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December 9, 2003

Mrs. Blanca S. Bayó
Director, Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 030869-TP: Petition by BellSouth Telecommunications, Inc. to Reduce its Network Access Charges Applicable to Intrastate Long Distance in a Revenue-Neutral manner

Docket No. 030867-TP: 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. 030868-TP: 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. 030961-TP: Flow-through of LEC Switched Access Reductions by IXC's, Pursuant to Section 364.163(2), Florida Statutes

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of Joint Response of Verizon Florida, Inc., Sprint-Florida, Inc., and BellSouth Telecommunications, Inc. in Opposition to Citizens' and AARP's Motions for Reconsideration of Commission Order No. PSC-03-1331-FOF-TL and to AARP's Alternative Motion to Have Order Reflect Actual Commission Vote, which we ask that you file in the captioned dockets.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

Nancy B. White
Nancy B. White (BA)

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

CERTIFICATE OF SERVICE
Docket Nos. 030867-TP, 030868, 030869-TL and 030961-TP

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

Electronic Mail and FedEx this 9th day of December, 2003 to the following:

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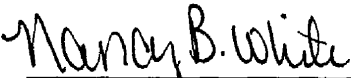
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Nancy B. White (LB)

(+) Protective Agreement
(*) Hand Delivered

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

In re: Flow-through of LEC switched)
access reductions by IXCs, pursuant to)
Section 364.163(2), Florida Statutes.)

Docket No. 030961-TI

FILED: December 9, 2003

**JOINT RESPONSE OF VERIZON FLORIDA, INC.; SPRINT-FLORIDA, INC.; AND
BELLSOUTH TELECOMMUNICATIONS, INC.; IN OPPOSITION TO
CITIZENS' AND AARP'S MOTIONS FOR RECONSIDERATION OF
COMMISSION ORDER NO. PSC-03-1331-FOF-TL AND TO AARP'S ALTERNATIVE
MOTION TO HAVE ORDER REFLECT ACTUAL COMMISSION VOTE**

Verizon Florida, Inc., Sprint-Florida, Inc., and BellSouth Telecommunications, Inc. ("Joint Petitioners"), pursuant to Rules 25-22.0376(2) and 28-106.204(1), Florida Administrative Code, file this Joint Response in Opposition to Citizens' Motion for Reconsideration of Commission Order No. PSC-03-1331-FOF-TL ("Order No. 03-1331") and to AARP's Motion for Reconsideration of Order No. 03-1331, or in the Alternative to Have Order Reflect Actual Commission Vote (collectively referred to as the "Citizens/AARP Motions"), and state:

1. Joint Petitioners filed their petitions and direct testimony to implement section 364.164¹ by rebalancing rates in a revenue-neutral manner through decreases in intrastate switched access charges with offsetting rate adjustments for basic local services. A hearing is scheduled for December 10 - 12, 2003.

2. On December 5, 2003, the Citizens of Florida (“Citizens”), through Public Counsel, filed a Motion for Reconsideration of Order No. 03-1331, in which the Commission denied AARP’s Motion to Dismiss the Joint Petitioners’ petitions for Failure to Join Indispensable Parties. On December 8, 2003, AARP filed a Motion for Reconsideration of Order No. 03-1331, or in the Alternative to Have Order Reflect Actual Commission Vote.

3. The Commission should deny the Citizens/AARP Motions because Citizens/AARP have not satisfied the standard for granting a motion for reconsideration. Citizens/AARP have not identified a point of fact or law that the Commission overlooked or failed to consider in rendering its order. *See In re: Initiation of show cause proceedings against Aloha Utilities, Inc., etc.*, Order No. PSC-03-0259-PCO-SU, Docket No. 020413-SU (issued Feb. 24, 2003), *citing*, *Diamond Cab Co. v. King*, 146 So. 2d 889 (Fla. 1962); and *Pingree v. Quaintance*, 394 So. 2d 161 (Fla. 1st DCA 1981). Further, the Commission should deny AARP’s Alternative Motion to Have Order Reflect Actual Commission Vote because Order No. 03-1331 reflects the Commission’s vote.

4. The Citizens/AARP Motions seem to be better labeled as requests for clarification of Order No. 03-1331 than as requests for reconsideration, and no clarification of Order No. 03-1331 is necessary.

¹ All references to “section” or “sections” are to the 2003 version of the *Florida Statutes*. All references to “rule” or “rules” are to the 2003 version of the *Florida Administrative Code*.

5. In the decision that lead to Order No. 03-1331, the majority of Commissioners concluded that the petitions for rate rebalancing should not be dismissed for failure to join the interexchange carriers (“IXCs”) as indispensable parties. The Commission correctly recognized that to have granted the motion to dismiss would have entailed a conclusion that consideration of the impact on toll rates was required by the statute.² The select portions of Order No. 03-1331 quoted by Citizens/AARP are simply an articulation of that fact. Read in full, to reflect Commissioner Deason’s concern that the Commission not “mak[e] any interpretation as to the amount of discretion or the reading of the terminology benefit of residential consumers,” Order No. 03-1331 provides this clarification:

In reaching this conclusion, we do not find that we are precluded from such consideration, rather we conclude only that we are not required to do so.

See Order No. 03-1331 at 12, fn 3.

