

**ORIGINAL**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**DOCKET NUMBER [REDACTED]**

**REBUTTAL TESTIMONY OF SANDEE BUYSSE-BAKER**

**ON BEHALF OF**

**SPRINT COMMUNICATIONS COMPANY LIMITED PARTNERSHIP**

1

**DOCUMENT NUMBER-DATE**

**[REDACTED] JAN 15 8**

**FPSC-RECORDS/REPORTING**

1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2  
3 A. My name is Sandee Buysee-Baker and my business address is 10951 Lakeview  
4 Drive, Lenexa, Kansas 66219.

5  
6 Q. ARE YOU THE SAME SANDEE BUYSSSE-BAKER THAT PRE-FILED DIRECT  
7 TESTIMONY IN THIS DOCKET ON BEHALF OF SPRINT COMMUNICATIONS  
8 COMPANY LIMITED PARTNERSHIP ("SPRINT")?  
9

10 A. Yes, I am.

11  
12 WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?  
13

14 A. The purpose of my rebuttal testimony is to respond to the pre-filed Direct Testimony of R.  
15 Earl Poucher, Office of the Attorney General, and Alan Taylor of the Commission Staff.  
16

17 DO YOU AGREE THAT THE SLAMMING PROBLEM CAN BE CONTROLLED WITH  
18 THE ADDITIONAL RULE CHANGES BEING PROPOSED BY WITNESS POUCHER?  
19

20 A. No, not entirely. Sprint agrees that slamming is a significant industry problem. Slamming is  
21 clearly a problem for consumers and telecommunications providers alike. Long  
22 distance providers, specifically Sprint, have found that slamming complaints are costly to resolve  
23 and an inefficient use of our employee's time. Sprint has incurred significant financial loss in its  
24 efforts to make the customer whole. Sprint reimburses the customer for all PIC change fees and  
25 adjusts the billing to reflect the rate of the previous carrier. It is Sprint's objective to avoid  
26 slamming complaints.  
27

28 While it is true that some of the recommendations proposed by Mr. Poucher may have merit,  
29 others will be ineffective in reducing the problem of slamming.  
30

31 WHAT ARE YOUR COMMENTS CONCERNING MR. POUCHER'S PROPOSAL (Poucher  
32 Direct, Page 4, lines 9-12) THAT THE PSC REQUIRE A MONTHLY REPORT OF  
33 SLAMMING COMPLAINTS RECEIVED BY LECs, ALECs and IXC's?  
34

35 A. Sprint would support this recommendation if a neutral third party were appointed to perform  
36 all administrative activities as well as produce the report. This recommendation is consistent with  
37 the proposal Sprint made to the FCC for consideration in its upcoming Rulemaking on  
38 slamming. Sprint believes that ILECs should not be given the responsibility to produce this  
39 report.

40 Additionally, Sprint believes that such a report would provide beneficial information to the  
41 entire industry, and allow the Commission to focus on those carriers that intentionally evade the  
42 Commission's Rules. These carriers have no real investment in the integrity of the marketplace.  
43 Sprint does consider slamming to be a poor business practice since it makes it harder for IXC's to

1 compete because it quickly destroys valued customer goodwill.  
2  
3 Sprint has taken decisive action to lessen the "personal trauma" for those customers who claim to  
4 have been slammed. Our "No Fault" Policy allows any consumer claiming to have been slammed  
5 to receive full reimbursement for all PIC change fees. In addition, Sprint will credit the consumer  
6 the difference, if any, in the billed rates from those rates that would have applied with the  
7 original long distance provider.  
8

9 DOES SPRINT HAVE A SPECIFIC RECOMMENDATION CONCERNING THE MONTHLY  
10 REPORT?  
11

12 A. Yes. Sprint recommends that the administrative responsibility for producing this monthly  
13 report be assigned to and administered by a neutral third party. Allowing the LECs to perform  
14 this function puts them in the unique position of having authority and control over the IXCs that  
15 have become their competition. A neutral third-party administrator would eliminate the ability of  
16 the ILEC to gain market advantage by damaging the reputation of competitive DXCs. A neutral  
17 third-party administrator would ensure that all carriers are judged by the same standards.  
18

