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July 15, 2003

VIA HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of the Commission
Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0870

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07 JUL 15 PM 4:21
COMMISSION
CLERK

Re: ~~Docket No. 030296-TP~~


Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of the Sprint-Florida, Incorporated's Motion to Compel. We are also submitting the Motion to Compel on a 3.5" high-density diskette using Microsoft Word 98 format, Rich Text.

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,


J. Jeffrey Wahlen

Enclosures

cc: All Parties of Record

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER 0471

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FPSC-COMMISSION CLERK

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for arbitration of unresolved issues resulting from negotiations with Sprint-Florida, Incorporated for interconnection agreement, by AT&T Communications of the Southern States, LLC d/b/a AT&T and TCG South Florida

DOCKET NO. 030296-TP
FILED: July 15, 2003

SPRINT-FLORIDA, INCORPORATED'S MOTION TO COMPEL

In accordance with Rule 28-106.206, Florida Administrative Code, and Florida Rule of Civil Procedure 1.380(a), Sprint-Florida, Incorporated ("Sprint" or the "Company") requests that the Florida Public Service Commission ("FPSC" or "Commission") or the prehearing officer enter an order compelling AT&T Communications of the Southern States, Inc. and TCG South Florida ("AT&T") to fully answer Interrogatory Nos. 3 through 15 in Sprint's First Set of Interrogatories to AT&T.

Procedural Background

1. AT&T filed its Petition for Arbitration of Interconnection Agreement with the Commission on March 24, 2003 ("Petition"). AT&T's Petition included "a matrix of the unresolved issues and the respective positions of each party regarding for which AT&T seeks arbitration. (Attachment B.)" [Petition at 1 (¶ 1)]

2. AT&T's matrix identified the following issue as Issue No. 7:

Voice Over Internet Protocol

What is the appropriate compensation for traffic exchanged between the Parties that originates or terminates to Enhanced Service Providers, including those providing Internet protocol (VOIP) telephony? (Network Interconnection, Part E, Section 4.1.2)

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FPSC-COMMISSION CLERK

[Petition, Attachment B, page 3 of 6.]

3. This issue was later identified by the Commission as Issue No. 7 to be decided in this case. See *Order Establishing Procedure*, Docket No. 030296-TP, PSC No. 0692-PCO-TP (June 9, 2003).

4. Sprint served its First Set of Interrogatories (Nos. 1-17) to AT&T on June 27, 2003. Interrogatory Nos. 3-15 all seek information about AT&T's use of VOIP in the State of Florida.

5. AT&T served its preliminary objections to Sprint's First Set of Interrogatories on July 1, 2003. Therein, AT&T indicated its intent to object to Interrogatory Nos. 3-15 on grounds that the interrogatories requested information that is beyond the scope of discovery in this case, *i.e.*, "seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence." In addition, AT&T asserted that Sprint's interrogatories are "overbroad, oppressive" and seek privileged trade secrets." A copy of AT&T's preliminary objections, which recite Interrogatory Nos. 3-15 and AT&T's objections thereto, is attached hereto as Exhibit One.

6. On July 14, 2003, AT&T served its Responses to Sprint's First Set of Interrogatories, repeated its preliminary objections and refused to answer Interrogatory Nos. 3-15. AT&T's Responses are attached hereto as Exhibit Two.

7. In accordance with Rule 28-106.204(3), Florida Administrative Code, the undersigned counsel has conferred with counsel for AT&T in an attempt to resolve the matters herein, but was unable to resolve those matters. AT&T should be compelled to answer Interrogatory Nos. 3-15 for the reasons explained below.

Legal Argument

8. AT&T asserts that Interrogatory Nos. 3-15 are beyond the scope of discovery because it is AT&T's position that this Commission should not decide the substance of Issue No. 7, but instead should abstain from deciding Issue No. 7 until the FCC takes action.

9. Interrogatory Nos. 3-15 seek information relating to a central issue that both FPSC and AT&T have identified to be resolved; specifically, the appropriate compensation for traffic exchanged between the Parties that originates or terminates to Enhanced Service Providers, including those providing Internet Protocol (VOIP) telephony. See *Order Establishing Procedure*, Docket No. 030296-TP, PSC No. 0692-PCO-TP (June 9, 2003) at page 7; see also *Petition*, Attachment B, page 3 of 6. The fact that AT&T would like the FPSC to abstain from deciding the question does not preclude Sprint from conducting discovery on what is "reasonably calculated to lead to admissible evidence" on an issue specifically identified to be decided in this case.

10. Rule 1.280(b)(1) of the Florida Rules of Civil Procedure defines the scope of discovery in civil cases:

In General. Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of the other party.... It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears to be reasonably calculated to lead to the discovery of admissible evidence.

11. The concept of relevancy in civil cases is broader in the discovery context than in the trial context and a party may be permitted to discover evidence that would be

inadmissible at trial, if it would lead to the discovery of relevant evidence. Allstate Insurance Co. v. Langston, 655 So.2d 91 (Fla. 1995).

