Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Regulation of Business Data Services for	)	WC Docket No. 17-144
Rate-of-Return Local Exchange Carriers	)	

COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint"), pursuant to the Public Notice released on June 6, 2017 (DA 17-537), hereby respectfully submits its comments opposing the petition for rulemaking filed by ITTA and US Telecom on May 25, 2017 in the above-captioned proceeding. ITTA and US Telecom have requested that model-based rate-of-return carriers (rate-of-return LECs that receive USF support based on cost models) be allowed to opt into price cap regulation for the provision of business data services (BDS). Under this proposal, rate-of-return ILECs would be allowed to raise the going-in BDS rates, to thereafter provide BDS on a largely deregulated basis, and to retain the guaranteed support provided under rate of return regulation of switched access service. This is not a reasonable balance of equities, and ITTA and US Telecom's petition should accordingly be denied.

The ITTA/US Telecom proposal is remarkably one-sided in favor of the rate-of-return ILECs:

- model-based rate-of-return carriers that opt into BDS price cap regulation would no longer be required to file tariffs, cost studies, or tariff review plans for their business data services, and instead would be allowed to provide TDM-based BDS

of less than 50 Mbps capacity based on the presumed competitive nature of the market. In "competitive" markets, "substantial [BDS] deregulation" would produce "a better outcome for some model-based rate-of-return carriers."[1]

- These ILECs would continue to provide switched access services subject to rate-of-return regulation, including retaining the longer and more generous terminating switched access and intercarrier compensation charge transition plan.[2]
- These ILECs would be allowed to "unfreeze" the Part 36 category relationships when establishing their going-in BDS price cap rates in order to "align their BDS rates with their costs,"[3] effectively increasing the going-in BDS rates above their current levels.
- There would be no reduction to their USF receipts – the access recovery charge (ARC) and CAF-ICC support mechanisms remain in force.

In short, ITTA and US Telecom's proposal would enable rate-of-return ILECs to pick the best of both worlds: freedom to offer BDS on whatever terms they choose, including at increased prices, with minimal or no regulatory oversight, while retaining the revenue assurances associated with the more generous rate-of-return switched access transition plan and ARC/USF support. The public interest demands that regulatory mechanisms balance costs and benefits; for example, LECs that opted into price cap

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[1] Petition, p. 6.

[2] Petition, p. 12. For example, by July 1, 2018, price cap carriers are required to reduce their terminating switched end office and transport charges to zero (bill-and-keep) for terminating traffic within the tandem serving area when the terminating carrier or its affiliate owns the tandem switch. In contrast, rate-of-return carriers are required only to reduce their terminating switched end office and reciprocal compensation rates by 1/3 of the differential between their end office rates as of July 1, 2016 and $.0007, as of July 1, 2018.

[3] Petition, p. 15.

regulation could take advantage of the potential for higher returns and a reduction in administrative burden, while accepting the risk of lower returns and the revenue consequences of a more aggressive intercarrier compensation transition plan. Rate-of-return LECs enjoy a more stable revenue flow over a longer period of time, but with more limited upside potential for earnings and the administrative burden of demonstrating that their rates, terms and conditions are just and reasonable. The ITTA/US Telecom proposal lacks this balanced approach, allowing ILECs to enjoy the benefits and protections of both forms of regulatory oversight, while avoiding or escaping from much of the uncertainties and compliance requirements associated with a rate-of-return paradigm.

Moreover, ITTA and US Telecom have failed to demonstrate that rate-of-return ILECs are in fact facing the kind of competitive pressures that would warrant minimal or no regulatory oversight of BDS. For example, their request to be allowed to adjust (*i.e.*, increase) their BDS rates to reflect a different jurisdictional separations factor calls into question their claim that their BDS markets are robustly competitive. Generally, service providers are not able to increase their rates for an existing, unimproved service in the face of vigorous competition.

ITTA and US Telecom also assert that "there is no reason to believe that rural counties served by price cap carriers differ from rural counties served by rate-of-return carriers with respect to the competitive BDS marketplace."[4] However, they fail to provide support for this blanket statement, and indeed, there may well be significant differences in price cap vs. rate-of-return rural exchanges. For example, Verizon, a price cap carrier, substantially pruned its rural areas over the last decade, selling off millions of

its rural access lines in order to focus its asset base on wireless, FIOS and other broadband services.[5] It is reasonable to assume that its remaining rural footprint looks very different, economically and technologically, from rural exchanges served by small rate-of-return ILECs.

Finally, although BDS price cap regulation "strikes the correct balance where there is insufficient competition, and substantial deregulation… where sufficient competition is present,"[6] ITTA and US Telecom propose that model-based rate-of-return ILECs have the choice of opting into BDS price cap regulation, or not. This suggests that model-based rate-of-return ILECs will self-select the regulatory regime which provides them with the greatest net benefits. While this may be the optimal outcome for the ILECs in question, such cherry picking is unlikely to promote the overall public interest or to be the best outcome for BDS purchasers.

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[4] Petition, p. 10.
[5] Since 2004, Verizon has sold billions of dollars of its rural properties to Frontier Communications, Fairpoint, and The Carlyle Group (Hawaiian Telecom).
[6] Petition, p. 6

Respectfully submitted,

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July 6, 2017