



Charles J. Rehwinkel  
Senior Attorney

VP Law/External Relations  
P.O. Box 2214  
Tallahassee, FL 32316-2214  
Voice 850 847 0244  
Fax 850 878 0777  
charles.j.rehwinkel@mail.sprint.com

**ORIGINAL**

September 3, 1999

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

RECEIVED-FPSC  
SEP 3 PM 4:05  
RECORDS AND REPORTING

Re: Docket No. 990930-TL

Dear Ms. Bayo:

Enclosed for filing is the original and seven (7) copies of the answer of Sprint-Florida, Incorporated to BellSouth Telecommunications, Inc.'s Petition for Emergency Relief to Compel Sprint-Florida, Inc. to Provide Directory Listings of Sprint's Customers in Florida.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to this writer.

Sincerely,

Charles J. Rehwinkel

- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU 3
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- EG 1
- MAS 3
- OPC \_\_\_\_\_
- PAI \_\_\_\_\_
- REC 1
- VAW \_\_\_\_\_
- WTH \_\_\_\_\_

RECEIVED & FILED

Wen  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

10656 SEP-3 99

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: BellSouth Telecommunications,  
Inc.'s Petition for Emergency Relief to  
Compel Sprint-Florida, Inc. to Provide  
Directory Listings of Sprint's Customers  
in Florida.

Filed: September 3, 1999

Docket No. 990930-TL

ANSWER OF SPRINT-FLORIDA, INCORPORATED

Sprint-Florida, Incorporated ("Sprint") hereby files its Answer to BellSouth Telecommunications, Inc.'s [BellSouth] Petition for Emergency Relief to Compel Sprint-Florida, Inc. to Provide Directory Listings of Sprint's Customers in Florida. Sprint-Florida states as follows:

Respondent is:

Sprint-Florida, Incorporated  
555 Lake Border Drive  
Apopka, Florida 32703

Respondent is represented by:

Charles J. Rehwinkel  
Senior Attorney  
1313 Blair Stone Rd.  
MC FLTLHO0107  
Tallahassee, Florida 32301

Service may be made at the above location.

I. ANSWER

1. Sprint is without knowledge of Paragraph 1 of the Petition.
2. Sprint is without knowledge of Paragraph 2 of the Petition.
3. Sprint is without knowledge of Paragraph 3 of the Petition.
4. Paragraph 4 of the Petition is Admitted.
5. Paragraph 5 of the Petition is Admitted.
6. Paragraph 6 of the Petition is Denied.
7. Paragraph 7 of the Petition is Denied.
8. Paragraph 8 of the Petition is Admitted.
9. Paragraph 9 of the Petition is Admitted.
10. Paragraph 10 of the Petition is Admitted.
11. Paragraph 11 of the Petition is Denied.

12. Paragraph 12 of the Petition is denied.

13. Paragraph 13 of the Petition is denied.

## II. Argument

14. On August 5, 1999, Sprint filed a Motion to Dismiss BellSouth's Petition for failure to state a cause of action. The gravamen of Sprint's Motion is that BellSouth has not pointed to a single rule, statute or order that imposes an obligation on Sprint to provide directory assistance (DA) listings to BellSouth. The only legal authority "cited" in BellSouth's Petition is Florida Public Service Commission (FPSC) Rule 25-4.040(5), Florida Administrative Code ("Rule").<sup>1</sup> That rule is inapposite to the matter at hand. In relevant part the Rule provides that:

Directory assistance operators shall maintain records of all telephone numbers (except for non-published telephone numbers) in the area for which they have the responsibility of furnishing service.

\*\*\*\*

All new or changed listings shall be provided to directory assistance operators within 48 hours after connection of service, excluding Saturdays, Sundays and holidays.

By its plain terms, the rule speaks only to BellSouth's obligation (as a directory assistance provider) to provide adequate directory assistance in the area where BellSouth furnishes service and the internal obligation of BellSouth to insure that its own listings are updated

---

<sup>1</sup>Curiously, BellSouth does not make a direct allegation in the Petition that the rule was violated, but instead rather obliquely references a letter written by an Industry Relations Director nearly six months after Sprint first advised BellSouth that BellSouth's efforts to unilaterally amend the contract were unacceptable. The June 7, 1999 letter was the first time the Rule reference is made and there is no analysis regarding the Rule's application to the facts of the situation.

internally (from BellSouth's service order activity) 48 hours. Sprint is unaware of any FPSC or (other authority's) interpretation of the Rule which would impose an obligation on a supplier of numbers (i.e., an LEC outside of BellSouth's service area) to provide DA listings (at the recipients unilaterally determined price) so that the LEC serving the territory can discharge its FPSC-designated obligations.

15. The only way Sprint's DA assistance listings would be subject to the provisions of the Rule in an action to compel Sprint's performance would be if there was an allegation that Sprint itself was not providing directory assistance to Sprint customers in the Sprint certificated territory. No such allegations are included in the Petition -- nor could one be.

16. The Petition only contends that Sprint no longer is the underlying supplier of a commodity that BellSouth wishes to use to discharge BellSouth's obligation under the rule. BellSouth's theory of the case is no more sustainable than if it urged the FPSC to order a cable manufacturer to continue providing 26 gauge cable so that BellSouth could meet its obligations to provide service within the FPSC prescribed interval even though a pricing dispute existed.<sup>2</sup>

17. The circumstances that BellSouth obviously seeks to place before the Commission in this legally deficient Petition arise out of the *Directory Assistance Agreement Between BellSouth and Sprint* ("contract") whose terms do not provide that the FPSC has jurisdiction to resolve disputes under it. While the subject matter of the contract (DA

---

<sup>2</sup>Granted, the difference between a LEC and an equipment supplier is significant with respect to FPSC jurisdiction and regulatory obligations. Nevertheless, in the Commission's rules regarding the service obligations of LECs do not provide BellSouth with standing to maintain an action seeking a Commission order requiring Sprint to provide DA listings contrary to a contract between the parties.

listings) is related to matters over which the Commission has generally exercised some level of jurisdiction, the dispute here is a private contractual matter over which the FPSC has traditionally found that it has no jurisdiction.