12. AT&T has not denied that VOIP is an issue in this case. Rather, it has unilaterally refused to respond to discovery that it believes is unnecessary to the resolution of Issue 7 if the Commission decides Issue 7 **in the way AT&T wants it to be resolved**. However, the Florida Rules of Civil Procedure do not allow a party to resist discovery requests because the requests seek information that would harm that party or are inconsistent with that party's theory of the case. Rather, the Florida Rules of Civil Procedure allow each party to discover facts and information to support their theory of the case and to support their claims and defenses. In addition, in this case, notwithstanding its position on abstention, AT&T has filed rebuttal testimony on the merits of Issue No. 7, but refuses to answer interrogatories that would allow Sprint to quantify the financial impact of VIOP and to test the assertions made by AT&T in its testimony.

13. Florida courts have consistently rejected objections like AT&T's and have compelled discovery. See, e.g., Behm v. Cape Lumber Co., 834 So.2d 285 (Fla. 2d DCA 2003) (reversing trial court's refusal to allow homeowners to conduct discovery essential to their defenses); Balas v. Ruzzo, 703 So.2d 1076 (Fla. 5th DCA 1997) (finding that evidence of plaintiffs' past prostitution and their revenues relating to such activities was discoverable given that plaintiffs had brought a claim for coercion of prostitution); Lakeside Regent, Inc. v. FDIC, 660 So.2d 368 (Fla. 4th DCA 1995) (reversing the trial court's refusal to allow defendant the right to discovery that would support its defense); Davich v. Norman Bros. Nissan, Inc., 739 So.2d 138 (Fla. 5th DCA

1999) (in an action by a car buyer against the manufacturer and dealer for conspiracy to conceal acid rain damage to his car, the car buyer was permitted to conduct discovery on all documentation pertaining to the sale of vehicles because the discovery would lend “possible support for his actions under FDUTPA and for fraud and deceit.”).

14. For example, in Lakeside Regent, FDIC brought suit against Lakeside for a deficiency judgment to collect the difference between the \$1,000.00 proceeds from a foreclosure sale and the amount secured by judgment against Lakeside, approximately \$6.6 million dollars. Lakeside attempted to conduct discovery to support his theory that the foreclosure sale was improper, but the trial court refused to allow the discovery and awarded FDIC summary judgment for the deficiency judgment. Lakeside Regent, 660 So.2d at 369. On appeal, the Fourth DCA reversed, finding that the information sought in discovery was “directly relevant to the issues before the court and, therefore, clearly within the proper scope of discovery.” Id. at 370.

15. Similarly, in Behm v. Cape Lumber Co., 834 So.2d 285 (Fla. 2d DCA 2003), the court rejected the lumberyard’s refusal to respond to the homeowners’ discovery that related to payments the lumberyard received from or on behalf of certain builders and whether the payments were properly credited, because the information was directly related to the homeowner’s claim that the lumberyard had been paid. Behm, 834 So.2d at 287. The Second DCA found that “by denying their discovery requests, the trial court precluded [the homeowners] from establishing that [the lumberyard] had been paid but had failed to give credit for the payments,” a defense essential to defending the lawsuit. Id.

16. In addition, the Commission has consistently recognized the broad standard of relevancy inherent in Rule 1.280(b)(1). See, e.g., *In re: Request for arbitration concerning complaint of BellSouth Telecommunications, Inc. against Supra Telecommunications and Information Systems, Inc. for resolution of billing disputes*, Order No. PSC-02-0274-PCO-TP; *In re Request for arbitration concerning complaint of TCG South Florida and Teleport Communications Group against BellSouth Telecommunications, Inc. for breach of terms of interconnection agreement*, Order No. PSC-01-1300-PCO-TP.

17. The Telecommunications Act of 1996 ("Act") does not allow AT&T to unilaterally decide the issues to be arbitrated or how those issues should be decided. Rather, Section 252 (b)(2) of the Act requires that an arbitration petition identify: "(i) the unresolved issues, (ii) the position of the parties with respect to those issues, and (iii) any other issue discussed and resolved by the parties." Moreover, once the issues have been identified, the Commission has a duty to resolve, not abstain, from deciding the issues presented. See Section 252(b)(4)(C) ("The State Commission SHALL resolve each issue set forth in the Petition and the response.") (emphasis added). Having complied with the Act by including Issue No. 7 in its Petition, the Commission must decide that issue and AT&T must respond to Interrogatory Nos. 3-15, because they are within the scope of discovery in this case.

18. Stated another way, AT&T cannot sustain an objection to discovery based on its desire to have FPSC refrain from deciding the VOIP issue. AT&T has asserted in its Petition that the VOIP question is an issue to be decided in this case, and irrespective of what AT&T would like the FPSC to ultimately decide, Sprint has every

right to conduct discovery on this issue. See, e.g., Balas v. Ruzzo, 703 So.2d at 1077 (after bringing forth allegations of coercion of prostitution and other such claims, plaintiffs could not avoid responding to discovery relating to their past prostitution behavior). Accordingly, the FPSC should compel AT&T to respond to Interrogatory Nos. 3-15.

