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

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
	)	
Policy and Rules Concerning	)	CC Docket No. 96-61
the Interstate, Interexchange	)	
Marketplace	)	
	)	
Implementation of Section 254	)	
(g) of the Communications Act	)	
of 1934, as amended	)	

OPPOSITION OF SPRINT

Sprint Communications Company, L.P. ("Sprint") by its attorney replies to the Comments of the Commonwealth of the Northern Mariana Islands ("Commonwealth") filed on June 16, 1997 with respect to aspects of the rate integration plan which Sprint filed with the Commission on June 2, 1997. Sprint vigorously disagrees with the Commonwealth's characterization of Sprint's unwillingness at this time to integrate rates between Guam and the Commonwealth as a willful disregard of the Commission's Report and Order in the instant proceeding.<sup>1</sup>

Sprint does not understand the Commission's Order as finding that the public interest requires Sprint's other ratepayers to subsidize every call between Guam and the

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<sup>1</sup> First Report and Order in CC Docket No. 96-61, 11 FCC Rcd 9564 (1996) ("Order").

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Commonwealth under the rubric of rate integration. Under the Commonwealth's view of rate integration, however, Sprint's other customers would have to do so, for the rates applicable under Sprint's Dial-1 rate structure would not even cover Sprint's out of pocket costs to provide service between Guam and the Commonwealth.

Guam and the Commonwealth are approximately 127 miles apart. Under Sprint's Tariff FCC No. 1 for Dial-1 Service, which it has chosen as its vehicle for implementing rate integration, such calls would be priced at \$.29 per minute during the day, \$.17 per minute during the evening, and \$.15 per minute at night.<sup>2</sup> But as Sprint pointed out to the Commission in its June 2 rate integration report, the Micronesian Telephone Company (MTC), the local exchange carrier for the Commonwealth, charges almost \$.185 a minute for terminating access and more than \$.11 a minute for originating access.<sup>3</sup>

As the Commission can see, for Sprint to offer service from Guam to the Commonwealth at Dial-1 rates would require Sprint to lose money on every call. The evening and night Dial-1 rates would not even recover MTC's terminating access

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<sup>2</sup> See Sprint Tariff F.C.C. No. 1, Section 5.2.A.1.

<sup>3</sup> Because Sprint does not originate calls to Guam from the Commonwealth except in the limited case of calling cards, almost all of Sprint's traffic between Guam and the Commonwealth would have to incur the more expensive terminating access charge rather than the originating access charge.

charge. For daytime calls, Sprint would have to incur the Guam Telephone Authority's (GTA) originating access charge as well as MTC's terminating access charge. As of July 1, 1997, GTA will charge access rates under the National Exchange Carrier Association's (NECA) Tariff FCC No. 5. NECA has proposed new rates in a June 16, 1997 transmittal that are scheduled to become effective on July 1, 1997. Under that proposal, rates for just the originating or terminating Carrier Common Line, Local Switching, and Residual Interconnection Charge rate elements together exceed \$.06 a minute.

Thus, access charges alone for a Guam-Commonwealth call would exceed \$.24 a minute. A full 56/64 kbps circuit between Guam and the Commonwealth over the new Guam-Commonwealth fiber optic cable, which is the most direct and highest quality means of interconnecting those two points and which is owned by MTC, has been priced at between \$825-\$883 per month, depending on the length of the term selected by the customer.<sup>4</sup> Assuming that Sprint transmits 8000 minutes per month over this circuit, the same estimate the Commission's International Bureau found to be "a reliable

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<sup>4</sup> Although these rates have not been tarified, they have been offered by MTC and its parent, GTE, to all carriers pursuant to contractual agreement.

and reasonable usage level" in another proceeding,<sup>5</sup> fiber costs range between \$.1031 and \$.1103 per minute.

Out of pocket facility and access costs to Sprint therefore exceed \$.34-\$.35 per minute before adding anything to cover Sprint's own facility costs and overhead. In 1996, Sprint Corporation's selling, general and administrative expenses for long distance communications services accounted for approximately 27% of costs of total long distance operating expenses.<sup>6</sup> The Commonwealth apparently expects Sprint to incur costs in excess of \$.40 a minute while offering service for no more than \$.29 per minute and for as little as \$.15 a minute. Sprint's other ratepayers would have to subsidize every call.

In all of its reports to the Commission, including the June 2 report, Sprint has stated that its ability to integrate rates depended on a number of items over which it had little or no control. For example, at page 2 of its June 19, 1996 report to the Chief, Common Carrier Bureau, Sprint told the Commission that "The extent of any rate decreases for Sprint's interexchange service "will depend in

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<sup>5</sup> "Foreign Tariffed Components Prices," Attachment to International Settlement Rates, IB Docket No. 96-261, FCC 96-484, released December 19, 1996 at 8.

