



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-

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DATE: DECEMBER 22, 1998

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

FROM: DIVISION OF COMMUNICATIONS (TRUBELHORN)
DIVISION OF CONSUMER AFFAIRS (SMITH) *SMH*
DIVISION OF LEGAL SERVICES (COX) *WPC MCB*

RE: DOCKET NO. 980128-TL - CONSIDERATION OF SPRINT-FLORIDA, INCORPORATED'S FAILURE TO PROVIDE ADDITIONAL TELEPHONE SERVICE TO UPPER CAPTIVA ISLAND, AS REQUIRED BY SECTIONS 364.025(1) AND 364.15, FLORIDA STATUTES.

AGENDA: 01/05/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\980128.RCM

CASE BACKGROUND

Upper Captiva Island, an unbridged island just north of Captiva Island, is about four miles long, totaling about 700 acres, two-thirds of which is state-owned wilderness. About 250 private residences occupy the northern one-third of the island.

In September 1997, the Upper Captiva Civic Association (UCCA) asked the Commission to investigate Sprint-Florida, Incorporated's (Sprint) provision of telephone service to Upper Captiva Island. Attachment A. Also, in October 1997, the UCCA forwarded a copy of a resident's letter that a Sprint Business Office representative told her that "Sprint's facilities were at load capacity, and that there would be no new telephone service extended to island residents until a tower was built . . ." Attachment B. Staff wrote to Sprint in December 1997 to investigate Sprint's ability to

DOCUMENT NUMBER-DATE

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PESC-RECORDS/REPORTING

provide additional service (new service beyond the service already provided) to island residents. After Sprint reported both cable maintenance and capacity problems, staff opened this investigatory docket in January 1998. Attachment C.

Sprint provides service to Upper Captiva Island from Captiva Island via 36,000 feet of 200-pair, submarine and buried, copper cable. Sprint serves approximately 285 lines- providing 160 lines over physical copper pairs and 125 lines over a B-281 analog carrier system. It cannot provide feeder relief via the existing facilities due to cable design, cable maintenance, obsolete carrier equipment, and permitting reasons.

Beginning in 1992, Sprint's planners studied both fiber and radio relief solutions, decided to provide radio relief for economic reasons, but had been unable to acquire the required easements. The UCCA and the Fire District have strongly opposed Sprint's plans to build a radio tower on the Island. Recently, after failing to secure a State park land's easement, Sprint acquired a private property easement and began Spread Spectrum Radio construction that should be completed by the end of the year.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission take further action against Sprint-Florida, Incorporated for apparent violations of Sections 364.025 (1) and 364.15, Florida Statutes, through its failure to provide additional telephone service to Upper Captiva Island?

RECOMMENDATION: No. While Sprint has been unable since late 1997 to provide additional telephone service to Upper Captiva Island per Section 364.025(1), Florida Statutes, it has made reasonable and sufficient efforts to comply. Sprint's inability to provide additional, new primary service within a reasonable time period was due primarily to unusual circumstances beyond its control: its inability to remove the submarine load coils to provide additional feeder relief, the revocation of the state right-of-way for buried cable, the rezoning of its Fire District easement to prohibit tower construction, its inability to acquire an alternate tower site, and significant resident opposition to the proposed tower heights and locations.

STAFF ANALYSIS: Section 364.025 (1), Florida Statutes, states:

For a period of 4 years after January 1, 1996, each local exchange telecommunications company shall be required to furnish basic local exchange service within a reasonable time period to any person requesting such service within the company's service territory.

Staff recommends that the Commission take no further action against Sprint for its apparent failure to comply with Section 364.025(1), Florida Statutes, because of the unusual circumstances it faced in trying to provide additional feeder facilities to the island, and because these unusual circumstances prevented Sprint from providing additional feeder facilities to the island in a reasonable time period. These unusual circumstances are set forth below.

Sprint provides service to the island via 36,000 feet of 200-pair copper cable from Captiva Island that includes submarine cable under the Intracoastal Waterway and buried cable along the island's west coast through State park lands to the northern, populated section. There are two inaccessible, underwater load points on the submarine feeder cable to the island that Sprint's technicians cannot repair or remove for lack of slack in the cable; this makes feeder relief via the existing cable impossible because new digital carrier systems require removal of the load points. Sprint cannot provide additional service by enlarging the current analog system because it is obsolete, its backplane is defective and cannot be repaired, and replacement parts are no longer available. Furthermore, the buried cable is deteriorating and needs to be removed. Sprint no longer has a permit to pass through state park lands that have since been declared "environmentally sensitive" by the Department of Environmental Resources, and needs to remove or abandon the cable when it provides feeder relief to the island. On three separate occasions from 1991 to 1993, Sprint replaced more than 2100 feet of buried cable due to tree damage, exposure, and washout from tropical storms. These replacement cables are exposed, encased in conduit on the ground.

In early 1992, unable to enlarge the analog carrier system for physical and replacement parts reasons, Sprint studied feeder relief solutions via fiber cable and radio systems. After acquiring easements for fiber relief in March 1994, Sprint determined the fiber relief costs (approximately \$1,400,000) to be prohibitive and concentrated on radio relief solutions. From early 1992 to November 1998 when it acquired a private property lease, Sprint sought to acquire the easements necessary to construct

feeder relief to the island, meeting with temporary success and several failures. From March 1994 to March 1996, Sprint pursued permits from the following organizations- the Department of Environmental Protection, North Captiva Air, Inc., the Federal Communications Commission, and Lee County. After acquiring an easement for a radio tower on Fire District property in March 1995, island residents opposed the 96-foot tower height. When Sprint started construction in March 1996, residents halted construction.

Before 1997, Sprint provided new service to Upper Captiva Island by spare physical pairs, by disconnects, and by enlarging the analog carrier system. When Sprint recognized that its feeder cable to Upper Captiva Island was at 100 per cent capacity in February 1997, it alerted its Business Office service representatives that it might not be able to provide new primary service until feeder facilities could be constructed. Sprint directed its Business Office service representatives to tell Upper Captiva callers that "Due to the company's inability to secure suitable facilities and rights for the provision of service without unreasonable expense, there is a temporary shortage of facilities in your area necessary to provide service. The company regrets any delay experienced and is using its best efforts to secure the necessary means to meet the service requirements." Attachment C. Sprint held its first new service order (over 30 days) in November 1997.

