

FLORIDA PUBLIC SERVICE COMMISSION  
Capital Circle Office Center • 2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

MEMORANDUM

DECEMBER 5, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (WILLIAMS, STRONG) *RTT*  
DIVISION OF LEGAL SERVICES (KEATING) *WAK MCB*

RE: DOCKET NO. 961362-TL; PETITION FOR APPROVAL OF TRANSFER OF LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 33 FROM CENTRAL TELEPHONE COMPANY OF FLORIDA TO UNITED TELEPHONE COMPANY OF FLORIDA, FOR APPROVAL OF MERGER OF CERTIFICATE NO. 33 INTO UNITED TELEPHONE'S CERTIFICATE NO. 22 AND FOR A CHANGE IN NAME ON CERTIFICATE NO. 22 TO SPRINT-FLORIDA, INCORPORATED.

AGENDA: 12/17/96 REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

SPECIAL INSTRUCTIONS: I:PSC/CMU/WP/961362.RCM

CASE BACKGROUND

On November 14, 1996, a petition was filed by United Telephone company of Florida and Central Telephone Company of Florida for approval of transfer and merger of Centel's Certificate of Public Convenience and Necessity No. 33 into United's Certificate of Public Convenience and Necessity No. 22 and for a change in name on certificate No. 22 to Sprint-Florida, Inc. There are no outside perimeter boundary changes and to the companies' customers, it will appear as a name change only. No rates or terms and conditions of service will be affected.

The companies further petitioned for a waiver, in part, of Rule 25-4.005, Florida Administrative Code, which requires certain public notices be completed and that a list of customers affected be submitted to the Commission. The companies have completed the legal advertisement requirement of the rule; however, the companies seek a waiver of the requirement to provide a list of affected customers to the Commission and the requirement that the legal advertisements be published 2 weeks prior to filing the petition for transfer and merger.

The requested name change on certificate number 22 from United Telephone of Florida, Inc. to Sprint-Florida, Inc. will be

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completed administratively according to Chapter 2.07, Section C.3 of the Administrative Procedures.

Accordingly, Staff believes the following recommendations are appropriate.

#### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission approve the transfer of Central Telephone Company of Florida's Certificate of Public Convenience and Necessity No. 33 into Certificate of Public Convenience and Necessity No. 22 issued to United Telephone Company of Florida and the request for waiver?

**RECOMMENDATION:** Yes. The Commission should approve the transfer and the request for partial waiver of Rule 25-4.005(1)(c) conditioned upon the completion of the period for comment on the request for waiver. Upon completion of the process, Certificate Number 33 will be cancelled.

**STAFF ANALYSIS:** In accord with Section 120.542(2), Florida Statutes, a waiver shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means and when the application of a rule would create a substantial hardship. Rule 25-4.005(1)(c), Florida Administrative Code, requires the companies to provide a list of affected customers to the Commission. This list would comprise approximately 1.7 million names, telephone numbers, addresses, and class of telephone services.

Under the circumstances of the requested transfer and merger, the service provided to customers is not being changed. Furthermore, the costs and conditions of the services offered will remain the same. The only effect the customers will notice is the name change of the telephone company serving them. These changes have been widely advertised in newspapers, written notices have been sent to customers, and in some cases telephone calls have been used to inform customers of the change. Staff believes that since the service is not being changed, the companies should not be required to expend resources to provide a list of affected customers to the Commission as required in the rule.

Therefore, staff recommends the Commission approve a waiver of the part of Rule 25-4.005(1)(c), Florida Administrative Code,

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which requires the companies to submit a list of affected customers to the Commission.

New Section 120.542(6), Florida Statutes, provides that within 15 days of receiving a petition for waiver, an agency shall provide notice of the petition to the Department of State, which shall publish notice of the petition in the first available issue of the Florida Administrative Weekly. On December 13, 1996, this petition was published and made available to the public with a 14 day comment period. Staff believes the public will be given ample opportunity to comment on the proposed transfer and merger during this comment period. Therefore, staff recommends the Commission approve the petition for transfer and merger conditioned upon the completion of the comment period.