19. The information sought by Sprint in its discovery requests directly relates to Sprint's position that, contrary to AT&T's assertion, the Commission should not defer resolution of the VoIP issue because it has a significant impact on the intercarrier compensation applicable to the parties under the interconnection agreement that is the subject of the arbitration. This information is clearly within the scope of discovery in this case.

20. AT&T's objections that Interrogatory Nos. 3-15 are overbroad, oppressive and seek trade secrets are without merit. A party objecting to discovery because it is "burdensome" or "overly broad" must quantify the manner in which the discovery is "burdensome" or "overly broad," First City Developments of Florida, Inc. v. Hallmark of Hollywood Condominium Ass'n, Inc., 545 So. 2d 502, 503 (Fla. 4th DCA 1989), and AT&T has failed to do so. Moreover, other than generally asserting a "trade secrets" privilege, AT&T has done nothing to "describe the nature of the documents, communications or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection" as required by Florida Rule of Civil Procedure 1.280(b)(5). See TIG Ins. Corp. of America v. Johnson, 799 So. 2d 339 (Fla. 4th DCA 2001). Accordingly, AT&T's

bare objections regarding burden, breadth and trade secrets should be rejected, and AT&T should be compelled to fully answer Interrogatory Nos. 3-15.

DATED this 15th day of July, 2003.

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ATTORNEYS FOR SPRINT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U. S. Mail or hand delivery (*) this 15th day of July, 2003, to the following:

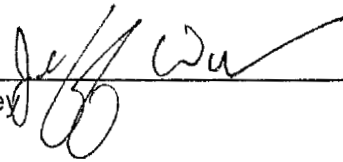
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July 1, 2003

VIA FEDERAL EXPRESS

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

Re: Petition by AT&T Communications of the Southern States, LLC
And TCG South Florida for Arbitration of Interconnection
Agreement with Sprint-Florida, Incorporated Under the
Telecommunications Act of 1996
Docket No.: 020396-TP

Dear Mrs. Bayo:

Please find enclosed for filing in your office the original and fifteen (15) copies of AT&T Communications of the Southern States, LLC and TCG of South Florida (collectively "AT&T") Objections to Sprint-Florida, Incorporated's 1st Set of Interrogatories.

Please stamp two (2) copies of Objections in the usual manner and return to us via our courier.

If you have any questions, please do not hesitate to contact me at 404-888-7437.

Sincerely yours,

Loretta A. Cecil

Enclosure(s)

Exhibit One

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Arbitration of)
Unresolved Issues Resulting From) Docket No.: 030296-TP
Negotiations with Sprint-Florida,)
Inc. for Interconnection Agreement,)
By AT&T Communications of the) Filed: July 1, 2003
Southern States, LLC d/b/a AT&T)
And TCG South Florida)

AT&T OBJECTIONS TO SPRINT-FLORIDA INC.'S

FIRST SET OF INTERROGATORIES

AT&T Communications of the Southern States, Inc. and TCG South Florida ("AT&T"), pursuant to Rules 25-22.034 and 25-22.035, Florida Administrative Code and Rules 1.340 and 1.280(b), Florida Rules of Civil Procedure, hereby submit the following Objections to Sprint-Florida, Incorporated's ("Sprint") First Set of Interrogatories to AT&T ("Interrogatories").

I. OVERVIEW.

1. These AT&T Objectives are preliminary in nature and are made for the purpose of complying with the five (5) day requirement set forth in Order No. PSC-03-0692-PCO-TP issued by the Florida Public Service Commission ("Commission") in this proceeding on June 9, 2003. Should additional grounds for Objections be discovered as AT&T prepares its responses any Interrogatories, AT&T reserves the right to supplement, revise, or modify these Objections at the time that AT&T provides its responses to the Interrogatories.

2. Section 90.506, Florida Statutes, provides that a person or

company has a privilege to refuse to disclose a trade secret. The scope of trade secret includes proprietary business information that would be commercially valuable to Sprint. In one form or another, Sprint has sought such information in practically every Interrogatory. Discovery of such information is improper except as provided in Section 90.506, Florida Statutes. To the extent Sprint continues to seek such information, AT&T will move the Commission to issue a protective order pursuant to Rule 1.280(c)(7), Florida Rules of Civil Procedure, directing that discovery not be had.

II. GENERAL OBJECTIONS.

AT&T makes the following general Objections to the Interrogatories which will be incorporated by reference into AT&T's specific responses, where provided, when AT&T responds to the Interrogatories.

1. AT&T objects to the following provisions of the "Definitions" section of the Interrogatories:

Paragraph 1: AT&T objects to the Definitions of "you" and "your" to the extent that such Definitions seek to impose an obligation on AT&T to respond on behalf of subsidiaries, affiliates, or other persons which are not parties to this proceeding on the grounds that such Definition is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. Without waiving this general Objection, and subject to other general and specific Objections, where provided, responses will be provided on behalf of AT&T Communications of the Southern States, LLC

and TCG South Florida which are the certificated carriers authorized to provide regulated telecommunications services in Florida, and which are parties to this proceeding, relative, however, only to their intrastate operations in Florida.

