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March 4, 2002

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

Re: Docket No. 020099-TP Sprint's Motion to Dismiss Count II of ALEC, Inc.'s  
Complaint and Answer

Dear Ms. Bayó:

Enclosed for filing is the original and fifteen (15) copies of Sprint's Motion to Dismiss  
Count II of ALEC, Inc.'s Complaint and Answer in Docket No. 020099-TP.

Copies of this have been served pursuant to the attached Certificate of Service.

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.

Sincerely,

Susan S. Masterton

Enclosure

DOCUMENT NUMBER-DATE

02514 MAR-4 8

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Complaint of ALEC, Inc. for enforcement ) Docket No. 020099-TP  
of interconnection agreement )  
with Sprint-Florida, Incorporated )  
and request for relief. )  
\_\_\_\_\_ )  
 )

**MOTION TO DISMISS COUNT II OF ALEC, INC.'S COMPLAINT  
AND ANSWER OF SPRINT-FLORIDA, INCORPORATED**

Sprint-Florida, Incorporated ("Sprint"), pursuant to Rule 28-106.203 and Rule 28-106.204, Florida Administrative Code, hereby files its Motion to Dismiss Count II and Answer in response to the Complaint filed by ALEC, Inc. ("ALEC") in this docket. In support Sprint states as follows:

**MOTION TO DISMISS COUNT II**

On February 5, 2002, ALEC filed a complaint for enforcement of its interconnection agreement with Sprint. Without waiving any rights to file additional motions or other responsive pleadings, Sprint hereby moves to dismiss Count II of ALEC's complaint because it asks the Commission to resolve issues relating to the appropriate compensation for ISP-bound traffic. The Commission has no jurisdiction to resolve these issues pursuant to the FCC's ISP Remand Order<sup>1</sup>.

Specifically, in Count II ALEC asks the Commission to order Sprint to pay for minutes of ISP-bound traffic "pursuant to the Parties' interconnection agreement." In

paragraphs 30-42 ALEC sets forth factual allegations relative to the application of the ISP Remand Order to ISP-bound traffic originated by Sprint and terminated by ALEC.<sup>2</sup>

The Interconnection Agreement that governs the Parties' disputed is dated June 1, 2001 and was allowed to take effect by operation of law by the Commission on September 20, 2001. The ISP Remand Order was issued on April 27, 2001 and became effective on June 14, 2001. In paragraph 82 of the ISP Remand Order, the FCC held that the Order applies prospectively to new interconnection agreements. In this same paragraph the FCC specifically preempted state authority over ISP-bound traffic subsequent to the ISP Remand Order.<sup>3</sup> While the Parties' may dispute the interpretation of the ISP Remand Order as applied to the Parties, the Commission has no authority to settle this dispute.

The Commission's authority over ISP-bound traffic in the light of the ISP Remand Order has been raised in other proceedings before this Commission, though the Commission has not yet issued a decision on this issue.<sup>4</sup> In briefs filed by the Parties at the Commission's request to address the implications of the ISP Remand Order in the ISP-bound traffic phase of the Generic Reciprocal Compensation docket, the parties agreed that the ISP Remand Order preempts the Commission on the issue of the

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<sup>1</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Inter-carrier Compensation for ISP-Bound Traffic*, CC docket Nos. 96-98 and 99-68, Order on Remand and Report and Order, FCC 01-131 (released April 27, 2001) ("ISP Remand Order")

<sup>2</sup> The Parties' dispute involves the application of "growth caps" used to determine the amount of ISP-bound traffic that is entitled to be compensated pursuant to the ISP Remand Order.

<sup>3</sup> In Paragraph 82 the FCC states: "Because we now exercise our authority under section 201 to determine the appropriate inter-carrier compensation for ISP-bound traffic, however, state commissions will no longer have authority to address this issue."

