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October 14, 2005

VIA ELECTRONIC MAIL

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

RE: Docket No. 050421-TL; Sprint's Comments

Dear Ms. Bayò:

This letter provides Sprint's comments regarding the proposed rulemaking relating to directory placement of 211 information, as requested by staff at the workshop held in this docket on September 22, 2005. Staff specifically requested comments regarding the Commission's jurisdiction to adopt the proposed rule.

Sprint has been unable to find any specific statutory authority for the Commission to adopt a rule regarding the directory placement of 211 information. Sprint recognizes that the Commission has adopted rules regarding directory placement of other information, but in reviewing the various requirements it appears that the Commission has had specific regulatory authority over the issues addressed. For example, section 395.1027, F.S., provides specific requirements for the placement of poison control information. Section 365.171, F.S., and the Commission's jurisdiction over the provision of basic services by incumbent local exchange companies provide the Commission with direction to facilitate implementation and access to 911 or other emergency information. In addition, the Commission's regulatory authority over Sprint's service quality and customer relations provides support for the Commission's requirements relating to directory placement of information regarding local calling scopes, how to file a complaint and the availability of call blocking options.

In contrast, Sprint could find no specific law or regulatory authority that would support a Commission rule regarding the directory placement of 211 information. The requirement that telecommunications companies make the 211 abbreviated dialing code available for access to community referral and information services is a federal, rather than a state, regulation. While section 408.918, F.S., authorizes the Agency for Health Care Administration to coordinate a statewide 211 Network and gives the Commission a

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limited role in resolving issues related to participation in the network, the law does not provide any authority for the Commission to adopt a rule imposing the directory placement requirements proposed by FLAIRS. Section 120.536(1), F.S., provides that:

120.536 Rulemaking authority; repeal; challenge.--

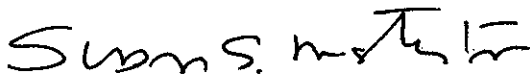
(1) A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute. No agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation and is not arbitrary and capricious or is within the agency's class of powers and duties, nor shall an agency have the authority to implement statutory provisions setting forth general legislative intent or policy. Statutory language granting rulemaking authority or generally describing the powers and functions of an agency shall be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the same statute.

In this case the Legislature has not granted the Commission rulemaking authority nor enacted a specific law to be implemented regarding the directory placement of 211 information.

In any event, Sprint does not believe a rule is required. The Tallahassee directory, pages 19 through 23, under the Community Services caption already has numerous 211 listings for various agencies. Additionally, Sprint has initiated discussions with R. H. Donnelley Publishing & Advertising, Inc., regarding the placement of a 211 listing on the first page opposite the inside front cover of Donnelley's directories in Sprint's local service areas where 211 is operational and the listing is requested by the code holder. While we do not have a commitment at this time, we are optimistic that we will be able to reach an agreement concerning the placement of 211 on the page opposite the inside front cover.

If you have any questions or need additional information concerning these comments, please feel free to contact me at (850) 599-1560.

Sincerely,



Susan S. Masterton

Cc: Christiana Moore, Esq., FPSC
Rick Moses, FPSC
Ben Poag, Sprint
Harvey Spears, Sprint

**CERTIFICATE OF SERVICE
DOCKET NO. 050421-TL**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic and U.S. mail this 14th day of October, 2005 to the following:

Division of Legal Services
Christiana Moore
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Florida Alliance of Information and Referral Services
Theodore G. Granger, President
c/o United Way of Florida
307 E. 7th Ave.
Tallahassee, FL 32303



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