

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Verizon Florida Inc. to reform intrastate network access and basic local telecommunications rates in accordance with Section 364.164, Florida Statutes.

DOCKET NO. 030867-TL

In re: Petition by Sprint-Florida, Incorporated to reduce intrastate switched network access rates to interstate parity in revenue-neutral manner pursuant to Section 364.164(1), Florida Statutes.

DOCKET NO. 030868-TL

In re: Petition for implementation of Section 364.164, Florida Statutes, by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic services, by BellSouth Telecommunications, Inc.

DOCKET NO. 030869-TL

FILED: September 23, 2003

**AARP MOTION TO DISMISS**

Pursuant to Sections 120.54(5) and Rule 28-106.204, Florida Administrative Code, the AARP, through its undersigned attorney, files its Motion to dismiss the petitions of Verizon Florida Inc., Sprint-Florida, Incorporated, and BellSouth Telecommunications, Inc., and in support thereof, states as follows:

1. On September 3, 2003, the Office of Public Counsel filed its separate Motions to Dismiss the petitions of Verizon Florida Inc. ("Verizon"), Sprint-Florida, Incorporated ("Sprint"), and BellSouth Telecommunications, Inc. ("BellSouth"), each of which seeks to increase its basic local telecommunications rates in exchange for reducing their respective switched network access rates applicable to intrastate long distance calls.

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2. The basis for each of Public Counsel's motions to dismiss is that law under which the local companies seek the rate increases, Section 364.164(1), Florida Statutes, specifically requires that the sought after "parity" be achieved "over a period of not less than 2 years or more than 4 years." Section 364.164(1)(c), Florida Statutes.

3. As further noted in Public Counsel's motions to dismiss, each of the local companies' petitions, as well as the supporting testimony of their expert witnesses, provide that if the Commission grants the petitions the initial rate increases sought would become effective on January 1, 2004, while the second and final round of rate increases would become applicable just 12 months later on January 1, 2005.

4. Public Counsel argues in its motions to dismiss that the plain and simple wording of Section 364.164 (1)(c), Florida Statutes, is that the rate changes must take place over not less than 2 years and that the local companies' proposals to increase the rates over the course of a mere 12 months does not comply with the law. Rather, argues Public Counsel, not less than 2 years must necessarily encompass a period of not less than 24 months. Accordingly, Public Counsel argues that the three petitions must be dismissed, although with leave to be refiled in a manner consistent with the law.

5. On September 18, 2003 this Commission's Staff filed a memorandum in the above-cited consolidated dockets recommending that the Commission grant Public Counsel's petitions to dismiss the three local companies on the basis that Staff concurred with Public Counsel that the three local companies had clearly not complied with the "not less than two year" statutory mandate. Emphasizing its concurrence that the minimum time period for raising

customer rates had not been met by the three companies' petitions, the Staff rejected the companies' interpretations, saying at Page 14:

The companies engage in a tortured reading of the statute to arrive at the conclusion that the language "over a period of not less than 2 years" really means "over a period of two annual adjustments."

6. AARP, which represents the interests of approximately 2.6 million of its members who reside in the State of Florida, was granted formal party status in these three dockets on September 18, 2003 by Order No. PSC-03-1037-PCO-TL.

7. AARP, like the Public Counsel and this Commission's Staff, believes that the Verizon, Sprint and BellSouth rate increase petitions are fundamentally and legally flawed because they seek to impose the full level of rate increases over a mere 12 month period and not the 24 months, or "not less than 2 years" mandated by the law.

8. AARP, for all the reasons stated in Public Counsel's three separate motions to dismiss and for the reasons stated herein, joins in support of the Public Counsel's motions to dismiss and urges this Commission to dismiss each of the petitions with leave for the local companies to refile in a manner consistent with the plain language of the law.

WHEREFORE, AARP moves this Commission to dismiss, without prejudice, the petitions of Verizon, Sprint and BellSouth in the above-cited dockets, and to allow each company, if they so desire, to refile their petitions in conformance with Section 364.164, Florida Statutes.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael B. Twomey". The signature is written in a cursive style and is positioned above a horizontal line.

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of this petition has been served by either hand delivery or overnight mail and by either facsimile transmission or electronic mail

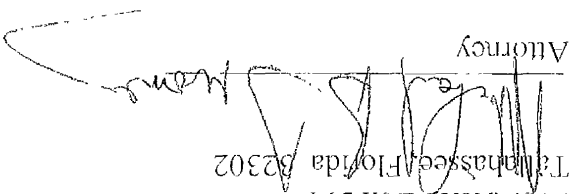
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