



Charles J. Rehwinkel

March 9, 1998

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

Re: Docket No. 980226-TP

Dear Ms. Bayo:

Enclosed are the original and fifteen (15) copies of Sprint-  
Florida, Incorporated's Response in Docket No. 980226-TP.

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,

RCK \_\_\_\_\_

AFA \_\_\_\_\_

APP \_\_\_\_\_

CAV \_\_\_\_\_

Charles J. Rehwinkel

CJR/th

Enclosures

cc: Parties of Record

DOCUMENT FILED DATE

03014 MAR-98

FEDERAL BUREAU OF INVESTIGATION

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Utilicore Corporation )  
for approval of Section 252(l) election of )  
interconnection agreement with Sprint - )  
Florida, Incorporated concerning )  
Interconnection Rates, Terms and )  
Conditions, Pursuant to the Federal )  
Telecommunications Act of 1996 )

Filed: March 9, 1998

Docket No. 980226-TP

SPRINT-FLORIDA'S MOTION TO DISMISS AND/OR ANSWER

Sprint-Florida provides this response to the Petition filed by Utilicore in this matter. Based on the words of the Petition alone, Utilicore's request for relief should be dismissed as a matter of law. In support, Sprint states as follows:

Respondent is :

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

Respondent is represented by

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

DOCUMENT NUMBER DATE

03014 MAR-98

REGISTRATION

**Service may be made at the above location.**

**Without agreeing to all of the contentions and allegations that Utilicore has raised in its petition, Sprint concurs that Utilicore has generally requested to be able to adopt the Agreement between Sprint and KMC that was approved by the FPSC in Order FPSC-98-0211-FOF-TP, issued February 4, 1998. Sprint did refuse to agree to allow Utilicore to adopt the KMC agreement because Sprint has maintained in good faith that the KMC agreement has been modified by operation of law through the decision in *Iowa Utilities Board v. F.C.C.* 1997 WL 403401 (8<sup>th</sup> Cir.).**

**Sprint still maintains that this is the case. However, rather than press the issue at this time, Sprint is willing to enter into an agreement with Utilicore that recognizes the carrier's right to adopt the KMC agreement as allowed by applicable law. Sprint has extended an offer to KMC in this regard.**

**Nevertheless, Sprint submits that the method chosen by Utilicore as contained in Exhibit 1 and appended to the Petition, is wrong as a matter of law and inconsistent with the representations contained in the Petition. Utilicore represents that it has taken the KMC agreement and just substituted the Utilicore name. The Petition states: "The approved interconnection agreement has been amended only as is necessary to reflect the change in contracting party from KMC to Utilicore." This is not accurate. The KMC agreement terminates on September 18, 1998. See Order FPSC 98 0211 FOF-TP, at 27 (Section 20.1). The same section 20.1 in the proposed Utilicore agreement contains a termination date of December 31, 1998. This is inconsistent with the representations of the Petition and the decision in *Iowa Utilities Board* that carriers can no longer "pick and choose" provisions to their liking.**

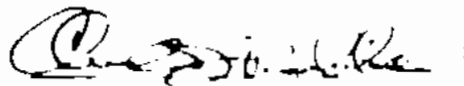
**Clearly, the termination date of a contract is a material provision. Sprint has not compared each word of the proposed agreement with the approved KMC agreement and cannot say whether any other problems exist. It is sufficient for purposes of this docket that there is at least one material difference for the Commission to determine that the relief requested under the Petition cannot be granted.**

**As stated above, Sprint is willing to allow Utilicore to adopt the KMC agreement. Sprint believes that the preferable method for this is for the parties to execute a one to two page document recognizing that the KMC agreement**

**is adopted. This avoids any interpretational issues and insures that Utilicore takes exactly what is contained in the KMC agreement.**

**In summary, Sprint requests that the Commission dismiss the Petition filed by Utilicore on the basis that the agreement submitted by Utilicore has been changed in more ways than the name of the carrier. Furthermore, Sprint has agreed to allow Utilicore to adopt the KMC agreement.**

**Respectfully submitted this 9<sup>th</sup> day of March 1998.**



**Charles J. Rehwinkel  
General Attorney  
Sprint Florida, Incorporated  
P.O. Box 2214  
MC FTLLH00107  
Tallahassee, Florida 32301**

**CERTIFICATE OF SERVICE  
DOCKET NO. 980226-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing  
Response of Sprint-Florida, Inc. was served by U.S. Mail this 9TH  
day of March, 1998 to the following:

Thomas M. Beard  
Senior Vice President  
Regulatory Affairs  
Utilicore Corporation  
5220 Greystoke Lane  
Tallahassee, Florida 32308

Ms. Martha Brown, Esq.  
Legal Service  
Florida Public  
Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399



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