55-56.

10. Experience from other states that have rebalanced local and toll rates shows that approval of the ILECs' proposals will have little, if any, negative impact on the availability of universal service. While no customer likes to see a rate increase, the record shows that basic local service will continue to remain affordable for the vast majority of residential customers. *Order* at 30-32.

11. Although we find that it is not a benefit that we should weigh in the balance in considering whether or not to grant the Petitions, the amended Lifeline provisions in Section 364.10 will help to protect economically disadvantaged consumers from the effect of local rate increases. This protection is enhanced by the ILECs' agreement to further increase the eligibility criteria for Lifeline assistance from 125% to 135% of the federal poverty level, increasing the number of customers eligible for the program by approximately 119,000, and to protect Lifeline recipients against basic local service rate increases for four years. Although we cannot predict the future with certainty, economic theory suggests, and we are encouraged to believe, that the establishment of a more competitive local market will put downward pressure on local exchange prices that will eventually reduce the need for targeted assistance programs such as Lifeline. *Order* at 31-33.

Despite the breadth and depth of the Commission's analysis of the record and the comprehensiveness of its reasoning, AARP is asserting that the Commission's Order is in error and is seeking reconsideration of the Commission's Order. The bases offered by AARP are factually insufficient to warrant reconsideration and certainly do not satisfy the legal standard of review for a motion for reconsideration.

II. Procedural Background

On December 24, 2003, the Commission issued its Order in which it granted the Petition by Sprint-Florida to reduce its intrastate switched network access rates in a revenue neutral manner - Docket No. 030868-TL ("Sprint Petition"). On January 7, 2004, Charles J. Crist, Jr., Attorney General ("AG"), and Harold McLean, Public Counsel ("OPC") filed notices of appeal asking the Florida Supreme Court ("Court") to review the Commission's Order. On January 8, 2004, the AG filed with the Court a motion to relinquish jurisdiction, but maintain stay. On that same date, AARP and the AG filed separate motions for reconsideration of the Commission's Order.[2] On January 13, 2004, the Commission issued its Order Extending Time for Filing Responses to Motions for Reconsideration - Order No. PSC-04-0037-PCO-TL ("Order Extending Time") - in which it stated: "[i]f the Court decides to relinquish jurisdiction to allow the Commission to address the pending Motions, parties' responses to the pending Motions for Reconsideration shall be due 12 days from the date of the Court's decision." *Id.* at 2. On January 23, 2004, AARP filed its separate, original Motion to Relinquish Jurisdiction, But Maintain Stay.

On March 3, 2004, the Court granted the motions for relinquishment and "relinquishes jurisdiction to the PSC for the specific purpose of ruling on the January 8, 2004, motions for reconsideration." *Court Order* at 1. The Court went on to instruct that: "[t]he PSC shall rule on

[2] Sprint-Florida is responding in opposition to the AG's Motion in a separate, but contemporaneously filed, pleading.

these motions on or before May 3, 2004." *Id.* at 1. Based upon the requirements of the Commission's Order Extending Time, Sprint-Florida is submitting its response to AARP's Motion for Reconsideration in a timely manner.

The fact that the Court has relinquished jurisdiction to the Commission for the "specific purpose" of ruling on the motions for reconsideration does not mean that the Court has ordered the Commission to reconsider its Order, nor has it altered the standard of review applicable to motions for reconsideration. As the Court correctly noted, "[b]y relinquishing jurisdiction, the Court makes no determination or comment as to the merits of the arguments presented in the motions for reconsideration." *Court Order* at 1.

III. Standard of Review

The standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which the Commission failed to consider in rendering its Order. *See Stewart Bonded Warehouse, Inc. v. Bevis*, 294 So. 2d 315 (Fla. 1974); *Diamond Cab Co. v. King*, 146 So. 2d 889 (Fla. 1962); and *Pingree v. Quaintance*, 394 So. 2d 161 (Fla. 1st DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. *Sherwood v. State*, 111 So. 2d 96 (Fla. 3d DCA 1959), citing *State ex rel. Jaytex Realty Co. v. Green*, 105 So. 2d 817 (Fla. 1st DCA 1958). Furthermore, a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review." *Stewart Bonded Warehouse, Inc. v. Bevis*, 294 So. 2d 315, 317 (Fla. 1974).

