

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

In the Matter of)
) CC Docket Nos. 96-98, 95-185, and
Reciprocal Compensation for CMRS Providers) WT Docket No. 97-207

REPLY COMMENTS
OF THE
NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association (NTCA) respectfully submits these reply comments in response to the Commission's *Public Notice*, DA-00-1050 released May 11, 2000, regarding the request of Sprint Spectrum L.P. d/b/a Sprint PCS (Sprint). Sprint argues that the Commission should provide guidance to state Commissions by specifying that CMRS providers are entitled to receive reciprocal compensation when using traffic sensitive elements of their mobile network to switch or terminate local traffic to mobile customers that originates on another carrier's network. For the reasons set forth below, the Commission should reject Sprint's arguments.

I INTRODUCTION

NTCA is a national association of over 500 local exchange carriers that provide service primarily in rural areas. All NTCA members are small carriers that are defined as "rural telephone companies" in the Telecommunications Act of 1996 ("Act").¹ Approximately half of

¹ 47 U.S.C. § 153(37).
National Telephone Cooperative Association
June 13, 2000

NTCA's members are organized as cooperatives. Most of NTCA's members also hold wireless licenses, using them to provide service in rural America.

NTCA joins US West Communications, Inc, (US West), USTA, BellSouth, GTE, and AT&T Corp. (AT&T) in its belief that the Commission should reject Sprint's reciprocal compensation request. The Commission has already provided a mechanism by which carriers may ask the states for the relief that Sprint requests. The Commission should not bypass that process and establish the asymmetrical reciprocal compensation regime sought by Sprint. The result would unnecessarily complicate intercarrier compensation processes and cause the costs borne by small and rural incumbent local exchange carriers (ILECs) to skyrocket. The rural consumer would pay a disproportionate share of the costs Sprint seeks to recover.

II SPRINT HAS NOT PROVIDED SUFFICIENT JUSTIFICATION FOR THE COMMISSION TO OVERRIDE THE STATES' AUTHORITY

Sprint requests that the Commission provide "guidance" to the states regarding reciprocal compensation for CMRS providers. Sprint claims that the state commissions "have encountered some difficulty" in applying the Act and the Commission's rules. However, the Commission has already provided "guidance" and the states have acted in accordance with the Commission's rules. In the examples Sprint cites, the states have treated "equivalent facilities" in a consistent manner and have maintained parity between wireline carriers and CMRS providers. The states do not need additional guidance to apply the Commission's rules applicable to reciprocal compensation received by CMRS providers.

The Commission has also created a procedure for carriers such as Sprint to seek the requested relief directly from the states. The Commission permitted carriers to submit a forward-

looking economic cost study to the state commission to rebut presumptive symmetrical rates.² In determining whether to grant the carrier's request for additional compensation, the Commission directed the states to depart from symmetrical rates only after giving full and fair effect to the methodology set by the Commission and created a factual record, including the cost study, and an opportunity for the affected parties to participate in the decision making process.³ Sprint has the ability to make its case for additional reciprocal compensation before state commissions by providing supporting cost studies. In the absence of such a cost study to justify a departure from the presumption of symmetrical compensation, the Commission directed that "reciprocal compensation for the transport and termination of traffic shall be based on the incumbent local exchange carrier's cost studies."⁴ Sprint does not present situations or request guidance in cases where a cost study was presented to a state commission and the state commission ignored Commission rules and policies and reached an incorrect result. Instead, Sprint asks the Commission to circumscribe the results. Sprint's request in this instance is actually a request for the Commission to change its rules, not to provide "guidance" to state commissions.

III SPRINT'S REQUEST RUNS COUNTER TO PUBLIC POLICY AND WOULD UNFAIRLY PREJUDICE SMALL AND RURAL CARRIERS

²*In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499 (1996).

³ *Id.* at 16042.

⁴ *Id.*

In its *Local Competition Order*⁵ the Commission established its rules implementing the requirements of Section 251-252 of the Telecommunications Act. The Commission established a preference favoring symmetrical reciprocal compensation. Asymmetrical reciprocal compensation is justified only when the cost of the connecting carrier exceeds the cost of the ILEC.

