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

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|---|---|----------------------|
| In the Matter of  | ) |                      |
|   | ) |                      |
| Price Cap Performance Review<br>for Local Exchange Carriers | ) | CC Docket No. 94-1   |
|   | ) |                      |
| Access Charge Reform  | ) | CC Docket No. 96-262 |
|   | ) |                      |

COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint"), on behalf of its local, long distance and wireless divisions, submits its comments in response to the Further Notice of Proposed Rulemaking ("FNPRM") released November 15, 1999 in which the Commission seeks comment on the prescription of a productivity offset or "X-factor".

As part of the price cap plan for incumbent local exchange carriers ("ILECs"), prices are required to decrease by a measure of productivity -- the X-factor -- minus an inflation factor. The X-factor theoretically represents the amount by which the ILEC is expected to outperform productivity gains in the economy as a whole. In the 1997 Order<sup>1</sup> released in these same dockets, the Commission set the X-factor at 6.5 percent<sup>2</sup>. The 1997 Order was reversed by the United State Court of Appeals for the District of Columbia Circuit and remanded for further consideration of the level of the X-factor. The Court held the

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<sup>1</sup> Price Cap Performance Review for Local Exchange Carriers, Fourth Report and Order in CC Docket No. 94-1 and Second Report and Order in CC Docket No. 96-262, 12 FCC Rcd 16642 (1997) ("1997 Order")  
<sup>2</sup> The 6.5 percent figure combines a 6.0 percent historical component and a 0.5 percent consumer productivity dividend.

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Commission “... failed to state a coherent theory supporting its choice of 6.0%.”<sup>3</sup> The Commission has initiated this proceeding in response to the Court’s remand.

Sprint expects that this round of comments will produce studies reflecting a range of X-factor figures that are both significantly lower and significantly higher than the existing 6.5% factor. Such an outcome should be no surprise to the Commission since this has been the case in every X-factor debate to date. Rather than merely adding yet another productivity study or X-factor to the mix, Sprint urges the Commission to take this opportunity to move beyond this perennial debate and focus on the critical objective of fostering broad-based competition – competition based on the forward-looking cost of providing service. In order to accomplish this objective, the Commission must move access charges toward their economic cost.

The mere selection of an X-factor will not move the industry any closer to achieving more cost-based rates and in fact, may move it further away. Indeed, the Commission so much as conceded this in the *1997 Order* when it stated that if local competition did not develop to the point at which competition would drive access rates toward cost, the Commission would consider prescribing cost-based rates.<sup>4</sup> The X-factor merely represents a rate at which prices change; it does not provide any insight as to whether the correct prices are being changed, what the prices should be, whether the right price has been achieved, or if the price is moving toward or away from the correct level.

As the Commission is aware, Sprint is a member of the Coalition for Affordable Local and Long Distance Service (“CALLS”). At paragraph 4 of the FNPRM, the Commission recognizes that adoption of the CALLS proposal would eliminate the need for X-factor prescription both retrospectively and prospectively. Sprint agrees. As a part of the

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<sup>3</sup> *United States Tel. Ass’n v. FCC*, 188 F.3d 521, 526 (1999).

CALLS proposal, all price cap reductions flowing from an X-factor of 6.5 percent will, initially, be targeted to reduce traffic sensitive charges until those charges reach a targeted, cost-approximating rate. When an ILEC's<sup>5</sup> average traffic sensitive switched interstate access charge reaches the target rate, the X-factor will become equal to the GDP-PI. The CALLS plan would, therefore, supplant the existing price cap mechanism with an aggressive transition to rate levels that reasonably approximate underlying forward looking economic cost ("FLEC"). Once rates reflect their forward-looking cost levels, further reductions cannot be expected unless or until a major technological advancement alters the FLEC of providing service.

Sprint asserts that the direction set by the CALLS plan – not continuation of the current X-factor scheme - is the path most likely to lead the industry to cost-based rates. Price cap regulation was introduced to create economic incentives that more closely replicated the operation of a competitive market than had rate of return regulation. In a time when rates were still at monopoly levels and local competition was merely a concept, the X-factor provided the incentive necessary for the LECs to redefine their networks and operating cost structures in the fashion similar to that of a totally market-driven company. That time has passed.

In adopting price cap regulation, the Commission correctly recognized that the time had come to move beyond rate of return regulation. Similarly, as the Commission first suggested in its *1997 Order*, the time has come to move away from the existing price cap mechanism.<sup>6</sup> The 1996 Act<sup>7</sup> provides for the local markets to be opened to competition; in

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<sup>4</sup> *Id.*, FN. 1, *supra* at ¶ 267.

