

P R O C E E D I N G S

1
2 **CHAIRMAN GRAHAM:** Let's circle back around to
3 the top of the agenda, Item Number 1.

4 Move staff took 20 minutes. I don't think
5 we're getting out of here until 6:00.

6 (Laughter.)

7 All right. Staff, Item Number 1.

8 **MR. WILLIAMS:** Good morning, Mr. Chairman,
9 Commissioners. Curtis Williams on behalf of staff.

10 Item 1 seeks Commission approval to issue the
11 request for proposals to provide telecommunications
12 relay service for the nearly three million deaf, hard of
13 hearing, deaf/blind, and speech-impaired citizens of
14 Florida.

15 Chapter 427, *Florida Statutes*, requires the
16 Commission to select a provider for telecommunications
17 relay service. The current relay contract with AT&T
18 expires on May 31st, 2015. The request for proposals
19 before you will formally start the process to select a
20 new provider to begin service on June 1st, 2015.

21 Significant time is needed to issue the request for
22 proposals, to evaluate the proposals, and to set up the
23 new system.

24 With the Commission's permission, staff would
25 like to make two oral modifications to the

1 recommendation.

2 First, staff would like to delete the last two
3 sentences in the first full paragraph on page 2,
4 starting with "Bidders may also propose." Staff would
5 also like to delete the last sentence in the first
6 paragraph on page 26 starting with "At the end of this
7 section."

8 Susan Berlin, counsel with Sprint, would also
9 like to address the Commission, and staff is available
10 for questions. Thank you.

11 **CHAIRMAN GRAHAM:** Thank you, staff.

12 Ms. Berlin.

13 **MS. BERLIN:** Good morning, Commissioners.
14 Thank you for giving me the opportunity to speak today.

15 Sprint is the leading provider of relay
16 service, providing service today in 30 states, Puerto
17 Rico, U.S. Virgin Islands, the country of New Zealand,
18 and provided service for many years in Florida from
19 2005 -- excuse me -- until mid-2012.

20 Sprint appreciates having the opportunity to
21 comment on the draft RFP. We provided written comments
22 to staff and appreciate the changes that staff made to
23 accommodate some of Sprint's requests.

24 I am here today to speak to you about just one
25 item. It's something we also raised in written

1 comments.

2 Section A-18 -- do you have a copy of the
3 draft RFP in front of you? Section A-18 is titled
4 "Contract Document." It says that the successful bidder
5 will have to sign a contract which includes the RFP,
6 response to RFP, clarifying documents, et cetera.
7 Sprint does not have any objection to this provision per
8 se. In fact, the section is exactly the same, it's
9 identical to the version that was in the RFP issued in
10 2004 and the next one issued in 2011.

11 Sprint's concern is that the ultimate
12 agreement is made up of several voluminous documents.
13 It is possible, it is even likely that there will be
14 some inconsistencies among the various documents. The
15 RFP does not say what happens if there's a conflict or
16 inconsistency.

17 Sprint is asking you to clarify the specific
18 order of priority the various documents will be given
19 that comprise the agreement. Staff recommends that you
20 do not need such a clarification; they say this on
21 page 6 of their recommendation in the second full
22 paragraph. Sprint respectfully disagrees with staff's
23 recommendation on this point.

24 As I mentioned, the language in proposed
25 Section A-18 of this draft RFP is the same as in 2004

1 and 2011. Yet even though the RFP language in those
2 years was the same, the contract language regarding the
3 order of precedence was different in the two resulting
4 contracts.

5 We provided staff, and I hope you, I hope you
6 have a copy as well, with copies of verbiage from the
7 2004 RFP and copies of the contract Sprint signed in
8 2005 when it won the RFP.

9 You can see Section 21 of the 2004 RFP is
10 exactly the same as the proposed Section A-18 of the
11 current draft, which is also, I'll represent to you, the
12 same as 2011.

