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Timolyn Henry

From: Whitt, Chrystal [REG] [Chrystal.Whitt@sprint.com]
Sent: Tuesday, September 20, 2005 4:48 PM
To: Filings@psc.state.fl.us
Cc: Masterton, Susan S [LTD]
Subject: 050581 Sprint-FL's Answer and Affirmative Defenses to KMC's Complaint
Attachments: Sprint-FL Answer.pdf; image001.jpg

Filed on behalf of:

Susan S. Masterton

Attorney

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Docket No. 050581

Title of filing: Sprint-FL's Answer and Affirmative Defenses to KMC's Complaint

Filed on behalf of: Sprint

No. of pages: 18

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FPSC-COMMISSION CLEF



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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-Florida, Incorporated is Sprint-FL's Answer and Affirmative Defenses to KMC's Complaint.

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 850-599-1560.

Sincerely,

Susan S. Masterton

Enclosure

DOCUMENT NUMBER-DATE

08912 SEP 20 05

FPSC-COMMISSION CLERK

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

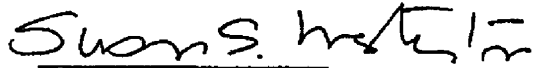
I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic and U.S. Mail this 20th day of September, 2005 to the following:

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


Susan S. Masterton
Susan S. Masterton

ORIGINAL

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)	
for alleged violation of Section 364.16(3)(a), F.S.)	Filed: September 20, 2005
_____)		

SPRINT-FLORIDA, INCORPORATED'S ANSWER AND AFFIRMATIVE DEFENSES

Pursuant to Rule 28-106.203, Florida Administrative Code, Sprint-Florida, Incorporated ("Sprint-FL") hereby files this Answer and Affirmative Defenses to KMC's Complaint.

INTRODUCTION

KMC's Complaint alleges that Sprint-FL misrouted interexchange traffic over Sprint-FL's local interconnection trunks with KMC to avoid the payment of access charges. Sprint-FL denies these allegations and believes that the evidence will support that Sprint-FL has not violated Florida law or the parties' interconnection agreements in terminating traffic to KMC.

In addition, KMC alleges that Sprint-FL has violated a confidential settlement agreement with KMC and Sprint-FL's interconnection agreements with KMC by failing to pay the required reciprocal compensation amounts. Sprint-FL denies these allegations and asserts that the plain language of the applicable interconnection agreements support that Sprint-FL has paid appropriate reciprocal compensation in accordance with their terms.

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FPSC-COMMISSION CLERK

ANSWER

1. Sprint-FL is without knowledge to admit or deny the allegations of paragraph 1.
2. Sprint-FL 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-FL.
4. Sprint-FL admits that it is a certificated incumbent local exchange company in Florida providing wholesale and retail services.
5. To the best of Sprint-FL's knowledge and belief, Sprint Communications Company Limited Partnership ("Sprint LP") is registered with the Commission to provide interexchange services in Florida.
6. Sprint-FL admits that the Commission's website reflects the contact information that appears in paragraph 6. Sprint-FL's representative for the purposes of this Complaint is:

Susan S. Masterton, Esq.
P.O. Box 2214
1313 Blair Stone Road
Tallahassee, FL 32301
(850) 599-1560 (phone)
(850) 878-0777 (fax)
susan.masterton@sprint.com

All pleadings, orders, notices and other correspondence with respect to this docket should be sent to Sprint-FL's counsel as set forth above. Sprint LP 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 and do not require a response from Sprint-FL. This paragraph appears to involve conclusions of law, not allegations of fact, and, therefore, Sprint-FL is not

required to admit or deny the allegations. To the extent this paragraph contains any factual allegations, these allegations are denied.

8. Paragraph 8 appears to involve conclusions of law, not allegations of fact, and therefore Sprint-FL is not required to admit or deny these allegations. To the extent this paragraph contains any factual allegations, these allegations are denied.