After studying several alternative radio solutions (other routes and systems) and finding them technically inferior, Sprint tried to resume construction of radio relief facilities in March 1997. The Fire District (fearing that the tower might fall during a storm and damage the Fire Station) sued and stopped construction. Then in October 1997, because it opposed tower construction and wanted Sprint to construct fiber facilities to the Island, the UCCA appealed to the Lee County Commission. The UCCA also challenged the easement's validity. The County Commission approved the UCCA's application to rezone the easement to prohibit tower construction at the Fire District site. Also, in October 1997, the UCCA contacted the Florida Public Service Commission requesting an investigation of Sprint's provision of telephone service to the island.

After holding its first service request in November 1997 and upon the UCCA's request, Sprint intensified its efforts to acquire the easements necessary to provide feeder relief. In January 1998, after deciding to provide Spread Spectrum Radio (SSR) relief to Upper Captiva Island, Sprint's planner met with the Fire District

to seek approval for a 45-foot tower. SSR, the technology that now serves the unbridged Dog Island off Carabelle, was approved by the Commission in October 1997 in Docket No. 950814-TL. GTC Inc. replaced Dog Island's cellular service with SSR telephone service in June 1998. In Attachment C, Sprint reported a broad gauge estimate of \$500,000 for the full cost of SSR relief; in March 1998, Sprint estimated the construction cost of SSR relief at \$50,000 excluding tower and Digital Loop Carrier costs. The Fire District Board voted in March 1998 not to reconsider a tower site on Fire District property. On April 30, 1998, staff chaired a meeting of Sprint, UCCA representatives, Fire District members, and island residents; all agreed to work together to find an acceptable solution and easements, and Sprint agreed to limit the tower's height to 50 feet. After the Fire District's Board discussed the need for a tower site on May 29, 1998, the UCCA called an Open Forum for all parties and residents on June 20, 1998 to discuss Sprint's Fire District proposal and an alternate state park lands site. Staff and Sprint learned at the Forum that the Fire District had decided in May not to approve a Fire District tower site. All agreed that the best solution was to jointly pursue a state park lands easement. Sprint next learned that the State of Florida refused to grant an easement except as a last resort, no matter what it might cost Sprint to pursue a private property easement. After again failing to acquire an easement at the Fire District and failing to acquire a State easement, Sprint committed to acquiring a private easement. It signed a private property lease on October 21, 1998 for a 60-foot tower. Sprint notified the UCCA who notified Upper Captiva residents that it had acquired the necessary easement and would begin construction of SSR feeder relief to the island. Sprint reports the number of unfilled, new primary service requests quarterly in Schedule 3 of its Periodic Reports to the Commission. Its 4Q97, 1Q98, and 2Q98 reports show 2, 8, and 14 unfilled primary services for Upper Captiva residents. Finally, Sprint began SSR construction in October 1998, and expects to complete installation and cutover by the end of this year, providing additional new service to the residents of the island (satisfying the above 14 held service requests) in January 1999. Attachment D.

Section 364.15, Florida Statutes, states:

Whenever the Commission finds, on its own motion or upon complaint . . . that any additions or extensions should reasonably be made to any telecommunications facility . . . in order to secure adequate service or facilities for telecommunications services, the commission shall make

and serve an order directing that such repairs, improvements, changes, additions, or extensions be made.

Staff recommends that the Commission not direct Sprint to construct additions to its telephone facilities servicing Upper Captiva Island per Section 364.15, Florida Statutes, because Sprint began construction of SSR facilities in October 1998. Sprint anticipates completion on December 31, 1998. Attachment D. Staff, therefore, expects Sprint to provide service for the held orders and for any new primary services to Upper Captiva residents in January 1999.

For all of the above reasons, staff recommends that the Commission not take further action against Sprint for its apparent failure under Section 364.025(1), Florida Statutes. Staff believes that the unusual circumstances made Sprint unable to provide additional facilities within a reasonable time period. Staff also recommends that the Commission not direct Sprint to make additions under Section 364.15, Florida Statutes, because it will soon complete construction of the needed feeder additions.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: This docket should be closed if no person whose interests are substantially affected by the proposed action files a protest within the 21-day protest period.

STAFF ANALYSIS: At the conclusion of the protest period, if no protest is filed, this docket should be closed.



UPPER CAPTIVA CIVIC ASSOCIATION

ATTACHMENT A
DOCKET NO 980128-TL
DATE: December 22, 1998

302
P.C. 98-128
Pine and For 00 134-1

TO: RICK MOSES
UTILITIES SYSTEM COMMUNICATION SUPERVISOR
PUBLIC SERVICE COMMISSON

DEAR RICK,

AS REQUESTED BY OUR PHONE CONVERSATION ON 9/19/97, OUR
CIVIC ASSOCIATION HAS COMPILED IMPORTANT INFORMATION
FOR THE PUBLIC SERVICE COMMISSON.

WE REQUEST THE PUBLIC SERVICE COMMISSON TO INVESTIGATE
THIS MATTER.

SINCERELY

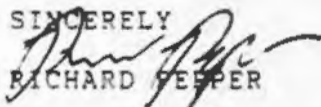

RICHARD PEEPER

EXHIBIT "A" SUGGEST THAT SPRINT/UTS ORIGINAL PLAN FOR
FUTURE PHONE SERVICE TO UPPER CAPTIVA ISLAND WAS FIBER
OPTIC CABLE.

EXHIBIT "B" SHOWS THAT SPRINT/UTS NEGOTIATED WITH ONLY
ONE INDIVIDUAL FOR A TOWER SITE, WHO IN FACT WAS NOT A
FIRE COMMISSONER AT THE TIME.

EXHIBIT "C" IS AN EDITORIAL FROM THE FT. MYERS NEWS PRESS
THAT INDICATES THAT SPRINT/UTS DOSE HAVE A PERMIT WITH THE
STATE TO LAY FIBER OPTIC CABLE.

EXHIBIT "D" IS A LETTER TO THE FT. MYERS NEWS PRESS FROM
AN ISLAND RESIDENT EXPLAINING HOW SPRINT/UTS IS UTILIZED
ITS MONOPOLY OVER THIS PUBLIC UTILITY. *SEE ATTACHMENT B.*

EXHIBIT "E" IS TIME LINE OF TOWER HEIGHTS WHICH SHOWS HOW
INCONSISTENT SPRINT/UTS HAS BEEN OVER THE PAST YEARS.