IV. The Commission's Order Does Not Contain Any Mistakes or Points of Law Overlooked

AARP contends that the Commission has allegedly made mistakes of law or overlooked points of law in reaching its decision. AARP is wrong on both counts.

A. The Commission's Order is Not Inconsistent with the Requirements of Section 364.164(2), Florida Statutes

AARP contends that the Order is inconsistent with the requirements of Section 364.164(2), Florida Statutes, because the Commission delegates to its staff the authority "to administratively review and approve the tariffs implementing these decisions . . ." Order at 58. AARP further contends that Section 364.164(2), Florida Statutes, requires that: ". . . [t]he Commission shall, within 45 days after the rate adjustment filing, issue a final order confirming compliance with this section, and such an order shall be final for all purposes."

Contrary to AARP's contention, the Order and the statutory requirement are not inconsistent. AARP has provided no basis for the Commission to reconsider its Order. First, the contended inconsistency concerns a matter not essential to the grant of Sprint-Florida's Petition. The alleged inappropriate delegation of authority is at best a procedural matter, and any change in that procedure would not affect the grant of the Petition. Second, it must be presumed that the Commission will act in accordance with the statutory requirements. The Commission, as it has done on numerous occasions in the past, can simply issue an order confirming Staff's decision that the tariff filings conform to the Order and the statute.

To the extent the Commission determines there is merit to AARP's request for it to modify its Order on this procedural point, the Commission can certainly accomplish such modification without reconsidering its entire Order.

B. The Sprint-Florida Proposals Accepted by the Commission Were Not Required for the Commission's Decision to Grant Sprint-Florida's Petition

The 2003 Act requires the Commission to consider the four factors enumerated at Section 364.164(1)(a)-(d), Florida Statutes, in determining whether to grant or deny Sprint-Florida's Petition. In its Motion, AARP contends that the Commission improperly modified Sprint-Florida's Petition by accepting certain proposals made by Sprint-Florida during the course of the hearings and at closing argument. AARP argues that the Commission is constrained by Section 364.164(1),

Florida Statutes, to either "grant or deny any petition," without any latitude to modify the petitions. Motion at ¶ 4. Contrary to AARP's contentions, the proposals accepted by the Commission do not amount to a modification of the Sprint-Florida Petition, nor do AARP's contentions provide a basis for reconsideration of the Commission's Order.

After first concluding that Sprint-Florida's Petition fully satisfies all of the statutory criteria for granting a petition, the Commission, as a separate mater, addressed and approved proposals made by Sprint Florida that it will: (1) increase basic residential recurring and non-recurring rates in four steps spread over three years; (2) increase Lifeline eligibility to 135% of the federal poverty level; (3) maintain current Lifeline rates for four years; and (4) commit Sprint-Florida to work with the Commission in the future to review ECS (Extended Calling Service) in a Commission workshop. Order at 56-57. None of these proposals were integral to the four factors the Commission is required to consider in making its determination to grant or deny Sprint-Florida's Petition.

The Sprint-Florida proposal to spread the increases to basic residential recurring and non-recurring rates in four steps over three years was made in response to the prefiled testimony of Staff witness Greg Shaefer, who urged the Commission to require Sprint-Florida to implement any rate increases in precisely that manner in order to reduce an allegedly potential "rate shock." Hearing Transcript Vol. 12 at 1503-1505. Consequently, all the parties to the proceeding were on notice that this was a matter to be addressed by the Commission. In fact, AARP's counsel questioned Sprint's witnesses about this proposal, as did Commission staff's counsel. Hearing Transcript Vol. 9 at 1059, 1137-1138. Sprint-Florida's proposal is fully within the statutory requirement that access rate reductions take place in a period of not less than two years or more than four years. In accepting Sprint-Florida's proposal, the Commission acknowledged that the proposal of implementing any

increases in three steps over two years contained in Sprint-Florida's Petition fully satisfied the statutory requirement. Order at 43.

