

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

DECEMBER 20, 2005

RE: Docket No. 041464-TP - Petition for arbitration of certain unresolved issues associated with negotiations for interconnection, collocation, and resale agreement with Florida Digital Network, Inc. d/b/a FDN Communications, by Sprint-Florida, Incorporated.

Issue 5: How should "local traffic" be defined?

Recommendation: Staff recommends local traffic be defined as traffic originated and terminated in the LATA, provided the originating carrier transports its originated traffic at least as far as the tandem serving the called party.

APPROVED

Approved with the understanding the order will clearly distinguish this case from the prior court decision.

COMMISSIONERS ASSIGNED: Bradley, Deason, Edgar

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

[Handwritten signatures of majority commissioners: Bradley, Deason, Edgar]

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REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

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Issue 21: What are the appropriate terms and conditions applicable to the resale of Contract Service arrangements, Special arrangements, or Individual Case Basis (ICB) arrangements?

Recommendation: The parties have agreed to most issues pertaining to the resale of Contract Service arrangements, Special arrangements, and Individual Case Basis arrangements. The outstanding aspect of this issue pertains to the application of termination liability. Staff recommends that termination liability should apply if an end user chooses to transfer service from Sprint to FDN prior to the expiration of the customer's contract with Sprint.

DENIED

Staff's recommendation was denied.
FDN's position was adopted which would be that there would not be a termination liability under a ~~resale~~ resale arrangement.

Issue 22: What terms and conditions should be included to reflect the FCC's TRO and TRRO decisions?

Recommendation: Staff recommends that Sprint afford reasonable opportunity to FDN to challenge Sprint's wire center determinations before UNEs are removed from the list. This should be accomplished by listing impairment decisions on the Sprint web site and by sending updated lists of unimpaired wire centers to all carriers that have interconnection agreements with Sprint. On the issue of a proposed cap on DS1 transport circuits, staff believes the Commission should adopt the standard outlined by the FCC in the TRRO of 10 DS1 circuits; therefore, staff recommends that the DS1 dedicated transport cap of 10 lines apply only on routes where DS3 dedicated transport is not required to be unbundled.

APPROVED

Issue 24: May Sprint restrict UNE availability where there is not a "meaningful amount of local traffic"? If so, what is a "meaningful amount of local traffic"?

Recommendation: No. Staff recommends that Sprint should not have the ability to restrict UNE availability where there is not a "meaningful amount of local traffic." So long as a competitive LEC is offering an "eligible" telecommunications service, i.e., not exclusively long distance or mobile wireless services, it should have the ability to obtain that element as a UNE.

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Issue 29: What rates, terms and conditions should apply to routine network modifications on UNEs available under the Agreement?

Recommendation: FDN should compensate Sprint for the costs of routine network modifications to unbundled loop facilities to the extent the costs are not recovered in the unbundled loop rates. If Sprint performs network modifications for its own benefit in the normal course of its business and such network modifications also meet FDN's requirement, Sprint should not charge FDN for the network modification. Sprint's proposed language should be incorporated into the Agreement along with the additional provisional language proposed by FDN (underlined text). The language should read as follows:

53.1.1 Sprint will make routine network modifications to unbundled loop facilities used by CLEC where the requested loop facility has already been constructed. Sprint will perform routine network modifications to unbundled loop facilities in a nondiscriminatory fashion, without regard to whether the loop facility being accessed was constructed on behalf, or in accordance with specifications, of any carrier. CLEC will compensate Sprint for the costs of such routine network modifications to unbundled loop facilities to the extent the costs are not recovered in the unbundled loop rates in accordance with Table One, or Sprint will provide a price quote via the ICB process. (TR p. 27) Where Sprint would perform network modifications for its own benefit in the normal course of its business due to market demand and such network modifications also meet a CLEC requirement, Sprint will not charge CLEC for the network modification. (Exh. 15 p. 72 & 73)

53.1.2 Sprint will make routine network modifications to unbundled dedicated transport facilities used by CLEC where the requested dedicated transport facilities have already been constructed. Sprint will perform routine network modifications to unbundled dedicated transport facilities in a nondiscriminatory fashion, without regard to whether the loop facility being accessed was constructed on behalf, or in accordance with the specifications, of any carrier. CLEC will compensate Sprint for the costs of such routine network modifications to unbundled dedicated transport facilities to the extent the costs are not recovered in the unbundled dedicated transport rates. Sprint will provide routine network modifications at the rates on Table One, or Sprint will provide a price quote via the ICB process. (TR p. 28) Where Sprint would perform network modifications for its own benefit in the normal course of its business due to market demand and such network modifications also meet a CLEC requirement, Sprint will not charge CLEC for the network modification. (Exh. 15 p. 73 & 74)

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Issue 30: On what rates, terms and conditions should Sprint offer loop conditioning?

