

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of US SPRINT	)	DOCKET NO. 891047-TI
COMMUNICATIONS COMPANY limited	)	
partnership for authority to offer	)	ORDER NO. 22369
Federal Telecommunications System	)	
2000 (FTS 2000) on a contractual basis	)	ISSUED: 1-4-90
	)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman  
 THOMAS M. BEARD  
 BETTY EASLEY  
 GERALD L. GUNTER  
 JOHN T. HERNDON

ORDER GRANTING WAIVER FOR  
 TARIFF FILING REQUIREMENT

BY THE COMMISSION:

In 1986, the General Services Administration of the Federal Government (GSA) embarked on a plan to replace the Federal Government's voice grade and low speed analog data network known as Federal Telecommunications System (FTS) with a highly sophisticated, state-of-the-art telecommunications system for its official use by 1990. Accordingly, GSA issued a Request for Proposal (RFP) initiating a competitive bidding process for the provision of long-distance telecommunications services over the network, to be called FTS 2000. This new network combines both switched and dedicated voice, data and video services into one integrated network. In December 1988, the GSA chose US Sprint Communications Company, Inc. (Sprint) and AT&T Communications (AT&T) as the winning bidders. The total contract period for FTS 2000 is ten years. Under the RFP's initial terms, Sprint will provide "Network B" of the FTS 2000 network which will carry approximately 40% of the federal government's nationwide telecommunications traffic. AT&T will provide "Network A" of the FTS 2000 network and which will carry approximately 60% of the FTS 2000 traffic. In addition, Sprint's and AT&T's respective portions of FTS 2000 network are subject to a rebidding between these two carriers during the fourth and seventh years of the contract term.

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FTS 2000 primarily is an interstate long-distance offering available only to the federal government. The GSA required in its RFP that the successful bidders provide specified services and configurations, and it made no distinction between interstate, intrastate, interLATA, intraLATA or intraEAEA services. Although no jurisdictional traffic data is currently available, Sprint expects that the majority of the traffic will be interstate, but that some traffic may likely be intrastate.

On August 14, 1989 Sprint filed a petition asking that the Commission waive Rule 25-24.485(1), Florida Administrative Code, to permit Sprint to provide the intrastate portion of FTS 2000 to the federal government on a proprietary contractual basis. Sprint also seeks a waiver of Rule 25-24.471(4), Florida Administrative Code, in order to allow Sprint to carry incidental intraEAEA traffic as a part of its FTS 2000 offering. On September 1, 1989 Sprint filed a tariff reflecting its request for rate confidentiality; none of the applicable rates or charges for the service offering are published.

In support of its request for confidentiality for the FTS 2000 rates, Sprint states that "the rates to be charged by Sprint for the provision of FTS-2000 services are highly commercially sensitive information, the public disclosure of which would cause US Sprint considerable competitive harm." Sprint further argues that "a requirement that US Sprint's FTS-2000 contract information be publicly filed with this Commission would jeopardize the competitive bidding process put in place by the federal government as well as cause US Sprint irreparable commercial harm in the renegotiation phases of that process."

In support of its request for end-user contract authority, Sprint raises four principal arguments: 1) Contracts authority is consistent with prior Commission decisions allowing customer specific contracts for service (See Orders Nos. 15401 and 19175); 2) the federal government is a sophisticated customer which needs less regulatory protection than most end users because it is "uniquely situated, has communications needs which cannot be duplicated by any other customer, and enjoys immense bargaining power. . ." 3) as a minor IXC, Sprint cannot engage in either "predatory pricing because of the resultant massive, financially disastrous losses, or price gouging because it would risk losing its

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contract in the fourth and seventh years of the rebidding process; and 4) because FTS 2000 is provided only to the Federal government, there is no need for public notice of rates, terms and conditions of the service since the customer is "intimately familiar with the terms of its contract."

Upon consideration, we are, on balance, persuaded to grant Sprint's petition to offer FTS 2000 to the federal government on a proprietary contract basis. We are not persuaded by Sprint's reliance on Orders Nos. 15401 and 19175. These Orders granted contract rate authority for services offered between certificated IXCs; this is not applicable to the case before us. We agree that the federal government is a sufficiently unique end-user to justify end-user contract rates for the FTS 2000. In addition, there appears to be merit for Sprint's argument that disclosure of the contract rates may jeopardize the FTS 2000 competitive bidding process. Accordingly, we hereby approve Sprint's proposed FTS 2000 tariff. In conjunction with our approval of the tariff we also grant Sprint a waiver of that portion of Rule 25-24.485 that requires that the rates be set forth in the tariff itself.

Sprint also asks for a waiver of Rule 25-24.471(4), Florida Administrative Code. The rule states:

Interexchange authority granted to all companies is statewide. A company may provide interEAEA service over its own or resold facilities. IntraEAEA toll service is limited to WATS and MTS resale. However, a company not having screening capability may carry intraEAEA traffic over its own facilities existing prior to October 4, 1984 if it pays the existing message toll service (MTS) rates to the local exchange company.

Sprint seeks the waiver to allow it to carry incidental intraEAEA traffic via FTS 2000 consistent with the RFP's mandate that FTS 2000 services constitute a nationwide, uniform offering not limited by jurisdiction. In support of its waiver request, Sprint argues that this waiver will "not harm local exchange companies in Florida, since those companies do not now provide the federal government's existing Federal Telecommunications Service requirements."



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Upon consideration, we find that Sprint's request for a waiver of Rule 25-24.471(4)(a) should be granted. However, Sprint must compensate the LECs for any intraEAEA FTS 2000 traffic consistent with the compensation requirements established for all other IXC traffic.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that US Sprint Communications Company's petition for waiver of Rules 25-24.485(1) and 25-24.471(4), Florida Administrative Code, is granted as set forth in the body of this Order. It is further

ORDERED that Sprint's tariff to provide FTS 2000 is approved as set forth in the body of this Order. It is further

ORDERED that this docket be and the same is hereby closed.

By ORDER of the Florida Public Service Commission,  
this 4th day of JANUARY, 1989.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.