Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Petition of Core Communications, Inc. for	)	WC Docket No. 06-100
Forbearance under 47 U.S.C. Section 160(c)	)	
From Rate Regulation Pursuant to Section	)	
251(g) and for Forbearance from the Rate	)	
Averaging and Integration Regulation	)	
Pursuant to Section 254(g)		

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation, pursuant to the Public Notice released on May 5, 2006 (DA 06-989), hereby respectfully submits its comments in support of the above-captioned Petition for Forbearance of Core Communications, Inc. ("Core"). As discussed below, Sprint Nextel firmly supports the call for immediate reform of the existing irrational system of intercarrier compensation, and agrees that adoption of a unified system based on Section 251(b)(5) reciprocal compensation arrangements is in the public interest. Such reform must be comprehensive (specifically covering IP-enabled services), and mandated with sufficient detail to ensure smooth implementation. Sprint Nextel further agrees that a unified intercarrier compensation system, coupled with a competitive interexchange marketplace, render the existing rate averaging and integration requirements superfluous.

I. IMMEDIATE REFORM OF THE INTERCARRIER COMPENSATION REGIME IS CRITICAL.

In its petition, Core has explained that the multitude of intercarrier compensation regimes, which irrationally distinguish between technically identical network usage on

the basis of jurisdiction (local, MTA, intrastate, or interstate), traffic type (interexchange, local, ISP-bound, or wireless), and technology (TDM or IP), enables "regulatory arbitrage" and fosters a system of implicit, anti-competitive subsidies (p. 3). Core accordingly requests (p. 1) that the Commission forbear from the rate regulation preserved by section 251(g) of the Act, and instead subject all telecommunications carriers to section 251(b)(5) (reciprocal compensation arrangements).

Sprint Nextel emphatically supports Core's call for reform here. There can be no dispute that the existing agglomeration of intercarrier compensation mechanisms is irreparably dysfunctional, causing severe competitive distortions, generating hundreds of millions of dollars of billing disputes, slowing the move to converged networks (since the current system requires the deployment of separate networks for separate services), and resulting in uneconomic pricing and investment decisions. Sprint Nextel accordingly endorses Core's recommendation that the Commission replace this irrational mix of intercarrier compensation schemes with a unified system based on Section 251(b)(5) reciprocal compensation arrangements.

Both Congress and the Commission have made it clear that the legacy intercarrier compensation arrangements are temporary, to remain in effect only until such time as the Commission adopts new and improved regulations. Section 251(g) explicitly states that the existing grandfathered regulations would eventually be "superceded" by alternative regulations prescribed by the Commission. Although it did not dictate the final form of those alternative regulations to the Commission, Congress did, in Section 251(b)(5), obligate all local exchange carriers to "establish reciprocal compensation arrangements for the transport and termination of telecommunications." Since passage of the 1996 Act,

the Commission has repeatedly expressed its intent to identify and implement a unified approach to intercarrier compensation -- in the *Local Competition* proceeding;[1] in the *Unified Intercarrier Compensation* proceeding;[2] and in the *ISP Remand* proceeding.[3] Although the preferred course of action would be for the Commission to act upon the voluminous record in the *Unified Intercarrier Compensation* proceeding (which was initiated 5 years ago and remains pending today), Sprint Nextel has reluctantly come to agree with Core (p. 4) that forbearance now seems to be the only tool available to break the logjam and achieve broad, much-needed reform.

Sprint Nextel vigorously supports Core's call for reform and the shift to a unified system of reciprocal compensation, and offers two additional recommendations. First, the Commission must base and explain the grant of Core's petition in a reasoned fashion, not through an unexplicated default grant. To avoid implementation difficulties, the

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[1] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 15499, 16012 (para. 1033) (1996) ("rates that local carriers impose for the transport and termination of local traffic and for the transport and termination of long distance traffic should converge"). In this proceeding, the Commission adopted a new rule (47 C.F.R. Section 51.705), which specified that ILECs' reciprocal compensation rates for transport and termination of telecommunications traffic were to be based on forward-looking economic costs, default proxies, or a bill-and-keep arrangement..

