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

In the Matter of	)	
Price Cap Performance Review for Local Exchange Carriers	)	**CC Docket No. 94-1**
Federal State Joint Board on Universal Service	)	**CC Docket No. 96-45**
Low-Volume Long Distance Users	)	**CC Docket No. 99-249**
Access Charge Reform	)	**CC Docket No. 96-262**

REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation, while joining in the reply comments submitted jointly by it and other members of the Coalition for Affordable Local and Long Distance Services (CALLS), hereby wishes to supplement those joint comments with its individual views on a few issues raised in the comments of other parties.

I. INTRODUCTION AND SUMMARY

As discussed in that reply and in the initial comments submitted by CALLS, Sprint believes that the modified CALLS proposal, if adopted by the Commission, would be a great leap forward in resolving many of the contentious issues regarding access charge reform and universal service that the Commission has been wrestling with for well over a decade and that otherwise would consume a substantial amount of the Commission's staff resources during the five-year period the CALLS plan would be in effect. The modified plan creates substantial benefits for consumers: It brings access charges much closer to economic costs than would otherwise be the case. In turn, these lower access costs will fuel substantial reductions in rates for long-distance calls. At the same time, low-volume callers will benefit substantially by the modified CALLS plan and the commitments of the IXC signatories to make available (or to continue to make available, as the case may be) basic rate plans that contain no minimum usage charge. Many of the criticisms of the modified CALLS plan are essentially unchanged from the criticisms advanced with respect to the original CALLS proposal, which the CALLS members have already addressed, and the joint reply comments of the members of CALLS show both the old and new criticisms of the modified CALLS plan are without merit. There are only a few responsive points that Sprint would like to make.

II. LONG-DISTANCE COMMITMENTS AND PRICING

Several parties question whether the commitments of AT&T and Sprint are sufficiently firm and detailed to ensure that the public will in fact continue to enjoy the benefits of access reform and whether they will in fact have plans available with no minimum usage charge.[1] Much of this concern was occasioned by a provision in AT&T's February 25, 2000 *ex parte* submission that gave AT&T the right to reimpose a minimum usage charge in its basic rate schedule if one or more carriers with a combined market share of at least 10% of interstate interexchange revenues maintains a minimum usage or flat charge on a similar basic rate plan. Sprint's commitment, in turn, provides that if another party to the CALLS plan reserves the right to impose a minimum usage charge on its basic rate plan, then Sprint reserves such right under similar circumstances. See Sprint's February 25, 2000 *ex parte* letter. However, in a March 30, 2000 *ex parte* letter, AT&T eliminated the reservation with respect to the pricing actions of other

[1] See, *e.g.*, Comments of Florida PSC, State of California, Michigan PSC, and National Association of State Utility Consumer Advocates.

carriers and now simply reserves the right "to work with the Commission to revise or eliminate this commitment after three years if market circumstances warrant." (AT&T *ex parte* at p.2.) Obviously, this revised commitment on AT&T's part ensures that the Commission will have a say before AT&T is permitted to deviate from its no-MUC commitment, and by the terms of Sprint's February 25 letter, this would condition Sprint's rights to impose an MUC on its basic rate schedule as well. It is clear from reading the comments of other parties that many of these parties were unaware of AT&T's March 30 *ex parte* at the time they filed their comments, and Sprint believes that AT&T's actions moot the concerns over minimum usage charges.

The more general arguments that Sprint and AT&T failed to propose more elaborate mechanisms for effectuating their commitments to flow through the access charge reductions resulting from the CALLS plan are without merit. Sprint, of course, cannot speak for AT&T, but it can speak for itself and can attest to the intense competition in all segments of the long-distance market. Even apart from the commitments made by Sprint in its February 25 letter, Sprint is confident that marketplace forces would in fact guarantee that over the life of the CALLS plan all of the switched access charges will be reflected in lower long-distance rates to all segments of the public. But lest there be any doubt on that matter, Sprint has clearly obligated itself to do so.

Given the intense nature of long-distance competition, it would be wholly unrealistic to expect Sprint to disclose, in advance, precisely how or when these access reductions will manifest themselves in lower rates. Sprint has no market power in long distance; it cannot dictate what prices will be charged or what products will be offered. For Sprint to commit in advance to any more definite plan for flowing through access reductions could limit its ability to respond to innovative product offerings or pricing initiatives of other carriers. A specified rate reduction in a particular rate plan does not benefit consumers if no consumers are willing to choose that rate plan because superior alternatives are available in the marketplace. Those who insist on more definitive commitments from the long-distance carriers simply do not understand this marketplace reality.

