

BEFORE
THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition by Wireless One Network, L.P.,)
for Arbitration of Certain Terms and Conditions)
of a Proposed Agreement with Sprint Florida,) Docket No. 971194-TP
Incorporated Pursuant to Section 252 of the)
Telecommunications Act of 1996.)

***Wireless One Network, L.P.'s Response to
Sprint's Cross-Motion for Reconsideration,
Motion for Stay and Request for Oral Argument***

I. Cross-Motion for Reconsideration

Sprint Florida's Cross-Motion for Reconsideration raises no issue of law or fact that has not been fully considered by the Florida Public Service Commission ("Commission") and, therefore, must be denied. *Diamond Cab Co. of Miami v. King*, 146 So. 2d 889 (Florida 1962) at 891 ("The purpose of a petition for rehearing is merely to bring to the attention of the trial court or, in this instance, the administrative agency, some point which it overlooked or failed to consider when it rendered its order in the first instance. It is not intended as a procedure for re-arguing the whole case merely because the losing party disagrees with the judgment or the order."). See also, *Application of Approval of Reuse Project Plan*, Docket Number 95-0615-SU (FPSC Order, June 9, 1997), at 1; *Stewart Bonded Warehouse, Inc. v. Bevis*, 294 So. 2d 315 (Florida 1974), at 317; *Pingree v. Quaintance*, 394 So. 2d 161 (Florida App. 1981).

A. Functional Equivalency

In its Cross-Motion for Reconsideration Sprint merely reargues the position it took throughout these proceedings: that Wireless One is not entitled to be compensated at the agreed-

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upon tandem termination rate because its network is not functionally identical to Sprint's. The Commission fully considered the relevant law on this issue and, considering the plain language of 47 CFR § 51.701(d),¹ found that a wireless carrier's network only need be "functionally equivalent" to the incumbent LEC's in order to be compensated at the higher tandem termination rate. The Commission's determination is supported by the weighty authority of the Federal Communications Commission ("FCC") which recognized that the MTSO/cell site configuration of a wireless network and the traditional tandem/end office hierarchy an incumbent LEC would not be susceptible to an apples-to-apples comparison. Hence, it explicitly invited the states to "consider whether new technologies (e.g., fiber ring or wireless networks) perform functions similar to those performed by an incumbent LEC's tandem switch and thus, whether some or all calls terminating on the new entrant's network should be priced the same as the sum of transport and termination via the incumbent LEC's tandem switch." See *In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98 (August 8, 1996) ("Local Competition Order"), ¶ 1090 (Emphasis Added).

The Commission in this proceeding found that Wireless One's network switches, transports and terminates telecommunications traffic and, thus, is functionally equivalent to Sprint's. The record leaves no doubt as to each finding.

¹ 47 U.S.C. § 51.701(d) defines termination for purposes of compensation as:

...the switching of local telecommunications traffic at the terminating carrier's end office switch, or *equivalent facility*, and delivery of such traffic to the called party's premises.

(Emphasis added.)

1. Tandem Switch

A tandem switch is defined as "a switching system in the message network that establishes trunk-to-trunk connections." Tr. 207, ll. 12-17. Wireless One's DMS250 switch establishes such trunk to trunk connection to end offices, interexchange carriers' points of presence, and other carriers' tandems and end offices. Tr. at 113, ll. 16-19; See, also, Confidential and Proprietary Prefiled Testimony of Francis J. Heaton (Wireless One Network, L.P. Exhibit 1.0) at 16, ll. 4-19, 17, l. 22; 18, ll. 1-22; 19, ll. 1-22; at 20, ll. 1-22, and 21, ll. 1-22, Tr. at 232-237. Thus, Wireless One's DMS 250 is a tandem switch. Tr. at 347, ll. 20-21; Tr. 102, ll. 5-6, Tr. 102, l. 17 through 103 l. 17; Tr. 111, ll. 4-5; Tr. 113, ll. 1-14; Tr. 114, l. 7 through Tr. 115, l. 4. Indeed, Sprint's own witnesses recognized that the DMS250 performs switching functions (Poag Deposition (Exhibit 3), at 28, ll. 12-15; Tr. 426, ll. 14-16), does not provide line connections to end users (Tr. 347, ll. 7-9) and, as such, is a tandem switch (Tr. 347, ll. 20-21).

