

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

**In the Matter of** )  
 )  
**AT&T CORP.** )  
295 North Maple Avenue )  
Basking Ridge, N.J. 07920 )  
 )  
**Petitioner,** )  
 )  
v. )  
 )  
**SPRINT SPECTRUM, d/b/a SPRINT PCS** )  
6160 Sprint Parkway )  
Overland Park, K.S. 66211 )  
 )  
**Respondent.** )

WT Docket No. 01-316

**DECLARATION OF DANIEL MERON**

1. My name is Daniel Meron. I am a partner at the law firm of Sidley Austin Brown & Wood. My business address is 1501 K Street, N.W., Washington, D.C. 20005.

2. The purpose of this declaration is to document the substance of the discussions between the parties, the status conference before the Enforcement Bureau, and the Enforcement Bureau's instructions to the parties, that led to AT&T Corp.'s ("AT&T") filing its petition for declaratory ruling in this proceeding.

3. The District Court's Referral Order was issued on July 24, 2001. Soon after the issuance of that order, I submitted on behalf of AT&T a copy of the relevant portions of the district court record to Tracy Bridgham of the Commission's Enforcement Bureau.

4. Following that submission, the Enforcement Bureau invited AT&T and Sprint PCS to attend a status conference at the Commission's offices on August 28, 2001. It was my understanding that one purpose of that status conference was to address the procedure that the

parties would utilize in submitting the dispute to the Commission for resolution (specifically, whether the parties would file formal complaints or informal petitions for declaratory ruling).

5. Charles McKee, an attorney at Sprint PCS, represented Sprint PCS at the status conference, and I appeared on behalf of AT&T. Alexander Starr, Tejal Mehta, and (to the best of my recollection) Tracy Bridgham, all of the Market Disputes Resolution Division of the Enforcement Bureau, presided over the meeting. Tom Navin from the Wireless Bureau attended the status conference, as did a number of other individuals whose names I do not recall.

6. At that status conference, and consistent with my prior telephonic discussions with Sprint PCS's counsel, Charles McKee, I put forward on behalf of AT&T a proposal that the Commission adopt a bifurcated procedure for addressing the issues submitted to the Commission by the Court. Specifically, I stated the view that the issues submitted to the Commission could usefully be divided into three categories: (1) whether CMRS carriers are permitted to charge IXCs for access at all; (2) if so, whether those rates should be capped based on a specific benchmark; and (3) whether, if CMRS carriers are permitted to impose access charges and those charges are not capped by reference to a single benchmark, Sprint PCS's particular rates are reasonable. I expressed the view that the first two questions raised industry-wide issues of law and policy that did not require resolution of disputed issues of fact and that, therefore, in AT&T's view it made sense for the Commission to deal with those questions through petitions for declaratory ruling. I pointed out, by contrast, that the third question – whether Sprint PCS's specific rates are reasonable – would require resolution of contested issues of fact that implicated only Sprint PCS's particular rates, and that this issue could only be resolved through a complaint proceeding.

7. At the status conference, I further pointed out that the litigation of a rate case

challenging Sprint PCS's rates would impose significant burdens on the parties and require expenditure of significant Commission resources. In particular, if AT&T were to file a complaint against Sprint PCS's rates, Sprint PCS would have to undertake the burden of completing TELRIC cost studies, and AT&T would have to undertake extensive discovery to challenge those studies. I further pointed out that the Commission, for its part, had never conducted a rate investigation of a CMRS carrier. I explained, however, that these significant burdens would all be for naught if the Commission were to rule either that CMRS carriers should not be permitted to charge for access at all, or if the Commission were to adopt a fixed rate cap.

8. In order to avoid a significant and potentially wasteful expenditure of resources, I therefore proposed, on behalf of AT&T, that the Commission adopt a bifurcated procedure for addressing the referred questions. In particular, I suggested that the Commission direct the parties first to present the general industry-wide legal and policy questions (categories 1 and 2 above) to the Commission through petitions for declaratory rulings. If the Commission's resolution of those legal and policy questions left open the need to address the reasonableness of Sprint PCS's particular rates, then one or the other of the parties would file a Section 208 complaint to resolve those issues.

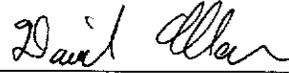
9. The Enforcement Bureau staff asked Charles McKee of Sprint PCS for his reaction to AT&T's proposal. Mr. McKee indicated some disagreement with the particular manner in which AT&T had framed the various questions that were before the Commission as part of the referral. However, Mr. McKee agreed that it made sense to proceed first with declaratory ruling petitions, and to postpone to a future date the conduct of any rate case challenging the level of Sprint PCS's particular rates, if the Commission's resolution of the issues made such a case relevant. In further support of that proposal, Mr. McKee indicated that

the Commission might wish to delegate the conduct of rate cases to the various state commissions rather than conducting a rate case on its own and pointed out that this is what the Commission has done with respect to CMRS carrier reciprocal compensation rates.

10. Approximately one month after the status conference, Tejal Mehta of the FCC's Enforcement Bureau contacted Charles McKee and myself telephonically. Ms. Mehta indicated that the Commission staff had discussed the matter and had determined that the most appropriate procedure to follow would be for one or more of the parties to submit a petition for declaratory ruling to the Commission. Ms. Mehta stated that the Commission would be interested in a joint petition signed by both Sprint PCS and AT&T, but that, if the parties did not wish to submit a joint petition, then either one of the parties, or both, could file a separate petition.

11. Because the Commission had decided that the parties should proceed by filing petitions for declaratory ruling, I reasonably concluded that the Commission had decided that at this juncture the parties would submit only the general industry-wide issues (*i.e.*, categories 1 and 2 above) to the Commission for resolution. This conclusion was bolstered by the fact that Sprint PCS had agreed at the status conference that it made sense to postpone the filing of a rate case until the Commission first ruled whether such a rate case was relevant and if so in what forum the case should be brought (*i.e.*, FCC or state commission).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.



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Daniel Meron

Date: 12/12/01