The other three proposals made by Sprint-Florida during the hearing and at closing argument are enhancements to proposals made by Sprint-Florida in its Petition, which were extrinsic to the four statutory criteria to be considered by the Commission. For example, the two proposals to increase Lifeline eligibility to 135% of the federal poverty level and to protect Lifeline rates from increases for four years is related to satisfying the requirements of Sections 364.10(3)(a) and (c), Florida Statutes, not Sections 364.164(10(a)-(d), Florida Statutes. These proposals are designed to shield the economically disadvantaged residential consumers from the potential impact of increasing basic rates. *See* Order at 31-32 ("Although it is not a benefit that we should weigh in the balance in considering whether or not to grant the Petitions, we observe that the amended Lifeline provisions in section 364.10 will help to protect economically disadvantaged consumers from the effect of rate increases.") The fourth proposal, which addresses ECS, responds to questions raised by the Commissioners during the hearing and relates to an optional service not included in any of the four statutory criteria to be considered by the Commission. Hearing Transcript Vol. 9 at 1065-1070, 1116-1119, 1127-1131. ECS is currently governed by the requirements of Section 364.385(2), Florida Statutes. Nothing about agreeing to participate in a future Commission workshop has any impact on the four criteria to be considered in whether to grant Sprint-Florida's Amended Petition.

There is nothing contained in AARP's motion on this point that reflects any mistake of law or fact or otherwise provides a basis for granting AARP's Motion. It is ironic that AARP, which has criticized the Commission's Order as not responding to its constituents' needs, is now complaining about the four proposals made by Sprint-Florida that are unquestionably pro-consumer in effect.

V. The Commission's Order Does Not Contain Any Mistakes or Points of Fact Overlooked

The balance of AARP's Motion consists of a litany of items which AARP contends are mistakes of fact or facts overlooked by the Commission in reaching its decision to grant Sprint-Florida's Petition. Motion at ¶ 4-12. As will be demonstrated, AARP offers no valid basis for reconsideration of these items. Instead, AARP simply reargues positions and restates facts AARP presented during the hearing, but which the Commission considered and, based upon competitive substantial record evidence, rejected.

A. The Commission Properly Assigned the Cost of the Local Loop to Basic Local Service

AARP contends, as it has throughout this proceeding, that the cost of the local loop must be allocated to all of the services which "could not be sold absent the existence and utilization of the residential local loop." Motion at ¶ 5. AARP goes on to contend, without citing any record evidence, that the "Commission mistakenly assigned the entire cost of the local loop only to basic service." *Id.* There is nothing in the Order to suggest that the Commission was "mistaken" in reaching the decision it did. Order at 21-22. The fact that AARP does not like the decision does not indicate that the Commission made a mistake or supply the requisite legal basis for reconsideration.

As AARP acknowledges, the Commission specifically accepted the economic testimony of the ILEC and IXC's witnesses which treat the cost of the local loop as a cost of basic local service. Order at 21. The Commission also found that the testimony shows that "there is no economic principle requiring that the cost of that loop be allocated across other ancillary services that are provided over the loop." *Id.* at 21-22. AARP concedes that: "it may be true that there is 'no economic principle requiring that the cost of that loop be allocated across other ancillary services that are provided over the loop.'" But having made that concession, AARP now contends, for the first time, that "fundamental fairness and basic common sense require that all services dependent upon the local loop bear a fair share in supporting its costs." Motion at ¶ 6. Based on its allegations

that the "Commission could very easily make such a fair allocation" and "[t]here is no legal prohibition against such a common sense analysis," AARP has the audacity to claim that the Commission must reconsider "its decision on the allocation of the costs of the local loop." *Id.* There is nothing in the hearing record that supports AARP's new claim that the Commission can ignore sound economic principles and reverse its decision based on unfounded claims of "fairness" and "common sense." Consequently, it is impossible to see how this new claim satisfies the legal standard of review for reconsideration.

