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July 14, 2002

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW,
Washington D.C. 20554

Re: Telecommunications Services for Individuals with Hearing and Speech Disabilities; Petition of National Exchange Carrier Association, Inc Interim For Waiver and Rulemaking CC Docket No. 98-67.

Dear Ms. Dortch:

The Commission, by *Public Notice* DA 03-1939 issued June 13, 2003, has asked for comments on a Petition filed July 22, 2002, by the National Carrier Association, Inc. (NECA) in the above-captioned proceeding. The Petition, which NECA filed on behalf of the Interstate Telecommunications Relay Service Advisory Council, requests an interim waiver of Section 64.604 of the Commission's Rules, 47 CFR §64.604, to the extent necessary to enable NECA to compensate TRS providers from the interstate TRS fund for all calls placed from wireless phones regardless of the actual jurisdiction of such calls. NECA also requests that the Commission "initiate a separate rulemaking proceeding to consider appropriate compensation methods for relay calls where it is impossible to determine the jurisdiction of the call from the ANI data." Petition at 7.

Sprint Corporation ("Sprint") submitted comments in support of NECA's Petition on September 30, 2003. Nothing has changed in the interim that would cause Sprint to alter its belief that the requested waiver is fully justified and that the requested rulemaking should be instituted. Thus, in response to the *Public Notice*, Sprint is resubmitting its September 30 comments.

Respectfully submitted,

Attachment

c: All parties on attached service list.



**The FCC Acknowledges Receipt of Comments From ...
Sprint Corporation
...and Thank You for Your Comments**

Your Confirmation Number is: '2002930178807 '		
Date Received: Sep 30 2002		
Docket: 98-67		
Number of Files Transmitted: 1		
File Name	File Type	File Size (bytes)
COMMENT	Adobe Acrobat PDF	301015
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updated 02/11/02

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

In the Matter of)
)
Telecommunications Services for Individuals with)
)
Hearing and Speech Disabilities)
Petition of National Exchange Carrier Association, Inc.)
For Interim Waiver and Rulemaking)
_____)

CC Docket No. 98-67

COMMENTS OF SPRINT

Sprint Corporation (“Sprint”), on behalf of the Telecommunications Relay Services (“TRS”) operations of its long distance subsidiary, Sprint Communications Company L.P., its wireless subsidiary and its incumbent local exchange (“ILEC”) subsidiary, hereby respectfully submits its comments on the Petition for Interim Waiver and Rulemaking filed by the National Exchange Carrier Association (“NECA”) in the above-captioned proceeding.¹ NECA requests a temporary two-year waiver of Section 64.604 of the Commission’s Rules, 47 CFR §64.604(5)(i) to permit it to compensate TRS providers from the interstate TRS fund for all calls placed from wireless phones regardless of the actual jurisdiction of such calls. NECA also requests that Commission “initiate a separate rulemaking proceeding to consider appropriate compensation methods for relay calls where it is impossible to determine the jurisdiction of the call from the ANI data.” Petition at 7. As more fully set forth below Sprint believes that the waiver is fully

¹ NECA submitted the Petition at the request of the Interstate Telecommunications Relay Services Fund Advisory Council (“Council”).

justified under the Commission's rules and applicable precedent. Sprint also supports the requested rulemaking.

Sprint, of course, recognizes that under Commission and court precedent, waivers of existing rules are not to be routinely granted. Such rules are considered valid and the applicant for a waiver "faces a high hurdle even at the starting gate." *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972). An applicant for a waiver must plead "the particular facts" that "make strict compliance" with the rule or rules involved "inconsistent with the public interest." *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). For its part, the Commission must take a "hard look" at the waiver request, *WAIT Radio* at 1157, and "consider all relevant factors." Only then and only if the Commission finds that "good cause exists" will the Commission grant a waiver of its rules. *Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Petition for Clarification of WorldCom Inc.* (CC Docket No. 98-67), *Declaratory Ruling* at ¶28 citing *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 416 (1971); *see also*, 47 CFR §1.3.

Sprint believes that NECA's waiver easily meets this exacting standard. As NECA points out, the wireless telephone number that the TRS provider receives at its center is "that of the phone itself, [which is] based on the state or region where the phone was purchased." But given the mobility afforded by wireless phones, such number cannot be reliably used to determine the jurisdiction of the call. For example, a wireless customer whose phone number is in the 301 area code making a call from New York to the Maryland relay center (by dialing 1-800-MDRELAY) in order to place a relay call to an end user in the 301 area code is clearly placing an interstate call and the TRS provider should be compensated by the interstate TRS

fund. However, the Maryland relay center will mistakenly classify the call as an intrastate call because the ANI of the calling number and the ANI of the called number are both in the 301 area code.

The problem of mis-classifying the jurisdiction of a relay call to or from a wireless phone will become more acute as 711 is increasingly used to access the relay center in a particular State. As NECA has explained (at 5), a person in a State other than his home State dialing 711 from his wireless phone will be connected to the relay center for the State from which the call is placed. If that person wants to be connected to a number in his home State, the call will appear to the relay provider to be an intrastate call in another State. Since the contract between the relay provider and the State dictate the type of intrastate calls that may be processed through a State relay service, the relay provider may be prohibited by contract from processing the call. Plainly such a result would make 711 access from wireless phones less attractive to users and delay realization of the over-arching public interest benefits that the Commission envisioned when it required that 711 access to relay centers be offered.

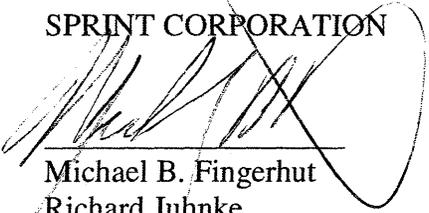
Sprint believes that the most attractive and efficient solution to this wireless call problem in the short term is, as NECA explains, for the Commission to “waive its jurisdictional cost recovery rules” for a two-year period and “authorize[e] the interstate fund administrator to compensate relay service providers for all calls placed from wireless devices.” Petition at 6. NECA represents that such authorization will have only a negligible effect on the interstate fund and will not require additional assessments upon the industry for the 2002-2003 funding period. Such *de minimis* costs are “far outweighed by the public interest benefits” of helping to ensure that wireless users “would be able to utilize TRS services fully, including three-digit dialing

capability....” *Id.* at 7. The two year period should afford the Commission and industry enough time to develop a permanent solution that would meet the needs of all affected parties. *Id.* at 6.

As stated, NECA, on behalf of the Council, also requests that the Commission institute a “rulemaking proceeding to consider the appropriate compensation methods for relay calls where it is impossible to determine the jurisdiction of the call from ANI data.” *Id.* at 7. NECA points out that this jurisdictional issue may arise in the context of number portability and “as a result of the implementation of digital wireless TTY compatibility solutions.” *Id.* Sprint agrees that the requested rulemaking should be instituted to examine the jurisdictional issues that will arise with the implementation of Commission policies or the advent of new technologies.

Respectfully submitted,

SPRINT CORPORATION



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Its Attorneys

September 30, 2002

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of Sprint Corporation was served this 30th day of September by electronic delivery and by United States First Class Mail to the persons listed below:


Sharon Kirby

VIA ECFS

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Regina McNeil
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Whippany, NJ 07981

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **LETTER** of Sprint was sent by electronic mail or by United States first-class mail, postage prepaid, on this the 14th day of July, 2003 to the parties on the attached list.


Christine Jackson

July 14, 2003

SEND BY ELECTRONIC MAIL

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