

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

**MISSOURI NETWORK ALLIANCE,
LLC**

2005 W. Broadway Bldg. A
Suite 215
Columbia, MO 65203,

COMPLAINANT,

v.

**SPRINT COMMUNICATIONS
COMPANY L.P.**

6200 Sprint Parkway
Overland Park, KS 66251,

DEFENDANT.

Proceeding No. 18-236

EB-18-MD-004

ANSWER OF SPRINT COMMUNICATIONS COMPANY L.P.

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under the supervision of D.C. Bar members.*

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ANSWER OF SPRINT COMMUNICATIONS COMPANY L.P.

Pursuant to 47 C.F.R. § 1.724 and the Bureau’s August 3, 2018 Notice of Formal Complaint (“August 3 Notice”), Sprint Communications Company L.P. (“Sprint”) hereby answers the Formal Complaint (“Complaint”) filed by Complainant Missouri Network Alliance, LLC (“MNA”). For the reasons set forth below and in the attached Legal Analysis, the Complaint should be dismissed or denied.

ANSWER

Sprint answers the numbered paragraphs in the Complaint as follows:

1. Sprint admits that MNA has brought this action under the authorities cited in Paragraph 1 of the Complaint, but denies that it violated any of the cited statutory provision for the reasons stated in the attached Legal Analysis.

2. Paragraph 2 contains conclusions of law requiring no response, but to the extent that a response may be required, Sprint notes that that 47 U.S.C. § 251(b)(5) and the Commission’s *USF/ICC Transformation Order* speak for themselves. Sprint admits that it has withheld payment for certain MNA invoices, but denies that such invoices were valid or lawful. And even if such invoices were valid and lawful, Sprint denies, for the reasons explained in the attached Legal Analysis, that the failure to pay such obligations would amount to a violation of either the *USF/ICC Transformation Order*, its implementing rules, or 47 U.S.C. § 251(b)(5).¹

3. Paragraph 3 contains conclusions of law requiring no response, but to the extent that a response may be required, Sprint denies that the charges referred to in Paragraph 3 were lawful. As explained in the attached Legal Analysis, Sprint further denies that the actions alleged by MNA, even if true, would amount to a violation of 47 U.S.C. § 201(b), because “collections actions” do not state a violation of the Act, and because Sprint was not acting in its capacity as a common carrier providing regulated common carrier services.

4. Sprint denies the first sentence of Paragraph 4. The second sentence of Paragraph 4 contains a conclusions of law requiring no response, but to the extent that a response may be required, Sprint denies that its actions violated 47 U.S.C. § 201(b).

JURISDICTION

5. Paragraph 4 contains conclusions of law requiring no response, but to the extent that a response may be required, Sprint admits that the Commission has jurisdiction over this Complaint under Section 208 of the Act. 47 U.S.C. § 208. Sprint admits that it is a common carrier subject to Title II of the Act, but denies that it is subject to Sections 201 or 206 of the Act for the purposes of

¹ *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Red 4554 (2011) (“*USF/ICC Transformation Order*”), *aff’d Direct Communs. Cedar Valley v. FCC*, 753 F.3d 1015 (10th Cir. 2014).

this Complaint, because “collections actions” do not state a violation of the Act, and because Sprint was not acting in its capacity as a common carrier providing regulated common carrier services. 47 U.S.C. §§ 201, 206. Sprint notes that the Bureau has waived Rule 1.724(c) in this matter, and that Sprint’s legal analysis addressing MNA’s arguments therefore appears separately in Sprint’s accompanying memorandum of law.

6. Sprint admits that MNA is seeking damages, but denies that this case presents any facts, circumstances, or potential violations that warrant such damages.

STATEMENT REGARDING SUPPORTING MATERIAL

7. Sprint admits that MNA has provided the materials described in Paragraph 7 along with its Complaint, but denies that such materials establish any violation of the Communications Act of 1934 (“Act”) or the Commission’s implementing rules.

