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July 10, 2003

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

RE: Docket No. 030296-TP Rebuttal Testimony of James R. Burt and James Michael  
Maples, with Exhibit JMM-7.

Dear Ms. Bayó:

Enclosed for filing on behalf of Sprint are the original and fifteen (15) copies of Rebuttal  
Testimony of James R. Burt and James Michael Maples, with Exhibit JMM-7. Service  
has been made this same day via U.S. Mail and electronic mail to the parties listed on the  
attached service list.

Please acknowledge receipt of this filing by stamping and initialing a copy of this letter  
and returning same to the courier. If you have any questions, please do not hesitate to  
call me at 850/599-1560.

Sincerely,

*Susan S. Masterton*

Susan S. Masterton

Enclosures

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**CERTIFICATE OF SERVICE**  
**DOCKET NO. 030296-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served electronically and U.S. Mail this 10<sup>th</sup> day of July, 2003 to the following:

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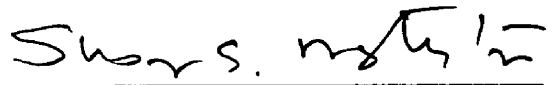
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Susan S. Masterton

1                                   **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2                                   **REBUTTAL TESTIMONY OF**

3                                   **JAMES R. BURT**

4  
5   **Q.     Please state your name and address.**

6  
7   **A.     My name is James R. Burt. My business address is 6450 Sprint Parkway, Overland**  
8           **Park, Kansas 66251.**

9  
10 **Q.     Are you the same James Burt that submitted direct testimony in this docket on**  
11           **June 19, 2003?**

12  
13 **A.     Yes I am.**

14  
15 **Q.     What is the purpose of your testimony?**

16  
17 **A.     The purpose of my testimony is to rebut AT&T's direct testimony presented in this**  
18           **case by David L. Talbott for issues 7 and 14.**

19  
20           **Issue 7: How should traffic originated and terminated by telephone and**  
21           **exchanged by the parties and transported over internet protocol (in whole or in**  
22           **part, and including traffic exchanged between the parties originated and**  
23           **terminated to enhanced service providers) be compensated?**

1 **Q. In Mr. Talbott's Direct Testimony on page 65, lines 17-24 he urges the**  
2 **Commission to not make a determination of whether access charges should apply**  
3 **to phone-to-phone VoIP calls. As support for AT&T's position Mr. Talbott**  
4 **criticizes Sprint's response to AT&T's arbitration position for not suggesting**  
5 **that VoIP is no longer a nascent technology. Is this relevant to the Commission's**  
6 **consideration of the issue presented in this arbitration?**

7  
8 **A. No. Even if phone-to-phone VoIP is considered a nascent technology access charges**  
9 **should still apply. Merriam Webster's Collegiate Dictionary, Tenth Edition, defines**  
10 **nascent as "coming or having recently come into existence." Under this definition,**  
11 **whether phone-to-phone VoIP is nascent or not is relative. Given the hard evidence of**  
12 **the use of this technology and its negative impact already on Sprint's access charge**  
13 **revenue, Sprint's position is that it is no longer a nascent technology. Regardless, the**  
14 **real issue is whether AT&T's phone-to-phone VoIP service which is nothing more**  
15 **than toll service, should be subject to access charges. End users of AT&T's phone-to-**  
16 **phone VoIP service use telephones to carry on voice conversations without being**  
17 **altered. Calls are placed to the PSTN using numbers assigned in accordance with the**  
18 **North American Numbering Plan. The voice is not stored, there is no processing of**  
19 **the voice such that it is changed, and there is no end-user interaction with stored**  
20 **information. Finally, Sprint's network is utilized in the same manner as with**  
21 **traditional circuit switched toll calls. For these reasons, Sprint should receive**  
22 **compensation at the appropriate jurisdictional rate.**

23  
24 **Q. AT&T has characterized Sprint's position that the applicability of access charges**  
25 **to phone-to-phone VoIP service is not "a specific interconnection dispute with**

1           **AT&T.” (Talbot Direct, page 66) Do you agree with AT&T’s characterization?**

2

3   **A.**    No. This issue is specifically related to the interconnection negotiations and pending  
4           interconnection agreement between Sprint and AT&T. AT&T is obviously taking the  
5           position that the interconnection agreement should remain silent on this issue because  
6           AT&T believes that such inaction would enable it to continue to utilize  
7           interconnection trunks with Sprint for the termination of toll traffic without paying the  
8           appropriate intrastate or interstate access charges. Leaving this issue unresolved  
9           would expose Sprint to significant lost access revenues from AT&T.

10

11   **Q.**    **Has AT&T terminated toll traffic over local interconnection facilities between**  
12           **Sprint and AT&T? If so, please quantify.**

13

14   **A.**    Yes, AT&T has terminated toll traffic over local interconnection facilities between  
15           Sprint and AT&T. In fact, Sprint’s analysis shows that the majority of the MOU  
16           terminated over the Sprint/AT&T local interconnection trunks in Florida is toll traffic.  
17           This has resulted in the loss of significant access revenues over the last year AT&T  
18           would normally pay Sprint for toll traffic, *e.g.* the appropriate intrastate or interstate  
19           access charges. It is inappropriate to specifically quantify the amount of traffic AT&T  
20           has terminated without appropriately compensating Sprint, but I can say that Sprint  
21           has identified millions of dollars in lost access revenue over the last several months  
22           resulting from this access toll arbitrage by AT&T. Clearly, compensation for the  
23           traffic terminated over local interconnection facilities is an issue that must be  
24           addressed by the Commission if the parties cannot agree on the appropriate  
25           compensation language to be included in the agreement.

