

ORIGINAL

JAMES E. "JIM" KING, JR.

PRESIDENT



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Interim  
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STATE OF FLORIDA  
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JOHNNIE BYRD

SPEAKER



September 17, 2003

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

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SEP 17 PM 3:29  
COMMISSION  
CLERK

RE: Docket No. 030868-TL

Dear Ms. Bayó:

Enclosed for filing in the above-referenced docket are the original and 1 copy of the Notice of Service of Citizens' first Motion to Compel Production of Documents from Sprint-Florida, Inc.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office

Sincerely,

H F. Rick Mann  
Associate Public Counsel

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

HFM/pwd  
Enclosures

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DOCUMENT NUMBER-DATE

08858 SEP 17 8

FPSC-COMMISSION CLERK

# ORIGINAL

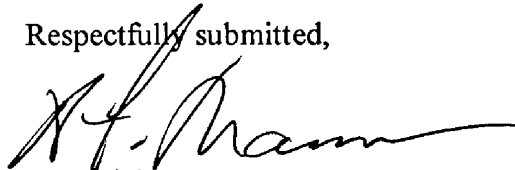
## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition of Sprint-Florida, Incorporated, )  
To reduce intrastate switched network ) Docket No. 030868-TL  
Access rates to interstate parity in )  
Revenue neutral manner pursuant to ) Filed September 17, 2003  
Section 364.164(1), Florida Statutes )  
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### NOTICE OF SERVICE

Pursuant to Section 350.0611, Florida Statutes, the Citizens of the State of Florida, by and through Charlie Beck, Interim Public Counsel, serve this notice that they have served their first motion to compel production of documents from Sprint-Florida, Inc.

Respectfully submitted,



H F. Rick Mann  
Associate Public Counsel

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street  
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Tallahassee, FL 32399-1400

Attorney for the Citizens  
of the State of Florida

DOCUMENT NUMBER-DATE

08858 SEP 17 03

FLORIDA PUBLIC SERVICE COMMISSION CLERK

# ORIGINAL

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition by Sprint-Florida, Inc.     )  
To Reduce Its Network Access Charges     )  
Applicable To Intrastate Long Distance     )  
In A Revenue-Neutral Manner             )  
Docket No. 030868-TL  
Filed: September 17, 2003

### **CITIZENS' FIRST MOTION TO COMPEL PRODUCTION OF DOCUMENTS FROM SPRINT-FLORIDA, INC**

The Citizens of Florida (Citizens), through the Office of Public Counsel, pursuant to Rule 28-106.204, Florida Administrative Code, and Rules 1.280, 1.340, 1.350, and 1.380, Florida Rules of Civil Procedure, request that the Prehearing Officer issue an order compelling Sprint-Florida, Inc. ("Sprint" or "Company") to immediately produce all of documents and answer all interrogatories described in the following paragraphs.

1. On September 10, 2003, Sprint served its General and Specific Objections to Citizens' First Set of Production of Documents, dated September 3, 2003.

2. Sprint lists eleven "General Objections" to Citizens' discovery, asserting that every one of these "general objections" applies "to each of the individual requests, respectively . . ." This is asserted despite the fact that the Company does not list each and every one of Citizens' production requests as being specifically objected to, as well as that it is obvious that every one of the Company's general objections cannot possibly apply to "each of the individual requests."

3. Accordingly, Citizens assert emphatically that Sprint's "General Objections" are wholly inapplicable to Citizens' discovery requests and

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FILED-COMMISSION CLERK

improperly asserted. The following are what the Company avers are appropriate discovery objections, all of which apply to every one of Citizens' production requests, made pursuant to the Florida Rules of Civil Procedure:

a) Sprint objects to each POD to the extent that such POD seeks documents which are beyond the scope of discovery permitted in this proceeding as set forth at Section 364.164, subsections (3) and (4), Florida Statutes, or seeks documents which are beyond the scope of those issues the Legislature has determined are to be considered by the Commission in this proceeding, or seeks documents which are beyond matters contained in Sprint's testimony and exhibits addressing those same issues.

b) Sprint objects to the PODs to the extent they seek to impose an obligation on Sprint to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such PODs are overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules.

c) Sprint objects to the PODs to the extent that are intended to apply to matters other than Sprint's Florida intrastate operations subject to the jurisdiction of the Commission. Sprint objects to such PODs as being irrelevant, overly broad, unduly burdensome, and oppressive.

d) Sprint objects to each and every POD and related instructions to the extent such POD or instruction calls for information that is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

e) Sprint objects to each and every POD insofar as the PODs are vague, ambiguous, overly broad, imprecise, or utilize terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these PODs. Any documents provided by Sprint in response to the PODs will be provided subject to, and without waiver of, the foregoing objection.

f) Sprint objects to each and every POD insofar as it is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action. Sprint will attempt to note in its responses each instance where this objection applies.

g) Sprint objects to providing information to the extent that such information is already in the public record before the Commission.