2. AT&T objects to the following provisions of the "Instructions" section of the Interrogatories:

Paragraph 7: AT&T objects to Sprint's Instruction requiring AT&T to provide information which relates ". . . to AT&T's and Sprint's operations in all states served by AT&T. . . and where a response to an Interrogatory is true for, or reflects AT&T's position on a region-wide basis, Sprint requests that AT&T so indicate in the response. . . ." on the basis that it is overly broad, unduly burdensome, oppressive, irrelevant, and not permitted by applicable discovery rules. Without waiving this general Objection, and subject to other general and specific Objections, where provided, responses will be provided on behalf of AT&T Communications of the Southern States, LLC and TCG South Florida which are the certificated carriers authorized to provide regulated telecommunications services in Florida and which are Parties to this proceeding, relative, however, only to their intrastate operations in Florida.

3. AT&T objects to each and every Interrogatory and Instruction to the extent that such Interrogatory or Instruction calls for information which is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

4. AT&T objects to each and every Interrogatory insofar as the request is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations, but are not properly defined or explained for purposes of these Interrogatories. Where provided, responses provided by AT&T to Sprint's Interrogatories will be provided subject to, and without waiving, this general Objection.

5. AT&T objects to each and every Interrogatory insofar as the request is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this proceeding.

6. AT&T objects to Sprint's Definitions, Instructions, and Interrogatories to the extent they seek to impose obligations on AT&T which exceed the requirements of the Florida Rules of Civil Procedure or Florida law.

7. AT&T objects to responding to any Interrogatory to the extent such Interrogatory seeks responsive information already is in the public domain, or otherwise on record with the Commission or the Federal Communications Commission ("FCC").

8. AT&T objects to each Definition, Instruction, or Interrogatory to which is unduly burdensome, expensive, oppressive, or excessively time consuming for response thereto as written.

9. AT&T objects to each Interrogatory to the extent such Interrogatory seeks responsive information which constitutes "trade secrets" which are privileged pursuant to Section 90.506, Florida Statutes. To the

extent any Interrogatory seeks proprietary business information which is not subject to a "trade secrets" privilege, and AT&T makes such responsive information available to Sprint, AT&T only will make responsive information available to counsel for Sprint pursuant to an appropriate Protective Agreement, and subject to any requirements of the Commission relative to protecting such proprietary business information.

10. AT&T is a large corporation with employees located in many different locations in Florida and in other states. In the course of its business, AT&T creates numerous documents that are not subject to either Commission or FCC retention of records requirements. These documents are kept in numerous locations and are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is impossible for AT&T to affirm that every responsive document in existence has been provided in response to an Interrogatory. Instead, where provided, AT&T's responses will provide all of the information obtained by AT&T after a reasonable and diligent search conducted in connection the Interrogatory. Such search will include only a review of those files that are reasonably expected to contain the requested information. To the extent that the discovery request purports to require more, AT&T objects on the ground that compliance would be unduly burdensome.

III. SPECIFIC OBJECTIONS TO INTERROGATORIES.

Subject to, and without waiving any of the foregoing general Objections, AT&T makes the following specific Objections with respect to the

following Interrogatories:

INTERROGATORY 3: Does AT&T provide services in Florida that utilize VOIP for calls within a Local Calling Area (“LCA”)? If so, please describe the service and provide the commercial name for the service.

OBJECTION: AT&T objects to this Interrogatory on the grounds that the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, the request is overly broad, oppressive, and seeks information that is subject to the trade secrets privilege and that is beyond the scope of this proceeding.

With respect to the scope of this proceeding, in the June 19, 2003 testimony of David L. Talbott filed on behalf of AT&T in this proceeding (“Talbot Testimony”), AT&T set forth its position that determining compensation for Voice Over Internet Protocol (“VOIP”) calls is not an appropriate issue to be decided in this proceeding.¹ As AT&T described in the Talbot Testimony, in Docket No. 000075-TP,² the Commission previously determined that compensation regarding VOIP traffic was not “ripe” for consideration.³ Subsequent to the Commission’s Order in Docket No. 000075-TP, on October 18, 2002, AT&T filed with FCC its “Petition For Declaratory Ruling That Phone-To-Phone IP Telephony Services Are Exempt

¹ Talbot Testimony at Pages 64-71.

² *In Re: Investigation into Appropriate Methods to Compensate Carriers for Exchange of Traffic Subject to Section 251 of the Telecommunications Act of 1996*, Florida PSC Docket No. 000075-TP, FL PSC Order PSC-02-1248-FOF-TP, September 10, 2002, at Page 37 (“*Florida Reciprocal Compensation Order*”).

³ *Id.* at Page 37.

