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From: Whitt, Chrystal [LTD] [Chrystal.Whitt@sprint.com]
Sent: Wednesday, March 22, 2006 4:25 PM
To: Filings@psc.state.fl.us
Subject: 060077-TL Sprint's Protest and Request for Fomal Hearing
Attachments: 060077-TL Sprint Protest.pdf

Filed on behalf of:

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Docket No. 060077-TL

Title of filing: Sprint's Protest and Request for Fomal Hearing

Filed on behalf of Sprint

15 pages

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March 22, 2006

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. 060077-TL

Dear Ms. Bayó:

Enclosed for filing on behalf of Sprint-Florida, Incorporated is Sprint's Protest and Request for Formal Hearing.

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,

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

Susan S. Masterton

Enclosure

DOCUMENT NUMBER-DATE
02583 MAR 22 08
FPSC-COMMISSION CLERK

**CERTIFICATE OF SERVICE
DOCKET NO. 060077-TL**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic and U.S. mail this 22nd day of March, 2006 to the following:

Florida Public Service Commission
Adam Teitzman
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Smart City Telecom
P. O. Box 22555
Lake Buena Vista, FL 32830-2555

Florida Public Service Commission
Carl Vinson/ Lisa Harvey/ Richard
Moses
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

TDS Telecom/Quincy Telephone
Mr. Thomas M. McCabe
P. O. Box 189
Quincy, FL 32353-0189

BellSouth Telecommunications, Inc.
Ms. Nancy H. Sims
150 South Monroe Street, Suite 400
Tallahassee, FL 32301-1556

Verizon Florida Inc.
Mr. David Christian
106 East College Avenue
Tallahassee, FL 32301-7748

Frontier Communications of the South,
Inc.
Ms. Angela McCall
300 Bland Street
Bluefield, WV 24701-3020

AARP (Twomey)
c/o Mike B. Twomey
P. O. Box 5256
Tallahassee, FL 32314-5256

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ITS Telecommunications Systems, Inc.
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Glen E. Andrew
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Birmingham, AL 35242

NEFCOM
Ms. Deborah Nobles
505 Plaza Circle, Suite 200
Orange Park, FL 32073-9409


Susan S. Masterton

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposal to require local exchange)	Docket No. 060077-TL
telecommunications companies to implement)	
ten-year wood pole inspection program)	
<hr/>		Filed: March 22, 2006

SPRINT-FLORIDA INCORPORATED'S PROTEST AND REQUEST FOR FORMAL HEARING

Pursuant to Rules 25-22.029 and 28-106.201, Florida Administrative Code, Sprint-Florida, Incorporated ("Sprint") submits this Petition protesting Proposed Agency Action (PAA) Order No. PSC-06-0168-PAA-TL issued March 1, 2006 ("PAA Order") and requests an evidentiary hearing under section 120.57, Florida Statutes.

While Sprint is protesting the specific pole inspection program ordered by the Commission in the PAA Order, Sprint supports the Commission in its efforts to address proactively issues that may contribute to customers losing service during weather-related events, such as the hurricanes that affected Florida over the last few years. Sprint's interest and intent, as more fully discussed in this Petition, are to implement a pole inspection program that is designed more specifically to address the inspection of telecommunications poles in the most effective and least cost manner. Sprint already is taking steps to implement such a pole inspection program, including the development of an inspection plan as proposed under the PAA Order.

In support of its Petition and Protest, Sprint states as follows:

PETITIONER

1. Sprint is a Florida corporation with headquarters at 555 Lake Border Drive, Apopka, Florida.

2. All notices, pleadings, staff recommendations, orders or other documents served in this docket should be provided to the following representative:

Susan S. Masterton, Esquire
1313 Blair Stone Road
Tallahassee, FL 32301
(850) 599-1560 (voice)
(850) 878-0777 (facsimile)
susan.masterton@sprint.com

3. Sprint is a certificated local exchange company providing local exchange and intraLATA toll service in Florida.
4. Sprint received notice of the PAA Order from the Commission's website on or about March 1, 2006.
5. Sprint's interests are substantially affected by the PAA Order because the Order, and the rule interpretation underlying it, would impose significant additional requirements on Sprint related to telecommunications pole inspection and reporting activities and Sprint may incur significant additional costs to implement the requirements of the PAA Order.

