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June 4, 1996

BY HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Resolution of Petition to Establish Non
Discriminatory Rates, Terms, and Conditions
for Interconnection Involving Local Exchange
Companies and Alternative Local Exchange
Companies pursuant to Section 364.162,
Florida Statutes - Docket No. 950985-TP

Dear Ms. Bayo:

Enclosed for filing in the above-styled docket are the original and fifteen (15) United Telephone Company of Florida and Central Telephone Company of Florida's Motion for Reconsideration.

We are also submitting the Motion on a 3.5" high-density diskette generated on a DOS computer in WordPerfect 5.1 format.

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

ACK _____ Thank you for your assistance in this matter.

AFA _____

APP _____

CAF _____

CMU _____

CTR _____

EAG _____

LEG _____

LIN _____

OPC _____

RCH _____

SEC _____

WAS _____

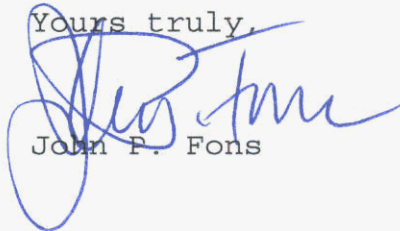
OTU _____

JPF/csu
Enclosures

cc: All parties of record

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Yours truly,



John F. Fons

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution of Petition to)
Establish Non Discriminatory Rates,))
Terms, and Conditions for Inter-)
connection Involving Local Exchange))
Companies and Alternative Local)
Exchange Companies pursuant to)
Section 364.162, Florida Statutes)
_____)

DOCKET NO. 950985-TP

Filed: June 4, 1996

**UNITED TELEPHONE COMPANY OF FLORIDA AND
CENTRAL TELEPHONE COMPANY OF FLORIDA'S
MOTION FOR RECONSIDERATION**

Pursuant to Rule 25-22.060, Florida Administrative Code, United Telephone Company of Florida ("Sprint-United") and Central Telephone Company of Florida ("Sprint-Centel") (together, "Sprint-United/Centel"), move the Florida Public Service Commission ("FPSC" or the "Commission") to reconsider Order No. PSC-96-0668-FOF-TP ("Order"), and alleges:

I.

Introduction

1. This motion seeks reconsideration of the Commission's determination on Issue 1 (rates and charges for local interconnection), Issue 3 (toll default and cross-connect), Issue 5b (E911), and Issue 8 (directory publishing and distribution).

2. Reconsideration is appropriate when the decision maker either ignored, misinterpreted or misapplied the law applicable to the evidence in the proceeding, or overlooked and failed to consider the significance of certain evidence. See Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962).

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FPSC-RECORDS/REPORTING

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3. In light of this standard, the Commission should reconsider and change its decisions on Issues 1, 3, 5b and 8 for the reasons below.

II.

Issue One

Rates and Charges for Local Interconnection

4. The Order holds that Sprint-United/Centel and the respective ALECs should compensate each other for termination of local traffic by mutual traffic exchange. Order at 21. The portions of the Order authorizing "mutual traffic exchange" rather than MOU or port charge-based compensation should be reconsidered.

5. The Federal Telecommunications Act of 1996 addresses state commission approval of the terms and conditions of interconnection in § 252(d)(2). That section precludes the permanent imposition of any arrangement for reciprocal compensation if the costs of transport and termination cannot at least be reasonably approximated. It thus restrains a state from imposing any arrangement for reciprocal compensation, including "bill and keep" or "mutual traffic exchange" for a period any longer than is required to determine "a reasonable approximation of the additional costs of terminating such calls." Under Section 252(d)(2)(A) of the Federal Act, "a State Commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless - (i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network

facilities of calls that originate on the network facilities of the other carrier; and (ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls." (Emphasis added.) State commissions, like this Commission, are not authorized to impose bill-and-keep mechanisms as a permanent resolution of failed negotiations in the absence of competent substantial evidence that bill and keep is a reasonable approximation of the parties' costs. In order to impose any interconnection arrangement, including bill and keep, where the costs of transport and termination are unknown, the Commission must do so as an interim measure to give it time to consider the additional costs to be incurred by both Sprint-United/Centel and the interconnecting ALECs.

