

ORIGINAL

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

In re: Complaint of Orlando Telephone Company for Enforcement of its Interconnection
Agreement with Sprint-Florida, Incorporated - Docket No. 990884-TP

Dear Ms. Bayo:

Enclosed please find the original and 15 copies of Rebuttal Testimony of the following
witnesses:

- a) Jerry Locke 14559-79
- b) Don Lee 14560-99

A copy has been provided to Charles Rehwinkel and Diana Caldwell. Thank you for your
attention to this filing.

Sincerely,



David B. Erwin

AFA _____
 APP _____
 CAF _____ DBE:jm
CMU _____ Enclosure
 CTR _____ cc: Herb Bornack
 EAG _____ Jerry Locke
 LEG 1 _____ Diana Caldwell
 MAS 37080 _____ Charles Rehwinkel
 OPC _____
 PAI _____
 SEC 1 _____
 WAW _____
 OTH _____

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ORLANDO TELEPHONE COMPANY, INC.
REBUTTAL TESTIMONY OF JERRY LOCKE
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 990884-TP
November 30, 1999

Q. PLEASE STATE YOUR NAME, YOUR COMPANY'S NAME AND ADDRESS.

A. My name is Jerry Locke. I am employed by Orlando Telephone Company. The company's address is 4558 S. W. 35th Street, Suite 100, Orlando, Florida 32811.

Q. DID YOU PREFILE DIRECT TESTIMONY IN THIS DOCKET?

A. Yes.

Q. DO YOU HAVE ANY REBUTTAL TO THE DIRECT TESTIMONY OF SPRINT-FLORIDA, INCORPORATED'S (SPRINT) WITNESS, JOAN SEYMOUR?

A. Yes.

Q. WITH WHAT PORTIONS OF HER DIRECT TESTIMONY DO YOU DISAGREE?

1 A. First, on page 3, lines 7 through 10, I would say that from our perspective at OTC
2 it was apparent that Joan had not facilitated any facility based CLECs into the
3 marketplace. We had to wait on most questions or concerns we presented to Joan
4 in order for her to contact someone else in Sprint for an answer or set up a
5 meeting and get a bunch of Sprint people on the line from various parts of the
6 country to understand our question and then we usually had to wait days, weeks or
7 longer for an answer. This continues to be the case to this day. Second, she has
8 not correctly described what Orlando Telephone Company (OTC) believes Sprint
9 was obligated to do under the interconnection agreement between the parties.
10 Joan Seymour has testified on page 4, lines 1 - 6, that OTC believes Sprint should
11 pay OTC the difference between OTC's interstate access rate and Sprint's
12 interstate access rate for the time during which interim portability was in effect.
13 In reality, OTC believed then and continues to believe now that Sprint was
14 obligated under the interconnection agreement to do the following:

- 15 1. Provide billing data to OTC so that OTC could bill IXCs for
16 terminating access for OTC's customers' incoming interstate toll
17 calls.
- 18 2. If Sprint was unable or unwilling to make the effort or spend the
19 money to capture and provide billing data to OTC, then pay OTC
20 for the terminating access it was entitled to receive at OTC's
21 tariffed terminating access rate, as required by Section IV, D, 2 of
22 the parties' agreement, or
- 23 3. Collect the OTC terminating access tariff rate from IXCs for
24 OTC's calls under some kind of single bill, multiple tariff, meet
25 point billing arrangement.

1 I do not believe that Sprint gave OTC's problem the attention it deserved. If
2 Sprint had devoted more effort and/or skill to the problem, OTC would not have
3 been deprived of access revenue for more than a year and now have to seek
4 payment by Sprint instead of receiving billed access from the IXCs.

5

6 **Q. ARE THERE OTHER PORTIONS OF JOAN SEYMOUR'S TESTIMONY**
7 **WITH WHICH YOU DISAGREE?**

8

9 A. Yes. I do not agree with her testimony on page 5, lines 21 - 23, that it is
10 understandable that Sprint could not provide OTC with any billing data due to
11 technical limitations. Sprint is a large company with much expertise, and I
12 believe it is quite likely that Sprint simply chose not to devote the necessary
13 resources to help a start-up competitor. I believe that Sprint could have found a
14 way to provide billing data to OTC but did not feel it was worth it for OTC and
15 perhaps a few other small competitors that might never complain or have a
16 substantial enough claim to make it worthwhile to pursue the matter. If
17 information was not going to readily be available, why did Sprint, Joan Seymour
18 and the people in Kansas City continue to go through the charade of meetings and
19 say they were working on the problem? Why did they just not say we have
20 nothing and will not be able to get you any information until you get to local
21 number portability and we have solved all of our problems to provide you with
22 billing information?

