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August 16, 1999

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Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Betty Easley Conference Center, Room 110  
Tallahassee, Florida 32399-0850

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AUG 16 PM 4:16  
RECORDS AND REPORTING

Re: Docket No. 990455-TL

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Omnipoint Communications MB Operations, LLC and Sprint Communications Company Limited Partnership are the original and fifteen copies of the Joint Motion for Reconsideration of Order No. PSC-99-1541-PCO-TL.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,

Kenneth A. Hoffman

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FLORIDA PUBLIC SERVICE COMMISSION  
DIVISION OF RECORDS AND REPORTING

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Done 8/30/99

DOCUMENT NUMBER-DATE

09724 AUG 16 99

RECORDS AND REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Review of the )  
Proposed Numbering Relief Plan )  
for the 305/786 Area Code - Dade )  
County and Monroe County/Keys )  
Region. )  
\_\_\_\_\_ )

Docket No. 990455-TL

Filed: August 16, 1999

**JOINT MOTION FOR RECONSIDERATION OF  
ORDER NO. PSC-99-1541-PCO-TL**

Intervenors Omnipoint Communications MB Operations, LLC d/b/a Omnipoint Communications and Sprint Communications Company Limited Partnership/Sprint PCS (hereinafter referred to collectively as "Intervenors"), pursuant to Rule 25-22.0376, Florida Administrative Code, hereby move for reconsideration of that portion of Order No. PSC-99-1541-PCO-TL ("Order Establishing Issues") which includes two issues addressing number conservation measures for determination by the panel in this docket. These issues should be addressed by the full commission on a generic, comprehensive basis in Docket No. 981444-TP, Number Utilization Study: Investigation into Number Conservation Measures or the comprehensive number conservation rulemaking to be initiated by the Commission staff pursuant to Order No. PSC-99-1393-S-TP issued July 20, 1999 in Docket No. 990373-TP. In support of this motion, Intervenors state as follows:

1. On August 5, 1999, the Prehearing Officer issued the Order Establishing Issues which includes the following issues concerning number conservation measures:

3.a) What is the Commission's authority to order conservation measures in connection with the relief plan(s) approved in issue one for the 305/786 NPA?

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b) To the extent the Commission has authority, what number conservation measure(s), if any, should be implemented in the 305 and 786 NPAs and, if so, what is the appropriate implementation schedule?

The above-stated number conservation measures issues were included in the Order Establishing Issues without the opportunity for affected parties, including the Intervenors seeking relief herein, to appear before the Prehearing Officer and address their concerns with the inclusion of these issues in this docket. The failure to afford the Intervenors the right to appear before the Prehearing Officer and present arguments in opposition to the inclusion of number conservation measure issues in this docket is both inconsistent with standard Commission practice and in violation of basic due process guarantees. Moreover, having not been allowed an opportunity to present argument on these issues, the traditional, established standard for ruling on a motion for reconsideration cannot apply here since the Intervenors were not granted an initial opportunity to raise points of fact or law to the Prehearing Officer prior to the issuance of the Order Establishing Issues.<sup>1</sup> Accordingly, fairness and due process require that the full panel address the issues raised in this motion on a de novo basis rather than subject to the higher burden placed on a party who seeks reconsideration of a Commission order.

2. Intervenors maintain that it is inappropriate and premature for this panel to address number conservation measures in this docket. The Commission currently has a petition pending before the Federal Communications Commission ("FCC") requesting authority to implement a

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<sup>1</sup>The standard for determining whether reconsideration is appropriate is set forth in Diamond Cab Co. of Miami v. King, 146 So.2d 889, 891 (Fla. 1962). In Diamond Cab, the Florida Supreme Court held that the purpose of a petition for reconsideration is to bring to an agency's attention a point of law or fact which it overlooked or failed to consider when it rendered its order.

variety of number conservation measures.<sup>2</sup> Until the FCC rules on the Commission's petition, any attempt to address these issues is premature and would only lead to an unnecessary expenditure of time and resources of the parties and Commission. With direct testimony currently scheduled to be filed on August 24, 1999, there is no reasonable or practical way for the parties to address number conservation measures through testimony in this docket, even if the FCC rules on the Commission's petition prior to August 24, since parties would need a reasonable time to: (a) analyze the FCC's order concerning what authority may be granted to the Commission, if any, to implement specific number conservation measures;<sup>3</sup> (b) analyze the extent of the Commission's authority to implement number conservation measures in response to a delegation of authority from the FCC; and (c) prepare testimony.

3. In addition, any lawful implementation of number conservation measures is a matter of significant public interest and should ultimately be reflected in comprehensive statewide Commission policies and rules, considered and adopted by the full Commission. Currently, the Commission has an open docket, Docket No. 981444-TP entitled Number Utilization Study: Investigation into Number Conservation Measures, where number conservation issues, such as those articulated by the Prehearing Officer, could be taken up on a statewide basis. In addition, and

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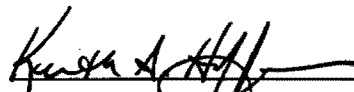
<sup>2</sup>See Florida Public Service Commission Petition to Federal Communications Commission for Expedited Decision for Grant of Authority to Implement Number Conservation Measures, FCC File No. NSD-L-99-33.

<sup>3</sup>Intervenors recognize that the FCC has already stated that "states do not require any additional delegation of authority from the (FCC) to engage in rate center consolidation." See In the Matter of Numbering Resource Optimization, et. al., Notice of Proposed Rulemaking, CC Docket No. 99-200, RM No. 9258, NSD File Nos. L-99-17 and L-99-36 (rel. June 2, 1999), at ¶ 117.

perhaps more appropriately, the Commission has directed its staff "to initiate rulemaking in anticipation of necessary authority from the FCC for conservation measures,"<sup>4</sup> including any which may be raised in the instant docket. Intervenor maintain that such rulemaking, including the notice requirements for rulemaking outlined in Section 120.54, Florida Statutes, provides the most appropriate process for consideration and promulgation of any rules implementing number conservation measures, so long as such rules are a lawful exercise of the Commission's statutory authority.

WHEREFORE, Intervenor respectfully request that the panel assigned to this docket reconsider the Order Establishing Issues by removing Issue Nos. (3)(a) and (3)(b) from the issues to be resolved in this docket and that such issues be addressed in Docket No. 981444-TP and/or the number conservation measure rulemaking to be initiated by the Commission staff pursuant to Order No. PSC-99-1393-S-TP issued July 20, 1999 in Docket No. 990373-TP.

Respectfully submitted,

  
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Omnipoint Communications

and

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<sup>4</sup>Order No. PSC-99-1393-S-TP issued July 20, 1999 in Docket No. 990373-TP, at 5.

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Counsel for Sprint Communications Company  
Limited Partnership/Sprint PCS

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Joint Motion for Reconsideration of Order No. PSC-99-1541-PCO-TL was furnished by U. S. Mail this 16<sup>th</sup> of August, 1999, to the following:

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