The companies further requested a waiver of Rule 25-4.005(1)(b) which requires the companies to notice the transfer by legal advertisement in a newspaper of general circulation in the area affected and published on two separate occasions at least two weeks prior to the filing of the joint petition on the proposed transfer. The dates of the completed advertisements are attached on page 21. Staff believes that because the advertisements have been completed, even though the advertisements were not completed timely in compliance with the rule, to apply the rule standard at this time would not result in any gain to the Commission, companies, or consumers. Therefore, staff recommends that the Commission approve a waiver of Rule 25-4.005(1)(b), Florida Administrative Code. We believe the requirements of Section 120.542(2), Florida Statutes, have been satisfied.

**ISSUE 2:** Should the Commission set a 14 day time limit to protest this proposed agency action order?

**RECOMMENDATION:** Yes. The Commission should set a 14 day protest period as permitted by Rule 25-22.029(2), Florida Administrative Code.

**STAFF ANALYSIS:** The companies have sent written notices to each customer and published advertisements in newspapers (November 16 and 30) noticing that the effective date of the transfer and merger will be December 31, 1996. Rule 25-22.029(2), Florida Administrative Code, provides that for good cause shown, the Commission may provide that the time for

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requesting a §120.57 hearing shall be 14 days from issuance of the notice. Staff believes the companies have demonstrated good cause, because the consumers have already been noticed that the effective date, upon Commission approval, will be December 31, 1996. Changing the length of the protest period will improve the possibility of the order becoming final by that date. In addition, the public will also have the opportunity to file comments during the 14 day comment period starting December 13, 1996.

Accordingly, Staff recommends the Commission approve setting a 14 day protest period instead of the traditional 21 day protest period as permitted by Rule 25-22.029(2), Florida Administrative Code.

**ISSUE 3:** Should this docket be closed?

**RECOMMENDATION:** Yes, if no timely protest or comment is received, this docket should be closed. If a timely protest is received, this docket should remain open pending disposition of the protest.

**STAFF ANALYSIS:** If the Commission does not receive a protest during the protest period, or comment during the APA comment period, the order should become final and the docket should be closed. If the Commission does receive a timely protest, or comment, this docket should remain open pending disposition of the protest.

# AUSLEY & MCMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET  
P.O. BOX 391 (ZIP 32302)  
TALLAHASSEE, FLORIDA 32301  
(904) 224-9115 FAX (904) 222-7560

December 6, 1996

Mr. Richard Tudor  
Division of Communications  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Petition of United Telephone Company  
of Florida and Central Telephone Company  
of Florida - Docket No. 961362-TL

Dear Mr. Tudor:

As you requested, attached is a summary of the transactions  
for which United and Centel request approval.

Sincerely,



Lee L. Willis

LLW/csu

Attachment

RE: Docket No. 961362-TL:  
Petition of United Telephone  
Company of Florida and Central Telephone  
Company of Florida for Approval of  
Transfer and Merger of Certificates of  
Public Convenience and Necessity

SUMMARY OF TRANSACTIONS

United Telephone Company of Florida ("United") and Central Telephone Company of Florida ("Centel") seek in this docket approval of the transfer and merger of Certificates of Public Convenience and Necessity held by United and Centel.

United holds Certificate No. 22 (reissued) which authorizes the provisions of telecommunications services in all or parts of Florida counties of Polk, Okeechobee, Hardee, DeSoto, Highlands, St. Lucie, Palm Beach, Charlotte, Glades, Hendry, Lee, Collier, Monroe, Levy, Marion, Citrus, Sumpter, Lake, Hernando, Pasco, Orange, Osceola, Seminole and Volusia. United is a wholly-owned subsidiary Sprint Corporation.

Centel holds Certificate of Public Convenience and Necessity No. 33 (amended) which authorizes the provision of telecommunications services in all or parts of Florida counties of Okaloosa, Walton, Holmes, Jackson, Gadsden, Washington, Leon, Wakulla, Jefferson, Madison, Bradford and Clay. Centel is a wholly-owned subsidiary of Central Telephone Company, which is a wholly-owned subsidiary of Centel Corporation, which is a wholly-owned subsidiary of Sprint Corporation.