From Access Charges.”⁴ Recognizing the pendency of *AT&T’s FCC VOIP Petition*, on December 31, 2002 in Docket No. 0216061-TP,⁵ the Commission declined to address whether Phone-To-Phone IP telephony services constitute “telecommunications” under Florida law, noting that the “. . . the FCC currently considering a similar matter.”⁶ In such Order, the Commission also specifically found that “. . . it would be administratively inefficient” to make such a determination while this FCC proceeding was underway.”⁷

Additionally, as AT&T indicated in Talbott’s Testimony, Sprint is fully engaged in *AT&T’s FCC VOIP Petition*, having filed Comments with the FCC on December 18, 2002, Reply Comments on January 24, 2003, and an Exparte Presentation on March 13, 2003. In its Comments, Sprint indicated that it “. . . agree[d] with AT&T that there was a pressing need for the [FCC] to clarify whether Phone-To-Phone VOIP traffic should be subject to or exempt from access charges.”⁸ Moreover, in urging the FCC to so rule, Sprint specifically brought to the FCC’s attention that this Commission had dismissed CNM’s Petition. Sprint stated:

⁴ *In the Matter of Petition for Declaratory Ruling That AT&T’s Phone-To-Phone IP Telephony Services Are Exempt From Access Charges*; WC Docket No. 02-361 (“*AT&T FCC VOIP Petition*”).

⁵ *In Re: Petition of CNM Networks, Inc. for Declaratory Statement that CNM’s Phone-To-Phone Internet Protocol (IP) Technology Is Not “Telecommunications” and that CNM Is Not a “Telecommunications Company” Subject to Florida Public Service Commission Jurisdiction*, FL PSC Docket No. 021061-TP, FL PSC Order PSC-02-1858-FOF-TP, December 31, 2002, at Page 1 (*Florida CNM Networks, Inc. Order*).

⁶ *Florida CNM Networks, Inc. Order* at Page 3.

⁷ *Id.*

On December 17, 2002, the Florida PSC dismissed a petition filed by CNM Networks, Inc. for a declaratory statement that Phone-To-Phone IP telephony is not telecommunications (PSC Docket No. 0216061-TP). The PSC cited, among other factors, the instant proceeding before the FCC as a reason to defer action at the state level at this time. Thus, it is clear that at least some state PUC's expect the FCC to assume a leadership role in this matter and clarify this *national policy*.⁹

Accordingly, because (1) Sprint is engaged in the current FCC proceeding dealing with VOIP traffic; (2) Sprint agrees that the FCC should decide compensation for VOIP as a matter of national policy, and (3) it is highly unlikely that the Commission will "overrule" itself and decide what compensation, if any, is appropriate for VOIP traffic only six (6) months after issuing its Florida CNM Networks, Inc. Order, AT&T objects to any Interrogatories dealing with VOIP calls because responding to such Interrogatories will not provide the Commission with relevant information regarding compensation for VOIP calls. In this respect, even if AT&T were capable of providing such information, AT&T's information would be that of only one ALEC operating in Florida, thus providing the Commission with incomplete information regarding an issue which the Commission already has determined will have industry-wide ramifications.¹⁰

INTERROGATORY 4: Does AT&T provide services in Florida that

⁸ AT&T FCC VOIP Petition, Sprint Comments at Page 9.

⁹ *Id.* at Pages 9-10 [emphasis added].

¹⁰ Florida CNM Networks, Inc. Order at Page 3.

utilize VOIP for calls that terminate outside a given LCA but within the state of Florida? If so, please describe the service and provide the commercial name for the service.

OBJECTION: Same Objection as for Interrogatory 3.

INTERROGATORY 5: For each of the above two services, provide an approximation of the number of MOU or other relevant measurement that quantifies the amount of VOIP service provided or forecasted in 2002? 2003? 2004? 2005?

OBJECTION: Same Objection as for Interrogatory 3.

INTERROGATORY 6: For services provided in Florida, has AT&T ever paid something other than originating access charges for Phone-to-Phone VOIP calls that would traditionally be considered toll calls? If so, please describe what AT&T paid, e.g., reciprocal compensation, and provide an approximation of the number of MOU or other relevant measurement that quantifies the amount of traffic for which AT&T did not pay originating access?

OBJECTION: Same Objection as for Interrogatory 3.

INTERROGATORY 7: For services provided in Florida, has AT&T ever paid something other than terminating access charges for Phone-to-Phone VOIP calls that would traditionally be considered toll calls? If so,

please describe what AT&T paid, e.g., reciprocal compensation, and provide an approximation of the number of MOU or other relevant measurement that quantifies the amount of traffic for which AT&T did not pay terminating access?

OBJECTION: Same Objection as for Interrogatory 3.

INTERROGATORY 8: Does AT&T provide IP Centrex or IP PEX service to end users in Florida? If so, please provide the commercial name for the service.

OBJECTION: Same objection as Interrogatory 3.

INTERROGATORY 9: Relative to question 8, does AT&T allow its IP Centrex or IP PBX end users to make what would traditionally be considered toll calls? If so, does AT&T pay something other than terminating access for any or all of the calls? If so, please describe what AT&T pays and provide an approximation of the number of MOU or other relevant measurement that quantifies the amount of traffic for which AT&T does not pay terminating access.

OBJECTION: Same Objection as for Interrogatory 3.

INTERROGATORY 10: For services provided in Florida, does AT&T utilize VOIP for 800 service? If so, does AT&T pay anything other than traditional access for the origination and termination of 800 calls? Please

describe and provide an approximation of the number of MOU or other relevant measurement that quantifies the amount of traffic for which AT&T does not pay access.

OBJECTION: Same Objection as for Interrogatory 3.

