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January 12, 2001

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

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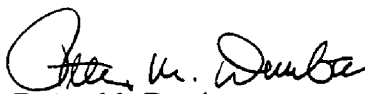
**Re: Complaint of Time Warner Telecom of Florida L.P. Against
Sprint-Florida, Inc.**

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced complaint on behalf of Time Warner Telecom of Florida, L.P. are the original and fifteen copies of the Complaint of Time Warner Telecom of Florida L.P. Against Sprint-Florida, Inc.

Respectfully,

PENNINGTON, MOORE, WILKINSON,
BELL & DUNBAR, P.A.


Peter M. Dunbar

PMD/ks
Enclosures

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Time Warner Telecom
of Florida, L.P. Against Sprint-Florida, Inc.

Docket No.:
Filed: January 12, 2001

**COMPLAINT OF TIME WARNER TELECOM OF FLORIDA, L.P.
AGAINST SPRINT-FLORIDA, INC.**

Time Warner Telecom of Florida, L.P. ("TWTC"), through its undersigned counsel, files this Complaint against Sprint-Florida, Inc. ("Sprint"), and in support states as follows:

1. By this Complaint, TWTC seeks relief from the Florida Public Service Commission ("this Commission") for Sprint's failure to provide initial responses and price quotes within 15 days of its receipt of applications for physical collocation, and Sprint's failure to provision collocation sites within 90 days of firm orders placed by TWTC. Sprint's actions constitute a violation of its collocation obligations under the 1996 Telecommunications Act, and related orders of the FCC and this Commission.

2. The full name and business address of Complainant is:

Time Warner Telecom of Florida, L.P.
233 Bramerton Court
Franklin, Tennessee 37069-4002

3. The persons who should receive copies of all notices, orders, and pleadings relating to this matter are:

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4. Section 251(c)(6) of the 1996 Telecommunications Act requires ILECs to “provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier....”

Initial Response Interval /Price Quotes

Federal Communications Commission

5. The FCC addressed the issue of initial response intervals in its Advanced Services Order, concluding as follows:

We view ten days as a reasonable time period within which to inform a new entrant whether its collocation application is accepted or denied. Even with a timely response to their applications, however, new entrants cannot compete effectively unless they have timely access to provisioned collocation space. We urge the states to ensure that collocation space is available in a timely and pro-competitive manner that gives new entrants a full and fair opportunity to compete.

FCC Order 99-48 at Paragraph 55. (Emphasis added.)

Florida Public Service Commission

6. This Commission first addressed the issue of initial response intervals in Docket Nos. 981834-TP and 990321-TP, adopting the following requirement in Florida:

The ILEC shall respond to a complete and correct application for collocation within 15 calendar days. If the ILEC determines

that the application is incomplete or defective, then the ILEC shall inform the applicant carrier as soon as possible, and shall identify with specificity the problem with the application.

If the ILEC intends to deny collocation, the ILEC shall be required to submit a Notice of Intent to Seek Waiver of Physical Collocation Requirements to the Commission on the same date of its initial response to the applicant carrier. The Notice shall include a basic statement of the reason for its denial (technically infeasible or lack of space). If the denial is based upon lack of space, the ILEC shall also file detailed floor plans or diagrams of the premises with the Notice, which shall also be provided by the ILEC to the applicant carrier.

If the applicant carrier requests a report in accordance with FCC Rule 51.321(h), the ILEC shall also file a copy of the report with the Commission.

Order No. PSC-99-1744-PAA-TP, September 7, 1999, p.7. (Emphasis added.)

7. This Commission again addressed response intervals in Order PSC-00-0941-FOF-TP, issued on May 11, 2000, wherein the Commission concluded as follows:

The ILEC shall be required to respond to a complete and accurate application with all information necessary for an ALEC to place a firm order, including information on space availability and a price quote, within 15 calendar days from the date the ILEC receives the collocation application. Additionally, we emphasize that the collocation response interval begins on the date when the ILEC receives the complete and accurate application.

Furthermore, the price quotation from the ILEC shall contain detailed costs and sufficient detail for the ALEC to submit a firm order. We do not, however, specify the level of detail that should be included, because there is insufficient evidence in the record to support a specific level of detail. Nevertheless, we emphasize that we believe that an ILEC, including BellSouth, should be capable of providing more detail than three line items in the price quote for collocation space.

Order at p. 68. (Emphasis added.)

8. In that Order, the Commission also summarized testimony of Sprint's witness as follows:

To the extent that collocation price elements are tariffed or covered by the ALEC's interconnection agreement, the ILEC should provide price quotes to requesting collocators within fifteen (15) calendar days of receipt of a complete and correct collocation application.