In March 1993, United and Centel came under common ownership as a result of a merger of Sprint Corporation and Centel

Corporation. The Companies are operated under common management for efficient utilization of physical and human resources.

United and Centel have now reached a point where the functional consolidation that has taken place must be accomplished by consolidation as a matter of law.

The merger of Centel and United will require the transfer of Centel Certificate which must be approved by the Commission under Section 364.345(2), Florida Statutes.

The merger of United and Centel's certificates also requires Commission approval under Section 364.33, Florida Statutes. United and Centel have prepared a formal plan of merger which provides for the merger of Centel into United, and the change of the surviving corporation's name to Sprint-Florida, Incorporated. United and Centel request the prompt approval of this transaction in order that they may consummate the plan of merger by December 31, 1996.

The transfer and merging of the certificates will result in no direct change in customer operations or services provided by either company. Neither company's rates or charges have been proposed to be changed in the Petition.

United and Centel request the Commission to do the following:

A. That the Commission find that the transfer of Centel's Certificate of Public Convenience and Necessity to United and the simultaneous merger of the certificates of United and Centel are in the public interest.

B. The approval of the Commission of the transfer of the Certificate of Public Convenience and Necessity No. 33 (amended)

held by Central Telephone Company of Florida to United Telephone Company of Florida.

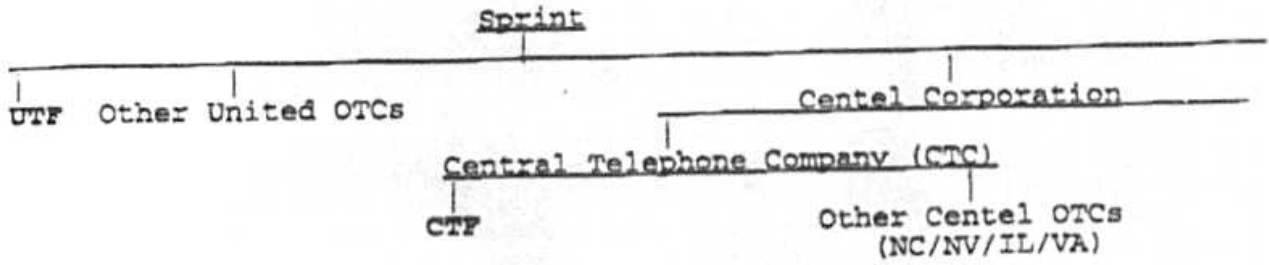
C. The merging of Certificate of Public Convenience and Necessity No. 33 held by Central Telephone Company of Florida and to the Certificate of Public Convenience and Necessity No. 22 (reissued) held by United Telephone Company of Florida.

D. Change the number under which the merged Certificate of Public Convenience and Necessity is held from United Telephone Company of Florida to Sprint-Florida, Incorporated.



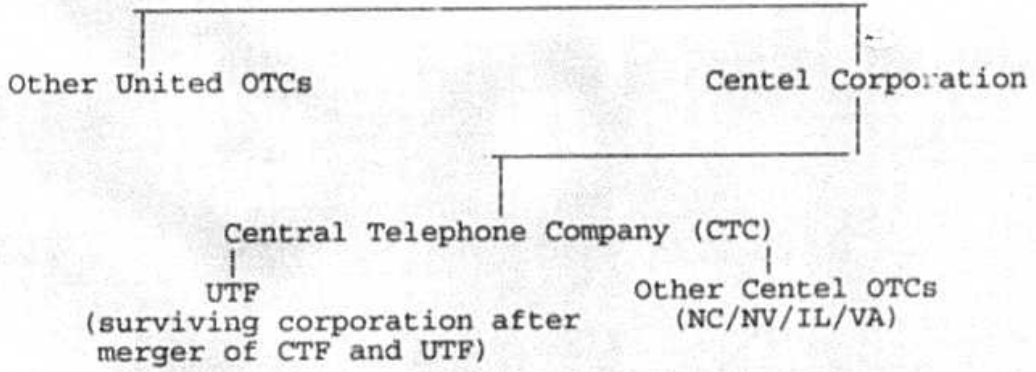
**Sprint-Florida, Incorporated  
Merger Structure Scenarios**

