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c/o The Florida Legislature
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September 30, 1997

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

Re: Docket No. ~~970002~~-11

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of the First Motion to Compel Against Sprint by the Attorney General and the Citizens of Florida. A diskette in WordPerfect 6.1 is also submitted.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Charles J. Beck
Charles J. Beck
Deputy Public Counsel

ACK _____
AFA _____
APP 1 _____
CAF _____
CMB _____
CJR _____ CJB:bsr
ENC _____ Enclosures
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RECEIVED & FILED

OFFICE OF RECORDS

DOCUMENT NUMBER - DATE
~~10017~~ SEP 30 6
FPSC-RECORDS/REPORTING

WFS _____
OTH _____

BEFORE THE FLORIDA PUBLIC SERVICES COMMISSION

In re: Proposed Rule 25-24.845,)
F.A.C., Customer Relations;)
Rules Incorporated, and Proposed)
Amendments to Rules 25-4.003,)
F.A.C., Definitions; 25-4.110,)
F.A.C., Customer Billing; 25-)
4.118, F.A.C., Interexchange)
Carrier Selection; 25-24.490,)
F.A.C., Customer Relations;)
Rules Incorporated.)

Docket No. 970882-T1

Filed: September 30, 1997

**FIRST MOTION TO COMPEL AGAINST SPRINT
BY THE ATTORNEY GENERAL AND THE CITIZENS OF FLORIDA**

Robert A. Butterworth, Attorney General ("Attorney General") and the Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, move the Florida Public Service Commission to issue an order requiring Sprint Communications Company Limited Partnership ("Sprint") to produce each of the documents requested in the Citizen's First Set of Requests for Production of Documents to Sprint. In support of this motion, the Attorney General and the Citizens submit the following:

1. On September 10, 1997, the Citizens served their first set of requests for production of documents to Sprint. These requests for documents, served in collaboration with the Attorney General, seek documents necessary for the Attorney General and the Citizens to prepare our case. On September 24, 1997, Sprint filed its objections to this request for production of documents.

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2. **Sprint objected to the instructions and definitions in the document request, insofar as they seek to impose obligations on Sprint which exceed the requirements of the Florida Rules of Civil Procedure or Commission rules. Sprint provided no specific example or any instance where this objection might apply, nor did it provide any analysis showing how this objection relates to the document requests. Since Sprint was unable to provide any specific example or describe where it might apply, the objection should be denied.**

3. **Sprint next objected to the requests to the extent that they called for information which is exempt from discovery by virtue of various privileges. Sprint identified no such documents and gave no specific examples of where that privilege might apply. This objection should be denied unless and until Sprint can identify specific documents to which it applies. Once Sprint specifically identifies such documents, the Attorney General and the Citizens will then decide whether to seek an *in camera* inspection of those documents to determine the extent and validity of any claimed privilege. With respect to the claim of a self-critical analysis privilege, Florida law does not recognize such a privilege, so this objection should be denied in total.**

4. **Sprint states that its objections are preliminary in nature and that it reserves the right to assert additional objections when it serves its response. Commission Order PSC-97-1071-PCO-TI issued September 12, 1997, however, requires objections to be made well before the due date for actually providing the documents. Sprint has no right**

to unilaterally change the requirements of the order. The Commission should reject Sprint's claim that it can assert additional objections later.

5. Sprint objects to the definitions of "you" and "your" in the request for documents to the extent such definitions seek to impose a duty on Sprint to respond on behalf of subsidiaries, affiliates or other entities or persons not parties to this docket. Definition number 2 of the request for documents stated that the terms "you" and "your" meant Sprint together with its officers, employees, consultants, agents, representatives, attorneys (unless privileged), and any other person or entity acting on behalf of Sprint. The document request does not seek to have Sprint procure documents from every affiliated company of Sprint. Rather, it seeks only those documents from persons or entities acting on behalf of Sprint. This is a proper request for documents. Rule 1.350, Florida Rules of Civil Procedure (adopted by Commission rule) allows requests for documents in the possession, custody, or control of the party to whom the request is directed. Persons or entities acting on behalf of Sprint are within the "control" of the company. In addition, when two companies "act as one," discovery is permissible. *Medivision of East Broward County, Inc. vs. Department of Health and Rehabilitative Services*, 488 So.2d 886 (Fla. 1st DCA 1986). See also *Michelin Tire Corporation vs. Susan Ann Roose*, 531 So.2d 361 (Fla. 4th DCA 1988). Sprint must therefore produce documents by persons and entities acting on its behalf, not just those strictly within the possession of Sprint. Sprint's objection should be denied.

6. Sprint objected to each and every request insofar as the request was vague, ambiguous, voluminous, overbroad, voluminous and unduly burdensome. However, Sprint provided no example whatsoever of any case where such a request for documents fell within that objection. Sprint also does not identify any request to which the objection relates. The objection should be denied.

7. Sprint objects to producing any documents other than those solely related to Sprint's Florida operations. The Attorney General and the Citizens do not object to Sprint's limitation as it relates to specific customer complaints about slamming. However, to the extent other document requests relate more generally to analyses or matters related to slamming, the document requests should not be limited only to Sprint's Florida operations. Matters related to slamming either in the interstate jurisdiction or other states in general are relevant to this proceeding because they deal with the same general problems experienced in Florida. Slamming is not a phenomena known only to Florida operations. Instead, it is a nationwide problem, and documents related to this nationwide problem are relevant to Florida operations. Therefore, to the extent that Sprint's objection relates to anything other than specific customer complaints from other states or jurisdictions, Sprint's objection should be denied.

b. Sprint objected to the requests to the extent that they sought documents revealing trade secrets. With respect to its claim of privilege, Sprint must identify the document or documents it claims to be privileged, and at that point the Attorney General

and the Citizens will decide whether to seek an *in camera* inspection of the documents to determine the validity or extent of the privilege.

9. Sprint is due to produce the requested documents on or before October 15, 1997. Accordingly, the Attorney General and the Citizens request the Commission to rule on this motion on or before October 15, 1997, so that the documents will be produced on the required date.

Respectfully submitted,

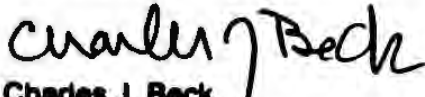
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CERTIFICATE OF SERVICE

Docket No. 970862-TL

**I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail
or hand-delivery to the following parties on this 30th day of September, 1997.**

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