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970644-TR

January 26, 1998

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

Re: Sprint-Florida's Limited Petition on Proposed Agency
Action

Dear Ms. Bayo:

Enclosed for filing is the original and fifteen (15) copies
of Sprint-Florida's limited petition on proposed agency
action. A diskette is also provided.

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

Thank you for your assistance in this matter.

Sincerely,

ACK _____

AFA _____

APP _____

CAF _____

CMU _____

CTR _____

EAG _____

LEG 1 _____

LIN _____

OPC _____

RCH _____

SEC 1 _____

YTD _____

Charles J. Rehwinkel

CJR/th

Enclosures

DOCUMENT NUMBER-DATE

01356 JAN 26 1998

FPSC RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Establishment if eligible
Telecommunications carriers
pursuant to Section 214(e) of
the Telecommunications Act
of 1996.
_____)

Docket No. 970644 - TP

Implementation of changes
in the Federal Lifeline
Assistance Plan currently provided
by the telecommunications
carriers of last resort.
_____)

Docket No. 970744 - TP

Filed January 26, 1998

Sprint-Florida's Limited Petition on Proposed Agency Action

Sprint-Florida, Incorporated ("Sprint-Florida" or "Sprint") hereby files its Limited Petition on Proposed Agency Action to protest and to request a hearing on certain matters covered by the Notice of Proposed Agency Action contained in Order No. PSC-98-0026-FOF-TP ("PAA Order"). As grounds for its protest and request for hearing, Sprint-Florida hereby states:

PETITIONER is:

Sprint-Florida, Incorporated
555 Lake Border Drive
Apopka, Florida 32703-5899

PETITIONER is represented by:

DOCUMENT NUMBER-DATE
01356 JAN 26 1998
FPSC-RECORDS/REPORTING

Charles J. Rehwinkel
General Attorney
1313 Blair Stone Rd.
MC FLTLHO0107
Tallahassee, Florida 32301

Service may be made at the above location,

1. Sprint-Florida is a party to this docket by virtue of the Commission making this proceeding generic and applicable to all local exchange carriers. The matters addressed in the PAA Order affect Sprint-Florida's substantial interests. Sprint received the PAA Order by mail on or about January 9, 1998.

2. In accordance with the Commission's original Notice of Proposed Agency Action in this matter (Order No. PSC-97-FOF-TP, issued October 14, 1997), Sprint and other Eligible Telecommunications Carriers (ETCs) requested waivers as provided for by the FCC. Sprint submitted a waiver request in lieu of a formal protest of that order. At the time Sprint had serious doubts about the feasibility of implementing a toll limitation service by the beginning of 1998 as well as in the foreseeable future. Concurrently pending at the FCC were several requests for reconsideration, including requests for reconsideration of the FCC requirement to provide toll limitation as a condition of remaining eligible to receive federal universal service funds.

3. One basis for the reconsideration petitions pending at the FCC was the feasibility of providing the service. Because the FCC seemed likely to change its position on reconsideration because of doubts about feasibility, Sprint, rather than raise that concern in a protest at the FPSC and require the establishment of a hearing schedule, filed the waiver request. (See attached.) Some of the Company's concerns are contained in the waiver request and are

incorporated herein by reference.

4. On January 5, 1998, the Commission issued its PAA Order granting the requests of all local exchange companies for waivers from the requirement to provide toll control. In the course of granting the requests, the Commission also made the following statements which are the reason for this limited protest:

Although the requirements for federal funding may be changed, we may still wish to retain toll control as part of Florida's lifeline plan. We support the toll limitation requirements as currently framed in the FCC's order. Accordingly, we believe the ETCs should continue with plans for implementation of full toll limitation services regardless of the FCC's decision on the matter.

PAA Order at 5.

