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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In the matter of)
)
KNC TELECOM, INC.)
)
 Petition for Arbitration Pursuant)
 to 47 U.S.C. §252(b) of Inter-)
 connection Rates, Terms, and)
 Conditions with)
)
SPRINT UNITED - CENTEL OF FLORIDA)
INC. (ALSO KNOWN AS CENTRAL)
TELEPHONE COMPANY OF FLORIDA AND)
UNITED TELEPHONE COMPANY OF)
FLORIDA))
)

DOCKET NO. 970262-TP
Filed: March 21, 1997

ANSWER AND RESPONSE OF SPRINT
TO KNC'S PETITION FOR ARBITRATION

Sprint-Florida, Inc. ("Sprint")¹, pursuant to §252(b) of the Communication Act of 1934, as amended by the Telecommunications Act of 1996, Pub.L.No. 104-106 §101(a), 110 Stat. 70 ("the Act"), answers and responds to the Petition for Arbitration of Interconnection Rates, Terms and Conditions of Telecom, Inc. ("Petition") stating as follows:

Answer

1. Sprint is without sufficient information to admit or deny paragraph 1 of KNC's Petition.
2. Sprint is without sufficient information to admit or deny paragraph 2, of KNC's Petition.

¹KNC's Petition improperly describes the corporate entity as "Sprint United - Centel of Florida, Inc." There is no such corporate entity. Effective December 31, 1996, United Telephone Company of Florida and Central Telephone Company of Florida were merged and the surviving entity is named Sprint-Florida, Inc.

3. Sprint admits it is a provider of local exchange services within the State of Florida, but denies it is a monopoly provider of local exchange services. Sprint admits the balance of paragraph 3 of KNC's Petition.

4. Paragraph 4 of KNC's Petition is admitted.

5. Paragraph 5 of KNC's Petition is admitted.

6. Paragraph 6 of KNC's Petition is admitted.

7. Paragraph 7 of KNC's Petition is admitted.

8. Paragraph 8 of KNC's Petition is admitted.

9. Paragraph 9 of KNC's Petition is admitted.

10. Paragraph 10 of KNC's Petition is admitted.

11. Paragraph 11 of KNC's Petition is admitted.

12. Paragraph 12 of KNC's Petition is admitted.

13. Sprint admits the first and second sentences of paragraph 13 of KNC's Petition, but denies the third sentence.²

²On February 25, 1997, KNC filed its Motion to Accept Late Filing ("Motion") for failure to file its Petition with the Commission on February 24, 1997, which was the filing date required by the Act. Sprint does not oppose KNC's Motion. However, KNC also failed to meet the requirement of the Act, that

A party petitioning a state commission under paragraph (1) shall provide a copy of the petition and any documentation to the other party or parties not later than the day on which the state commission receives the petition." Section 252(b)(2)(B) of the Act. (Emphasis added)

Sprint was not provided a copy of KNC's Petition until February 26, 1997, which was after the day on which the Commission received the Petition. Sprint points out that the requirements of Section 252(b) of the Act are jurisdictional and cannot be waived.

14. Paragraph 14 of KNC's Petition is admitted.

15. Section A (including paragraphs 1 through 3) of KNC's Petition is admitted.

16. All other allegations in KNC's Petition that have not been specifically admitted should be deemed denied.

Substantive

17. As will be more fully detailed in Sprint's prefiled Direct Testimony of F. Ben Poag, KNC is not entitled to the relief requested in its Petition. The issue of symmetrical/reciprocal local termination compensation has been the subject of two Florida Public Service Commission arbitration proceedings.¹ In those proceedings, the Commission determined that the alternative local exchange carrier ("ALEC") is entitled to symmetrical/reciprocal local termination compensation only if the ALEC is actually providing the same function or facility (e.g., tandem transport) as is being provided by the incumbent local exchange company ("ILEC"). In this proceeding, like the NPS and MCI proceedings, KNC will not be able to show that it provides either tandem switching or tandem transport. Indeed, by indicating its desire to adopt the NPS arbitrated agreement, KNC is conceding that it will not provide tandem transport and is not, therefore, entitled to a tandem transport charge. If KNC is not going to receive a tandem

¹NPS/Sprint Arbitration, Docket No. 960838-TP, Order No. PSC-96-1532-POF-TP, issued December 16, 1996; and MCI/Sprint Arbitration, Docket No. 961230-TP, decided on February 4, 1997, awaiting an order.

transport charge there is no sound logic for KNC to receive a tandem switching charge: one charge cannot exist independent of the other.

