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December 3, 2004

Via Electronic Submission

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

Re: *Ex Parte* Presentation
Sprint Petition for Declaratory Ruling, CC Docket No. 01-92

Dear Ms. Dortch:

This letter is to inform you that on December 2, 2004, Luisa Lancetti and Charles McKee of Sprint Corporation met with Jeffrey Carlisle, Lisa Gelb, Jane Jackson, Rob Tanner, Steve Morris, Jeremy Marcus and Victoria Goldberg of the Wireline Competition Bureau to discuss issues related to Sprint's Petition for Declaratory Ruling on Wireless Rating and Routing in CC Docket No. 01-92.

Sprint responded to arguments raised by John Staurulakis, Inc. (JSI) in an *ex parte* presentation made on September 28, 2004. Sprint noted that the position taken by JSI and other rural local exchange carriers was inconsistent with the provision of the Telecommunications Act, historical practice, FCC rules and orders, court decisions and economic rationality. A copy of the presentation used is attached hereto for your reference.

Pursuant to Section 1.1206 of the Commission's rules, this letter is being electronically filed with your office. Please associate this letter with the file in the above-referenced proceeding.

Respectfully submitted,

Charles W. McKee

cc: Jeffrey Carlisle
Lisa Gelb
Jane Jackson
Rob Tanner
Steve Morris
Jeremy Marcus
Victoria Goldberg

SPRINT PETITION FOR DECLARATORY RULING
WIRELESS RATING AND ROUTING

CC-01-92

EX PARTE PRESENTATION
December 2, 2004

Sprint

The RLEC Position Is Inconsistent with Historic Practice

- CMRS carriers have interconnected with the PSTN using Type 2A interconnection for more than 20 years:
  - 2A interconnection is a direct connection to a LATA tandem switch
  - Carriers obtain indirect connection to all switches/networks subtending the tandem, including RLEC networks.
- CMRS carriers have always obtained telephone numbers in the locations where mobile customers primarily use their handset
  - Under FCC's numbering rules, CMRS can obtain numbers rated in any LEC rate center where they provide service
  - Rating points are almost always different than routing points

The Rural LEC Position Is Inconsistent with the Act

- Section 251(a) explicitly provides that carriers like CMRS and RLECs can connect "directly or indirectly."
- The RLEC position that direct interconnection is required under the FCC's rules is inconsistent with Section 251(a).
- RLEC reliance on Section 251(c) is misplaced.
  - Section 251(c) imposes "additional obligations" on ILECs, it does not limit the obligations imposed under 251(a).
  - Section 251(c) is not relevant because of the Section 251(f)(1) "rural exemption."

The RLEC Position is Inconsistent with the FCC's Wireless LNP Decisions

The FCC told the D.C. Circuit in its 7-9-04 LNP Intermodal Brief:

- The RLEC "grievance is with the long standing Commission's intercarrier compensation regime. Again, the time for challenging the Commission's existing intercarrier compensation rules has long passed" (p.33).
- "Rural LECs thus always have been required to deliver traffic to other carriers through direct or indirect interconnection – even when a wireless carrier's switch is not located in the rural LEC's rate center" (p.33)
- "[A]n incumbent LEC must bear the cost of delivering traffic (including the facilities over which the traffic is carried) that it originates to the point of interconnection ("POI") selected by a competing telecommunications carrier" (p.34-35).

The RLEC Position is Economically Irrational

- Requiring direct connections would impose unnecessary and inefficient costs into the network:
  - Traffic volumes are often not large enough to cost justify a direct connection.
  - Even with a direct connection, the RLEC would be obligated to compensate CMRS for its proportional use of this expensive transport. *See* 47 C.F.R. 51.711(b) and 51.701(c).
- The incremental RLEC cost to transport a call to a CMRS is minuscule
  - RLECs already have trunk groups connecting their networks to the LATA tandems.
- The RLEC trade association, NTCA, has recognized that the "most feasible and cost-effective option for most rural ILECs is to use the RBOC's tandem for transiting functions":

  "Since all carriers in a service area or market must at some point connect to the area tandem, there is efficiency in utilizing the tandems to route calls to other carriers instead of building a direct connection to each carrier." NTCA White Paper at 41 (March 10, 2004)