Some parties expressed concern that there are no assurances that usage rates in the basic rate plans will be reduced. At this time, Sprint has no idea whether or not that will occur – that is a question that will ultimately be answered by marketplace forces. However, having basic rate plans available with no minimum usage charge guarantees that customers who make a minimal volume of long-distance calls during the month will have plans available at a price that is far less than the fixed costs carriers incur from these customers on a monthly basis. Certainly, there can be no legitimate cause for complaint if the customer receives rates that are below that customer's costs. And for customers who make a larger volume of calls, there are a plethora of optional rate plans with modest monthly minimums or monthly recurring charges, that offer long-distance service at prices that even a few years ago would have been unthinkably low. The Commission should not get in the way of the innovation that has occurred in long-distance marketing by imposing any more rigid flow-through requirements. In any event, if the Commission were to do so, it could not rationally restrict those requirements only to the IXC signatories of the modified CALLS plan; rather, the Commission would have to embark on an industry-wide rate-making proceeding to ensure that all long-distance carriers are subject to the same requirements.

There are two other "flow-through" issues that merit brief comment. NTCA/NRTA argue that the Sprint and AT&T commitments must be clarified to apply to customers served by rural LECs and that IXCs must offer discounts and optional calling plans to rural subscribers as well. The short answer to these parties' proposals is that to the extent that the rate averaging requirements of Section 254(g) apply, they have no cause for concern. Indeed, they point to no specific action of any carrier today that should give rise to such a concern. To the extent that Section 254(g) does not apply, however, any new restrictions on IXC behavior would have to be imposed through a separate, industry-wide rule-making proceeding.

The same is true for TRA's argument that facilities-based IXCs must be required to flow through access reductions, dollar-per-dollar, to their reseller customers. It is ironic that TRA would be requesting such detailed regulation – which again would require an industry-wide rule-making proceeding – of wholesale long-distance pricing, because the smaller carriers are the fastest-growing segment of the long-distance market today. From 1994 to 1998, the revenue share of carriers other than Sprint, AT&T and MCI WorldCom grew from 14.0% to 20.9%.[2] And with the explosive growth in capacity by new facilities-based carriers such as Qwest, Williams, and others, the competition for the resale carriers' business is likely to become even more intense in the future. There is nothing unique to the CALLS plan that would occasion regulation of long-distance wholesale rates. Access charges have been reduced before without any showing by resale carriers that they have not properly benefited from such reductions. Indeed, given the

[2] FCC, "Trends in Telephone Service," March 2000, Table 11.3.

intense competition for their business, it is likely that access reductions are "forward-priced" – *i.e.*, reflected in wholesale rates even before those reductions have taken effect.

III. TARGETING THE SWITCHED ACCESS REDUCTIONS

Some parties object to the fact that the modified CALLS plan, like the original one, targets the 6.5% factor to traffic-sensitive rate elements. See, *e.g.*, Competition Policy Institute at 8-10; Focal Communications at 6-10; and Time Warner/ALTS at 8-11. The rationale for this targeting, in Sprint's view, is very simple: This targeting is necessary in order to bring the rates for all access elements closer to forward-looking economic costs. The past uniform application of the x factor has resulted in rates for local switching that are well above forward-looking costs, while the common line revenues are close to and, in some cases, below the interstate allocated portion of forward-looking loop costs. See Sprint's December 3, 1999 reply comments in this proceeding. Technological change in local switching has produced far more dramatic cost reductions than technological changes in loop plant, and the targeting of access reductions to the switching and transport elements is necessary to bring the rates for these elements in closer alignment with forward-looking costs, a necessity that is heightened by RBOC entry into the long-distance market. Long-distance carriers cannot expect to compete effectively with the RBOCs when the RBOCs' internal access costs are far lower than the rates they are charging their IXC competitors. By the same token, discontinuing the application of the 6.5% factor once the target levels of switched access charges have been reached is justified by the need to ensure that ILEC access charges do not fall below forward-looking costs. This is not to say that Sprint believes that the target levels for any particular group of carriers are equivalent to their forward-looking switching and transport costs; rather, they are sufficiently close as to warrant a pause in further reductions, during the life of the CALLS proposal, giving the Commission the ability to determine what, if any, further actions may be required after the CALLS plan expires.