United Telephone Company of Florida
A Sprint Company

ATTACHMENT A
 DOCKET NO 980128-TL
 DATE December 22, 1998

Bus 371
 Fort Myers, FL 33901

September 29, 1993

Mr. Harold Fett
 Salty Approach Limited
 34 Hidden River Road
 Sarasota, FL 34240

Re: Easement Request North Captiva Island

Dear Mr. Fett,

United Telephone of Florida (UTF) has been experiencing problems with the telephone cable that provides service to North Captiva Island. The telephone cable is buried along the gulf beach for a portion of its route and has been subjected to wash out due to beach erosion.

UTF would like to re-route this cable facility to the bay side of the island and make landfall on the southeast end of your airfield runway. The cable would then be buried along the southern boundary of the runway to Spanish Gold Lane, then turn south on Spanish Gold Lane to the UTF equipment location. The proposed cable will be a fiber optic cable and will replace the existing copper cable which will allow an upgrade of the existing electronics that currently is providing service. All of the proposed telephone facilities on the runway will be buried. UTF is requesting a (10) foot easement along the proposed cable route on the runway. I have included a sketch depicting the cable route for your convenience.

I have discussed the easement requirements with Mr. Gene McBee at the Lee County Electrical Cooperative and concluded that a joint easement would not be a problem.

UTF would appreciate your submitting this request to your associates and advising me if an easement could be granted.

If you require any additional information I can be reached at 813-336-2008.

Sincerely,

Douglas A. Fracko
 Douglas A. Fracko
 Sr. Engineer - UTF

EASEMENT

92 PG2311

207

THIS EASEMENT, made this 20th day of February, 1998, and between NORTH CAPTIVA AIR, INC., a Florida corporation, joined by SALTY APPROACH LIMITED PARTNERSHIP, a Florida limited partnership, as beneficial owner, hereinafter collectively referred to as "Grantor", whose mailing address is 34 Hidden River Road, Sarasota, Florida 34240, and UNITED TELEPHONE COMPANY OF FLORIDA, a Florida corporation, hereinafter referred to as "Grantee," whose mailing address is P.O. Box 370, Fort Myers, Florida 33902.

WITNESSETH:

Grantor, for and in consideration of One Dollar and other valuable considerations, does hereby grant unto Grantee a nonexclusive easement over the south six (6) feet of that certain property described in Exhibit "A" attached hereto located in Lee County, Florida, as shown on a drawing attached hereto as Exhibit "B," to construct, operate, and maintain underground cables for the transmission and distribution of telephones and/or telephone lines, including necessary equipment and accessories incidental and desirable in connection therewith, with full right of ingress and egress thereto for equipment and personnel of Grantee, subject, however, to the terms of this Easement.

RESERVING unto Grantor, however, all right, title, interest and privilege and the full enjoyment of the property and the use thereof for all purposes not inconsistent with the use hereinabove specified.

This easement is granted by Grantor and accepted by Grantee subject to the following conditions which Grantee, by acceptance of such easement, covenants and agrees to perform:

1. To exercise due care in the use of the easement.
2. To cause no unnecessary or unreasonable obstruction or interruption of travel over or upon the property.
3. To limit the use of the easement for telephone transmission lines and equipment only and the maintenance thereof, it being specifically understood and agreed that in no event shall this easement be construed to permit ingress and egress by the general public.
4. To use diligence in making excavations or other repairs and, after the completion of any construction or maintenance operations, to restore the property to its former condition, including, but not limited to, returning the ground to the original grade, returning any pavement removed or damaged to its original composition and condition, and replacing any grass, shrubbery, trees or other landscaping disturbed by such work; to use diligence in the construction and installation of all equipment and to install such equipment so as to cause the least inconvenience or impediment to Grantor. Upon Grantee's failure to do so within a reasonable period of time, upon notice to Grantee, Grantor may perform such work and charge the same to Grantee.
5. To use the easement granted so as to prevent the creation of any obstruction or condition which is or may become dangerous to Grantor, its guests, employees, invitees, licensees, or the public in general.
6. To indemnify and hold Grantor harmless from any and all claims for the payment of any compensation or damages resulting from the use by Grantee of the easement.
7. To furnish Grantor within a reasonable time after completion of construction accurately scaled "as built" drawings showing the location and all pertinent and material details of transmission lines and other improvements at any time placed within the easement.

RECORDING OFFICE OF THE CLERK OF THE COUNTY OF LEE, FLORIDA
BY: S. JAMES, JR., P.C.

70
Intangible Tax Fee
L. J. ...
Supply Clerk

0R2492 PG2312

9. Grantee recognizes that the subject property is a private airstrip, utilized for take-off, taxing, storage and landing of private aircraft and related uses and will utilize the easement in such a manner so as not to compromise or jeopardize, in any way, the use or condition of the property as a runway. Except for the initial installation of the telephone cable, notwithstanding anything in this Easement to the contrary, Grantee shall not allow any vehicles on the easement property without obtaining Grantor's prior written approval. All access to the easement property, whether for installation or maintenance, shall be only by employees of Grantee, and by no other parties. Access to the easement area shall only be from the south of the easement area. To the extent practicable, Grantee shall notify Grantor in writing at least three (3) days in advance prior to entering into the easement area. Unless expressly approved by Grantee in writing, no equipment shall be placed above ground or shall be placed on or within the easement area that would or could be hazardous to the use of the property as an active runway and take-off/landing facility.

10. Grantee recognizes that Grantor may grant a similar easement to electric companies or other utilities, and agrees, to the extent practicable, to coordinate its efforts, including initial installation as well as maintenance, with due consideration for the needs and concerns of such other utility providers or other Grantees.

The provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed in its name by its duly authorized officer, the day and year first above written.

Signed, sealed and delivered in the presence of:

NORTH CAPTIVA AIR, INC a Florida corporation

Jack A. Hixon
Signature of Witness

By [Signature]
Print Name: Russell W. Ross

JACK A. HIXON
Print Name of Witness

As Its: President

[Signature]
Signature of Witness

HAROLD J. EAST
Print Name of Witness

SALTY APPROACH LIMITED PARTNERSHIP, a Florida limited partnership

Jack A. Hixon
Signature of Witness

By [Signature]
Print Name: Russell W. Ross

JACK A. HIXON
Print Name of Witness

As Its: _____

[Signature]
Signature of Witness

HAROLD J. EAST
Print Name of Witness

The following instrument was acknowledged before me this 20th day of ~~February~~, 1994 by Russell N. BIRD as President of NORTH CAPTIVA AIR, INC., a Florida corporation, on behalf of the corporation, who is personally known to me ~~or who has produced~~ as identification, and who did did not take an oath.