9. Sprint-FL admits that KMC and Sprint have exchanged traffic under a series of interconnection agreements filed with and approved by the Commission. Sprint-FL denies that the interconnection agreements govern only the Tallahassee and Ft. Myers markets, rather, the interconnection agreements are effective for Sprint-FL's ILEC territory within the state. Sprint-FL is without knowledge to admit or deny whether Tallahassee and Ft. Myers are the only Sprint-FL markets in which KMC provides service. Sprint-FL denies that the May 2002 Confidential Settlement and Release Agreement continues to govern the reciprocal compensation arrangements between KMC and Sprint-FL.

10. The terms of the interconnection agreements referred to in paragraph 10 speak for themselves and, therefore, no response from Sprint-FL is required. To the extent that the last sentence of paragraph 10 could be construed to involve factual allegations relating to the purpose of the interconnection agreement provisions, Sprint-FL denies the last sentence of paragraph 10.

11. To the extent the allegations of paragraph 11 involve conclusions of law, Sprint-FL 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-FL, rather than legal conclusions, these allegations are denied. To the extent paragraph 11 involves factual

allegations related to Sprint LP, Sprint-FL has no knowledge as to the truth or falsity of these allegations.

12. Sprint-FL has no knowledge concerning the actions taken by KMC as alleged in paragraph 12. Sprint-FL denies KMC's allegations regarding the termination of Sprint LP traffic over Sprint-FL's local interconnection trunks with KMC. KMC raised similar allegations as an affirmative defense against Sprint-FL in Docket No. 041144-TP. In that docket Sprint-FL analyzed 4 hours of SS7 records provided by KMC, which KMC alleged demonstrated that Sprint-FL was terminating interexchange traffic over its local interconnection trunks. The results of that analysis are attached to this Answer as Attachment A.

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

15. Sprint-FL is without knowledge to admit or deny the allegations relating to KMC's motivations or actions in paragraph 15. Sprint-FL denies that it knowingly or improperly sent interstate or intrastate traffic over its local interconnection trunks with KMC. To the extent that KMC has provided Sprint-FL with what it purports to be evidence demonstrating that Sprint-FL terminated interexchange traffic over its local interconnection trunks, see Attachment A. To the extent that paragraph 15 contains factual allegations concerning Sprint LP, Sprint-FL is without knowledge to admit or deny these allegations.

16. Sprint-FL is without knowledge to admit or deny the allegations relating to KMC's motivations or actions in paragraph 16. Sprint-FL denies that it knowingly or improperly sent interstate or intrastate traffic over its local interconnection trunks with KMC. To the extent that KMC has provided Sprint-FL with what it purports to be evidence demonstrating that Sprint-FL terminated interexchange traffic over its local interconnection trunks, see Attachment A. To the extent that paragraph 16 contains factual allegations concerning Sprint LP, Sprint-FL is without knowledge to admit or deny these allegations.

17. Sprint-FL is without knowledge to admit or deny the allegations relating to KMC's motivations or actions in paragraph 17. Sprint-FL denies that it knowingly or improperly sent interstate or intrastate traffic over its local interconnection trunks with KMC. To the extent that KMC has provided Sprint-FL with what it purports to be evidence demonstrating that Sprint-FL terminated interexchange traffic over its local interconnection trunks, see Attachment A. To the extent that paragraph 17 contains factual allegations concerning Sprint LP, Sprint-FL is without knowledge to admit or deny these allegations.

18. Sprint-FL denies the allegations of paragraph 18 that Sprint-FL knowingly or improperly sent interstate or intrastate traffic over its local interconnection trunks with KMC. To the extent that KMC has provided Sprint-FL with what it purports to be evidence demonstrating that Sprint-FL terminated interexchange traffic over its local interconnection trunks, see Attachment A. To the extent that paragraph 18 contains factual allegations concerning Sprint LP, Sprint-FL is without knowledge to admit or deny these allegations.