Current Sprint Structure



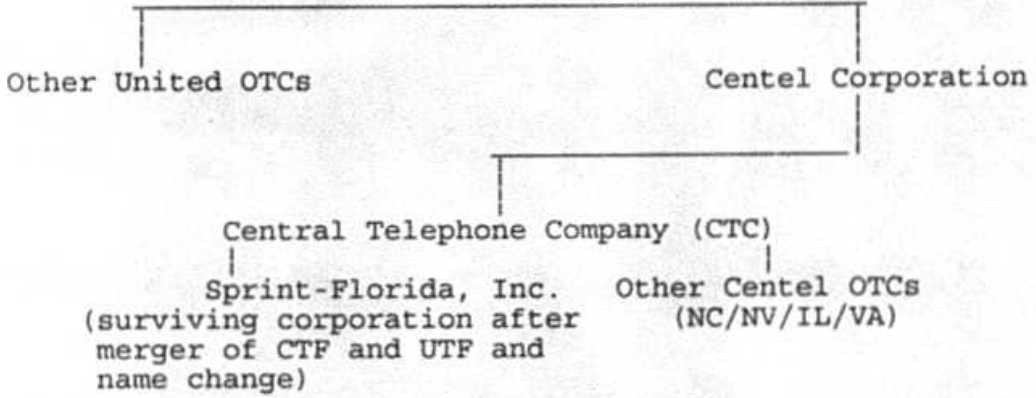
Post Merger Structure

Sprint



Post Name Change

Sprint



AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger, dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 1996, is entered into by and between United Telephone Company of Florida ("United") and Central Telephone Company of Florida ("Centel"), Florida corporations, sometimes jointly referred to as the Constituent Corporations.

WHEREAS, as of the date of this Agreement and Plan of Merger, all of the outstanding Common Stock of United is owned by Sprint Corporation ("Sprint"), a Kansas corporation, and, at the effective time of the merger, all of the Common Stock of United will be owned by Central Telephone Company, a Delaware corporation ("CTC"), which is a subsidiary of Centel Corporation, a Kansas corporation, which in turn is a subsidiary of Sprint; and

WHEREAS, all of the outstanding Common Stock of Centel is owned by CTC; and

WHEREAS, the Board of Directors of the Constituent Corporations have deemed it advisable and in the best interests of their Shareholder that Centel be merged into United; and

WHEREAS, the adoption of an Agreement and Plan of Merger by the respective Board of Directors and Shareholder of the Constituent Corporations is required by the Florida Business Corporation Act;

NOW, THEREFORE, in consideration of the premises, the parties hereto agree as follows:

1. Plan of Merger. In accordance with the Florida Business Corporation Act, Centel shall be merged with and into United which shall be the Surviving Corporation. The name of the Surviving Corporation shall be "Sprint-Florida, Incorporated." The Articles of Incorporation of United shall be amended by reason of the merger as set forth in Section 6 of this Agreement and, as so amended, shall be the Articles of Incorporation of the Surviving Corporation. The Bylaws of United shall be amended by reason of the merger as set forth in Section 6 of this Agreement and, as so amended, shall be the Bylaws of the Surviving Corporation.

2. Effective Date of Merger. At such time following the fulfillment of the conditions precedent set forth in Section 7 of this Agreement as the parties hereto may agree, the Constituent Corporations shall deliver Articles of Merger to the Department of State of the State of Florida pursuant to Section 607.1105 of the Florida Business Corporation Act, and if the Department of State finds that the Articles conform to law and all taxes or fees have been paid, it will file them. As further provided in Section 607.1101 of said Act the merger shall be effective on December 31, 1996 immediately following the transfer of the Common Stock of United to CTC. Such date is designated the "Effective Date."