13 But if you please look at page 5 of the
14 contract document, Sprint's contract from 2005, it's
15 marked with a yellow tab, and here's what it says in
16 Section 12. "In the event of an inconsistency between
17 provisions of this Agreement, the RFP, and Sprint's
18 Response, the inconsistency shall be resolved by giving
19 precedence in the following order: 1, the terms and
20 conditions contained in this document; 2, Sprint's
21 response; 3, the RFP."

22 This is different than the order of priority
23 which you can see on page 6 of the staff recommendation
24 based on AT&T's current contract. So two identical RFPs
25 produced these two different contract sections.

1 I'm here today asking that you approve the
2 order of priority for this RFP that you approved in the
3 2005 Sprint contract. That contract was in effect, as I
4 noted, for a three-year initial term with four annual
5 renewals, seven total years. And to our knowledge, the
6 language never caused any issue or problem.

7 More importantly, we think the order of
8 priority from the old Sprint contract correctly
9 prioritizes the winning bidder's obligations. Sprint's
10 response to the RFP will necessarily be more detailed
11 than the RFP itself. It explains how Sprint will carry
12 out its duties under the RFP. Excuse me.

13 Sprint's response to the RFP is Sprint's
14 commitment to you and the State of Florida and
15 represents in detail as clearly as Sprint can lay it out
16 exactly what you can expect if you choose Sprint to
17 provide the services.

18 To sum, to sum up, in the interest of clarity,
19 consistency, and certainty, Sprint urges the Commission
20 to adopt -- to either adopt its proposed additions to
21 this draft RFP or to make clear that the order of
22 priority as it was set forth in Sprint's contract will
23 appear in the final contract. Thank you.

24 **CHAIRMAN GRAHAM:** Thank you, Ms. Berlin.
25 Commissioner Brown.

1 **COMMISSIONER BROWN:** Thank you. And thank you
2 for pointing it out. I also have copies of your written
3 suggestions. And I did want to ask you a question about
4 the liquidated damages, but since you didn't raise it, I
5 may just move on to staff and have them address your
6 recommendation on the order of precedence.

7 Am I going to be addressing Ms. Cibula or --
8 okay. Ms. Page, can you please respond to Sprint's
9 suggestion regarding reverting back to the 2005 Sprint
10 contract that we had?

11 **MS. PAGE:** Yes, Commissioner. We believe that
12 it would be preferable for the RFP and the contract to
13 be consistent, and that the Commission should approve
14 the language in the RFP that states that the terms and
15 conditions in this contract come first, then the RFP,
16 then the relay provider's response. We believe that the
17 RFP contains the detailed specifications for the service
18 to be provided and that that should be given precedence
19 over the bidder's response.

20 **COMMISSIONER BROWN:** Have you foreseen any
21 complications or problems arising from the previous
22 language that we had in the, in the, in the language
23 that you're putting in this contract? Have we had
24 problems previously with that?

25 **MS. PAGE:** We are not aware of any problems,

1 Commissioner, no.

2 **COMMISSIONER BROWN:** I read it and I was -- I
3 didn't think it was very clear, the order of precedence,
4 so I'm open to listening to my fellow Commissioners on
5 this. But if you don't foresee a problem with the way
6 that it has been done, then we might as well leave it as
7 is.

8 But the question I really wanted to ask the
9 companies, with the decline in traditional relay
10 services over the past few years and the decline in
11 minutes, has the industry contemplated a shift from the
12 landline, relay services for landline to, to mobile?
13 Have you contemplated ways to continue relay services,
14 recognizing that there has been a shift and there has
15 been a decline in traditional relay minutes?

16 **MS. BERLIN:** I wish I could answer that
17 question for you. I mean, I know our relay department
18 is focused on the issue of the decline in minutes. And
19 certainly Sprint provides, as far as I know, every
20 conceivable type of relay service: Wireless, wireline,
21 et cetera.

22 As far as how to, how to address the future
23 moving forward and the move to wireless, I don't, I
24 don't have that information. I'm sorry.

25 **COMMISSIONER BROWN:** It's more of a

1 philosophical question, and if, if the industry is
2 looking at and contemplating that and what, what
3 mechanisms or ways you're going to address it in the
4 future. Thank you.

