Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Petition of SBC Communications Inc.	)	WC Docket No. 04-29
For Forbearance from the Application of	)	
Title II Common Carrier Regulation to	)	
IP Platform Services	)	

COMMENTS OF SPRINT CORPORATION

Sprint Corporation, pursuant to the Public Notice released on March 30, 2004 (DA 04-899), hereby respectfully submits its comments on the petition for forbearance filed by SBC Communications Inc. in the above-captioned proceeding on February 5, 2004.

In its petition, SBC requests that the Commission forbear from applying "any Title II or other legacy regulation" to IP platform services (Petition, p. 4). It states (*id.*, p. 5) that since such regulation is "harmful to…the public interest," the Commission is required under Section 10 of the Communications Act to forbear from applying such regulation. SBC argues that important public policy objectives such as universal service, public safety/E911, communications assistance for law enforcement, and disability access can be achieved under Title I of the Communications Act (*id.*, p. 2).

Sprint agrees that full application of Title II common carrier regulation of all IP platform services is unwarranted and inefficient. However, completely eliminating Title II regulation of all IP-based services, as SBC recommends, is equally unwarranted, and relying upon Title I regulation of Voice over IP (VoIP) services to foster critical public

policy objectives is legally problematic. The Commission must take a more moderate stance, and apply limited Title II regulation to VoIP services sufficient to ensure that these services satisfy critical social and economic obligations, including equitable support for universal service; ensuring reasonable access to those services by disabled consumers; provision of critical emergency and public safety services; and payment to other companies for the use of their networks to originate and/or terminate calls. The Commission can reasonably forbear from applying a wide range of other Title II common carrier regulations -- such as retail rate regulation, cost allocation requirements, quality of service regulation, reporting requirements, certain consumer protections -- to VoIP services where the service provider lacks market power.[1] By adopting this regulatory approach (presumably in the context of the *IP-Enabled Services* rulemaking proceeding), the Commission will provide some of the much-needed regulatory certainty to the market which SBC has called for (Petition, p. 4).

In its comments in the *IP-Enabled Services* rulemaking proceeding (WC Docket No. 04-36) being filed today, Sprint has demonstrated that certain VoIP services[2] are fully substitutable for traditional wireline voice services, and as such, should share in both the rights and the obligations which accrue to telecommunications services. It is

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[1] SBC insists (Petition, p. 5) that "no single entity or class of entities dominates the provision of IP platform services." However, it is certainly possible that a service provider may possess market power in the provision of certain IP services in certain markets. For example, even if SBC had an IP-based rather than a circuit-switched local exchange network, it would still be the dominant local service provider in its territory.

[2] VoIP services that are offered for a fee directly to the public; deliver real-time, two-way voice calls; and use telephone numbers covered by the North American Numbering Plan to place or receive communications, constitute basic voice services and thus must be classified as a telecommunications service. *See* Sprint Comments in WC Docket No. 04-36, pp. 4-5.

only by classifying VoIP services as telecommunications services that key social and economic goals can be achieved, and that VoIP service providers' rights to interconnection, numbering resources, 911 infrastructure, and UNEs can be assured. Limiting Title II regulation only where necessary to meet these goals is a prudent course and does not impose excessively onerous burdens. Limiting Title II regulation only to VoIP telecommunications services, and not to non-telecommunications IP-based services, does not constitute and will not lead to "regulation of the Internet as a whole" (SBC Petition, p. 8).[3]

Classification of VoIP services as telecommunications services also does *not* mean that full, traditional Title II regulation should be applied. To the contrary, where the VoIP service provider lacks market power, application of full Title II regulation is unnecessary and inefficient. Thus, the Commission could and should forbear under Section 10 from applying full retail rate regulation, cost allocation requirements, quality of service regulation, reporting requirements, and extraneous consumer protections (*e.g.,* CPNI, equal access or certain truth in billing rules) to competitive VoIP service providers -- much along the lines that nondominant or competitive carriers (*e.g.,* wireless service providers and CLECs) are regulated.

Any suggestion by SBC or any other party that VoIP services can be classified as "information services," but regulated under the Commission's Title I "ancillary" jurisdiction, should be rejected. As Sprint explained in its comments in the *IP-Enabled Services* rulemaking proceeding (pp. 25-27), this approach is legally problematic, and

[3] It is absurd to suggest that regulation of any application that happens to use internet protocol equates to "regulating the Internet."

would do nothing to foster critical social and economic goals (USF, disability access, public safety, intercarrier compensation) or to protect VoIP service providers' common carrier rights.

Sprint agrees that application of full, traditional Title II regulation of VoIP services, when provided by carriers which lack market power, is unnecessary and unwarranted. However, full deregulation of all IP platform services, as SBC recommends, is excessive and certainly premature. Unless SBC's petition is more narrowly focused, it should be denied.

Respectfully submitted,

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May 28, 2004

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **COMMENTS OF SPRINT CORP.** was filed by electronic mail and by United States first-class mail, postage prepaid, on this the 28th day of May 2004 to the parties listed below.

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May 28, 2004

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