Recommendation: If the Commission approves the staff recommendation in Issue 34 and incorporates the rates established in the Sprint UNE Cost Docket, Docket No. 990649B-TP, the rates established for loop conditioning should be incorporated in the Agreement. Should the Commission deny the staff recommendation in Issue 34, then this issue should remain open and the rates for loop conditioning should be arbitrated in full.

APPROVED

Issue 34: What are the appropriate rates for UNEs and related services provided under the Agreement?

Recommendation: Staff recommends that the UNE rates approved in Docket No. 990649B-TP be incorporated in the new interconnection agreement between Sprint and FDN. In addition, staff recommends that the new rates be implemented on a prospective basis only.

APPROVED

Issue 35: What are the parties' obligations regarding interconnection facilities?

Recommendation: FDN should establish one Point of Interconnection (POI) per LATA. FDN may establish more than one POI per LATA at its discretion.

APPROVED

with the understanding the order will include FDN's stated agreement that it will establish a point of interconnection at each tandem if the Commission approves FDN's proposal in Issue 5.

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Issue 36: What terms should apply to establishing Points of Interconnection (POI)?

Recommendation: If the Commission determines in Issue 5 that the Local Calling Area is the entire LATA, FDN should voluntarily establish a POI at each tandem in each LATA where FDN terminates traffic, as FDN has proposed.

If the Commission determines in Issue 5 that the Local Calling Area is not the entire LATA, then FDN should establish one POI per LATA, and may establish more than one POI per LATA at its own discretion.

APPROVED

Issue 37: What are the appropriate terms for transport and termination compensation for:

- (a) local traffic
- (b) non-local traffic
- (c) ISP-bound traffic

Recommendation: The parties have come to a mutual agreement on the appropriate compensation method for local, non-local, and ISP-bound traffic. The parties disagree as to the definition of local service, which is addressed in Issue 5.

APPROVED

Issue 38: What are the appropriate terms for compensation and costs of calls terminated to end users physically located outside the local calling area in which their NPA/NXXs are homed (Virtual NXXs)?

Recommendation: VNXX traffic should be subject to long distance access charges based on the end points of the calls and the terms should be reciprocal such that both FDN VNXX and similar Sprint FX traffic, if any, is compensated in the same manner regardless of the directional flow of such traffic. The Agreement should incorporate the following language:

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55.4 Calls terminated to end users physically located outside the local calling area in which their NPA/NXXs are homed (Virtual NXXs), are not local calls for purposes of intercarrier compensation and access charges shall apply. For CLEC or Sprint originated traffic terminated to the other party's Virtual NXXs or similar FXs neither party shall be obligated to pay reciprocal compensation, including any shared interconnection facility costs, for such traffic.

APPROVED

Issue 39: What are the appropriate terms for compensation and costs of calls that are transmitted, in whole or in part, via the public Internet or a private IP network (VOIP)?

Recommendation: If the Commission finds in Issue 5 that the Local Calling Area should be the entire LATA for the purposes of reciprocal compensation, the parties should incorporate the following language into the Agreement:

55.5 Neither Party will knowingly send voice calls that are transmitted by a Party at any point, in whole or in part, via the public Internet or a private IP network over local interconnection trunks for termination as local traffic by the other Party, nor shall either Party engage a third party for the purpose of sending such calls where the Party has actual knowledge that the third party shall do so, until a mutually agreed Amendment is effective. Except that either Party may send the other VoIP traffic that is also Local Traffic based on the originating and terminating geographical locations prior to executing such amendment. The Parties further agree that this Agreement shall not be construed against either Party as a "meeting of the minds" that VoIP traffic is or is not local traffic subject to reciprocal compensation in lieu of intrastate or interstate access. By entering into this Agreement, both Parties reserve the right to advocate their respective positions before state or federal commissions whether in bilateral complaint dockets, arbitrations under Sec. 252 of the Act, commission established rulemaking dockets, or in any legal challenges stemming from such proceedings.

Should the Commission find in Issue 5 that the local calling area is not the LATA, the Commission should hold this issue in abeyance until the FCC determines the status of VoIP traffic as it pertains to intercarrier compensation and allow the parties to amend the Agreement in accordance with the FCC's decision.

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Issue 62: Should Sprint provide FDN a means for accessing on a pre-ordering basis information identifying which Sprint loops are served through remote terminals?

Recommendation: Yes. Sprint should provide FDN a means for accessing on a pre-ordering basis information identifying which Sprint loops are served through remote terminals.

APPROVED

Issue 63: Should this docket be closed?

Recommendation: No. The parties should be required to submit a signed agreement that complies with the Commission's decisions in this docket for approval within 30 days of issuance of the Commission's Order. This docket should remain open pending Commission approval of the final arbitration agreement in accordance with Section 252 of the Telecommunications Act of 1996.

APPROVED