5 **CHAIRMAN GRAHAM:** Was that a motion?

6 **COMMISSIONER BROWN:** Move staff recommendation
7 as is, with the modification, oral modification.

8 **CHAIRMAN GRAHAM:** It's been moved and
9 seconded, staff recommendation with the oral
10 modification.

11 Commissioner Balbis.

12 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

13 I just have a quick question for staff on the
14 order of precedence. And I agree with Commissioner
15 Brown as keeping it as is, but I am concerned if there
16 are inconsistencies between the documents. And if the
17 motion that's before us -- well, let me first ask are
18 the documents consistent in the RFP itself and then the
19 subsequent contract on what the order of precedence is?

20 **MS. PAGE:** The current AT&T contract and the
21 RFP are consistent at this time.

22 **COMMISSIONER BALBIS:** Okay. Thank you.

23 **CHAIRMAN GRAHAM:** Seeing no further
24 discussion, all in favor, say aye.

25 (Vote taken.)

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Any opposed? By your action, you have
approved staff recommendation -- excuse me -- on Item
Number 9 [sic] with the oral modifications.

(Agenda item concluded.)

1 STATE OF FLORIDA)
 : CERTIFICATE OF REPORTER
 2 COUNTY OF LEON)

3
 4 I, LINDA BOLES, CRR, RPR, Official Commission
 Reporter, do hereby certify that the foregoing
 5 proceeding was heard at the time and place herein
 stated.

6
 7 IT IS FURTHER CERTIFIED that I stenographically
 reported the said proceedings; that the same has been
 transcribed under my direct supervision; and that this
 8 transcript constitutes a true transcription of my notes
 of said proceedings.

9
 10 I FURTHER CERTIFY that I am not a relative, employee,
 attorney or counsel of any of the parties, nor am I a
 relative or employee of any of the parties' attorney or
 11 counsel connected with the action, nor am I financially
 interested in the action.

12 DATED THIS 10th day of June, 2014.

13
 14 *Linda Boles*
 15 _____
 16 LINDA BOLES, CRR, RPR
 FPSC Official Commission Reporters
 (850) 413-6734

Docket No.: 040763-TP
Date: September 9, 2004

Attachment A

Florida Relay Service
Section A

20. Oral Interviews/Site Visits/ Written Data Request

Bidders may be asked to participate in oral interviews, respond to a written data request, make their facilities available for a site inspection by the PRC or make their financial records available for a FPSC audit. Such interviews, site visits, and/or audits will be at the bidder's expense except that the PRC will pay for his own expenses (transportation, meals, housing, etc.). Bidders should come to oral interviews prepared to answer the PRC's questions and the bidder's primary contact person (person signing the letter of transmittal accompanying the RFP or his designee) shall be present at all meetings with the PRC or FPSC.

21. Contract Document

The successful bidder will be required to sign a contract which will include the following elements.

- a. The RFP.
- b. The bidder's Proposal in response to the RFP.
- c. A document identifying any modifications or clarifications to the proposal and identifying optional items contained in the proposal and desired by the FPSC to be included in the FRS.

All of the above items together will constitute a complete initial contract that will be approved by the FPSC's Executive Director on behalf of the FPSC.

22. Limited Liability

To the extent provided for in Section 427.707, Florida Statutes, the FPSC, its Advisory Committee, and the PRC assume no liability with respect to the RFP, proposals, or any matters related thereto unless there is malicious purpose or wanton and willful disregard of human rights, safety, or property in the establishment, participation in or operation of the telecommunications relay service. To the fullest extent permitted by law, all prospective service providers and their assigns or successors by their participation in the RFP process, shall indemnify, save and hold the FPSC and its employees and agents, including the Advisory Committee and PRC, free and harmless from all suits, causes of action, debts, rights, judgements, claims, demands, accounts, damages, costs, losses, and expenses of whatsoever kind in law or equity, known and unknown, foreseen and unforeseen, arising from or out of the RFP and/or any subsequent acts related thereto, including, but not limited to, the recommendation of a bidder to the FPSC and any action brought by an unsuccessful bidder.