<sup>4</sup> *In re: Investigation into Appropriate Methods to Compensate Carriers For Exchange of Traffic Subject to Section 251 of the Telecommunications Act of 1996*, Docket No. 000075-TP, Phase I (Generic Reciprocal Compensation Docket, Phase I); *Petition by BellSouth Telecommunications, Inc. for Arbitration of Certain Issues in Interconnection Agreement with Supra Telecommunications and Information Systems, Inc.*, Docket No. 001305 (BellSouth/Supra Arbitration)

appropriate reciprocal compensation for ISP-bound traffic.<sup>5</sup> In the Supra arbitration, the staff recommendation scheduled for consideration by the Commission at the March 5, 2002 Agenda Conference, recommends that the Commission conclude that it does not have the authority to resolve disputes relating to the applicability of reciprocal compensation to ISP-bound traffic and states:

Staff...believes that the applicability of the interim compensation rates is not a matter over which the state commission can exert jurisdiction, since the FCC has deemed ISP traffic subject to its section 201 authority.<sup>6</sup>

Therefore, Sprint asks the Commission to find that, pursuant to the FCC's determination that ISP bound traffic is not subject to reciprocal compensation pursuant to 251 (b) (5) but is instead is subject to FCC-ordered compensation pursuant to section 201, the Commission does not have jurisdiction over this traffic and has no authority to settle disputes relating to compensation for this traffic. The Commission should dismiss Count II and any relief sought by ALEC relative to the proper interpretation of the FCC's ISP Remand Order and the appropriate compensation applicable to ISP-bound traffic exchanged between the Parties.

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<sup>5</sup> See, Docket No. 00075, Phase I, Verizon Florida Inc.'s Supplemental Posthearing Brief at page 2: "The FCC explicitly concluded that state commissions have no authority to impose reciprocal compensation on ISP traffic. FCC rules and policies govern compensation obligations for such traffic." Joint ALEC's Supplemental Posthearing Brief at page 4: "As of June 14, 2001, the effective date of the FCC's ISP Remand Order, the Commission no longer has jurisdiction to establish an inter-carrier compensation mechanism for ISP-bound traffic, which the FCC has declared to be interstate "information access" traffic under Section 251(g) of the Act." BellSouth Telecommunications, Inc.'s Supplemental Post-Hearing Brief at page 2: "...the FCC considered the issue of state commission jurisdiction and determined that, "[b]ecause we now exercise our authority under section 201 to determine the appropriate intercarrier compensation for ISP-bound traffic, however, state commissions will no longer have authority to address this issue." (Remand Order, at ¶82)." Sprint's Supplemental Brief at page 5, "The FCC's recognition of ISP-bound traffic as §201 access traffic preempts this Commission's jurisdiction to establish a compensation mechanism for such traffic..."

<sup>6</sup> BellSouth/Supra Arbitration, Staff Recommendation issued February 25, 2002 for the March 5, 2002 Agenda Conference, at page 100.

**ANSWER**

1. Sprint admits that the Parties entered into an Interconnection Agreement, which by its terms superseded any previous agreements between the Parties, dated June 1, 2001, executed by ALEC on June 7, 2002 and by Sprint on June 18, 2001, and allowed to take effect by operation of law by the Commission on September 20, 2001. In all other respects, Paragraph 1 is denied.
2. Paragraph 2 is denied.
3. Paragraph 3 does not require admission or denial by Sprint.
4. Since Paragraph 4 is an incorporation of Paragraphs 1-3, Sprint's responses to each Paragraph as set forth above are applicable to Paragraph 4.
5. Sprint has no knowledge to admit or deny Paragraph 5.
6. Paragraph 6 is admitted.
7. Sprint has no knowledge to admit or deny Paragraph 7.
8. The correct name and mailing address for the Respondents to this Complaint are as follows:

Respondent is:

Sprint-Florida, Incorporated  
555 Lake Border Drive  
Apopka, FL 32703

Respondent is represented by:

Susan S. Masterton  
1313 Blair Stone Road  
P.O. Box 2214  
Tallahassee, FL 32316-2214  
850-599-1560 (Telephone)  
850-878-0777 (Fax)  
[susan.masterton@mail.sprint.com](mailto:susan.masterton@mail.sprint.com)

Service may be made at the above location.