THE PAA ORDER

6. In the PAA Order the Commission proposes to require local exchange companies, including Sprint, to implement wood pole inspections on an eight-year inspection cycle using the sound and bore technique with excavation. (PAA Order at page 8) In addition, the PAA Order proposes to require each local exchange company, including Sprint, to "submit a comprehensive wood pole inspection plan to the Director of the Division of Competitive Markets by April 1, 2006." (Id.) The PAA Order also proposes to require companies to file annually a "Pole Inspection Report" containing information about: the

methods used by the company to determine compliance with the National Electric Safety Code (NESC); an explanation of the criteria used to select poles for inspection; a summary of the previous year's inspection program; and the cause of each pole failure. (PAA Order at page 9)

7. The PAA Order also required staff to hold an informal meeting with interested parties to allow them to discuss with staff the PAA Order requirements and propose alternatives. If the staff found that a proposed alternative should be brought to the Commission for consideration, then staff was required to bring the proposal to the Commission before the end of the protest period. (PAA Order at page 10)
8. The informal meeting contemplated by the PAA Order occurred on February 21, 2006. At that meeting, Sprint and BellSouth jointly presented an alternative proposal for telecommunications pole inspections. (See, "BellSouth and Sprint Joint Proposal," attached as Attachment A to this Petition) However, the staff did not propose any changes to the PAA Order for Commission consideration. (See, March 14, 2006 letter from Beth Salak attached as Attachment B to this Petition.)

PROTEST AND DISPUTED ISSUES

9. Sprint protests all of the requirements of the PAA Order and requests a formal evidentiary hearing under section 120.57(1), Florida Statutes, to consider the appropriate action the Commission should take, if any, regarding telecommunications pole inspections and reporting.

10. Under the Florida Administrative Procedures Act, set forth in chapter 120, Florida Statutes, the requirements of the PAA Order appear to constitute a rule as that term is defined in section 120.52(15), Florida Statutes. The Commission erred in not initiating a formal rulemaking proceeding under section 120.54, Florida Statutes, as the proper procedural mechanism for imposing requirements on local exchange companies for inspection of poles and related reporting. The rulemaking procedure is a more efficient and effective mechanism for addressing the issues identified in the PAA Order, as it allows a more collaborative fact-finding process and provides a clear mechanism for evaluating the costs and benefits of the proposed regulations.
11. To the extent that the Commission believes it appropriate to pursue these issues through the formal hearing process, rather than the rulemaking process, Sprint asserts the following disputed issues of material fact:
 - A. Whether the failure of telecommunications poles during the 2004 and 2005 hurricanes was a significant cause of the services outages experienced by Sprint's customers. Sprint's data show that the number of poles placed by Sprint during 2004 was less than one-half of one percent of Sprint's total poles and that only six percent of Sprint's cable facilities are aerial. This data support Sprint's position that damage to the shorter telecommunications poles was not a major cause of the service outages.¹

¹ Furthermore, Sprint's experience provides the basis (referenced in Beth Salak's letter included as Attachment B) for differentiating Sprint's poles, as suggested in the Sprint and BellSouth Joint Proposal (Attachment A). Sprint's reference number is calculated from Sprint's Revised Response to Staff's Document Request No. 2, which shows that Sprint placed only 184 poles in 2004 compared to Sprint's total poles of 38,769. Recognizing that poles broken during the four 2004 hurricanes are only a subset of the 184 placed poles, Florida Power & Light's experience of about 1% is more than double Sprint's negligible experience of .475%.

