

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

In the Matter of)	
)	
2000 Biennial Regulatory Review --)	CC Docket No. 00-199
Comprehensive Review of the)	
Accounting Requirements and)	
ARMIS Reporting Requirements for)	
Incumbent Local Exchange Carriers:)	
Phase 2 and Phase 3)	

REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint"), on behalf of its local and long distance divisions, submits its Reply Comments to the comments submitted in Phase 3 of the Notice of Proposed Rulemaking ("NPRM") released on October 18, 2000, in the above referenced docket as FCC 00-364. In these reply comments, Sprint responds to comments drawing a distinction for deregulation for smaller or rural carriers at fewer than two percent of the nation's access lines, and to comments that advocate deregulation for ILECs upon approval of pricing flexibility pursuant to 47 C.F.R. §69.701 *et. seq.*

Sprint Opposes the Two-Percent Standard.

In paragraph 95 of the NPRM, the Commission acknowledged that it has already recognized that the burdens of compliance with accounting and reporting requirements may outweigh the benefits for small and mid-size ILECs. The Commission then asked whether deregulation for carriers with fewer than two percent of the nation's access lines should proceed in a different manner than deregulation for larger carriers. Iowa Telecommunications Services, Inc. ("Iowa Telecom") answered in the affirmative, stating that the Commission's accounting and reporting requirements should be eliminated for

LECs with fewer than two percent of the nation's access lines as has been proposed by legislation recently introduced in the House of Representatives as H.R. 496. Iowa Telecom added that the "Congressionally recognized two-percent access line threshold is a legitimate cut-off point for taking this action."¹ For the reasons stated below, Sprint opposes adoption of a two-percent standard to distinguish large and mid-size carriers and recommends instead that the Commission rely upon the definitions of "mid-sized incumbent local exchange carrier ("ILEC")"² or "rural telephone company"³ as appropriate definitions for distinguishing among carriers.

As stated by Sprint in its Reply Comments in Phase 2 of this docket, the Commission should apply a standard to identify small or mid-sized carriers based on revenues and not on a certain percentage of the nation's access lines.⁴ First, revenue is a more certain indicator than access lines. It is much easier to track dollars than to count lines, especially now that (i) multiple voice channels can be derived over one twisted pair of copper, and (ii) CLECs who don't typically report line counts have begun to control access lines. Further, it is easier for carriers to evaluate their status by accounting for a single factor, revenues, than by accounting for two factors: the carrier's own access lines and the total nationwide access lines. In addition, whereas each carrier can evaluate its own revenues, a third party would have to confirm the nationwide line count, which adds to the cost of administration. The third party would be required to enforce a uniform standard of line counting and universal participation of all LECs.

¹ Iowa Telecom Comments at 4.

² 47 C.F.R. §32.9000.

³ 47 U.S.C. §153(37).

⁴ Sprint Phase 2 Reply Comments at 4.

Consistent with the arguments set forth above, the Commission, in CC Docket No. 96-193, rejected using line counts to establish a CAM and ARMIS filing threshold.⁵ In that docket, the Commission found that the two percent rule contained in 47 U.S.C. §251(f), which allowed LECs with fewer than two percent of the Nation's access lines to seek suspension or modification of interconnection obligations, had no application to the CAM and ARMIS filing thresholds. There is no evidence or rationale supporting a reversal of the Commission's decision in CC Docket No. 96-193.

Further, the Commission has already created rules that use revenues to distinguish mid-sized ILECs from larger ILECs and to distinguish class A carriers from class B carriers.⁶ Mid-sized ILECs are defined as having aggregate LEC affiliate revenues of less than \$7 million. Class A carriers are distinguished from class B carriers by the "indexed revenue threshold," which currently stands at \$114 million per year in regulated revenues. In addition, there is a distinction between rural and non-rural telephone companies, discussed below. There is no point in using an inconvenient line count percentage factor to create an unnecessary fourth category of carriers.

Sprint also disputes Iowa Telecom's trumpeting of the two-percent guideline as being "Congressionally recognized" in any significant manner. Although the House of Representatives passed a bill last year containing the two percent standard (H.R. 3850), it was never approved by the Senate, and thus never Congressionally recognized.

In fact, the rural telephone company definition is a much more recognized standard than is the two-percent standard. First, "rural telephone company" is a defined term in the

⁵ *Implementation of the Telecommunications Act of 1996; Reform of Filing Requirements and Carrier Classifications; Anchorage Telephone Utility, Petition for Withdrawal of Cost Allocation Manual*, CC Docket No. 96-193; AAD 95-91, *Report and Order*, 12 FCC Rcd 8071 (1997) at paras. 69-70.

