

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
SBC IP Communications, Inc.) CC Docket No. 99-200
Petition for Limited Waiver of)
Section 52.15(g)(2)(i) of the)
Commission's Rules Regarding Access to)
Numbering Resources)

REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation hereby respectfully submits its reply to comments on the above-captioned Petition for Limited Waiver filed by SBC IP Communications, Inc. (SBC IP). In this petition, SBC IP has requested direct access to numbering resources from the North American Numbering Plan Administrator (NANPA) and/or the Pooling Administrator (PA) for use in the provision of VoIP services, even though SBC IP has not sought or obtained state certification. The requested waiver would expire when the Commission adopts final numbering rules regarding IP-enabled services.

Comments in this proceeding are fairly evenly split between those which oppose SBC IP's petition for waiver of Section 52.15(g)(2)(i) of the Commission's rules, and those which support at least a conditional grant of the petition. Despite disagreement on how to proceed, there is general agreement on three points: the availability of VoIP services is increasing; expeditious action by the FCC to clarify the regulatory status of VoIP is critical; and the FCC must avoid taking any action in the instant proceeding which would give SBC IP an unfair competitive advantage. In response to these market developments, and to provide some measure of regulatory certainty while it considers the

complex issues raised in the *IP-Enabled Services* docket (WC Docket No. 04-56), the Commission should grant SBC IP's petition, and extend the waiver to all non-certificated providers of VoIP services and/or their CLEC partners.

Some parties oppose SBC IP's request for waiver on the grounds that a VoIP service provider's right to obtain numbering resources directly from the NANPA or PA should be decided in the *IP-Enabled Services* proceeding, in the context of determining whether VoIP is a telecommunications or an information service.¹ Sprint agrees that a Commission decision about the regulatory classification of VoIP, and an explication of the associated rights and responsibilities of VoIP service providers, are critical to the future of VoIP and to the health of the telecommunications industry. A finding that VoIP services are telecommunications (a determination that Sprint believes is far sounder as a matter of policy and far more defensible as a matter of law) would indisputably achieve the result which SBC IP seeks in its waiver petition – direct access to numbering resources by VoIP service providers. However, it is unlikely that a Commission decision in the *IP-Enabled Services* proceeding will be forthcoming in the immediate future. That proceeding involves numerous complicated issues of law and policy relating to public safety, law enforcement, access by the disabled, universal service, payment of intercarrier compensation, and the appropriate scope of economic regulation, and it will likely take many months to craft a comprehensive, legally sustainable order which appropriately balances often-conflicting concerns.² It would be contrary to the public interest to defer a

¹ See, e.g., Time Warner Telecom, p. 2; Vonage, p. 9; Pennsylvania PUC, p. 1.

² Even though the VoIP issue is a top priority for the Commission, Wireline Competition Bureau Chief Jeffrey Carlisle has stated, "I don't know if we can get a comprehensive

Footnote continued on next page

decision on VoIP service providers' direct access to numbering resources until such time as the *IP-Enabled Services* proceeding is concluded; given the pace at which VoIP technology is being deployed and VoIP services are being offered commercially, the industry cannot afford to wait months or even years for this issue to be addressed. Therefore, the Commission should remove this significant element of regulatory uncertainty, and expeditiously waive Section 52.15(g)(2)(i) for SBC IP and all other similarly affected parties.

Some parties also objected to SBC IP's waiver petition on the grounds that it had not demonstrated "special circumstances" which would warrant a waiver.³ Sprint agrees that SBC IP's circumstances are not "special" in the sense of being unique. There are many other entities which, like SBC IP, are ineligible to obtain numbering resources directly from the NANPA (because they are not certificated or licensed to provide service in an area, or because they lack retail customers in a specific market) which would nonetheless like direct access to numbering resources for the provision of VoIP services. However, the fact that SBC IP is not the only entity facing this dilemma is not a compelling reason to deny the waiver. As it has done in other proceedings (*see* Sprint comments, p. 4), the Commission should waive its rules for the entire class of affected parties in order to promote a public good – in this case, the deployment of VoIP services. Furthermore, extending the waiver to all affected parties is necessary to ensure

order done by the end of the year because the record's so huge and there are so many issues," *Communications Daily*, August 24, 2004, p. 1.

³ *See, e.g.*, AT&T, p. 3; Pennsylvania PUC, p. 1; Time Warner Telecom, p. 2.

competitive equity. As many parties point out, SBC IP would enjoy a tremendous competitive advantage if it were the only VoIP provider to obtain the requested relief.⁴

Even if the Commission does grant relief from Section 52.15(g)(2)(i) to all affected parties, the limited waiver requested by SBC IP is still the appropriate approach to allowing direct access to numbering resources because it is a temporary measure: the waiver would be in effect only pending permanent resolution of the question of the regulatory status of VoIP in the *IP-Enabled Services* proceeding. Any party which receives the interim benefit of the waiver proceeds with its business plans at its own risk; should the Commission ultimately decide that VoIP is a telecommunications service for which certification is required, all VoIP service providers would be obliged to take the necessary steps to become certificated. Any relief obtained here through the waiver process would not constitute permanent exemption from the rules for any party.

Finally, Sprint agrees that any party which receives a waiver of Section 52.15(g)(2)(i) must comply with all existing Commission numbering resource requirements (including those associated with thousand-block number pooling, number resource utilization/forecast reporting, and local number portability), as well as contribute to the numbering administration cost recovery fund. “Voluntary” compliance is insufficient;⁵ compliance with these requirements must be mandatory for all parties to which the waiver is granted.

⁴ See, e.g., Sprint, p. 2; Pennsylvania PUC, p. 2; Pointone, p. 4; Time Warner Telecom, p. 6; Vonage, p. 5.

⁵ See, e.g., BellSouth, p. 4; Ohio PUC, p. 3; Time Warner Telecom, p. 10.

Respectfully submitted,

SPRINT CORPORATION

A handwritten signature in cursive script, appearing to read "Norina Moy", is written over a horizontal line.

Norina Moy

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August 31, 2004

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **REPLY OF SPRINT CORPORATION** was filed by electronic mail and sent by United States first-class mail, postage prepaid, on this the 31st day of August, 2004 to the parties on the attached page.


Christine Jackson

August 31, 2004

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