

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054**

In the Matter of)	
)	
Madison River Telephone Company, LLC)	WC Docket No. 02-371
Tariff F.C.C. No. 1)	
Transmittal No. 9)	

OPPOSITION TO DIRECT CASE

Sprint Corporation hereby respectfully submits its opposition to the Direct Case filed by the Madison River Telephone Company, LLC (“MRTC”) on December 18, 2002, in response to the Order (DA 02-3284) of the Pricing Policy Division (“Division”) of the Commission’s Wireline Competition Bureau, released November 25, 2002, in the above-captioned docket.

On September 24, 2002, MRTC proposed tariff revisions to increase its switched and special interstate access rates based on an estimated increase in its interstate revenue requirement of \$424,000 due to uncollectible expenses. The Division designated a single issue for investigation: “whether the increased allowance for uncollectibles and the resulting increase in interstate access rates are just and reasonable within the meaning of section 201(b) of the Act.” Order, ¶ 6. To examine the lawfulness of the proposed rate increases, the Division directed MRTC to explain whether it considers the variation to reflect a long-term trend that requires an increase in the allowance for uncollectibles; to expand on certain assumptions underlying its proposed increase; and to provide information related to the derivation of its \$424,000 estimate of uncollectibles and its

historical uncollectibles and rate of return. *Id.*, ¶ 6. The Division also asked MRTC to discuss other methods to address the risk of uncollectibles. *Id.*, ¶ 9. MRTC's Direct Case fails to sustain its burden of demonstrating that its proposed increase in its allowance for uncollectibles and its resulting access rate increases are not unjust and unreasonable, in violation of Section 201(b) of the Act.

The basis of an access charge rate increase for rate of return carriers should be a permanent increase in the interstate revenue requirement. The Division therefore asks "whether the variation in uncollectible levels for 2000 and 2001 is merely a normal fluctuation in uncollectibles, which would be covered by the business risks anticipated in the 11.25 percent authorized rate of return, or whether it reflects some long term trend that warrants increasing the allowance for uncollectibles in the calculation of Madison River's interstate revenue requirement." Order, ¶ 7. MRTC failed to demonstrate any correlation between the amount of its uncollectibles and the various "trends" that it claims "lead to marketplace instability" (*e.g.*, "reduction in IXC switched access revenues due to substitution by cellular offerings with unlimited night and weekend calling, and with bundled long distance included" and reduction in debt ratings). Direct Case, p. 8. Indeed, such "trends" are irrelevant to the ability of carriers to pay their access bills. MRTC also refers to the trends described by NECA in its Customer Deposit Direct Case.¹ However, NECA provided only a few articles containing opinions from investment and research firms to support its claim that the telecommunications industry continues to be in

¹ NECA's Customer Deposit Direct Case, filed in WC Docket No. 02-340 on November 21, 2002 in response to the Order (DA 02-2948) of the Pricing Policy Division of the FCC's Wireline Competition Bureau, released October 31, 2002.

a state of financial turmoil. One of these cited articles, prepared by the Precursor Group, suggests the opposite – that there are “**some emerging signs of long term stabilization developing in *portions* of telecom.**” *Id.*, Exhibit D (emphasis in text). Clearly, MRTC has not demonstrated a permanent change in uncollectibles which warrants an increase in access rates.

MRTC’s projected increase in uncollectibles from zero to \$424,000, which is based on these unsubstantiated trends, appears to be inconsistent with the Commission’s recent finding that “the risk posed by uncollectibles may not be as great as alleged by certain carriers.”² The Commission further stated that it “is aware that the telecommunications industry faces significant financial challenges” and that it has “little doubt that incumbent LEC uncollectibles generally have increased in the past two years.” Nevertheless, based on the record, the Commission found “that the risk to incumbent LECs of nonpayment and further bankruptcies may be smaller than many incumbent LECs assumed when they filed their proposed tariff revisions and responded to Verizon’s petition...” *Id.*, ¶ 19. Thus, MRTC has failed to demonstrate the reasonableness of its projected uncollectible amount.

MRTC has also not provided any evidence that the current uncollectibles are not part of the normal fluctuations associated with economic downturns or the one-time rash of carrier bankruptcies that occurred in 2001 and 2002, largely as a result of the bursting of the Internet bubble and disclosures of financial fraud. The actual impact of the WorldCom and Global Crossing bankruptcies is still unknown and may be lower than

² In the Matter of Verizon Petition for Emergency Declaratory and Other Relief, WC Docket No. 02-202, Policy Statement, FCC 02-337, released December 23, 2002, ¶ 14.

anticipated. These companies, which are currently operating as debtor-in-possession, presumably are paying their access bills pursuant to court order, and there should be no further uncollectible exposure from these two carriers. Furthermore, because these bankruptcies were a result of massive fraud or questionable accounting practices, unprecedented and unlikely to be repeated, losses attributable to them should not be considered the basis of a permanent increase in uncollectibles, or consequently, of increases in access rates.