Witness Ciosz, for Sprint, contends that the space availability response interval should be due within 10 calendar days. The witness contends that the price quote should be provided " . . . within 15 calendar days if the rates are established by tariff or the ALEC's interconnection agreement, or 30 days if individual case basis (ICB) rates need to be developed."

Order at p. 15, 66. (Emphasis added.)

9. In Order No. PSC-99-1744-PAA-TP, this Commission established procedures for extensions of the response intervals, stating as follows:

If the ILEC believes it will be unable to meet the time frames...the ILEC shall seek an extension of time from the Commission at least three business days prior to the expiration of the identified time frame. The applicant carrier shall have an opportunity to respond to the ILEC's request. The Commission will rule upon the request as a procedural matter at an Agenda Conference.

Order at p. 14. (Emphasis added.)

Provisioning Intervals

Federal Communications Commission

10. The FCC did not adopt provisioning intervals in FCC Order 99-48; however, the FCC emphasized that it was "confident that state commissions recognize the competitive harm that new entrants suffer when collocation arrangements are unnecessarily delayed." FCC Order 99-49 at ¶ 52-55.

Florida Public Service Commission

11. In Order No. PSC-99-1744-PAA-TP, this Commission provided the following instructions with respect to provisioning intervals for initial applications:

Upon firm order by an applicant carrier, the ILEC shall provision physical collocation within 90 days or virtual collocation within 60 days. If the ILEC believes that it will be unable to meet the applicable time frame and the parties are unable to agree to an extension, the ILEC shall seek an extension of time from the Commission within 45 calendar days of receipt of the firm order . . . The ILEC shall explain, in detail, the reasons necessitating the extension and shall serve the applicant carrier with its request. The applicant carrier shall have an opportunity to respond to the ILEC's request for an extension of time. The Commission will rule upon the request as a procedural matter at an Agenda Conference.

Order at p. 14-15. (Emphasis added.)

12. In Order PSC-00-0941-FOF-TP, this Commission concluded that no reasons exist to justify automatic extension of the provisioning intervals without agreement by the ALEC or the filing of a request by the ILEC for an extension of time. The Commission also reaffirmed its decision in Order No. PSC-99-1744-PAA-TP, by stating that if an ILEC believes it will be unable to meet the applicable time frame, and the parties are unable to agree to an extension, the ILEC must seek an extension of time from the Commission within 45 calendar days of receipt of the firm order. Order PSC-00-0941-FOF-TP, p. 78. The Commission concluded that those requirements provide enough guidance if extensions of time are truly required. Id.

13. Order PSC-00-0941-FOF-TP also contained a summary of the testimony of Sprint's witness Closz, as follows:

Sprint witness Closz states:

Sprint's perspective is that there are no reasons that should provide the ILEC with an opportunity

to unilaterally extend collocation provisioning intervals. Rather, Sprint believes that an open dialogue regarding collocation provisioning scenarios will in most cases lead to mutual agreement between the parties regarding the appropriate provisioning interval. In such instances where the ILEC and the requesting collocator are unable to reach agreement, the ILEC may seek an extension from the Commission.

However, witness Closz does believe that major infrastructure upgrades and other factors beyond the control of the ILEC are appropriate reasons for the ILEC to seek an extension of the provisioning intervals from either the requesting collocator or this Commission. . . .

Similarly, Sprint witness Closz indicated that the ILECs should simply follow the procedure this Commission has already established. Although Sprint is acting as both an ILEC and ALEC in this proceeding, it appears that all three ILECs seem to agree that the current procedures regarding extensions of provisioning intervals established by this Commission are workable. There is no evidence to suggest otherwise. Therefore, we do not believe any changes are necessary.

Order at p. 77-78. (Emphasis added.)

FACTUAL ALLEGATIONS

14. TWTC is a Florida limited partnership certificated as an alternative local exchange company in Florida.

15. On October 23, 2000, Sprint received initial applications from TWTC for physical collocation at three Sprint offices in Florida: MTLOFLXA-Maitland; ALSPFLXA-Altamonte Springs; and WNPKFLXA-Winter Park. An initial response and price quote was due from Sprint on November 7, 2000, 15 calendar days after Sprint's receipt of those applications.

16. On November 15, 2000, TWTC received an initial response and price quote from Sprint for the Altamonte Springs and Maitland offices, but not the Winter Park office. On November 21, 2000, TWTC placed firm orders for those two sites. Sprint indicated that provisioning would be complete in the Maitland and Altamonte Springs offices by February 19, 2000 (90 days from the date the firm orders were submitted). However, on or about January 5, 2001, Sprint informed TWTC that those sites would not have DC power until March 28, 2001.

17. TWTC requested escalation to improve the date power would be provided to the Altamonte Springs and Maitland offices. Sprint responded that improvement of the dates was not possible. Sprint did not request that TWTC extend the provisioning interval, nor did Sprint file a request for an extension of the provisioning intervals for those sites.