19 DO YOU HAVE ANY COMMENTS CONCERNING THE TEN ADDITIONAL CHANGES  
20 TO THE PROPOSED RULE AS SUGGESTED BY MR. POUCHER?  
21

22 A. Yes, I do.  
23

24 WOULD YOU PLEASE COMMENT ON MR. POUCHER'S SUGGESTED CHANGE  
25 NUMBER 1.  
26

27 A. Yes. In those cases where the Staff of the Commission concludes that the company or its  
28 agent has willfully engaged in fraudulent switching of a customer's choice of carriers, Mr.  
29 Poucher's suggested change number 1 would require the Commission Staff to initiate a separate  
30 docket and present each case separately to the Commission for appropriate disposition. Sprint  
31 supports any initiative that identifies legitimate slamming and cramming cases. Accordingly,  
32 Sprint concurs in and supports Mr. Poucher's recommendation that the Staff of the PSC be  
33 required to initiate a separate docket and present each case separately to the Commission when a  
34 company or its agent has willfully engaged in a fraudulent PIC change.  
35

36 Absent mitigating circumstances, Sprint also supports imposing the maximum fine allowable  
37 (\$25,000) when any company engages in fraudulent switching of consumers. Moreover, Sprint  
38 believes that the only way to deter slamming is for the Commission, to the extent of its authority,  
39 to impose punitive sanctions. Sprint fully supports "slamming the slammers."

40 While Sprint supports the obligation of the PSC Staff to investigate customer complaints  
41 concerning slamming, it is Sprint's desire that Staff understands that there are a number of  
42 situations that contribute to the slamming problem, ranging -- perhaps along a continuum --  
43 from innocent and inadvertent mistakes by DXCs, ILECs and ALECs in the order entry process to  
44 intentional fraud practiced by certain carriers or their marketing agents that use deceptive

1 practices to convert consumers to their service. The real reason for an alleged slam may range  
2 from an innocent case of buyer's remorse to an attempt by some subscribers to fraudulently  
3 obtain a refund of any carrier change fee incurred in switching to another carrier and perhaps  
4 even to obtain free toll service from the allegedly unauthorized carrier.  
5 Sprint would also support any and all efforts on the part of the Commission to conduct an  
6 investigation to obtain an understanding as to why a slam occurs. Once this root cause analysis  
7 has been evaluated, the Commission should use this information in developing its new Rules and  
8 imposing penalties for slamming offenses.  
9

10 Q. PLEASE COMMENT ON MR. POUCHER'S SUGGESTED CHANGE NUMBER 2.

11 A. Under Mr. Poucher's suggested change number 2, upon receiving a complaint from a  
12 subscriber of an unauthorized change of carriers, whether the complaint is legitimate or not, a  
13 LEC is required to: (a) immediately change the customer back to the customer's original carrier;  
14 (b) offer to freeze the customer's choice of carriers; (c) charge back the "slamming" IXC all  
15 existing billing up to 90 days or three billing periods, whichever is longer, and credit the  
16 customer's LBC account with the amount of the charge-back, and; (d) block the customer's  
17 account from future billing from the carrier that caused the slam. I will comment on each of  
18 these four proposed requirements.  
19

20 The proposals Mr. Poucher sets out in (a) and (b) simply would perpetuate the current industry  
21 problem of giving LBCs power and control over IXCs and permitting anticompetitive behavior.  
22 Sprint would recommend that the Commission consider eliminating the LEC's "gatekeeper"  
23 control of the carrier change process. Sprint recommends the adoption of a remedy that would  
24 remove the LECs as "gatekeepers", rather than add additional requirements as proposed by Mr.  
25 Poucher. Sprint further recommends that the Commission assign the administration of the carrier  
26 change process to a neutral third party. Sprint recognizes that a third party administrator may  
27 need to exercise some discretion in processing carrier change orders received from carriers. It  
28 may, for example, want to check to ensure that the carrier with a history of slamming and less  
29 than accurate verification procedures has submitted properly verified PIC change orders.  
30 Vesting a neutral party with such responsibility does not present the same risk of anti-  
31 competitive behavior that exists if the ILBCs were to perform the same function. A neutral third  
32 party administrator should apply the same standards to all carriers.  
33