9. Since Paragraph 9 is an incorporation of Paragraphs 1-8, Sprint's responses to each Paragraph as set forth above are applicable to Paragraph 9.
10. Paragraph 10 is denied insofar as it seeks to establish the Commission's jurisdiction over ISP-bound traffic. The referenced statutes, rules and orders speak for themselves.
11. Paragraph 11 is denied insofar as it seeks to establish the Commission's jurisdiction over ISP-bound traffic. The referenced provision of federal law speaks for itself.
12. Paragraph 12 is denied insofar as it seeks to establish the Commission's jurisdiction over ISP-bound traffic. The terms of the Agreement speak for themselves.
13. Sprint admits that the Parties have attempted to resolve these disputes outside the formal complaint process. (Sprint's Response to Commission Staff relating to an informal complaint filed by ALEC is attached hereto as Attachment 1.) In all other respects, Paragraph 13 is denied.
14. Paragraph 14 is denied.
15. Since Paragraph 15 is an incorporation of Paragraphs 1-14, Sprint's responses to each Paragraph as set forth above are applicable to Paragraph 15.
16. The first sentence of Paragraph 16 is admitted. Sprint does not have sufficient knowledge to admit or deny the second sentence of Paragraph 16, but accepts ALEC's description of the nature of the traffic.
17. The terms of the Agreement speak for themselves.
18. Sprint admits that it has designated POIs at certain of its tandems in the state, pursuant to the Agreement. In all other respects, Paragraph 18 is denied.

19. Sprint admits that it has designated POIs at certain of its tandems in the state, pursuant to the Agreement. In all other respects, Paragraph 19 is denied.
20. Sprint admits that Sprint-originated traffic is handed off to ALEC at a POI. To the extent that ALEC originates traffic, the same process would apply. However, ALEC admits that to date all traffic is one-way Sprint-originated ISP-bound traffic.
21. The terms of the Agreement speak for themselves. In all other respects, Paragraph 21 is denied.
22. The terms of the Agreement speak for themselves. In all other respects, Paragraph 22 is denied.
23. The terms of the Agreement speak for themselves.
24. Paragraph 24 is denied.
25. The first sentence of Paragraph 25 is admitted. Sprint admits that it has established POIs and ordered interconnection facilities from ALEC. In all other respects Paragraph 25 is denied.
26. The terms of the Agreement speak for themselves. Sprint admits that it ordered facilities from ALEC pursuant to the Agreement and that ALEC has billed Sprint for these facilities, although Sprint asserts that ALEC has billed Sprint improperly. In all other respects, Paragraph 26 is denied.
27. Sprint admits that it has used the ASR process to order trunks from ALEC and that ALEC has provided facilities to Sprint. In all other respects, Paragraph 27 is denied.
28. Paragraph 28 is denied.

29. Sprint admits that ALEC has billed Sprint for facilities and that Sprint has paid the portion of the amount that Sprint deems to be valid pursuant to the Agreement. In all other respects, Paragraph 29 is denied.
30. The terms of the Agreement speak for themselves. In all other respects Paragraph 30 is denied.
31. The terms of the Agreement speak for themselves.
32. The terms of the Agreement speak for themselves.
33. As set forth in its Motion to Dismiss Count II above, Sprint asserts that this Commission does not have jurisdiction to resolve disputes related to compensation for ISP-bound traffic pursuant to the ISP Remand Order. The ISP Remand Order speaks for itself. Paragraph 33 appears to offer legal conclusions to which no response is required. To the extent Paragraph 33 contains any factual allegations, they are denied.
34. As set forth in its Motion to Dismiss Count II above, Sprint asserts that this Commission does not have jurisdiction to resolve disputes related to compensation for ISP-bound traffic pursuant to the ISP Remand Order. Without waiving its position regarding the Commission's jurisdiction, Sprint admits that ALEC sent invoices for traffic terminated by ALEC and that Sprint paid certain invoiced amounts. In all other respects, Paragraph 34 is denied.
35. As set forth in its Motion to Dismiss Count II above, Sprint asserts that this Commission does not have jurisdiction to resolve disputes related to compensation for ISP-bound traffic pursuant to the ISP Remand Order. Without waiving its position regarding the Commission's jurisdiction, Sprint admits that ALEC sent invoices to



Sprint for traffic originated by Sprint and terminated by ALEC. In all other respects, Paragraph 35 is denied.

