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May 6, 1999

Andrew M. Jones  
Sprint  
8140 Ward Parkway  
Kansas City, MO. 64114

Dear Mr. Jones:

GTE has received your letter stating that, under Section 252(i) of the Telecommunications Act of 1996, Sprint Communications Company, L.P. (Sprint) elects to adopt the terms of the arbitrated Interconnection Agreement between AT&T Communications of the Pacific Northwest, Inc. (AT&T) and GTE that was approved by the Commission as an effective agreement in the State of Washington in Docket No. UT-960307 (Terms)<sup>1</sup>. I understand you have a copy of the Terms.

Please be advised that GTE's position regarding the adoption of the Terms is as follows. Sprint does not necessarily concur with GTE's position.

On January 25, 1999, the Supreme Court of the United States ("Court") issued its decision on the appeals of the Eighth Circuit's decision in *Iowa Utilities Board*. Specifically, the Supreme Court vacated Rule 51.319 of the FCC's First Report and Order, FCC 96-325, 61 Fed. Reg. 45476 (1996) and modified several of the FCC's and the Eighth Circuit's rulings regarding unbundled network elements and pricing requirements under the Act. *AT&T Corp. v. Iowa Utilities Board*, No. 97-826, 1999 U.S. LEXIS 903 (1999).

Three aspects of the Court's decision are worth noting. First, the Court upheld on statutory grounds the FCC's jurisdiction to establish rules implementing the pricing provisions of the Act. The Court, though, did not address the substantive validity of the FCC's pricing rules. This issue will be decided by the Eighth Circuit on remand.

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<sup>1</sup> \*These "agreements" are not agreements in the generally accepted understanding of that term. GTE was required to accept these agreements, which were required to reflect the then-effective FCC rules.

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Second, the Court held that the FCC, in requiring ILECs to make available all UNEs, had failed to implement section 251(d)(2) of the Act, which requires the FCC to apply a "necessary" or "impair" standard in determining the network elements ILECs must unbundle. The Court ruled that the FCC had improperly failed to consider the availability of alternatives outside the ILEC's network and had improperly assumed that a mere increase in cost or decrease in quality would suffice to require that the ILEC provide the UNE. The Court therefore vacated in its entirety the FCC rule setting forth the UNEs that the ILEC is to provide. The FCC must now promulgate new UNE rules that comply with the Act. As a result, any provisions in the Terms requiring GTE to provide UNEs are nullified.

Third, the Court upheld the FCC rule forbidding ILECs from separating elements that are already combined (Rule 315(b)), but explained that its remand of Rule 319 "may render the incumbents' concern on [sham unbundling] academic." In other words, the Court recognized that ILEC concerns over UNE platforms could be mooted if ILECs are not required to provide all network elements: "If the FCC on remand makes fewer network elements unconditionally available through the unbundling requirement, an entrant will no longer be able to lease every component of the network."

The Terms which Sprint seeks to adopt does *not* reflect the Court's decision, and any provision in the Terms that is inconsistent with the decision is nullified.

GTE anticipates that after the FCC issues new final rules on UNEs, this matter may be resolved. In the interim, GTE would prefer not to engage in the arduous task of reforming agreements to properly reflect the current status of the law and then to repeat the same process later after the new FCC rules are in place. Without waiving any rights, GTE proposes that the parties agree to hold off amending (or incorporating the impact of the decision into) the Terms and let the section 252(i) adoption proceed by maintaining the status quo until final new FCC rules are implemented (the "New Rules"), subject to the following package of interdependent terms:

1. GTE will continue to provide all UNEs called for under the Terms until the FCC issues the New Rules even though it is not legally obligated to do so.
2. Likewise, Sprint agrees not to seek UNE "platforms", or "already bundled" combinations of UNEs.
3. If the FCC does not issue New Rules prior to the expiration of the initial term of the Terms, GTE will agree to extend any new interconnection arrangement between the parties to the terms of this proposal until the FCC issues its New Rules.

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4. By making this proposal (and by agreeing to any settlement or contract modifications that reflect this proposal), GTE does not waive any of its rights, including its rights to seek recovery of its actual costs and a sufficient, explicit universal service fund. Nor does GTE waive its position that, under the Court's decision, it is not required to provide UNEs unconditionally. Moreover, GTE does not agree that the UNE rates set forth in any agreement are just and reasonable and in accordance with the requirements of sections 251 and 252 of Title 47 of the United States Code.
5. The provisions of the contract that might be interpreted to require reciprocal compensation or payment as local traffic from GTE to the CLEC for the delivery of traffic to the Internet are not available for adoption and are not a part of the 252(i) agreement pursuant to FCC Rule 809 and paragraphs 1317 and 1318 of the First Report and Order.

GTE believes that the first four conditions above are adequately explained by the first part of this letter. The reason for the last condition is the FCC gave the ILECs the ability to except 252(i) adoptions in those instances where the cost of providing the service to the requesting carrier is higher than that incurred to serve the initial carrier or there is a technical incompatibility issue. The issue of reciprocal compensation for traffic destined for the Internet falls within FCC Rule 809. GTE never intended for Internet traffic passing through a CLEC to be included within the definition of local traffic and the corresponding obligation of reciprocal compensation. Despite the foregoing, some forums have interpreted the issue to require reciprocal compensation to be paid. This produces the situation where the cost of providing the service is not cost based under Rule 809 or paragraph 1318 of the First report and Order. As a result, that portion of the contract pertaining to reciprocal compensation is not available under this 252(i) adoption. In its place are provisions that exclude ISP Traffic from reciprocal compensation. Specifically, the definition of "Local Traffic" includes this provision: "Local Traffic excludes information service provider ("ISP") traffic (i.e., Internet, 900 – 976, etc)"

In sum, GTE's proposal as described above would maintain the status quo until the legal landscape is settled.

Sprint's adoption of the AT&T arbitrated agreement shall become effective upon filing of this letter with the Washington Utilities and Transportation Commission and remain in effect no longer than the date the AT&T arbitrated Terms are terminated. The AT&T arbitrated agreement is currently scheduled to expire on September 25, 2000.

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As these Terms are being adopted by you pursuant to your statutory rights under section 252(i), GTE does not provide the Terms to you as either a voluntary or negotiated agreement. The filing and performance by GTE of the Terms does not in any way constitute a waiver by GTE of its position as to the illegality or unreasonableness of the Terms or a portion thereof, nor does it constitute a waiver by GTE of all rights and remedies it may have to seek review of the Terms, or to petition the Commission, other administrative body, or court for reconsideration or reversal of any determination made by the Commission pursuant to arbitration in Docket No. UT-960307, or to seek review in any way of any provisions included in these Terms as a result of Sprint's 252(i) election.

Nothing herein shall be construed as or is intended to be a concession or admission by either GTE or Sprint that any contractual provision required by the Commission in Docket No. 960307 (the AT&T arbitration) or any provision in the Terms complies with the rights and duties imposed by the Telecommunications Act of 1996, the decision of the FCC and the Commissions, the decisions of the courts, or other law, and both GTE and Sprint expressly reserve their full right to assert and pursue claims arising from or related to the Terms. GTE contends that certain provisions of the Terms may be void or unenforceable as a result of the Court's decision of January 25, 1999 and the remand of the pricing rules to the United States Eighth Circuit Court of Appeals.

Should Sprint attempt to apply such conflicting provisions, GTE reserves its rights to seek appropriate legal and/or equitable relief. Should any provision of the Terms be modified, such modification would likewise automatically apply to this 252(i) adoption.

Please indicate by your countersignature on this letter your understanding of and commitment to the following three points:

- (A) Sprint adopts the Terms of the AT&T arbitrated agreement for interconnection with GTE and in applying the Terms, agrees that Sprint be substituted in place of AT&T in the Terms wherever appropriate.
- (B) Sprint requests that notice to Sprint as may be required under the Terms shall be provided as follows:

To : Sprint Communications Company, L.P.  
Attention: W. Richard Morris  
Vice President - Local Market Integration  
7301 College Blvd - KSOPKV0214  
Overland Park, KS 66209  
Telephone number: 913/534-6102  
FAX number: 913/534-6818

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- (C) Sprint represents and warrants that it is a certified provider of local dialtone service in the State of Washington, and that its adoption of the Terms will cover services in the State of Washington only.

Sincerely,

GTE Northwest Incorporated

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Connie Nicholas  
Assistant Vice President  
Wholesale Markets-Interconnection

Reviewed and countersigned as to points A, B, and C only:

Sprint Communications Company, L.P.

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[CLEC signing party's name]

c: R. Ragsdale - HQE03B75 - Irving, TX  
R. Vogelzang - HQE03J41 - Irving, TX  
W.E. Munsell - HQE03B62 - Irving, TX

**DECLARATION OF KEVIN E. BRAUER**

I. Introduction.

I will explain the plans Sprint has to compete with the ILECs and why, at least in the near term, it is critical that ILEC facilities be available as Unbundled network elements. Before providing these explanations, I will briefly set forth my relevant experience in the telecommunications field. I am the President of Sprint's National Integrated Services organization. As President of this organization, I am responsible for implementing Sprint's new, innovative, state-of-the art technology platform and service. Sprint recently announced this new platform and service - Sprint ION, Sprint's Integrated On-demand Network. Additionally, I am familiar with Sprint's other, non-Sprint ION, CLEC strategies.

I have held my current position for the last year and a half. Before that, I was the President of Sprint Business, the group responsible for serving Sprint's larger long distance business customers. I have also served as a Sprint senior vice president responsible for developing and implementing strategies related to emerging growth opportunities and held various vice presidential level marketing assignments.

II. Sprint ION Deployment

The Telecommunications Act of 1996 encourages both the development of competition in local exchange markets and the deployment of advanced services to consumers residing in the United States. Sprint ION assists in meeting both goals: it

brings competitive communications offerings to current local exchange carrier (LEC) monopoly customers and it does this through the use of advanced technologies created for the data age rather than the technologies used in the provision of yesterday's plain old telephone service.

The networks and technology deployed by traditional telephone companies, both local and long distance, rely upon circuit switches to route both local and long distance voice traffic using a time division multiplexing (TDM) technology. While voice traffic is the bulk of the communications traffic today, data traffic is increasing rapidly. We are experiencing a rapid growth in use of the Internet and the developing capability of converting voice TDM traffic to a data format that can be carried on more modern data networks. Data traffic is growing at a much more rapid pace than traditional voice traffic and is expected to be the bulk of the communications traffic in the near future.

Sprint's new ION service integrates traditional voice TDM traffic, Internet traffic, Frame Relay traffic, and other data traffic on one customer access facility and carries all of this traffic in the asynchronous transfer mode (ATM) data format through the Sprint network. The initial conversion of these various formats takes place at the customer premises where all of the traffic is converted to ATM and transported to Sprint's network for delivery to the terminating point.

Sprint ION service will be capable of carrying the traffic of Sprint ION customers over any distance, whether the communication is delivered within a city, across a state, or across the nation. For communications terminating to end users that are not Sprint ION customers, Sprint will convert the Sprint ION format to the format needed to communicate with the off-net non-Sprint ION customer.

As Sprint deploys Sprint ION, it will focus customers on the efficiency gained by integrating all services on one access facility, increased functionality provided to customers through increases in bandwidth, and innovations in customer control by providing the customer with easy-to-use service configuration functionality. For example, a residential customer will have the capability to create up to six voice communications channels where only one existed before and greatly increase the data throughput speed of its access to the Internet and other data applications. Configuration choices will be available to the customer through an easily used computer-based program.

For businesses large and small, the Sprint ION technology enables networked multimedia applications that efficiently link employees, customers, and external partners by providing virtually unlimited bandwidth to all work locations. This will facilitate E-Commerce to help reach new markets; interactive distance learning for employees at all locations; management of a telecommuting and/or geographically dispersed workforce; and real-time video desktop collaboration, connecting both internal and external participants at multiple locations.

### III. The Need for ILEC UNBUNDLED NETWORK ELEMENTS

Sprint's preference is to self-provision all of the facilities and functionalities necessary to bring Sprint ION, as well as POTS, to that national marketplace, even if self-provisioning proves somewhat more costly than relying on external carrier-competitors. Self-provisioning allows control over one's destiny by providing the ability to provision distinguishable services, rather than being bound by the capabilities inherent in the facilities that other entities deploy. Self-provisioning produces tremendous efficiencies because the business can be run in-house, as opposed to being managed through multiple

vendors and multiple, and varying, processes throughout the nation. Additionally, better financial results, over the long run, should be achievable by increasing the return from capital dollars spent rather than continuing an expense to multiple third parties. Finally, dependence on external vendors increases the business uncertainties and risks in terms of possible pricing fluctuations, quality control, choice of vendors, changes in vendors' business strategies and/or control of the vendors – many of whom are also competitors. These advantages are such that Sprint would choose self-provisioning even if it were somewhat costlier than using external carriers as suppliers.

Sprint is engaged in some degree of self-provisioning through its acquisition of three wireless cable providers through which Sprint will be able to deploy Sprint ION to certain customers. These wireless cable providers pass 24.2 million households. However, because the wireless cable technology is line-of-sight based, not all of these 24.2 million household can actually be served by the wireless cable. Additionally, while the wireless cable bandwidth will be suitable to provision service to residential and small business customers, it is not sufficient for the needs of large businesses. Clearly then, the wireless cable play is not a short-term complete self-provisioning solution.

Self-provisioning of all of the necessary facilities and functionalities is not a viable option in the near term for widespread deployment, and may never be a viable option in certain parts of the country. It is, even for a company of Sprint's size, extremely costly and capital intensive. It is also extremely time consuming and does not lend itself to anything remotely resembling rapid deployment. Some parts of the country are very remotely populated and in these areas self-provisioning of more than a few items may never be economically viable. Finally, certain facilities – such as a second physical

wireline to the customer premises, may be impossible in some circumstances due to zoning laws, deed restrictions, easement problems, etc. Even where self-provisioning may be feasible in the future, it is often more economic to enter the market first by employing unbundled network elements, to build a base of customers that later might support a facilities build-out.

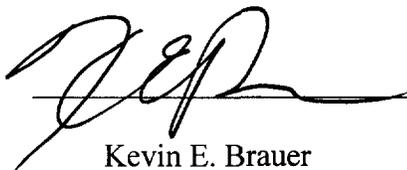
There is no robust, or even nascent, wholesale market for the facilities and functionalities that the ILEC unbundled network elements provide, and that are necessary for local competition to develop and flourish. Indeed, it will undoubtedly be some time before there is a viable wholesale market. The ILECs have had a monopoly in local telephone service for years. As a result of this monopoly, the ILECs have economies of scope and scale that wholesale competitors will have difficulty matching, if they ever can, for a number of years.

Unfortunately, that leaves the ILECs as the only real source of external supply. There are no other viable alternatives, there is no wholesale market, no competitive alternative sources, for the facilities and functionalities that the ILEC unbundled network elements provide. If there were, Sprint would use it. The simple fact is that the ILECs will be Sprint's major competitor for local service. Additionally, when the RBOCs are allowed into interLATA long distance, the RBOCs have the potential to be one of Sprint's largest long distance competitors. It makes no business sense to further the RBOCs' interest and help them increase their margins -- margins that can be used to compete with Sprint -- if viable alternatives exist. But as of now they do not. In my business judgment, the very fact that Sprint turns to the ILECs for unbundled network elements means that

they are necessary to Sprint's business and their absence would materially impair Sprint's ability to offer its services.

Thus, as a matter of long-term business strategies for Sprint, the ILECs are the least desirable external source of supply. Yet they are a source that Sprint must initially tap, through the purchase of unbundled network elements, if Sprint's CLEC strategies are to be successfully deployed.

I hereby swear, under penalty of perjury, that the foregoing is true and correct, to the best of my knowledge and belief. Executed this 25<sup>th</sup> day of May, 1999.



Kevin E. Brauer

### SPRINT'S PROPOSED RULE CHANGES

1. Amend §51.315(b) by adding at the end of thereof an additional sentence to read as follows:

If an incumbent LEC, on its own initiative, combines particular elements in one location or for one particular retail customer, it shall offer such combination of elements to requesting carriers for service to other customers anywhere in its operating area(absent a showing of technical infeasibility with respect to a particular customer location or a particular end office).
2. In the event that paragraphs (c)-(f) of §51.315 are not reinstated, amend §51.315 by adding a new paragraph (c) to read as follows:
  - (c) If an incumbent LEC refuses a requesting carrier's request to combine network elements, the incumbent LEC must allow the requesting carrier to combine the network elements by the most economical means possible without requiring the requesting carrier to duplicate the incumbent LEC's existing equipment infrastructure, and cannot require the requesting carrier to collocate for this purpose. Any physical access to incumbent LEC premises needed by the requesting carrier for the purpose of combining network elements must be allowed, subject to reasonable security measures and without any charge to the requesting carrier (other than a reasonable charge for such security measures).
3. Amend §51.317 by revising paragraph (b), and adding a new paragraph (c) to read as follows:
  - (b) If the state commission determines that it is technically feasible for the incumbent LEC to provide access to the network element on an unbundled basis, the state commission may decline to require unbundling of the network element only if it concludes that:
    - (1) with respect to an element that is proprietary (or contains proprietary information that will be revealed if the network element is unbundled) access to such element is not necessary to the requesting carrier; or
    - (2) with respect to non-proprietary network elements, the failure to provide access to such element will not impair the ability of the requesting carrier to provide the services that it seeks to offer.

- (c) For purposes of making the determinations required by paragraph (b) above:
- (1) A proprietary unbundled network element is *necessary* if requesting carriers do not have available, from the incumbent or others, a reasonable substitute for such proprietary element that enables an efficient competitor to provide a telecommunications service in an economically and functionally viable manner, taking into account the economic and functional characteristics of the proprietary element.
  - (2) Requesting carriers' ability to offer a telecommunications service is *impaired* if their inability to obtain a requested unbundled network element materially reduces their ability to offer the service. For purposes of this rule, the ways in which requesting carriers' inability to obtain an element may materially reduce their ability to offer a service include, but are not limited to, effects on the quality (including functionality), scope, or timeliness with which the service could be offered and the costs required to offer the service using a substitute functionality.
  - (3) Factors to be considered in determining whether access to a proprietary unbundled network element is necessary, or whether requesting carriers' ability to offer service is impaired, include, but are not limited to:
    - (A) Availability of substitute capabilities from the incumbent or other sources;
    - (B) Whether a substitute capability requires requesting carriers to incur higher deployment costs or lower economies of scale compared to those of the requested element;
    - (C) Practical difficulties in obtaining business arrangements necessary to obtain any substitute capability within the timeframes and in the quantities required by requesting carriers;

- (D) Reduced potential for requesting carriers to serve an equally broad base of customers using the substitute;
- (E) Additional time necessary to deliver services in the marketplace that is related to the requirement to obtain and implement the substitute;
- (F) Inferior functionality or performance of, or support capabilities for, the substitute compared to the requested element; and
- (G) Diminished ability of requesting carriers to provide service in conformity with their legal and regulatory obligations.

4. Amend §51.319 by revising paragraphs (a), (c) and (d) as follows:

- (a) *Local Loop.* The local loop network element is defined as a transmission path from the main distribution frame (or its equivalent) in an incumbent LEC's central office, wire center or remote switch or concentration location up to, and (at the option of the requesting carrier) including, a compatible Network Interface Device at a customer's premises, and between the main distribution frame in the central office or wire center and the remote switch or concentration location. This includes (but is not limited to) two-wire and four-wire loops that are conditioned to transmit the analog and/or digital signals needed to provide services such as ISDN, xDSL, and DS1-level signals. This also includes DS-3, OC-n and STS-n loops. A carrier may also request conditioned loops for telecommunications services requiring loops unfettered by any intervening equipment (e.g., filters, load coils, range extenders, bridge taps, etc.), so that the requesting carrier can use these loops for a variety of telecommunications services that can be supported by use of copper by attaching appropriate terminal equipment at each end. When such loops are not available as a result of (a) a lack of facilities, (b) the presence of incompatible intervening electronics, or (c) other constraints, including but not limited to the inadequate electrical characteristics of the loop, then the incumbent LEC must provide a loop that is equipped with all transmission equipment necessary to provide equivalent communications capabilities as the incumbent LEC makes available over loops of equivalent length between a customer's premises and the traditional serving central office of that customer's premises. This obligation applies regardless of whether the incumbent ILEC's offering is made as a retail service or as an access service and regardless of whether the incumbent LEC or an incumbent

LEC affiliate provides such service. The loop also includes the transmission media and, where deployed, the associated transmission functionality including, but not limited to, coding and decoding, multiplexing and de-multiplexing, modulating and demodulating, and loss or gain insertion. When such functionality is provided by a digital subscriber line access multiplexer ("DSLAM"), the DSLAM may be requested on a dedicated or shared basis. When the incumbent LEC deploys "next generation" digital loop carrier ("NGDLC") that allows the placement of xDSL line cards and remote xDSL functionality, such NGDLC functionality shall be unbundled and offered separately if requested by the carrier.

\* \* \* \* \*

(c) *Switching Capability.*

- (1) Local Circuit Switching Capability. \* \* \*
- (2) Tandem Circuit Switching Capability. \* \* \*
- (3) Packet Switching Capability. The packet switching capability network element is defined as the assembling, disassembling, addressing, conversion or routing of digital information in packet form. The packet switching capability network element shall include all features, functions and capabilities of the packet switching and/or routing device. For this purpose, packet switching includes (but is not limited to) all types of cell or packetized information, including asynchronous transmission mode (ATM), and Internet protocol (IP).

(d) \* \* \*

- (2) The incumbent LEC shall provide a requesting telecommunications carrier use of packet transport defined as the transport of packetized information between (and including) two or more packet devices, or between interconnected transmission facilities which terminate at a packet device, including any intermediate routing, without regard to the protocol or packet definition scheme involved. The packet transport network element shall include all features, functions and capabilities of the incumbent LEC's packet transport network.

## I. Sprint Experience with BellSouth

Beginning in 1996, Sprint began a CLEC initiative in the Orlando, Florida area. Sprint's market strategy was to offer competitive local exchange service in BellSouth's Orlando market via the deployment and utilization of a Sprint-owned #5ESS switch, which is physically located on floor space leased from a third party (not BellSouth) but centrally located among eight BellSouth central offices in the Orlando area. Sprint combined its own local switching functionality with unbundled loops from BellSouth to offer retail local service.<sup>1</sup> Since the inception of the venture, Sprint has amassed a wealth of experience attempting to efficiently operate in this "two-network" mode. To say the least, the process remains complex, costly and inefficient in virtually every regard relative to a seamless, one-supplier UNE provisioning environment.

From its inception, this initiative has been staffed and operated by seasoned, competent employees with extensive experience in local telephone operations. Thus, lack of telephony knowledge can not legitimately serve as an excuse for the numerous and continuous hurdles that are experienced in this "two network" provisioning environment. Despite this experience, and despite almost continuous quality improvement efforts on the part of Sprint (and BellSouth), the situation has improved incrementally to now be considered by Sprint to be operationally tolerable at best.

As a precursor, BellSouth has historically had a policy of not allowing the collocation of circuit switching equipment of the type required by Sprint (Sprint's #5ESS local circuit switch)<sup>2</sup>. At the time Sprint was deploying its switch, and prior to the recent

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<sup>1</sup> Sprint also utilized its own SONET ring that encircles Orlando, along with certain transport elements from BellSouth.

<sup>2</sup> Sprint has physically collocated a point of termination (POT) frame multiplexing equipment in two of the eight BellSouth end offices it serves.

FCC Order on collocation, BellSouth (or any ILEC, for that matter) was not required to allow collocation of circuit switching equipment.<sup>3</sup> Even though offering competitive services via the utilization of multiple networks has complexities of its own that altogether impair a CLEC's ability to compete effectively, having to do so via a remotely placed switch further impairs this ability.

### **Cost Impairment**

From a cost standpoint, in each instance where service is provided through the utilization of a BellSouth unbundled loop and a Sprint switch, Sprint has to incur the cost of extending that BellSouth-provided loop beyond that loop's natural termination point at the BellSouth main frame to a termination point at the Sprint switch. The transmission facilities ranged from a minimum length of 3,000 ft. (from the BellSouth Magnolia St. central office to the Sprint switch location) to as much as 20 miles. Even in the Magnolia St. C.O. instance, the associated transmission cost is well above and beyond the cost of an analogous and simple cross connect which would be required if BellSouth were to provide unbundled local loop and switching functionality for Sprint's use. Also, because of BellSouth's policy of requiring that Sprint have an intermediate termination point between its main distribution frame and the Sprint frame, Sprint bears the cost of placing (either through physical or virtual collocation) an intermediate point of termination ("POT bay") in each central office where Sprint intends to utilize unbundled loops. The cost of collocation and placement of the POT bay is clearly a cost disadvantage vis-à-vis a fully provisioned BellSouth network solution.

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<sup>3</sup> In fact, physical collocation of CLEC switching equipment will be nascent today in most, if not all markets, due to the historical absence of any regulatory requirement for the ILEC to allow collocation of circuit switching equipment.

## **Operational Impairment**

Sprint has experienced and has attempted to rectify numerous impairments to operational efficiency, and will not burden the record with the complete litany. Rather, the focus here is on certain operational issues that arise as a result of the “two network” scenario presented here. Specifically, there have been countless instances where coordination of facilities availability, test, and turn-up between Sprint and BellSouth have gone askew for reasons ranging from missed commitments (e.g., the loop is not ready at the time it was promised), to BellSouth positive loop tests that proved to be incorrect, to the operational incompatibility of Sprint’s 5ESS switch with BellSouth’s pair gain devices – and everything in between. This situation has seen some incremental improvement since the inception of the venture, but not without paying a significant price in the form of resources. Specifically, Sprint now “project manages” the entire ordering/provisioning process of each order. Sprint assigns individuals to oversee both the Sprint side as well as the BellSouth side of each transaction to ensure, for example, that facilities availability commitments are met, changed due dates are mutually understood and adhered to, and testing is validated and confirmed. Further, the Sprint project manager must coordinate multiple orders, as each company utilizes different systems to place orders for engineering, installation, maintenance, and billing of services, and must document the circuit/service ID’s used by each company to identify each network component. This very specific “cross-referencing” that occurs enables Sprint to approach problems in this “two network” environment in a coordinated and more efficient fashion. All that said, despite this very labor-intensive micromanagement

approach that Sprint has taken, Sprint continues to struggle with customer-impacting problems all the time, because the project manager never has full visibility to things occurring on the BellSouth side of the “two network” operation. In contrast, were BellSouth to provide the full range of UNEs end-to-end and retain full visibility and accountability for the entire physical plant, the complexities and inefficiencies of managing two network providers would be eliminated.

### **Quality Impairment**

When Sprint and BellSouth devise a provisioning solution utilizing leased transport between the Sprint switch and BellSouth end offices (as is often the case), the switch service may convert between analog and digital signaling numerous times in the transmission process, depending on the type of transmission and outside plant facilities used by both providers. As a result, the service may not achieve a quality of service available if BellSouth were provisioning the entire service. For example, a simple analog business or residential line fully provisioned by BellSouth and used by a customer as a modem line for dial access to an internet service provider can (and routinely does) achieve speeds approaching 56 Kbps. In the “two network” environment, the jointly provisioned solution will, by design, require several additional digital-to-analog and analog-to-digital conversions which result in slower connect speeds incapable of exceeding 19.2 Kbps or less. This service degradation is not the “fault” of either Sprint or BellSouth: it is a logical outcome, given the inherent requirements of transmitting between hardware that requires multiple conversions. The bottom line is that quality can suffer and actually has suffered to the point where Sprint has directed certain customers

to switch back to BellSouth to achieve the quality service that they had experienced prior to the migration to Sprint.

With respect to timely resolution of trouble, the customer experiences delay simply due to the need to isolate trouble numerous times before the root cause can be identified with certainty and rectified. When it receives a trouble report, Sprint's process is to first do what it can to isolate trouble on its own. If Sprint isolates the trouble as being in the BellSouth network, it will submit a trouble ticket to BellSouth, which will then perform a second trouble isolation test. If BellSouth finds the trouble, it can be rectified promptly, but still slower and less efficiently than if BellSouth were the end-to-end network provider. If, as often is the case, BellSouth finds no trouble, both parties then begin more detailed collaboration and testing, with the ultimate solution coming about in a much more inefficient manner than if BellSouth were the end-to-end network provider. In each instance of trouble, quality is clearly impacted in a negative way.

In summary, Sprint and BellSouth technicians enjoy a good and well-established working relationship where there is cooperation and collaboration as needed. However, this in no way overcomes the inherent complexities associated with providing service via the use of two physically separate and independently managed networks. For numerous reasons, replicating the operational efficiency, cost effectiveness, and quality of an end-to-end network solution is not practically viable at this point in the evolution of competition.

## **II. Sprint Experience with TCG/NYNEX**

During 1997, Sprint conducted an unbundled network element trial wherein Sprint was testing the viability of offering a competing retail local dial tone product through the underlying combination of ILEC and third party network elements. Specifically, Sprint requested that NYNEX provide unbundled local loop facilities, and that TCG provide local switching functionality from its local circuit switch (which was physically collocated in a NYNEX central office) along with local transport functionality. If this had been more than a technical test, Sprint, as the retail service provider, would have had ultimate accountability for the timely, accurate, and cost-effective provisioning of its branded service to its retail subscribers. Even though the equipment of Sprint's two network suppliers was collocated in the same location, the impairment in the quality as well as the lack of timely provisioning of its retail offering was significant. Without a recitation of the litany of operational problems associated with the trial, Sprint will focus on one particularly illustrative example.

In July 1997, Sprint requested that seven subscriber circuits be converted from NYNEX retail to Sprint retail via the NYNEX/TCG joint provisioning arrangement. Upon completion of the conversion, Sprint observed that four of the converted lines were working but provisioned "out of order," i.e., the lines were mixed up and traffic was going to the wrong numbers between the four working lines. Further, the remaining three lines did not have dial tone. Unable to isolate the trouble on its own, Sprint subsequently submitted trouble reports to both NYNEX and TCG. In response to the trouble reports, both NYNEX and TCG denied ownership of any problem and supported their position with a claim that their respective portions of the network had tested successfully. The

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trouble reports remained unresolved due to NYNEX's and TCG's firm position that the problem was in the other party's network. It was not until September 8<sup>th</sup>, when Sprint brought its own technicians to New York and was given access by TCG to TCG's facilities to test both the transmission and the connecting block order of the telephone numbers, that Sprint itself was able to isolate the trouble. Specifically, Sprint's testing determined that TCG had turned up the service correctly on the four "out of order" lines. At that point, the trouble report on these four lines was reissued to NYNEX. After repeated escalations and further investigation by NYNEX, NYNEX finally agreed that it had cross-connected the local loops to the point of termination in TCG's collocation cage out of order. Once this root cause was isolated (approximately 40 days after trouble was identified), the trouble was quickly and easily rectified by NYNEX. With respect to the three out of service lines, Sprint's testing revealed that TCG had provisioned these lines as "dial pulse" while Sprint ordered the lines as "digit tone" thereby creating a no dial tone condition. Again, once the root cause was isolated, the trouble was quickly and easily rectified by TCG.

Sprint acknowledges that operational difficulties are bound to exist as new processes related to competitive market entry are established. However, the significance of this particular scenario is that the complexities of installing service using two independent networks revealed the fatal flaw that no one network provider had end-to-end accountability for the proper functioning of the combined network. The persistent denial of fault would clearly not have occurred had NYNEX been the end-to-end provider of all unbundled network components – loop, switching, and transport. With problem resolution taking well in excess of a month, impairment in the form of timely

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availability of service, costly oversight (and ultimately hands-on trouble isolation) efforts by Sprint, and obvious degradation in service quality is readily apparent.

Regardless of the source of the problem, as a retail service provider, Sprint would have been ultimately accountable to its customers for any customer-impacting problem. However, being neither the underlying loop provider nor the underlying switching or transport provider, Sprint had no independent access to any portion of the network to exert any direct control over solving those problems. Further, Sprint had no real-time visibility to the status of the network in the form of electronic interfaces that would have made “viewing” the problems more readily apparent.<sup>4</sup>

Sprint is convinced that, at this time, removing the local switching component from the stream of network components, with the local switching component being provided by an independent entity, creates an environment that introduces significant potential for operational problems that result in lower quality, increased cost, and untimely service provisioning.

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<sup>4</sup> Nor, to Sprint’s knowledge, does this real-time electronic interface exist today in a UNE environment.

## APPENDIX E

### DECLARATION OF ROBERT RUNKE

I, Robert Runke, state as follows:

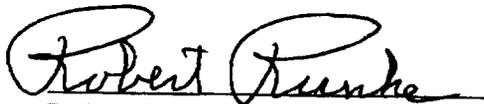
1. I am Vice President, Network Distribution, of Sprint's Long Distance Division ("LDD"). In this capacity, I am responsible, among other things, for the Sprint LDD's acquisition and use of access facilities from various access vendors. I oversee Sprint LDD's deployment of switched and special access facilities, including deployment of a Broadband Metropolitan Area Network ("BMAN") access architecture in target markets. Access consists of dedicated entrance facilities linking the Sprint LDD points of presence ("POPs") with the access provider's serving wire centers, interoffice transport facilities and local loop connections to the end user customer premises.
2. Sprint LDD has several years' experience using access facilities provided by competitive access providers ("CAPs"). Although CAPs generally offer their access facilities at a discount off the rates charged by ILECs, and although Sprint LDD has purchased entrance, transport (both switched and special), and local loop facilities from a diversified group of access vendors wherever it is economically and strategically feasible to do so, our use of CAPs has been limited.
3. I believe that Sprint LDD's use of CAP-supplied access to provide long distance service is relevant to this proceeding, which concerns use of UNEs to provide local service, for two reasons. First, CAP-provided switched transport is closely analogous, if not identical to, transport UNEs. Sprint LDD's limited use of CAP-provided switched transport service is due to some of the same factors (lack of ubiquity, inferior network quality) which account for the failure of a wholesale market (*i.e.*, non-ILEC provided) for transport UNEs to develop (see paras. 4-5 below). Second, Sprint LDD's experience using CAP-provided special access facilities has more often than not involved use of ILEC-provided access facilities as well to reach our end user customers. Thus, Sprint LDD is well aware of many of the problems which arise in multi-vendor situations (see para. 7 below) – problems which also will arise in combining UNEs obtained from different providers.
4. One reason for Sprint LDD's limited use of CAPs is the far less comprehensive coverage available from a CAP as compared to the ILEC. Sprint LDD chose a CAP as its preferred access vendor in five metropolitan areas: New York City, Denver, Charlotte, Miami and Fort Lauderdale. (We also make use of CAP facilities to a lesser extent in other cities as well.) Although we were willing to route as much of our special and switched transport traffic to the CAP as it could handle in those five metropolitan areas, the fact that the CAP was not collocated with a large percentage of the ILEC's serving wire centers and end offices forced us to continue to rely heavily upon the ILEC to get LATA-wide coverage for a significant portion of our traffic. Sprint LDD was able to use a CAP as its

preferred provider of both switched transport and special access in only one city (New York City), and even there we were forced to use the ILEC to meet a substantial percentage of our dedicated access needs. In the other four cities, Sprint LDD was able to designate the CAP as our default carrier only for special access because the CAP did not have trunks to even the one-third of the LEC end offices where Sprint LDD uses dedicated switched transport.

5. Another reason for Sprint LDD's limited use of CAPs to meet our entrance and transport access needs is that the overall quality of CAP-provided facilities is lower than that of ILEC-provided BMAN access facilities. In order to maximize network reliability and survivability, Sprint LDD has negotiated with ILECs to obtain four-fiber, bi-directional line-switched SONET rings, in which each working fiber has a fully protected fiber back-up, capable of handling 100% of the traffic in the event that the working-side fiber fails. In contrast, CAPs offer only very limited SONET ring-based access to customer locations, with some CAPs using single-path, asynchronous, even aerial, linear connections for their entrance, interoffice and loop facilities. The CAPs' use of these less-reliable facilities has a direct impact on Sprint LDD's provision of long distance service. For example, Sprint LDD has experienced significant access network outages involving CAP-provided aerial fiber in both Miami and Kansas City.
6. In evaluating the use of CAPs to meet our special access needs, Sprint LDD found that CAPs do not offer ubiquitous access to end user customer premises, and that CAPs are therefore forced to resell ILEC-provided customer loop connections ("Type II" arrangements). In contrast, the ILECs have almost 100% "Type I" coverage (*i.e.*, they provided all of the access facilities between their POP and the customer premises) by virtue of their historic monopoly access to all buildings in their franchise territory.
7. Where Sprint LDD does use CAPs to meet our special access needs, we have found that CAPs' lack of ubiquitous Type I access results in additional costs to Sprint LDD and our customers because of the need to manage multiple vendor operations:
  - **Administrative costs:** CAPs usually price Type II arrangements on an individual case basis, which results in some delay to determine the applicable rates and which requires Sprint to maintain multiple cost tables for the same end office and customer premises. Type II arrangements also involve additional circuit ID numbers, which requires that Sprint's ordering, provisioning and maintenance systems be able to automatically link the ILEC and CAP circuit numbers, and often requires that both the ILEC and CAP visit the customer premises to tag the IDs to the circuit. Type II arrangements often require manual provisioning and bill verification, since many CAPs do not conform to OBF standards; for example, they often send and receive access service requests ("ASRs") and firm order commitments ("FOCs") via fax machine, and render access bills on paper.

- **Installation delays:** In 1998, ILECs met Sprint LDD's initial requested installation dates 90% of the time, compared to 56% and 42% for two CAPs. This is due at least in part to the fact that CAPs must rely upon the ILEC for facilities in Type II situations, and thus do not have complete control over installation dates. Installations become more complicated in Type II arrangements because there are three carriers (Sprint LDD, the CAP and the ILEC) involved; for example, two ASRs and two FOCs are needed (one set between Sprint and the CAP, and another set between the CAP and the ILEC). With Type I access, there is only one ASR and FOC. In addition, where the end user customer has special circuit installation or conversion needs, it is more complicated to coordinate CAP and ILEC activities in Type II arrangements.
  - **Longer repair times:** In 1998, average repair time for one CAP's Type I service was 1.3 hours, compared to 3.7 hours for Type II arrangements. For another CAP, 100% of Type I failures were repaired in less than 4 hours, compared to less than 70% for Type II failures. As was the case for installation times, longer repair times are attributable in part to the CAP's need to coordinate with the ILEC.
  - **Lack of diversity:** Customers that require route diversity or carrier diversity cannot meet these needs through Type II arrangements obtained from a CAP with respect to the access facility provided by the ILEC.
8. I believe that the problems associated with CAPs' lack of ubiquity, their reliance upon Type II arrangements, and their overall lower network quality, makes their use less attractive to Sprint LDD's end user customers. Our data show that only 43% of Sprint LDD's DS3 dedicated access customers, who are able to choose their access provider, have selected a CAP, even though the CAP's rates were lower than those charged by the ILEC.
9. Finally, in evaluating CAP offerings, Sprint LDD must consider the CAP's financial stability and its relationship with other IXCs. For example, the acquisition of TCG and MFS by AT&T and WorldCom (now MCI/WorldCom), respectively, poses strategic competitive concerns for Sprint LDD. The fact that ILECs are also current (intraLATA toll and out-of-region interexchange) and future (in-region interexchange) competitors of Sprint LDD also raises equally serious competitive concerns. However, given the ILECs' ubiquity and their generally superior network and service quality, Sprint LDD has little choice but to continue to rely (at least in the near-term) primarily upon ILECs rather than CAPs for special access, transport and loop facilities.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 26th day of May, 1999.

  
Robert Runke

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document in CC Docket No. 96-98 was Hand Delivered or sent by United States first-class mail, postage prepaid, on this the 26<sup>th</sup> day of May, 1999 to the parties listed below.



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