- B. Whether NESC provisions related to grade B and C poles (referenced at pages 4 and 5 and Attachment A of the PAA Order), and Rural Utility Service Guidelines related to these grade B and C electric poles, are applicable to the grade N poles typically placed by telecommunications companies. Electric facilities generally are built using grade B and C construction, which is what subsections 250 and 261 of the NESC address. Telecommunications facilities are generally built using grade N construction, which paragraphs 263A and G of the NESC address (for lines for which neither grades B nor C construction is required).
- C. Whether the sound and bore technique, with excavation, is the most efficient and cost-effective technique for inspecting telecommunications poles.
- D. Whether the eight-year inspection cycle imposed by the PAA Order is the most efficient and cost-effective schedule for inspecting telecommunications poles. The inspection and reporting cost estimates contained in the PAA Order (at page 6) do not accurately reflect the total costs of the inspections imposed by the Order, as they do not include the costs of tabulating the inspection results and reporting those results to the Commission. In addition, they fail to take into consideration the cost-effectiveness of requiring inspections of grade N telecommunications poles on the same schedule and in the same manner as grade B and C electric poles.

12. In addition, Sprint submits the following issues for resolution by the Commission:
- A. What are the most effective and least cost methods for ensuring the integrity of Sprint's poles and Sprint's compliance with the applicable technical and safety standards?
 - B. What reasonable and cost-effective pole inspection requirements should the Commission impose to ensure the integrity of Sprint's poles during anticipated weather events, such as hurricanes?
 - C. What reasonable and cost-effective reporting requirements concerning Sprint's pole inspections should the Commission impose?
 - D. Based on Sprint's pole replacement experience in 2004, should the Commission adopt for Sprint the pole inspection and reporting requirements set forth in the BellSouth and Sprint Joint Proposal (Attachment A)?

SPRINT'S POLE INSPECTION AND REPORTING PROPOSAL

13. By this protest, Sprint does not mean to represent that it objects to any pole inspection or reporting requirements. To the contrary, the BellSouth and Sprint Joint Proposal presents a reasonable and cost-effective approach to routine telecommunications pole inspections and reporting. Sprint believes that the evidence it will have the opportunity to present in the formal hearing process will show that the BellSouth and Sprint Joint Proposal is the most reasonable and cost-effective mechanism for achieving the Commission's

goals of ensuring the integrity and safety of Sprint's poles and the ability of Sprint's poles to reasonably withstand anticipated weather events.

14. Specifically, the BellSouth and Sprint Joint Proposal attached as Attachment A includes the following:

- an eight-year inspection cycle;
- annual reporting of inspection results;
- prioritization of inspection activities based on local geographies and other parameters;
- inspection of joint use poles with power companies on a scheduled basis in connection with pole inventory audits;
- joint inspection and shared costs of joint use poles with the power companies, depending on each local exchange company's business arrangements with the power companies;
- independent inspection of some portion or all of the local exchange company's inventory to insure that the specified pole population is inspected over the eight-year cycle;
- allowances for newly placed poles (10 years from the date of initial placement) and poles that are less than 35 feet in length and do not have power attachments;
- use of the sound and bore technique or other Commission-approved inspection alternatives; and
- the filing of comprehensive wood pole inspection plans by July 1, 2006.

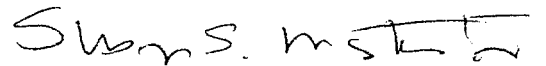
15. Sprint recognizes that under either the provisions of the PAA Order, or the alternative pole inspection plan embodied in the BellSouth and Sprint Joint Proposal, Sprint will be required to implement a more systematic and frequent pole inspection program. Thus, despite the filing of this Protest, Sprint is already taking steps to develop a pole inspection process and to collect and report the data the Commission staff has indicated it needs to ensure that the pole inspection program will accomplish the Commission's goals.

REQUEST FOR RELIEF

16. Sprint is entitled to the relief requested in this Petition under chapters 120, 350 and 364, Florida Statutes, and chapters 25-22 and 28-106, Florida Administrative Code.

WHEREFORE, Sprint protests the PAA Order as discussed herein, requests that a hearing be held on the issues set forth in this Petition under section 120.57, Florida Statutes, and requests that the Commission grant such other relief as is necessary and proper under the circumstances.

Respectfully submitted this 22nd day of March 2006.