34 Third party administrators are not unusual in the telecommunications industry. The  
35 telecommunications industry has already set a precedent for using third-party administrators. For  
36 example, the industry has been using a third party vendor to administer the national 800 database  
37 and will soon begin to use a third party administrator for the National Consumer  
38 Telecommunications Database Exchange.  
39

40 Mr. Poucher's proposal in (c) would, in effect, relieve customers who claim to have been  
41 slammed of the obligation to pay any of the charges for the calls made during the time that they  
42 were assigned to an allegedly unauthorized carrier. Sprint believes that such a rule would only  
43 encourage fraud and facilitate an increase in slamming complaints rather than reduce them.  
44 When word is out that you can claim "slammed" and you are relieved of the obligation to pay for

1 the toll usage, fraud and slamming complaints will increase.

2 Sprint believes that any rule absolving customers of liability in the event of an alleged  
3 unauthorized PIC change only provides incentive for fraudulent slamming claims. There are  
4 significant financial and public relations pressures to minimize unauthorized PIC changes for  
5 those companies, such as Sprint, that have a long term vested interest in the industry. The  
6 general public would be better served if the Commission would focus on those carriers  
7 that intentionally and habitually change a customer's service without any authority or  
8 justification.

9 In recommendation (d), Sprint fails to understand what benefit would be realized by blocking the  
10 customer's account from future billing from the carrier that caused the slam. Although Mr.  
11 Poucher may believe that this would relieve the customer of any personal trauma, it would in  
12 reality further encourage fraud. When certain consumers learn that they could use dial-around  
13 access to the network of the slamming carrier and not be billed for their toll usage, fraud would  
14 escalate.

15 Mr. Poucher's proposal to require the LEC to disassociate the customer's regular telephone  
16 billing of the charges from the offending carrier for both past and future billing again places the  
17 LEC in a position of control over IXCs. As stated earlier in my testimony, Sprint believes that  
18 the best method for resolving PIC change disputes is for the Commission to appoint a neutral  
19 third party. This method removes all opportunity for anti-competitive behavior. The ILEC will  
20 no longer be subject to the competitive pressures to control the PIC change process to their  
21 advantage.

22  
23 Sprint would also expect this third-party administrator to conduct a thorough investigation to  
24 determine the merit of the complaint. This administrator should have full authority to report its  
25 findings to the Commission for assessing penalties as necessary. In today's environment, there is  
26 already enormous financial pressure to eliminate slamming complaints. Complaint resolution is  
27 inefficient and costly. Sprint LD corrects these situations through its No Fault Policy. When  
28 Sprint receives a PIC dispute from the customer's ILEC, we instruct the ILEC to return the  
29 customer to his previous carrier and reimburses the customer for all carrier change charges  
30 incurred. Sprint not only reimburses the customer for the PIC change fee, we also adjust the  
31 customer's billed toll to reflect the rate of the previous carrier (if the previous carrier's rate is  
32 lower than Sprint's rate). These carriers do not have much investment in the market nor are they  
33 interested in doing business in the long term. They not only violate the Commission's Rules, but  
34 they disparage reputable companies such as Sprint.

35  
36 As stated earlier in my testimony, Sprint recommends that the PIC Freeze process be  
37 administered by a neutral third party. Allowing the ILEC to impose a PIC Freeze will only  
38 facilitate the abuse of responsibility currently practiced by some ILECs.

39  
40 PLEASE COMMENT ON MR. POUCHER'S SUGGESTED CHANGE NUMBER 3.

