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Sent: Friday, June 17, 2005 4:29 PM
To: Filings@psc.state.fl.us
Subject: 041144-TP Sprint's Response to KMC's Motion to Compel Responses to 3rd Int and 4th POD's
Attachments: Sprint's Response to KMC's 2nd Motion.pdf; image001.jpg

Filed on behalf of:

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SCR _____
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05790 JUN 17 '05

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June 17, 2005

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

Re: Docket No. 041144-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of Sprint-Florida, Incorporated is Sprint's Response to KMC's Motion to Compel.

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

If you have any questions, please do not hesitate to call me at 850/599-1560.

Sincerely,

A handwritten signature in black ink that reads "Susan S. Masterton".

Susan S. Masterton

Enclosure

DOCUMENT NUMBER-DATE

05790 JUN 17 '05

FPSC-COMMISSION CLERK

**CERTIFICATE OF SERVICE
DOCKET NO. 041144-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic and U.S. mail this 17th day of June, 2005 to the following:

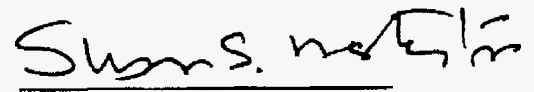
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Susan S. Masterton

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Complaint of Sprint-Florida, Incorporated)	Docket No. 041144-TP
Against KMC Telecom III LLC,)	
KMC Telecom V, Inc. and KMC Data LLC,)	
for failure to pay intrastate)	
Access charges pursuant to its interconnection)	
Agreement and Sprint's tariffs and for violation of)	Filed: June 17, 2005
Section 364.16(3)(a), Florida Statutes.)	

SPRINT FLORIDA, INCORPORATED'S RESPONSE
TO KMC'S MOTION TO COMPEL RESPONSES TO
THIRD SET OF INTERROGATORIES AND
THE FOURTH PRODUCTION OF DOCUMENTS REQUEST

Sprint-Florida, Incorporated (hereinafter "Sprint") hereby files its Response to the Motion to Compel Response to Third Set of Interrogatories and The Fourth Production of Documents Request (hereinafter "Second Motion to Compel") filed by KMC Telecom III LLC, KMC Telecom V, Inc. and KMC Data, LLC (hereinafter, collectively, "KMC") and served on Sprint by U.S. mail on June 6, 2005.

Introduction

Sprint has consistently endeavored to timely and fully responded to each of KMC's interrogatories and production of document requests, to the extent the requests sought relevant information not subject to proper objections under the applicable discovery rules.¹ To the extent a proper objection applies, Sprint timely noted the objection consistent with the applicable rules. Sprint believes that it has provided complete and meaningful responses and has fully complied with the discovery rules in responding to KMC's discovery. However, KMC did not contact Sprint to discuss its

¹ See Section 120.569, F.S., and Rule 28-106.206, F.A.C. The applicable Rules of Civil Procedure are Rules 1.280 and 1.400 (hereinafter "discovery rules").

perceived deficiencies with the answers Sprint provided to the Third Set of Interrogatories and the Fourth PODs prior to filing its Second Motion to Compel. Had KMC done so, at least some of the issues KMC raises in its Motion could have been addressed without the necessity of filing this Motion.²

In the subsequent responses to the specific allegations in KMC's Second Motion to Compel, Sprint will describe the responsive information that Sprint has provided regarding each specific Interrogatory and POD.³ To the extent Sprint has determined that additional information may be provided to clarify its answers in response to the deficiencies KMC perceives to exist, Sprint will so indicate in its specific responses.

Responses Related to Individual Discovery Requests

Interrogatory No. 49

In Interrogatory No. 49 KMC asks Sprint for an explanation of certain testimony offered by Sprint's witness, James R. Burt. KMC also asks Sprint to identify the characteristics of enhanced services traffic and to identify any documents that support Sprint's explanation. KMC's assertion that Sprint's answer is completely unresponsive is false. In its answer, Sprint first clarifies what appears to be a misunderstanding by KMC of the import of Mr. Burt's testimony. Sprint then explains that the "characteristics of enhanced services traffic" are defined in the FCC Rule §64.702(a). The rule defines enhanced services as "services, offered over common carrier transmission facilities used in interstate communications, which employ computer processing applications that act on

² KMC did contact Sprint and discuss its concerns relating to the discovery responses that were the subject of KMC's first Motion to Compel. As a result, Sprint was able to provide supplemental responses that addressed many of the issues raised by KMC prior to KMC filing the first Motion to Compel.