6. Joint Petitioners’ acknowledgement that the Commission’s intent that its vote on AARP’s Motion to Dismiss for Failure to Join Indispensable Parties not be construed as “making any interpretation as to the amount of discretion or the reading of the terminology benefit of residential customers,” should not be interpreted to mean that the Joint Petitioners agree that this is an issue to be considered in granting or denying the Joint Petitioners’ Petitions. The

² Commissioner Baez’s comments:

“I guess I’m hung up on the same thing you are in part. Something I said earlier is that this motion to dismiss, at least in my mind, has placed one of those ultimate questions squarely before us as to what we consider to be benefits. And to decide one way – certainly to decide in favor of the motion to dismiss, in my mind, would answer that question which I believe is better left as part of the entire case.

I think that the definition of what a benefit is, is wrapped up in exactly what the burden – you know, whether the petitioners are going to carry their burden or not.”

See Transcript of Item 4A, November 3, 2003, Agenda Conference at 61-62.

Commission's statutory responsibility with respect to the ILECs' petitions is limited. There is no authority for the Commission to look beyond the matters outlined in §364.164(1), and make its decision contingent on consideration of issues that may have applicability, if at all, in the implementation of rate reductions by IXCs who will benefit from the reduction in access charges.

7. As the Prehearing Officer's order noted, the Commission's responsibilities with respect to the Joint Petitioners' petitions for a reduction in switched access charges and a corresponding, revenue-neutral increase in basic local rates is outlined in section 364.164(1). In determining whether to grant or deny a petition, the Commission is required to

“... consider whether granting the petition will:

- (a) Remove current support for basic local telecommunications services that prevents the creation of a more attractive competitive local exchange market for the benefit of residential consumers.
- (b) Induce enhanced market entry.
- (c) Require intrastate switched network access rate reductions to parity over a period of not less than 2 years or more than 4 years.
- (d) Be revenue neutral as defined in subsection (7) within the revenue category defined in subsection (2).

8. In deciding a dispute over the wording of a relevant issue, the Prehearing Officer made it clear that the scope of Commission inquiry was as outlined in the above statute section.³ The Legislature has already determined that removing the revenue support of local rates provided by access charges “prevents the creation of a more attractive competitive local

³ At the Issues Identification Meeting, AARP, advocated the following wording for an issue related to the scope of Commission inquiry: “Will the ILECs' rebalancing proposals result in net overall benefits for residential consumers? If so, what are those benefits?” The Prehearing Officer declined to adopt the suggested wording, framing the issue instead, by reference to the statute: “Will the ILEC's rebalancing proposals benefit residential consumers as contemplated by section 364.164, Florida Statutes? If so, how?”

exchange market for the benefit of consumers.” The Commission’s task is to determine whether the requested rebalancing is likely to create a more attractive local exchange market.

9. Section 364.164 defines the scope of issues to be considered in granting a petition to rebalance rates. Section 364.164 does not authorize the Commission to consider to what levels the IXC’s will reduce their specific in-state toll rates. Rather, the Legislature, in section 364.163(2), provides the how and to what levels. That section requires IXCs to reduce their long distance revenues by the amount their switched access charges have been reduced; reduce intrastate rates in a manner benefiting both residential and business customers; and by July 1, 2006, eliminate any in-state connection fee.

10. Moreover, AARP argues that Order No. 03-1331 reaches two conclusions not “warranted by the Commissioner’s discussion surrounding the vote.” AARP Motion for Reconsideration at 3. The Commission’s vote did entail a conclusion that section 364.164(1) does not direct the Commission to consider how the Joint Petitioners’ proposals will affect the toll market. That was the basis for denying the Motion to Dismiss for Failure to Join Indispensable Parties. However, Order No. 03-1331 also acknowledges that by making that conclusion, the Commission is “not ... precluded from such consideration.” *See* Order No. 03-1331 at 12, fn 3.

11. Also, AARP asserts at page 10, paragraph 14, that Order No. 03-1331 wrongfully forecloses inquiry into legislative intent beyond the plain language of section 364.164. Joint Petitioners respond that Order No. 03-1331 was correct in noting that the language of the statute is clear. Resort to aids in statutory construction apart from the plain language of section 364.164 is unwarranted. Where legislation is clear, the inquiry into legislative intent starts and stops with

the plain meaning of the words chosen by the legislature. *See Florida Convalescent Centers v. Somberg*, 840 So. 2d 998 (Fla. 2003).⁴

12. Citizens/AARP lack standing to seek reconsideration pursuant to Rule 25-22.0376 because they have not demonstrated they were adversely affected by Order No. 03-1331. As discussed above, Order No. 03-1331 in no way precludes Citizens from introducing evidence related to the Commission's discretion in addressing whether the Petitioners have satisfied the four issues established by section 364.164(1), Florida Statutes.

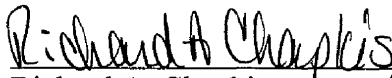
13. Finally, the Commission should deny AARP's request to delete from Order No. 03-1331 the language quoted on page 11 of its Motion for Reconsideration. The first three paragraphs quoted by AARP, along with footnote three on page 12 of Order No. 03-1331 (not referenced in the Citizens/AARP Motions), are an accurate articulation of the Commission's vote. The remainder of the language quoted on page 11 of AARP's Motion for Reconsideration, simply reiterates the law regarding statutory interpretation and the fact that section 364.163 is the section of Florida Statutes addressing the requirements placed on IXCs.

For the reasons expressed, Joint Petitioners respectfully request that the Citizens/AARP Motions be DENIED.


⁴ As more fully explained in Joint Petitioners' Response in Opposition to AARP's Request for Official Notice, filed simultaneously with this Joint Response, there is no need for resort to extrinsic aids to prove what section 364.164 means.

Respectfully submitted this 9th day of December, 2003.

VERIZON FLORIDA, INC.

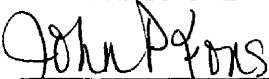

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