

# AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET  
P.O. BOX 391 (ZIP 32302)  
TALLAHASSEE, FLORIDA 32301  
(850) 224-9115 FAX (850) 222-7560

September 24, 2003

## BY 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 32399-0850

Re: Docket No. 030868-TL

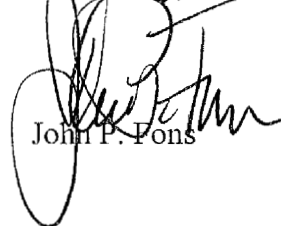
Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and fifteen (15) copies of Sprint-Florida, Inc.'s Response in Opposition to Citizens' First Motion to Compel Production of Documents from Sprint-Florida, Inc.

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: Certificate of Service List

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DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: SPRINT-FLORIDA, INCORPORATED'S  
PETITION TO REDUCE INTRASTATE  
SWITCHED NETWORK ACCESS RATES TO  
INTERSTATE PARITY IN A REVENUE  
NEUTRAL MANNER PURSUANT TO  
SECTION 364.164(1), FLORIDA STATUTES

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DOCKET NO. 030868-TL  
FILED: September 24, 2003

**SPRINT-FLORIDA, INCORPORATED'S RESPONSE IN OPPOSITION  
TO CITIZENS' FIRST MOTION TO COMPEL PRODUCTION  
OF DOCUMENTS FROM SPRINT-FLORIDA, INC.**

Sprint-Florida, Incorporated ("Sprint"), pursuant to Rules 28-106.204 and 28-106.206, Florida Administrative Code, and Rules 1.280 through 1.400, Florida Rules of Civil Procedures, responds in opposition ("Response") to Citizens' First Motion to Compel Production of Documents from Sprint-Florida, Inc. ("Motion to Compel"), stating as follows:

1. On September 3, 2003, Citizens served their First Set of Production of Documents on Sprint ("Citizens' 1st Set"). Thereafter, on September 10, 2003, which is within the 5-day timeframe established by the Commission's Order Establishing Procedure and Consolidating Dockets for Hearing ("Procedural Order" - Order No. 03-0994-PCO-TL, issued September 4, 2003), Sprint filed its Objections to Citizens' 1st Set ("Objections") in which Sprint made it clear that "[t]he objections stated herein are preliminary in nature and are made at this time to comply with the 5-day requirement set forth in Order No. PSC-03-0994-TL, issued September 4, 2003, at pages 3 and 4." Objections at p. 1. Within its Objections, Sprint provided both General Objections and Specific Objections. The General Objections went to all of the Requests for Production of Documents, while the Specific Objections went to those requests which Sprint, at the time the objections were made, ascertained were specifically objectionable.

2. On September 17, 2003 - which is the day before Sprint's Responses to Citizens' 1st Set were due to be served on Citizens - Citizens filed and served its Motion to Compel. In their Motion to Compel, Citizens both attack Sprint's General Objections and challenge Sprint's Specific Objections. This Response addresses Citizens' misguided attack on Sprint's General Objections and Citizens' unpersuasive challenges to Sprint's Specific Objections.

**I. General Objections**

3. Citizens claim that Sprint's General Objections are "wholly inapplicable to Citizens' discovery requests and improperly asserted." Motion to Compel at ¶ 3. After listing each of Sprint's General Objections, Citizens contend that they "do not believe that that instruction (referring to the Procedural Order) envisioned a blanket listing of any and all objections available to a party . . ." Motion to Compel at ¶ 5. Additionally, Citizens contend that they "have served not a single production request to Sprint to which every one of these eleven 'General Objections' could possibly apply." Motion to Compel at ¶ 6. Citizens conclude their attack on Sprint's General Objections by concluding that "these objections are wholly inappropriate and irrelevant to Citizens' discovery requests and should be dispatched accordingly." Motion to Compel at ¶ 6 (emphasis added). Sprint, while being uncertain as to what Citizens' request to "dispatch" Sprint's General Objection means in terms of Citizens' Motion to Compel, Sprint is certain that its General Objections are appropriate and relevant to Citizens' discovery requests.

4. The discovery procedures under which the parties are operating in this proceeding, although appropriate because of the tight timeframes imposed by Section 364.164(1), Florida Statutes, are, nonetheless, different from the discovery procedures reflected in Rule 28-106.206, Florida Administrative Code, which Rule requires reference to Rules 1.280 through 1.400, Florida Rules of Civil Procedure. Although Rule 1.340(a), Florida Rules of Civil Procedure, permits the

court to "allow for a shorter or longer time" to respond to or object to interrogatories, that Rule does not contemplate different deadlines for objecting to the discovery and for responding to the discovery. Because the Procedural Order imposes an extraordinary requirement on the party to whom discovery is directed to object to discovery prior to responding to the discovery, and in only 5 business days after receipt of the discovery, there is the potential that the responding party will not know for certain until the date a discovery response is due that the request is objectionable and why. Consequently, it is totally appropriate for a party to raise General Objections as a preliminary matter in order to protect that party's rights to object in lieu of responding if conditions warrant. Otherwise, the party to whom discovery is directed runs the risk of being accused of waiving his or her objection for failure to have raised it in the 5-business-day timeframe.

5. In addition to providing the "safety net," described above, Sprint's General Objections also serve to address the types of discovery requests that are generally improper and objectionable. Rather than repeating the objection for each discovery request, providing general objections is more efficient, especially where the timeframes for objecting and responding are shortened as they are here. In fact, the parties to Commission proceedings have for years been using General Objections in just such a manner, and General Objections have become a matter of acceptable practice before the Commission.