36. As set forth in its Motion to Dismiss Count II above, Sprint asserts that this Commission does not have jurisdiction to resolve disputes related to compensation for ISP-bound traffic pursuant to the ISP Remand Order. Without waiving its position regarding the Commission's jurisdiction, Sprint admits that it disputed amounts assessed by ALEC for termination services based on Sprint's interpretation of the ISP Remand Order. In all other respects, Paragraph 36 is denied.

37. As set forth in its Motion to Dismiss Count II above, Sprint asserts that this Commission does not have jurisdiction to resolve disputes related to compensation for ISP-bound traffic pursuant to the ISP Remand Order. Without waiving its position regarding the Commission's jurisdiction, Sprint admits that it disputed amounts assessed by ALEC for termination services based on Sprint's interpretation of the ISP Remand Order.

38. As set forth in its Motion to Dismiss Count II above, Sprint asserts that this Commission does not have jurisdiction to resolve disputes related to compensation for ISP-bound traffic pursuant to the ISP Remand Order. Without waiving its position regarding the Commission's jurisdiction, Sprint admits that it provided to ALEC written notice that it had elected the FCC interim compensation regime, effective February 1, 2002.

39. As set forth in its Motion to Dismiss Count II above, Sprint asserts that this Commission does not have jurisdiction to resolve disputes related to compensation

for ISP-bound traffic pursuant to the ISP Remand Order. Without waiving its position regarding the Commission's jurisdiction, Paragraph 39 is denied.

40. As set forth in its Motion to Dismiss Count II above, Sprint asserts that this Commission does not have jurisdiction to resolve disputes related to compensation for ISP-bound traffic pursuant to the ISP Remand Order. Without waiving its position regarding the Commission's jurisdiction, Paragraph 40 is denied.

41. As set forth in its Motion to Dismiss Count II above, Sprint asserts that this Commission does not have jurisdiction to resolve disputes related to compensation for ISP-bound traffic pursuant to the ISP Remand Order. Without waiving its position regarding the Commission's jurisdiction, Paragraph 41 appears to offer legal conclusions to which no response is required. To the extent Paragraph 41 contains any factual allegations, they are denied.

42. As set forth in its Motion to Dismiss Count II above, Sprint asserts that this Commission does not have jurisdiction to resolve disputes related to compensation for ISP-bound traffic pursuant to the ISP Remand Order. Without waiving its position regarding the Commission's jurisdiction, Paragraph 42 appears to offer legal conclusions to which no response is required. To the extent Paragraph 42 contains any factual allegations, they are denied.

43. The terms of the Agreement speak for themselves.

44. The terms of the Agreement speak for themselves. In all other respects, Paragraph 44 is denied.

45. Sprint admits that it has not paid amounts that ALEC improperly billed to Sprint. In all other respects Paragraph 45 is denied.

46. Sprint admits that it has paid to ALEC undisputed amounts pursuant to the terms of the Agreement. In all other respects, paragraph 46 is denied.
47. Since Paragraph 47 is an incorporation of Paragraphs 1-46, Sprint's responses to each Paragraph as set forth above are applicable to Paragraph 47.
48. The terms of the Agreement speak for themselves.
49. Sprint admits that it has used the ASR process to order transport facilities from ALEC.
50. Sprint denies that it has failed to pay ALEC any valid charges assessed pursuant to the Parties' Agreement.
51. Paragraph 51 is denied.
52. Since Paragraph 52 is an incorporation of Paragraphs 1-51, Sprint's responses to each Paragraph as set forth above are applicable to Paragraph 52.
53. As set forth in its Motion to Dismiss Count II above, Sprint asserts that this Commission does not have jurisdiction to resolve disputes related to compensation for ISP-bound traffic pursuant to the ISP Remand Order. The terms of the Agreement speak for themselves. In all other respects Paragraph 53 is denied.
54. As set forth in its Motion to Dismiss Count II above, Sprint asserts that this Commission does not have jurisdiction to resolve disputes related to compensation for ISP-bound traffic pursuant to the ISP Remand Order. Without waiving its position regarding the Commission's jurisdiction, Sprint admits that it disputed amounts assessed by ALEC for termination services based on Sprint's interpretation of the ISP Remand Order. In all other respects, Paragraph 54 is denied.

55. As set forth in its Motion to Dismiss Count II above, Sprint asserts that this Commission does not have jurisdiction to resolve disputes related to compensation for ISP-bound traffic pursuant to the ISP Remand Order. Without waiving its position regarding the Commission's jurisdiction, Paragraph 55 is denied.