2. Transport

Wireless One has transmission facilities which transport calls over its network between its tandem office and cell sites. Tr. 351, ll. 1-4. Poag Deposition (Exhibit 3) at 28, ll. 18-21, Tr. 426, ll. 17-20, Tr. 102, l. 17 through 103, l. 7. Once a call is switched at Wireless One's tandem, it is transmitted either over the company's proprietary microwave transmission facilities, a leased T-1, or a combination of both to the cellular end office serving the called party. Tr. 102, l. 17 through 103, l. 7; See, also, Confidential and Proprietary Prefiled Testimony of Francis J. Heaton (Wireless One Network, L.P. Arbitration Exhibit 1.0) at 16, ll. 4-19, 17, l. 22, 18, ll. 1-22, 19, ll. 1-22, at 20, ll. 1-22, and 21, ll. 1-22, Tr. at 232-237. Again, even Sprint's witnesses admitted the presence of such transmission facilities in Wireless One's network between the DMS250 tandem

and its cell sites. Tr. 351, ll. 1-4, Khazraee Deposition (Exhibit 2) at 40, ll. 1-25, Tr. 426, ll. 17-20; Poag Deposition (Exhibit 3) at 28, ll. 18-21.

3. *Termination*

An end office is defined as "a switching system in the message network that establishes line-to-line, line-to-trunk and trunk-to-line connections and provides dial tone to customers." Tr. 197, ll. 9-13. Wireless One's cell sites provide line termination and dial tone to the end user, which cannot be done through the DMS250 or any other means. As such they are functionally equivalent to an end office. Tr. 104, l. 7 through 109, l. 12, Tr. 114, l. 7 through 115, l. 4, Tr. 116, l. 16 through 120, l. 17; Tr. 252, ll. 4-8. Again, Sprint's witnesses agreed that Wireless One's tandem cannot provide this line connectivity for call termination (Tr. 347, ll. 7-9) and that this call termination cannot be accomplished without an end office (cell site). Tr. 349, l. 22 through 350, l. 5.

Finally, as it has throughout this proceeding, Sprint attempts to support its position that the companies' networks are not functionally equivalent by claiming that it cannot deliver a call to a cell site for termination at that particular cell site. However, the record shows end office connections currently are available. See Confidential and Proprietary Rebuttal Testimony of Francis J. Heaton, at 2. Indeed, Sprint acknowledges in its cross motion that it is able to deliver calls to Wireless One's end offices and, by letter of March 6, 1998, Wireless One specifically has requested that Sprint reroute its land-to-mobile calls over these end office Type 2B interconnections. See Attachment A. Accordingly, the Commission again must reject Sprint's misguided attempts to portray Wireless One's extensive and sophisticated wireless network as not equivalent to Sprint's.

B. LATA-Wide Additive Rate

As a part of its Cross-Motion for Reconsideration, Sprint alleges that the Commission erred by addressing the LATA-wide additive rate that some telecommunications carriers have included in their interconnection agreements. Sprint claims that the Commission's reference to the additive was improper because it was negotiated by telecommunications carriers which were not parties to this proceeding. Sprint's strained analysis of this issue lacks merit.

Wireless One raised the LATA-wide additive issue as an alternative basis to resolve the Reverse Option Charge issue. Thus, the Commission was obligated to address the issue in its order. It is of no consequence that the LATA-wide additive agreement relied upon by Wireless One was the product of negotiations between telecommunications carriers which were not parties to this proceeding. The agreement was submitted to and approved by the Commission and the Commission acted well within its authority in drawing upon its own precedent to comment on this issue. Sprint's dissatisfaction with the Commission's comments are not grounds for reconsideration, which is particularly so when the comments will not alter the merit determination in this arbitration proceeding.

II. Motion for Stay

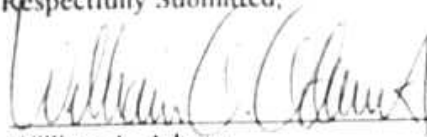
Sprint's motion to stay approval of its interconnection agreement with Wireless One also is without merit. The agreement was submitted to the Commission for approval on February 25, 1998. Pursuant to 47 U.S.C. § 252(e)(4), the Commission is required to approve or reject the agreement within 30 days, or the agreement will be deemed approved by operation of law. Thus, the Commission lacks authority to delay its determination on the interconnection agreement beyond the March 25, 1998 deadline imposed by statute.

