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

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| **2016 Biennial Review of** | ) | |
| **Telecommunications Regulations:** | ) | **WC Docket No. 16-132** |
| **Wireline Competition Bureau** | ) | |

**SPRINT COMMENTS ON 2016 BIENNIAL REVIEW OF TELECOMMUNICATIONS REGULATIONS**

Sprint seeks repeal of two Federal Communications Commission rules overseen by the Wireline Competition Bureau.

## I. PAYPHONE COMPENSATION ANNUAL AUDIT, 47 C.F.R. § 64.1310 et seq.

The FCC standard upheld by the D.C. Circuit in *Cellco Parternship vs. FCC*, 357 F.3d 88 (D.C. Cir. 2004) states that it is reasonable to require the FCC to "reevaluate regulations in light of current competitive market conditions to see that the conclusion [it] reached in adopting the rule — that [the rule] was needed to further the public interest — remains valid." Sprint submits that the change in market conditions for payphone services warrants a reduction in the current regulatory obligations imposed on long-distance carriers given that, if Sprint's experience is typical, payphone calling volumes have decreased by 99 percent in the last decade.

Commission Rule Section 64.1320 requires carries that complete payphone calls, such as Sprint, to "undergo an audit of [their] § 64.1310(a)(1) tracking system by an independent third party auditor … to determine whether the call tracking system accurately tracks payphone calls to

completion."[1] Commission Rule 64.1320(f) requires an annual certification that there have been no material changes to the completing carrier's compliance with the criteria underlying the previous year's audit report. This, in essence, requires a complete audit each year to confirm that the current practices are in compliance even though the rule purports to only require an initial audit then an annual certification of no material changes.

Given the dramatic reduction in the use of payphone calling, due to the ubiquity of mobile telephones, the audit costs imposed by this rule are vastly disproportionate to the revenue being audited. Sprint projects that the costs of the audit alone will be more than 15 percent of the per-call compensation Sprint paid in the past year. The amount of payphone compensation Sprint has paid has declined more than 99 percent from 2005 to 2016. In fact, in conducting the 2016 audit, Sprint's auditor had difficulty locating a sufficient number of working payphones to conduct test calls.

The Commission originally adopted this rule to prevent completing carriers from failing to pay payphone providers the requisite per-call compensation. Due to changed market conditions, however, there is no longer any significant incentive to refuse to pay the small dollars at stake and the cost of annual certifications has become disproportionately burdensome. A self-certification by the completing carrier should adequately protect the payphone owners. The FCC should repeal the rules pertaining to the payphone compensation audit requirement.

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[1] 47 C.F.R. § 64.1320

## II. RATE AVERAGING AND RATE INTEGRATION CERTIFICATION, 47 C.F.R. § 64.1900

The Commission should eliminate Section 64.1900 of its rules, which requires nondominant interexchange carriers to certify annually that they are providing domestic interexchange services in compliance with the geographic rate averaging and rate integration requirements in Section 254(g). The certification must be made by an officer of the company under oath.

Section 64.1900 was adopted in 1996 as part of a proceeding that mandated the detariffing of interstate domestic interexchange services by nondominant interexchange carriers. Expressing concern that "…carriers would not necessarily maintain geographically averaged and integrated rates for interstate, domestic, interexchange services as required by Section 254(g)," the Commission adopted the certification requirement to "emphasize the importance that we place on…rate averaging and rate integration…."[2] The Commission also required nondominant interexchange carriers "to make information on current rates, terms, and conditions for all of their interstate, domestic, interexchange services available to the public in an easy to understand format and in a timely manner."[3]

The market has changed dramatically over the past two decades. The practice of detariffing is well established; long-distance service is for the most part no longer even a stand-alone offering; and information about competitive calling plans is available at the click of a button. Today, the vast majority of consumers have wireless calling plans that provide buckets of minutes and do not

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[2] *Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended, Second Report and Order* released October 31, 1996, paras. 83-84.
[3] *Id.*, para. 84.

differentiate in terms of rates based on calling distance or even between "local" and "long distance" calls. Most wireline customers have bundled local and long-distance service offering unlimited long-distance calling. Today, most if not all carriers provide on-line information on their rates, terms and conditions, which is readily accessible by any consumer with Internet access. Insofar as Sprint is aware, there has been no incident of any carrier violating the rate averaging/rate integration requirement. Thus, the concerns that lead the Commission to adopt the rate averaging/rate integration certification rule are no longer applicable or relevant.

Eliminating Section 64.1900 will result in administrative savings. Carriers would no longer be forced to incur the costs of preparing and submitting the rate averaging/rate integration certifications, and Commission staff would be relieved of the burden of tracking and reviewing the filed certifications (to the extent that they even do so today).

## III. CONCLUSION

The Commission should repeal the two rules as they are obsolete and impose an unjustified burden on telecommunications carriers.

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Respectfully Submitted,

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