

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

JUN 13 2000

In the Matter of	)	
	)	
Cost-Based Terminating Compensation for CMRS Providers	)	CC Docket Nos. 96-98, 95-185
	)	WT Docket No. <u>97-207</u>
	)	
	)	
	)	

**REPLY COMMENTS OF AT&T CORP.**

Pursuant to the Commission’s Public Notice, released May 11, 2000, AT&T Corp. (“AT&T”) hereby submits its reply comments in the above-captioned proceeding.<sup>1/</sup> Like many commenters, AT&T urges the Commission to reject Sprint PCS’s (“Sprint’s”) request that parties delivering local calls to commercial mobile radio service (“CMRS”) networks pay reciprocal compensation rates that take into account the claimed higher and more variable costs of mobile technology.<sup>2/</sup>

**I. THE COMMUNICATIONS ACT DOES NOT REQUIRE THE COMMISSION TO ADOPT AN ASYMMETRICAL RECIPROCAL COMPENSATION SCHEME FOR CMRS PROVIDERS**

Many commenters agree that the Commission is not legally compelled to adopt a reciprocal compensation scheme that forces originating carriers to pay higher rates for calls

<sup>1/</sup> Public Notice, Comment Sought on Reciprocal Compensation for CMRS Providers, DA 00-1050 (released May 11, 2000).

<sup>2/</sup> See Letter from Jonathan M. Chambers, Vice President, Regulatory Affairs, Sprint PCS, to Magalie Roman Salas, Secretary, FCC, and attached legal memorandum, CC Docket Nos. 95-185, 96-98, WT Docket No. 97-207 (Feb. 2, 2000) (“Sprint Legal Memorandum”); Transport and Termination Costs in PCS Networks: An Economic Analysis, Prepared by Bridger M. Mitchell and Padmanabhan Srinagesh, CC Docket Nos. 95-185, 96-98; WT Docket No. 97-207 (Apr. 4, 2000) (“Sprint White Paper”).

terminated on CMRS networks. To the contrary, as the Local Competition Order makes clear, using incumbent local exchange carriers' ("ILECs") "forward-looking costs for transport and termination of traffic as a proxy for the costs incurred by interconnecting carriers satisfies the requirement of section 252(d)(2) that costs be determined 'on the basis of a reasonable approximation of the additional costs of terminating such calls.'"<sup>3/</sup>

In this regard, U S WEST Communications, Inc. ("U S WEST"), the United States Telecom Association ("USTA"), GTE Service Corporation ("GTE"), and BellSouth Corporation ("BellSouth") correctly point out that the Commission has previously considered -- and rejected -- the reciprocal compensation arguments now raised by Sprint.<sup>4/</sup> As U S WEST highlights, the Commission found that the "clear administrative efficiencies and competitive benefits of symmetrical compensation rates for transport and termination justify a presumption that states should set competitive local exchange carrier ("CLEC") and (non-paging) CMRS transport and termination rates at the same prices charged by the incumbent LECs."<sup>5/</sup> The Commission specifically determined that total element long run incremental costs ("TELRIC") principles (which are independent of the identity of the carrier or its technology) would "facilitate competition on a reasonable and efficient basis by all firms in the industry."<sup>6/</sup>

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<sup>3/</sup> Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, First Report and Order, 11 FCC Rcd 15499, 16040 ¶ 1085 (1996) ("Local Competition Order").

<sup>4/</sup> USTA Comments at 3-4. See also BellSouth Comments at 2-3; GTE Comments at 2-3; U S WEST Comments at 4.

<sup>5/</sup> U S WEST Comments at 4 (citing Local Competition Order at 16040-42 ¶¶ 1085-89).

<sup>6/</sup> Local Competition Order at 15846 ¶ 1054 (emphasis added); see also id. at 16023 ¶ 1054. In addition, the Commission found that using forward-looking economic cost studies as proxies for reciprocal compensation for all terminating carriers is consistent with Section 252(d)(2)(B)(ii), which prohibits establishing with particularity the additional costs of transporting or terminating calls. Id. at 16024 ¶ 1056.

Contrary to Sprint's argument, use of wireline cost structures as a proxy for the rate structure to apply to compensation for all carriers is appropriate because the functions of wireless and wireline networks are fundamentally the same.<sup>7/</sup> By urging a broader definition of "additional costs" than that adopted by the Commission, Sprint seeks to obtain compensation for elements of its network that are functionally and economically equivalent to facilities in the wireline network that the Commission has explicitly excluded from reciprocal compensation.<sup>8/</sup> Sprint's contention that costs can be recovered through reciprocal compensation if the network facility in question is capacity-limited and shared rather than dedicated ignores two important points. First, in a long run analysis such as is required by TELRIC, nearly all facilities -- both wireline and wireless -- have limitations on capacity. Second, much of the loop plant used in wireline networks also is shared, but the Commission has not allowed those costs to be recoverable through reciprocal compensation.<sup>9/</sup> As BellSouth states, the Commission knowingly defined the statutory term "additional costs" more restrictively than "traffic sensitive costs" because all costs can be considered traffic sensitive in the long run.<sup>10/</sup> Moreover, according to U S WEST, "[b]roadly defining 'additional costs' as 'shared-facility costs' would lead to a massive increase in transport and termination rates (not least because the redefined statutory term would apply to wireline as well as wireless carriers)."<sup>11/</sup> Whether a resource is shared or dedicated is "relevant to the question of the rate structure used to recover the cost, but is not determinative of whether the facility is an 'additional cost' that may be recovered in reciprocal

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<sup>7/</sup> U S WEST Comments at 7-12; BellSouth Comments at 9.