18. KNC attempts to sidestep this Commission's prior decisions by arguing that, because Sprint has agreed to pay NPS a tandem switching charge, KNC may demand the same treatment. As Sprint has previously, argued to the Commission in its Motion to Reject a Portion of the Negotiated Partial Agreement between NPS and Sprint, Sprint believed that the issue of symmetrical/reciprocal tandem switching compensation was not an issue that could be arbitrated because it had been preempted by the FCC in its Order and Decision in Docket No. 96-98. The fact that that part of the FCC's Order has been stayed by the Eighth Circuit Court of Appeals makes it arbitrable as to KNC. This is particularly true when, as in the NCI arbitration proceeding, the specific, identical tandem switching charge issue was arbitrated and the Commission, as noted above, held that NCI was not entitled to symmetrical/reciprocal compensation.

19. It would be grossly unfair to now require Sprint to be subject to a symmetrical/reciprocal tandem switching charge when KNC is not providing the function; when the Act, in the same situation, does not require it; when the FCC Order and Rules requiring it has been stayed by the Court; and when this Commission, in the NCI/Sprint arbitration proceeding addressing the same issue, has rejected it. Clearly, because KNC is not incurring a tandem switching cost, KNC will not be harmed if Sprint is not

required to provide symmetrical/reciprocal tandem switching compensation. On the other hand, KNC will be unjustly enriched, and Sprint will be financially harmed, if Sprint is required to provide such compensation. Interestingly, KNC offers no testimony or other support for its requested relief: except to rely solely upon the NPS/Sprint negotiated agreement (which Sprint considers to be still subject to dispute). In light of the foregoing, this reliance is insufficient to support a finding in KNC's favor.

DATED this 21st day of March, 1997.

Respectfully submitted.



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ATTORNEYS FOR SPRINT-FLORIDA, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Hand Delivery(*) or Federal Express(**) this 21st day of March, 1997 to the following:

Martha Carter Brown, Esq.*
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Richard M. Rindler**
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ATTORNEY

Do not stamp here

1 conjunction with restructuring, I assumed new
2 responsibilities and my current title. In my current
3 position, I am responsible for costing, tariffs and
4 regulatory matters. I am a graduate of Georgia State
5 University with a Bachelor's Degree in Business.
6

7 Q. What is the purpose of your testimony?
8

9 A. The purpose of my testimony is to explain why it is
10 inappropriate to require Sprint to compensate KMC for
11 tandem switching.
12

13 Q. Please explain call termination and the functional
14 components and associated rate elements.
15

16 A. Call termination between carriers takes place when a
17 customer on one carrier's network places a call to a
18 customer on the other carrier's network. There can be one
19 or three components associated with call termination
20 depending on the point of interconnection. For example,
21 when a CLEC interconnects with Sprint at one of its access
22 tandems, the CLEC can terminate calls to all of the local
23 end office switches subtending the access tandem. In this
24 scenario a call would traverse the tandem switch, the
25 interoffice trunking facilities, or transport, and the end

1 office local switch. The appropriate charges are tandem
2 switching, transport, and local switching. Likewise, when
3 Sprint terminates traffic onto the CLEC's network, Sprint
4 will deliver the traffic to the CLEC and the CLEC will
5 carry the traffic to the called end user, which may include
6 the same elements of tandem switching, transport and local
7 switching.

8
9 Q. Should Sprint be required to pay the CLEC for tandem
10 switching, transport and local switching?

11
12 A. Yes, if all the elements are used by Sprint in terminating
13 a call to a CLEC. However, if the CLEC does not provide
14 tandem switching and transport, Sprint should not be
15 required to compensate the CLEC for services and/or cost
16 not incurred by the CLEC to terminate the call.

17
18 Q. Is this why Sprint is unwilling to agree to pay KMC tandem
19 switching charges as Sprint agreed to in its partial
20 agreement with MFS?

21
22 A. Yes, KMC has conceded it will not provide tandem switching,
23 but, nonetheless, wants the same tandem switching charge
24 Sprint agreed to with MFS. Sprint would not have agreed to
25 pay that charge to MFS if it thought, at the time, the

1 issue could be arbitrated. Subsequently, in the MCI
2 arbitration proceeding this issue was arbitrated. In
3 Docket No. 960838-TP, Order No. PSC-96-1532-FOF-TP, and
4 Docket No. 961230-TP, Order No. PSC-97-0294-FOF-TP, the
5 Commission made the determination that compensation is not
6 appropriate for functions not performed; i.e., transport
7 and tandem switching.

8
9 In Order No. PSC-97-0294-FOF-TP, issued March 14, 1997, the
10 Commission stated,

11
12 We find that the Act does not intend for
13 carriers such as MCI to be compensated for
14 a function they do not perform. Even
15 though MCI argues that its network performs
16 'equivalent functionalities' as Sprint in
17 terminating a call, MCI has not proven that
18 it actually deploys both tandem and end
19 office switches in its network. If these
20 functions are not actually performed, then
21 there cannot be a cost and a charge
22 associated with them. Upon consideration,
23 we therefore conclude that MCI is not
24 entitled to compensation for transport and
25 tandem switching unless it actually

1

performs each function.

2

3

Q. Does that conclude your testimony?

4

5

A. Yes.