Sprint claims that a CMRS provider should be allowed to charge ILEC asymmetrical reciprocal compensation rates that include the entire cost of its network, including the cost of obtaining additional spectrum. Sprint's petition does not contain any estimation of the reciprocal compensation rates that would result from its proposal. It is probably fair to say that the resulting rates would increase substantially and would not be comparable with reciprocal compensation rates for wireline traffic. This would have far reaching consequences on local rates and local rate structures.

Small and rural ILECs are dramatically affected by anything that affects their rate structure and cost recovery. They lack the economies of scope and scale of large ILECs. An increased reciprocal compensation rate to the CMRS carriers with no reciprocal increase to the ILEC would force local rates to skyrocket. The small and rural ILEC cannot absorb the increased cost. Ultimately, the rural consumer is harmed. Sprint does not and cannot adequately address such issues in its request and supporting legal analysis and white paper.

IV SPRINT'S ARGUMENTS DIFFERENTIATING THE WIRELINE AND WIRELESS NETWORKS ARE FUNDAMENTALLY FLAWED

Sprint's argument for a new reciprocal compensation scheme is premised on its

⁵*Id.*

assumption that wireless and wireline networks are incomparable. As pointed out by US West, GTE, and BellSouth, the wireline and wireless networks perform equivalent functions and

Sprint's definition of "traffic sensitive" would make almost all portions of the wireline network also eligible for reciprocal compensation.

While Sprint is technically correct in its assertion that CMRS carriers utilize "different technologies with different engineering economics," they are ultimately performing exactly the same function as traditional wireline networks.⁶ The Commission was correct when it held that interconnecting non-paging CMRS and wireline carriers should presumptively use symmetrical transport and termination rates. Nothing presented by Sprint should change this well-reasoned conclusion.

NTCA takes exception to Sprint's claim that all costs incurred on "shared" facilities are "traffic sensitive" and therefore recoverable in reciprocal compensation, while those incurred on "dedicated" facilities are "non-traffic sensitive" and thus not recoverable. Any network—be it wireless or wireline—is designed to accommodate some designated volume of traffic. While prolonged system utilization above this threshold level will result in the occurrence of additional long-term costs, this is not unique to wireless networks. At or below the usage threshold, however, marginal costs (the incremental costs associated with serving additional users) are minimal. Thus, Sprint's designation of certain network elements as traffic sensitive should not make them automatically eligible for reciprocal compensation in the absence of such forward-looking economic cost studies as are mandated by the Commission in its previous ruling. Nowhere has Sprint shown that shared network elements must necessarily equate to asymmetric short-term costs.

⁶See Comments of US West, Illustration 1.

According to Sprint, any shared elements of the CMRS network should automatically be eligible for reciprocal compensation. The Commission already determined that none of the costs associated with loops is traffic sensitive and thus is not recoverable in reciprocal compensation.⁷ It is logical, then, that those parts of the wireless network that are analogous to the loop—namely the tower and the spectrum, for example—should not be recoverable either. Sprint’s economic reasoning, therefore, is completely contrary to the previous determination of the Commission.

Furthermore, allowing CMRS carriers to receive reciprocal compensation for all shared elements without presenting any evidence of asymmetric costs will open the door for wireline carriers to make similar claims, resulting in all carriers’ reciprocal compensation charges increasing substantially. The ultimate outcome would be higher charges for all end users. The Commission should avoid this result.

V CONCLUSION

For the above mentioned reasons, NTCA submits that the Commission should reject Sprint’s request that the Commission provide the states with “guidance” on its Reciprocal Compensation rules. Such “guidance” is unnecessary and unwarranted. It would also

⁷*Local Competition Order* at 16024-25.

unnecessarily complicate intercarrier compensation processes and cause the costs borne by small and rural ILECS to skyrocket.

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CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Reply Comments of the National Telephone Cooperative Association in CC Docket Nos. 96-98, 95-185, and WT Docket No. 97-207, DA 00-1050 was served on this 13th day of June 2000 by first-class, U.S. Mail, postage prepaid, to the following persons on the attached list

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