INTERROGATORY 11: For services provided in Florida, does AT&T utilize VOIP for prepaid card service? If so, does AT&T pay anything other than traditional access for the origination and termination of calls made with the prepaid cards? Please describe and provide an approximation of the number of MOU or other relevant measurement that quantifies the amount of traffic for which AT&T does not pay access.

OBJECTION: Same Objection as for Interrogatory 3.

INTERROGATORY 12: For services provided in Florida, has AT&T ever terminated VOIP traffic that would traditionally be considered toll traffic over interconnection trunks? If so, please provide an approximation of the number of MOU or other relevant measurement that quantifies the amount of traffic terminated in this manner.

OBJECTION: Same Objection as for Interrogatory 3.

INTERROGATORY 13: When an AT&T POTS presubscribed customer places a 1+ call from 352-742-XXXX (Sprint's Leesburg Exchange) to 407-628-XXXX (Sprints Winter Park Exchange) Sprint would hand off the

call to AT&T by existing AT&T trunks in the Leesburg DMS 100 or the Ocala DMS 200 switches, which have connectivity to the AT&T POP in Ocala. How does AT&T route the call and where does AT&T hand off the call to Sprint for termination? Identify each switch utilized to route the call and identify as either circuit, internet protocol packet or other, between the points where Sprint hands the call off to AT&T and AT&T passes the call back to Sprint for termination of the call to the end user customer. Please provide a simplified block diagram of the network specific switches and interconnecting trunk groups used to complete the call between the specified NPAs and NXXs. Show for both first choice and second (alternate) routing.

OBJECTION: Same Objection as for Interrogatory 3.

INTERROGATORY 14: If a packet switch is used in the above example, please specify the type protocol, e.g., TDM or VoIP, transported for each trunk group used between and including the trunks between Sprint and AT&T?

OBJECTION: Same Objection as for Interrogatory 3.

INTERROGATORY 15: If an internet protocol packet switch is not used in the above specific example, please provide a specific intrastate call example, including the originating and terminating area codes and NXXs, of where AT&T uses VOIP in its network within Sprint's local service area.

Please provide a simplified block diagram of the network specific switches and interconnecting trunk groups used to complete the call between the specified NPAs and NXXs. Please identify the type protocol, e.g., TDM or VOIP (other?), for each trunk group used between and including the trunks between Sprint and AT&T?

OBJECTION: Same Objection as for Interrogatory 3.

Respectfully submitted this 1st day of July, 2003.

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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 1st day of July, 2003 to the following:

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Loretta A. Cecil, Esq.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Arbitration of)
Unresolved Issues Resulting From) Docket No.: 030296-TP
Negotiations with Sprint-Florida,)
Inc. for Interconnection Agreement,)
By AT&T Communications of the) Filed: July 14, 2003
Southern States, LLC d/b/a AT&T)
And TCG South Florida)

AT&T RESPONSES TO SPRINT-FLORIDA INC.'S

FIRST SET OF INTERROGATORIES

AT&T Communications of the Southern States, Inc. and TCG South Florida ("AT&T"), pursuant to Rules 25-22.034 and 25-22.035, Florida Administrative Code and Rules 1.340 and 1.280(b), Florida Rules of Civil Procedure, hereby submit the following Responses to Sprint-Florida, Incorporated's ("Sprint") First Set of Interrogatories to AT&T ("Interrogatories").

INTERROGATORY 1: Please provide the location (city, state, street address, CLLI code) of every AT&T switch providing service in Florida at which Sprint could be required to establish a POI in accordance with AT&T's proposed contract language.

RESPONSE:

AT&T is in the process of responding to this data request. Counsel for Sprint has approved a two-day extension. A supplemental response will be provided on Wednesday, July 16, 2003.

INTERROGATORY 2: For each switch location provided in response to Interrogatory No. 1, please describe the geographic area in Florida in which the switch is used to provide to end users.

RESPONSE:

AT&T is in the process of responding to this data request. Counsel for Sprint has approved a two-day extension. A supplemental response will be provided on Wednesday, July 16, 2003. See Attachment B.

INTERROGATORY 3: Does AT&T provide services in Florida that utilize VOIP for calls within a Local Calling Area ("LCA")? If so, please describe the service and provide the commercial name for the service.

RESPONSE: AT&T objects to this Interrogatory on the grounds that the request seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, the request is overly broad, oppressive, and seeks information that is subject to the trade secrets privilege and that is beyond the scope of this proceeding.

