

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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In the Matter of)	
)	
1993 Annual Access Tariff Filings)	CC Docket No. 93-193
)	
1994 Annual Access Tariff Filings)	CC Docket No. 94-65
_____)	

**SPRINT'S REPLY TO VERIZON REFUND PLAN
AND REFUND PLAN OF SBC COMMUNICATIONS, INC.**

On behalf of its Incumbent Local Exchange Carrier ("ILEC"), competitive LEC ("CLEC")/long distance, and wireless operations, Sprint Corporation respectfully submits these comments in opposition to the Verizon Refund Plan and the Refund Plan of SBC Communications Inc. filed pursuant to the Commission's July 30, 2004 Order in the 1993-1994 Annual Access Tariff Filing dockets.¹

Verizon's Refund Plan is flawed because it nets overearning and underearning across baskets and tariff filing entities. Such a methodology is not reflective of how customers -- carriers or end users -- purchase access, nor is it reflective of how rates are calculated under the price cap regime which follows a very strict basket by basket, tariff filing entity by tariff filing entity approach.

The methodology incorrectly assumes that a carrier's access purchases directly correlate with Verizon's overearnings and underearnings between baskets and tariff filing

¹ *In the Matter of 1993 Annual Access Tariff Filings*, CC Docket No. 93-193 and *1994 Annual Access Tariff Filings*, CC Docket No. 94-65, *Order*, FCC 04-151, released July 30, 2004 ("Order").

entities, an assumption for which Verizon offers nothing by way of support.

Furthermore, the methodology is inconsistent with Commission precedent, absent a showing of "unusual circumstances"; a showing that Verizon has not even attempted to make.

The Commission does not allow carriers, at the end of a Section 204 investigation, to recoup past undercharges or to offset revenues foregone from one rate element against refunds owed for overcharges, absent unusual circumstances and prior notice to customers.²

Verizon's methodology is flawed and should not be approved. If, however, the Commission should approve Verizon's methodology as filed, it would be patently unfair to not allow the other ILECs to use the same methodology. Accordingly, if the Commission approves Verizon's Refund Plan as filed, it must grant other ILECs the opportunity to amend their Refund Plans and use Verizon's methodology of netting across baskets and tariff filing entities.

SBC's *Method Two* for calculating refunds is flawed because it proposes, in the absence of record evidence from SBC or the carrier of access usage and purchases, using a carrier's PIC share to determine the amount of the carrier's refund. PIC share is neither an appropriate measure of access usage and purchases, nor is it reflective of a carrier's purchases between baskets. A carrier may have a relatively low PIC share overall, but still be a heavy user of special access or, for that matter, of switched access due to a customer base with higher usage than average. Accordingly, Sprint believes a

² *In the Matter of Tariffs Implementing Access Charge Reform*, 13 FCC Rcd 14683 (1998).

carrier's revenue share -- specifically, its share of interstate revenues -- is more reflective of a carrier's access purchases than its share of presubscribed lines.

As set forth above, Sprint does not believe that either Verizon's or SBC's Refund Plans should be approved as filed, but rather that both carriers should be ordered to amend their Refund Plans in the respects discussed above.

Respectfully submitted,

SPRINT CORPORATION

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