18. It is true that Sprint has discontinued providing DA listings to BellSouth. However those DA listings were provided to BellSouth in the past under contract pursuant to a set of assumptions and circumstances that were mutually recognized and relied upon by both parties. Central to Sprint's acceptance of contract terms was the condition that the database cannot be resold by the purchaser. Provision of the DA listings under contract allowed both companies to fulfill service obligations in the most cost-effective manner and avoided potentially costlier sources of DA listings. Inasmuch as the DA listings database was provided under the contract, the terms and conditions of the contract were interrelated to, and the product of, a delicately balanced set of conditions.

19. Only when BellSouth sought and achieved regulatory action in furtherance of unrelated corporate objectives (i.e., section 271 authority) and set in motion events that upset the balance achieved in the negotiated contract, and began reselling the DA Listing database, did the contract no longer make economic sense to Sprint.<sup>3</sup> BellSouth's refusal

---

<sup>3</sup>The FPSC ordered BellSouth to provide the DA listing database to MCI in Docket No. 980821-TP. During the pendency of that case, BellSouth executed the current contract (on June 9, 1998). At no time did BellSouth indicate to Sprint that while they were agreeing with Sprint not to resell the DA listing database, they were involved in a proceeding where that provision of the contract was being challenged. The Commission notes in its decision that while it was BellSouth's position that "*it would be most appropriate*" to provide MCI with the database, BellSouth could not do so because of the contract. Order 98-1484-FOF-TP at 41. [Emphasis added]. Sprint was unable to intervene in this proceeding. The Commission has uniformly ruled that intervention is not allowed in arbitration and complaint proceedings. See Order Nos. PSC-96-09333-PCO-TP; PSC-98-0007-PCO-TP; PSC-98-0008-PCO-TP; PSC-98-0226-FOF-TP; PSC-98-0227-FOF-TP; PSC-98-0454-FOF-TP. Any suggestion by BellSouth that the FPSC decision is pursuant to Section 16.2 of the contract (referenced in the December 10, 1998 letter attached to the Petition) and constituted a holding that a portion of the agreement was invalid or unenforceable is untenable. Sprint was legally barred from participating in any alleged *ex parte* adjudication. Section 16.2 only applies when the contract itself is directly adjudicated. The MCI complaint process never directly adjudicated the contract. The contract was never reviewed by the Commission. In any event, as

to renegotiate<sup>4</sup> pricing terms in the face of materially changed circumstances precipitated this situation. This in turn caused the commodity (DA listings) to stop flowing to BellSouth.

20. BellSouth certainly understands that it will have to negotiate a new contract under mutually acceptable terms or acquire DA listings from an alternative vendor in order to fulfill its obligations under Rule 25-4.040(5) unless it can somehow convince the Commission to seek to force Sprint into a contract that is uneconomic to Sprint. Sprint believes that there is ample evidence that other vendors have purchased Sprint listings (including those of CLECs supplying listings pursuant to agreement) who can provide the same to BellSouth at competitive rates. In attempting to establish itself as the champion of the “public interest” BellSouth seeks to deflect the Commission’s attention from the fact that it has brought this circumstance upon itself.

21. Sprint urges that the Commission avoid entangling itself in a private contract dispute. There is a simple solution to BellSouth’s dilemma. BellSouth can act in the public interest and enter into a contract amendment that commits to compensating Sprint for listings that it resells to third parties. Of course, Sprint believes that the terms of the agreement should be negotiated solely between the parties. BellSouth should not be seeking outside assistance in an effort to skew the negotiation process in its favor.

22. In conclusion, Sprint urges the Commission to dismiss or deny BellSouth’s Petition

---

discussed below, Section 4.2 of the contract does not allow BellSouth to seek and/or acquiesce to unilateral amendment and then refuse to negotiate needed amendment(s) to the contract.

<sup>4</sup>Section 4.2 of the contract clearly requires BellSouth to negotiate in good faith if any regulatory action renders the agreement inoperable or creates any ambiguity.

(and all dependent related complaints)<sup>5</sup> for the reasons set forth above and in the Motion to Dismiss.

RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of September 1999.



Charles J. Rehwinkel  
Senior Attorney  
Sprint-Florida, Incorporated  
P.O. Box 2214  
MC FLTLHO0107  
Tallahassee, Florida 32316-2214

---

<sup>5</sup>Orlando Telephone company (OTC) has filed a letter complaining that OTC's listings are not being provided to BellSouth. See Docket No. 991037-TP. Sprint will address the OTC letter separately..



CERTIFICATE OF SERVICE  
DOCKET NO. 990930-TL

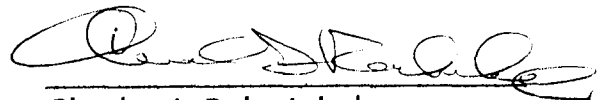
I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail or hand-delivery this 3rd day of September, 1999 to the following:

Nancy B. White  
C/o Nancy H. Sims  
BellSouth Telecommunications, Inc.  
150 S. Monroe Street Suite 400  
Tallahassee, Florida 32301-1556

Donna Clemmons  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

David B. Erwin  
Attorney-at-Law  
127 Riversink Road  
Crawfordville, Florida 32327

Calvin Favors  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850



Charles J. Rehwinkel