41  
42 A. Mr. Poucher's third recommendation would require the Commission to adopt a rule  
43 providing that no carrier guilty of changing a customer's PIC without his or her knowledge or  
44 authorization will be allowed to bill or collect for any of the services provided to the customer

1 during the period of unauthorized service up to 90 days or 3 billing periods, whichever is greater.  
2 This recommendation would not inflict any financial hardship on those carriers that do not  
3 comply with the current Commission Rules. Rather it would impose significant financial loss for  
4 those long distance providers that are diligent in following the Commission's Rules. Although  
5 Mr. Poucher may believe that this recommendation would benefit consumers and punish the  
6 offending carriers, it will be the carriers that do not comply with the Commission's current Rules  
7 that will benefit. These carriers are unlikely to follow any new anti-slamming regulation. In  
8 addition, when certain consumers become aware that they will not be billed for their toll usage if  
9 they claim to be a slamming victim, fraud will become uncontrollable. This particular  
10 recommendation will not have any beneficial impact on slamming due to the fraudulent practices  
11 it will create.

12  
13 Sprint believes that slamming complaints should be investigated by a neutral third party. Upon  
14 completing this type of investigation if it is determined that slamming did occur, the responsible  
15 company should receive the harshest of penalties. The Commission should adopt a Rule that  
16 penalizes companies that truly slam customers. However, this determination should be reached  
17 after a thorough investigation performed by a neutral third party.

18  
19 **Q. PLEASE COMMENT ON MR. POUCHER'S SUGGESTION NUMBER 4.**

20 **A. Mr. Poucher's suggestion number 4 would require that PIC changes may be implemented**  
21 **only after a written notice has been sent from the IXC to the customer and when one of the**  
22 **following conditions has been satisfied: (a) written confirmation of said change of carrier has**  
23 **been received from the customer; or (b) an incoming call has been received directly from the**  
24 **customer or a three way call has been received including the customer and the IXC to the**  
25 **customer's serving LEC requesting the change; or (c) an inbound or outbound telemarketing call**  
26 **from the IXC requesting the change has been verified by a third party recording accepting the**  
27 **change.**

28 **The recommendation requiring written confirmation from the customer prior to the**  
29 **implementation of a PIC change will unnecessarily delay fulfillment of the customer's request**  
30 **for long distance service. This recommendation will not serve the public interest, but instead will**  
31 **harm both customers and long distance companies.**

32 **In recommendation (b), requiring an incoming call directly from the customer to the LEC in**  
33 **order to implement the PIC change will continue to authorize the LEC as the "gatekeeper" of the**  
34 **PIC change process. As Sprint has already explained, it appears that at least some ILECs are**  
35 **abusing their gatekeeper responsibilities by using PIC disputes strategically to impede**  
36 **competition.**

37 **In (c), Mr. Poucher's recommendation to require a third-party recording would not provide any**  
38 **benefit for the consumer. Obtaining a recording of the conversation between the customer and**  
39 **an independent third-party verification vendor is an unnecessary additional step that increases the**  
40 **cost of verification, and adds no additional security for the customer. The "recording" offers no**  
41 **guarantee that the person authorizing the order is the true customer with decision-making**  
42 **authority for the telephone service. Also, the customer could easily deny that the recording is**  
43 **their voice. Additional verification costs will undoubtedly be passed to the consumer in the form**  
44 **of higher rates.**

1  
2 Unfortunately, the carriers that are guilty of slamming are the same carriers that do not comply  
3 with the current verification rules. It is difficult to expect then that they would pro-actively  
4 comply with additional or more stringent rules. The FCC is proposing rule changes, and Sprint  
5 believes that the best approach would be to enforce the existing rules and adopt new rules only  
6 after the FCC has issued revisions. Carriers will be successful in complying with regulations if  
7 both State and Federal Rules are consistent.

8  
9 PLEASE COMMENT ON MR. POUCHER'S SUGGESTION NUMBER 5.

10  
11 A. Mr. Poucher's suggestion number 5 would require that the Commission adopt a specific rule  
12 that forbids the use of deceptive and unfair trade practices by telecommunications companies  
13 regulated by the Commission. Sprint fully supports Mr. Poucher in this recommendation.  
14 Carriers that employ sweepstakes and contests to entice consumers to sign a disguised LOA and  
15 then do not bother to follow the Commission's verification rules should be penalized.

16  
17 PLEASE COMMENT ON MR. POUCHER'S SUGGESTION NUMBER 6.