19. Sprint-FL has separately filed a Motion to Dismiss Count IV of KMC's Complaint because the Commission lacks subject matter jurisdiction over the Confidential Settlement and Release Agreement. Notwithstanding the Motion, Sprint-FL admits that the parties entered into a Memorandum of Understanding and a Confidential Settlement and Release Agreement with KMC in May 2002. The documents speak for themselves and do not require an admission or denial from Sprint-FL concerning their terms. Sprint-FL asserts that the terms of the documents are unambiguous and, therefore, that a factual inquiry into their intent is impermissible under the law. To the extent paragraph 19 contains factual allegations concerning the actions or intent of Sprint-FL in executing these documents, these allegations are denied.

20. Sprint-FL admits that it made reciprocal compensation payments to KMC pursuant to Amendment No. 1 to the 1997 MCI agreement until that agreement was superseded by KMC's voluntary adoption of the FDN agreement in July 2003. The remaining allegations of paragraph 20 are denied.

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

22. The terms of the interconnection agreements between the parties speak for themselves. To the extent paragraph 21 contains factual allegations relating to Sprint-FL's intercarrier compensation obligations, these allegations are denied.

23. Sprint-FL denies the allegations of paragraph 23. Sprint-FL did not knowingly or improperly send interstate or intrastate traffic over its local interconnection trunks with KMC. To the extent that KMC has provided Sprint-FL with what it purports to be evidence demonstrating that Sprint-FL terminated interexchange traffic over its local interconnection trunks, see Attachment A.

24. Sprint-FL 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. Sprint-FL denies the allegations of paragraph 27. Sprint-FL did not knowingly or improperly send interstate or intrastate traffic over its local interconnection trunks with KMC. To the extent that KMC has provided Sprint-FL with what it purports to be evidence demonstrating that Sprint-FL terminated interexchange traffic over its local interconnection trunks, see Attachment A.
28. Sprint-FL denies the allegations of paragraph 28. Sprint-FL did not knowingly or improperly send interstate or intrastate traffic over its local interconnection trunks with KMC. To the extent that KMC has provided Sprint-FL with what it purports to be evidence demonstrating that Sprint-FL terminated interexchange traffic over its local interconnection trunks, see Attachment A.
29. Sprint-FL denies the allegations of paragraph 29. Sprint-FL did not knowingly or improperly send interstate or intrastate traffic over its local interconnection trunks with KMC. To the extent that KMC has provided Sprint-FL with what it purports to be evidence demonstrating that Sprint-FL terminated interexchange traffic over its local interconnection trunks, see Attachment A.
30. Sprint-FL incorporates by reference paragraphs 1-29 of this Answer.
31. Sprint 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-FL is without knowledge to admit or deny the allegations of paragraph 32.

33. Sprint-FL incorporates by reference paragraphs 1-32 of this Answer.
34. Sprint-FL admits the allegations of the first sentence in paragraph 34. The second sentence is denied.
35. Sprint-FL denies the allegations of paragraph 35.
36. Sprint-FL denies the allegations of paragraph 36.
37. Sprint-FL incorporates by reference paragraph 1-36 of this Answer.
38. Sprint-FL denies the allegations of paragraph 38. KMC has misrepresented the provisions of the interconnection agreement related to compensation for ISP-bound traffic. By the terms of the interconnection agreement, the provisions related to traffic being in balance apply only to local voice traffic. The interconnection agreement specifically provides that bill and keep will apply to ISP-bound traffic without any reference to whether the traffic is in balance or not. The relevant provisions of the interconnection agreement are attached as Attachment B.
39. Sprint-FL denies the allegations in paragraph 39.
40. Sprint-FL denies the allegations in 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.

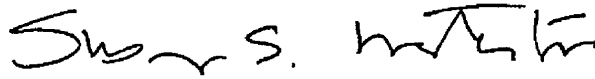
Second Defense

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

CONCLUSION

Wherefore, the Commission should find in favor of Sprint-FL and against KMC and find that Sprint-FL did not violate section 364.16(3), F.S., or the parties' agreements, as alleged by KMC.