³ Because Commission staff has been served with all interrogatory and POD responses, Sprint has not attempted to recreate and attach the voluminous information provided to this Response. Rather, Sprint will refer to the information already provided to **staff** and KMC.

the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information.” Sprint’s reference to the rule is fully and meaningfully responsive to KMC’s request both to identify the characteristics of enhanced services traffic and to identify documents supporting Sprint’s answer. Therefore, KMC’s Motion to Compel as relates to Interrogatory No. 49 should be denied.

Interrogatory No. 54 and POD No. 45

In Interrogatory No. 54, KMC asks Sprint to “identify all policies or documents pertaining to how Sprint is to identify...whether a customer is an enhanced services provider.” This request is in many respects duplicative of and overlaps with KMC’s Interrogatory No. 53, which asks Sprint if it has any enhanced services provider customers, what actions Sprint took to verify each customer’s status as an enhanced services provider and to identify any related documents. In Interrogatory No. 53, Sprint first responds that it does provide services specifically directed to ESPs though it would be unduly burdensome for Sprint to identify all of its ESP customers. In further response Sprint identifies and describes various documents, primarily tariffs, which govern the terms and conditions under which Sprint provides these services directed to ESPs. Sprint also notes that its ESP customers may also order non-ESP specific local services pursuant to the terms and conditions set forth in Sprint’s tariffs.

Because Sprint’s answer to Interrogatory No. 53 describes all of the documents that contain the terms and conditions for providing services to ESPs, the response to Interrogatory No. 53 is also responsive to Interrogatory No. 54 and was properly referenced by Sprint. However, KMC’s Interrogatory No. 59 (discussed later in this

Response, also asks for similar information related to Sprint's procedures for identifying enhanced services provider customers. In researching its response to KMC's Second Motion to Compel as it relates to Interrogatory No. 59, Sprint determined that the Supplemental Response Sprint is providing to Interrogatory No. 59 might also provide some additional clarification of its answer to Interrogatory No. 53 (and therefore its answer to Interrogatory No. 54 by reference) Sprint is providing a Supplemental Response to Interrogatory Nos. 53 and 54 referencing its Supplemental Response to Interrogatory No. 59.

As far as the related POD No. 45, similar to its answer to Interrogatory No. 54, Sprint referred to its response to POD No. 44 (the companion to Interrogatory No. 53). Contrary to KMC's assertion in paragraph 11 of its Motion to Compel, Sprint did provide responsive documents to POD No. 44 on May 17th. The documents provided include:

- Section A9 of Sprint's General Exchange Tariff related to foreign exchange service
- Section A29 of Sprint's General Exchange Tariff related to Integrated Services Digital Network-Primary Rate Interface (ISDN-PRI) II
- Section A30 of Sprint's General Exchange Tariff related to ESP Link
- Sections of Sprint's FCC Tariff No. 3 related to Netpoint (ISDN PRI Functionality)

Therefore, Sprint has fully and completely responded to this Interrogatory and KMC's Motion to Compel with respect to Interrogatory No. 54 and POD No. 45 should be denied.

Interrogatory No. 55 and POD No. 46

Interrogatory No. 55 asks Sprint to identify local services Sprint provides to enhanced services providers. POD 46 asks for documents related to Sprint's answer to Interrogatory No. 55. As with Interrogatory No. 54 and POD No. 45, Sprint referred to

its response to Interrogatory No. 53 and the related POD No. 44. In its answer to Interrogatory No. 53, Sprint described the local services it provides that are specifically designed for enhanced services providers as well as noting that enhanced services providers may purchase other local services not specifically targeted to enhanced services provider. In Response to POD No. 44, Sprint provided copies of the tariff pages for the ESP-specific local services referred to in Interrogatory No. 53 (even though the tariffs are publicly available from the Commission and Sprint was not strictly required to produce them). The rates, terms and conditions upon which Sprint offers local services are set forth in Sprint's publicly available tariffs on file with the Commission. Given the numerous types of local services Sprint offers and the number of customers Sprint has in its Florida service territory, it would be unduly burdensome and excessive for Sprint to detail all of the non-ESP local services that ESP customers may order. Sprint believes that its response to Interrogatory No. 53 in which it states first, that Sprint cannot as a matter of course, separately identify its enhanced services customers, but then describes the ESP specific services it provides and notes that other non-ESP specific local services are also available to be purchased by ESPs, is a sufficient response to Interrogatory No. 55. Likewise, the documents provided in responses to POD No. 44 are responsive to POD No. 46, as well. Therefore, KMC's Motion to Compel as to Interrogatory No. 55 and POD No. 46 should be denied.

