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December 18, 2003

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

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DEC 18 PM 4:54

Re: Docket No. 981834-TP & 990321

Dear Ms. Bayó:

Enclosed for filing on behalf of Sprint-Florida, Incorporated are the original and 15 copies of Sprint's Response to Dieca Communications, Inc. d/b/a Covad Communications Company's Motion for Reconsideration of a Portion of Order No. PSC-03-1358-FOF-TP and Motion for Reconsideration or Clarification of Florida Digital Networks, Inc. d/b/a FDN Communications.

Copies are being served on the parties in this docket pursuant to the attached certificate of service.

Please acknowledge receipt of this filing by stamping and initialing a copy of this letter and returning same to my assistant. If you have any questions, please do not hesitate to call me at 850/847-0244.

Sincerely,

Susan S. Masterton

- AUS _____
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Enclosure

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**CERTIFICATE OF SERVICE
DOCKET NO. 981834-TP & 990321-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic and U.S. mail this 18th day of December, 2003 to the following:

Adam Teitzman, Esq.
Jason Rojas, Esq.
Florida Public Service Commission
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Tallahassee, Florida 32399-0870

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c/o Nancy H. Sims
BellSouth Telecommunications, Inc.
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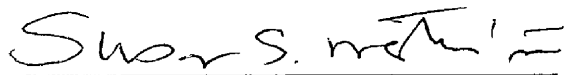
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Susan S. Masterton

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Competitive Carriers for Commission action to support local competition in BellSouth Telecommunications, Inc.'s service territory.

Docket No. 981834-TP

In Re: Petition of ACI Corp. d/b/a Accelerated Connections, Inc. for generic investigation to ensure that BellSouth Telecommunications, Inc., Sprint-Florida, Incorporated, and GTE Florida Incorporated comply with the obligation to provide alternative local exchange carriers with flexible, timely, and cost-efficient physical collocation.

Docket No. 990321-TP

Filed: December 18, 2003

SPRINT'S RESPONSE TO DIECA COMMUNICATIONS, INC. D/B/A COVAD COMMUNICATIONS COMPANY'S MOTION FOR RECONSIDERATION OF A PORTION OF ORDER NO. PSC-03-1358-FOF-TP AND MOTION FOR RECONSIDERATION OR CLARIFICATION OF FLORIDA DIGITAL NETWORKS, INC. d/b/a FDN COMMUNICATIONS

Sprint offers the following in response to DIECA Communications, Inc. d/b/a Covad Communications Company's (Covad) Motion for Reconsideration of a Portion of Order No. PSC-03-1358-FOF-TP (Covad Motion) and Motion for Reconsideration or Clarification of Florida Digital Network, Inc. d/b/a FDN Communications (FDN) (FDN Motion). Specifically, Sprint responds to Covad's request that the Commission reconsider its decision relating to the ILECs' billing of DC power charges to require ILECs to provide CLECs the option to pay for infrastructure power plant costs through a nonrecurring charge (Issue 6B) and FDN's request that the Commission expand its

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decision to allow collocation transfers when an office is at or near space exhaustion (Issue 3).

The standard for granting a Motion for Reconsideration requires the movant to identify a point of fact or law that was overlooked or which the Commission failed to consider in reaching its decision. *Steward Bonded Warehouse Inc. v. Bevis*, 294 So. 2d 315 (Fla. 1974); *Diamond King Cab Co. v. King*, 146 So. 2d 889 (Fla. 1962) Covad raises no overlooked or misapprehended facts or application of law that would warrant reconsideration of the Commission's ruling.

COVAD'S REQUEST FOR RECONSIDERATION OF ISSUE 6B

Covad requests that the Commission reconsider its order authorizing a monthly recurring charge for the recovery of power infrastructure costs to require ILECs to provide CLECs the "option" of paying for the power infrastructure through a nonrecurring charge. (Covad Motion at page 2) Covad does not raise a point of law or fact overlooked by the Commission and, therefore, its Motion should be denied.

The Commission specifically considered, and rejected, Covad's proposal. (Order at 39-40). As the staff recognized, the issue of a nonrecurring power charge was not raised in the testimony filed by any of the parties. (Order at 37) Therefore, there is no specific evidence in the record that supports Covad's proposal or addresses whether it would adequately cover an ILEC's costs to provision the power infrastructure necessary to meet a CLEC's power needs.¹

¹ Covad makes unsupported assertions that imposing nonrecurring charges to recover power plant investment results in overrecovery of infrastructure costs. (Covad Motion at page 5) Even if there was a nonrecurring charge for cost recovery of a CLEC's portion of a DC power plant, there will still need to be an MRC to recover recurring costs, such as maintenance and property taxes, in addition to the AC power used to generate DC power. (Tr. 361-362)

While at the hearing Covad asked cross-examination questions and Commissioners posed questions about a nonrecurring charge alternative, the witnesses' responses did not suggest or support that such a mechanism for recovering power infrastructure charges was appropriate. (Tr. 180, 371, 647) In its Motion for Reconsideration, Covad cites to its brief and to statements made by its counsel during cross-examination to support the viability of a nonrecurring power infrastructure charge. (Covad Motion at pages 2 and 5) Cross-examination questions by counsel and arguments made in briefs that are not supported by competent and substantial record evidence do not themselves constitute "evidence" upon which the Commission may base its decision. (s. 120.569(2)(g), Florida Statutes). Therefore, the Commission did not overlook any evidence in making its decision, as the standard for reconsideration requires. In fact, no competent, substantial record evidence exists to support the alternative suggested by Covad. Therefore, the Commission should deny Covad's Motion for Reconsideration of this issue.

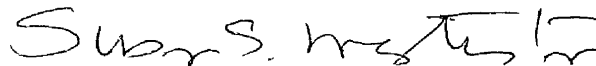
FDN'S MOTION FOR RECONSIDERATION OF SPACE TRANSFERS

In its order, the Commission set forth certain conditions for when CLECs should be allowed to transfer collocation space, including that the central office is not at or near space exhaust. (Order at 19) In its Motion, FDN appears to be asking the Commission to reconsider that decision to allow transfers of collocation space when space in a central office is at or near exhaust, when the transfer is part of the sale or transfer of an ALEC's assets. FDN requests that the Commission rule that the sale or transfer need not be part of the all of the CLEC's assets, but only sale or transfer of assets or customers in a particular market. The Commission specifically limited its decision to situations in which a central

office is not at exhaust, based on testimony in the record that transfers of space in a space exhaust situation would violate the FCC's first come, first serve rules. (Order at 16, 17; Tr. 302, 318, 502) FDN demonstrates no point of fact or law that the Commission overlooked or failed to considered and therefore its Motion should be denied.

WHEREFORE, in light of the above, Sprint requests that the Commission deny Covad and FDN's Motions for Reconsideration as set forth above.

RESPECTFULLY SUBMITTED this 18th day of December 2003.



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