Respectfully submitted this 20th day of September 2005.



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ATTORNEY FOR SPRINT-FLORIDA,
INCORPORATED

ATTACHMENT A

Table 1

Interstate tab	<p><u>4374 call records</u></p> <p>Analysis included a review of the TCIC's associated with each call as shown on KMC's file. Sprint was able to utilize SS7 records collected by Sprint's Agilent system to better understand the records provided by KMC in this file.</p> <ul style="list-style-type: none"> • 4185 calls traversed the IXC 2-way trunk groups between Sprint and KMC, as expected. • 189 calls traversed the local interconnection trunk groups between Sprint and KMC. <ul style="list-style-type: none"> ○ 70 of these calls were "redirected" (call forwarded) from the original called number, thus the calls become "local" after the redirect. ○ 119 calls fit one of these scenarios: <ol style="list-style-type: none"> 1. Call came into Sprint on a Feature Group D direct end office trunk group un-queried (local number portability [LNP] query was not performed.) Sprint performed the LNP query and determined that the call had to be routed to KMC. Upon routing the call to KMC, the switch does not know that the call originated as a toll call, thus the call is routed to KMC on the local interconnection trunk group. In this case, Sprint Local was acting in a transit network provider capacity. 2. Calling party is wireless roaming. 3. Call came into Sprint's tandem on another carrier's local interconnection trunk group (local only) bound for KMC. Since the call came into Sprint's tandem on a local trunk group, the switch does not have the capability to discern that the call is toll, therefore, the call was sent to KMC on a local trunk group. In this case, Sprint Local was acting in a transit network provider capacity.
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Table 2

Intrastate tab	<p><u>5198 call records</u></p> <p>Analysis included a review of the TCIC's associated with each call as shown on KMC's file.</p> <ul style="list-style-type: none"> • 3839 calls traversed the IXC 2-way trunk groups between Sprint and KMC, as expected. • 1359 calls traversed the local interconnection trunk groups. <ul style="list-style-type: none"> ○ 91 of these calls were "redirected" (call forwarded) from the original called number, thus the calls become "local" after the redirect. ○ 1268 calls fit one of these scenarios: <ol style="list-style-type: none"> 1. Call is EAS (Extended Area Service) route, thus, the call is local. This represented the majority of the 1268 calls. 2. Call came into Sprint on a Feature Group D direct end office trunk group un-queried (local number portability [LNP] query was not performed.) Sprint performed the LNP query and determined that the call had to be routed to KMC. Upon routing the call to KMC, the switch does not know that the call originated as a toll call, thus the call is routed to KMC on the local interconnection trunk group. In this case, Sprint Local was acting in a transit network provider capacity. 3. Calling party is wireless roaming. 4. Call came into Sprint's tandem on another carrier's local interconnection trunk group (local only) bound for KMC. Since the call came into Sprint's tandem on a local trunk group, the switch does not have the capability to discern that the call is toll, therefore, the call was sent to KMC on a local trunk group. In this case, Sprint Local was acting in a transit network provider capacity.
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**MASTER INTERCONNECTION AND RESALE AGREEMENT
FOR THE STATE OF FLORIDA**

December 27, 2001

Florida Digital Network, Inc.

and

Sprint-Florida, Incorporated

INTERCONNECTION AND RESALE AGREEMENT

This Interconnection and Resale Agreement (the "Agreement"), entered into this 27th day of December, 2001, is entered into by and between Florida Digital Network, Inc. ("CLEC"), a Delaware corporation, and Sprint-Florida, Incorporated ("Sprint"), a Florida corporation, to establish the rates, terms and conditions for local interconnection, local resale, and purchase of unbundled network elements (individually referred to as the "service" or collectively as the "services").