5. Sprint's protest is lodged solely against this aspect of the PAA order. Sprint and other ETCs have requested a waiver of the federal requirement to provide toll control due to lack of feasibility, especially with regard to real-time billing capability. The Commission has acknowledged that "Florida LECs can provide toll blocking but not toll control." PAA Order at 4.

6. However, the Commission further stated that the companies "should provide . . . a plan and time line for [providing toll control]." PAA Order at 4-5. It is important to note that in so stating, the Commission did acknowledge that compensation for the costs of providing toll control will come from the universal service mechanisms, for which funding exists only at the interstate level.

7. The vote on the waiver requests that are the subject of the PAA Order was taken on December 16, 1997. Subsequently, on December 30, 1997, the FCC reversed, upon reconsideration, its then existing position that toll control is mandatory (absent a waiver granted by a state commission). In its Fourth Order on Reconsideration in CC Docket 96-45, Report and Order in CC Docket Nos. 96-45, 94-1, 91-213, 95-72; *In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, CC Docket Nos. 96-262, 94-1, 91-213, 95-72; FCC 97-420, adopted December 30, 1997; released December 30, 1997 ("FCC Reconsideration Order"), the FCC stated:

We conclude, however, that giving consumers such an option is not viable at this time. Based on the record before us, we find that an overwhelming number of carriers are technically incapable of providing both toll-limitation services, especially toll-control, at this time.

[W]e define toll-limitation services as either toll blocking or toll control and require telecommunications carriers to offer only one, and not necessarily both, of those services at this time in order to be designated as eligible telecommunications carriers.

FCC Reconsideration Order at 71, ¶¶ 114-115. [footnote omitted].

8. Having now decided that the implementation of toll blocking satisfies the toll control aspect of eligibility, the FCC made one additional ruling relevant to this matter. Regarding the waiver function that this Commission is currently performing, the FCC stated:

We note, however, that if, for technical reasons, a carrier cannot provide any toll limitation service at this time the carrier must seek

a time-limited waiver . . . to be designated as eligible . . .

FCC Reconsideration Order at 71, ¶115. [emphasis added]

9. Clearly the FCC has drastically changed the nature of the waiver process. Toll control is no longer required if toll blocking is provided. Sprint provides the required toll blocking. The FCC has found that toll control is not viable at this time. Finally, a waiver is not needed under the FCC Reconsideration Order if at least toll blocking is provided. Since the FPSC is now acting in this PAA Order to implement the FCC's waiver process, the standards for granting the waiver must be consistent with the FCC's requirements. Accordingly, the need has been eliminated for Sprint and other LECs providing toll blocking to receive the waiver -- requested under the FCC's obsolete requirements -- in order to remain an ETC.

10. However, since the FPSC Rule 25-22.060(1)(a) does not allow for a party to seek reconsideration of a Notice of Proposed Agency Action, Sprint must reluctantly seek relief from the specific toll control implementation requirements of the PAA Order through a protest.

11. In this matter, Sprint-Florida has identified the following issues of fact law or policy which are in dispute. The company reserves the right to raise additional issues within the scope of this protest through the Commission's prehearing process.

(i) Whether toll control service is technically feasible;

(ii) Whether the FPSC can require a carrier to implement toll control as a

condition of eligibility to receive support from a federal universal support mechanism;

(iii) Whether toll control is more appropriately implemented on a national basis; and

(iv) Whether the FPSC can or should attempt to implement toll control through a PAA Order that does not impose an obligation of cooperation or participation on all providers in the industry.

12. Sprint would suggest as an alternative to opening a formal docket that the Commission consider two options. The Commission could reconsider on its own motion the course of action contained in the PAA Order in light of the FCC decision. Alternatively, Sprint's waiver request could be deemed withdrawn if the FPSC were to acknowledge that any mandatory toll limitation process must be implemented, if at all, in a separate docket that considers the technical feasibility of implementation, includes all affected providers and provides affected parties a hearing on all matters affecting their substantial interests pursuant to s. 120.57, Fla. Stat.