6. Here, the Commission has failed to limit the application of its mutual traffic exchange compensation arrangement to the time necessary to determine the additional cost of terminating local calls. At most, the Commission has required the parties to petition the Commission for a change if the parties believe the traffic is out of balance. Order at 21. This safety valve is insufficient under the Telecommunications Act of 1996. The Order must limit the imposition of bill and keep to that period of time necessary to develop a reasonable approximation of the additional cost of terminating local calls. This the Commission's Order fails to do.

7. The Commission must have sufficient record evidence to make a finding that the ALECs' costs of providing local transport

and termination are at least reasonably approximate to Sprint-United/Centel's costs. Although the Commission has ordered Sprint-United/Centel to submit cost support for local interconnection within 60 days of the order, the Order contains no such requirement for the ALECs. Indeed, the ALECs supporting mutual traffic exchange did not submit any cost information in this docket. Until the Commission has the required ALEC cost information, or finds that the ALECs' costs are presumptively equal to Sprint-United/Centel's cost, it cannot make the requisite finding of reasonable approximation and must, accordingly, refrain from imposing bill and keep as a permanent reciprocal compensation arrangement. Therefore, the Order should be reconsidered to make it consistent with the requirements of the Telecommunications Act of 1996.

III.

Issue Three

Toll Default and Cross-Connect

8. There are several problems with the Commission's decision on Issue 3 as reflected in the Order. The first relates to the toll default and the second relates to charges for the cross-connect functionality.

Toll Default

9. At page 21 of the Order, the Commission addresses Interconnection Arrangements Regarding United/Centel and concludes that "for the termination of local traffic" the companies shall compensate each other by mutual traffic exchange. The Order goes

on to address the situation where the local exchange provider delivering traffic to the other local exchange provider cannot determine whether the traffic it delivers is local or toll because of the manner in which the terminating local exchange provider uses NXX codes. In that situation, the Order states that originating switched access charges will be assessed for that call "unless the local exchange provider originating the call can provide evidence that the call is actually a local call." Order at 21, 22 and 49. (Emphasis added.)

10. Sprint United/Centel believes that the term "originating" should have been "terminating" in the just-quoted language from the Order. Otherwise, the Order makes no sense. It would be impossible for the local exchange provider originating the call to provide evidence that the call is actually a local call, because evidence of how NXX codes are used would reside solely within the control of the local exchange provider terminating the call. If, however, it was the Commission's considered intention to use "originating" in the above-quoted language, then the Order, as written, misses the point of the "toll default" concern. The concern as to whether terminating charges should be paid by the originating local exchange provider or switched access charges should be collected by the originating local exchange provider arises only because of how the terminating local exchange provider uses NXX codes. If the NXX codes are used by the local exchange provider in a manner which would require the terminating local provider to carry the call to a location which traditionally would

have been treated as an interexchange or toll call, then that call would, in fact, be a toll call. (Poag, Tr. 1200-1201.) In that situation, the originating local exchange provider should be entitled to assess originating switched access charges for that call rather than paying terminating local interconnection charges. In other words, under the "toll default" concept, the burden must be upon the terminating local exchange provider, who alone controls how it uses NXX codes, to verify that the call it is terminating is in fact a local call as opposed to a toll call. If the Commission's Order is to achieve this intent, then the term "terminating" should be substituted for "originating" in the quoted language.

Cross-Connection

11. In that portion of the Commission's Order which addresses "whether ALECs that are collocated at the same LEC tandem should be allowed to cross-connect with each other rather than transit the LEC switch, and, if so, the rates that should be assessed," the Commission concluded that the ALECs should be allowed to cross-connect without transiting the LEC switch and that the LECs should be allowed to charge "the applicable special access cross-connect rate to the ALEC ordering the cross-connect." Order at 27. (Emphasis added.) In reaching its decision on the rate to be charged, the Commission disregarded Sprint-United/Centel's evidence, which is the only record evidence, that allowing Sprint-United/Centel only to charge the expanded interconnection cross-connect rate in that situation would not permit Sprint-

United/Centel to recover the additional costs of providing this service to ALECs collocated in the same LEC wire center. It is Sprint-United/Centel's testimony that the appropriate charges for this function "would be based on the existing expanded interconnection tariffs based on whatever facilities are needed to accomplish that interconnection from one (ALEC) to the other." Poag, Tr. 1369-70. (Emphasis added.)

