



401 9th Street, NW, Suite 400
Washington, DC 20004

March 3, 2004

Marlene H. Dortch
Secretary
Federal Communications Commission
TW-A325
445 12th St., SW
Washington, D.C. 20554

Re: Ex Parte Presentation,
WC Docket No. 02-361

Dear Ms. Dortch:

On February 23, 2004, SBC filed an *ex parte* letter in the above-referenced docket asserting that "in just one month, Sprint has migrated more than 40 percent of certain traffic sampled by Southwestern Bell to its IP backbone" as an "access charge avoidance" strategy.¹

As an initial matter, Sprint agrees with SBC that the increasing volume of voice traffic carried over IP networks is a matter of very serious concern, and that the Commission must take immediate action in the instant proceeding to clarify that access charges do apply to phone-to-phone IP telephone services of the kind described in AT&T's petition. Until the Commission issues an explicit finding that access charges do apply to this type of traffic, voice service providers will have an enormous economic incentive to greatly expand their use of alternative termination arrangements simply to remain competitive with one another in terms of access costs, and disputes regarding the applicability of access charges for VoIP traffic, and whether revenues associated with such traffic are subject to mandatory contributions to the USF, will continue to escalate. Indeed, these are points Sprint made in numerous meetings with the Commission's staff long before SBC became engaged on this issue.

However, Sprint takes issue with SBC's analysis of Sprint's IP traffic. Although Sprint's knowledge of this analysis is limited to the information contained in SBC's February 23 *ex parte* letter, we believe that SBC's "sample" is flawed, and substantially overstates the amount of Sprint's Texas-bound traffic utilizing alternative termination arrangements.² SBC also seriously underestimates the time needed to negotiate and implement such arrangements. Sprint has indeed increased its use of such arrangements out of competitive necessity (and will continue to do so as long as such practice is legally permissible and financially rational), but hardly to the extent and at the speed posited by SBC.

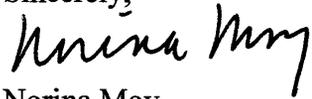
¹ See Letter from Gary L. Phillips, SBC, pp. 1-2.

² Indeed, SBC itself acknowledges that "on a national basis, Sprint may be terminating only a small amount of traffic without paying the requisite access charges" (*id.*, p. 2).

I request that this letter, which is being filed electronically, be placed in the file for the above-captioned proceedings.

Please contact me at (202) 585-1915 with any questions.

Sincerely,



Norina Moy
Director, Federal Regulatory
Policy and Coordination

c: Chairman Michael Powell
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Kevin Martin
Commissioner Jonathan Adelstein
Christopher Libertelli
Matthew Brill
Jessica Rosenworcel
Scott Bergmann
Daniel Gonzalez
Gary Phillips, SBC