(Notary Seal)

[Signature]
Signature of Notary Public
William J. Pitt 0603-227
Print Name of Notary Public
I am a Notary Public of the State of Florida, and my commission expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. FEB. 16, 1995
BONDED THRU GENERAL INS. CO.

STATE OF FLORIDA
COUNTY OF SARASOTA

The following instrument was acknowledged before me this 20th day of ~~February~~, 1994 by Russell N. BIRD as President of SALTY APPROACH LIMITED PARTNERSHIP, a Florida limited partnership, on behalf of the limited partnership, who is personally known to me ~~or who has produced~~ as identification, and who did did not take an oath.

(Notary Seal)

[Signature]
Signature of Notary Public
William J. Pitt 0603-227
Print Name of Notary Public
I am a Notary Public of the State of Florida, and my commission expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. FEB. 16, 1995
BONDED THRU GENERAL INS. CO.

Prepared By and Return To:
Donald W. Smucker, Esquire
SMUCKER & BECHTOLD, P.A.
1776 Ringling Boulevard
Sarasota, Florida 34236
(813) 366-7653

OR2492 PG2313

UNITED TELEPHONE COMPANY OF FLORIDA

DRWN. BY:	LOC. CODE:	AUTH. NO.:			
ENGR. BY: FRACKE	DESCRIPTION: NCPTV EASEMENT				
APPD. BY:	DATE: - - -	R.M. PAGE:			
EQ. USE:	J.P.A.:	T.C.A.:	T.Z.:	C.O.:	I-S
SHEET 1 OF 1					

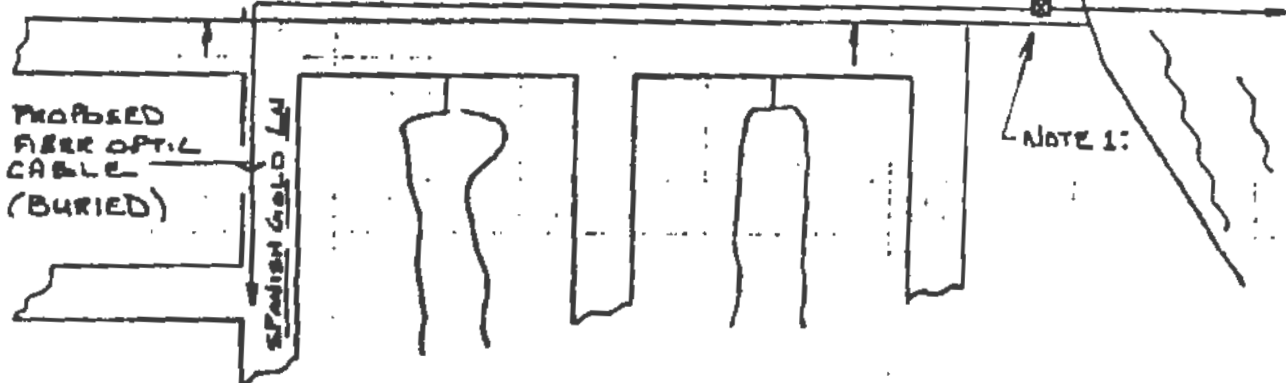
NORTH CAPTIVA SANDS
PUNTA ROBALO
NORTH CAPTIVA ISLAND

PIKE ISLAND SAND

AIRPLANE LANDING STRIP

65' → T445
 R21E
 32 | 35
 5 | 4

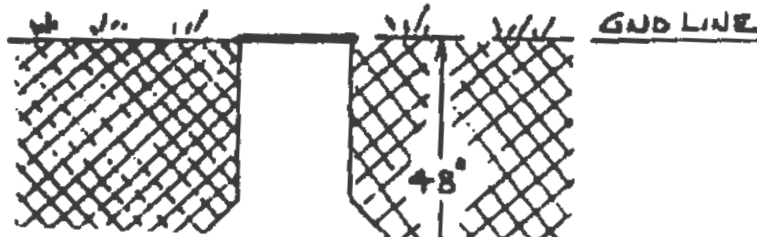
6' → PROPOSED UTILITY EASEMENT



NOTES:

1) "OPTIFED" IS A BURIED FIBER OPTIC CABLE CLOSURE. IT IS CONSTRUCTED OF FIBERGLASS WITH STAINLESS

OPTIFED CABLE CLOSURE



DR2492 P02315



Box 165000, M/C 3322
Abraham Springs, Florida 32716-5000
Telephone: 407-899-4304
Fax: 407-899-7020

Jeanne G. Felis
Account Executive

March 30, 1995

Dr. Jack Hunt
Upper Captiva Fire & Rescue Service District
c/o Safety Harbor Club
P. O. Box 2276
Pineland, FL 33945

Dear Dr. Hunt:

This letter of intent confirms the agreements between Sprint/United-Centel-Florida (S/UTF-CF) and the Upper Captiva Fire and Rescue Service District (Fire District) that you and I have negotiated over the phone. The specifics of the agreements are outlined below:

- . The Fire District will grant S/UTF-CF a 20 x 20 easement at no charge;
- . S/UTF will pay for the cost of the survey to mark off the above easement;
- . S/UTF will pay for all costs associated with the recording of the above easement;
- . S/UTF will construct a 80' monopole tower with a 6' microwave dish antenna on said easement;
- . S/UTF will place a RCP-3002 cabinet to house the radio transmission equipment on said easement;
- . S/UTF will be responsible for all repair and maintenance to the tower;
- . S/UTF will maintain the tower's required alarms;
- . S/UTF will grant the Fire District the attachment of a 911 antenna to the tower at no charge;
- . Subject to a mutually suitable configuration from Morrison Electric, S/UTF will provide a power meter that will serve both S/UTF and the fire house when built;

Dr. Jack Hunt
March 30, 1995
Page 2

When construction of the fire house is complete, the Fire District will assume financial responsibility for the power bill.

Please ensure that the above intentions are agreeable with the Fire District. I am working on the formal contract and will provide you with a draft copy when ready.

If you have any questions, I can be reached at 407-889-6504.