With respect to the scope of this proceeding, in the June 19, 2003 testimony of David L. Talbott filed on behalf of AT&T in this proceeding ("Talbot Testimony"), AT&T set forth its position that determining compensation for Voice Over Internet Protocol ("VOIP") calls is not an appropriate issue to be decided in this proceeding.¹ As AT&T described in

¹ Talbot Testimony at Pages 64-71.

the Talbott Testimony, in Docket No. 000075-TP,² the Commission previously determined that compensation regarding VOIP traffic was not “ripe” for consideration.³ Subsequent to the Commission’s Order in Docket No. 000075-TP, on October 18, 2002, AT&T filed with FCC its “Petition For Declaratory Ruling That Phone-To-Phone IP Telephony Services Are Exempt From Access Charges.”⁴ Recognizing the pendency of *AT&T’s FCC VOIP Petition*, on December 31, 2002 in Docket No. 0216061-TP,⁵ the Commission declined to address whether Phone-To-Phone IP telephony services constitute “telecommunications” under Florida law, noting that the “. . . the FCC currently considering a similar matter.”⁶ In such Order, the Commission also specifically found that “. . . it would be administratively inefficient” to make such a determination while this FCC proceeding was underway.”⁷

Additionally, as AT&T indicated in Talbott’s Testimony, Sprint is fully engaged in *AT&T’s FCC VOIP Petition*, having filed Comments with the FCC on December 18, 2002, Reply Comments on January 24, 2003, and an

² *In Re: Investigation into Appropriate Methods to Compensate Carriers for Exchange of Traffic Subject to Section 251 of the Telecommunications Act of 1996*, Florida PSC Docket No. 000075-TP, FL PSC Order PSC-02-1248-FOF-TP, September 10, 2002, at Page 37 (“*Florida Reciprocal Compensation Order*”).

³ *Id.* at Page 37.

⁴ *In the Matter of Petition for Declaratory Ruling That AT&T’s Phone-To-Phone IP Telephony Services Are Exempt From Access Charges*; WC Docket No. 02-361 (“*AT&T FCC VOIP Petition*”).

⁵ *In Re: Petition of CNM Networks, Inc. for Declaratory Statement that CNM’s Phone-To-Phone Internet Protocol (IP) Technology Is Not “Telecommunications” and that CNM Is Not a “Telecommunications Company” Subject to Florida Public Service Commission Jurisdiction*, FL PSC Docket No. 021061-TP, FL PSC Order PSC-02-1858-FOF-TP, December 31, 2002, at Page 1 (*Florida CNM Networks, Inc. Order*).

⁶ *Florida CNM Networks, Inc. Order* at Page 3.

⁷ *Id.*

Exparte Presentation on March 13, 2003. In its Comments, Sprint indicated that it “. . . agree[d] with AT&T that there was a pressing need for the [FCC] to clarify whether Phone-To-Phone VOIP traffic should be subject to or exempt from access charges.”⁸ Moreover, in urging the FCC to so rule, Sprint specifically brought to the FCC’s attention that this Commission had dismissed CNM’s Petition. Sprint stated:

On December 17, 2002, the Florida PSC dismissed a petition filed by CNM Networks, Inc. for a declaratory statement that Phone-To-Phone IP telephony is not telecommunications (PSC Docket No. 0216061-TP). The PSC cited, among other factors, the instant proceeding before the FCC as a reason to defer action at the state level at this time. Thus, it is clear that at least some state PUC’s expect the FCC to assume a leadership role in this matter and clarify this *national policy*.⁹

Accordingly, because (1) Sprint is engaged in the current FCC proceeding dealing with VOIP traffic; (2) Sprint agrees that the FCC should decide compensation for VOIP as a matter of *national policy*, and (3) it is highly unlikely that the Commission will “overrule” itself and decide what compensation, if any, is appropriate for VOIP traffic only six (6) months after issuing its *Florida CNM Networks, Inc. Order*, AT&T objects to any Interrogatories dealing with VOIP calls because responding to such Interrogatories will not provide the Commission with relevant information regarding compensation for VOIP calls. In this respect, even if AT&T were capable of providing such information, AT&T’s information would be that of

⁸ *AT&T FCC VOIP Petition, Sprint Comments at Page 9.*

only one ALEC operating in Florida, thus providing the Commission with incomplete information regarding an issue which the Commission already has determined will have industry-wide ramifications.¹⁰

INTERROGATORY 4: Does AT&T provide services in Florida that utilize VOIP for calls that terminate outside a given LCA but within the state of Florida? If so, please describe the service and provide the commercial name for the service.

RESPONSE: Same Response as for Interrogatory 3.

INTERROGATORY 5: For each of the above two services, provide an approximation of the number of MOU or other relevant measurement that quantifies the amount of VOIP service provided or forecasted in 2002? 2003? 2004? 2005?

RESPONSE: Same Response as for Interrogatory 3.

INTERROGATORY 6: For services provided in Florida, has AT&T ever paid something other than originating access charges for Phone-to-Phone VOIP calls that would traditionally be considered toll calls? If so, please describe what AT&T paid, e.g., reciprocal compensation, and provide an approximation of the number of MOU or other relevant measurement that quantifies the amount of traffic for which AT&T did not pay originating

⁹ Id. at Pages 9-10 [emphasis added].

access?

RESPONSE: Same Response as for Interrogatory 3.

INTERROGATORY 7: For services provided in Florida, has AT&T ever paid something other than terminating access charges for Phone-to-Phone VOIP calls that would traditionally be considered toll calls? If so, please describe what AT&T paid, e.g., reciprocal compensation, and provide an approximation of the number of MOU or other relevant measurement that quantifies the amount of traffic for which AT&T did not pay terminating access?

RESPONSE: Same Response as for Interrogatory 3.

INTERROGATORY 8: Does AT&T provide IP Centrex or IP PEX service to end users in Florida? If so, please provide the commercial name for the service.

