

ORIGINAL

Timolyn Henry

From: Whitt, Chrystal [REG] [Chrystal.Whitt@sprint.com]
Sent: Tuesday, September 20, 2005 4:04 PM
To: Filings@psc.state.fl.us
Cc: Masterton, Susan S [LTD]; Atkinson, Bill R [REG]
Subject: 050581 1.Sprint LP's Answer and Affirmative Defenses to KMC's Complaint and 2. Sprint LP's Notice of Appearance
Attachments: Sprint LP Word Filing- Answer to KMC and Notice of Appearance.doc

Filed on behalf of:

William R. Atkinson

Attorney

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Docket No. 050581

Title of filing: 1. Sprint LP's Answer and Affirmative Defenses to KMC's Complaint and 2. Sprint LP's Notice of Appearance

Filed on behalf of: Sprint LP

No. of pages: 10

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William R. Atkinson
Attorney

September 20, 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. 050581-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of Sprint Communications Limited Partnership are:

1. Sprint LP's Answer and Affirmative Defenses to KMC's Complaint
2. Sprint LP's Notice of Appearance.

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

If you have any questions regarding this electronic filing, please do not hesitate to call me at 404-649-4882

Sincerely,

S/ William R. Atkinson

William R. Atkinson

Enclosure

DOCUMENT NUMBER-DATE

08904 SEP 20 05

FPSC-COMMISSION CLERK

**CERTIFICATE OF SERVICE
DOCKET NO. 050581-TP**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic and U.S. Mail this 20th day of September, 2005 to the following:

Florida Public Service Commission
Kira Scott/ Lee Fordham
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Nancy Pruitt/Ann Marsh
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

KMC Telecom III LLC/ KMC Telecom V, LLC
Mike Duke/Marva B. Johnson
1755 North Brown Road
Lawrenceville, GA 30043-8119

Messer Law Firm
Floyd R. Self
P. O. Box 1876
Tallahassee, FL 32302-1876

S/ William R. Atkinson

William R. Atkinson

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Complaint of KMC Telecom III LLC and) Docket No. 050581-TP
KMC Telecom V, Inc. against Sprint-Florida,)
Incorporated and Sprint Communications)
Company Limited Partnership for alleged)
failure to pay intrastate access charges pursuant to)
interconnection agreement and Sprint's tariffs, and) Filed: September 20, 2005
for alleged violation of Section 364.16(3)(a), F.S.)
_____)

SPRINT COMMUNICATIONS COMPANY
LIMITED PARTNERSHIP'S ANSWER
AND AFFIRMATIVE DEFENSES

Pursuant to Rule 28-106.203, Florida Administrative Code, Sprint Communications Company Limited Partnership ("Sprint LP") hereby files this Answer to KMC's Complaint.

INTRODUCTION

KMC's Complaint alleges that Sprint LP collaborated with Sprint-Florida, Incorporated ("Sprint-FL") or other local exchange companies to misroute Sprint LP's interexchange traffic to KMC over local interconnection trunks so that Sprint LP could avoid the payment of access charges. Sprint LP denies KMC's allegations and believes that the evidence will support that Sprint LP has not engaged in the access charge avoidance alleged by KMC.

ANSWER

1. Sprint LP is without knowledge to admit or deny the allegations of paragraph 1.
2. Sprint LP is without knowledge to admit or deny the allegations of paragraph 2.
3. The allegations of paragraph 3 do not require a response from Sprint LP.
4. To the best of Sprint LP's knowledge and belief, Sprint-Florida, Incorporated is a certificated incumbent local exchange company in Florida providing wholesale and retail services.

5. Sprint LP admits that it is registered with the Commission to provide interexchange services in Florida.

6. Sprint LP admits that the Commission's website reflects the contact information that appears in paragraph 6. Sprint LP's representative for the purposes of this Complaint is:

William R. Atkinson, Esq.
Sprint Nextel
3065 Cumberland Circle
Atlanta, GA 30339
(404) 649-4882 (o)
(404) 649-1652 (f)
bill.atkinson@sprint.com

All pleadings, orders, notices and other correspondence with respect to this docket should be sent to Sprint LP's counsel as set forth above. Sprint-FL will be filing a separate answer to the Complaint and will provide the appropriate information concerning representation in its answer.

7. The referenced federal and state statutes, tariffs and interconnection agreements speak for themselves. This paragraph appears to involve conclusions of law, not allegations of fact and, therefore, Sprint LP is not required to admit or deny the allegations. To the extent this paragraph is intended to contain any factual allegations these allegations are denied.

8. Paragraph 8 involves conclusions of law not allegations of fact and, therefore, Sprint LP is not required to admit or deny these allegations. To the extent this paragraph is intended to contain any factual allegations these allegations are denied.

9. Sprint LP has no knowledge to admit or deny the allegations in paragraph 9.

10. Sprint LP has no knowledge to admit or deny the allegations in paragraph 10.

11. To the extent the allegations of paragraph 11 involve conclusions of law, Sprint LP is not required to admit or deny such allegations. To the extent that the allegations of paragraph 11 involve any factual allegations related to Sprint LP, rather than legal conclusions, these

allegations are denied. To the extent paragraph 11 involves factual allegations related to Sprint-FL, Sprint LP has no knowledge as to the truth or falsity of these allegations.

