



June 3, 2016

**VIA HAND DELIVERY**

Marlene H. Dortch  
 Secretary  
 Federal Communications Commission  
 445 12th Street SW  
 Washington, DC 20554

**Re: *Special Access for Price Cap Local Exchange Carriers, WC Docket No. 05-25, RM-10593***

Dear Ms. Dortch:

Pursuant to the *Second Protective Order*<sup>1</sup> and *Data Collection Protective Order*<sup>2</sup> adopted in WC Docket No. 05-25, RM-10593, Sprint Corporation (“Sprint”) submits a redacted version of the enclosed ex parte, which contains highly confidential information. Highly confidential treatment of the respectively marked portions of the enclosed document is required to protect the following information:

- The factors Sprint considers “when deciding whether to self-deploy channel termination and local transport facilities or lease such facilities from a third party”<sup>3</sup>;
- Factors that Sprint “take[s] into account when deciding what types of channel termination and local transport facilities to lease”<sup>4</sup>;
- “Pricing, to the extent such information is not publicly available, for . . . all [packet-switched data services]”<sup>5</sup>;

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<sup>1</sup> *Special Access for Price Cap Local Exchange Carriers, Second Protective Order, DA 10-2419, 25 FCC Rcd. 17,725 (2010) (“Second Protective Order”).*

<sup>2</sup> *Special Access for Price Cap Local Exchange Carriers, Order and Data Collection Protective Order, DA 14-1424, 29 FCC Rcd. 11,657 (2014) (“Data Collection Protective Order”).*

<sup>3</sup> *Second Protective Order, 25 FCC Rcd. at 17,727.*

<sup>4</sup> *Second Protective Order, 25 FCC Rcd. at 17,727; Data Collection Protective Order at Appendix B.*

<sup>5</sup> *Special Access for Price Cap Local Exchange Carriers, Letter from Sharon E. Gillett, Chief, Wireline Competition Bureau, to Donna Epps, Vice President, Federal Regulatory Affairs, Verizon, DA 12-199, 27 FCC Rcd. 1545 (Feb. 15, 2012) (supplementing the *Second Protective Order*) (“Second Supplement to the Second Protective Order”).*

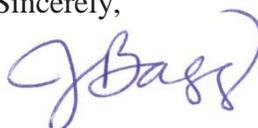
- “[R]ates or charges associated with channel terminations or transport facilities, and information from which, whether alone or in combination with other confidential or non-confidential information, such rates or charges . . . ”<sup>6</sup>;
- “Information about Requests for Proposals (‘RFPs’), including descriptions of RFPs for which a party was selected as the winning bidder, descriptions of RFPs for which a party submitted unsuccessful competitive bids, and the business rules companies take into consideration to determine whether to submit a bid in response to an RFP”<sup>7</sup>;
- The “types of customers companies serve and the types of special access-type services demanded by those customers”<sup>8</sup>;
- The “nature or type of structure where . . . cell sites are placed” and “the type or capacity of the connections provided to companies’ cell sites.”<sup>9</sup>

The marked information is not available from public sources, and, “if released to competitors, would allow those competitors to gain a significant advantage in the marketplace.”<sup>10</sup>

In accordance with the *Data Collection Protective Order* and *Second Protective Order*, Sprint is filing a redacted version of the enclosed document electronically via ECFS in WC Docket No. 05-25 and RM-10593, and will submit one hardcopy without redaction to the Secretary’s Office, two hardcopies without redaction each to Christopher Koves and Marvin Sacks, Pricing Policy Division, Wireline Competition Bureau, and two redacted hardcopies to the Secretary’s Office.

Please contact me if you have any questions or require any additional information.

Sincerely,



Jennifer P. Bagg  
*Counsel to Sprint Corporation*

Enclosure

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<sup>6</sup> *Special Access for Price Cap Local Exchange Carriers*, Letter from Sharon E. Gillett, Chief, Wireline Competition Bureau, to Paul Margie, Esq., 26 FCC Rcd. 6571, DA 11-805 (May 2, 2011) (supplementing the *Second Protective Order*) (“*First Supplement to the Second Protective Order*”).

<sup>7</sup> *Data Collection Protective Order* at Appendix B.