Interrogatory No. 56

In Interrogatory No. 56, KMC asks Sprint to explain how it is able to differentiate between a call that employs only circuit switching and a call that uses Internet protocol. Sprint's response was that it does not differentiate between protocols in the manner KMC

suggests. Sprint could not further respond to the question to explain how Sprint does something that it does not do. Sprint's answer, while perhaps not the answer KMC was looking for, is the true and correct answer and is fully and meaningfully responsive to KMC's Interrogatory No. 56. Therefore, KMC's Motion to Compel as to Interrogatory No. 56 should be denied.

Interrogatory No. 59

In Interrogatory No. 59, KMC asks Sprint a series of questions regarding confidential correspondence between KMC and Customer X that KMC provided in response to Sprint's discovery. Then, KMC asks Sprint an additional question about Sprint's own practices regarding Sprint's enhanced service provider customers. In reviewing its answer to KMC's Interrogatory No. 59, Sprint realized that it overlooked answering the final question. Therefore, Sprint is filing on this same day a Supplemental Response to Interrogatory No. 59 to answer the omitted question. Sprint has fully and completely responded to this Interrogatory and KMC's Motion to Compel with respect to Interrogatory No. 59 should be denied.

Interrogatory No. 70

In Interrogatory No. 70 KMC asks Sprint to evaluate the CDRs it provided to KMC and identify which of each individual CDR were for calls that originated with a Sprint ILEC. Sprint objected to this Interrogatory on the grounds that it is no more burdensome for KMC to review the information to identify the subject calls than it would be for Sprint. Contrary to KMC's statement in paragraph 28 of its Motion to Compel, KMC does have access to all of the data necessary to make this identification and has the same ability as Sprint has to manipulate the data and sort the information contained in the

call detail records. Although Sprint believes that it is not required under the discovery rules to guide KMC in this process, Sprint is filing on this same day a Supplemental Response to Interrogatory No. 70 that describes the steps that Sprint would be required to take to identify the ILEC (including Sprint ILEC) that originated a call reflected in the CDRs. Therefore, Sprint's objection is proper and KMC's Motion to Compel as it relates to Interrogatory No. 70 should be denied.

Interrogatory No. 70A

Interrogatory No. 70A asks for the same information that is asked for in Interrogatory No. 70 (that is, all the calls on the CDRs Sprint provided to KMC that originated with a Sprint ILEC) but further asks Sprint to identify those calls that were carried at any point by the Sprint IXC affiliate. As Sprint has responded in response to several discovery requests from KMC or FPSC staff, Sprint has not identified any calls that were carried by Sprint's IXC. However, as explained in Sprint's Response to Staff Interrogatory No. 9 the information in the CDRs alone is not sufficient to identify the IXC that carried a call. In addition to the information on the CDRs, correlated call records (CCRs) that show what happened on the originating side of the call are also necessary. Both in the Agilent Study and in Sprint's analysis of the KMC traffic, some of the CCRs for calls that were originated with a Sprint ILEC were identified and examined. These correlated call records have already been provided to KMC in Response to POD Nos. 6, 15 and 18. In this respect, Sprint's objection to this Interrogatory was in error, and Sprint is filing a Supplemental Response to this Interrogatory on this same day to provide the necessary corrections.

Interrogatory No. 73

In Interrogatory No. 73, KMC asks Sprint, first if it has any enhanced services customers in Florida. This question duplicates the question asked in Interrogatory No. 53 (that is, “Does Sprint have any enhanced services customers.”) In its Response to Interrogatory No. 53, Sprint replied that it does, but that it cannot separately identify these customers. Next KMC asks Sprint to identify the trunks it uses to route calls from Sprint enhanced services provider customers in Florida to KMC customers that may have Tallahassee and Ft. Myers telephone numbers. Since Sprint cannot identify the specific enhanced services provider customers, there is no way for Sprint to identify the specific trunks over which those customers’ calls may be routed. To clarify Sprint’s reasons for not responding to the portion of KMC’s question that relates to the identification of specific trunks, Sprint is filing a Supplemental Response to Interrogatory No. 73 on this same day. Therefore, Sprint has fully and completely responded to this Interrogatory and KMC’s Motion to Compel with respect to Interrogatory No. 73 should be denied.