Parties/Staff Handout
Internal Affairs/Agenda
on 6/5/14
Item No. 1

ORIGINAL

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: February 7, 2005
 TO: Kay B. Flynn, Chief of Records, Division of the Commission Clerk & Administrative Services
 FROM: Richard A. Moses, Chief of Service Quality, Division of Competitive Markets & Enforcement *R*
 RE: Placement of Document in Docket File 040763-TP

Attached is a copy of the signed contract with Sprint for the provision of relay services in Florida to begin on June 1, 2005. Please place the document in the 040763-TP docket file. Thank you.

MP _____
 OM _____
 TR _____
 CR _____
 CL _____
 PC _____
 VS _____
 A _____
 R _____
 C 1
 H _____

Parties/Staff Handout
 Internal Affairs/Agenda
 on 6/5/14
 Item No. 1

DOCUMENT NUMBER DATE
 01346 FEB-7 05

CONTRACT TO PROVIDE TELECOMMUNICATION RELAY SERVICE (TRS) TO FLORIDA

AGREEMENT

This Agreement ("Agreement") is made between Sprint Communications Company, L.P. (hereinafter called "Sprint") and the Florida Public Service Commission (hereinafter called the "Commission" or "FPSC") whereby Sprint shall provide telecommunication relay service (hereinafter also called "TRS") referred to as the Florida Relay Service (hereinafter also called "FRS") as more specifically set forth below.

Sprint and the Commission agree as follows:

SECTION 1: Definitions

1) "Agreement" includes the terms and conditions contained herein and in the following documents:

- Florida Public Service Commission Request for Proposal for Telecommunications Relay Service, Docket No. 040763-TP dated August 26, 2004 (hereinafter called "RFP")
- Sprint's Response dated November 2, 2004 (hereinafter called "Sprint's Response") to the RFP

Both of these documents are incorporated herein by reference and made a part hereof as if fully set forth herein.

- 2) "Sprint" shall mean Sprint Communications Company, L.P. and shall include any successor entity now existing or in the future created.
- 3) "Parties" refers to Sprint and the FPSC.
- 4) "Subcontractor" shall mean CSD, USA Networks, Inc. Precision Response Corporation (also referred to as "PRC"), New Mexico Relay Network (also referred to as "NMRN"), Caption Colorado, CapTel Inc. (also referred to as "CTP"), and Ultratec, Inc., and any other qualified subcontractor.

SECTION 2: Contract Term

The term of this contract is for three (3) years with the option to extend for four (4) additional one (1) year periods. The contract start date is June 1, 2005. Sprint shall notify the FPSC of its desire to or not to extend the contract into the option periods by June 1 the year before the current service period expires. The FPSC shall notify Sprint of its intent to exercise the requested option period within two months of receipt of Sprint's notification of its desire to extend. Exercise of the option years will be by mutual consent.

CONTRACT TO PROVIDE TELECOMMUNICATION RELAY SERVICE (TRS) TO FLORIDA

SECTION 3: Records

As authorized by Florida law, the Commission, Administrator and the State of Florida Auditor General shall have reasonable access to the records of Sprint and its Subcontractor(s) directly relating to the FRS in order to verify charges, credits and other standards of performance to be rendered pursuant to the provisions of this Agreement. If an audit of Sprint's records relating to this contract is requested by the FPSC or by any other third party, the party requesting the audit will be responsible for the costs of that audit. Audit costs as defined hereunder shall not include costs incurred by Sprint to comply with the audit.

Sprint shall not be required to submit the information contained in its customer database to the State of Florida or to any other designee except for:

- a. resolving any consumer complaint by the FPSC staff and
- b. providing such data to the relay service provider succeeding this contract.

