

ORIGINAL

RECEIVED-FPSC



90 AUG 18 PM 4:23

Tracy Hatch
Attorney

Suite 700
101 N. Monroe St.
Tallahassee, FL 32301
904 425-6364
FAX: 904 425-6361

RECORDS AND REPORTING
August 18, 1998

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

RE: Docket No. 980696-TP

Dear Mrs. Bayo:

Enclosed for filing in the above referenced dockets is AT&T of the Southern States, Inc.'s (AT&T) Response to Sprint's Motion to Compel responses to Sprints First Request for Production of Documents and First Set of Interrogatories.

Copies of the foregoing are being served on all parties or record in accordance with the attached Certificate of Service. Thank you for your assistance in this matter.

Sincerely,

Tracy Hatch

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

- ACK
- AFA 2
- APP _____
- CAF _____
- CMU
- CTR _____
- EAG _____
- LEG 2
- LIN 5
- OPC _____
- RCH _____
- SEC 1
- WAS _____
- OTH _____

DOCUMENT NUMBER-DATE

08823 AUG 18 98

RECORDS AND REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Determination of the
cost of basic local
telecommunications service,
pursuant to Section 364.025,
Florida Statutes.

DOCKET NO. 980696-TP

DATED: August 18, 1998

AT&T'S RESPONSE TO SPRINT FLORIDA INCORPORATED'S
MOTION TO COMPEL ANSWERS TO ITS
FIRST SET OF INTERROGATORIES
AND
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

AT&T Communications of the Southern States, Inc. (AT&T), pursuant to Rules 25-22.034, 25-22.035 and 25-22.037, Florida Administrative Code, hereby responds to Sprint-Florida, Incorporated's (Sprint's) Motion to Compel AT&T to respond to Sprint's First Request for Production of Documents, (No. 1) and Sprint's First Set of Interrogatories, (Nos. 1 and 2). AT&T requests the Florida Public Service Commission (Commission) deny Sprint's motion for the reasons set forth below.

In support of its request to deny Sprint's motion to compel, AT&T states the following:

1. Sprint served its First Request for Production of Documents (No. 1) and its First Set of Interrogatories (Nos. 1 and 2) on AT&T on August 4, 1998.

DOCUMENT NUMBER - DATE

08823 AUG 18 98

FPSC-RECORDS/REPORTING

2. AT&T filed its Objections to Sprint's First Request for Production of Documents, (No. 1) and Sprint's First Set of Interrogatories, (Nos. 1 and 2) on August 10, 1998. AT&T incorporates herein by reference its Objections to Sprint's First Request for Production and Sprint's First Set of Interrogatories.

3. On August 11, 1998, Sprint filed its Motion to Compel responses to its First Request for Production of Documents (No. 1) and its First Set of Interrogatories (Nos. 1 and 2).

4. Sprint's document request No. 1 asks AT&T to provide "all records from the PNR DBF file of customer points for the entire state of Florida . . ." (hereinafter "geocode point data") As AT&T stated in its objections, the geocode point data is the intellectual property of a third party, PNR. The geocode point information is regarded by PNR as highly sensitive proprietary information. This information is the commercial property of PNR and is available to persons other than AT&T on a commercial basis. PNR does not allow AT&T to remove any of the geocode information from PNR's premises.

5. In support of its Motion to Compel, Sprint argues that just because the information is the intellectual property of another is not a valid objection. Sprint further argues that because this information is at the heart

of the HAI model, it is relevant and should be produced. Notwithstanding Sprint's arguments, Sprint fails to address or to even mention the most important point set forth in AT&T's objections. As noted in AT&T's objections to document request No. 1, AT&T does not have nor has it ever had possession custody or control of this information. PNR retains possession, custody and control of its geocode information. AT&T simply can not provide Sprint that which it does not have. Moreover, this information is commercially available to Sprint as easily as it is to AT&T. It is patently unreasonable and an abuse of discovery for Sprint to seek to have AT&T compelled to purchase PNR's data in order to provide it to Sprint. In order to accommodate various parties desires to examine PNR's geocode point data, AT&T arranged in April 1998, at AT&T's expense, for an open visit to PNR's premises. During that visit PNR allowed interested parties to examine the geocode point information. Sprint was invited and attended. Sprint has already examined the information it now seeks. In order to be as responsive as possible and as stated in its objections, AT&T has again agreed to make arrangements for Sprint to visit PNR's premises to examine the geocode point data at Sprint's expense.

6. Sprint's Interrogatory No. 1 asks AT&T to provide the "For all customer locations, the exact geocoded points

that are used as inputs to the clustering algorithm described in the HAI Model . . ." This interrogatory seeks the same geocode point information as was sought in Sprint's document request No. 1. As noted above, this information is not in AT&T's possession custody or control. This information is the intellectual property of PNR and is commercially available to Sprint just as it is to AT&T. AT&T incorporates its response set forth above in paragraphs 4 and 5.