56. Since Paragraph 56 is an incorporation of Paragraphs 1-55, Sprint's responses to each Paragraph as set forth above are applicable to Paragraph 56.

57. The terms of the Agreement speak for themselves.

58. The terms of the Agreement speak for themselves. In all other respects, Paragraph 58 is denied.

59. Paragraph 59 is denied.

60. Paragraph 60 is denied.

WHEREFORE, in light of the above, Sprint respectfully requests that the Commission deny the relief sought by ALEC, enter judgement in favor of Sprint, dismiss the Complaint, and grant any other relief deemed appropriate by the Commission.

RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of March 2002.



Susan S. Masterton  
P.O. Box 2214  
Tallahassee, FL 32316-2214  
850-599-1560  
850-878-0777 (fax)

ATTORNEY FOR SPRINT

**CERTIFICATE OF SERVICE  
DOCKET NO. 020099-TP**

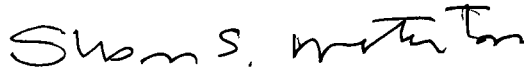
I HEREBY CERTIFY that a true and correct copy of the foregoing was served by hand delivery\* or U.S. Mail this 4th day of March, 2002 to the following:

ALEC, Inc.  
Ms. Judy B. Tinsley  
c/o DURO Communications, Inc.  
3640 Valley Hill Road, N.W.  
Kennesaw, GA 30152-3238

Cole, Raywid & Braverman, L.L.P.  
John C. Dodge/David N. Tobenkin  
1919 Pennsylvania Avenue, N.W., #200  
Washington, DC 20006

Moyle Law Firm (Tall)  
Jon Moyle/Cathy Sellers  
118 North Gadsden Street  
Tallahassee, Florida 32301

Linda Dodson, Esq.\*  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0870



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Susan S. Masterton



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susan.masterton@mail.sprint.com

December 7, 2001

Mr. Clayton Lewis  
Florida Public Service Commission  
Division of Competitive Services  
Bureau of Service Quality  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: CATS 414941T, ALEC, Inc.

Dear Mr. Lewis:

Sprint-Florida, Incorporated (hereinafter "Sprint") files this response to your request of October 29, 2001 concerning the informal complaint filed by ALEC, Inc. (hereinafter "ALEC").

In the complaint document, the FPSC staff indicates that ALEC states that Sprint is not acknowledging ALEC's Access Service Requests and will not provide Points of Interface. (Within the supporting attachments to this document, the complainant, ALEC, Inc., refers to their corporation using any or all of the following d/b/as - ALEC, Inc., Durocom, MetroLink, and MetroLink Internet Services of Port St. Lucie. Sprint will refer to the collective complainant as ALEC in this response.) Sprint denies these accusations, however, nothing in the documents provided gives any specific, or even general, allegations relating to ASRs or POIs to which Sprint can provide a more definitive response.

The documentation attached to the Complaint and provided to Sprint by the FPSC appears to relate to two separate billing disputes currently outstanding between the parties, both of which are embedded in non-recurring charge (NRC) billing for installation of DS1 traffic termination circuits between Sprint and ALEC. These circuits were installed to terminate Sprint end users' calls to the Internet Service Provider (presumably MetroLink) being served by ALEC. The following response is based on information provided by individuals within Sprint who are knowledgeable about these billing issues.

As stated, there are two separate billing disputes which are more fully explained below. In summary, the first issue involves the appropriate rate that ALEC should apply for the

transport, in this case DS1s. The relevant provisions of the Interconnection Agreement control and require that ALEC apply Sprint's rates, until such time as ALEC files forward looking economic cost studies and establishes cost based rates that are approved by the commission; and, that pursuant to the contract terms, are less than Sprint's rates. The second issue involves an error in the methodology applied by ALEC in calculating the charges which grossly overstates the total appropriate charges due to redundant billing. Thus, ALEC is billing Sprint more than once for the same facility using inappropriate rates.

