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April 23, 1999

Ms. Blanca S. Bayo, Director  
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Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Docket No. 990223-TL Brief

Dear Ms. Bayo:

Enclosed for filing is the original and seven (7) copies of Sprint-Florida, Inc.'s Brief. Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to this writer.

Thank you for your assistance in this matter.

Sincerely,

Charles J. Rehwinkel

CJR/th

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into telephone exchange boundary issues in South Polk County.

DOCKET NO. 981941-TL

In Re: Investigation into telephone exchange boundary issues in South Sarasota and North Charlotte Counties.

DOCKET NO. 990184-TL

In Re: Request for review of proposed numbering plan relief for the 941 area code.

DOCKET NO. 990223-TL

FILED: April 23, 1999

POSTHEARING STATEMENT OF SPRINT-FLORIDA, INCORPORATED

Sprint-Florida, Incorporated (Sprint or Company) hereby files its posthearing brief in these consolidated matters. Sprint's presentation of posthearing comments will follow the issues as set out in the prehearing order with the issue and position stated and argument following<sup>1</sup>.

I. Statement of Basic Position

Sprint's basic position has changed somewhat due to evidence received at the hearing. The Florida Public

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<sup>1</sup>The following abbreviations apply:

NPA- Numbering Plan Area (also know as Area Code)

NANPA - North American Numbering Administration (Lockheed - Martin).

GTEFL - GTE Florida, Incorporated.

service Commission (FPSC or Commission) heard compelling testimony from customers who have widely varying views on the various alternatives. Although Sprint does not disagree with the concept underlying the NPA split recommended as a part of the industry consensus effort, our position has been somewhat modified as a result of the hearing. Sprint's position in this case has been guided by several principles. First and foremost, timely relief must be provided to providers and customers so that the provision of all telecommunications services can continue. Second, any relief plan must be reasonably cost effective to all concerned. Third, it should be reasonably understandable and capable of acceptance. Fourth, the plan must be technically feasible. Based on these criteria, there are at least three relief plans that conceptually would be workable. First, Sprint supports overlays as a matter of policy and practicality. The Commission has record evidence that fully supports adoption of an all services overlay. Second, a three-way split is feasible and desirable if there is a reasonable chance that the NANPA will authorize two new codes instead of one. Third, a two-way split is supportable if it is based on drawing lines that do not divide exchanges and provides reasonable relief periods.

Each of the aforementioned methods of relief can be implemented in a technically feasible way. Each has some degree of drawback. Additionally, regardless of the method chosen, Sprint urges that if the Commission takes a position with the NANPA regarding what code(s) are assigned that they not be similar to the existing NPA or otherwise confusing. Finally, a minimum permissive dialing period of six months must be implemented.

## II. Issues

Issue 1: Should the Commission approve the proposed geographic split plan for the 941 area code relief, and if not, what relief plan should the Commission approve?

Position: Sprint now believes that the geographic split submitted by the NANPA may not be the best plan based on customer input. As proposed, the split excluded the Ft. Meade exchange from the NPA associated with the rest of Polk County. After hearing from the customers, Sprint agreed that those

customers should be included in the NPA associated with the GTEFL exchanges in Polk County<sup>2</sup>. The proposed split also would also have divided the Englewood/Cape Haze community into two area codes. This aspect created significant concern in that community as well as between County and business leaders. Instead, under certain conditions, Sprint can support an overlay, the modified<sup>3</sup> two-way split in Alternative 3 or a reasonably balanced three-way split.

Issue 2: What implementation issues, if any should be addressed by the Commission?

Position: The Commission should consider changes in dialing patterns associated with the various options and it should avoid designating a new area code that is confusingly similar to the existing one. The 241 code, for instance would lead to an unusually high number of misdialed calls and customer confusion. In addition, a permissive dialing period of six months will be necessary. A longer period may be desirable, but under the time constraints of the extraordinary jeopardy, not possible.

### III. Argument:

#### A. Introduction.

Throughout this process Sprint has remained open to the concerns and wishes of the customers. The NPA relief process cannot effectively accommodate local government or civic leaders and achieve a consensus starting point for Commission consideration. Once the Commission process started, the company reached agreement with the customers in Ft. Meade and Polk County regarding modification of proposed NPA lines. Likewise, the Commission has gone to extensive lengths to hear from the

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<sup>2</sup>The portions of the Bowling Green and Avon Park exchanges lying in Polk County should not be included with the NPA associated with Polk County unless Highlands and Hardee Counties are also included with Polk County. The majority of the customers in these exchanges do not reside in Polk County.

<sup>3</sup>The modification that Sprint supports would include with Sarasota County the entire exchanges of Cape Haze, Punta Gorda (including the Desoto County portion), Port Charlotte (Desoto and Lee county portions) and the Boca Grande Exchange (including Lee County portions). The North Fort Myers exchange (including the Charlotte County portion) would remain associated with whatever NPA was assigned to Lee County.

customers by taking testimony on at least eight occasions. Customer reaction was diverse in these hearings. Sprint has listened. Without cataloging each of the customers' positions, Sprint would summarize the opinions of the customers who came out to testify as falling in two distinct categories. First, there were customers in the Sarasota, Manatee and Charlotte Counties who argued for maintaining an identity with and among each other, to some degree to be able to keep the 941 code, and for a longer time to exhaust than 4-5 years. On the other hand, customers – especially business -- in the Ft. Myers area argued predominately for an overlay. The difference in opinions and range of options in this case do not make for an easy decision making.