REQUIRED CERTIFICATIONS

8. Sprint admits that it filed a collection action in the U.S. District Court for the Western District of Missouri (“District Court action”) on July 19, 2017, and that MNA’s Complaint originates from the *Modified Referral Order* in that action.² Sprint admits that the Complaint is based on the same facts underlying the District Court action.

THE PARTIES

9. Sprint admits the allegations in Paragraph 9.

10. Sprint admits the allegations contained in the first sentence of Paragraph 10. With respect to the allegations contained in the second sentence of Paragraph 10, Sprint denies that it is acting as a common carrier for the purposes of this Complaint. For the purposes of this Complaint,

² See MNA Compl. Ex. 2. *Order Modifying Primary Jurisdiction Referral, Sprint Communs Co. L.P. v. Missouri Network Alliance, LLC*, No. 4: 17-CV-00597-DGK (W.D. Mo. May 1, 2018) (“*Modified Referral Order*”).

Sprint is acting in its capacity as a customer of MNA, and not as a provider of regulated common carrier services.

ANSWER TO FACTS IN SUPPORT OF COMPLAINT

11. Sprint admits the allegations in Paragraph 11.

12. Sprint is without knowledge or information sufficient to form a belief as to the allegations in Paragraph 12.

13. Sprint denies the allegations in the first sentence. Sprint is without knowledge or information sufficient to form a belief as to the truth of the second sentence of Paragraph 13.

14. Sprint admits that MNA's interstate and intrastate rates for its tandem switching and transport services are set forth in tariffs on file with the Commission and the Missouri Public Service Commission. The second sentence of Paragraph 14 contains a legal conclusion to which no response is required, but to the extent that a response may be required Sprint denies that MNA's federal and state tariffs fully comply with all applicable state and federal laws. Sprint notes that the Bureau has waived Rule 1.724(c) in this matter, and that Sprint's legal analysis addressing MNA's arguments therefore appears separately in Sprint's accompanying memorandum of law.

15. Sprint admits that, as an IXC, it receives interexchange traffic from an originating local exchange carrier ("LEC") that it transports to terminating LECs, but denies that a substantial portion of the traffic at issue is received from an originating LEC. Sprint is without knowledge or information sufficient to form a belief as to whether it can directly interconnect with each of MNA's member companies to carry traffic originated or terminated by those member companies. Sprint admits that it can exchange traffic with MNA's member companies indirectly by purchasing tandem switching and transport services from MNA.

16. Sprint admits that it purchased tandem switching and transport services from MNA pursuant to MNA's interstate and intrastate tariffs for a number of years. Sprint admits that MNA

has set forth putative interstate and intrastate access charges in its tariffs. Sprint denies that these charges are lawful.

17. Sprint admits the allegations contained in Paragraph 17.

18. Paragraph 18 does not require a response, because the *USF/ICC Transformation Order* speaks for itself.

19. Paragraph 19 does not require a response, because the *USF/ICC Transformation Order* speaks for itself. Sprint admits, however, that the *USF/ICC Transformation Order* adopted a series of rules designed to facilitate the transition to bill-and-keep, including rules capping certain intrastate and interstate switched access rates.

20. Paragraph 20 contains legal conclusions to which no response is required, but to the extent that a response may be required Sprint states that the *USF/ICC Transformation Order* and implementing regulations speak for themselves, and denies the statement that the reductions required under the Commission's transition plan to bill-and-keep do not apply to MNA and similarly situated providers. As the Commission is aware, however, Sprint will separately effect the referral of that legal issue through its own formal complaint against MNA. Sprint therefore does not address the merits of that argument in this Answer or the accompanying memorandum of law, but instead incorporates those forthcoming arguments here by reference.

21. Sprint admits, upon information and belief, the allegation in Paragraph 21 that MNA capped its interstate tandem switching and transport rates, and that MNA has not increased its intrastate tandem switching and transport rates since the Commission's rules took effect. The second sentence of Paragraph 21 contains a legal conclusion to which no response is required, but to the extent that a response is required Sprint denies that MNA's interstate and intrastate tandem switching and transport rates are lawful or fully comply with the requirements of the FCC's

benchmarking requirements³ or the *USF/ICC Transformation Order* and the Commission's implementing rules.