h) Sprint objects to Citizens' discovery requests, instructions and definitions, insofar as they seek to impose obligations on Sprint that exceed the requirements of the Florida Rules of Civil Procedure or Florida Law.

i) Sprint objects to each and every POD, insofar as any of them are unduly burdensome, expensive, oppressive, or excessively time consuming.

j) Sprint objects to each and every POD to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to Section 90.506, Florida Statutes. To the extent that Citizens request proprietary confidential business information which is not subject to the "trade secrets" privilege, Sprint will make such information available in accordance with the

Protective Order sought by Sprint in this docket, subject to any other general or specific objections contained herein.

k) Sprint is a large corporation with employees located in many different locations in Florida and in other states. In the course of its business, Sprint creates countless documents that are not subject to Commission or FCC retention of records requirements. These documents are kept in numerous locations that are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document has been identified in response to these requests. Sprint will conduct a search of those files that are reasonably expected to contain the requested information. To the extent that the PODs purport to require more, Sprint objects on the grounds that compliance would impose an undue burden or expense.

4. The Prehearing Officer, Commissioner Bradley, in his Order Establishing Procedure, No. PSC-03—0994-PCO-TL, instructed the parties regarding discovery, that “Any objection to . . . discovery requests shall be made within five business day of service of the discovery request.”

5. Citizens do not believe that that instruction envisioned a blanket listing of any and all objections available to a party in the event that some specific discovery request was made of that party to which one or more of those available objections could be claimed and argued.

6. Citizens have served not a single production request to Sprint to which every one of these eleven “General Objections” could possibly apply.

Therefore, these objections are wholly inappropriate and irrelevant to Citizens' discovery requests and should be dispatched accordingly.

7. After listing the above eleven "General Objections" to any and all of Citizens' discovery as each of the objections may or may not apply, Sprint identifies some specific objections to particular discovery requests, as required by the Florida Rules of Civil Procedure. These discovery requests, followed by the Company's objections, and then the Citizens' response to the objections, follow below.

8. Citizens' Production Request No. 6:

Please provide all documents in your possession, custody or control discussing or evaluating criteria or business cases for entering new markets in Florida for local telecommunications services.

SPRINT OBJECTION:

Sprint-Florida objects to Citizens' POD No. 6 on the grounds that the request is too broad in scope and time and requests documents that are beyond the scope of the issues to be considered by the Commission in this proceeding.

CITIZENS' RESPONSE:

Citizens agree to restrict this request to those documents produced since January 1, 2000, relating to new market entry in Florida. Sprint's testimony in this docket suggests that increased residential rates in Sprint territory will attract additional competition in its territory. Likewise, all three of the Florida ILECs who have thus far filed pursuant to section 364.164, Florida Statutes, claim that the

proposed increased rates in Florida will attract new entries. (See witness Gordon testimony - - who has filed one consolidated set of testimony for all three of these ILECs - - page 27, line 9 through page 30 line 10) Citizens seek relevant information to the Company's testimony in this docket regarding the Company's plans (or the absence of such plans) to enter competitive markets that will now be attractive to them in territory that is adjacent to the Company's existing operations. Witness Gordon states that there is empirical evidence that supports his view that rate rebalancing will likely make the residential local exchange market more attractive for Sprint, Verizon and BellSouth in the consolidated testimony that he has offered to this Commission. (Page 27, line 9-12) . OPC seeks verifying documentation from Sprint through its own market plans that supports the testimony of its witness.

9. Citizens' Production Request No. 8:

Provide Sprint PCS's intrastate access rates and associated terms and conditions for each wireless carrier and interexchange carrier with which Sprint PCS interconnects in the state of Florida.

SPRINT OBJECTION:

Sprint-Florida objects to Citizens' POD No. 8 on the grounds that the request is too broad in scope and time and requests documents that are beyond the scope of the issues to be considered by the Commission in this proceeding.



**CITIZENS' RESPONSE:**

Sprint has filed tariffs in this docket that purport to reduce its access charges to interexchange carriers and increase its basic local service revenues by \$142,085. (See witness Felz, page 21, line 13) In describing the competitive impacts of the Sprint proposal, witness Stahir states that "With the amazing growth of wireless service . . . customers now have choices as to how they access the public switched network. In any market that contains services that act as substitutes for one another a change in the price of one service will affect the demand for the other." Citizens seek information that is readily available to Sprint regarding the rates that Sprint's subsidiary charges other carriers in Florida for access to the Sprint wireless network. This information is relevant to the Sprint proposals in this docket. Such comparative information is essential if the Commission is to make an informed decision that the changes will be beneficial to residential customers. Citizens agree to restrict the information to current access charges for origination, termination and transport minutes between Sprint's wireless subsidiary and Cingular, Nextel and U.S. Cellular for connecting traffic in Florida.

10. Citizens' Production Request No. 12:

Provide all studies or other documents concerning the company's choices for products and services that would be increased in order to obtain revenue neutral recovery of the access line reductions requested in this docket.