<sup>8</sup> *Second Protective Order*, 25 FCC Rcd. at 17,727.

<sup>9</sup> *Id.* at 17,728.

<sup>10</sup> *Data Collection Protective Order* ¶ 5; *Second Protective Order*, 25 FCC Rcd. at 17,726-28; *First Supplement to Second Protective Order*, 26 FCC Rcd. at 6571-72; *Second Supplement to Second Protective Order*, 27 FCC Rcd. at 1545-49.

June 3, 2016

**Ex Parte**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

**Re: *Special Access for Price Cap Local Exchange Carriers, WC Docket No. 05-25, RM-10593.***

Dear Ms. Dortch:

On June 1, 2016, Charles McKee, Chris Frentrup, and Pete Sywenki of Sprint Corporation (“Sprint”), and Jennifer Bagg, V. Shiva Goel, and the undersigned of Harris, Wiltshire & Grannis LLP, spoke via telephone with Pamela Arluk, Irina Asoskov, Justin Faulb, William Kehoe, Christopher Koves, Joseph Price, Eric Ralph, Deena Shetler, and David Zesiger of the Wireline Competition Bureau, and William Dever of the Office of General Counsel, regarding the above-captioned proceedings.

We discussed the Ethernet Pricing Model that Sprint described in its letter dated May 26, 2016.<sup>1</sup> Sprint explained that the model was constructed by and at the direction of its business units, with the assistance of management consultants, and as part of a business initiative to assess Ethernet pricing. Sprint also described how it used the model in the normal course of business to evaluate offers for fiber-based business data services (“BDS”) and inform negotiations over final contracts. The model’s results establish that incumbent local exchange carriers (“ILECs”) charge rates for fiber-based BDS that far exceed prices necessary to earn a substantial return on the carrier’s investment. Critically, the results also establish that these pricing distortions are much greater in magnitude for higher bandwidth BDS. In light of this evidence, an assumption that effective “competition broadly exists” for high-capacity BDS would be incorrect.<sup>2</sup>

In addition to the model’s utility in the business’s acquisition process, Sprint emphasized that the pricing data summarized in its filing also should inform the Commission’s analysis of final rules to reform the BDS marketplace. Sprint explained that the model was designed to allow the company to understand ILEC sellers’ Ethernet prices for products with varying characteristics in varying locations. In order to produce pricing output from the model, Sprint had to select a lateral distance to a typical customer location. To make the model’s output more useful to the Commission, Sprint used a lateral distance of 0.25 miles as supported by the record

<sup>1</sup> Letter from Jennifer P. Bagg, Counsel, Sprint Corporation, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 05-25, RM-10593 (May 26, 2016).

<sup>2</sup> *Business Data Services in an Internet Protocol Environment*, Tariff Investigation Order and Further Notice of Proposed Rulemaking, WC Docket No. 16-143, FCC 16-54, ¶ 244 (rel. May 2, 2016).

REDACTED – FOR PUBLIC INSPECTION

Ms. Marlene H. Dortch  
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in this proceeding. Sprint also comported the model's output with the FCC's record by using an [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] derived from the special access data collection.

Sprint also discussed how the difficulties it encountered in its attempts to spur competition, as one of the Nation's largest purchasers of cell-site backhaul, reinforce the conclusion that the marketplace for high-capacity BDS is not generally competitive. As part of its Network Vision program, Sprint solicited bids to connect roughly 38,000 cellular sites with high-capacity BDS. Sprint specifically designed its requests for proposal to elicit a competitive response by accepting long seven-year terms and focusing on higher bandwidth services. Despite offering long-term contracts across multiple locations for lucrative 100 Mbps to 200 Mbps circuits (with the possibility of future increases in capacity), Sprint did not receive *any* bids from *any* provider at [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL] of its cell site locations. The FCC should not assume that competitors will expand their networks even for the promise of customers for higher capacity circuits.

Pursuant to the Commission's rules, this letter is being submitted for inclusion in the public record of the above-referenced proceedings. Please contact the undersigned with any questions.

Sincerely,



Paul Margie  
*Counsel to Sprint Corporation*

cc: meeting participants