18  
19 A. Sprint supports suggestion number 6 to the extent that new applicants for certification should  
20 be required to certify that the company intends to provide adequate facilities including free  
21 inward toll calling for the company to receive and process customer inquiries. However, Sprint  
22 believes that the Commission should refrain from adopting rules that mandate a specific level of  
23 service. Instead, Sprint recommends that the Commission allow the consumer to drive service  
24 levels in a competitive market.

25  
26 PLEASE COMMENT ON MR. POUCHER'S SUGGESTION NUMBER 7.

27  
28 A. Mr. Poucher's suggestion number 7 proposes that the Commission adopt a new rule requiring  
29 that all telecommunications companies subject to the rules of the Commission shall also be  
30 subject to the rules that require LECs to answer 90 percent of the incoming calls to the Business  
31 Office within 30 seconds. Sprint does not support mandated service levels similar to what is  
32 mandated to the ILECs. Consumers in a competitive marketplace have a choice of carriers, and  
33 if an IXC is not providing adequate service levels to meet the needs of the consumers, they can  
34 take their business elsewhere. In the past, the consumer did not have this same freedom for LEC  
35 service, and so it made sense to mandate service levels to protect the consumer. Since there is  
36 already competitive pressure in the long distance marketplace, Sprint does not believe that  
37 imposing standards will add any protection for consumers. The same companies that are  
38 "slamming" customers do not comply with existing verification rules, arguably they will not  
39 comply with state mandated service level standards. For this reason, implementing more rules  
40 will not resolve the problem.

41  
42 As stated previously in this testimony, Sprint believes that service levels should not be mandated  
43 by the Commission, but mandated by the consumer in a competitive market. Companies that are  
44 fraudulently slamming consumers should be punished. Mandates put in place to ensure that a

1 company intends to handle consumer complaints does nothing to stop the slamming from  
2 occurring in the first place.

3  
4 PLEASE COMMENT ON MR. POUCHER'S SUGGESTION NUMBER 8.

5  
6 A. Mr. Poucher's suggestion number 8 asks that the Commission require LECs, ALECs and  
7 IXCs to include the last name, address and telephone number in the transmittal orders involving  
8 carrier changes. Under Mr. Poucher's proposal, LECs would be required to reject orders for  
9 carrier changes when the originating carrier fails to provide the correct last name and address and  
10 telephone number. In the past the LECs have required a match on name and telephone number.  
11 What the industry found was that computers are not good at matching names. As a result, the  
12 consumer experienced needless delay in fulfilling requests for a change in telephone service  
13 provider. Consequently, the name match was eliminated, and orders are now processed based on  
14 telephone number. Today, the LECs send a confirmation back to the IXC electronically, and if  
15 the name and address do not match Sprint's database, steps are taken to correct the data. Sprint  
16 believes this is the best way to protect consumers from keying errors and at the same time to  
17 provide service quickly to consumers desiring a change in long distance providers.

18  
19 As previously stated in this testimony, the industry has already tried unsuccessfully to include a  
20 name match on a carrier change request. This resulted in needless delay in processing customer  
21 requests for a change in service providers. It does not make sense to revert back to a process that  
22 was not in the best interest of the majority of consumers.

23  
24 PLEASE COMMENT ON MR. POUCHER'S SUGGESTION NUMBER 9.

25  
26 A. Mr. Poucher's suggestion number 9 would require LECs and all other billing agencies to  
27 prominently display within the first two pages of the customer's bill the name of the  
28 presubscribed local, local toll and interexchange carriers. Sprint agrees that the LECs and all  
29 other billing agencies should be required to prominently display within the first two pages of the  
30 customer's bill the name of the pre-subscribed local, local toll and interexchange carriers, and  
31 not the name of the underlying facilities based carrier. However, in testimony filed in this  
32 proceeding by Mr. J. Alan Taylor, Chief of the Bureau of Service Evaluation, (Taylor Direct,  
33 Page 4, lines 21-25) claims were made that underlying facilities based carriers facilitate many  
34 slams through their resale programs, and that requiring the name and the certificate number of  
35 the carrier will help ensure that underlying carriers do not provide their services to companies  
36 that are not certified. Sprint does not bill for resellers utilizing the Sprint network. Sprint is  
37 required to include in its tariffs, language that states that the customer reselling or rebilling  
38 regulated services must have a certificate from the Commission. Requiring the name or  
39 certificate number of the company billing for services on the LEC bill will provide customers  
40 with the knowledge of who their provider is. Although there would be costs associated with  
41 enhancing the billing systems for the LECs, IXCs, and billing vendors, it may be a more  
42 attractive solution in terms of cost compared with requiring a separate CIC code for switchless  
43 resellers. From a consumer standpoint, Sprint would argue that it is more customer friendly to  
44 require the name and toll free number rather than the certification number.