7. Sprint's Interrogatory No. 2 asks "For each set of geocoded points, either actual or surrogate, associated with each main cluster . . ." This interrogatory again seeks the same geocode point information as was sought in Sprint's document request No. 1. As noted above, this information is not in AT&T's possession custody or control. This information is the intellectual property of PNR and is commercially available to Sprint just as it is to AT&T. Without the geocode data AT&T can not run the program provided by Stopwatch Maps. Sprint has already provided the program to PNR. Sprint can easily obtain what it asks for by requesting that PNR run the program using its geocode data base and pay PNR for the cost of such activity. Attempting to compel AT&T under the guise of discovery to purchase a third party's work product is inappropriate and

an abuse of discovery. AT&T incorporates its response set forth above in paragraphs 4 and 5.

Where, for the reasons stated above, AT&T respectfully requests the Commission deny Sprint's motion to compel responses to Sprint's First Request for Production of Documents, (No. 1) and Sprint's First Set of Interrogatories, (Nos. 1 and 2).

Respectfully submitted, this 18th day of August, 1998.



Tracy Hatch
101 N. Monroe St.
Suite 700
Tallahassee, FL 32301
(904) 425-6364

ATTORNEY FOR AT&T
COMMUNICATIONS OF THE
SOUTHERN STATES, INC.

**CERTIFICATE OF SERVICE
DOCKET 980696-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via *hand delivery/**Federal Express and U.S. Mail to the following parties of record on this 14th day of August, 1998:

William Cox
Florida Public Service
Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Richard Melson
Hopping Law Firm
Post Office Box 6526
Tallahassee, FL 32314

Jack Shreve
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Kimberly Caswell**
GTE Service Incorporated
1 Tampa City Center
201 N. Franklin Street
Tampa, FL 33602

Carolyn Marek
VP of Regulatory Affairs
Southeast Region
Time Warner Communications
Nashville, TN 37221

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves,
McGlothlin, Davidson, Rief &
Bakas, P.A.
117 S. Gadsden Street
Tallahassee, FL 32301

Floyd R. Self
Messer, Caparello & Self,
P.A.
215 S. Monroe Street
Suite 701
Tallahassee, FL 32301-1876

Brian Sulmonetti
WorldCom, Inc.
1515 S. Federal Highway
Suite 400
Boca Raton, FL 33432

Nancy B. White
Robert G. Beatty
c/o Nancy Sims
150 S. Monroe Street
Suite 400
Tallahassee, FL 32301

Norman H. Horton, Jr.
Messer, Caparello & Self,
P.A.
215 S. Monroe Street
Suite 701
Tallahassee, FL 32301-1876

James C. Falvey
e.spire Communications,
Inc.
133 National Business
Parkway
Suite 200
Annapolis Junction, MD
20701

Laura L. Gallagher
Vice President-Regulatory
Affairs
Florida Cable
Telecommunications
Association
310 N. Monroe Street
Tallahassee, FL 32301

Harriet Eudy
ALLTELL Florida, Inc.
Post Office Box 550
Live Oak, FL 32060

John P. Fons
J. Jeffrey Wahlen
Ausley & McMullen
227 South Calhoun Street
Tallahassee, FL 32302

David B. Erwin
127 Riversink Road
Crawfordville, FL 32327

Robert M. Post, Jr.
Post Office Box 277
Indiantown, FL 34956

Mark Ellmer
Post Office Box 220
502 Fifth Street
Port St. Joe, FL 32456

Tom McCabe
Post Office Box 189
Quincy, FL 32353-0189

Lynn B. Hall
Vista-United
Telecommunications
Post Office Box 10180
Lake Buena Vista, FL 32830

Lynne G. Brewer
Northeast Florida Telephone
Co.
Post Office Box 485
Macclenny, FL 32063-0485

Kelly Goodnight
Frontier Communications
180 S. Clinton Avenue
Rochester, NY 14646

Patrick Knight Wiggins
Donna L. Canzano
Wiggins & Villacorta, P.A.
Post Office Drawer 1657
Tallahassee, FL 32302

Steve Brown
Intermedia Communications
Inc.
3625 Queen Palm Drive
Tampa, FL 33619-1309

Michael A. Gross
Assistant Attorney General
Office of the Attorney
General
PL-01, the Capitol
Tallahassee, FL 32399-1050

Charles J. Rehwinkel
Sprint-Florida, Inc.
1313 Blairstone Rd.
Tallahassee, FL 32301

Kenneth A. Hoffman
John R. Ellis
Rutledge, Ecenia, Underwood
Purnell & Hoffman
Post Office Box 551
Tallahassee, FL 32301

Paul Kouroupas
Michael McRae
Teleport Communications
Group, Inc.
2 Lafayette Centre
1133 21st Street, NW
Suite 400
Washington, DC 20036

Suzanne F. Summerlin
1311-B Paul Russell Road
Suite 201
Tallahassee, FL 32301

Peter M. Dunbar
Barbara D. Auger
Pennington, Moore,
Wilkinson, Bell & Dunbar
P.O. Box 10095
Tallahassee, FL 32302

Tracy L. H.
ATTORNEY