SECTION 4: Billing Rates

- 1) Standard TRS - Sprint will bill the FPSC at the rate of \$0.75 per session minute for intrastate relay calls processed for the State of Florida. This price includes the following features described in Sprint's proposal:
 - a) TRS Call Center located in Jacksonville, Florida dedicated to FRS Traffic.
 - b) TRS Call Center in Miami, Florida supporting other Sprint TRS customers.
 - c) Sprint Account Manager residing in Florida.
 - d) Sprint Quality Manager residing in Florida.
 - e) Third-party independent evaluation service for typing assessment.
 - f) One-Year or 30,000 call minutes (whichever comes first) of Sprint Relay Conference Captioning (also referred to as "SRCC")
 - g) Variable typing speed for the visually-impaired.
 - h) 60% off Sprint's MTDS rates as a Long Distance Discount for FRS users.
 - i) First three (3) minutes of all Intrastate LD calling free for FRS users.
- 2) CapTel - CapTel service, which includes the Two-Line CapTel enhancement, will be billed to the FPSC at the following rates dependent upon the number of CapTel call minutes incurred by Florida's CapTel users each month.

CONTRACT TO PROVIDE TELECOMMUNICATION RELAY SERVICE (TRS) TO FLORIDA

CapTel Call Minutes Per Month	Price per session minute
Less than 100,000	\$1.40
100,000.01 – 200,000	\$1.37
200,000.01 – 300,000	\$1.33
More than 300,000	\$1.30

- a) As part of CapTel service to Florida, the FPSC will pay for all incoming Two Line CapTel call minutes.
- 3) SRCC – As provided in paragraph 1f) above, there is no charge to the FPSC for the first year of Sprint Relay Conference Captioning or up to 30,000 call minutes, whichever comes first. Terms, conditions, and price will be negotiated when the FPSC elects to add this service to the contract.

SECTION 5: Invoices

Sprint shall submit invoices on a monthly basis for costs incurred during the previous month. Payment is due within 30 days of receipt of a proper invoice. If payment is not received within the 30 day due date, the FPSC will be liable for interest charges at prime lending rates that will be incurred against the unpaid balance until such time as payment is received.

The invoices provided by Sprint for the FRS shall specify to whom payment shall be made and the address to which such remittance shall be mailed. If FPSC or its assigned Administrator disputes any portion of a monthly invoice, the disputing party shall provide to Sprint a detailed explanation of and manner of calculations of the disputed amounts. Sprint will promptly address the claim with the FPSC or its Administrator and attempt to resolve the problem within thirty (30) days. If the dispute is between FPSC's Administrator and Sprint and these two parties cannot resolve the issue within thirty (30) days of the due date of the bill, Sprint shall so advise the FPSC. If Sprint overcharges the FPSC on any monthly invoice and the overage is paid, Sprint shall issue a credit in the amount of the overage plus interest charges at prime lending rates. Interest shall be calculated from the date such payment is received by Sprint ("Payment Date"), until the date such credit is issued.

SECTION 6: Contract Managers

The Contract Manager for this Agreement on behalf of the FPSC is the person serving as the Chief of the Bureau of Service Quality or such individual's designee. As of the date of this Agreement, the Contract Manager is:

Rick Moses, Chief
Division of Competitive Markets & Enforcement
Florida Public Service Commission
2540 Shumard Oak Boulevard

CONTRACT TO PROVIDE TELECOMMUNICATION RELAY SERVICE (TRS) TO FLORIDA

Tallahassee, Florida 32399-0850
Telephone number: (850) 413-6582
Facsimile number: (850) 413-6583
E-Mail address: rmoses@psc.state.fl.us

The Account Manager for this Agreement on behalf of Sprint is:

To be provided before implementation of service starting June 1, 2005.

The Contract Manager for this Agreement on behalf of Sprint is:

Don Rawlings
Senior Contract Administrator
Sprint
12524 Sunrise Valley Drive
Reston, VA 20196
Telephone number: (703) 689-7868
Facsimile number: (703) 689-7707
E-Mail address: don.j.rawlings@mail.sprint.com

All communications regarding the work performed under this Agreement should be made between the Contract Manager and Account Manager when feasible and reasonable. Any notice required or permitted to be given or made in the Agreement shall be served upon the Contract Managers at the above addresses. Changes in the person serving as Contract/Account Manager will be made in writing.