**SPRINT OBJECTION:**

Sprint-Florida objects to Citizens' POD No. 12 on the grounds that the POD requests documents that are beyond the scope of the issues to be considered by the Commission in this proceeding. Subject to this objection, Sprint-Florida advises that the requested documents do not exist.

**OPC RESPONSE:**

The testimony of Sprint witness Felz spells out the process that Sprint used to calculate the total amount of the reductions in access charges that were proposed by the company and the choices the company made to pass those costs to basic customers in a revenue neutral manner. Witness Felz exhibit JMF-12 identifies the choices the company made in passing on the proposed rate increases. The Citizens are asking for relevant documents that relate to optional choices considered by the company in this docket. These choices made by the company represent the bedrock of the relevant issues in this case and to assume that they are beyond the scope of discovery defies logic.

11. **Citizens' Production Request No. 21:**

Provide copies of any Sprint documents completed since January 1, 1990 regarding the elasticity of demand for residential service.

**SPRINT OBJECTION:**

Sprint-Florida objects to Citizens' POD No. 21 on the grounds that the POD requests documents that address matters which are not within the scope of discovery in this proceeding permitted by Florida law. Additionally, the POD

requests documents which are beyond the scope of the issues to be considered by the Commission in this proceeding.

**CITIZENS' RESPONSE:**

Sprint maintains that the elasticity of demand is beyond the scope of the issues to be considered by the Commission in this proceeding. However, the Company fails to state that the testimony of its witness Felz, starting on page 25, line 25 through page 29, line 1, contains: (1) his assertion that the increased residential local service rates will not result in subscribers dropping off the network (page 26); and, (2) his assertion that empirical data from other states . . . demonstrates that subscribership has not been adversely affected (page 26), that Florida customers have higher incomes than other southern states (page 26), that Sprint has not experienced negative reactions to Ohio and Pennsylvania price increases (page 27), and that the "data conclusively demonstrates that basic local service rates in Florida can be increased without negatively impacting universal service or subscribership levels." This entire testimony relates to the price elasticity (or the customer impact) resulting from a price change. That's what price elasticity is, and Sprint's witness Gordon's testimony includes his conclusion that price elasticity of demand for access to the network is quite low, "meaning that the vast majority of consumers will continue to subscribe." (Gordon page 36, line 20 through page 37, line 1) Because of the emphasis that Sprint's witnesses have placed on the price elasticity of the basic residential market, Citizens believe that they have a right to see the documents and studies that actually demonstrate how many Florida customers might be expected to drop

their service as a result of the price elasticity of demand in the residential market. This data is basic marketing analysis that is regularly prepared by firms who are engaged in pricing and profitability analysis. Accordingly, Citizens reasonably believe that Sprint has relevant information that relates directly to this issue.

12. Citizens' Production Request No. 22:

Provide all documents that identify, by month, the number of residential customers in Florida who have been temporarily denied due to non-payment for year 2000, 2001, and 2002.

SPRINT OBJECTION:

Sprint-Florida objects to Citizens' POD No. 22 on the grounds that the POD requests documents that are beyond the scope of the issues to be considered by the Commission in this proceeding and are not relevant to any issue in this proceeding.

CITIZENS' RESPONSE:

See Citizens' Response to Sprint Objection to Production Request No. 21, above. The starting point for evaluating the customer impact resulting from Sprints' proposed rate increase, is the current data that Sprint has regarding the existing number of customers who are unable to pay their current telephone bills at existing rates. Witness Gordon and witness Felz have submitted testimony supporting their contention that the rate increases proposed by Sprint in this docket are beneficial to residential subscribers. The Citizens have a right to test the validity of their testimony. The affordability of basic local service is addressed by witness Gordon, page 36, lines 6-18, of his testimony. Citizens'

request is directly related to the issues introduced into this docket by the Company through its witnesses.

13. Citizens' Production Request No. 22:

Provide all documents that identify, by month, the number of residential customers in Florida who have been disconnected for non-payment for year 2000, 2001 and 2002.

SPRINT OBJECTION:

Sprint-Florida objects to Citizens' POD No. 22 on the grounds that the POD requests documents that are beyond the scope of the issues to be considered by the Commission in this proceeding and are not relevant to any issue in this proceeding.

**OPC RESPONSE:**

See Citizens' Response to Sprint Objection to Citizens' Production Request No. 21, above.

WHEREFORE, Citizens respectfully request the Prehearing Officer issue an order compelling Sprint-Florida, Inc. to immediately produce all of the documents as described in this first motion to compel.

Respectfully submitted,

CHARLES J. BECK  
Interim Public Counsel  
Florida Bar No. 217821



H F. Rick Mann  
Associate Public Counsel  
Florida Bar #0763225

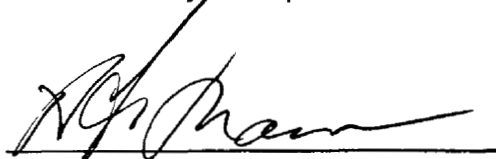
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Attorneys for Florida's Citizens

DOCKET NO. 030868-TL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S.

Mail or hand-delivery to the following parties on this 17th day of September, 2003.



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