B. The Order Correctly Finds That the Existence of Support From Intrastate Access Rates Prevents the Creation of a More Attractive Local Exchange Market and the Elimination of Such Support Will Induce Enhanced Market Entry Into the Local Exchange Market

Having created a "straw man," that the Commission must reconsider its decision that the cost of the local loop is properly assigned to basic service, AARP then contends that if the Commission were to adopt AARP's claim that the local loop cost is allocated to other services using the local loop then, "there is no support to be removed by higher local rates." Based upon this non-sequitur, AARP then argues that "it stands to reason that the Commission's next two summary findings, found beginning at Page 17, must fail too."[3] Motion at ¶¶ 6 and 7.

As pointed out above, AARP's contention that the Commission committed a mistake of fact by not allocating the cost of the local loop to other services allegedly using the loop is not supported by any record evidence, and does not meet the standard of review for reconsideration. Accordingly,

---

[3] The two "summary findings" referred to by AARP are:

> 2. The existence of such support prevents the creation of a more attractive competitive local exchange market by keeping local rates at artificially low levels, thereby raising an artificial barrier to entry into the market by efficient competitors.
> 3. The elimination of such support will induce enhanced market entry into the local exchange market.

Motion at ¶ 7; Order at 17, Items 2 and 3.

AARP's sophistic contention that summary findings 2 and 3 "should fail" (Motion at ¶¶ 6 and 7) is also without merit and does not support reconsideration.

Fearful (and rightfully so) that this disingenuous approach does not support its request for reconsideration, AARP then attempts to create a new reasoning for reconsideration. AARP contends that "even if there were a measure of support for basic services flowing from access fees," the totality of the record does not support a finding that their existence raises an artificial barrier to entry by efficient competitors." Motion at ¶ 8. Again, AARP seeks reconsideration on the basis of an allegedly non-existent record. Yet, the record is replete with evidence that the support from switched network access rates creates a significant barrier to residential local competition. *See, e.g.*, Hearing Transcript Vol. 2 at 125, 133, 187-188, Vol. 9 at 1035-1037.

In another twist of logic, AARP acknowledges that "there is currently substantially more competition for business customers," but then claims that this fact does not support increasing residential local rates to attract residential competition because, in AARP's view, competitors are in the business market because that is "where the money is." Motion at ¶ 8. This distorted logic not only fails as an explanation of AARP's attempted point, it actually supports the correctness of the Commission's decision that "keeping local rates at artificially low levels, thereby rais[es] an artificial barrier to entry into those markets by efficient competitors." Order at 17. Competitors are flocking to the business customers because Sprint-Florida's prices for business services are highly profitable. In contrast, Sprint-Florida's residential basic local service prices are at artificially low levels, are not profitable and are not attracting the same level of competition as its business services. As the record reflects, CLECs are unquestionably attracted to the most lucrative local service customers, and under the pricing scheme in place prior to the grant of these Petitions, those customers have been business local service customers. *See, e.g.*, Hearing Transcript Vol. 2 at 151;

Vol. 9 at 1037, 1063-1064, 1145. There is nothing in AARP's convoluted argument that warrants reconsideration.

Finally, AARP contends that "the record simply doesn't demonstrate" that "increasing basic local residential rates" will induce enhanced market entry into the local exchange market. Motion at ¶ 9. AARP attempts to support this contention by suggesting that the "oft-repeated" examples of Knology entering the Tampa local residential market and AT&T entering the Miami local residential market are not the result of the Commission's action in this proceeding. Motion at ¶ 9. AARP's assertion is inconsistent with the record evidence that the potential for rate rebalancing provided by the 2003 Act drove Knology and AT&T's decisions to enter the residential local markets. *See e.g.*, Hearing Transcript Vol. 8 at 749; Vol. 10 at 1256. In fact, AARP's attempt to dismiss the importance of Knology's entering into the residential local market because Knology "is a cable TV operation that sells telephone service as an ancillary operation" (Motion at ¶ 9) clearly underscores AARP's failure to grasp the significance of Knology's presence in the marketplace and the impact of providing bundles of service. That significance was not lost on the Commission. Order at 30, 38-39; Hearing Transcript Vol. 8 at 791-792. Not content with making unsupported conclusions, AARP furthers its flight of fancy by summarizing that "there is no competent, substantial record evidence demonstrating that local service competition will result from . . . increasing local service rates as substantially as this Commission has ordered . . ." Motion at ¶ 9. Such hyperbole is at odds with the reality of the record evidence in this proceeding. *See e.g.*, Hearing Transcript Vol. 2 at 150, 192, 215; Vol. 8 at 755, 779; Vol. 10 at 1168-1169, 1175, 1187, 1189, 1195, 1208. Clearly, it does not satisfy the legal requirements for granting reconsideration. Accordingly, AARP's Motion must be rejected.