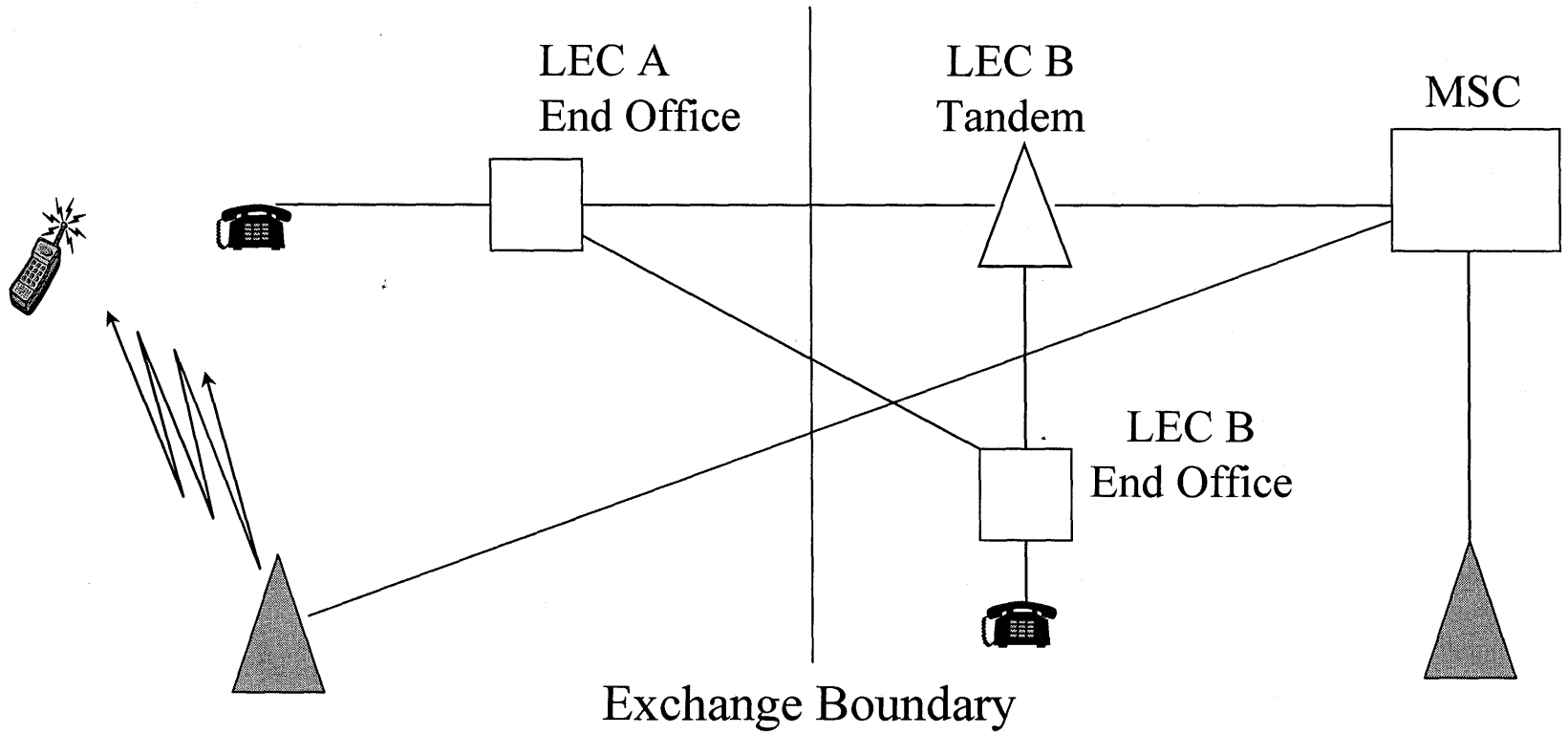
The RLEC Position Is Inconsistent with FCC Rules & Orders

- FCC has ruled that it is the competitive carrier (*i.e.*, CMRS), not the incumbent, that decides whether to interconnect directly or indirectly. *See, e.g., Virginia Arbitration Order,* 17 FCC Rcd 27039, 27085 (2002).
- FCC Rule 20.11(a) states that LECs "must provide the type of interconnection reasonably requested by a mobile service licensee" further confirms that CMRS can interconnection indirectly.
- The RLEC distinction between "type" and "method" of interconnection is unintelligible. If CMRS has a right to use Type 2A (access tandem) connection, it necessarily has the right to interconnect indirectly with subtending networks.

The RLEC Are Attempting to Shift the Cost of Transport

- The FCC's Rules prohibit the imposition of transport costs onto a terminating carrier. 47 C.F.R. 51.703(b).
- This rule has been consistently upheld by the courts and the FCC:
  - *MCImetro Access Transmission Services, Inc., v. BellSouth Telecommunications Inc.*, 352 F.3d 872 (4th Cir. 2003)("BellSouth's attempts to evade the unambiguous language of Rule 703(b) are ultimately unavailing");
  - *Southwestern Bell Telephone Co., v. Public Utilities Commission of Texas,* 348 F.3d 482 (5th Cir. 2003)("[T]he FCC reciprocal compensation regulations are quite specific in prohibiting Southwestern Bell from charging AT&T for "local" traffic originating on Southwestern Bell's network. . ..").
  - *Texcom, Inc. d/b/a Answer Indiana v. Bell Atlantic,* File No. EB-00-MD-14, Memorandum and Order (released November 28, 2001) (Holding that the terminating carrier may assess charges on an originating carrier for transport costs incurred in indirect interconnection.)

GENERIC RATING AND ROUTING



1. CMRS provider obtains from NANPA a NPA/NXX rated from end office A rate center to serve local customers calling from home to wireless phone.
2. CMRS provider builds towers to provide wireless service in community where customer lives and markets service in LEC End Office A service area.
3. CMRS customer orders service from CMRS provider and is given a PCS number rate centered the same as LEC A End Office.
4. LEC A landline customers can call their PCS phones on a local basis.