Nevertheless, the Commission's unavoidable duty<sup>4</sup> in this proceeding is to select the number relief plan that is best for the existing 941 area, as a whole, consistent with the constraints of law. These constraints are the provisions of Chapter 120 and 364, Fla. Stat. and certain provisions of federal law, including the rules and decisions of the Federal Communications Commission (FCC). Of these legal requirements, the Commission will be most constrained by the federal requirement that the Commission exercise its role in fashioning numbering relief in a manner consistent with the FCC's rules. See, 47 C.F.R. § 52.19(b). The FCC has strongly suggested that this includes adherence to the Industry Numbering Committee (INC) Planning & Notification Guidelines (INC Guidelines). *See New York Department of Public Service Petition for Expedited Waiver of 47 C.F.R. Section 52.19 (c)(3)(ii), Order at 5, DA 98-1434, NSD File No. L-98-03 (Com. Car. Bur., rel. July 20, 1998).* Sprint took this position in the 407 area code relief process and renews it here. Following is a brief discussion of the options reasonably available to the Commission.

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<sup>4</sup>At the prehearing conference the prehearing officer declined a staff recommendation to add an issue regarding whether numbering relief was even required. Despite this, the Commission heard some informational testimony about the possibility of forestalling relief through number conservation efforts. In an effort to aid the Commissioners in understanding issues related to number conservation, Sprint provided the *extemporaneous* expert testimony of Tom Foley on this issue. Mr. Foley testified that there is nothing that will extend the life of 941 NPA without harming carriers' ability to provide service. (Foley, T. 246) The only other testimony on this issue confirmed that there was no relief that would be forthcoming for Florida specifically outside of NPA relief. (Kenworthy, T. 162) Sprint submits that the Commission cannot lawfully take any action under the assumption that it will receive numbering authority from the FCC or that some unstated conservation measures will be available to obviate the need for NPA relief in this docket. Sprint would object to any such action.

### A. Two-Way Split.

In its basic position Sprint has endorsed three methods of relief that are supported by the evidence of record. At the outset of the docket, Sprint supported a geographic split as devised in the NANPA-led consensus process. Sprint still supports the general product of the consensus process. However, we agree that the original proposal should be modified to accommodate the valid concerns of the affected localities. Alternative 33 (Exh. 2) best accommodates the Ft. Meade and Englewood customers' concerns.

Unfortunately, modification of the original consensus approach has eroded the main benefits the plan offered. As proposed, the plan would split along the Sprint-GTEFL border and also follow the Tampa-Ft. Myers LATA boundary. The split provided an almost even time to exhaust for both areas (5.2 years for the southern portion and 5.9 years for the northern portion). Minimal inter-company local and EAS calling provided for little disruption in 7-digit dialing. Unfortunately, the solutions to the local issues raised have caused the time to exhaust in the northern portion to dwindle to 4.1 years. This is inconsistent with the INC Guidelines. The Commission heard significant testimony about the unusually short period. To the extent that a two code split is the only reasonable way to provide relief, Sprint endorses the modified Alternative 3. However, to the extent that the Alternative 3 is unacceptable due to the short relief in the Northern sector, the Commission should consider either a three-code split or overlay.

### B. Three-Way Split.

Unfortunately, the record is incomplete on what three-way split alternatives are available. The Commission heard several variations -- usually geared more towards steering the assignment of the existing 941 NPA to a particular region. One alternative was provided by Charlotte county Commission Chairman Mac Horton (Horton, T. 284-287;Exh. 10). The "Horton" plan was obviously given a lot of consideration and would group Manatee, Sarasota and Charlotte Counties in one area, Polk, Hardee, Desoto, Highlands, and Okeechobee Counties in another and Lee, Glades, Hendry, Collier and Monroe in a third area. On it's face such a three-way split would not be objectionable. However, there is

precious little in the record to demonstrate what the time to exhaust is in each of the areas. Sprint would object to the Commission taking action to propose such a split without the Company having the opportunity to review the particulars. Additionally, Sprint's "endorsement" of the of the Horton plan is qualified. As Mr. Foley testified, the three-way split would require additional labor. (Foley, T 229-230). Furthermore, there remains significant uncertainty regarding the availability of a third code. The INC Guidelines do not clearly indicate that a third code is warranted in this case<sup>5</sup>. Staff noted at the Englewood hearing that codes may run out as early as 2007. (Exh. 2, Englewood T.54).