The first issue in the ALEC complaint involves the rate levels used by ALEC in calculating its charges to Sprint. In Attachment IV, the Interconnection Agreement executed by ALEC and Sprint provides that:

- 2.2.3 If CLEC provides one-hundred percent (100%) of the interconnection facility via lease of meet-point circuits between Sprint and a third-party; lease of third party facilities; or construction of its own facilities; CLEC may charge Sprint for proportionate amount based on relative usage using the lesser of:
- 2.2.3.1 Sprint's dedicated interconnection rate;
  - 2.2.3.2 Its own costs if filed and approved by a commission of appropriate jurisdiction; and
  - 2.2.3.3 The actual lease cost of the interconnecting facility.

While the provisions of the interconnection agreement are controlling, and dispositive of this complaint, the FCC rules on symmetrical reciprocal compensation rates are also relevant. The current reciprocal compensation rules are as follows:

**51.711 Symmetrical reciprocal compensation.**

**(a)** Rates for transport and termination of telecommunications traffic shall be symmetrical, except as provided in paragraphs (b) and (c).

(1) For purposes of this subpart, symmetrical rates are rates that a carrier other than an incumbent LEC assesses upon an incumbent LEC for transport and termination of telecommunications traffic equal to those that the incumbent LEC assesses upon the other carrier for the same services.

...

(b) A state commission may establish asymmetrical rates for transport and termination of telecommunications traffic only if the carrier other than the incumbent LEC (or the smaller of two incumbent LECs) proves to the state commission on the basis of a cost study using the forward-looking economic cost based pricing methodology described in 51.505 and 51.511 of this part, that the forward-looking costs for a network efficiently configured and operated by the carrier other than the incumbent LEC (or the smaller of two incumbent LECs),

exceed the costs incurred by the incumbent LEC (or the larger incumbent LEC), and, consequently, that such that a higher rate is justified.

The FCC clearly intended, and the 8<sup>th</sup> Circuit Court and Supreme Court have upheld, that the ILEC rates would be used for CLEC-ILEC billing purposes. Should a CLEC wish to bill a different (higher) rate, the CLEC (in this case ALEC) would have to prove to a state utility commission that its forward looking economic costs, and subsequent rates, are justifiably different from those of the ILEC (in this case Sprint). In the Local Competition Order the FCC specifically stated:

Given the advantages of symmetrical rates, we direct states to establish presumptive symmetrical rates based on the incumbent LEC's costs for transport and termination of traffic when arbitrating disputes under section 252(d)(2) and in reviewing BOC statements of generally available terms and conditions. If a competing local service provider believes that its cost will be greater than that of the incumbent LEC for transport and termination, then it must submit a forward-looking economic cost study to rebut this presumptive symmetrical rate. In that case, we direct state commissions, when arbitrating interconnection arrangements, to depart from symmetrical rates only if they find that the costs of efficiently configured and operated systems are not symmetrical and justify a different compensation rate. In doing so, however, state commissions must give full and fair effect to the economic costing methodology we set forth in this order, and create a factual record, including the cost study, sufficient for purposes of review after notice and opportunity for the affected parties to participate. In the absence of such a cost study justifying a departure from the presumption of symmetrical compensation, reciprocal compensation for the transport and termination of traffic shall be based on the incumbent local exchange carrier's cost studies. First Report and Order, ¶1089.

In an e-mail sent October 24, 2001 from Richard McDaniel (Durocom), to Mitch Danforth (Sprint) provided as Attachment 2, Mr. McDaniel asserts that for the rates reflected in ALEC's bill to Sprint:

"...the tariff is filed with the Florida Commission and becomes effective the next day after filing. The tariff was originally filed on January 14, 2001 and effective on the 15<sup>th</sup>. We [made] some changes to some of the sheets and added some information (text changes) and filed those on September 10, 2001 with and (sp.) effective date of the 11<sup>th</sup>. We have not and are not required to file cost based tariffs as a CLEC. Most of ours [rates] are market based since we are a CLEC."

In other words, Metrolink filed a price sheet, not the required forward-looking economic cost-based rates with supporting cost studies, with the FPSC. In order to exercise its rights under the contract provision 2.2.3.2 of Attachment IV and consistent with the FCC



symmetrical compensation rules, the CLEC must submit cost-based rates for Commission approval before they can be applied in lieu of Sprint's rates as set forth in the interconnection agreement. Furthermore, pursuant to paragraph 2.2.3 of the parties' Interconnection Agreement cited above, even if ALEC were to submit cost-based rates they could only be charged if they were less than the rates charged by Sprint.