18. On October 23, 2000, Sprint received TWTC's application for collocation in the Winter Park office; however, Sprint did not provide an initial response or price quote until on or about January 5, 2001, 74 calendar days after Sprint received TWTC's

application. Additionally, Sprint informed TWTC that the Winter Park office would not have DC power until March 28, 2001.

STATEMENT OF DISPUTED FACTS

19. TWTC is unable to state whether Sprint disputes any of the facts alleged herein.

ULTIMATE FACTS

20. Sprint's failure to provide an initial response and price quote within 15 days after its receipt of a complete TWTC application for collocation in the Winter Park office, and Sprint's failure to complete provisioning of the Altamonte Springs and Maitland sites within 90 days of TWTC's firm orders, is a violation of Sprint's obligation under Section 251(c)(6) of the 1996 Telecommunications Act to allow collocation of equipment necessary to interconnect, and conflicts with the intent of the Act to promote competition in the market.

21. Sprint's failure to comply with the initial response intervals and provisioning intervals set by this Commission constitutes anticompetitive behavior in violation of the 1996 Act, FCC Orders, Chapter 364, Florida Statutes, and Orders of this Commission.

22. With respect to the Maitland and Altamonte Springs offices, even though Sprint claimed that the space would be available by February 19, 2000, which is 90 days after the date the firm orders were placed, in reality, Sprint prevented TWTC from collocating in those offices within the provisioning interval by failing to provide DC power until March 28, 2001. TWTC cannot utilize the space in the Altamonte Springs and

Maitland offices without DC power, and is essentially denied the ability to collocate at those offices until Sprint provides DC power.

23. If Sprint believed it would be unable to provision the Altamonte Springs and Maitland offices by the deadline of February 19, 2001, Sprint should have requested an extension of time from this Commission by January 5, 2001, which is 45 calendar days after receipt of the firm orders. TWTC is unaware of any such request filed by Sprint. Sprint's failure to file a timely request for extension, and Sprint's failure to provision the offices by February 19, 2001, constitutes violation of the 1996 Act, FCC orders, and this Commission's Orders regarding collocation issues. As noted in Paragraph 13 above, Sprint's own witness stated that ILECs should follow the procedure this Commission established regarding requests for extensions of provisioning intervals.

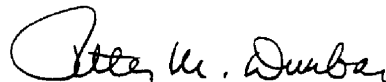
24. Although Sprint failed to provide an initial response and price quote within 15 calendar days of its receipt of all three applications here at issue, it is particularly troublesome that Sprint failed to provide an initial response and price quote for 74 days after it received TWTC's application for collocation in the Winter Park office. As noted in Paragraph 8 above, Sprint's own witness testified that space availability responses should be due within 10 calendar days of application, and price quotes should be provided within 30 days of application. If Sprint believed it would be unable to provide an initial response and price quote by November 7, 2000, which is 15 days after Sprint received the application, Sprint was required to file a request for an extension of time at least three business days prior to that date. TWTC is unaware of any such request filed by Sprint. If Sprint had filed a request for extension, TWTC would have had an opportunity to respond to Sprint's request, and the Commission would have ruled on Sprint's request as

a procedural matter at an Agenda Conference. Sprint's failure to respond to the application for collocation at the Winter Park office by November 7, 2000, and Sprint's failure to timely request an extension from the Commission, constitutes a violation of the 1996 Act, FCC orders, and this Commission's Orders regarding collocation.

25. By delaying its initial response to TWTC's Winter Park application, Sprint prevented TWTC from placing a firm order for physical collocation. Once TWTC places a firm order, Sprint will have 90 days in which to provision the site. Thus, by delaying its initial response, Sprint unfairly prevented TWTC from collocating by at least 59 days [the 74 days it took sprint to provide a price quote, left the 15 day initial response interval, equals a 59 day delay].

WHEREFORE, Time Warner Telecom of Florida, L.P., requests the Commission to exercise jurisdiction over this Complaint, expedite appropriate proceedings thereon, and enter an order directing Sprint to complete provisioning of the Altamonte Springs, Maitland and Winter Park Offices by February 19, 2001.

Respectfully submitted this 11th day of January, 2001.



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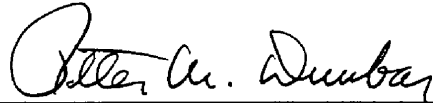
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Counsel for: Time Warner Telecom
of Florida, L.P.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **Complaint of Time Warner Telecom of Florida, L.P. against Sprint-Florida, Inc.** has been hand delivered on this 12th day of January to Mr. F.B. (Ben) Poag, Director, Regulatory Affairs, Sprint-Florida, Inc., 1313 Blairstone Road, Tallahassee, Florida 32301-3040 and to Beth Keating, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.



PETER M. DUNBAR, ESQ.

KMC/ks