SECTION 7: Implementation

Sprint shall fully implement the relay system for the State of Florida by June 1, 2005.

SECTION 8: Languages Served

Sprint will provide relay service to users who use English, Spanish, American Sign Language or French/Creole.

SECTION 9: Roaming Service

Roaming service allows calls to the FRS telephone numbers to both originate and terminate outside the State of Florida. Roaming service is offered as part of Sprint's basic relay service. The FPSC staff will monitor calling volumes for roaming traffic. If at any time the FPSC decides it no longer wants roaming service, Sprint shall terminate this service at no cost to the State of Florida.

CONTRACT TO PROVIDE TELECOMMUNICATION RELAY SERVICE (TRS) TO FLORIDA

SECTION 10: Transition to New Provider

At the end of the service term of this Agreement including any renewals thereof, Sprint will reasonably assist in the transfer of the FRS to the new Provider when same is selected by the Commission.

Furthermore, Sprint will use reasonable efforts to ensure the following:

1. Efforts will be made to accomplish the transfer of service by means of 800 number portability so that an 800 number change for FRS is not needed. If an 800 number change for FRS is necessary, intercept referral service to the new Provider will be made available by Sprint as of the date of the transfer and continuing for a period of three (3) consecutive months thereafter.
2. Sprint will designate a person to coordinate the transfer and communicate with the Commission and the incoming Provider concerning the transfer.
3. Complaints in process on the effective date of the transfer of service to the new Provider should be responded to by Sprint within fifteen (15) days of such effective date.
4. If there are any other published administrative lines, service will be maintained for a period of sixty (60) days after date of transfer of service to the new Provider, and callers will be referred to the new Provider during such period.

SECTION 11: Independent Contractor

The Parties acknowledge that they are independent entities. Neither Party shall represent itself as agent or employee of the other, nor shall either Party bind or represent itself as agent or employee of the other, nor shall either Party bind or represent that it has the ability to bind the other to any monetary or legal obligation. The Parties acknowledge that neither this nor any provision hereof shall be deemed to create a partnership or joint venture between the Parties. Sprint is and shall be deemed to be an independent contractor in the performance of this Agreement and shall be wholly responsible for the work to be performed and for the supervision of its employees.

SECTION 12: Order of Precedence

In the event of an inconsistency between provisions of this Agreement, the RFP and Sprint's Response, the inconsistency shall be resolved by giving precedence in the following order:

1. The terms and conditions contained in this document.
2. Sprint's response
3. The RFP

CONTRACT TO PROVIDE TELECOMMUNICATION RELAY SERVICE (TRS) TO FLORIDA

SECTION 13: Headings

The title of this Agreement and the Section headings used herein are for the convenience of reference only, and shall not be construed as part of this Agreement nor as an indication of the Section meaning or intent.

SECTION 14: Examination and Entirety

This Agreement shall become binding when executed by both parties. This Agreement, as defined in Section 1.1 hereof, constitutes the complete understanding and agreement of the parties with respect to the subject matter thereof and supersedes all prior, or contemporaneous agreements, understandings or offers whether written or oral. This Agreement may not be changed or modified except by a formal amendment hereto executed by the authorized representatives of both Sprint and the Commission.

SECTION 15: Waiver of Rights

The waiver of one party of any breach of this Agreement by the other party shall not be deemed to be a waiver of any succeeding breach.

SECTION 16: Interpretation

The parties agree that this Agreement shall be interpreted without application of any rules of construction which require a stricter interpretation against the drafter of the document.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the latter date written below ("effective date").

**SPRINT COMMUNICATIONS
COMPANY, L.P.**

**FLORIDA PUBLIC SERVICE
COMMISSION**

By:




Printed Name: Anthony G. D'Agata

Title: Vice President & General Manager

Date:

2/1/05

By:



Printed Name: Mary Andrews Bane

Title: Executive Director

Date:

2/4/05