WHEREAS, the Parties wish to interconnect their local exchange networks for the purposes of transmission and termination of calls, so that customers of each can receive calls that originate on the other's network and place calls that terminate on the other's network, and for CLEC's use in the provision of exchange access ("Local Interconnection"); and

WHEREAS, CLEC wishes to purchase Telecommunications Services for resale to others, and Sprint is willing to provide such service; and

WHEREAS, CLEC wishes to purchase unbundled network elements, ancillary services and functions and additional features ("Network Elements"), and to use such services for itself or for the provision of its Telecommunications Services to others, and Sprint is willing to provide such services; and

WHEREAS, the Parties intend the rates, terms and conditions of this Agreement, and their performance of obligations thereunder, to comply with the Communications Act of 1934, as amended (the "Act"), the Rules and Regulations of the Federal Communications Commission ("FCC"), and the orders, rules and regulations of the Florida Public Service Commission (the "Commission"); and

* [WHEREAS, the parties wish to replace any and all other prior agreements, written and oral, applicable to the state of Florida.]

Now, therefore, in consideration of the terms and conditions contained herein, CLEC and Sprint hereby mutually agree as follows:

PART C - GENERAL PRINCIPLES

34. USE OF FACILITIES.

34.1. In situations where the CLEC has the use of the facilities (i.e., local loop) to a specific customer premise, either through resale of local service or the lease of the local loop as an Unbundled Network Element, and Sprint receives a good faith request for service from another LEC to serve the customer at the same premises, the following will apply:

34.1.1. Sprint shall notify the CLEC by phone through the designated CLEC contact and via fax that it has had a request for service at the premise location that is currently being served by the CLEC;

34.1.2. If available to Sprint, Sprint shall include the name and address of the party receiving service at such locations, but at a minimum shall provide local service address location information;

34.1.3. So long as Sprint follows the methods prescribed by the FCC for carrier change verification, Sprint shall be free to re-provision the facilities in question upon the expiration no less than 24 hours following the initial phone and fax notification from Sprint to CLEC and Sprint shall issue a disconnect order with respect to the CLEC service at that location provided that such process comports with applicable law including parity requirements.

35. PRICE SCHEDULE

35.1. All prices under this agreement are set forth in Table One of this Part C.

35.2. Subject to the provisions of Part B, Article 3 of this Agreement, all rates provided under this Agreement shall remain in effect for the term of this Agreement.

36. LOCAL SERVICE RESALE

36.1. The rates that CLEC shall pay to Sprint for Local Resale are as set forth in Table 1 of this Part and shall be applied consistent with the provisions of Part D of this Agreement.

37. INTERCONNECTION AND RECIPROCAL COMPENSATION

37.1. The Parties agree to "Bill and Keep" for mutual reciprocal compensation for the termination of Local Traffic on the network of one Party which originates on the network of the other Party. Under Bill and Keep, each Party retains the revenues it receives from end user customers, and neither Party pays the other Party for terminating the Local Traffic which is subject to the Bill and Keep compensation mechanism. The Bill and Keep arrangement is subject to the following conditions:

- 37.1.1 Bill and Keep is only applicable if terminating traffic between the Parties is balanced within 10 percent.
- 37.1.2 Bill and Keep is limited to Local Traffic only.
- 37.1.3 Bill and Keep applies to traffic between a CLEC end office and a Sprint tandem and is limited to 24 DSO trunks (one-way from CLEC to Sprint).
- 37.1.4 Traffic Studies may be conducted semi-annually to measure the amount of traffic on the interconnection trunks to detect an out of balance condition. Parties agree to share the results of such studies.
- 37.1.5 Either Party can cancel the Bill and Keep compensation arrangement when traffic volumes require the installation of more than 24 one-way trunks or when the usage is out of balance by more than 10%. Formal notification of the cancellation must be provided in writing 90 days prior to the Effective Date. Notwithstanding anything in this Agreement to the contrary, the Parties may continue the Bill and Keep compensation arrangement by mutual agreement.
- 37.1.6 If either Party does deliver such written notice, the Parties will negotiate an amendment to this Agreement under applicable law reflecting charges to be assessed by each Part for terminating Local Traffic. If the Parties are unable to negotiate such an amendment, the Parties agree to resolve the issue under the dispute resolution section of this Agreement.
- 37.1.7 Bill and Keep does not apply to local traffic originated by the CLEC, transiting Sprint's network, and terminated by a third party in which case applicable transit charges will apply. Sprint will not assume transport and termination liabilities on behalf of the calls originated by the CLEC.
- * 37.1.8 Information Access Traffic will be exchanged on a "Bill and Keep" basis. Under Bill and Keep, each Party retains the revenues it receives from end user customer, and neither Party pays the other Party for terminating the Information Access Traffic.
- 37.1.9 On April 27, 2001, the FCC released its Order on Remand and Report and Order in CC Dockets No. 96-98 and 99-68, In the Matter of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-bound Traffic (the "ISP Compensation Order"). The Parties agree that by executing this Agreement and carrying out the intercarrier compensation rates, terms and conditions herein, neither Party waives any of its rights, and expressly reserves all of its rights, under the ISP Compensation Order, including but not limited to the ILEC's option to invoke on a date specified by ILEC the FCC's ISP terminating compensation plan.
- 37.1.10 Notwithstanding anything herein to the contrary, if in Docket No. 000075-TP, or in any other proceeding in which Sprint is an active participant

decided during the term of this Agreement, the FPSC approves a policy, procedure or provision regarding the compensation of carriers for exchange of traffic subject to Section 251 of the Act and the FPSC allows carriers to incorporate any of those approved policies, procedures or provisions into new or existing interconnection agreements, then either party to this agreement may, upon 30 days' notice to the other party, require that the parties renegotiate applicable terms of this agreement consistent with the FPSC decisions identified in the notice in accordance with Sections 3.2 and 3.3.

- 37.2. Compensation for the termination of toll traffic and the origination of 800 traffic between the interconnecting parties shall be based on the applicable access charges in accordance with FCC and Commission Rules and Regulations and consistent with the provisions of Part F of this Agreement. Toll traffic for purposes of this Agreement means as it is commonly used in the industry and includes communications between two point in different rate centers.
- 37.3. INP is available in all Sprint service areas where LNP is not available. Once LNP is available, all INP arrangements will be converted to LNP. Where INP is available and a toll call is completed through Sprint's INP arrangement (e.g., remote call forwarding) to CLEC's subscriber, CLEC shall be entitled to applicable access charges in accordance with the FCC and Commission Rules and Regulations. If a national standard billing method has not been developed for a CLEC to directly bill a carrier access for a toll call that has been completed using interim number portability, then the INP Rate specific to Access Settlements in this Part C will be used.
- 37.3.1. The ported party shall charge the porting party on a per line basis using the INP Rate specific to Access Settlements in lieu of any other compensation charges for terminating such traffic. The traffic that is not identified as subject to INP will be compensated as local interconnection as set forth in § Error! Reference source not found..
- 37.3.2. CLEC shall pay a transit rate, comprised of the transport and tandem rate elements, as set forth in Table 1 of this Part when CLEC uses a Sprint access tandem to terminate a local call to a third party LEC or another CLEC. Sprint shall pay CLEC a transit rate equal to the Sprint rate referenced above when Sprint uses a CLEC switch to terminate a local call to a third party LEC or another CLEC.
- 37.4 CLEC will identify the Percent Local Usage (PLU) factor on each interconnection order to identify its "Local Traffic," as defined herein, for reciprocal compensation purposes. Sprint may request CLEC's traffic study documentation of the PLU at any time to verify the factor, and may compare the documentation to studies developed by Sprint. Should the documentation indicate that the factor should be changed by Sprint, the Parties agree that any changes will only be retroactive to traffic for the previous 90 days. For non-local traffic, the Parties

agree to exchange traffic and compensate one another based on the rates and elements included in each party's access tariffs.

38. UNBUNDLED NETWORK ELEMENTS

38.1. The charges that CLEC shall pay to Sprint for Unbundled Network Elements are set forth in Table 1 of this Part C.