12. The amount of facilities required will depend upon where the ALECs are located in Sprint-United/Centel's central office. There could be more than one cross-connect involved. For example, because the ALECs may not be immediately adjacent to one another because of the Commission's checker-boarding requirement, there could be one cross-connect to get from the ALEC to Sprint-United/Centel's facilities, there could be internal conduit and cable to get from Sprint-United/Centel's facilities to the other ALEC's location, and then there could be another cross-connect at that ALEC. (Exhibit 38, pp. 31 and 32.) This testimony was unrebutted. On the other hand, there was no testimony supporting the proposition that the "applicable special access cross-connect rate" should apply.

13. The Order is additionally erroneous on this subject in that it finds that while Sprint-United/Centel is willing to interconnect ALECs with each other, "it wants to charge full expanded interconnection rates and charges." Order at 26. (Emphasis added.) There is nothing in the record to support this conclusion. Indeed, Mr. Poag testified at the hearing as follows:

We have expanded interconnection tariffs, and we are willing to interconnect them. But what we're saying is if they want to interconnect from one ALEC to an interexchange carrier, to another ALEC, or to a cellular carrier in that building, then we will do it for them; and we will do it based on our tariffed services for expanded interconnection.

Now, there is not a single rate that will be applicable there that I'm aware of. Well, I believe it could be one rate and it might be one rate most of the time, there may be many different types of facilities required. And all I'm saying is that they order those out of our existing tariffs which you approved, . . .

And just so you'll get an order of the magnitude of what I'm talking about here, the cross-connect element which we would ask that they pay if that's the minimum amount that's required, is \$1.30 a month for a voice grade or what we call a DSO type circuit. And if it's a high capacity type facility which included the capability to interconnect 24 equivalent voice grade circuits, that rate is \$4.40. So we are not talking about a huge number here for them to interconnect from one facility to another facility.

Now, to the extent that they may not be located right next to each other, there may be more than one cross connect required and there may be some internal cabling and conduit required. That is also tariffed, and I would say those rates would apply.

Poag, Tr. 1277-79.

14. Mr. Poag's testimony points out that, contrary to the Commission's conclusion, Sprint-United/Centel proposes only to charge the ALECs for the equipment needed to provide ALEC-to-ALEC interconnection in Sprint-United/Centel's wire center. Moreover, it also rebuts the statement in the Order attributed to MFS-FL that "the LECs (sic) proposals constitute a barrier to entry as they would require excessive charges for collocation arrangements."

Order at 27. Because the ALECs are already collocated, they are already paying the expanded interconnection charges. Accordingly, the Commission's Order should be revised to allow Sprint-United/Centel to charge the ALECs the applicable tariffed expanded interconnection charges for any incremental services required to physically interconnect two or more collocated ALECs; e.g., cross connects and intrabuilding cable and conduit.

IV.

Issue Five b

E911

15. In the Order the Commission requires that:

- 2) If the primary tandem trunks are not available, the respective ALEC shall alternate route the call to the designated secondary E911 tandem. If the secondary tandem trunks are not available, the respective ALEC shall alternate route the call to the appropriate Traffic Operator Position System (TOPS) tandem.

Order at 33. This requirement is based upon the testimony of Continental's witness Schleiden and language from Attachment E to the Stipulation and Agreement entered into by Sprint-United/Centel and Intermedia Communications, Inc., dated February 9, 1996, which was appended to Mr. Schleiden deposition transcript. (Ex. 7, p. 132). Contrary to the language included in the Stipulation and Agreement, Sprint-United/Centel does not, in fact, have secondary tandems, nor does Sprint-United/Centel alternate route to a TOPS tandem. As noted by Mr. Poag during the hearings, Sprint-United/Centel was in error in stating it could do so in the Stipulation and Agreement. Poag, Tr. 1422. Based upon the

foregoing, the Order must be clarified or reconsidered to reflect Sprint-United/Centel's actual alternate routing capabilities.

16. In the event that the primary trunks from an end office are busy or out of service, or if the tandem switch fails, Sprint-United provides an alternate route for 911 traffic from the end office to the emergency service provider. This routing is accomplished utilizing special equipment located in each central office. This special equipment is not currently utilized by Sprint-Centel. This special equipment functions very similar to normal 911 trunking and is programmed to route 911 traffic to a 10-digit answering point in the event of a tandem switch failure. The 10-digit answering point is predetermined by each county. Because this special equipment must be located in each central office, Sprint-United/Centel cannot provide this functionality to the ALECs, but the same equipment can be provisioned by ALECs in their switches to provide this same alternate routing functionality.