<sup>8/</sup> See BellSouth Comments at 6-7; U S WEST Comments at 7-12. Significantly, according to USTA, Sprint PCS itself has previously recognized this equivalency, arguing that each carrier should bear its own costs of terminating calls. USTA Comments at 1-2, 6-7.

<sup>9/</sup> See BellSouth Comments at 6-9; U S WEST Comments at 13-17.

<sup>10/</sup> See, e.g., BellSouth Comments at 7.

<sup>11/</sup> U S WEST Comments at 7, 13-17.

compensation.”<sup>12/</sup> Thus, Sprint has failed to demonstrate that the capacity limits and shared nature of its radio and backhaul loop plant warrant an asymmetrical reciprocal compensations rate structure.<sup>13/</sup>

AT&T agrees that while “Sprint PCS may choose technology, functions, and features that produce higher network costs, including transport and termination costs . . . the costs resulting from such choices do not satisfy the Commission’s directive with regard to forward-looking, most efficient, least cost calculations.”<sup>14/</sup> The TELRIC methodology does not take into account the costs incurred by any particular provider, nor does it contemplate that originating carriers will cover the costs of less efficient networks. Therefore, a provider’s technology choice does not determine the costs to be used for reciprocal compensation purposes.<sup>15/</sup>

## **II. THE PUBLIC INTEREST WILL NOT BE SERVED BY EXPANDING THE “ADDITIONAL COSTS” DEFINITION**

Sprint and its CMRS supporters seek a Commission determination that all of their usage-based network costs are “additional costs” for which originating carriers should compensate them through reciprocal compensation. While such a ruling could provide CMRS providers an immediate new source of revenue, it would require the Commission to entertain requests to calculate individual carrier’s costs for purposes of access charges, universal service, UNEs, number portability and virtually all other cost recovery mechanisms.

Not only would such a technology-specific approach be burdensome, it would require wireline customers to bear the costs of the loop plant in their own networks as well as the loop-

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<sup>12/</sup> BellSouth Comments at 13 (emphasis added).

<sup>13/</sup> At best, Sprint’s demonstration of the short run limits or shared nature of its loop plant support its use of a peak-period retail pricing structure, which Sprint has largely adopted.

<sup>14/</sup> BellSouth Comments at 11.

<sup>15/</sup> Id. at 11-12.

equivalent plant in the CMRS networks.<sup>16/</sup> This would be wholly inconsistent with Congress's and the Commission's goals of promoting competition and eliminating carrier-to-carrier subsidies.<sup>17/</sup> It would also promote inefficiency and encourage carriers to choose the most expensive and capacity-limited technology and network components available.<sup>18/</sup>

Rather than move to a scheme in which all carriers are invited to demonstrate their own peculiarly elevated costs -- and costing models of efficient networks are rendered meaningless -- AT&T agrees with Western Wireless and Voicestream Wireless Corp. that the Commission should enforce its existing symmetry rule, as applied to both wireline and wireless carriers.<sup>19/</sup> Many ILECs continue to deny CMRS and CLEC interconnectors the tandem rate even though, to qualify for that rate under Section 51.711(a)(3) of the Commission's rules, a non-ILEC carrier need show only that its switch serves a comparable geographic area to that served by the ILEC tandem.<sup>20/</sup> These ILECs contend that CLECs and CMRS providers must prove not only geographic comparability, but also that their switches in fact provide "true" tandem functionality, i.e., that they are used solely to provide switching between other switches.<sup>21/</sup> The Commission should not countenance ILEC efforts such as these to evade the plain statutory and regulatory requirements. As the ILECs argue correctly in their comments in this proceeding, the wireline and wireless networks are functional and economic equivalents and whether other carriers have

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<sup>16/</sup> Id. at 4-5.

<sup>17/</sup> See AT&T Comments at 7-9; BellSouth Comments at 4-5; USTA Comments at 9 (arguing that Sprint is attempting to extract an illegal subsidy).

<sup>18/</sup> AT&T Comments at 7-9.

<sup>19/</sup> Voicestream Wireless Corp. Comments at 9; Western Wireless Comments at 7.

<sup>20/</sup> "Where the interconnecting carrier's switch serves a geographic area comparable to that served by the incumbent LEC's tandem switch, the appropriate proxy for the interconnecting carrier's additional costs is the LEC tandem interconnection rate." Local Competition Order at 16042 ¶ 1090.

<sup>21/</sup> See Western Wireless Comments at 7 (noting that several ILECs have challenged CMRS providers in interconnection arbitrations to demonstrate that their switches perform "tandem functions").

incorporated the hub and spoke architecture of the ILEC networks into their systems is entirely irrelevant. Symmetrical compensation makes sense in all cases, not just when it is advantageous for one carrier or another.

## CONCLUSION

For the foregoing reasons, the Commission should reject Sprint's proposal and continue to apply its TELRIC principles to reciprocal compensation. The Commission should also reaffirm the importance of symmetry as a primary principle underlying reciprocal compensation so that no carrier is given an unfair advantage based on the historical underpinnings of its network or the technology it chooses to employ.

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June 13, 2000

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## CERTIFICATE OF SERVICE

I, Dallas F. Fields, hereby certify that on this 13th day of June, 2000, I caused copies of the foregoing "REPLY COMMENTS OF AT&T CORP.," to be served by U.S. mail(\*), first class, postage prepaid, or by hand delivery on the following:

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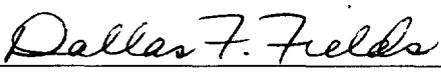
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