The second issue, and by far largest portion of the bill being disputed by Sprint involves the application of rates by ALEC in the installation of the circuits. It appears, from Attachment 1, that Sprint ordered eight (8) new DS1s on this particular order. On the ALEC invoice for the applicable non-recurring charges, there was one Service Order charge (amount to be discussed later), there was a charge for one (1) Initial DS1 Local Channel installation, and there were charges for seven (7) Additional DS1 Local Channel installations. These charges total \$4,355.78, of the invoice total of \$55,503.78. The truly outrageous billing (\$51,148) occurs as ALEC, in the next two line items, attempts to charge Sprint for the 192 FGD (Feature Group D) trunks derived from those same eight DS1s. Not only is this algorithm directly opposed to standard telecommunications billing practices, it defies all common logic.

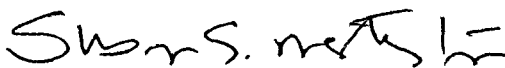
Applying the billing logic used by ALEC above, no circuit would ever be ordered at greater than a DS0 or Voice Grade level. Imagine the effect on a telecommunications carrier ordering a common DS3 circuit. Were ALEC the supplier, the purchaser would receive bills for NRCs for: 1 DS3 circuit, 28 DS1 circuits, and finally, 672 Voice Grade circuits, effectively paying three separate times for each derived voice transmission channel. Using the rates charged by ALEC, the total non-recurring charges would be the incredible sum of \$191,480.41 plus the actual NRC for the DS3, as that price isn't quoted on this particular ALEC invoice. This charge is in lieu of a Sprint non-recurring charge for the same DS3 circuit from the Sprint Florida Intrastate Access Service Tariff of \$400.

To conclude the discussion on this portion of the complaint, redundant billing for derived circuits on dedicated high capacity circuits is flagrantly incorrect and the FPSC should order ALEC to cease such practices. Sprint avers that the entire \$51,148 of the amount on Attachment 1 is invalid. Sprint requests that ALEC's illogical billing methodology be rejected and associated amounts removed from all outstanding ALEC invoices to Sprint.

In light of this discussion, the prices that Metrolink may properly assess Sprint for interconnection facilities (including that for a Service Order) are the prices set forth in the Sprint/ALEC Master Interconnection and Resale Agreement. Those prices were used to derive the amounts actually paid by Sprint on the disputed bills. Sprint re-rated the ALEC invoice provided as Attachment 1 using the appropriate rates from the Sprint/ALEC Master Interconnection and Resale Agreement, resulting in a corrected non-recurring charge total of \$1,806.14. This amount is shown as paid on the ALEC spreadsheet of invoices to Sprint (Attachment 3), as the \$1,806.14 credit toward the \$55,503.78 invoice.

Sprint requests that the FPSC affirm that the rates set forth in the agreement are the applicable rates for ALEC to bill Sprint in the instance where ALEC "price-sheet" rates conflict with those in the Sprint/ALEC interconnection agreement. These rates should apply unless or until ALEC provides forward looking economic cost studies to establish cost-based rates which are approved by the Florida Public Service Commission and the agreement is amended to recognize these rates as the applicable rates.

Sincerely,



Susan S. Masterton

Cc: ALEC, Inc.  
Mitch Danforth  
Janette Luehring  
Jeff Caswell

# MetroLink

1211 Semoran Blvd, Ste 295  
 Casselberry, FL 32707  
 (407) 673-8500 Fax (407) 673-8552

Invoice No. **MI200107-1**  
 Account No. **000003**

## INVOICE

<b>Customer</b>		<b>Invoice Date</b> 10/29/01	
<b>Name</b>	Sprint	<b>Due Date</b>	7/31/01
<b>Contact</b>	CLEC Bill Validation	<b>Order #</b>	SSOWPTCN158229
<b>Address</b>	6880 West 115th Overland Park, KS 66211		
<b>Market</b>	KSPOPXD0116		