Sincerely,



Joanne G. Fallis
Account Executive

Upper Captiva residents fight towering issue

The telephone company has dialed the wrong number on Upper Captiva.

The parties on the other end of the line don't want a 96-foot microwave monstrosity towering over their little slice of paradise. No thank you. Not just no. HECK no. Please don't call back. Click.

Islanders object to a tower on two key points. Point one, it's ugly.



**JOE
WORKMAN**

Point two, when the next hurricane blows this way the tower might topple onto the island fire station, which also is to be used as a shelter for residents.

Let's take care of point two first. The company says if the tower tumbles it will fall on its own lot, never touching the fire station.

That should be easy enough for the islanders to determine. Just check out the space around it and see if it will fit lying down.

But chances are slim residents would get conked on their noggins anyway. Anybody who stays on Upper Captiva in a major hurricane has a death wish.

Now back to ugly. Upper Captiva is 30 miles and a world away from Fort Myers in attitude. Its residents have no desire to lure bright lights, busy sidewalks and swinging saloons to their cozy hideaway.

City noises would drown out the soothing sound of waves crashing into the shoreline and the distinctive squawk of the great blue heron. Bright lights would interfere with the loggerhead turtles lumbering ashore to lay their eggs.

Only about 50 of the 240 residences are occupied year-round. Others are seasonal dwellings and rentals.

ISLANDERS TRAVEL TO the mainland by airplane and boat. They get about the island on golf carts.

There are no bridges, hotels or motels on Upper Captiva. Cars are as welcome as red tide.

Upper Captiva is only four miles long totaling 700 acres, two-thirds of which is state-owned wilderness. It's been called a barefoot kind of place.

SECTION

C

WEDNESDAY, APRIL 17, 1996

But Sprint/United got approval from the island fire board to place the tower next to its building. So far, the company says, it has cost \$200,000 and the tower is on the site waiting to be erected.

All but one of the members of the old fire board were replaced in January and residents are telling the phone company to take its tower and buzz off. It's ugly, they say.

When confronted with the "ugly" argument, the response was predictable. "Beauty is in the eye of the beholder," an engineer said.

THAT'S THE KIND of reasoning that permitted a water tower to mar the scenic drive along the Bonita Causeway. It's the same con job that is allowing developers to blight the eastern shore of Estero Bay with high-rise condos.

When a guy starts using the beauty-is-in-the-eye-of-the-beholder argument to justify environmental intrusion, watch out. His idea of beauty is dollar green.

Last weekend Upper Captiva residents were told a company easement had eroded away and the state is blocking cable phone service. However, Mark Miller of the local office of the State Department of Environmental Protection said the company's request for a cable across Pine Island Sound has been approved locally and is being sent to Tallahassee.

Furthermore, the phone company claims it will cost as much as \$750,000 more to provide cable service than to erect a tower. In its permit request the phone company said: "UTS has determined that the only feasible option to maintain the current level of users on North Captiva is to install a fibre optic cable."

It's hard to say which way this one is going. Right how the phone company says it's down to lawyers talking to lawyers.

No matter what the lawyers say, ugly is still ugly. Too bad the people at the phone company got stuck with the tower.

But they ought to stick it somewhere else.

— Joe Workman is a staff writer whose column appears on Sunday, Wednesday and Friday. You can reach him at the News-Press. P O

Myers
News-Press
Cape Coral
Edition

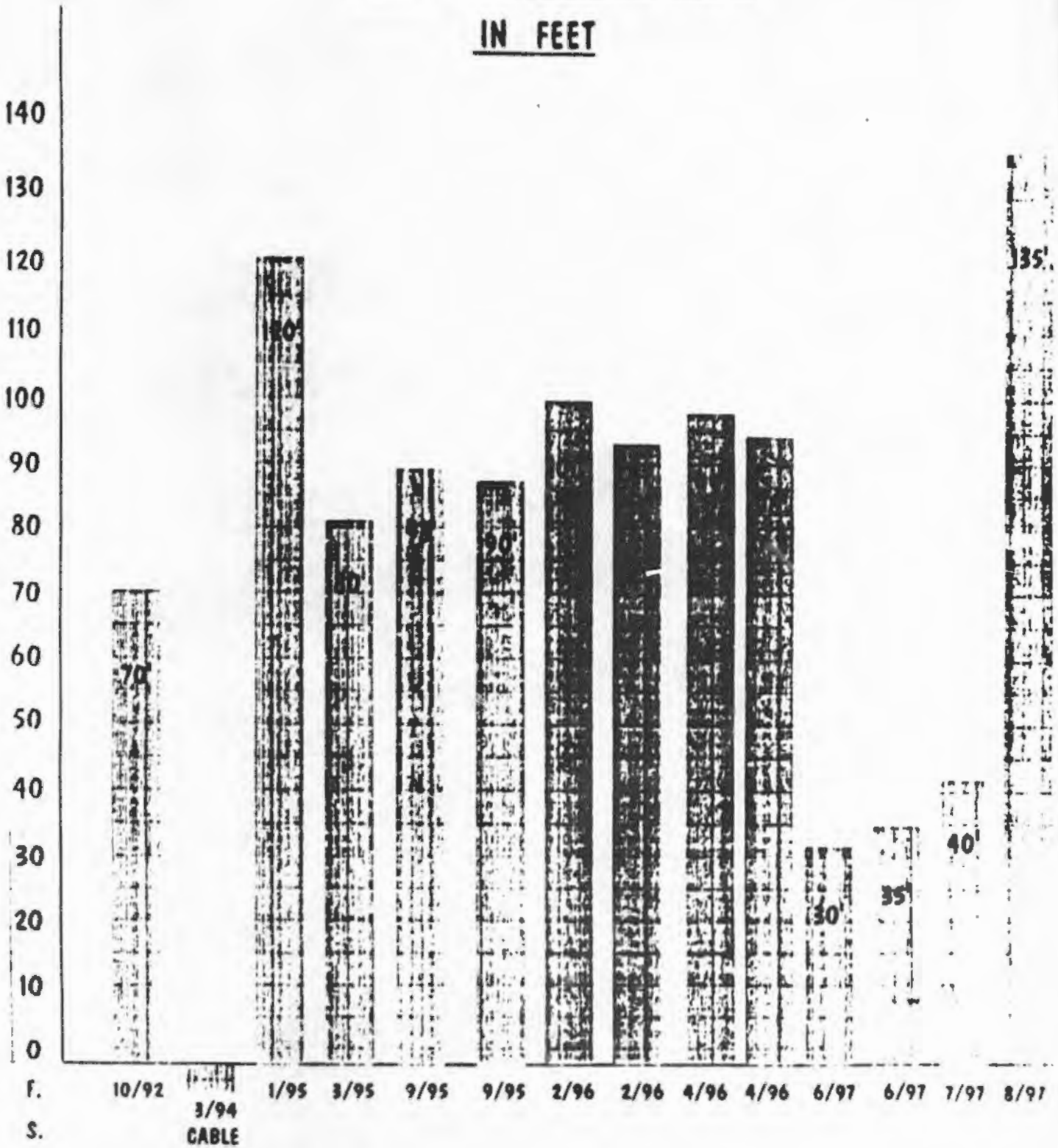
ATTACHMENT A
DOCKET NO. 980128-TL
DATE: December 22, 1998