22. Sprint admits the allegations in Paragraph 22.

23. Sprint admits that TEOCO raised a billing issue in the June 13, 2014 letter described in Paragraph 23 of the Complaint (the "June 2014 Dispute Letter"), and notes that this letter speaks for itself. Sprint further admits that TEOCO conducts audits for its carrier clients to identify inaccurate network charges, but denies the additional allegations in the second sentence in paragraph 23.

24. Sprint admits the allegations in Paragraph 24, and notes that the letter quoted in Paragraph 24 and attached as Exhibit 3 to the Complaint speaks for itself.

25. Sprint admits the allegations in Paragraph 25, and notes that the letter referenced in Paragraph 25 and attached as Exhibit 3 to the Complaint speaks for itself.

26. Sprint admits that MNA denied Sprint's dispute. The second and third sentences in Paragraph 26 contain legal conclusions to which no response is required, but to the extent a response is required Sprint denies the assertions for the reasons stated in Paragraph 20 of this Answer.

27. Sprint denies that it did not commence a lawsuit in court, file a complaint with the Commission, or otherwise take action after MNA refused to issue the refund requested in the June 2014 Dispute Letter. On June 17, 2017, Sprint filed suit in the Western District of Missouri alleging in six counts that MNA violated state and federal law by charging unlawful rates. Sprint admits that, prior to filing this suit, it withheld payment of \$10,296.33 from MNA's invoice dated December 1, 2014.

³ See *CLEC Access Reform Order*, 16 FCC Rcd. 9923 (2001) ("7th Report and Order"); *In the Matter of Access Charge Reform*, 19 FCC Rcd. 9108 (2004) ("8th Report and Order").

28. Sprint admits that it withheld payment of \$2,947.36 from MNA's invoice dated January 1, 2015 and that it explained that the withholding was associated with the dispute raised in the June 2014 Dispute Letter.

29. Sprint admits the allegations contained in the first sentence of Paragraph 29. Sprint denies the remaining sentences in paragraph 29.

30. Sprint admits the allegations contained in Paragraph 30, and notes that the letters referenced in this Paragraph, and an example of which is attached to the Complaint, speak for themselves. Sprint subsequently amended its dispute to only dispute invoices back to August, 2012.

31. Sprint admits that it provided the quoted explanation in support of the March 2017 Dispute Letters. Sprint notes, however, that the quoted language was contained in an attachment to the March 2017 Dispute Letters that is not attached to the Complaint. The text of the attachment referenced by the Complaint speaks for itself.

32. Denied.

33. Sprint admits that it withheld payment in response to invoices from MNA, but denies the further allegations as described in Paragraph 33, including that such invoices were valid or lawful.

34. Sprint generally admits the allegations contained in Paragraph 34, but denies that any withholding of payment from MNA was unlawful, that MNA's federal or state tariffs were lawful, or that Sprint's actions violated Section 201(b) of the Act.

35. Sprint admits the allegations contained in Paragraph 35.

36. Paragraph 36 contains conclusions of law requiring no response, but to the extent that a response may be required, Sprint notes that Paragraph 36 quotes 47 U.S.C. § 251(b)(5) and cites the *USF/ICC Transformation Order*, both of which speak for themselves.

37. Paragraph 37 contains conclusions of law requiring no response, but to the extent that a response may be required, Sprint notes that Paragraph 37 cites 47 U.S.C. § 251(b)(5) and the *USF/ICC Transformation Order*, both of which speak for themselves. Sprint notes that the Bureau has waived Rule 1.724(c) in this matter, and that Sprint's legal analysis addressing MNA's arguments therefore appears separately in Sprint's accompanying memorandum of law.

38. Paragraph 38 contains conclusions of law requiring no response, but to the extent that a response may be required, Sprint notes that Paragraph 38 references 47 U.S.C. § 251(b)(5) and the *USF/ICC Transformation Order*, both of which speak for themselves. Sprint notes that the Bureau has waived Rule 1.724(c) in this matter, and that Sprint's legal analysis addressing MNA's arguments therefore appears separately in Sprint's accompanying memorandum of law.

