

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

In the Matter of	)	
	)	
Developing a Unified Inter-carrier Compensation Regime	)	CC Docket No. 01-92
	)	
Sprint Petition for Declaratory Ruling re Obligation of Incumbent LECs to Load Numbering Resources Lawfully Acquired And to Honor Routing and Rating Points Designated by Interconnecting Carriers	)	

**REPLY COMMENTS OF US LEC CORP.**

US LEC Corp. (“US LEC”) submits these reply comments concerning the Sprint Petition for Declaratory Ruling filed on May 9, 2002.<sup>1</sup> The issues presented by the Sprint Petition are straightforward, despite the efforts of the independent incumbent local exchange carriers to make them complicated. The primary issue presented is the extent of a telecommunications carrier’s obligation to comply with Section 251(a)(1) of the Telecommunications Act of 1996 (“Telecom Act”). As discussed below, the independent telephone companies (“ITCs”) have the same obligation as Sprint to establish interconnection between their two networks. Further, the Commission should not be distracted by arguments related to “virtual NXX” numbers. They are not relevant in these circumstances.

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<sup>1</sup> Public Notice, *Comment Sought on Sprint Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs*, CC Docket No. 01-92, DA 02-1740 (rel. July 18, 2002).

## **I. INTRODUCTION**

Based on the documents in this docket, it appears that this issue arose when the Sprint wireless division expanded its service footprint to include territories served by ITCs. BellSouth apparently refused to load the new Sprint NXX codes into its tandem switch because calls to and from Sprint supposedly had different rating and routing points. BellSouth has since recanted that position, and has agreed to load the Sprint NXX codes and to route the traffic as indicated by the NXX codes. BellSouth even asserts that “there is no case, controversy or uncertainty for the Commission to resolve.” BellSouth Opposition at 1. The ITCs, however, seem to be greatly agitated at having to deploy facilities to the BellSouth tandem to exchange traffic with Sprint. *See* Comments of John Staurulakis, Inc. at 9-10; Comments of the Alliance of Incumbent Rural Independent Telephone Companies and the Independent Alliance at 5-7 (“Independent Alliance Comments”).

## **II. THIS PROCEEDING DOES NOT CONCERN “VIRTUAL NXX” NUMBERS**

What is not at issue in this proceeding is the provision of services using so-called “virtual NXX” numbers. By the Commission’s own definition, “Virtual NPA-NXX codes are central office codes that correspond with a particular geographic area that are assigned to a customer located in a different geographic area.” *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, 16 FCC Rcd 9610, ¶ 155 n.188 (2001). Sprint makes clear that the services at issue do not use “virtual NXX” codes. Sprint Petition at 13. “Sprint obtains NXX codes only in areas where it has facilities and provides services to customers. There is nothing ‘virtual’ about Sprint’s provision of services in areas where it obtains NXX codes.” *Id.*

This point by Sprint obviously makes sense, contrary to the assertions by the ITCs that Sprint is using “virtual NXX” numbers. Sprint is deploying NXX codes associated with local calling areas of end users previously unserved by Sprint. Regardless of the physical point of interconnection between the Sprint network and the BellSouth network, Sprint must deploy wireless transmission facilities to serve customers physically located in those local calling areas. The numbers are “rated” to the local calling area of the new subscriber, and they are “routed” within Sprint’s network to a transmitter within receiving range of the subscriber’s handset. The fact that calls may have to take a circuitous route to the Sprint customer’s handset from the called party does not make the Sprint telephone numbers “virtual.”

### **III. BOTH SPRINT AND THE ITCs HAVE AN OBLIGATION TO INTERCONNECT**

There is no question that the ITCs have an obligation to interconnect with Sprint. Under § 251(a)(1), “Each telecommunications carrier has the duty to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.” The parameters of “indirect” interconnection under this section have not been clearly defined, but the discussion in the *Local Competition Order* is instructive.

Regarding the issue of interconnecting “directly or indirectly” with the facilities of other telecommunications carriers, we conclude that telecommunications carriers should be permitted to provide interconnection pursuant to section 251(a) either directly or indirectly, based upon their most efficient technical and economic choices. . . . Given the lack of market power by telecommunication carriers required to provide interconnection via section 251(a), and the clear language of the statute, we find that indirect connection (*e.g.*, two non-incumbent LECs interconnecting with an incumbent LEC’s network) satisfies a telecommunications carrier’s duty to interconnect pursuant to section 251(a). . . . We believe that, even for telecommunications carriers with no market power, the duty to interconnect directly or indirectly is central to the 1996 Act and achieves important policy objectives.

*Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499 (1996) at ¶ 997 (“*Local Competition Order*”).

Further, “the term ‘interconnection’ under section 251(c)(2) refers only to the physical linking of two networks for the mutual exchange of traffic.” *Id.* at ¶ 176. Thus, both Sprint and the ITCs have a mutual obligation to physically link their networks for the exchange of traffic. Sprint has the choice to elect the most efficient technical and economic option, and the ITCs must accommodate the Sprint choice. The physical link may be indirect by having both carriers linked to the BellSouth network. Neither the ITCs nor BellSouth may compel Sprint to establish “direct” interconnection with the ITCs when “indirect” interconnection will allow Sprint and the ITCs to exchange traffic. The ITCs may not require Sprint to deploy facilities to reach the ITC network. Such a position would shift the duty to interconnect entirely onto Sprint, and largely eliminate the interconnection obligation for the ITCs.

There also appears to be no question that the ITCs and BellSouth are interconnected already. *See* Independent Alliance Comments at 3. It is clear by Sprint’s conduct that the most economically and technically efficient means of interconnection between an ITC and Sprint is through the BellSouth tandem switches. The law allows Sprint to utilize those existing interconnection arrangements between BellSouth and the ITCs. To the extent necessary, the ITCs should be required to deploy additional facilities on their side of the BellSouth tandem switch in order to exchange traffic with Sprint.

With respect to financial responsibility for interconnection facilities, the Commission has already ruled that, in the direct interconnection context, each carrier is financially responsible for the deployment of facilities on its side of the point of interconnection. *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction*

*of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, CC Docket No. 00-218, Memorandum Opinion and Order, DA 02-1731 (Jul. 17, 2002) at ¶¶ 52-53. There is no reason for the rule to be different in the indirect interconnection context. Although indirect interconnection may involve an additional charge owed to BellSouth for providing transit service, that charge is rightfully the responsibility of the carrier originating the call. *Id.*

#### IV. CONCLUSION

For the foregoing reasons, the Commission should provide the declaratory ruling requested by Sprint in this proceeding.

Respectfully submitted,



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