

State of Florida



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

DATE: September 23, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Watts) *NW*
Division of Economic Regulation (Maurey) *TK*
Office of the General Counsel (Rojas) *JK*

RE: Docket No. 041113-TL – Compliance investigation of Sprint-Florida, Incorporated regarding rebate required by Order No. PSC-03-0733-PAA-TL, issued June 19, 2003.

AGENDA: 10/05/04 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\041113.RCM.DOC

Case Background

In Docket No. 991377-FL, In re: Initiation of show cause proceedings against Sprint-Florida, Incorporated for violation of service standards, Sprint-Florida, Incorporated (Sprint) and the Office of Public Counsel (OPC) entered into a stipulation and settlement wherein Sprint would implement a Service Guarantee Plan (SGP) for a term of two years. By Order No. PSC-00-2462-PAA-TL, issued December 20, 2000, as amended by Amendatory Order No. PSC-00-2462A-PAA-TL, issued January 12, 2001, in Docket No. 991377, the Florida Public Service Commission (Commission) approved the SGP. Sprint's SGP was implemented on June 1, 2001, and was scheduled to terminate on May 31, 2003.

On May 7, 2003, Sprint filed a Petition for Extension of Limited Waiver of Rules 25-4.066(2), 25-4.070(3)(a), 25-4.073(1)(c), 25-4.073(1)(d), and 25-4.110(2), Florida Administrative Code. However, staff noted that Rule 25-4.110(2), Florida Administrative Code, changed numerically to Rule 25-4.110(6), Florida Administrative Code. Staff notified Sprint and

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it filed an Amended Petition for Extension of Limited Waiver of Rules 25-4.066(2), 25-4.070(3)(a), 25-4.073(1)(c), 25-4.073(1)(d), and 25-4.110(6), Florida Administrative Code, on May 12, 2003. Sprint's Amended Petition also contained a request to approve the Agreement to Modify and Extend its SGP.

In Proposed Agency Action (PAA) Order No. PSC-03-0733-PAA-TL, issued on June 19, 2003, in Docket No. 030430-TL, In re: Petition for approval of limited waiver of Rules 25-4.066(2), 25-4.070(3)(a), 25-4.073(1)(c) and (1)(d), and 25-4.110(2), F.A.C.; and for approval of modification and extension of Service Guarantee Plan (SGP) approved by Order PSC-00-2462-PAA-TL, by Sprint-Florida, Incorporated, the Commission granted Sprint's petition. This Order granted modifications to the SGP's provisions for out-of-service repair times, primary installation times, and speed of answer times for Sprint's Business and Repair Offices. According to the modified SGP, Sprint must automatically apply a credit of \$25 to a customer's account if it misses a commitment for primary installation.

In August 2004, staff conducted a service evaluation to assess Sprint's compliance with its SGP. Staff verified Sprint's compliance with the SGP for out-of-service repair times and the related rebates. However, when staff requested that Sprint provide documentation to substantiate its credits for missed commitments for primary service installation, Sprint could not produce all of the necessary records. It had proof of the credits issued for all its Florida territories prior to February 2004, but could only produce records for its northern Florida territories in February 2004 and thereafter.

Upon investigation, Sprint found that in February 2004, a software enhancement to its billing and customer care systems was to be deployed state-wide to implement the SGP requirements for installation of primary service. However, it found that the enhancement had been installed in the billing system only in its northern Florida regions. The database that was updated with this enhancement is divided between the northern regions and the south/central regions, and enhancements must be applied to both portions of the database. It appears that the enhancement was not applied to the south/central regions. The credit for missed appointments for new primary installations appeared in company reports, having been generated from the customer care system, but the credits did not appear in the affected customers' accounts due to the billing system error. Therefore, Sprint proposed to credit the accounts of the affected customers with the \$25 rebate plus interest.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.01(4) and 364.025, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission penalize Sprint-Florida, Incorporated for the company's apparent failure to issue rebates to customers in central and south Florida for missed commitments for installation of primary service, as required by the company's Service Guarantee Plan, for the period February 1, 2004, to August 31, 2004?