Considering the fact that the additional code may be in conflict with the principles underlying the number conservation measures that the Commission is seeking FCC authorization to implement<sup>6</sup>, and coupled with the fact that the NANPA may decline to issue a third code, Sprint is concerned about this approach. Admittedly the record supports the concept of a three-way split and NANPA Witness Kenworthy gave some encouragement to the Commission to ask for a third code. Nevertheless, Sprint is concerned that the additional time to implement could seriously jeopardize implementation of relief. Witness Foley testified that it is too late to "save" 941 with number conservation measures. (Foley, T. 245). Customers and the industry alike cannot afford a false start that would mean a restart of this process. Currently on this expedited track, assuming an order in the June time frame, swift action by NANPA, publication in the LERG (Local Exchange Routing Guide) and a permissive dialing period of at least six months would still mean that the earliest relief could come would be June of 2000. (Foley, T. 199,246).

Although a primary request of two new codes and an alternative request of one new code could be proposed to NANPA, the obvious willingness of the Commission to accept one new code instead of two would likely make the effort futile. Chairman Garcia noted that the likelihood of receiving two new codes may not be good. (T. 523-4). Sprint is concerned that the record was not well developed with regard

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<sup>5</sup>By implication, the fact that no split option gives 8-10 years relief to customers taking a number change, and the fact that 5.5 years is the average life under a split, the INC Guidelines may suggest a three-way split is appropriate. Even so, in this case there is little or no clear guidance. Under these circumstances, the Commission should proceed cautiously before wholeheartedly endorsing a three-way split.

<sup>6</sup>*In re: Establishment of a statewide emergency area code relief plan.* Docket No.990373-TP, Order No. PSC-99-0606-PCO-TP, Issued April 2, 1999.

to a viable three-way split. Several alternatives were identified, but the record is bare with respect to lives of the area or any other technical or dialing issue impact. Two alternatives (#7 and #11) were raised after the technical hearing concluded. The Commission should move cautiously with respect to establishing a three-way split.

### C. Overlay.

In light of the drawbacks associated with the two types of split options, the Commission should seriously consider and overlay. This option was supported by the expert testimony of BellSouth Mobility witness Brown, Sprint witness Foley and GTEFL witness Scobie. Sprint fully appreciates the Commission's reluctance to order an overlay. At the outset they are unpopular. Usually if customers have an alternative they will not support an overlay. In this hearing a robust number of customers came out and testified in support of an overlay.

Industry support for the overlay is focused in several areas. BellSouth Mobility expressed a strong concern that the overlay may be the only option that can be implemented in a reasonable time frame considering that the 941 area is in extraordinary jeopardy (Brown, T. 357 ) and complications from the initial split have made them more controversial and thus candidates for delay in achieving relief. (Brown, T.354-355). Additionally, overlays are less costly for wireless providers and their customers. (Brown, T. 358; Heaton, T.416 ). Business customers benefit by not having to buy new stationery or advertisements. One business owner described a cost of \$50, 000 to make such changes. (Greenfield, T. 87). He acknowledged that an overlay would not affect his business. (Greenfield, T. 87). Similar testimony was given by many in the Ft. Myers hearing. (e.g. Davis, T. 565-572).

Sprint witness Foley also provided solid evidence in support of an overlay alternative. (Foley, T. 190; 204-205). The Commission should note that the overlay alternative was not proposed in the industry consensus process due to Commission objections (Foley, T. 239). As Mr. Foley noted, an overlay avoids forcing NPA number changes on existing customers, provides the longest relief interval for all customers, facilitates future relief activities, and precludes any NXX and NPA exhaust imbalance from forcing NPA

relief activities unfairly on one geographic area. GTEFL witness Scobie and BellSouth Mobility witness Brown described similar benefits of an overlay. On balance, Sprint views the overlay as the optimal choice among the several most viable.

#### D. Summary of the Options.

None of the alternatives available to the Commission is ideal. The order of presentation does not signify prioritization on Sprint's part. Rather the options (Alternative #3, Alternative #? (three-way) and Alternative #5) are presented in somewhat an evolutionary order. The two-way split was the initial proposal. As the geography issues were resolved, however, the exhaust time frame degraded. Other options were explored and three-way options were discussed. These look good on paper but may not be viable at the Federal level. Finally the overlay emerged as a practical compromise solution that accomplishes the fundamental purpose of insuring that the numbers necessary for continuation of service are available in a timely fashion. Sprint does not purport to advocate any particular solution. Our presentation in this matter has focused on pointing out technical and operational issues. To some degree, we must reserve our right to review any proposal that has not been fully explicated on the record. When the staff makes its recommendation Sprint may ask to address any new issue or "evidence" at the agenda conference or through supplemental submittal.

#### E. Implementation Issues.

Among the industry participants who would have to implement any new code and field complaints and adjust for misdialed call, unanimity exists that no code should be requested which creates confusion, especially with any similarity to the existing 941 code. (Foley, T. 193-194). Sprint agrees with other witnesses and cementers that a six month permissive dialing period would be advisable in any relief plan selected.

#### F. Conclusion.

Sprint urges that the Commission make its decision with one overriding principle – that some form of NPA relief must be granted. We view the overlay as perhaps the optimal plan. However, the Alternative #3 two-way split and some form of three-way split are workable.

Respectfully submitted this 23rd day of April, 1999

A handwritten signature in black ink, appearing to read "C. Rehwinkel", written over a horizontal line.

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CERTIFICATE OF SERVICE  
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