<sup>5</sup> All X-factor targeting will be done at the tariff filing entity level, not at a holding company level.

<sup>6</sup> It should be noted that the CALLS proposal will retain certain facets of the existing price cap mechanism including the baskets of service categories and the associated pricing flexibility rules.

<sup>7</sup> Telecommunications Act of 1996, Pub. L. 104-104.

order to achieve that goal, the Act correspondingly mandates a shift to cost-based rates. The recent entry of Bell Atlantic into the interLATA market in New York heightens the need for such a move. The current price cap mechanism was never intended to develop cost-based rates. It has not, and likely will not produce rates reflective of economic costs. Uniform application of an industry based X-factor has resulted in driving some companies' common line basket revenues well below FLEC, while in all cases leaving switched traffic sensitive rates well above FLEC. Continuation of this scheme will cause below-cost common line rates that will deter economic facilities-based local competition and, correspondingly, leave switching and transport rates well above cost for many years to come. The CALLS plan, on the other hand, would go a long way toward repairing the flaws of the price cap plan. In particular, the plan would help achieve the goals set forth in the 1996 Act by driving rates toward their forward-looking costs.

Similarly, the proposals offered in the FNPRM – especially the imputed X study – will not only fail to move the industry to cost-based rates, but will actually result in a giant step backwards. At paragraph 36 of the FNPRM, the imputed X study is described as an exercise that “... calculates the change in 1998 revenue and operating income for each price cap LEC that would result from imposing a hypothetical X-factor from the inception of price caps in 1991 through 1998. The results for all price cap LECs are aggregated, and the X-factor required to produce revenues equal to costs, including a competitive level of capital compensation in the aggregate for all LECs, is calculated.” This is, quite simply, rate of return regulation! The Commission surely recognizes this fact, for it has **rejected the same idea** in the past for that very reason. In the *1997 Order*, the Commission declined to adopt what was then labeled the “Historical Revenue Method”. At paragraph 22 of that order, the Commission explained that:

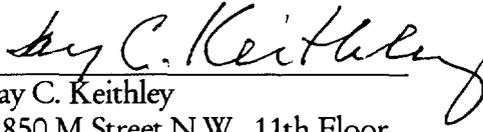
The Historical Revenue Method would set the X-Factor prospectively at the level that would have, in retrospect, produced an industry-wide average rate of return of 11.25 percent under price cap regulation. Adopting the Historical Revenue Method on a moving-average basis ... would create substantially similar incentives to those under rate-of-return regulation, because the X-Factor would be explicitly linked to earnings. The Historical Revenue Approach also would re-create many of the administrative burdens of rate-of-return regulation, including a substantial reliance on accurate demand and cost forecasts. In addition, in the Price Cap Fourth Further Notice, we expressed concerns that the Historical Revenue Approach might not provide sufficient incentives for productivity growth, to the extent that increases in industry-wide earnings would increase the X-Factor. No one has adequately responded to this concern.

The imputed X study is nothing more than a retitled version of the previously rejected Historical Revenue Method. Application of the imputed X study would use a rate-of-return-based calculation to exacerbate the problems created by the current price cap regime, as well as deny the efficiency enhancing benefits that price caps promised. Such application should be rejected for the same reasons as its predecessor and more.

The CALLS proposal, on the other hand, will not surrender to the past, but will move regulation forward. The plan seeks to simplify rate regulation, while at the same time, achieve the goals set forth in the 1996 Act. The plan takes much of that which is good in price cap regulation while applying the reductions to those elements that all acknowledge are furthest from their underlying cost. In so doing, it mitigates the need for cost showings and rate prescriptions.

The CALLS plan provides stability and certainty for the transition to competition as it eclipses the current price cap plan and moves aggressively to move toward, if not achieve cost-based rates. For these reasons, the Commission should adopt the CALLS proposal, *in toto*.

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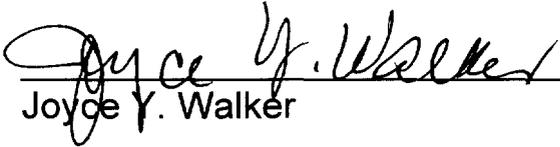
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January 7, 2000

## CERTIFICATE OF SERVICE

I, Joyce Y. Walker, hereby certify that I have on this 7<sup>th</sup> day of January 2000, served via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing letter," In the Matter of Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1 and, Access Charge Reform, CC Docket No. 96-262, filed this date with the Secretary, Federal Communications Commission, to the persons listed below.

  
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