EXHIBIT - C

Sheet E

PROPOSED TOWER HEIGHTS

IN FEET



- 1) 10-92 F.D. minutes 10 ft cable (for cable TV - Titole)
- 2) 3-94 Airstrip easement granted for underwater cable
- 3) 1-95 SPRINT letter to JACK 120 ft. Rehearing exhibit 2d. app.
- 4) 3-95 SPRINT Fallis letter to JACK 80 ft.
- 5) 9-95 SPRINT PATE LENG report 93 ft
- 6) 9-95 SHC LANTERN - JACK 90 ft
- 7) 2-2-96 CONVERSATIONS WITH SPRINTS JOANN FALLIS 100 ft
- 8) 2-27-96 Joint Tower Agreement 95 ft
- 9) 4-2-96 Letter from airstrip attorney 99 ft
- 10) 4-14-96 News Press (Civic Assoc mtg) 96 ft
- 11) 6-11-97 Letter from SPRINT FOR REZONING hearing 30 ft
- 12) 6-26-97 Letter from De la Kouch to Richard 35 ft
- 13) 6-30-97 FD tells SPRINT / MATT 40 ft
- 14) 8-6-97 Contract by SPRINT 40 ft
- 15) 8-21-97 SPRINT report 135 ft (Also pass 70 ft.?)

RECEIVED

OCT 06 1997

CMU



UPPER CAPTIVA CIVIC ASSOCIATION

October 22, 1997

Mr Trubelhorn
Florida Public Service Commission
Capital Circle Office Center
2450 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

re Sprint telephone service on North Captiva Island

Dear Mr Trubelhorn,

Per your request, we are sending you a signed copy of John Ed Pearce's letter describing his recent experience with Sprint. We are in the process of contacting other islanders, who's phone service requests have been either denied or delayed, to put their problems in writing for your records - as well as ours. Suffice it to say that Mr Pearce's experience was by no means unique. All recent requests for phone service have been "delayed", citing the island's "refusal" to allow construction of 99 ft - - monopole tower in a residential neighborhood.

We are a small island (not unlike Dog Island) and have serious concerns about the bullying tactics of our phone company. We will be happy to provide any further information that you request. Should you need more information, please don't hesitate to contact me at home (941-472-6841) or at work (941-472-3000). Thank you for your attention to this matter.

Sincerely,

Susanne Scott, Treasurer
Upper Captiva Civic Association, Inc

RECEIVED

OCT 27 1997

CMU

To the editor of The News-Press:

We believe your readers might be interested in an experience we on North Captiva island have had with Sprint Telephone Company, which allegedly furnishes phone service to the islands. We hope our experience will - as it should- attract the attention of state and federal regulatory agencies. An island resident, whom I shall call John, rents an apartment in his residence on North Captiva to a woman I shall call Mrs. H. I ask your permission to use these synonyms in order to protect these people from possible retaliation by Sprint, which has monopoly control over telephone service that is all-important to people with limited access to the mainland.

Mrs. H. used a common phone line with John, and John received the bill for both lines, though Mrs. H. had a separate number. To make separation of charges easier, the two parties asked that the line serving Mrs. H. be put in her name. John's daughter, who made the request for the name change, pointed out that the transaction would require no installation or new service; she was told on September 15 that the name change would be made.

On September 16, however, Mrs. H. complained to the local Sprint office that her phone was not in operation, and was told that her service had been discontinued at the owner's request. She insisted that the company had misunderstood the request to change only the name of the customer, but was told that her complaint came too late, that her former number had already been given to a new customer, and that her name would be put on the list of applicants, though it would be at least a year before she could again get phone

service. Mrs. H. complained to John, and on Tuesday, September 16, John began calling the various Sprint offices to which he was directed by Sprint operators, entailing extensive conversations and long waiting intervals. He made it clear to four different officials that he would be glad to accept restoration of service without any change in number or customer identification, explaining that Mrs. H. conducted a tourist-service business which made it essential that she keep in touch with visitors to the island whose boats she had to meet and for whom she had to provide information and transportation; without a phone she was, obviously, out of business. John began calling Sprint offices at 10:20 a.m. on September 16. At 6:05 p.m. of that date, a customer's representative who identified herself as Sandra assured him that there had indeed been an error by the company, and that telephone service to Mrs. H. would be restored at once. John then left a note for Mrs. H. asking her to check her phone. On the morning of Wednesday, September 17, Mrs. H. checked and found two long-distance calls on her answering machine, but when she attempted to return the calls was told that her phone line had been disconnected and given to another applicant, that her name would be placed on the applicant list but that it could be a year before she could expect service.

Astonished, Mrs. H. asked why Sprint had rescinded its action of a few hours previous, and why she would have to wait so long for service. She was told that, because islanders had opposed the construction of a Sprint microwave relay tower on the island, Sprint's facilities were at load capacity, and that there would be

no new service extended to island residents until a tower was built, except when someone cancelled phone service which could then be transferred to the applicant at the top of the company list.

John, thinking that Mrs. H.'s service had been restored, as he had been assured, called Mrs. H. to make sure, and was told by an operator that the line was no longer in service. He again, at 10:45 a.m., on September 17, began calling various Sprint offices but was referred from one office to another, with long waiting periods between. At about 2:10 p.m. he was told by a representative identified as Linda that service could be restored if the local office approved, and transferred his call to the local office. At 3:15 p.m., he was told by a representative who identified herself as Barbara that the previous representative had been in error, and that service for Mrs. H. could not be restored for some time, probably a year or more, since Sprint's facilities were loaded to capacity and could not be expanded until Sprint was permitted to build its relay tower on the island. She emphasized that the islanders had brought this situation on themselves, and that there was nothing Sprint could do about it. John pointed out that, though he supports the Association's opposition to the tower, he was not even on the island at the time the action was taken, and was therefore being punished for an action in which he had no part. The representative replied that this was an unfortunate result of the fault of the islanders which could be corrected by construction of the tower.

