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JUN 13 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

June 13, 2001

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, N.W.  
Washington, DC 20554

Re: ***Ex Parte Filing of Sprint Corporation in CC Docket Nos. 96-98 and 99-68, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic***

Dear Ms. Salas:

On June 6, 2001, Focal Communications Corporation ("Focal"), Pac-West Telecomm, Inc. ("Pac-West"), and US LEC Corp. ("US LEC") filed comments in support of the stay petition submitted by Core Communications, Inc. ("CoreTel"). At the same time, Focal, Pac-West, and US LEC suggested alternatives to a stay, that presumably would be effectuated by the Commission *sua sponte*, that would purportedly redress the inequities caused by the growth and new market provisions adopted in the *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-bound Traffic*, CC Docket Nos. 96-98, 99-68, Order on Remand and Report and Order, FCC 01-131 (rel. Apr. 27, 2001) ("*Order*"). Sprint agrees with Focal, Pac-West and US LEC that the Commission should grant CoreTel's stay request pending judicial review.<sup>1</sup> Sprint is concerned, however, that the alternatives proffered by the parties may perpetuate the same kinds of inequities as the underlying growth and new market provisions.

Focal, Pac-West and US LEC first propose to delay the implementation of the growth ceiling by one year.<sup>2</sup> The parties reason that the extension would accommodate carriers that have already initiated plans to enter a new market, particularly given the long lead-times necessary to establish service. But a one-year extension would only begin to address the inequity of the growth and new market provisions, because, under the terms

<sup>1</sup> Indeed, Sprint has already filed in support of CoreTel's request for stay. See Comments of Sprint Corporation (June 5, 2001).

<sup>2</sup> Level 3 Communications, LLC ("Level 3") concurs with a one-year delay in implementation, should the Commission deny the stay request. See Comments of Level 3 (filed June 7, 2001).

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of the *Order*, differences in compensation as between CLECs resulting from those provisions could last into the indefinite future. While the Commission has stated that it has adopted this mechanism as an "interim" measure until it resolves the bill-and-keep rulemaking, the Commission itself acknowledges that there are several issues to be resolved before reaching "any firm conclusions about bill-and-keep as a permanent mechanism for this or any other traffic." *Order* at ¶ 74. A one-year delay, therefore, is insufficient to redress the potential long-term anti-competitive effects of the growth and new market provisions.

Alternatively, Focal, Pac-West and US LEC encourage the Commission to adopt a national averaging methodology to establish a baseline for calculating the growth ceiling. This proposal would cause significant inequities because different carriers carry different throughput per switch. A national averaging methodology would therefore reward carriers with small switch capacity, to the detriment of carriers that can handle larger amounts of capacity per switch.

For the reasons set forth above, Sprint again urges the Commission to grant CoreTel's request for stay pending judicial review. The alternatives put forth by Focal, Pac-West and US LEC are inadequate to address the inequities raised by the rate cap and growth ceiling provisions.

An original and three copies of this letter are being filed with the Commission.

Sincerely,

A handwritten signature in black ink that reads "Susan E. McNeil/sk". The signature is written in a cursive style with a long horizontal flourish at the end.

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cc: Dorothy Attwood  
Jeff Dygert  
Jane Jackson  
Tamara Preiss