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ATTORNEY FOR SPRINT-FLORIDA,
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Nancy H. Sims
Director

850 577 5555
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February 20, 2006

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

**Re: Docket 060077-TL Proposal to Require Local Exchange
Companies to Provide Annual Reports of Wood Pole Inspections**

Dear Mrs. Bayó:

Attached is the filing of BellSouth and Sprint's joint response to the Commission's approved proposed agency action regarding wood pole inspections. Copies of this response will be provided to the parties electronically and at the Commission Staff workshop scheduled to be held on Tuesday, February 21, 2006.

Yours truly,


Nancy H. Sims
Director - Regulatory Relations

Copy to: Parties of Record (Electronically)
Nancy B. White
Charles Rehwinkle

DOCUMENT NUMBER-DATE

01467 FEB 20 06

FPSC-COMMISSION CLERK

Wood Pole Inspection Program – BellSouth and Sprint Joint Proposal

Inspection cycle and annual reports: BellSouth and Sprint propose to implement an 8 year pole inspection cycle and report to the Commission on an annual basis the results of the inspections of wood poles. BellSouth and Sprint will use a variety of methods to insure that all specified poles are inspected over the 8 year cycle. These may include the following:

- BellSouth and Sprint propose to prioritize pole inspection activities based on logical geographies, such as wire center boundaries, and other parameters. Higher priorities would be given to those wire centers that are considered as having direct coastal exposure.
- BellSouth and Sprint, dependent upon each company's business arrangement with the power company, will inspect certain poles in conjunction with pole inventory audits, performed on a scheduled basis with the power companies in connection with joint use agreements to reconcile pole ownership and payments for pole attachments.
- BellSouth and Sprint will pursue jointly inspecting some of its inventory with the power companies with costs shared by BellSouth, Sprint and the power companies, dependent upon each company's business arrangement with the power companies.
- BellSouth and Sprint will independently inspect some portion or all of its inventory. Independent inspections may be used to insure that the specified pole population is inspected over the 8 year cycle.

Given the preceding, BellSouth and Sprint propose that the percentages of poles sampled within a given year may vary from the 12.5% percentage associated with equal samples over an 8 year period. The methods described above may dictate that a higher percentage is appropriate in some years and a lower percentage in others. However, BellSouth and Sprint will insure that 100% of the specified pole inventory is inspected over the 8 year cycle.

Finally, BellSouth and Sprint propose that inventory requirements should include allowances for newly placed poles (10 years from date of initial placement) and poles that are less than 35 feet in length and are without power attachments.

Method of Inspection: BellSouth and Sprint propose to use the sound and bore technique or other inspection alternatives, , as the basis for the inspection of its wood poles. Additionally, the sound and bore technique will include excavation, or other PSC approved alternatives for all Southern Pine poles as appropriate for joint use poles with electric attachments that are older than 10 years.

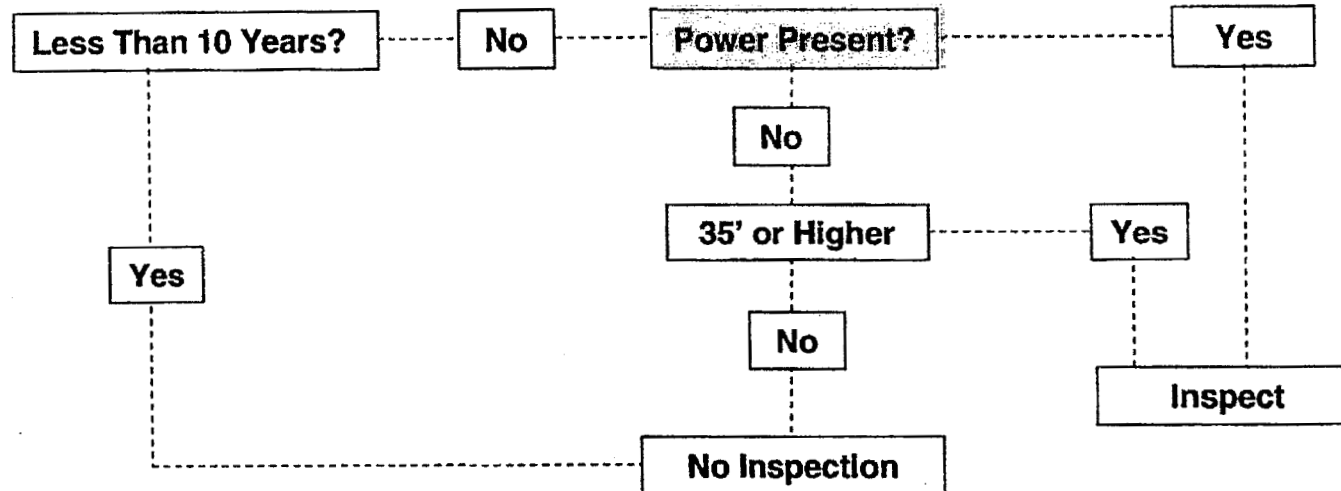
Summary Florida Inspection Decision Tree: See Attachment 1

