

(703) 264-4969



**HAND DELIVERED
VIA AIRBORNE EXPRESS**

January 30, 1991

Mr. Steve Tribble
Commission Clerk
Florida Public Service
Commission
101 East Gaines St.
Tallahassee, FL 32301

910100-TI

RE: Annual Report of US Sprint Communications Company Limited Partnership; Request for Specified Confidential Classification

Dear Mr. Tribble:

Enclosed are an original and 15 copies of US Sprint Communications Company Limited Partnership's Motion for Specified Confidential Classification of its 1990 Annual Report. Included with this Motion is a sealed copy of the Annual Report, which contains highlighted proprietary information. Under separate cover, an edited version of the Report was filed for the public record.

Please date stamp the additional copy of this letter and return it for our files. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Helen M. Hall".

Helen M. Hall
Attorney

Enclosures

Confidential
DOCUMENT NUMBER-DATE

01015 JAN 31 1991

PSC-RECORDS/REPORTING

Motion
DOCUMENT NUMBER-DATE

01016 JAN 31 1991

PSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request of US Sprint)
Communications Company)
Limited Partnership for)
Specified Confidential)
Classification)

Docket No. 910100 - TI

**MOTION OF US SPRINT COMMUNICATIONS COMPANY
LIMITED PARTNERSHIP FOR SPECIFIED
CONFIDENTIAL CLASSIFICATION**

US Sprint Communications Company Limited Partnership ("US Sprint"), pursuant to Florida Statutes section 364.183 and Florida Administrative Code Rule 25-22.006, requests that the Florida Public Service Commission ("Commission") grant specified confidential classification of US Sprint's 1990 Annual Report ("Report") to the Commission. In support of this Motion, US Sprint states as follows.

I. Introduction and Background

1. US Sprint holds a certificate of public convenience and necessity from this Commission to operate as a minor interexchange carrier ("IXC").

2. US Sprint is required to file Annual Report Form PSC/CMU 38 with the Commission. Certain information to be included in the report is proprietary and sensitive business information, disclosure of which would be harmful to US Sprint.

3. Pursuant to Florida Administrative Code Rule 25-22.006(3)(c), the information for which specified confidential classification is sought is summarized as follows.

a. Specific addresses of US Sprint's Points of Presence

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PSC-RECORDS/REPORTING

("POPs") and PIU factors (page 16);

b. Map identifying features of certain facilities (page 20);

c. List of those carriers from whom US Sprint leases facilities (page 15).

Attached, in a sealed envelope, is a copy of US Sprint's 1990 Annual Report, containing the proprietary information. The proprietary data has been highlighted. An edited version of the Report has been filed with the Commission for public record under separate cover, by letter dated January 23, 1991, from Tony Key.

4. Because of the nature of interexchange competition, US Sprint requests that the specified information be classified as confidential for a minimum of 3 years. Upon expiration of that period, US Sprint requests that the Report be returned to US Sprint through the undersigned counsel.

5. US Sprint does not object to providing the specified confidential information to the Commission. Rather, US Sprint's concern is that this information not be made part of the public record. There is no compelling need or legitimate interest served by public disclosure of the specified information.

6. Pursuant to Florida Statutes section 364.183(3)(a), (3)(d) and (3)(e), the specified confidential information is and should be deemed confidential material by the Commission, since it is a trade secret, concerns bids or other contractual data, and relates to competitive interests. The disclosure of this information would seriously impair the efforts of US Sprint in the competitive

marketplace.

II. Trade Secret Information

7. Florida Statutes section 364.183(3)(a) provides that proprietary confidential information subject to exemption from Florida Statutes section 119.01(1) includes trade secrets. Neither this statute nor the Commission's Rules define this term. The Legislature has, however, adopted a general definition for trade secrets in the Uniform Trade Secrets Act that appears appropriate for guiding the Commission in this area. Florida Statutes section 688.002(4) (1989) defines a trade secret as:

[I]nformation, including a formula, pattern, compilation, program, device method, technique, or process that:

(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Identification of US Sprint's vendors of facilities, the address of its POPs, the PIU percentages by POP, and the map identifying the features of its facilities clearly meets both of the statutory requirements for a trade secret and falls within the scope of the Commission's decision reached in Order No. 21362.

8. First, the subject information satisfies the test under (a) above because disclosure would unduly hamper US Sprint's ability to bargain and contract with customers for equipment and services, thus constituting an "economic value" sought to be protected by the statute. Moreover, identification of POP

addresses poses a valid security concern for the protection of valuable network equipment vital to US Sprint's provision of services, thus further constituting an "economic value." US Sprint is not engaged in the provision of monopoly telephone services. Rather, as expressly recognized by this Commission, US Sprint is engaged in the provision of competitive interexchange services. The compilation of this information is used in the course of business by US Sprint, and its public release would provide an advantage or an opportunity to obtain an advantage, not presently available or it would provide a risk to the security of the company's facilities.

9. Disclosure of this information would also be of adverse economic impact to US Sprint's competitive posture vis a vis other IXCs. US Sprint's network has been designed and installed based in part on a business plan that includes US Sprint's analysis of current and future market potential. Public disclosure of information on vendors of service, POP addresses, PIU by POPs, and facilities' features could enable a competitor to deduce US Sprint's business plan and evaluation of actual and potential markets, thus making the results of US Sprint's research and planning available at essentially no cost. With this information, markets may be abandoned or not entered, additional or enhanced facilities may not be installed, or installation decisions may otherwise be negatively affected. In short, business decisions would be impacted, the marketplace will be skewed, and customers will experience adverse service and pricing problems unless US

Sprint's motion for confidential classification is granted.