In order to properly estimate uncollectibles, the impact of these two anomalies should be excluded from any demonstration of a long term trend in uncollectibles and any projection of future uncollectibles. Although MRTC claims that it is “not seeking to recover the uncollectible expense associated with prior bankruptcies” (Direct Case, p. 12), it also states that it “decided to analyze the bad debt risk on a carrier-by-carrier basis.” *Id.* Thus, the uncollectible reserve which it seeks to establish is, in fact, based on the “bad debt risk” of both WorldCom and Global Crossing.

MRTC argues that “historical payment patterns and contemporaneous company representations cannot be relied upon and serve as no indicator of likely or possible default.” Direct Case, p. 9. Further, it claims that because both Qwest and Sprint pose a “risk of default within the current tariff period,” it should be permitted to increase its rates to account for such risk. *Id.* Sprint strongly objects to MRTC’s allegations here. Sprint maintains an excellent payment history with all local exchange carriers, and there is absolutely no danger that it will not pay its bills.

In discussing its assumptions, MRTC states that “the accuracy of these assumptions is not critical in the context of longer periods, as the accrual method of accounting will adjust for, and accommodate, greater or fewer uncollectibles, as well as greater or fewer cash recoveries from bankruptcies.” Direct Case, p. 11. However, the size of MRTC’s proposed uncollectible reserve, and therefore the amount of the rate increase, is directly tied to MRTC’s assumptions. Clearly, MRTC should not be permitted to use unsupported assumptions which result in significant rate increases under the theory that in the long run adjustments can be made to “accommodate” the errors in its assumptions.

Because MRTC is subject to rate of return regulation, its proposed rates should not be designed to achieve a rate of return greater than 11.25 percent. Both of MRTC’s companies earned above this authorized rate of return in 2001: Gallatin River – 13.60% and Gulftel – 15.29%. Direct Case, pp. 5-6. If MRTC is permitted to increase its rates as proposed and if uncollectibles are lower than anticipated, MRTC’s rate of return may be increased further above 11.25 percent. Absent a more compelling case that the increase in uncollectibles is permanent, the proposed rate increases must be rejected.

Nor has MRTC shown that its currently effective tariff provisions for requiring security deposits would not have substantially mitigated its uncollectible issue – to the extent there is one – had such provisions been exercised in a timely manner. In its Direct Case (p. 14) MRTC states that “[n]either Gulftel nor Gallatin River currently holds deposits for any access customers” and that “access customers generally have not met the conditions that would warrant the seeking of deposits.” MRTC does not clarify what it

means that its customers “generally” have not met the conditions for imposing a security deposit. Certainly, MRTC should be required to enforce its currently effective tariff to obtain security deposits from those customers that “have a history of late payments,”³ and thereby protect itself from uncollectibles, before it is permitted to inflate access rates for all of its access customers. It would be patently unreasonable to permit MRTC to shift the cost of uncollectibles from itself to its customers that pay their bills in a timely manner simply because it has failed to impose deposits on those customers who present a risk of nonpayment because they have a history of late payments or no established credit.

The Division asks MRTC to “describe how, for ratemaking purposes, it addresses defaults occurring before the effectiveness of any tariff to ensure that any tariff revisions are not designed to recover retroactively losses due to early nonpayment events (*i.e.*, how does it avoid retroactive ratemaking?).” Order, ¶ 9. MRTC claims that it “seeks to recover the interstate allocation of an expense incurred to establish an uncollectible reserve.” Direct Case, p. 18. However, because the reserve will be reduced when a bankruptcy is settled and the IXC accounts are written off, it may be used to cover the costs of bankruptcies and uncollectibles incurred in prior periods. This would therefore constitute unlawful retroactive ratemaking. In addition, if the uncollectible reserve is not fully utilized, MRTC’s access customers will have overpaid through the inflated access charges and MRTC’s rate of return will exceed the authorized rate of return. There is every incentive for MRTC to inflate projected uncollectible expenses, and no procedure for refunding overearnings to MRTC’s access customers.

³ Madison River Telephone Company, LLC, Tariff F.C.C. No. 1, Section 2.4.1(A), Original Page 2-28.

Finally, in response to the Division's request for a discussion of "other steps" MRCT might employ to reduce its risk, MRTC states that it "would consider adopting tariff provisions for advanced payment of services now billed in arrears." MRTC's Direct Case was filed prior to the Commission's release of its Policy Statement in WC Docket No. 02-202. Clearly, any changes MRTC might consider must be consistent with that Policy Statement.

For the above reasons, Sprint urges the Commission to find that MRTC has failed to sustain its burden of proof on the core issue of the reasonableness of its proposed rate increase.

Respectfully submitted,

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January 8, 2002

CERTIFICATE OF SERVICE

I hereby certify that a copy of Sprint's Opposition to Direct Case of the Madison River Telephone Company, LLC, Tariff F.C.C. No. 1, Transmittal No. 9, WC Docket No. 02-371, was sent electronically and/or by U.S. First Class Mail and facsimile on this 8th day of January 2003 to the parties listed below.


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