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November 24, 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:

Sprint Corporation was surprised to read the recent ex parte submission by BellSouth (November 17, 2004), which discusses confidential data contained in Sprint's comments of October 4, 2004.

BellSouth's publicly-filed letter references the building count from Sprint's Alternative Access Vendor database. The database is a highly proprietary directory of building addresses that potentially may have high-capacity loop providers other than the incumbent local exchange carrier. The building count was clearly marked as confidentially-filed.

Sprint recognizes that BellSouth did not disclose the exact number given in Sprint's confidential submission. Sprint also recognizes that the Protective Order does not define the latitude a reviewing party may exercise in approximating a submitting party's confidential data. For these reasons, Sprint will not ask the Commission to look into the matter. Nevertheless, BellSouth's use of Sprint's information certainly violates the spirit, if not the letter, of the Protective Order. We can imagine BellSouth's reaction had any other party treated BellSouth's confidential information in such a fashion.

BellSouth's submission also mischaracterizes Sprint's data. BellSouth says that Sprint's building count represents the number of "buildings in which alternative loop facilities are available." But as Sprint's comments made clear (at 45-46), Sprint's database does not identify non-ILEC facilities; it identifies only *potential* non-ILEC providers of high-capacity loops. A large but unknown percentage of AAV facilities are capacity ordered by AAVs from ILECs,

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particularly as unbundled network elements, and provided to or shared with other competitive carriers on a wholesale basis. Beyond this, for many other reasons Sprint explained but which BellSouth's letter omits, the database's building count significantly overcounts facilities and overstates the actual availability of non-ILEC high-capacity loops. Contrary to BellSouth's characterization, Sprint's database only underscores that requesting carriers are impaired without access to high-capacity UNE loops. Self-provisioning remains widely infeasible, and only a tiny percentage of buildings have any potential alternative to the ILEC.

Sincerely,



John E. Benedict

cc: Gail Cohen  
Russell Hanser  
Jeremy Miller  
Carol Simpson