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September 14, 2001

Ms. Blanca S. Bayo, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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Re: Docket No. 010795-TP
Petition by Sprint Communications Company Limited Partnership for
arbitration with Verizon Florida Inc. pursuant to Section 251/252 of the
Telecommunications Act of 1996

Dear Ms. Bayo:

On September 11, 2001, Verizon Florida Inc. filed its Opposition to Sprint's Motion to Join Verizon Advanced Data, Inc. and To Amend Tentative Issues List (Document No. 11332-01) in the above matter. Enclosed are an original and 15 copies of corrected pages 2 and 5 which were revised to correct two references to Verizon Southwest. Please replace original pages 2 and 5 filed on September 11 with the enclosed pages. We apologize for any inconvenience this may cause the Commission. Please contact me at (813) 483-2617 if you have any questions.

Sincerely,

KC Kimberly Caswell

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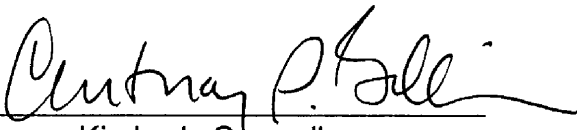
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing were sent via overnight mail(*)
on September 13, 2001 and via facsimile and U.S. mail(**) on September 14, 2001 to:

Staff Counsel(*)
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Susan S. Masterton(**)
Charles Rehwinkel
Sprint
1313 Blair Stone Road
Tallahassee, FL 32301

Joseph P. Cowin(**)
Sprint
7301 College Boulevard
Overland Park, KS 66210



Kimberly Caswell

agreement and be bound by the outcome of this arbitration.”² The Commission’s decision on Sprint’s request to add VADI will necessarily resolve that issue and render moot Sprint’s request to add a new issue. Whether styled as a motion to add VADI or to add a new issue, Sprint’s request should be denied.

A. SPRINT HAS NOT TRIGGERED THIS COMMISSION’S JURISDICTION PURSUANT TO SECTION 252(B)(1) OF THE ACT WITH RESPECT TO ARBITRATION OF AN INTERCONNECTION AGREEMENT WITH VADI.

Verizon Florida and VADI are separate legal entities, as Sprint admits.³ Section 252(b)(1) of the Act does not permit a requesting party to seek arbitration until 135 days after the date its request for negotiations was received. It is unclear from Sprint’s Motion whether and when it requested negotiations with VADI in Florida. If Sprint did request negotiations with VADI in Florida, it has only recently done so,⁴ and the 135-day time period has not yet run. Because Verizon and VADI are separate legal entities, Sprint’s negotiations and petition for arbitration with Verizon does not equate to negotiations or a petition for arbitration with VADI as Sprint asserts.

Pursuant to a condition of the *Bell Atlantic/GTE Merger Order*, the entity now known as Verizon is required to have a separate data affiliate.⁵ That separate data affiliate is VADI. Under the terms of the *Bell Atlantic/GTE Merger Order*, VADI must be “distinct” and “have separate officers, directors, and employees, as well as the requirements to operate independently and to deal at arm’s length.”⁶ In light of the

² Sprint’s Motion at 1.

³ Sprint’s Motion at 10.

⁴ Sprint’s Motion at 9.

⁵ *Bell Atlantic/GTE Merger Order* at ¶ 260.

⁶ *Id.* at ¶¶ 260, n.579, 263.

Ascent decision, Sprint then ignores the clear message of the Ascent decision. That is, pursuant to Ascent, VADI is presumed to be a “successor or assign” of Verizon Florida, and Section 251(h) of the Act defines ILEC to include successors and assigns. Accordingly, Ascent makes clear that Sprint can pursue interconnection, including negotiations or arbitrations, with VADI.

C. NEITHER THE NEGOTIATIONS BETWEEN VERIZON AND SPRINT, NOR THE TIMING THEREOF, JUSTIFY ADDING VADI AS A PARTY TO THIS ACTION.

Sprint argues that VADI should be a party to this proceeding because (a) Sprint began negotiations with Verizon in March 2000, (b) VADI did not exist until mid-2000, and therefore (c) Sprint did not know (and could not have known) that it needed to negotiate with VADI for access to its equipment that might be necessary to provide packet switching functionality. Despite Sprint’s arguments, neither the negotiations nor the timing thereof, justify adding VADI as a party to this action.

As an initial matter, Sprint’s claims about the negotiations and the parties’ respectively proposed contract language must be viewed in light of the parties’ disagreement over what applicable law requires. Contrary to Sprint’s argument now, the FCC’s *UNE Remand Order*,¹¹ released in November 1999, did not require ILECs to provide packet switching as a UNE. To the contrary, the FCC *expressly declined* to require ILECs to unbundle the packet switching functionality, except in one limited circumstance.¹² Specifically, the *UNE Remand Order* identifies four conditions that an

¹⁰ Sprint’s Motion at 8.

¹¹ *In re Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999) (“*UNE Remand Order*”).

¹² *Id.* at ¶ 303. (This holding was codified as 47 C.F.R. § 51.319(c)(5).)