

VOTE SHEET

JANUARY 21, 2003

RE: Docket No. 020099-TP - Complaint of ALEC, Inc. d/b/a Volaris Telecom, Inc. for enforcement of interconnection agreement with Sprint-Florida, Incorporated and request for relief.

ISSUE 1: Does the Commission have jurisdiction in this matter?

RECOMMENDATION: Yes. Pursuant to Section 252(e) of the Telecommunications Act of 1996, the Commission approved the Agreement between ALEC, Inc. and Sprint-Florida, Incorporated. As such, the Commission has jurisdiction to resolve this dispute pursuant to Sections 251 and 252 of the Telecommunications Act of 1996, and Section 364.162(1), Florida Statutes.

DEFERRED

COMMISSIONERS ASSIGNED: Baez, Bradley

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

00627 JAN 21 8

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ISSUE 2: Under the terms of the Parties' Interconnection Agreement, what are the appropriate dedicated transport charges for transport facilities used to transport Sprint-originated traffic from the POI to ALEC's switch?

ISSUE 2A: Has ALEC applied the correct methodology to calculate the appropriate recurring and nonrecurring dedicated transport charges to Sprint for such facilities?

ISSUE 2B: Has ALEC applied the correct rate to calculate the appropriate recurring and nonrecurring dedicated transport charges to Sprint for such facilities?

RECOMMENDATION: No. ALEC did not use the correct methodology or rates to calculate the appropriate recurring and nonrecurring dedicated transport charges it billed Sprint. ALEC's practice of billing multiple times for the same underlying facilities is duplicative and should not be permitted. Sprint's methodology and the rates contained in the Agreement should apply.

ISSUE 3: Under the terms of the Parties' Interconnection Agreement, what minute-of-use charges are applicable for the transport of Sprint-originated traffic from the POI to ALEC's switch?

RECOMMENDATION: The parties have withdrawn this issue. Thus, no vote is necessary on this issue.

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ISSUE 4: Has Sprint paid ALEC the appropriate charges pursuant to the terms of the Parties' Interconnection Agreement?

RECOMMENDATION: Yes. Based on staff's recommendation in Issues 2, 2A and 2B, and its analysis in its January 9, 2003 memorandum, staff believes that Sprint has paid ALEC all sums appropriately due according to the terms of the interconnection agreement.

ISSUE 5: Did Sprint waive its right to dispute charges because it did not properly follow applicable procedures outlined in the Parties' Interconnection Agreement?

PRIMARY RECOMMENDATION: Yes. Primary staff believes that taking the language of the agreement as a whole, Sprint has waived its right to dispute ALEC's charges for April, May, June, and July 2001, under Section 21.2 of the Agreement. Sprint failed to properly notify ALEC of its billing dispute, and ALEC has not waived any provision, including Section 21.2, of the Agreement. Although the audit provisions of the contract are otherwise available to Sprint, those provisions are inapplicable here as Sprint failed to request an audit within the appropriate time frame such that the audit would cover the time period in dispute here.

ALTERNATIVE RECOMMENDATION: No. Alternative staff believes that while Sprint did not adhere to the letter of the dispute resolution procedures as outlined in the agreement, Sprint does appear to have substantially performed its obligations and did not waive its right to dispute charges rendered by ALEC for April, May, June, and July 2001.

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ISSUE 6: Should this docket be closed?

RECOMMENDATION: Yes. Whether the Commission approves staff's primary or alternative recommendation on Issue 5, this docket should be closed.