Recommendation: No. (M. Watts, Rojas)

Staff Analysis: As stated in the Case Background, Sprint's SGP was approved by the Commission for a limited period of time in lieu of meeting the requirements of Rules 25-4.066(2), 25-4.070(3)(a), 25-4.073(1)(c), 25-4.073(1)(d), and 25-4.110(6), Florida Administrative Code, collectively known as the "service standards." The service standards require a minimum level of performance in the areas of out-of-service repair times, primary installation times, and speed of answer times for customer service calls. Under the SGP, Sprint is required to issue an automatic \$25.00 credit to a customer's account if Sprint offers an installation date of three or more work days and the customer requests service to be installed within three work days from the date of the completed application, and the service is not installed within three work days.

In August 2004, staff evaluated Sprint's compliance with its SGP. For the primary service installation portion of the SGP, staff requested documentation showing that the proper credits had been applied to the affected customers' accounts. Sprint was able to produce records reflecting that all of the required credits had been properly applied prior to February 2004. Beginning then, however, Sprint was unable to verify that it had credited the customers in its central and south Florida regions. As stated in the Case Background, Sprint identified a software deployment error that caused the failure and has proposed a method of issuing the credits due, with interest, to the affected customers. For any customers due a credit whom the company cannot locate, Sprint requests to apply the money, with interest, to the Community Service Fund, which is administered by Sprint in coordination with OPC for the purpose of informing customers about and promoting Sprint's Lifeline service.

It appears that Sprint was unaware of the software error in its billing system prior to staff's evaluation. Upon notification, Sprint immediately began efforts to identify the affected customers and issue rebates to them. Sprint coordinated with Commission staff to determine the proper amount of interest to be paid on a per-customer basis prior to the opening of this docket to expedite the credits to its customers. Therefore, staff recommends that the Commission should not penalize Sprint-Florida, Incorporated for the company's apparent failure to issue rebates to customers in central and south Florida for missed commitments for installation of primary service, as required by the company's Service Guarantee Plan, for the period February 1, 2004, to August 31, 2004.

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Issue 2: Should the Commission require Sprint-Florida, Incorporated to credit the affected customers' accounts with a \$25-per-account rebate for a total rebate of \$285,075.00, plus \$1,486.69 interest, for a total of \$286,561.69, for the company's missed commitments for installation of primary service, as required by the company's Service Guarantee Plan, during the period February 1, 2004, to August 31, 2004; require the company to submit a report within 30 days of the issuance of the Consummating Order to the Commission stating, (1) how much was rebated to its customers, (2) the number of customers, and (3) the amount of money due to those customers that cannot be located; and require Sprint to apply any amounts due to customers that cannot be located to the Community Service Fund, created pursuant to the Service Guarantee Plan, for use for Lifeline promotion?

Recommendation: Yes. (M. Watts/Maurey)

Staff Analysis: As stated in the Staff Analysis for Issue 1, Sprint has proposed a method of issuing the credits due, with interest, to the customers for whom it missed its commitments for installation of primary service. Sensitive to the financial hardships caused by hurricanes Charley and Frances, Sprint requested a departure from standard Commission practices for issuing refunds. Typically, the company does not issue refunds (or rebates, in this case) prior to the issuance of the Consummating Order. However, in an effort to get the credits to the affected customers more quickly, Sprint requested assistance with interest calculations from staff prior to this docket being opened and began issuing the credits as soon as possible. Staff provided Sprint with its interest calculations on September 20, 2004.

Therefore, the Commission should require Sprint-Florida, Incorporated to credit the affected customers' accounts with a \$25-per-account rebate for a total rebate of \$285,075.00, plus \$1,486.69 interest, for a total of \$286,561.69, for the company's missed commitments for installation of primary service, as required by the company's Service Guarantee Plan, during the period February 1, 2004, to August 31, 2004; require the company to submit a report within 30 days of the issuance of the Consummating Order to the Commission stating, (1) how much was rebated to its customers, (2) the number of customers, and (3) the amount of money due to those customers that cannot be located; and require Sprint to apply any amounts due to customers that cannot be located to the Community Service Fund, created pursuant to the Service Guarantee Plan, for use for Lifeline promotion.

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Issue 3: Should this docket be closed?

Recommendation: The Order issued from the recommendation will be a proposed agency action. Thus, the Order will become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of the Order. Upon receipt of Sprint's report and staff's review, this docket should be closed administratively. **(Rojas)**

Staff Analysis: The Order issued from the recommendation will be a proposed agency action. Thus, the Order will become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of the Order. Upon receipt of Sprint's report and staff's review, this docket should be closed administratively.