3. Outstanding Shares. The number of shares of capital stock of each Constituent Corporation outstanding on September 30, 1996 is as follows:

- (a) United: 6,500,000 shares of Common Stock, par value \$2.50.
- (b) Centel: 10 shares of Common Stock, no par value.

4. Payment for Shares. The manner and basis of converting the shares of capital stock of each of the Constituent Corporations shall be as follows:

(a) Each share of the Common Stock, par value \$2.50, of United which shall be outstanding on the Effective Date shall not be changed by reason of the merger and shall continue to be one share of Common Stock, par value \$2.50, of the Surviving Corporation.

(b) Each share of the Common Stock, no par value, of Centel which shall be outstanding on the Effective Date shall be canceled.

5. Effect of Merger. On the Effective Date, the separate existence of Centel shall cease, and United, as the Surviving Corporation, shall succeed to all property, real, personal and mixed, and franchises of each of the Constituent Corporations, as well as all debts due on whatever account to each of them, and thenceforth be responsible for all the liabilities and obligations of each of them, all as provided in Section 607.1106 of the Florida Business Corporation Act. At and after the Effective Date, the assets and liabilities of the Constituent Corporations shall be carried on the books of the Surviving Corporation at the amounts at which they were carried on the books of the Constituent Corporations immediately prior to the merger, and the capital surplus and earned surplus of the Surviving Corporation shall be the sum of the respective surpluses of the Constituent Corporations, subject to such adjustments, eliminations or transfers as required to give effect to the merger contemplated by this Agreement.

6. Amendment of Articles of Incorporation and Bylaws. On the Effective Date, the Articles of Incorporation of United shall be amended in their entirety to read as set forth in Exhibit 1 hereto.

On the Effective Date, Section 66 of the Bylaws of United shall be amended to read as follows:

66. The corporate seal shall have inscribed thereon: "Sprint-Florida, Incorporated. Corporate Seal."

7. Conditions Precedent to the Merger. The obligations of United and Centel to effect the merger in accordance with the provisions of this Agreement are subject to the conditions that:

(a) CTC, as shareholder of each of the Constituent Corporations, shall have approved this Agreement.

(b) United and Centel shall have received all necessary approvals from regulatory agencies or other governmental bodies having jurisdiction over the transactions contemplated hereby and each shall have obtained all other required consents and approvals.

8. Termination. This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Effective Date by mutual agreement of the Boards of Directors of the Constituent Corporations, in which event all obligations of the Constituent Corporations hereunder shall terminate without liability on the part of any party.

9. Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and all such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto, pursuant to authority given by their respective Boards of Directors and Shareholders, have caused its Agreement to be entered into and signed, attested and sealed by their respective authorized officers as of the day and year first above written.

United Telephone Company of Florida

By: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

Central Telephone Company of Florida

By: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

MBJGA/NUMMENG.DOC



**RESTATED**

**ARTICLES OF INCORPORATION  
OF  
SPRINT-FLORIDA, INCORPORATED**

Sprint-Florida, Incorporated, whose Articles of Incorporation were filed by the Florida Department of State under the name of United Telephone Company of Florida, does hereby amend and restate its Articles of Incorporation by filing the following Restated Articles of Incorporation, pursuant to Section 607.1007 of the Florida Business Corporation Act. The Restated Articles of Incorporation change the name of the Corporation from United Telephone Company of Florida to Sprint-Florida, Incorporated.

**ARTICLE I - NAME**

The name of this Corporation shall be:

**SPRINT-FLORIDA, INCORPORATED.**

**ARTICLE II - PLACE OF BUSINESS**

The principal place of business of this Corporation shall be Apopka, Orange County, Florida, but it may establish offices and agencies in any place or places in or out of the State of Florida.

**ARTICLE III - PURPOSE AND GENERAL POWERS**

The general purpose of this Corporation shall be the transaction of any or all lawful business for which corporations may be incorporated under the Florida Business Corporation Act, as amended (hereinafter referred to as the "Act"). This Corporation

**EXHIBIT "1"**

shall have all the powers enumerated in the Act and all such powers as are not specifically prohibited to corporations for profit under the laws of the State of Florida.