III. Request for Oral Argument

Sprint also has requested that the Commission hold oral argument on the Cross-Motion for Reconsideration. Wireless One does not oppose Sprint's request, provided that oral argument encompasses the issues raised in Wireless One's Motion for Reconsideration as well

Wherefore, Wireless One respectfully requests that Sprint's Cross Motion for Reconsideration and Motion for Stay be denied

Respectfully Submitted,



William A. Adams

Dane Stinson

Laura A. Hauser

(Florida Reg. No. 0782114)

ARTER & HADDEN

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EXHIBIT A

CELLULARONE

March 6, 1998

Wireless One Network

Via Facsimile (407) 889-1274 and U.S. Mail
Ms. Debbie Terry - Field Services Manager
Carrier Sales & Services
Sprint - Southern Operations
Box 165000, MC 5327
Altamonte Springs, FL 32716-5000

Re: Changes to Land-to-Mobile Traffic Routing and Rating

Dear Ms. Terry:

This letter requests a change in the way that land-to-mobile traffic between Sprint-Florida, Inc. (Sprint) and Wireless One Network, L.P. (Wireless One) is routed and rated.

As you know, Sprint currently routes all land-to-mobile traffic over the Type 2A tandem interconnection and does not route any traffic over any of the end office Type 2B interconnections. Under our interconnection agreement executed on February 24, 1998 and filed with the Florida Public Service Commission, Sprint is required to pay Wireless One the tandem call delivery rate to terminate this traffic.

The Telecommunications Act of 1996 allows Wireless One to designate the most cost-efficient point for Sprint to deliver land-to-mobile traffic to Wireless One. Commencing no later than May 1, 1998, Wireless One hereby requests Sprint attempt delivery of all land-to-mobile traffic originated in a Sprint end office where a Type 2B interconnection to Wireless One exists to be delivered over the end office Type 2B trunks; Sprint should overflow to tandem routing only when necessary. This change will apply to all land-to-mobile calls to any of Wireless One's customers served by any of the following (941 NPA) NXX codes: 202, 204, 209, 216, 250, 290, 370, 380, 384, 414, 456, 457, 564, 565, 620, 641, 645, 691, 848, 849, 850, 851, 860, and 989. Wireless One will be responsible for delivering both end office and tandem trunk routed message traffic over its transmission network to its customers.

The calls terminating to Wireless One within Sprint's end office serving area should be rated as local calls and not subject to a Reverse Option charge under Sprint's tariffs. Wireless One should not be assessed and will not pay a Reverse Option charge for the origination of this traffic. Sprint's cost to terminate the traffic will be reduced to the end office call delivery rate in the interconnection agreement.

Sprint's toll rate centers will not affect the rating of this traffic. Although until now Wireless One has been acquiescing in Sprint's defined local calling area for the presently designated single point rate center(s) for Wireless One's NXX codes. With this change in routing of calls Wireless One's proprietary, dedicated NXX codes will have multiple virtual rate centers

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within the Ft. Myers LATA at each and every point of interconnection with Sprint. This is consistent with the local calling definition and privileges provided to Wireless One's end users.

Land-to-mobile calls originated in a Sprint end office where no end office Type 2B interconnection exists should continue to be routed and rated just as they are today. In other words, Wireless One will continue to pay the Reverse Option charge for traffic originated in a Sprint end office that does not have, or overflows, an end office Type 2B interconnection when that traffic is terminated to Wireless One over the Type 2A tandem interconnection.

The land-to-mobile end office call delivery must maintain a SS7 signal to set up these calls. Your Ben Poag testified in the arbitration proceeding that the SS7 signal can transit the existing tandem interconnection even though the voice traffic will be delivered over end office trunk groups.¹ Also, your Charles Rehwinkel advised the Commission in his February 23, 1998 Cross Motion For Reconsideration that Sprint will be able to deliver calls via end office connections "prospectively." Wireless One can and will continue to accept the SS7 signal for the end office traffic over the tandem trunks, or accept the SS7 signal over members of an existing end office trunk connection if Sprint chooses to deliver in that manner.

Please acknowledge receipt of this letter by the close of business March 13, 1998 and let me know at that time if Sprint knows of any reason why it cannot comply with the May 1, 1998 deadline. The matters raised in this letter are very high priority to Wireless One and I look forward to your prompt response to this letter.

I am sending copies of this letter to the persons who are designated to receive notice for Sprint under the interconnection agreement.

Yours truly,



Frank Heaton
Director - External Affairs

¹ For reference, Ben Poag testified as follows:

Q. So you are suggesting that the SS-7 signal could be sent over the tandem connection and the traffic delivered at the end office?

A. It's a packet switching network. Absolutely.

Poag Dep. Tr. at page 100, lines 15-19.

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