C. The Commission has Correctly Determined that Residential Customers Will Be Benefited By Granting Sprint-Florida's Petition

In a final burst of criticisms directed towards the Commission's Order, AARP contends that "[t]he benefits to residential customers envisioned by this Commission in its order are not borne out by the record in this case." Motion at ¶ 10. AARP then proceeds to list a series of items that AARP contends suffer from a failure of proof, concluding with the oft-argued AARP position that the "Commission has erred as a matter of fact and law in concluding that the residential customers will benefit as a result of these very large rate increases, especially when considering the Commission's discussion of the potential flow-back [sic] of access fee reductions through the IXC's reduced instate toll rates." Motion at ¶ 12. None of AARP's alleged "failures of proof" are borne out by the record. In fact, the record supports the opposite conclusion. *See, e.g.,* Hearing Transcript Vol. 9 at 1098, 1146-1147; Vol. 10 at 1204. The alleged errors presented here by AARP are just a rehash of the points considered and rejected by the Commission. Order at 28-33. The fact that AARP does not agree with the Commission's decision does not support or satisfy the legal standard of review for reconsideration.

Each of the contentions raised by AARP regarding the alleged failure to satisfy the statutory requirement that there be a benefit to residential customers is not only wrong, it is irrelevant to the inquiry. As noted previously, the statutory inquiry is whether granting the petition will "[r]emove current support for basic local telecommunications services that prevents the creation of a more attractive competitive local exchange market for the benefit of residential consumers." Section 364.164(1)(a), Florida Statutes. Contrary to AARP's assertions, the record is replete with competent substantial evidence showing that residential consumers will be benefited through the creation of a more attractive competitive local exchange market by:

a. increased choice of service providers;
b. new and innovative service offerings, including bundles of local and long distance service, and bundles that may include cable TV service and high speed internet access service;

c. technological advances;
d. increased quality of service; and
e. over the long run, reductions in prices for local service.

Order at 17, Item 4. *See also*, Order at 28-33.

AARP attempts to discredit each of these findings with unsupported conclusions and opinions. The record, however, provides competent, substantial evidence supporting each of these findings. *See, e.g.,* Hearing Transcript Vol. 2 at 131, 146, 159, 192; Vol. 3 at 293; Vol. 8 at 764, 784; Vol. 9 at 1046; Vol. 10 at 1195, 1204, 1215, 1227. Once again, AARP offers only hyperbole, but nothing that satisfies the legal requirement for reconsideration.

As noted previously, with regard to AARP's shop-worn argument about the amount of access rate reduction flow-through that residential customers will receive, the Commission had ample evidence to support its finding that: "[w]e reject that argument, and find that the preponderance of the evidence in the proceeding shows that the benefits to residential customers as a whole generated by the resulting decreases in long distance rates and elimination of the in-state connection fee will out weigh the increases in local rates." Order at 30. Although Sprint-Florida does not concede that this is a finding the Commission had to make in order to grant Sprint-Florida's Petition, the Commission is absolutely correct as to the extent of the record support for its decision.[4] The record is extensive on this issue. *See, e.g.,* Hearing Transcript Vol. 9 at 1098, 1146-1147; Vol. 10 at 1204. The fact that AARP disagrees with the Commission's decision is irrelevant. AARP has provided no showing that the Commission overlooked or failed to consider in reaching its decision.