10. US Sprint's POP locations merit protection to preclude the opportunity for scientific blackmail, criminal mischief, national security sabotage, or other damage to US Sprint's network. As the Commission is aware, US Sprint provides telecommunications services to the federal government under the FTS2000 contract. This contract specifically requires that US Sprint undertake various measures to ensure the security of the telecommunications network and related facilities because of the federal agencies that utilize US Sprint telecommunications services. Public disclosure of certain US Sprint network facilities could therefore compromise the security of the network by identifying critical network facilities and be a threat to the security and preparedness of those federal government agencies utilizing the US Sprint network.

11. In addition, US Sprint has taken reasonable steps to assure that this proprietary information is not known or readily ascertainable by other persons who might otherwise derive economic value from its disclosure or use, meeting the requirements of section 688.002(4)(b). Under US Sprint's internal handling procedures, this information is not publicly disclosed or readily ascertainable by lawful means to unauthorized persons. US Sprint maintains this information in secrecy, since disclosure would otherwise impair US Sprint's ability to competitively offer services to Florida customers or to protect the company's network facilities. The Florida market for the provision of telecommunications services and equipment is very competitive.

Public knowledge of the proprietary information can and does affect US Sprint's ability to bid for, contract with, and to otherwise provide services to its customers.

12. In the course of business, US Sprint does not disclose the identity of its facilities vendors, POP locations, PIU data, or details on the internal features of its facilities. Indeed, no member of the public at large can lawfully obtain such information absent specific consent.

13. Within the US Sprint organization, company employees familiar with the subject information are not authorized to publicly or otherwise disclose this customer information, and any such disclosures occur only under narrowly circumscribed, carefully guarded, and limited conditions. US Sprint's internal administrative operating procedures further require the maintenance of such information in locked or otherwise secured areas.

14. In Commission Order No. 21362, the Commission granted confidential classification to Telus's vendor information. Moreover, in the Commission's Docket No. 890815-TL, information relative to IXC-specific PIUs has at all times been treated as confidential by the Commission Staff, the IXCs, and local exchange companies participating in that proceeding. Finally, the Commission has in prior orders acted to protect information the public disclosure of which would be a threat to the security of the company's operations, which in this situation would include US Sprint's specific POP locations and details regarding its facilities. See Order No. 21102 (April 24, 1989). Together, these

facts and circumstances demonstrate that the requested material is sensitive, commercially valuable information, and important to the security interest of the federal government, the disclosure of which would provide a threat to the security of the company's network or a competitive advantage not otherwise available in the marketplace. As a matter of law and fact, such public disclosure in these circumstances would harm US Sprint's substantial interests, and the information clearly constitutes trade secrets meriting exclusion from the public record under Florida Statutes section 364.183(3)(a).

III. Critical Contractual Data

15. Florida Statutes section 364.183(3)(d) expressly authorized protection of "[i]nformation concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms." Identification of US Sprint's vendors of facilities on page 15 meets this statutory criteria.

16. US Sprint is engaged in the provision of interstate and intrastate interexchange services. Specifically, public disclosure of US Sprint's vendors of facilities and the related leased facilities would impair the company's ability to lease network capacity and provide other services at favorable terms and conditions.

17. Critical components of any negotiation for services at mutually agreeable rates are the underlying facilities and services components. US Sprint is a facilities-based carrier offering both

wholesale and retail fiber optic capacity and other services. Because of the nature of providing statewide services and in order to comply with Commission regulations, US Sprint must necessarily lease some limited facilities. The Florida market for the provision of these services and facilities is very competitive, and US Sprint competes with other carriers for the acquisition of such facilities, equipment and services. In this environment, the confidentiality of vendors of facilities enhances US sprint's ability to negotiate the best deal possible on price and service. Thus, US Sprint's network can operate at its greatest level of efficiency so the lowest priced, highest quality services can be passed on to customers.

19. The Commission has expressly recognized the need and importance of maintaining such information as confidential. Last year the Commission granted confidential classification to portions of the annual report of Telus Communications, Inc. which included identification of Telus's vendors of facilities. Accordingly, public disclosure of US Sprint's carrier customers would destroy the environment in which US Sprint could properly negotiate such contracts and be inconsistent with clear Commission policy, thus violating the policy sought to be protected by Florida Statutes section 364.183(3)(d).

IV. Information Relating to Competitive Interests

20. Florida Statutes section 364.183(3)(e) authorizes confidential treatment of "[i]nformation relating to competitive interests, the disclosure of which would impair the competitive

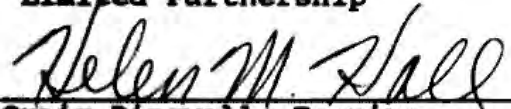
business of the provider of information." Disclosure of US Sprint's POP locations, PIU factors, vendors of facilities, or features of certain facilities would impair US Sprint's ability to compete. The confidential information thus meets the criteria for protection under the statute. As described more fully in paragraphs 8, 9, 16, and 17, this information would be of value to US Sprint's competitors and vendors, and release of this information would seriously impair US Sprint's ability to negotiate facilities arrangements and compete in Florida.

WHEREFORE, US Sprint Communications Company Limited Partnership respectfully requests that vendors of leased facilities, POP addresses, PIUs by POP, and portions of the map identifying features of its leased facilities provided pursuant to the Commission's annual report requirement (and as highlighted on the enclosed proprietary Report) be declared proprietary and confidential business information pursuant to Florida Statutes section 364.183(3)(a) and/or 364.183(3)(d) and/or 364.183(3)(e), pursuant to the terms and conditions set forth in the body of this Petition.

Respectfully submitted,

US Sprint Communications Company
Limited Partnership

By:



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