13. The statutes, rules and orders entitling Sprint-Florida to relief are Chapters 120 and 364, Florida Statutes and Order No. PSC- 98-0026- FOF-TP, and the FCC Reconsideration Order.

WHEREFOR, for the reasons stated above the Commission should afford Sprint-Florida the opportunity to be heard on matters affecting its substantial interests by scheduling a hearing for the purpose of allowing Sprint-Florida the opportunity to be heard on all matters contained in Order No. PSC- 98-0026-

FOF-TP affecting its substantial interests.

RESPECTFULLY SUBMITTED this 26th day of January 1998.



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MC FTLHO0107
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Charles J. Rehwinkel
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November 5, 1997

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

Re: Establishment of eligible telecommunications carriers pursuant to Section 214(e) of the Telecommunications Act of 1996.

Implementation of changes in the Federal Lifeline Assistance plan currently provided by telecommunications carriers of last resort.

FPSC Docket No. 970644-TP & Docket No. 970744-TP

Dear Ms. Bayo:

On October 14, 1997 the FPSC issued Order No. PSC-97-1262-FOF-TP. Therein the FPSC seeks to implement Federal policies related to Lifeline service and the designation of Eligible Telecommunications Carriers (ETCs). One aspect of this effort involves implementation, for Lifeline customers, of a Federal "no-disconnect" policy for local service if toll charges are not paid. One facet of this policy is that a waiver from the no-disconnect requirement may be granted by the FPSC if certain conditions are met. Pivotal among the conditions is the requirement that a local exchange company designated as an ETC offer voluntary toll limitation services whereby a customer "may limit in advance the toll usage per billing cycle".¹ PAA Order at 7. The order also allows waivers to be granted from the requirement to provide toll-limitation services.

With regard to the toll limitation waiver, the PAA Order states at 7:

States, however, may grant waivers to carriers that are technically incapable of providing toll limitation services while they upgrade their switches to provide such services. The FCC made it clear that it expects waivers to be granted very infrequently, as evidenced by the burden of proof it has placed on the carriers. If granted, waivers may be effective for no more than two years, but may be renewed.

Furthermore the PAA Order continues at 7:

Presently, toll limitation services can be provided only in certain areas of the state. Most carriers can provide toll blocking, but not toll control. We believe that carriers desirous of receiving federal support should provide the services upon which that

¹ The other two requirements are (1) the ETC would incur substantial costs in complying with such a requirement and (2) telephone subscribership among low-income consumers in its service area in the state from which it seeks the waiver is at least as high as the national subscribership level for low-income consumers. PAA Order at 7.

support is contingent. Carriers who cannot provide full toll limitation services must provide a plan and time line to us for their provision.

Currently, Sprint cannot provide toll-limitation for its own intraLATA toll services anywhere on the basis that the FPSC appears to describe in the PAA Order. Further, LEC interaction with IXCs will be problematic if the intent is that the customer receive "real-time" toll blocking once the preset threshold is reached. The lag between the time the IXC-carried toll is reached and the time the LEC learns about it could cause toll limits to be exceeded, for example. Most likely IXCs will be required to make modifications to their systems in order to provide data to the LECs.

At this time Sprint does not have a plan to submit, nor is it apparent what level of detail is required in such a plan. Additionally, Sprint does not agree that the sole basis for technical infeasibility lies within the realm of "switch upgrades". Billing and other adjunct system modifications will most likely be required. Therefore, Sprint requests a waiver of the requirement to file an implementation plan until such time as more definitive data regarding the service, the cost, the technical requirements and other operational aspects associated with the service are available. Additionally, the Company requests a two year waiver of the requirement to implement toll limitation service.

RESPECTFULLY SUBMITTED this 5th day of November, 1997.



Charles J. Rehwinkel

CERTIFICATE OF SERVICE
DOCKET NO. 970644-TL & 970744-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail or hand-delivery this 26 day of January, 1998 to the following:

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