17. Additionally, the Order requires that:

United/Centel shall provide the respective ALECs with a list consisting of each municipality in Florida that subscribes to Basic 911 service, the E911 conversion date and 10-digit directory number representing the appropriate emergency answering position for each municipality subscribing to 911 services.

Order at 33. This requirement is based upon the testimony of Continental witness Schleiden and Time Warner witness McGrath that these things should be provided. However, the Order erroneously ignores the considerable record evidence presented by Sprint-United/Centel that this information is only available from the

appropriate 911/E911 coordinators or the agencies themselves. Poag, Tr. 1251. Moreover, due to differences or potential differences in local service areas, only the ALECs can identify their customers' geographic locations and the appropriate 911/E911 requirements. Poag, Tr. 1251-52. Therefore, this aspect of the Order must also be reconsidered.

V.

Issue Eight

Directory Issues

18. In its Order, the Commission requires Sprint-United/Centel to provide directory listings for ALEC residential and business customers in its white and yellow page directories at no charge. Order at 36. Additionally, Sprint-United/Centel is required by the Commission to "publish and distribute these directories at no charge." Order at 37. The sole reason offered by the Commission as to why the Companies should assume these obligations at no charge is that "Sprint-United/Centel will be gaining revenues from the ALECs' directory listings." Order at 36. This reasoning is not supported by the record, and the Order must be reconsidered.

19. The record shows that the Commission's conclusion that "United/Centel will be gaining revenues from the ALECs' directory listings" (Order at 36) is faulty in two respects. First, Sprint-United/Centel does not receive revenues from the publishing and distribution of the directories. These directories are published by separate entities under contract to Sprint-United/Centel. Poag,

of both Acts, the Commission has apparently found, but not identified, the authority to require an ALEC to receive directory services without charge. Given the consistent, comprehensive schemes of both Acts to ensure that neither ILECs nor ALECs are denied cost recovery, such a statutory provision (requiring that an ILEC subsidize 100% of the ALECs' directory services costs) must be identified or the Order must be reconsidered.

21. In a related white pages directory matter - although covered in Section XVII. Other Operational (Issue 13) - the Commission requires Sprint-United/Centel to "work with the respective ALECs to ensure that the appropriate ALEC data, such as calling areas, service installation, repair and customer service, is included in the informational pages of United/Centel's directory." Order at 46. This requirement is apparently based upon the unadorned, unexplained testimony of MFS-FL witness Timothy Devine, that:

Sprint-United/Centel should include in the "Information pages" or comparable section of its White Pages Directories for areas served by MFS-FL, listings provided by MFS-FL for MFS-FL's calling areas, services installation, repair and customer service and other information. Such listings should appear in the manner and likeness as such information appears for subscribers of the Sprint-United/Centel and other LECs.


Devine, Tr. 516.

22. However, as Sprint-United/Centel's witness Poag testified, the white pages directory is published by a separate, unregulated entity and the information pages are partially provided without charge to Sprint-United/Centel. Poag, Tr. 1374. These

information pages are supplied in compliance with Rule 25-4.040(3) and (4), Florida Administrative Code. While these rules apply to Sprint-United/Centel, they do not apply to the ALECs, like MFS-FL. Again, the Commission is attempting to do indirectly what it can't do directly. It would be more appropriate for the Commission to require the ALECs to deal directly with the white pages directory publisher rather than potentially saddle Sprint-United/Centel with an additional expense not borne by its competitors.

WHEREFORE, for the reasons explained above, the Commission should reconsider the Order and issue a decision consistent with this motion.

DATED this 4th day of June, 1996.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail or hand delivery (*) this 4th day of June, 1996, to the following:

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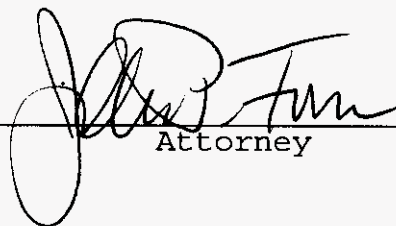
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