1  
2 As previously stated in this testimony, Sprint supports providing the name of the company  
3 providing the service to the consumer on the bill. There would be costs associated with  
4 changing billing systems for all parties involved, but it is an attractive proposal for ensuring that  
5 consumers understand who is carrying the service.  
6

7 PLEASE COMMENT ON MR. POUCHER'S SUGGESTION NUMBER 10.  
8

9 A. Mr. Poucher's suggestion number 10 would require all LECs and ALECs to publish annually  
10 a billing insert that explains a "PIC Freeze" and provides a customer with instructions on how to  
11 obtain a "PIC Freeze". In addition, new customers would also receive the notice with their first  
12 bill. Sprint believes that requiring LECs and ALECs to publish information explaining the "PIC  
13 Freezes" would promote and encourage anti-competitive behavior currently practiced by some  
14 ILECs. Sprint has already expressed its concern regarding ILEC abuse of their gatekeeper  
15 responsibilities. There is already substantial anti-competitive behavior to support relieving the  
16 ILECs of any and all activities related to the PIC Freeze process. For example, Ameritech, on the  
17 eve of implementation of "1+" intraLATA dialing parity, began a campaign throughout its region  
18 that sought to capitalize on the slamming problem in the interLATA market to induce its  
19 customers to freeze their entire accounts. Customers who responded to Ameritech's inducement  
20 not only froze their selection of IXC but also froze Ameritech as their provider of "1+". Sprints  
21 supports the idea that consumers should be knowledgeable about their rights in obtaining a freeze  
22 on their carrier choice. However, as stated previously in this testimony, Sprint recommends that  
23 the entire PIC Freeze process be administered by a neutral third party. By not only allowing, but  
24 also mandating that ILECs administer the PIC Freeze process, puts the ILEC in the unique  
25 position of being able to freeze an entire account to its services.  
26

27 Q PLEASE SUMMARIZE YOUR TESTIMONY.  
28

29 A. Sprint believes that the slamming problem must be controlled and supports any initiatives  
30 that would assist in eliminating this industry problem. Several of Mr. Poucher's proposals  
31 would assist in this endeavor. However, several of Mr. Poucher's recommendations would  
32 not resolve the slamming problem and may, in fact, harm competition by authorizing ILEC  
33 control over IXCs. In this regard, Sprint cannot support any proposal that maintains this status  
34 for ILECs.  
35

36 Sprint further requests that the Commission not impose Rules that would relieve consumers  
37 of their financial obligation to pay for service they have received. Any Rule that absolves this  
38 obligation would increase the number of slamming complaints not reduce them.  
39 Sprint believes that if the Commission decides to impose new Rules at this time, carriers may  
40 find they are in jeopardy of non-compliance due to the fact that new State rules may conflict with  
41 existing FCC Rules. The FCC is currently considering appropriate regulation designed to  
42 minimize slamming. Although these rules may not have been totally effective in bringing the  
43 problem under control, this may be due to the fact that the FCC has not yet imposed the harshest  
44 of punishment for offending carriers. However, Sprint recommends that the Commission refrain

1 from implementing new Rules until such time that the FCC completes its Rulemaking. If the  
2 Commission decides to proceed with new State Regulations, Sprint requests that the Commission  
3 consider how these rules will impact existing FCC regulation.  
4

5 **DOES THIS CONCLUDE YOUR TESTIMONY?**  
6

7 A. Yes.