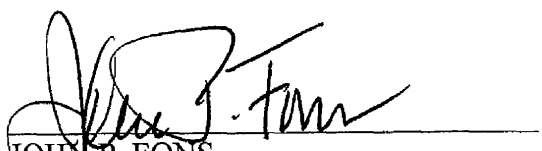
VI. Oral Argument Request

In its Oral Argument Request, AARP claims that: "the Commission taking oral argument from the parties on the issues surrounding reconsideration will aid it in reaching its final

[4] The Order acknowledges that: "[w]hile Section 364.164 does not mandate that we consider the degree of benefit to residential customers from long distance rate reductions, our review of the legislative history convinces us that it is within our discretion to do so." Order at 30.

determination on the increases." Oral Argument Request, p. 1. The granting of oral argument, of course, is solely in the discretion of the Commission. Rule 25-22.060, F.A.C. However, the party requesting oral argument must state "with particularity why oral argument would aid the Commission in comprehending and evaluating" reconsideration. Rule 25-22.058(1), F.A.C. AARP's Oral Argument Request fails in this respect. AARP's rationale for oral argument, as outlined above, is, at best, self-serving, and is nothing more than a recitation of the language of the rule and nothing more. AARP does not anywhere supply the necessary "particularity" for why oral argument will "aid" the Commission. There is certainly nothing in AARP's Motion for Reconsideration that creates a need for oral argument.

RESPECTFULLY SUBMITTED this 15th day of March, 2004.



JOHN P. FONS
Fla. Bar No. 0280836
Ausley & McMullen
P.O. Box 391
Tallahassee, FL 32302
(850) 224-9115

and

SUSAN S. MASTERTON
Fla. Bar No. 0494224
Sprint-Florida, Inc.
P.O. Box 2214
Tallahassee, FL 32316-2214
(850) 599-1560

ATTORNEYS FOR SPRINT-FLORIDA, INCORPORATED

CERTIFICATE OF SERVICE

I HERBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail, e-mail or hand delivery (*)this 15th day of March, 2004, to the following:

Beth Keating, Esq. (*)
Felicia Banks, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Richard Chapkis, Esq.
Verizon-Florida
P.O. Box 110, FLTC0007
Tampa, FL 33601-0110

Mark Cooper
504 Highgate Terrace
Silver Spring, MD 20904

Michael A. Gross, Esq.
FCTA
246 E. 6th Ave., Suite 100
Tallahassee, FL 32302

Michael B. Twomey
P. O. Box 5256
Tallahassee, FL 32314-5256

John Feehan
Knology, Inc.
1241 O.G. Skinner Drive
West Point, GA 31833

Jack Shreve
Senior Special Counsel for Consumer Affairs
Office of the Attorney General
PL-01 The Capitol
Tallahassee, FL 32399-1050

Ben Wilcox
Common Cause Florida
704 West Madison Street
Tallahassee, FL 32304

Charles Beck (*)
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison St., Rm. 812
Tallahassee, FL 32399-1400

Tracy Hatch/Chris McDonald
AT&T Communications
101 N. Monroe St., Suite 700
Tallahassee, FL 32301

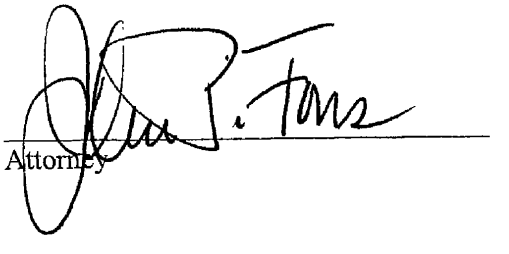
Donna McNulty, Esq.
MCI WorldCom
1203 Governors Square Blvd.; Suite 201
Tallahassee, FL 32301

Nancy White, Esq.
c/o Nancy Sims
BellSouth Telecommunications
150 S. Monroe St., Suite 400
Tallahassee, FL 32301

Floyd Self
Messer, Caparello & Self, P.A.
P. O. Box 1876
Tallahassee, FL 32302

George Meros
Gray Robinson, P.A.
P. O. Box 11189
Tallahassee, FL 32302-3189

Charles J. Rehwinkel
Sprint Communications Company, L.P.
P. O. Box 2214
Tallahassee, FL 32316-2214



Attorney

h:\jpf\sprint\access charges\pleadings\rsp in opp aarp mtn to rcnsdr.doc