23

24 **Q. WHAT ELSE BOTHERS YOU ABOUT JOAN SEYMOUR'S**
25 **TESTIMONY?**

1 A. I would disagree with Joan's characterization on Page 6, lines 16 through 21 of
2 the contract. Those passages in the contract are not underlined and have no more
3 meaning than the rest of the information contained in D2. Likewise on page 7,
4 lines 1 through 9, there is no emphasis on "If available;" in fact, the information
5 was available. Sprint just did not make the effort to provide it to us. They chose
6 to stall, buy time and work on the issue at a leisurely pace with an eye towards
7 being ready to provide information when we got to LNP, but that was not the case
8 either; it took them another 4 months to provide billing data after LNP began.
9
10 I continue to believe that Joan Seymour's interpretation of Section IV, D, 2 of the
11 agreement is incorrect. For starters, everything in Section IV applies to
12 compensation between OTC and Sprint. Furthermore, I believe that the phrase,
13 "if separately chargeable," applies to both of the Section IV D, 2's alternative
14 clauses. In other words, I believe "if separately chargeable" applies to charging
15 the appropriate rate out of OTC's tariff and to any meet point access arrangement.
16 Joan Seymour states that the only applicable portion of Section IV, D, 2 is the
17 establishment of some meet point billing arrangement. In my view, charging
18 OTC's terminating access rate has not been excluded just because Sprint did not
19 readily find a way to provide billing data to OTC. Furthermore, switched access
20 was, in fact, "separately chargeable." Sprint separately billed interstate switched
21 access to IXCs from the outset. A reasonable interpretation of the contract is that
22 "switched access" was "separately chargeable" and, therefore, should have been
23 charged at OTC's tariff rate and/or paid by Sprint at OTC's tariff rate. Sprint
24 simply wants to take advantage of its own failure to capture and relay data to OTC
25 to deny OTC recovery of access revenue that OTC is entitled to under the

1 agreement.

2

3 **Q. IS THERE MORE THAT YOU DISAGREE WITH?**

4

5 A. On page 9, lines 5 through 18, I would disagree with the representation that we
6 worked on a formula for compensation from March of 1998 to December of 1998.
7 We asked repeatedly for information so we could bill our customers. The formula
8 was given to us by Sprint. We had no input into the formula development. Joan
9 told us this is what we had to use. The formula never worked for us unless you
10 used our minutes and tariffed rates. We never heard of the formula until
11 September of 1998. It was always understood that we would use our tariffed
12 rates. It is inconceivable to me that anyone could think I would be interested in
13 using Sprint's rates to bill anything. We, as do all other ILECs, CLECs, etc. have
14 our own rates. Throughout Joan's testimony, she mentions surrogate and
15 surrogacy arrangements. I do not believe that word is even in the contract.

16

17 Joan Seymour says on page 9, lines 14 - 17, that OTC never contradicted Sprint's
18 portrayal of the Sprint access charges as the "appropriate inputs" to Sprint's
19 formula, which formula Sprint holds forth as synonymous with "meet point
20 billing." In fact, never once did OTC agree that Sprint's access charges were
21 appropriate for anything related to OTC compensation. OTC consistently rejected
22 the Sprint access charges as failing to produce the result needed by OTC. On at
23 least one occasion in a meeting at Sprint, which I believe was in May 1998, OTC
24 specifically told Sprint's Tom Foley what OTC's interstate access rate was, and
25 OTC always indicated that it wanted to bill its own access charges at its own rate.

1 **Q. WHAT ELSE DO YOU DISAGREE WITH?**

2

3 A. I disagree with the notion, on page 12, lines 4 - 9, that Sprint could not have
4 backbilled IXCs for OTC. When OTC billed Sprint in September 1998, after
5 having concluded that Sprint was stringing OTC along about providing billing
6 data to OTC, traffic usage was fairly clear to OTC in terms of interstate minutes
7 of use (MOU), and traffic usage had by then begun to increase significantly.
8 There is no reason Sprint could not have billed IXCs at OTC's rate, on behalf of
9 OTC (less Sprint rates already billed). If Sprint had done so, even if backbilling
10 had been for three months, it would have captured a great deal of the
11 compensation OTC is now seeking. During the months of September, August and
12 July, 1998, OTC had 2,514,577 MOUs and the total from start-up during February
13 through September was only 3,064,351 MOUs. I believe that if billed, the IXCs
14 would have paid, based on the billing experience OTC had with IXCs at that time,
15 and receiving 80% of OTC's entitlement would have been much better than the
16 situation that OTC now finds itself in.

17

18 I also disagree with the testimony on page 12, lines 14 through 22. If Joan
19 Seymour is a Facilitator in the Sprint Organization and relies on others to provide
20 her with information when she requires it, how can it be she speaks with such
21 authority and finality about what Sprint can or can't do when it comes to IXC
22 billing? On the one hand she says there was nothing Sprint could do to "identify
23 and rate" OTC's ported traffic, and yet she says in line 20 that by the time Sprint
24 found out our rate it was too late. As previously mentioned by me, there was a
25 significant amount of OTC billing that was on the table in September of 1998. If

1 handled properly by Sprint, a lot of OTC's money could have been obtained.
2 Sprint had already made up their mind what they were going to pay and had
3 delayed payment and continued to do so no matter how many times they were
4 contacted or what OTC sent them.

5

6 **Q. What is your final concern about Joan Seymour's testimony?**

7

8 A. I take issue with Joan Seymour's testimony on page 13, lines 8 through 18. The
9 agreement clearly contemplated payment to OTC at OTC's switched access rate.
10 Sprint was not ready to provide necessary information to allow OTC to bill or in
11 the absence of that to pay OTC at OTC's rate, as set forth in Section IV, D, 2.
12 Sprint chose to take advantage of the situation by trying to force their will and size
13 upon a much smaller competitor to pay what they wanted to instead of fixing the
14 problem. Only Sprint knows how much money they saved. OTC would only
15 request to be paid for their traffic at OTC's rate as we have all along. We had no
16 control over Sprint. Sprint asserted control over us.

17

18 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

19

20 A. Yes.

21

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