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August 2, 2000

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REPORTING

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BY HAND DELIVERY

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. 990649-TP

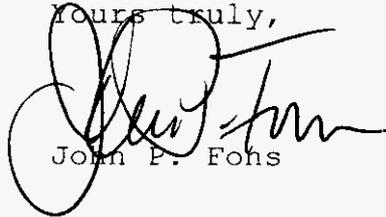
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Sprint-Florida's Motion to Bifurcate Proceeding, for a Continuance and Leave to Withdraw Cost Studies and Certain Testimony.

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.

Yours truly,



John P. Fohn

- APP _____
- CAF _____
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- OPC _____
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- SER _____
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Enclosures

cc: All parties of record

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DOCUMENT NUMBER-DATE

09331 AUG-28

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Investigation into
pricing of unbundled network
elements

DOCKET NO. 990649-TP
FILED: August 2, 2000

**SPRINT-FLORIDA'S MOTION TO BIFURCATE PROCEEDING,
FOR A CONTINUANCE AND LEAVE TO WITHDRAW
COST STUDIES AND CERTAIN TESTIMONY**

Sprint-Florida, Incorporated ("Sprint-Florida") and Sprint Communications Company Limited Partnership ("Sprint"), by and through their undersigned attorneys, respectfully request that the Commission bifurcate this proceeding, grant Sprint-Florida a continuance and leave to withdraw its cost studies and certain testimony, stating as follows:

1. This proceeding had its beginning in early 1999, in response to a petition by FCCA to establish permanent UNE prices for BellSouth. See Docket No. 981834-TP. In response to that Petition, the Commission established a generic proceeding, to include BellSouth, GTE Florida and Sprint-Florida, to establish new UNE prices, and as a result of further FCC decisions and rule changes (FCC Order 99-86, released May 7, 1999, in CC Docket No. 96-98), the proceeding was expanded to include deaveraged UNE prices. Order No. PSC-99-1078-PCO-TP. Hearings scheduled for December 1999, were cancelled to allow the ILECs to complete and file cost studies addressing deaveraged rates. The parties

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entered into a Stipulation on December 17, 1999, agreeing to interim deaveraged rates, in order that Florida might comply with the FCC's Order lifting the stay requiring deaveraged UNE prices on May 1, 2000. This Stipulation was approved by the Commission on February 22, 2000. Order No. PSC-00-0380-S-TP.

2. In accordance with the Stipulation, Sprint-Florida filed new TELRIC-based studies addressing recurring UNE prices on a deaveraged basis, together with appropriate non-recurring charges. Sprint-Florida's prices and charges were developed in accordance with the FCC's TELRIC methodology rules, including Rules 51.503 through 51.515. At the time, these cost-standard rules were subject to an ongoing appeal before the Eighth Circuit Court of Appeals ("Eighth Circuit") based on a remand from the U.S. Supreme Court. (See Iowa Utilities Board, et al. v. Federal Communications Commission, Case No. 97-826, decided January 25, 1999).

3. On July 18, 2000, the Eighth Circuit, while upholding most aspects of the FCC's rules regarding TELRIC methodology, found that the FCC's requirement that the costs - especially the loop costs - be based upon a "hypothetical network" violates the plain meaning of the Telecommunications Act of 1996.¹ Although

¹ The Eighth Circuit defines "hypothetical network" as some "state of the art presently available technology ideally configured but neither deployed by the ILEC nor to be used by the competitor." Iowa Utilities Board, et al. v. Federal Communications Commission, No. 96-3321, Order (8th Cir. July 18, 2000) at 8.

the Eighth Circuit's mandate has not yet been issued, and the decision is still potentially subject to a stay, the fact that a key element of the FCC's TELRIC methodology has been rejected creates a great deal of uncertainty about Sprint-Florida's cost study and resulting UNE prices.

4. Sprint-Florida's cost studies, particularly its loop cost study, are based entirely upon the FCC's TELRIC methodology, including the use of a hypothetical network. Indeed, the hypothetical network, which reflects a forward-looking, most efficient network architecture, is at the very heart of Sprint's TELRIC-based studies. Sprint then utilizes current vendor material costs and labor rates to develop the investment and expenses necessary to build and maintain a functioning network, capable of offering unbundled network elements. Yet, it is clear that until it is precisely known whether the FCC's mandated use of a hypothetical network violates the 1996 Act, or if it does, what alternative methodology must be used, the Sprint-Florida cost study is not in compliance with the law as interpreted by the Eighth Circuit.

5. Obviously, because of the current uncertainty, which uncertainty may not be resolved by the time of the scheduled September hearings, Sprint-Florida is unable to adequately defend its cost studies. Even if Sprint-Florida was to ignore the Eighth Circuit's decision - and the Commission was to make a decision

based upon the FCC's mandated TELRIC methodology, including the use of a "hypothetical network" - all of the effort and time invested in doing so would be wasted if the Eighth Circuit's decision is either not stayed and/or affirmed. Furthermore, because Sprint-Florida's use of the hypothetical network is so integral to the development of its cost studies, it would be impossible for Sprint to revise its cost studies to reflect the impact of the Eighth Circuit decision in time to be considered in the current schedule for this proceeding. Accordingly, it makes little sense to push ahead with hearings on Sprint-Florida's cost study when waiting until the picture is clearer would be more efficient. In the meantime, Sprint-Florida will continue to honor its deaveraged UNE prices that are on file with the Commission in an effective tariff, available to all ALECs.

6. In a perfect world, Sprint-Florida should not be required to file a new cost study or refile its current cost study, and the Commission should not be required to address any Sprint-Florida cost study, until the FCC has issued new rules in compliance with the Eighth Circuit's decision if affirmed. Recognizing that this process could take a significant amount of time (perhaps years), Sprint-Florida is willing to file a new UNE cost study with the Commission in the April to June 2001, timeframe. Such cost study would, if necessary, develop UNE investments on a basis other than using a hypothetical network.

7. If Sprint-Florida's Motion to Bifurcate this proceeding and for a Continuance is granted, Sprint-Florida will need to withdraw its current cost studies and certain testimony filed in support of those cost studies. Because Sprint is also operating as an ALEC in Florida, Sprint intends to continue its participation in this proceeding, including the use of witnesses and exhibits. At the appropriate time, and after consultation with Staff and the parties, Sprint-Florida will provide a list of testimonies and exhibits to be withdrawn from this proceeding.

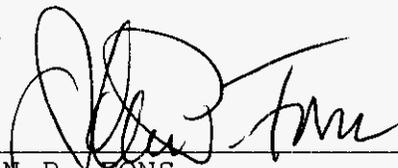
WHEREFORE, having fully supported its Motions and Requests, Sprint respectfully requests the Commission bifurcate this proceeding to remove Sprint-Florida's cost studies from the scheduled hearings and to grant Sprint-Florida a continuance until such time as Sprint-Florida files new UNE cost studies which are in compliance with the Eighth Circuit opinion and/or the FCC's rules. In addition, Sprint-Florida should be allowed to withdraw its testimony in support of its cost studies and prices, but Sprint should be allowed to continue to participate in this proceeding as an ALEC.

DATED this 2nd day of August, 2000.

Respectfully submitted,

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ATTORNEYS FOR SPRINT-FLORIDA AND
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U. S. Mail, or hand delivery (*) this 2nd day of August, 2000, to the following:

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