6. As noted previously, Citizens filed their Motion to Compel one day prior to receiving Sprint's Responses to Citizens' 1st Set. Had Citizens been less quick to file their Motion to Compel, Citizens would have seen just how efficiently this discovery practice actually works. In fact, as will be demonstrated below, many of the preliminary General Objections, while still of substantial merit, did not prevent Sprint from providing the requested documents, to the extent documents exist. The object of the General Objections is not to use them as a mechanism for not

responding to discovery requests when no specific objections are identified. Nor has Sprint used them in that manner here.

## **II. Specific Objections**

7. As noted previously, Citizens' filed their Motion to Compel prior to receiving Sprint's Responses to Citizens' First Request for Production of Documents. Consequently, Citizens denied themselves the opportunity of knowing how Sprint was responding before launching their attack. In fact, Sprint, despite its objections, provided responses to four of the six requests addressed in Citizens' Motion to Compel addresses, thereby mooted Citizens' Motion to Compel in that respect. Of the remaining two requests, namely PODs Nos. 6 and 8, Citizens' Motion to Compel is groundless.

8. Citizens seek to compel Sprint to provide documents in response to POD No. 6, which states:

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 objected 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."

9. Citizens acknowledge that POD No. 6 was too broad in scope and now agree to narrow the scope, time-wise. However, even with Citizens' proposed narrowing, the request remains too broad in scope. For example, the request does not identify which entities (Sprint affiliates or non-affiliates), or for which markets (business, residential, wireless, long distance), Sprint is supposed to search for. In any event, Citizens' Motion to Compel now suggests that its inquiry addresses only "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." Motion to Compel at ¶ 8 (emphasis added). Even this limitation does not eliminate Sprint's objection, because it erroneously assumes that Sprint Corporation has not already entered competitive markets in Florida. Please see Sprint's Response to Citizens' Interrogatory No. 25.

10. Citizens also seek to compel Sprint to provide documents in response to POD No. 8, which states:

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

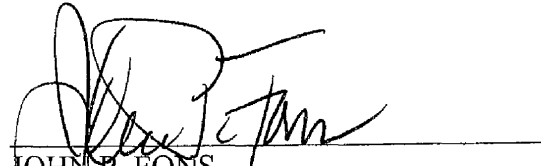
Sprint objected on the grounds that "the request is too broad in scope and time and requests documents that are beyond the scope of issues to be considered by the Commission in this proceeding."

11. Citizens acknowledge that their request is too broad in scope and now agree to limit the scope 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." Motion to Compel at ¶ 9. Although that restriction partially addresses the "too broad in scope" objection, it does not address Sprint's further objection that the request is "beyond the scope of issues to be considered by the Commission in this proceeding." Moreover, Citizens' attempt to address that objection is without merit. Citizens' argument that the access charges that Sprint PCS charges to other cellular carriers in Florida is relevant is ludicrous. Citizens' further suggestion that "competitive information is essential if the Commission is to make an informed decision that the changes will be beneficial to residential customers" does not make any sense. The access charges that wireless carrier charge one another is not "competitive information" nor does it have anything

to do with the fact that Sprint-Florida's residential basic local service prices are supported with the contributions made by intrastate switched network access rates charged to interexchange carriers.

WHEREFORE, Sprint requests that Citizens' Motion to Compel be denied in all respects.

Respectfully submitted,



JOHN P. FONS  
Fla. Bar No. 0280836  
Ausley & McMullen  
P.O. Box 391  
Tallahassee, FL 32302  
(850) 224-9115

and

SUSAN S. MASTERTON  
Fla. Bar No. 0494224  
Sprint-Florida, Inc.  
P.O. Box 2214  
Tallahassee, FL 32316-2214  
(850) 599-1560

ATTORNEYS FOR SPRINT-FLORIDA,  
INCORPORATED

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail, e-mail or hand delivery (\*) this *24th* day of September, 2003, to the following:

Beth Keating, Esq. (\*)  
Felicia Banks, Esq.  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Charles Beck (\*)  
Interim Public Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 W. Madison St., Rm. 812  
Tallahassee, FL 32399-1400

Marshall Criser  
BellSouth Telecommunications  
150 S. Monroe St., Suite 400  
Tallahassee, FL 32301

Alan Ciamporcero  
President - Southeast Region  
Verizon-Florida  
201 N. Franklin St., FLTC0006  
Tampa, FL 33602

Richard Chapkis, Esq.  
Verizon-Florida  
P.O. Box 110, FLTC0007  
Tampa, FL 33601-0110

Tracy Hatch/Chris McDonald  
AT&T Communications  
101 N. Monroe St., Suite 700  
Tallahassee, FL 32301

Brian Sulmonetti  
MCI WorldCom  
Concourse Corporate Center Six  
Six Concourse Parkway, Suite 3200  
Atlanta, GA 30328

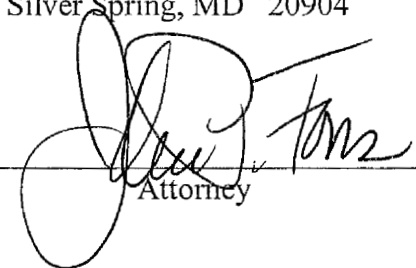
Donna McNulty, Esq.  
MCI WorldCom  
1203 Governors Square Blvd.; Suite 201  
Tallahassee, FL 32301

Michael A. Gross, Esq.  
FCTA  
246 E. 6th Ave., Suite 100  
Tallahassee, FL 32302

Nancy White, Esq.  
c/o Nancy Sims  
BellSouth Telecommunications  
150 S. Monroe St., Suite 400  
Tallahassee, FL 32301

Michael B. Twomey  
P. O. Box 5256  
Tallahassee, FL 32314-5256

Mark Cooper  
504 Highgate Terrace  
Silver Spring, MD 20904

  
\_\_\_\_\_  
Attorney