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**Q. Would you expect the amount of access losses as a result of AT&T using local interconnection trunks to terminate toll traffic to increase or decrease over time?**

**A.** AT&T has a financial incentive to avoid paying the higher switched access charges in lieu of the lower reciprocal compensation rates. Therefore, it seems logical to assume that the amount of toll traffic AT&T will attempt to terminate over interconnection trunks without appropriate compensation would increase over time. Reduced termination costs are the primary, if not sole, driver for AT&T's wanting to terminate traffic in this manner. AT&T pays Sprint approximately \$0.007 per minute of use over local interconnection facilities compared to approximately \$0.05 per minute of use for intrastate access and \$0.005 for interstate access. Sprint's analysis shows that virtually all of the access revenues Sprint has lost are intrastate.

If AT&T is permitted to avoid intrastate access on some of its traffic in this manner, then why wouldn't AT&T expand this practice to all of its toll traffic delivered to Sprint customers? That being the case I would only limit the amount of exposure Sprint has to AT&T's form of arbitrage as the total switched access revenue AT&T purchases from Sprint.

**Q. AT&T suggests that the Florida Public Service Commission has made a final determination that it should not address the VoIP issue. Do you agree?**

**A.** No. I do not agree that the Commission has made a final determination not to address this issue. The Commission has looked at this issue on several prior occasions,

1 including arbitrations and generic proceedings. Although in the Generic Reciprocal  
2 Compensation Order the Commission chose not to make a decision at that time  
3 concerning what inter-carrier compensation was appropriate for VoIP traffic, the  
4 Commission made it very clear that carriers could petition the Commission for  
5 decisions. In that order the Commission specifically stated that “we reserve any  
6 generic judgment on this issue until the market for IP telephony develops further.  
7 However, we find this shall not preclude carriers from petitioning us for decisions  
8 regarding specific IP telephony services through arbitrations or complaint  
9 proceedings.” (Generic Reciprocal Compensation Order, page 30)

10  
11 Most recently, the Commission considered aspects of the VoIP issue in a Petition for  
12 Declaratory Statement filed by CNM Networks, Inc. In that proceeding, CNM had  
13 requested that the Commission issue a declaratory statement that phone-to-phone IP  
14 telephony is not telecommunications under Florida law and therefore, CNM is not a  
15 telecommunications company subject to the Commission’s certification and tariffing  
16 requirements. The scope of the CNM Petition did not contemplate the inter-carrier  
17 compensation issues in dispute in this arbitration between AT&T and Sprint. The  
18 Commission dismissed CNM’s petition on procedural grounds stating that “it would  
19 not be proper to address the issue raised in CNM’s Petition by way of a declaratory  
20 statement.” (Order Denying Petition fro Declaratory Statement, Docket No. 021061-  
21 TP page 3) As in the previous docket, the Commission did not preclude carriers from  
22 raising VoIP issues through other appropriate means.

23  
24 **Q. AT&T has suggested that Sprint has ample opportunity to address this issue in**  
25 **AT&T’s FCC VoIP Petition. Do you agree?**

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A. No. This is just a delaying tactic on the part of AT&T. There is no certainty as to when the FCC is going to issue an order in the AT&T Petition. Furthermore, it is uncertain if the FCC will attempt to preempt the states or even if it could do so on intrastate toll traffic. Nor is it likely the FCC will consider the impact of Florida Statute §364.16(3)(a), which prohibits the knowing delivery of traffic for which terminating access service charges would otherwise apply through a local interconnection arrangement without paying the appropriate charges for such terminating access service.

**Q. AT&T suggests that it isn't "prudent" for the Florida Commission to make a determination in the AT&T/Sprint arbitration. Do you agree?**

A. AT&T's desire for the Florida Commission to not decide this issue is based on their intention to use a lack of decision to continue avoiding payment of access charges on their phone-to-phone VoIP service. It is Sprint's position that converting a TDM voice signal that originates in one location to the Internet protocol and then converting it back to TDM at the terminating end does not exempt it from access charges. It is inappropriate for one carrier to gain a competitive cost advantage simply by using a different technology for a portion of the transmission and exploiting a regulatory loophole. This issue is significant. Sprint will be impacted financially if access charge arbitrage is not stopped, but rather is allowed to increase because of the financial benefit to AT&T. Furthermore, the Commission has the duty to resolve arbitration issues brought before it under Section 252 of the Act.



1           **Issue 14: Should the terms and conditions of the Performance Measures**  
2           **approved by the Commission be incorporated by reference into the agreement, or**  
3           **should separate terms and conditions be set forth in the agreement?**

4

5   **Q.    Is it your understanding that Sprint and AT&T have resolved Issue 14?**

6

7   **A.    Yes. It is my understanding that Sprint and AT&T have negotiated an agreement on**  
8           **Issue 14. As a result, I will not be submitting rebuttal testimony on this issue.**

9

10 **Q.    Does this conclude your testimony?**

11

12 **A.    Yes.**