In this context, Sprint wishes to address briefly the claim by the Competition Policy Institute (at 9) that the modified CALLS plan "short-circuits the developing competitive market in exchange access and eliminates the ability of the exchange access to force excess costs out of the LECs' cost structure and their access rates." Frankly, Sprint is unaware of any "developing competitive market in exchange access." On the contrary, many so-called "competitive" LECs are exploiting their access bottleneck by attempting to extract rates for exchange access that are many times higher than the above-cost rates charged by the regulated ILECs. Indeed, it is not unreasonable to speculate that the objection that ALTS/Time Warner and Focal Communications have to the targeting of reductions to traffic-sensitive elements is to avoid being even more embarrassed in the future about their own access charges than they should be today. ALTS, for example, has proposed in CC Docket No. 96-262 that the Commission adopt a "strong presumption" that CLEC access rates at or below 5.8 cents per minute – ten times the target rates in the CALLS proposal – are just and reasonable.[3] It may also be noted that the Competition Policy Institute itself appears unsure whether marketplace forces can be relied on, since it elsewhere argues (at 13, footnote omitted) that the Commission "should be using prescriptive reductions to reduce access charges more rapidly than the Commission's price cap plan is doing."

[3] See ALTS' Reply Comments, November 29, 1999, at 26.

IV. OTHER ISSUES

Some CLECs attempt to inject the issue of CLEC access charges directly into the Commission's consideration of the CALLS proposal. For example, Allegiance Telecom (at 2) offers to cap its rates at NECA levels on a going-forward basis if litigation for past due amounts is resolved and IXCs are prohibited from blocking its calls, while the Rural Competitive Alliance asks for coordination of access reform and the issue of how to regulate CLEC access issues, for fear that the increasing disparity between CLEC and ILEC rates may increase IXC resistance to paying the access charges billed by CLECs (at 5). Sprint would have preferred that the FCC would have acted on CLEC access charges well before now. However, the Commission's reluctance to face the fact that CLECs are not in fact "competitive" when it comes to access and to regulate their ability to exploit their bottleneck power should not be used as an excuse for delay on the pressing need for further reform of ILEC access charges.

Finally, Sprint wishes to address briefly the concern expressed by MCI that the modified CALLS plan would retain the low-end adjustment mechanism of the price cap plan (LFAM) and thus might allow ILECs to take back some of the concessions they have made in the CALLS proposal. While Sprint shares MCI WorldCom's concern over the merits of LFAM, it was willing, in the inevitable give-and-take process of negotiating the modified CALLS plan with the other participants, to agree to a plan that called for the reinstatement of LFAM because Sprint believed that such reinstatement would have little, if any, practical effect. To begin with, the ILECs cannot claim an LFAM adjustment in the first year of the plan. Beyond that, provisions of the *Depreciation Order* in CC

Docket No. 98-137[4] and the *Pricing Flexibility Order* in CC Docket No. 96-262[5] require that the price cap LECs availing themselves of either pricing flexibility or liberalized depreciation would have to waive their rights to an LFAM adjustment. Thus, it is quite possible that no price cap LEC would even choose to exercise the right, in the modified CALLS plan, to seek a LFAM adjustment. Moreover, even if a price cap ILEC should claim the right to make an LFAM adjustment, any party – including other CALLS signatories – can challenge not only the legitimacy of the carrier's LFAM claim, but also what the consequences of the LFAM adjustment should be (*e.g.*, if an ILEC seeks to increase its traffic-sensitive rates above the target level, other parties would be free to argue that the 6.5% factor should again come into play to force ongoing annual reductions). Thus, while Sprint sympathizes with MCI WorldCom on the merits of LFAM adjustments, it believes that the risks involved are sufficiently remote that the other benefits of the CALLS proposal clearly predominate.

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[4] *1998 Biennial Review – Review of Depreciation Requirements for Incumbent Local Exchange Carriers*, 15 FCC Rcd 242 (1999).
[5] *Access Charge Reform*, 14 FCC Rcd 14221 (1999).

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document of Sprint Corporation in CC Docket Nos. 96-262, 94-1, 99-249, and 96-45 was hand delivered or sent by United States First-Class Mail, postage prepaid, on this 17th day of April, 2000 to the parties listed below.

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