Interrogatory No. 74

In Interrogatory No. 74, KMC asks Sprint what signaling information Sprint delivers to KMC in connection with calls originating on Sprint provided PRI service. KMC asserts that Sprint’s answer to this question was not sufficient. While Sprint believes that it fully responded to this question by detailing the information it provides when it provisions PRIs, Sprint recognizes that some of the qualifying phrases intended to capture what Sprint understood as the context of the question (that is, for Sprint calls originated on PRIs and terminated to KMC over local interconnection trunks) may have

been confusing. Therefore, Sprint is providing a Supplemental Response to Interrogatory No. 74 on this same day to clear up any confusion engendered by its answer.

KMC is incorrect in asserting that Sprint did not provide any response to the second part of the Interrogatory which asked for a comparison of the signaling information provided by Sprint to the information provided by KMC. Sprint answered this question by stating that the difference between Sprint signaling and KMC signaling is that Sprint does not provide local numbering for a PRI customer that is not physically located in the local calling area in which the call terminates, as KMC did for Customer X. Sprint provides additional clarification in its Supplemental Response to Interrogatory No. 74. Therefore, Sprint fully and meaningfully responded to this question and KMC's Motion to Compel as it relates to this question should be denied.

Interrogatory No. 78

In Interrogatory No. 78 KMC asks for Sprint to describe how the SS7 CDR Summary Reports were generated. Sprint has provided a detailed description of the process in response to Interrogatory No. 78. While Sprint believes it has fully and completely responded to this and similar Interrogatories, in an effort to assist KMC in understanding Sprint's responses, Sprint is providing a Supplemental Response to Interrogatory No. 78 which includes in Excel format a step-by-step explanation of the process Sprint used to determine when access traffic was being improperly routed over local interconnection trunks. Sprint has fully and completely responded to this Interrogatory and KMC's Motion to Compel with respect to Interrogatory No. 78 should be denied.

Interrogatory No. 79

In Interrogatory No. 79, KMC again asks for a description of the process Sprint used to develop the PLU and PIU factors it applied to determine the intrastate access charges KMC owes Sprint for the access traffic it improperly terminated to Sprint over local interconnection trunks. The Order on KMC's first Motion to Compel, recognized that Sprint has fully responded to KMC's Interrogatories related to the process used by Sprint to calculate the amount of avoided access charges. See, Order No. PSC-05-0650-PCO-TP at page 11.

In addition to its Response and Supplemental Responses to Interrogatory No. 15, Sprint once again provided a description of the process in response to Interrogatory No. 79. While Sprint believes it has fully and completely responded to this and similar Interrogatories, in an effort to assist KMC in understanding Sprint's responses, Sprint is providing a Supplemental Response to Interrogatory No. 79 which includes in Excel format a step-by-step explanation of the process and a sample page of a monthly report to correlate to the process. Therefore, Sprint has fully and completely responded to this Interrogatory and KMC's Motion to Compel with respect to Interrogatory No. 79 should be denied.

Conclusion

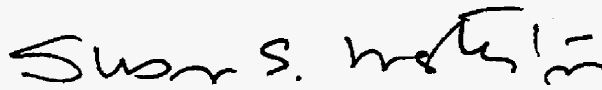
Sprint has provided detailed responses to each of KMC's Interrogatories and provided the relevant documents that are responsive to KMC's POD requests. Sprint has responded fully and completely and to the best of its ability to each of KMC's Interrogatories and PODs and has fully complied with the applicable discovery rules.

To the extent that KMC's Motion to Compel indicates a lack of understanding of

the answers Sprint has provided, Sprint has either made clarifications in this response to assist KMC in understanding the information provided or Sprint is filing supplemental responses in an attempt to alleviate this lack of understanding as noted herein. KMC has no legitimate basis for its Motion to Compel given Sprint's more than sufficient responses to KMC's requests.

WHEREFORE, Sprint asks the Commission to deny KMC's Motion to Compel.

RESPECTFULLY SUBMITTED this 17th day of June 2005.



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