Qty	Description	Unit Price	TOTAL
1	Access Order Charge PON - SSOWPTCN158229	\$81.00	\$81.00
1	DS1 Local Channel Installation (Initial) Initial PON - SSOWPTCN158229	\$866.97	\$866.97
7	DS1 Local Channel Installation (Initial) Remainder of order PON - SSOWPTCN158229	\$486.83	\$3,407.81
1	FGD Trunk Installation USOC: TPP++ Initial PON - SSOWPTCN158229	\$915.00	\$915.00
191	FGD Trunk Installation USOC: TPP++ Remainder of order PON - SSOWPTCN158229	\$263.00	\$50,233.00
End Office WNPXFLXE03T			

**Payment Details**

Remit Payment To:  
 MetroLink  
 ATTN: Chris Roberson  
 1211 Semoran Blvd, Ste 295  
 Casselberry, FL 32707

SubTotal	\$55,503.78
TOTAL	\$55,503.78

Office Use Only

Balances not paid by the due date will be subject to late fees.

Thank you for using MetroLink.

## Attachment 2.

## -----Original Message-----

**From:** rmcDaniel [mailto:rmcdaniel@durocom.com]  
<mailto:rmcdaniel@durocom.com>  
**Sent:** Wednesday, October 24, 2001 1:48 PM  
**To:** Danforth, Mitchell S.  
**Cc:** rmcDaniel; Clayton, John W.; Stickel, Alison R.  
**Subject:** Re: ALEC/MetroLink Tariff in Florida and contract language regarding tariff versus contract control

Mitch: Sorry for the delay in responding. I am working out of my office today with another employee in the Atlanta area. In response to your questions, the tariff is filed with the Florida Commission and becomes effective the next day after filing. The tariff was originally filed on January 14, 2001 and effective on the 15th. We made some changes to some of the sheets and added some information (text changes) and filed those on September 10, 2001 with an effective date of the 11th.

We have not and are not required to file cost based tariffs as a CLEC. Most of ours are market based since we are a CLEC. Based upon your section of the Agreement you provided and I have quoted to Alison, it appears we should be able to bill you for the installs based upon our approved tariff. Sprint does charge for some DS0 installs I believe. It is also in your access tariff just as it is in our tariff. If you do not mind please review this one more time and then if you come up with the same, we will decide what we have to do. I believe our options are to file with the commission as you have not officially put this billing in a billing dispute situation. Thanks for your patience and help in trying to resolve this issue.

As I understand your current response for the DS1s we are being billed over \$600, and the DS3s, you are only going to pay the contract rate. Is this correct? Is this for all the back billing (North Carolina) as well?

Richard

Metrolink Invoices - Installs (Sprint)

Invoice #	Transaction Date	Transaction Amount	Control/Check #	State	Carrier	Description	Date Due	Balance Outstanding
M1200107-1	7/11/01	\$ 55,593.78		FL	Sprint	Install - PON SSOA/PTCN158228	7/31/01	
M1200107-1	9/13/01	\$ (1,806.14)	4529950	FL	Sprint	Install - PON SSOA/PTCN158229	7/31/01	
								\$ 53,697.64
M1200107-2	7/11/01	\$ 28,308.46		FL	Sprint	Install - PON SSOALSPN160536	7/31/01	
M1200107-2	9/13/01	\$ (914.34)	4529950	FL	Sprint	Install - PON SSOALSPN160536	7/31/01	
								\$ 27,394.12
M1200107-3	7/11/01	\$ 14,710.80		FL	Sprint	Install - PON SSOALSPN160813	7/31/01	
M1200107-3	9/13/01	\$ (468.24)	4529950	FL	Sprint	Install - PON SSOALSPN160813	7/31/01	
								\$ 14,242.38
M1200107-4	7/11/01	\$ 14,710.80		FL	Sprint	Install - PON SSOCSLBN160538	7/31/01	
M1200107-4	9/13/01	\$ (468.44)	4529950	FL	Sprint	Install - PON SSOCSLBN160538	7/31/01	
								\$ 14,242.38
M1200107-5	7/11/01	\$ 28,308.46		FL	Sprint	Install - PON SSOKSSMN160542	7/31/01	
M1200107-5	9/13/01	\$ (914.34)	4529950	FL	Sprint	Install - PON SSOKSSMN160542	7/31/01	