The tower in question is a relay tower 100 feet high proposed by Sprint to be built on a small plot located a few feet from the

island fire-house, and near the island air-strip. The island does not contain enough population for incorporation, but is represented by the island Civic Association, whose officers protested to Sprint that the tower posed a possible danger to island residents using the air strip, would constitute a blight on the pristine nature of the island, and would fall directly onto the firehouse in the event of a hurricane, and by threatening use of the airstrip posed a clear and continuing danger to any resident who, in case of medical emergency, required air transportation to mainland hospital facilities or immediate evacuation in case of major storms.

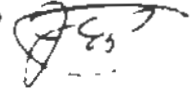
The islanders did, however, propose alternate sites for the tower on the island, and offered to cooperate in obtaining rights to such land. The islanders also pointed out that an underwater cable across Redfish Pass from Captive Island would be hurricane-proof, as the tower would not, and therefore offer more dependable service. These proposals were refused by Sprint, which, as can be seen from the case of John, insists on building on this specific site, and has resorted to what can only be regarded as commercial blackmail, refusing telephone service to future applicants (except in the unlikely case of cancellation of existing service) until the islanders accept the intrusion of the unsightly and potentially dangerous tower and the resulting damage to the island's unusual ambience.

We who treasure our island, our homes and our environment, are offended by this high-handed and probably illegal conduct on the part of an allegedly public utility. We intend to contest this immoral, unethical and possibly illegal conduct on the part of

Sprint. The Civic Association, though it has no taxing power and thus no access to ready funds, has employed counsel. Others have protested by phone to the Federal Communications Commission and the state Public Service Commission, and plan formal, written protests to these agencies and our state and federal representatives. We believe that Sprint's conduct is palpably an exercise of blackmail. It is surely a black mark on the record of a company that exercises a monopoly on the premise that it is a public servant.

John Ed Prance
201 White Pelican Drive

Perhaps it should be added that at ten o'clock on the morning of October 14, 1997, a very courteous and helpful service man from Sprint came to 210 White Pelican Drive and re-connected the telephone of Mrs. H. with a separate line, a separate number and under her own name. This is what was asked in the original request to Sprint. The young service man could not explain the delay and denials from Sprint as set forth in the previous notes. JEP





Sandra A. Khazraee
Manager, Regulation

Southern Operations
Box 2214
Tallahassee, Florida 32310-2214
Main Code 2565
Telephone 904/477-0174
Fax 904/499-1458

December 2, 1997

Mr. J. Alan Taylor, Chief
Bureau of Service Evaluation
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: North Captiva Island service

Dear Mr. Taylor,

First, thank you for the extension to December 2 for the filing of our response. Sprint - Florida has been working for several years to resolve the cable congestion problem at North Captiva Island. The answers to the questions posed in your memo of October 24, 1997 are provided herein. Also, enclosed are copies of the service order reports per your request.

- 1) The number of held applications for new primary service from October 1, 1996 through October 24, 1997.

During the period cited in your request, Sprint - Florida, Inc. processed eleven delayed orders for new primary service. As of November 14, 1997, all but one of those orders have been either worked or canceled.

A copy of the "Hot News" that instructs Business Office representatives how to handle Upper Captiva service requests is attached to this response along with a copy of a follow up letter that is mailed to those customers.

- 2) Is there a shortage of cable facilities to the island? Please report the current fill of the cable serving North Captiva Island and your growth forecasts for the Island.

Yes, there is a shortage of cable facilities to the island. The island is presently served via a single 200 pair copper submarine cable, of which 168 are physical feeder pairs and 32 are B-281 concentrator trunks. 160 of the physical pairs are in use and eight (8) are defective and unrecoverable. The B-281 provides another 128 derived lines, with 125 in use and three (3) defective. The defective lines have been

verified to be bad in the back plane and cannot be repaired because the unit is obsolete and replacement parts are not available. All available facilities are working at 100% capacity.

Growth forecasts for Upper Captiva Island (Foster Bay CSA) are as follows:

<u>Mo/Yr</u>	<u>Lines</u>
12/96	276 actual
10/97	285 actual
12/98	342 forecast

Describe your plans to reinforce the feeder cable(s), including estimates of construction costs where available.

Current plans to provide feeder relief to Upper Captiva call for a spread spectrum radio solution. The solution would require a 6' dish on a 45' pole. Sprint - Florida, Inc. has requested a written estimate of the cost of this solution. A broad gauge estimate of the cost of this relief is \$500,000. In contrast, a fiber solution was considered in 1994 and the estimated project cost at that time for the fiber/electronics was \$1,380,100.

In March 1996, Sprint - Florida, Inc. began work on a radio relief solution which included a 96' monopole to be installed on the lot adjacent to the Fire Station, where Sprint held a tower permit. Work was halted almost immediately due to strenuous objections by the residents. At the residents' request, two alternate radio routes were studied in an attempt to find a location which would allow a significantly shorter tower to be placed on the easement next to the Fire Station. One alternative considered proposed a repeater site at Red Fish Shores which would have reduced the tower height at the Fire Station to about 30'. However, Sprint's consultant determined that the soil at Red Fish Shores would not support the required 100' tower at that location.

The second alternative considered was a direct radio route from South Seas Plantation located at the north end of Captiva Island. This route was rejected for two reasons. Sprint believed that the 200' tower height requirement at South Seas would have been unacceptable to the residents. Additionally, this alternative would have only reduced the tower height at the Fire Station to 55' which was not considered to be a significant enough reduction.

After determining that neither alternative was acceptable, Sprint notified the Safety Harbor Fire and Rescue District (grantors of our easement) that we intended to resume construction of the monopole in March 1997. The Fire District filed suit in Lee County as a deterrent to the proposed construction, which stopped all work on the project. In addition, the Island's Civic Association retained legal counsel and applied for the re-zoning of the parcel in which Sprint-Florida's easement was

located, which resulted in the elimination of towers as a permitted use on said parcel.

