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September 22, 2003

BY HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 990649B-TP

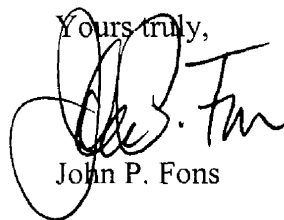
Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and fifteen (15) copies of Sprint-Florida, Inc.'s Response in Opposition to joint Request for Oral Argument of Florida Digital Network, Inc. and KMC Telecom III, LLC.

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.

Yours truly,



John P. Fons

Enclosures

cc: All parties of record

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DOCUMENT NUMBER-DATE
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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
Pricing of Unbundled Network
Elements (Sprint Phase)

DOCKET NO. 990649B-TP
FILED: September 22, 2003

**SPRINT-FLORIDA, INC.'S RESPONSE IN OPPOSITION
TO JOINT REQUEST FOR ORAL ARGUMENT OF FLORIDA
DIGITAL NETWORK, INC. AND KMC TELECOM III, LLC**

Sprint-Florida, Inc. ("Sprint"), pursuant to Rule 25-22.058, Florida Administrative Code, responds in opposition to Florida Digital Network, Inc. ("FDN") and KMC Telecom III, LLC's ("KMC") (collectively, "Movants") Joint Request for Oral Argument ("Joint Request"), stating as follows:

1. On September 8, 2003, in conjunction with the contemporaneous filing of Movants' "Alternative Motion to Stay the Final Order on Rates for Unbundled Network Elements Provided by Sprint-Florida, Incorporated" ("Stay Motion"), FDN and KMC filed their Joint Request for Oral Argument. Rule 25-22.058(1), Florida Administrative Code, states that the Commission may allow oral argument, but the requesting party must "state with particularity why oral argument would aid the Commission in comprehending and evaluating the issues before it." Movants' Joint Request fails to meet this requirement.

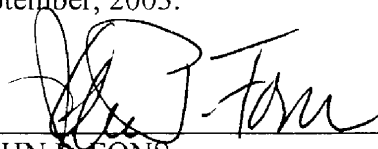
2. Movants contend that "[w]ithout oral argument, the Commissioners will be less likely to have answers to all of their questions on the issues relating to the granting of a stay." Joint Request at page 1. FDN and KMC go on to contend that "only through oral argument will there be assurances that the record will be complete, thus allowing the Commission to make the necessary findings in the public interest on those issues." Joint Request at page 1. Instead of meeting the Rule's requirement that oral argument "would aid the Commission," Movants'

arguments for granting oral argument demonstrate that oral argument is actually intended to aid FDN and KMC in developing a basis of support for their Stay Motion.

3. This is not Movants' first effort at requesting oral argument in this proceeding in order to aid its case. At the time FDN and KMC filed their Motion for Reconsideration, they also requested oral argument contending that oral argument was necessary to develop the record that FDN and KMC failed to develop during the hearing stages of the Sprint phase of this proceeding. On that occasion, the Commission correctly saw through Movants' very transparent effort and rejected FDN and KMC's requests for oral argument, finding that "[w]e do not believe that granting oral argument would rectify the fact that FDN and KMC did not fully participate before this point in the proceeding. *See*, Order No. PSC-03-0918-FOF-TP, at page 6.

4. Once again, Movants seek to use oral argument to develop a basis of support for their Stay Motion. This is an inappropriate use of oral argument. In Order No. PSC-03-0951-FOF-TP, issued August 22, 2003, the Commission concluded that oral argument on Movants' "Joint Notice of Statutory Non-Compliance with Proposed Means to Cure and Suggestion for New Hearing" was unwarranted, noting that "if oral argument was entertained on this motion, the parties could attempt to inappropriately use the opportunity to further re-argue the underlying Motion for Reconsideration addressed by us at our June 17, 2003, Agenda Conference." *Id.* at page 3 (emphasis added). There is no reason to believe that FDN and KMC would not use this opportunity - if given to them - inappropriately. Consequently, Movants' Joint Request should be denied.

Respectfully submitted this 20th day of September, 2003.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by e-mail transmission, U. S. Mail, or hand delivery (*) this 22 day of September, 2003, to the following:

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