RESPONSE: Same Response as Interrogatory 3.

INTERROGATORY 9: Relative to question 8, does AT&T allow its IP Centrex or IP PBX end users to make what would traditionally be considered toll calls? If so, does AT&T pay something other than terminating access for any or all of the calls? If so, please describe what AT&T pays and provide an approximation of the number of MOU or other relevant measurement

¹⁰ *Florida CNM Networks, Inc. Order at Page 3.*

that quantifies the amount of traffic for which AT&T does not pay terminating access.

RESPONSE: Same Response as for Interrogatory 3.

INTERROGATORY 10: For services provided in Florida, does AT&T utilize VOIP for 800 service? If so, does AT&T pay anything other than traditional access for the origination and termination of 800 calls? Please describe and provide an approximation of the number of MOU or other relevant measurement that quantifies the amount of traffic for which AT&T does not pay access.

RESPONSE: Same Response as for Interrogatory 3.

INTERROGATORY 11: For services provided in Florida, does AT&T utilize VOIP for prepaid card service? If so, does AT&T pay anything other than traditional access for the origination and termination of calls made with the prepaid cards? Please describe and provide an approximation of the number of MOU or other relevant measurement that quantifies the amount of traffic for which AT&T does not pay access.

RESPONSE: Same Response as for Interrogatory 3.

INTERROGATORY 12: For services provided in Florida, has AT&T ever terminated VOIP traffic that would traditionally be considered toll traffic over interconnection trunks? If so, please provide an approximation

of the number of MOU or other relevant measurement that quantifies the amount of traffic terminated in this manner.

RESPONSE: Same Response as for Interrogatory 3.

INTERROGATORY 13: When an AT&T POTS presubscribed customer places a 1+ call from 352-742-XXXX (Sprint's Leesburg Exchange) to 407-628-XXXX (Sprints Winter Park Exchange) Sprint would hand off the call to AT&T by existing AT&T trunks in the Leesburg DMS 100 or the Ocala DMS 200 switches, which have connectivity to the AT&T POP in Ocala. How does AT&T route the call and where does AT&T hand off the call to Sprint for termination? Identify each switch utilized to route the call and identify as either circuit, internet protocol packet or other, between the points where Sprint hands the call off to AT&T and AT&T passes the call back to Sprint for termination of the call to the end user customer. Please provide a simplified block diagram of the network specific switches and interconnecting trunk groups used to complete the call between the specified NPAs and NXXs. Show for both first choice and second (alternate) routing.

RESPONSE: Same Response as for Interrogatory 3.

INTERROGATORY 14: If a packet switch is used in the above example, please specify the type protocol, e.g., TDM or VoIP, transported for each trunk group used between and including the trunks between Sprint

and AT&T?

RESPONSE: Same Response as for Interrogatory 3.

INTERROGATORY 15: If an internet protocol packet switch is not used in the above specific example, please provide a specific intrastate call example, including the originating and terminating area codes and NXXs, of where AT&T uses VOIP in its network within Sprint's local service area. Please provide a simplified block diagram of the network specific switches and interconnecting trunk groups used to complete the call between the specified NPAs and NXXs. Please identify the type protocol, e.g., TDM or VOIP (other?), for each trunk group used between and including the trunks between Sprint and AT&T?

RESPONSE: Same Response as for Interrogatory 3.

INTERROGATORY 16: In accordance with the Commission's ruling in the Verizon/Global NAPS arbitration (Docket No. 011666-TP) regarding the minimum information that a CLEC must provide to the ILEC in order to implement the originating carrier's local calling area for reciprocal compensation purposes, please provide the following:

- a. The number of different calling plans AT&T offer customers.
- b. The geographic scope of each of the calling plans AT&T offer customers.
- c. The geographic location of AT&T customers that may originate

traffic to Sprint.

- d. The AT&T calling area plan selected by each customer.
- e. AT&T's proposed format of, and process for providing, the foregoing information to Sprint.
- f. AT&T's proposed format for updating the foregoing information (including the process for updating the information (including the process for providing such updates and the proposed frequency of updates).
- g. AT&T's proposal for verification of the foregoing information.
- h. AT&T's proposal for identifying what traffic is subject to reciprocal compensation versus access charges and AT&T's proposal for verification.

RESPONSE: AT&T is in the process of responding to this data request. Counsel for Sprint has approved a two-day extension. A supplemental response will be provided on Wednesday, July 16, 2003.

INTERROGATORY 17: On page 27, lines 10-14 of his direct testimony, Mr. Talbott refers to a district court decision overturning a Texas PUC decision. Please provide a citation for this decision.

RESPONSE: U.S. District Court for the Western District of Texas (Midland/Odessa Division); *Southwestern Bell Telephone Company v. The Texas Public Utility Commission, et.al, and AT&T Communications of Texas, L.P., et.al. v. Southwestern Bell Telephone Company, and The*

Public Utility Commission of Texas, et.al.; Civil Action No. MO-01-CA-045; Order dated December 26, 2002.

Respectfully submitted this 14th day of July, 2003.

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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 14th day of July, 2003 to the following:

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