12. Sprint LP has no knowledge concerning the actions taken by KMC as alleged in paragraph

12. Sprint LP denies KMC's allegations regarding the termination of traffic over Sprint-FL's local interconnection trunks with KMC.

13. Sprint LP has no knowledge concerning KMC's motivations or actions as alleged in paragraph 13.

14. To the extent that paragraph 14 contains factual allegations concerning Sprint LP, these allegations are denied. To the extent that paragraph 14 contains factual allegations concerning Sprint-FL, Sprint LP is without knowledge to admit or deny these allegations.

15. Sprint LP is without knowledge to admit or deny the allegations relating to KMC's motivations or actions in paragraph 15. To the extent that paragraph 15 contains factual allegations concerning Sprint LP, Sprint LP denies these allegations. To the extent that paragraph 15 contains factual allegations concerning Sprint-FL, Sprint LP is without knowledge to admit or deny these allegations.

16. Sprint LP is without knowledge to admit or deny the allegations relating to KMC's motivations or actions in paragraph 16. To the extent paragraph 16 contains factual allegations concerning Sprint LP, Sprint LP denies these allegations. To the extent that paragraph 16 contains factual allegations concerning Sprint-FL, Sprint LP is without knowledge to admit or deny these allegations.

17. Sprint LP is without knowledge to admit or deny the allegations relating to KMC's motivations or actions in paragraph 17. To the extent that paragraph 17 contains factual allegations concerning Sprint-FL, Sprint LP is without knowledge to admit or deny these

allegations. To the extent paragraph 16 contains factual allegations concerning Sprint LP, Sprint LP denies these allegations. Sprint LP's records show that, contrary to KMC's statements, KMC has continued to bill Sprint IXC substantial access charges during the period of time that is relevant to this dispute. While the access charges assessed fluctuate by month, and also by billing account, Sprint LP denies KMC's claims that these fluctuations are the result of Sprint LP rerouting the traffic over Sprint-FL's or other local carriers' local interconnection trunks.

18. To the extent paragraph 16 contains factual allegations concerning Sprint LP, Sprint LP denies these allegations. To the extent that paragraph 18 contains factual allegations concerning Sprint-FL, Sprint LP is without knowledge to admit or deny these allegations.

19. Sprint LP is without knowledge to admit or deny the allegations of paragraph 19.

20. Sprint LP is without knowledge to admit or deny the allegations of paragraph 19.

21. Sprint LP incorporates by reference paragraphs 1-20 of its Answer.

22. Sprint LP is without knowledge to admit or deny the allegations of paragraph 22.

23. Sprint LP is without knowledge to admit or deny the allegations of paragraph 23.

24. Sprint LP incorporates by references paragraphs 1-23 of this Answer.

25. The referenced provision of the Florida Statutes speaks for itself.

26. The referenced provision of the Florida Statutes speaks for itself.

27. To the extent paragraph 16 contains factual allegations concerning Sprint LP, Sprint LP denies these allegations. To the extent that paragraph 27 contains factual allegations concerning Sprint-FL, Sprint LP is without knowledge to admit or deny these allegations.

28. To the extent paragraph 16 contains factual allegations concerning Sprint LP, Sprint LP denies these allegations. To the extent that paragraph 28 contains factual allegations concerning Sprint-FL, Sprint LP is without knowledge to admit or deny these allegations.

29. To the extent paragraph 16 contains factual allegations concerning Sprint LP, Sprint LP denies these allegations. To the extent that paragraph 29 contains factual allegations concerning Sprint-FL, Sprint LP is without knowledge to admit or deny these allegations.
30. Sprint LP incorporates by reference paragraphs 1-29 of this Answer.
31. Sprint LP is without knowledge to admit or deny the allegations in paragraph 31. However, to the extent the referenced tariffs exist, the provisions of the tariffs speak for themselves.
32. Sprint LP denies the allegations of paragraph 32.
33. Sprint LP incorporates by reference paragraphs 1-32 of this Answer.
34. Sprint LP is without knowledge to admit or deny the allegations of paragraph 34.
35. Sprint LP is without knowledge to admit or deny the allegations of paragraph 35.
36. Sprint LP is without knowledge to admit or deny the allegations of paragraph 36.
37. Sprint LP incorporates by reference paragraph 1-36 of this Answer.
38. Sprint LP is without knowledge to admit or deny the allegations of paragraph 38.
39. Sprint LP is without knowledge to admit or deny the allegations of paragraph 39.
40. Sprint LP is without knowledge to admit or deny the allegations of paragraph 40.
41. Sprint LP denies that KMC is entitled to the determinations and relief requested in the unnumbered paragraph labeled "Prayer for Relief".
42. Any allegations that are not expressly admitted above are denied.

AFFIRMATIVE DEFENSES

First Defense

KMC fails to state a claim for which relief can be granted.

Second Defense

KMC's complaint is barred by waiver, laches, and estoppel.

CONCLUSION

Wherefore, the Commission should find in favor of Sprint LP and against KMC by finding that Sprint LP did not violate KMC's tariffs by failing to paying access charges due to KMC, as KMC has alleged.

Respectfully submitted this 20th day of September 2005.

S/ William R. Atkinson

William R. Atkinson, Esq.

Sprint Nextel

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ATTORNEY FOR SPRINT COMMUNICATIONS
COMPANY LIMITED PARTNERSHIP