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November 23, 2004

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Room TWB-204  
Washington, DC 20554

Re: **Notice of Ex Parte Communication**

Unbundled Access to Network Elements, WC Docket No. 04-313

Review of the Section 251 Unbundling Obligations of Incumbent Local  
Exchange Carriers, CC Docket No. 01-338

Dear Ms. Dortch:

On behalf of Sprint Corporation, I spoke yesterday by telephone with Gail Cohen, Russell Hanser, Jeremy Miller, and Carol Simpson of the Wireline Competition Bureau. The purpose of our conference call was to discuss Sprint's Alternative Access Vendor database, which Sprint described (at 44-46) in its confidential comments filed October 4, 2004, in these proceedings.

I explained that Sprint's AAV database was developed a number of years ago as a provisioning tool for Sprint's use in identifying any potential non-ILEC providers of DS1, DS3, or OCn loop facilities at particular building addresses nationwide. It is continually updated and is used on an ongoing basis by Sprint personnel. It was not created for advocacy purposes and is treated as highly confidential business information.

I noted that the database shows only a small number of buildings nationwide are even potentially served by a non-ILEC provider. The percentage is so tiny that, in Sprint's view, it warrants a default finding of impairment, if not a nationwide finding of impairment, for DS1, DS3, and dark fiber loops.

I added that the database, if anything, actually *overstates* the availability of non-ILEC high-capacity loop facilities. Sprint explained that it is deliberately over-inclusive; it identifies *any* addresses for which there may *potentially* be an alternative to the ILEC. For example:

- It double-counts facilities by including AAVs that may utilize other AAVs' facilities, rather than their own.
- It includes addresses even where only a portion of the building – a particular floor or suite – can be reached.
- It double-counts buildings, because one building may have multiple street addresses.

- It includes collocation hotels, which generally are not among a requesting carrier's loop target destinations.
- It includes AAVs whose capacity may already be fully booked.
- It includes AAVs that do not have the financial stability to be relied upon as a provider of facilities.

In response to questions from the Commission staff, I confirmed that the fact that an address is listed in the database does not mean that an AAV has its own facilities to the building. The database includes AAVs that provide their wholesale service by using ILEC facilities, including UNEs. I also confirmed that it includes intermodal providers of high-capacity loop plant, notably cable-TV based providers. The database does not exclude fixed wireless technology, where it can meet quality standards for the provision of high-capacity loop. The database may include few or no fixed-wireless carriers at this time for this reason, however. As one of the nation's leading wireless carriers, Sprint has invested significantly in fixed wireless development, but has found that -- because of technology and quality issues -- it does not yet provide a viable alternative to wireline for high-capacity loops. Further, I confirmed that the database does not discriminate on the basis of capacity level. DS1-, DS3-, and OCn-level providers are all included. Thus, the fact that an AAV may be listed at an address does not mean capacity is at as high a level as Sprint needs -- much less that it is currently available -- or that the AAV is willing to provision down to as low a capacity level as Sprint needs to serve a particular customer.

Given Sprint's experience in pursuing alternatives to ILEC facilities for DS1, DS3, and OCn loop, it should be clear that impairment is the norm, not the exception, for requesting carriers seeking access to ILEC loop plant. The claims of the Bell Operating Companies to the contrary are, in Sprint's view, lacking credibility.

Pursuant to the requirements of Section 1.1206 of the Commission's rules, I am filing electronic copies of this notice for addition to these dockets.

Sincerely,



John E. Benedict

cc: Gail Cohen  
Russell Hanser  
Jeremy Miller  
Carol Simpson