Filing Requirements: BellSouth and Sprint propose that the submission date for comprehensive wood pole inspection plans shall be July 1, 2006. This proposal is based on the need to complete various activities prior to the submission of the comprehensive inspection plan. These include the following:

- Seeking opportunities for efficiencies with other ILECs and potentially developing a consistent report, thereby reducing PSC workload
- Working with power companies on addressing inspections for joint use poles
- Completion of force analysis associated with inspection program
- Finalization of contracts with outside contractors who will perform inspections
 - Securing internal funding for pole inspection program
- Time required for contractors to find and train qualified pole inspectors
- Development of mechanized system for monitoring/tracking of pole inspection results
 - Securing internal funding for mechanized system

Also, consistent with the foregoing BellSouth and Sprint propose that the first annual report, due on March 1, 2007, shall contain inspection data for August 2006 through December 2006 rather than a full twelve month period.

Wood Pole Inspection Decision Tree



Inspection Method –

Excavate (Southern Pine Only), Sound and Bore or other approved inspection alternatives per RUS Guidelines, Prod and Probe may be used where no power attachments exist.

COMMISSIONERS:
LISA POLAK EDGAR, CHAIRMAN
J. TERRY DEASON
ISILJO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

STATE OF FLORIDA



DIVISION OF COMPETITIVE MARKETS &
ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

*3/16/06
Filed to Regulatory*

Public Service Commission

March 14, 2006

Mr. Charles Rehwinkel
State Vice-President
Sprint-Florida, Inc.
315 South Calhoun St., Ste. 500
Tallahassee, FL 32301

Re: Docket No. 060077-TL, Proposal to Require Local Exchange Companies to Implement Ten-Year Wood Pole Inspection Program.

Dear Mr. Rehwinkel:

At the informal pole inspection meeting held on February 21, 2006, I committed that I would inform you how staff would proceed in this docket. Staff has met several times to consider the merits of your proposals and comments. I agree wholeheartedly that the inspections should be prioritized to evaluate poles with attachments, relatively older poles, and poles in coastal regions first. I understand your argument that poles thirty-five feet or shorter should be excluded from the inspection requirement; however, I cannot recommend to the commissioners that they revise their position as reflected in Order No. PSC-06-0168-PAA-TL without data and documentation on how poles under 35 feet were impacted during the hurricanes, whether these poles have a lesser incident of breakage than the taller poles, and other data that would indicate the safety of the poles.

Under the Commission's order and from the discussion at Agenda, staff can be flexible with the plans submitted by the companies. The order requires a pole inspection plan from each company to be filed by April 1, 2006; however, there is latitude that provides for phasing in implementation of the plans. This would allow time for you to negotiate contracts and agreements. The filed plan can then be updated, as necessary, to reflect new contracts, joint-pole user agreements, workload considerations, etc.

If you would like to discuss this further or provide additional information, please let me know. If you have any questions, please call me at (850) 413-6408.

Sincerely,

A handwritten signature in black ink that reads "Beth W. Salak".

Beth W. Salak

Director, Competitive Markets & Enforcement

BWS:sh