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December 9, 1996

BY HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 961230-TP

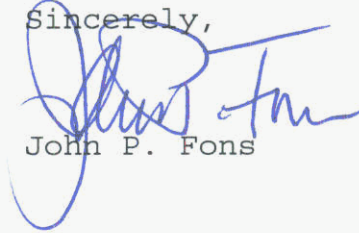
Dear Ms. Bayo:

Enclosed are the original and fifteen (15) copies of Sprint's Motion to Compel.

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,



John P. Fons

cc: All Parties of Record

ACK _____

AFA _____ Enclosures

APP _____

CAF _____

CMU Sheffer

CTR _____

EAG _____

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by MCI Telecommuni-)	
cations Corporation for arbitration)	DOCKET NO. 961230-TP
with United Telephone Company of)	Filed: December 9, 1996
Florida and Central Telephone Company)	
of Florida concerning interconnection)	
rates, terms, and conditions,)	
pursuant to the Federal Telecommuni-)	
cations Act of 1996)	

MOTION TO COMPEL

Pursuant to Florida Rule of Civil Procedure 1.380(a), and FPSC Rules 25-22.037 and 22.034, F.A.C., United Telephone Company of Florida ("Sprint-United") and Central Telephone Company of Florida ("Sprint-Centel") (together "Sprint"), move to compel MCI to produce documents in response to Sprint's First Request for Production of Documents, Request No. 3 (the "request"), and state:

Introduction

1. Sprint served by hand delivery its First Request for Production of Documents on counsel for MCI on November 12, 1996. On November 22, 1996, MCI filed its preliminary objections to Sprint's discovery. Therein, MCI raised one specific objection. The objection, and the request to which it relates, are set forth below:

3. All documents showing MCI's network development plans in Florida, generally, or in the certificated territory of Sprint-United and Sprint-Centel in Florida, specifically.

MCI Response: MCI objects to this request for production on the grounds that it is overly broad, unduly burdensome, oppressive, irrelevant, and not reasonably calculated to lead to the discovery of admissible

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evidence. Moreover, it seeks information which is subject to the trade secrets privilege. The details of MCI's network development plans in Florida are not relevant to any of the issues to be arbitrated in this proceeding.

2. MCI should be compelled to produce documents in response to this request for the reasons explained below.

Argument

3. The Request Seeks Relevant Documents. Under the Florida Rules of Civil Procedure, which govern discovery before the FPSC, the scope of discovery includes "any matter, not privileged, that is relevant to the subject matter of the pending action...." Fla.R.Civ.Proc. 1.280(b)(1). Under the rules, "It is not grounds for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence." Id. MCI's network development plans are relevant and reasonably calculated to lead to the discovery of admissible evidence; therefore, they are discoverable.

4. One of the issues in the case is whether MCI should receive compensation for tandem transport. MCI believes that it should receive tandem transport compensation because MCI uses an "equivalent facility" [Murphy Rebuttal Testimony, page 7, lines 11-22]. According to MCI, "the equivalent facility is whatever facility MCI uses to terminate traffic over a geographic area that is at least as large as the area served by Sprint's tandem." [Id. at lines 15-17.]

5. Sprint's request is relevant and within the permitted scope of discovery because it must have the ability to know where MCI's facilities are and will be so that it can test whether those facilities will "terminate traffic over a geographic area that is at least as large as the area served by Sprint's tandem." Having the requested documents will allow Sprint to evaluate MCI's claim that it has equivalent facilities through cross-examination and otherwise. MCI must either abandon its position on equivalent facilities and tandem compensation or produce the requested documents.

6. While MCI's network development plans may be "proprietary confidential business information," they do not constitute a privileged "trade secret." As noted in the Law Revision Council Notes to Section 90.506, Florida Statutes, the type of trade secrets protected by that section include chemical formulas, mechanical designs, commercial secrets such as "know-how" and certain customer lists. Fla. Stat Ann. § 90.506 (West 1996). While deserving confidential treatment, MCI's network development plans are not like the recipe for Coca-Cola, and are not the kind of thing intended to be protected by Section 90.506.

7. Even if MCI's network development plans are a privileged trade secret, that privilege is not absolute and Sprint needs the requested documents. Under Florida and federal law, the trade secret privilege is not absolute. Auto Owners Ins. Co. v. Totaltape, Inc., 135 F.R.D. 199 (M.D. Fla. 1990). Rather, when the trade secret privilege is asserted as the basis for resisting

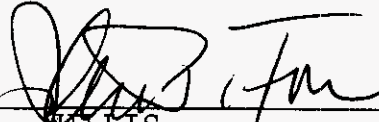
production, the trial court must determine whether the requested production constitutes a trade secret; if so, the court can require production if the party seeking production shows reasonable necessity for the requested materials. Rare Coin-It, Inc. v. I.J.E., Inc., 625 So.2d 1277 (Fla. 3d DCA 1993).

8. Here, Sprint has shown reasonable necessity for the requested materials. See paragraphs 4 through 6, above. Sprint will gladly sign a non-disclosure agreement similar to the one Sprint has requested MCI to sign. Doing so would be sufficient to protect the interests of MCI and is reasonable in the circumstances.

9. The request is not overly broad, unduly burdensome or oppressive. Sprint's request merely seeks documents showing MCI's network development plans in Florida. While Sprint recognizes that it may be impossible for MCI to identify with certainty and produce every single document wherever located showing MCI's network development plans, Sprint believes that it is reasonable for MCI to make a reasonable search for the requested documents by inquiring of people in MCI who might reasonably be expected to have network planning documents. If MCI has questions regarding whether any particular document falls within the scope of the request, Sprint will gladly consult with MCI for the purpose of resolving any uncertainty caused by the way the request was worded.

WHEREFORE, Sprint respectfully requests that the Prehearing Officer issue an order compelling MCI to produce the documents requested in Request No. 3.

Dated this 9th day of December, 1996.



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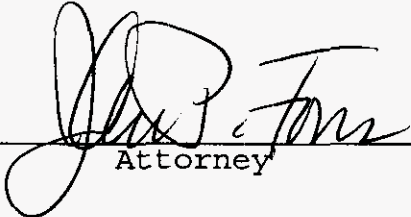
ATTORNEYS FOR CENTRAL TELEPHONE
COMPANY OF FLORIDA AND UNITED
TELEPHONE COMPANY OF FLORIDA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail or hand delivery (*) this 9th day of December, 1996, to the following:

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