In addition to pursuing this issue through legal channels, Sprint also considered an unlicensed CDMA radio which we believed would reduce the tower height requirement to 30' on the island. In conjunction with the technical evaluation by Sprint's corporate staff, of this unapproved technology, a path survey and vegetation analysis was also completed. The outcome of this survey indicated that the path would not support a conventional radio but would support a spread spectrum radio provided Sprint could use a 6' dish at the Fire Station mounted on a 45' pole. The problem which makes a smaller dish and shorter tower unacceptable is a small island, Panther Keys, directly in the transmission path. That island is covered with a mangrove forest. The existing height of the mangroves on that island are 60' and they are expected to attain a maximum height of 80'.

What permits have been sought and attained?

1. A Department of Environmental Protection Permit has been obtained to place a fiber optic cable from the South Seas Plantation Resort Property on Captiva Island to North Captiva Island. The permit was obtained on April 25, 1995.
2. An easement was obtained from North Captiva Air, Inc./Salty Approach Limited Partnership to provide a landfall on North Captiva Island for cable on March 20, 1994. An easement already existed on Captiva Island.
3. The FCC granted a radio station license/construction permit for WPJA888 in September 1995. The construction permit expired in March 1997. We have applied to the FCC for an extension, however this is a moot point considering the rezoning of the lot where the easement is located. Since we cannot build on the easement we will have to apply for a new radio station license, if and when we locate a site to build the tower.
4. A Lee County Tall Structures permit, authorizing construction of the 96' monopole structure was issued in August 1995. This permit has expired and would have to be re-applied for.
5. A Lee County building permit was issued to the tower contractor for construction of the tower foundation in March 1996. This permit has expired. No permit was issued for the tower itself. In the normal course of events the tower permit would have been granted after inspection of the foundation work by the Lee County building inspector.

Note that the owner of the lot where our easement is located, The Upper Captiva Fire Protection and Rescue Service District, pulled the Development Order for the lot. Without a development order in place Lee County will not issue any building permits for the property. The Fire District then filed suit in Lee County Circuit Court seeking to have the easement invalidated because the then Chairman of the District was prevented from granting the easement by law. Since then the Lee County Commission has rezoned the lot (at the request of the Fire District) to a

classification that does not permit towers of any sort whatsoever to be constructed on the property (i.e. easement).

What is the status of a State Department of Environmental Protection permit for an underwater crossing to the bay side of the island?

A Department of Environmental Protection Permit was obtained on April 25, 1995.

Is there a state right-of-way problem with the cable from Sanibel-Captiva to North Captiva Island? If yes, please describe the problem and proposed solution.

Sprint is not aware of any problem with the permit addressed above.

I believe that this answers all of the questions in your request. If you have any additional questions or need additional information, please call me at 847-0173.

Sincerely,



Sandra A. Khazrace

Attachments

cc: D McDonald
P Trumblehorn

March 4, 1997

16.112

UPPER CAPTIVA DON CONDITION

We will be experiencing a DON condition for orders in Upper Captiva (not Sanibel or Captiva). Upper Captiva accounts will have one of the S&E entries for the line:

IFLCZZ(NCI)
IMLC(SMN)
IRLC(NCI)

When issuing orders for Upper Captiva, at the time you go to CODARS to retrieve a number, you will get a pop up box for the 395 and 472 prefixes. Keep in mind that the message in the pop-up box is only for Upper Captiva, not for Sanibel or Captiva. The pop up box will be populated with the following message:

UPPER CAPTIVA ONLY Due to the company's inability to secure suitable facilities and rights for the provision of service without unreasonable expense, there is currently a temporary shortage of facilities in your area necessary to furnish service. The company regrets any delay experienced and is using its best efforts to secure the necessary means to meet the service requirements.

WHAT TO DO

The pop-up box will commence popping up on Feb. 19, 1997. If the Service Rep is retrieving a number for UPPER CAPTIVA, they should READ THE VERBIAGE TO THE CUSTOMER exactly as it appears in the box! Please assign the due date as usual. The customer will be contacted* by a DON representative for follow up.

* It is extremely important that a good can-be-reached (CBR) telephone number is secured from the customer!

Below is what the customers are told when initially called by the field team Delayed Order Associate.

When I call the customer I tell them there will be a delay in their installation. The facilities are full and as soon as facilities are available we will be glad to install their service.

Below is an example of the follow-up letter the customers are mailed.

Dear Customer:

Thank you for your recent request for telephone service. We would like to provide service for you immediately, however, due to a temporary shortage of facilities it will not be possible to meet our normal installation date.

The company has been unable to secure and retain, suitable facilities and rights for the provision of such service.

We regret this delay and are making plans now to construct facilities in your area. Upon completion of the required construction, your service will be provided immediately

We are looking forward to having you as a customer at Sprint. Should you have any questions, please contact our Service Center at 941 336-2161 or 800 565-4259.

Sincerely,

Judy A. Lawrence
Delayed Order Associate

FAX

Date 10/21/98

Number of pages including cover sheet 2

TO: Phil Trubelhorn

Phone 413-6592
Fax Phone 413-6593

CC:

FROM: Harvey L. Spears, Jr.
Docket Manager
Sprint
Post Office Box 2214
FTLHO0107
Tallahassee, Florida
32316

Phone 850/599-1401
Fax Phone 850/878-0777

REMARKS: Urgent For your review Reply ASAP Please Comment

RE: Upper Captiva

The construction schedule for provision of service to Upper Captiva is attached. Please let me know if additional information is needed.

Harvey Spears

Upper Captiva Tower and Radio Installation

	Start	Comp
Structural & site plans prepared	10/16/98	10/29/98
Development order prepared and filed	10/19/98	10/28/98
Local permitting process	10/30/98	11/19/98
Site prep and power base poured	11/20/98	12/05/98
Tower, radio and antenna installation	12/07/98	12/10/98
Radio turn up and test	12/11/98	12/14/98

Upper Captiva DISC'S Installation

	Start	Comp
Site Prep and pad poured	10/27/98	10/30/98
DISC'S cabinet placed, AC power connected and grounding	11/02/98	11/06/98
DISC'S circuit pack and battery installation	11/09/98	12/01/98
Larus DIU and APS switch installed in DISC'S cab.	11/09/98	12/01/98
DISC'S turn up and test	12/15/98	12/18/98
Place service on new system	12/19/98	12/31/98