39. Paragraph 39 contains conclusions of law requiring no response, but to the extent that a response may be required, Sprint notes that Paragraph 39 references 47 U.S.C. § 251(b)(5) and 47 C.F.R. § 51.901(b), both of which speak for themselves. Sprint denies that MNA's tariffed rates were lawful. Sprint notes that the Bureau has waived Rule 1.724(c) in this matter, and that Sprint's legal analysis addressing MNA's arguments therefore appears separately in Sprint's accompanying memorandum of law.

40. Paragraph 40 contains a legal conclusion to which no response is required, but to the extent that a response may be required Sprint states that the *USF/ICC Transformation Order* and implementing regulations speak for themselves, denies that MNA's description of these authorities is complete and accurate, and, for the reasons explained in Paragraph 20 of this Answer, denies that the reductions required under the Commission's transition plan to bill-and-keep do not apply to MNA. Sprint notes that the Bureau has waived Rule 1.724(c) in this matter, and that Sprint's legal analysis addressing MNA's arguments therefore appears separately in Sprint's accompanying memorandum of law.

41. Sprint admits that it has not paid MNA for certain tandem switching and transport services, but denies that MNA's requests for payment were valid or lawful. The last sentence of Paragraph 41 contains a legal conclusion to which no response is required, but to the extent that a response is required, Sprint denies that its conduct violated the *USF/ICC Transformation Order* or its implementing rules. Sprint denies any remaining allegations in Paragraph 41. Sprint notes that the Bureau has waived Rule 1.724(c) in this matter, and that Sprint's legal analysis addressing MNA's arguments therefore appears separately in Sprint's accompanying memorandum of law.

42. Denied.

COUNT I

43. Sprint adopts and incorporates by reference its responses to allegations contained in Paragraphs 1 through 42 as if fully set forth herein.

44. Section 201(b) of the Communications Act speaks for itself and requires no response.

45. Paragraph 45 contains conclusions of law that requires no response, but to the extent that a response is required Sprint denies the allegations in Paragraph 45. Sprint notes that the Bureau has waived Rule 1.724(c) in this matter, and that Sprint's legal analysis addressing MNA's arguments therefore appears separately in Sprint's accompanying memorandum of law.

COUNT II

46. Sprint adopts and incorporates by reference its responses to allegations contained in Paragraphs 1 through 45 as if fully set forth herein.

47. Denied.

48. Paragraph 48 contains a legal conclusion to which no response is required, but to the extent that a response may be required Sprint, Sprint denies the allegations contained in Paragraph 48. Sprint notes that the Bureau has waived Rule 1.724(c) in this matter, and that Sprint's legal

analysis addressing MNA's arguments therefore appears separately in Sprint's accompanying memorandum of law.

ANSWER TO PRAYER FOR RELIEF

49. Sprint denies the allegations contained in Paragraph 49 of the Complaint. For the reasons set forth above and in the attached Legal Analysis, Sprint denies that Complainant has demonstrated a violation of Section 201(b) of the Act, 47 U.S.C. § 201(b).

AFFIRMATIVE DEFENSES

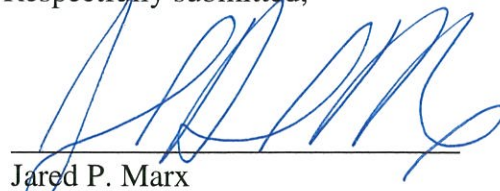
First Affirmative Defense. For the reasons explained in the attached Legal Analysis, the Commission should dismiss or deny the Complaint for failure to state a claim upon which relief can be granted. *See* 47 C.F.R. § 1.728.

Second Affirmative Defense. As further explained in the attached Legal Analysis, the Commission should deny the claims in the Complaint because they seek damages that are not recoverable at the Commission.

PRAYER FOR RELIEF

WHEREFORE, Sprint requests that the Commission dismiss or deny the Complaint with prejudice.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be 'JPM', is written over a horizontal line.

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Dated: August 29, 2018

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