#### ARTICLE IV - CAPITAL STOCK

(a) Amount and Designation - The aggregate number of shares which this Corporation shall have authority to issue is 16,000,000 shares of common stock having a par value of \$2.50 per share, which shall be designated "Common Stock."

(b) Voting Rights of Stockholders - At each meeting of the stockholders, every holder of Common Stock shall be entitled to cast one vote, on each matter on which stockholders of record shall be entitled to vote, for each share of such stock standing in such holder's name on the record books of the Corporation on the record date fixed for the determination of stockholders entitled to vote at such meeting. Such holders shall vote together on all such matters and not by classes or series, except when and as may be otherwise required by law or these Articles of Incorporation.

(c) Payment for Common Stock - All or any of the Common Stock of the Corporation, if sold, may be paid for in cash, but may also be paid for in property, labor or services at a just valuation to be fixed by the Board of Directors at a meeting called for that purpose. Property, labor or services may also be purchased or paid for with Common Stock at a just valuation of such property, labor or services, to be fixed by the Board of Directors of the Corporation at a meeting called for such purpose. In no event shall such just valuation be less than par value.

(d) No Preemptive Rights - No holders of shares of any class of the capital stock of the Corporation shall have as a matter of right any preemptive or preferential

**ARTICLE VIII - AMENDMENT**

This Corporation reserves the right to amend or repeal any provisions contained in these Articles of Incorporation, or any amendment thereto, and any right conferred upon the shareholders is subject to this reservation.

**CERTIFICATE**

The foregoing Restated Articles of Incorporation were duly adopted by the Board of Directors of the Corporation in accordance with the Act on November 12, 1996, and by the holders of the shares of common stock, being the sole shares entitled to vote thereon, on \_\_\_\_\_, 1996, and the number of votes cast for the foregoing Restated Articles of Incorporation was sufficient for approval by such holders of common stock.

IN WITNESS WHEREOF, the undersigned does hereby make and file these restated articles of incorporation declaring and certifying that the facts stated herein are true and hereby subscribes thereto and hereunto sets his hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 1996.

STATE OF FLORIDA )  
COUNTY OF ORANGE )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 1996, by \_\_\_\_\_, who is personally known to me.

\_\_\_\_\_  
Notary Public - State of Florida

**AFFIDAVIT**

STATE OF FLORIDA

COUNTY OF ORANGE

BEFORE ME this day personally appeared JERRY M. JOHNS who deposes and says:

In accordance with Rule 25-4.005, F.A.C., United Telephone Company of Florida and Central Telephone Company of Florida (collectively the "Companies") have caused these notices to be made:

1. The notices on Attachment 1 hereto, which were approved by the Staff of the Florida Public Service Commission on November 8, 1996, are being sent to all of the Companies' customers. The first notices are being sent on November 20, 1996. The last will be sent on December 7, 1996.

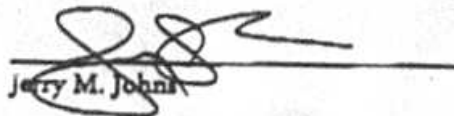
2. The notice on Attachment 2 was mailed to the governing bodies of all counties and municipalities in the Companies' respective service areas on November 14, 1996.

3. The legal advertisement that is Attachment 3 will run in these newspapers of general circulation in the Companies' service areas on the dates indicated. Proofs of publication will be provided to the Commission:

Northwest Florida Daily News (Nov. 16, 30)  
Tallahassee Democrat (Nov. 16, 30)  
Ocala Star Banner (Nov. 16, 30)  
Orlando Sentinel (Nov. 16, 30)  
Fort Myers News Press (Nov. 16, 30)

4. Notice to the Office of Public Counsel was made by service of a copy of the Petition for Approval of Transfer and Merger of Certificates on November 14, 1996.

FURTHER AFFIANT SAYETH NOT.

  
Jerry M. Johns

SWORN to and SUBSCRIBED before  
me this 14<sup>th</sup> day of November, 1996.  
Affiant is personally known to me.

  
Notary Public  
My Commission Expires:

