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AT&T CORP.
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Basking Ridge
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MCI WORLDCOM, INC.
1133 19th Street, N.W.
Washington, DC 20036

**SPRINT
COMMUNICATIONS
COMPANY L.P.**
1850 M Street, N.W.
Washington, D.C. 20036

June 9, 1999

EX PARTE

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW, Room 204
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Attn.: Rebecca Arbogast, International Bureau

**Re: Petition of AT&T, MCI WorldCom and Sprint for
Enforcement of International Settlements Benchmark
Rates for Services with the Netherlands Antilles,
IB Docket No. 96-261, DA 99-479.**

Dear Ms. Salas:

This letter responds to the letter dated June 1, 1999 to Rebecca Arbogast from counsel for Antelecom N.V. ("Antelecom"), the monopoly carrier in the Netherlands Antilles. As confirmed by this letter, U.S. carriers are still unable to negotiate the benchmark rates on the U.S.-Netherlands Antilles route required by *International Settlement Rates*, 12 FCC Rcd. 19806 (1997) ("*Benchmarks Order*"), even after further meetings held at Antelecom's request following the completion of the pleading cycle in this proceeding. Because of Antelecom's continued refusal to agree to benchmark rates, Petitioners urge the Commission to act expeditiously to enforce the *Benchmarks Order* on this route. The Commission should not allow Antelecom's transparent attempt to delay such enforcement by seeking to negotiate *ad infinitum* with U.S. carriers to obstruct the achievement of benchmark rates on this route.

The above-referenced Petition (filed Feb. 25, 1999), the Reply of AT&T, MCI WorldCom and Sprint (filed May 13, 1999) and their accompanying affidavits describe the repeated and unsuccessful U.S. carrier efforts to negotiate benchmark rates with Antelecom during the past twelve months. Representatives of AT&T traveled to Netherlands Antilles four times for this purpose during 1998 and made continued efforts to arrange further meetings during 1999. Because Antelecom did not agree to the \$0.15 benchmark rate after these extensive good faith efforts, the undersigned U.S. carriers

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requested Commission enforcement under the procedures established by the *Benchmarks Order*.

Antelecom's responses to date have consistently sought to delay any "premature" Commission enforcement action, while also continuing to resist any agreement with U.S. carriers on benchmark rates. Antelecom first requested a three-month extension of the comment period, purportedly to facilitate further negotiations. (See Motion for Extension of Time (filed Apr. 7, 1999).) The Bureau denied this request, finding that Antelecom had been given "adequate opportunity to renegotiate its settlement rate with U.S. carriers" and that "the Commission cannot delay indefinitely the enforcement procedures established by the *Benchmarks Order*." (Order on Motion to Extend Comment Period, (rel. Apr. 13, 1999), ¶ 5.)

Antelecom then filed comments contending, among other things, that U.S. carriers had made insufficient efforts to negotiate and that benchmark rates should apply only to a portion of IMTS traffic on the U.S.-Netherlands Antilles route. (Joint Protective Comments of the Netherlands Antilles and Antelecom, N.V. (filed May 3, 1999).) Antelecom also requested a joint meeting with AT&T, MCI WorldCom and Sprint.

AT&T, MCI WorldCom and Sprint subsequently held separate meetings with Antelecom on May 24 and 25, 1999. At those meetings, Antelecom repeated *verbatim* its position set forth in its Joint Protective Comments at 22-23. Specifically, it insisted that any settlement arrangement with the U.S. carriers must 1) be asymmetrical, with traffic to the United States settled at 6 cents per minute; 2) deem a percentage of all U.S.-outbound traffic as "call back", which must be settled at rates above the benchmark rate of 15 cents pursuant to a separate arrangement; 3) deem a certain percentage of all U.S.-outbound traffic as "reorigination", which again must be settled at rates higher than 15 cents and pursuant to a separate arrangement; and 4) allow for specialized services such as "audiotext" to be settled at rates higher than 15 cents. Only if U.S. carriers agreed to all of these conditions that violate the *Benchmarks Order* would Antelecom be willing to accept a settlement rate of 15 cents for U.S.-outbound traffic only. In response, the U.S. carriers explained that the *Benchmarks Order* requires U.S. carriers to negotiate the benchmark rate of \$0.15 for all IMTS traffic on the U.S.-Netherlands Antilles route effective January 1, 1999 and asked Antelecom to agree to that rate. Antelecom stated that it would respond at a later time.

Although Antelecom has not provided those responses, it now informs the Commission by its June 1 letter that "[n]o agreements were reached" with any of the U.S. carriers and that "the parties continue to differ as to the specifics of the applicability of individual aspects of the FCC's *Benchmarks Order* and ISP." Antelecom thus confirms that, even after these further meetings, U.S. carriers are still unable to negotiate with Antelecom the settlement rates required by the *Benchmarks Order*.

Antelecom nonetheless seeks to cause further unwarranted delay in Commission enforcement of the benchmark rate by asserting in its June 1 letter that it

“anticipates that the next round of meetings between the parties will be scheduled for later this month.” In fact, no further meetings have been discussed with Petitioners. Nor is it apparent that further meetings would serve any useful purpose in the face of Antelecom’s continued refusal to agree to the benchmark rates required by the *Benchmarks Order* as well as its continued insistence that U.S. carriers agree to the discriminatory rates and conditions outlined in its Joint Protective Comments. Petitioners respectfully submit that it disserves the public interest to require U.S. carriers to engage endlessly in fruitless negotiations with a monopoly foreign carrier such as Antelecom that refuses to agree to the rates U.S. carriers are required to negotiate under the *Benchmarks Order*.

The undersigned carriers accordingly request the Commission to act expeditiously to enforce the *Benchmarks Order* on this route by requiring all U.S. carriers to settle at rates no higher than \$0.15 for all traffic effective January 1, 1999.

Respectfully submitted,

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cc: Ari Fitzgerald, Office of Chairman Kennard
Kathy O'Brien, International Bureau