<sup>6</sup> In its 1996 Annual Report, Sprint Corporation reported total 1996 long distance service operating expenses of \$7.378 billion, of which selling, general and administrative expenses constituted \$1.9703 billion. Sprint 1996 Annual Report at 35.

significant measure on the level of access charges imposed on Sprint by the relevant local exchange carriers."

And in its February 3, 1997 initial rate integration report to the Bureau, Sprint said, with respect to the Guam-Commonwealth fiber optic cable which was not then operational, that "Sprint has no control over the deployment of the cable, and continued delays or unreasonably high charges for use of this cable will affect Sprint's ability to integrate rates for service between Guam and the Northern Marianas into Sprint's existing Dial-1 rate structure."<sup>7</sup>

Sprint understands rate integration to mean that some degree of rate and cost averaging is inherent in the provision by a common carrier of a generally available telephone service. Some routes or customers will cost more to serve, while others will cost less. Sprint further understands a reasonable degree of rate and cost averaging to be a regulatory requirement.

It is Sprint's further understanding that in a competitive environment, averaging is only required when costs of serving certain customers or routes are not widely divergent and when competition permits such averaging.<sup>8</sup>

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<sup>7</sup> Letter to Regina M. Keeney, Chief, Common Carrier Bureau, from Kent Nakamura, General Attorney, Sprint, February 3, 1997 at 3.

<sup>8</sup> In an open entry environment where interexchange prices are not subject to regulatory control, excessive rate averaging by Sprint would provide an opportunity for a new entrant to enter only on low cost routes or in low cost areas. The new entrant could thereby undercut Sprint's averaged rate even though it was less efficient than Sprint.

Under the Commonwealth's interpretation, Sprint would be required to provide service between Guam and the Commonwealth in spite of the fact that Sprint's cost of service on that route so greatly exceeded normal cost of service that Sprint's other customers would be required to subsidize every call.

The Commission was faced with a similar situation in the *Offshore Telephone Company* case, 3 FCC Rcd 4137 (1988), *aff'd per curiam sub nom. Offshore Telephone Company v. FCC*, 873 F.2d 408 (D.C. Cir. 1989). There, the Offshore Telephone Company (OTC) wished to join NECA notwithstanding the extraordinarily high costs of providing service to its customers, primarily offshore oil rigs in the Gulf of Mexico. NECA membership would have enabled OTC to lower its rates to its customers because OTC's costs and revenues would have been averaged with those of other NECA members.

The Commission refused to allow OTC to join NECA, finding that "[t]he effect of this arrangement would be that almost all of OTC's costs would be paid by the nation's long distance callers generally." 3 FCC Rcd at 4143. The Commission continued

We see no public interest considerations which would justify subsidizing the costs of OTC and its customers. By including costs incurred by OTC and other specialized carriers in NECA pools we would impose upon the general body of ratepayers substantial expenses incurred solely for the benefit of specialized users, a result that would disserve the public interest.

*Id.*

While rate integration may be in the public interest generally, there has been no finding by the Commission that the public interest requires Sprint's other ratepayers to subsidize every call between Guam and the Commonwealth.<sup>9</sup>

Moreover, it has long been Commission policy that rates should be based upon costs.<sup>10</sup> Rates that are not based upon costs send the wrong competitive signals and result in inefficient use of scarce resources. By generally requiring rate integration, Sprint does not believe that the Commission has affirmatively required Sprint to charge rates between the Commonwealth and Guam that clearly depart from costs and which are totally inconsistent with the competitive model for telecommunications that the Commission has long espoused.

Rather than have Sprint provide service below its out-of-pocket costs, the Commission should investigate why access charges in the Commonwealth are so many times higher than they are in the rest of the United States. It should also inquire why facility costs between Guam and the Commonwealth are higher than equivalent capacity in other submarine cables. As Sprint told the Commission earlier in

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<sup>9</sup> Cf. Section 202(a) of the Communications Act, which forbids undue or unreasonable preferences or advantages to particular locality.

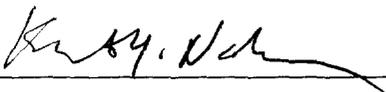
<sup>10</sup> See, e.g., Access Charge Reform, CC Docket No. 96-262, FCC 97-158, released May 16, 1997.

this docket, a regulation requiring carriers operating in a competitive market to provide service at noncompensatory rates is likely to have an unintended effect. Rather than the proverbial free lunch, the result of such a regulation is likely to be poor service, withdrawal from the market, and less competition, not more.

Respectfully submitted,

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Dated: June 26, 1997

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **OPPOSITION** of Sprint Communications Company L.P. was sent by hand or by United States first-class mail, postage prepaid, on this the 25<sup>th</sup> day of June 1997 to the below-listed parties:

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