⁶ See 47 C.F.R. §§32.11 and 32.9000

Telecommunications Act of 1934, as amended (the "Act").⁷ The two-percent factor is not defined. A major reason that rural telephone company is defined is that it is used repeatedly in the Act. For example, the term "rural telephone company" is referenced in sections relating to eligibility for universal service funding (Sections 214(e)(2), (e)(5) and (e)(6)), exemption from ILEC requirements (Section 251(f)(1)), and removal of barriers to entry (Section 253(f)). Further, universal service funding is divided between a fund for rural telephone companies and a fund for non-rural carriers. Conversely, the only mention of the two-percent standard found in the Act was in Section 251(f)(2) under a section entitled "Suspensions and Modifications for Rural Carriers."

Using the two-percent standard to define carriers would include carriers with densely populated territories, such as Cincinnati Bell in Ohio, which has more than 700 lines per square mile, while omitting the Sprint local telephone companies in their entirety, including some entities that serve very rural territories in Oregon, Washington, Kansas, Nebraska and Wyoming, all of which have less than 20 lines per square mile.

The result of creating a two-percent standard is that approximately 7 million customer lines served by Sprint's rural telephone companies would be denied the regulatory benefits afforded to the customers of *all* of the other mid-sized ILECs. The Commission should not foster this result by applying a two-percent standard, but should instead rely on the terms "rural telephone company" and "mid-sized ILEC" to distinguish the regulatory burdens placed on small-to-mid-size or rural carriers from the regulatory requirements of larger carriers. These terms are well established, easy to administer and fairer than the two-percent factor.

⁷ 47 U.S.C. §153(37).

Sprint Opposes Approval of Pricing Flexibility as a Trigger for Accounting Relief.

Sprint concurs with the numerous commenters who argue that ILECs should not obtain full relief from accounting and reporting requirements until there is a finding of non-dominance. Sprint opposes BellSouth's plan to use the approval of a pricing flexibility petition as a trigger to afford both accounting and reporting relief.⁸ Approval of a pricing flexibility petition signifies that a certain level of collocation exists in specific Metropolitan Statistical Areas ("MSAs"). It does not cover the breadth of competition sufficient to warrant relief from accounting obligations.

Pricing Flexibility is granted by MSA, while ARMIS reports are filed by state. BellSouth does not explain how approval in one MSA in a state would translate to accounting relief for that state. Nor does BellSouth explain how much a pricing flexibility petition must cover to trigger accounting relief. Must the petition cover both Phase 1 and Phase 2 relief?⁹ Must it cover all special access, including end user channel terminations, as well as switched access?¹⁰ BellSouth doesn't specify.

Regardless, as stated above, approval of a pricing flexibility petition is simply insufficient to warrant accounting relief. For example, BellSouth's first pricing flexibility petition covered special access and dedicated transport services, which are categorized in the Trunking Basket and the Special Access Basket.¹¹ For all the MSAs covered by the BellSouth Petition, the revenues that were actually affected (i.e. removed from price cap regulation) totaled \$706 million, slightly more than 20% of BellSouth's \$3.4 billion in total

⁸ See 47 C.F.R. §69.701 *et. seq.* for the pricing flexibility rules.

⁹ *Id.* at §727.

¹⁰ *Id.* at §709, 711 and 713.

¹¹ *BellSouth Telecommunications, Inc. Petition for Pricing Flexibility for Special Access and Dedicated Transport*, CCB/CPD File No. 00-20 ("BellSouth Petition").

interstate revenues subject to price cap regulation.¹² In addition, the revenues affected by the BellSouth Petition are less than 5% of BellSouth's total regulated revenues of approximately \$16.3 billion.¹³ Yet on the basis that collocation exists for these limited access services in specific MSAs, BellSouth seeks to be relieved from reporting and accounting requirements covering all of its services.

Even if BellSouth's Petition covered all interstate access services contemplated by the pricing flexibility rules, including the services in all eligible baskets in all of BellSouth's territories, this would cover only about \$1.4 billion, or less than 10% of total regulated revenue. Even maximum pricing flexibility relief is not enough upon which to base a general finding of non-dominance. Therefore, the Commission should decline to use approval of a pricing flexibility petition as a trigger to afford ILECs relief from the Commission's accounting requirements.

Respectfully submitted,

SPRINT CORPORATION

By _____ //s//

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¹² BellSouth Transmittal 575, filed in connection with the order approving the BellSouth Petition.

¹³ BellSouth 1999 ARMIS Reports 43-01.

CERTIFICATE OF SERVICE

I, Joyce Walker, hereby certify that I have on this 14th day of March 2001, served via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Reply Comments of Sprint Corporation" In the Matter of 2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 and Phase 3, CC Docket No. 00-199, filed this date with the Secretary, Federal Communications Commission, to the persons on the attached service list.

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