[2] *Developing a Unified Intercarrier Compensation Regime*, *Notice of Proposed Rulemaking*, 16 FCC Rcd 9610, 9624 (para. 36) (2001) (among other things, seeking comment "on the possible advantages and disadvantages of moving to a single, unified approach to intercarrier compensation"); *Further Notice of Proposed Rulemaking*, 20 FCC Rcd 4685, 4686 (para. 1) (2005) (beginning the process of "replacing the myriad existing intercarrier compensation regimes with a unified regime...").

[3] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*; *Intercarrier Compensation for ISP-Bound Traffic*, 14 FCC Rcd 3689 (1999); *Order on Remand*, 16 FCC Rcd 9151, 9197 (para. 93) (2001) (record in this proceeding "does not lead us to conclude that any system architectures or technologies widely used by LECs result in material differences between the cost of delivering ISP-bound traffic and the cost of delivering local voice traffic"; therefore, there is no reason "to distinguish between voice and ISP traffic with respect to intercarrier compensation").

Commission's order must provide definitive guidance about such matters as incorporating access traffic into interconnection agreements; the exact scope of the forbearance action (which specific telecommunications services are subject to reciprocal compensation rates); the timing of the shift to reciprocal compensation; the mechanics for determining the appropriate reciprocal compensation rates; etc.

Second, any intercarrier compensation reform taken by the Commission must explicitly address and encompass VoIP.[4] Service providers and customers are moving to IP platforms at an astonishing rate, and silence on the Commission's part as to the applicability of reciprocal compensation arrangements to VoIP traffic will sow confusion and disputes. Sprint Nextel would emphasize that there are no economic, technical, or functional equivalency reasons to hold VoIP traffic outside a unified reciprocal compensation mechanism.

Holding VoIP traffic outside a unified Section 251(b)(5) reciprocal compensation system would also be legally problematic. Section 251(g) grandfathered existing compensation arrangements in effect immediately preceding the date of enactment of the 1996 Act; the reciprocal compensation requirement codified in Section 251(b)(5) governs the transport and termination of all other telecommunications services. Thus, VoIP services introduced after adoption of the 1996 Act logically are subject to Section

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[4] Section 251(b)(5) applies to the transport and termination of "telecommunications." The Commission has yet to determine VoIP's regulatory status as a telecommunications or information service (see *IP-Enabled Services*, 19 FCC Rcd 4863 (2004)), although it has found that a particular subset of VoIP traffic (phone-to-phone VoIP that involves no net protocol conversion, uses ordinary CPE, and originates and terminates on the PSTN) is a telecommunications service (see *Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, 19 FCC Rcd 7457 (2004)).

251(b)(5). The US Court of Appeals has upheld this view, stating that "[o]n its face, Section 251(g) appears to provide simply for the 'continued enforcement' of certain pre-Act regulatory 'interconnection restrictions and obligations' ... until they are explicitly superceded by Commission action implementing the Act."[5] However, "...nothing in Section 251(g) seems to invite the Commission's reading [carving out from Section 251(b)(5) calls made to ISPs], under which (it seems) it could override virtually any provision of the 1996 Act so long as the rule it adopted were in some way, however remote, linked to LECs' pre-Act obligations."[6] This reasoning applies with equal force to VoIP, and the Commission therefore should avoid any temptation to "carve out" VoIP traffic from Section 251(b)(5).

II. RATE AVERAGING AND INTEGRATION REQUIREMENTS WOULD BE UNNECESSARY AFTER IMPLEMENTATION OF A UNIFIED INTERCARRIER COMPENSATION SYSTEM.

In its petition (pp. 8-9), Core also requests that the Commission forbear from enforcing the geographic rate averaging and rate integration policies codified in Section 254(g) of the Act, since these requirements force IXCs to "bear the burden of averaging on a nationwide basis the vastly different per-minute switched access rates charged by LECs, which get to maintain high access rates without having to flow costs through to their customers." Sprint Nextel agrees, and submits that mandatory enforcement of the rate averaging and integration requirements will no longer be necessary upon implementation of a unified intercarrier compensation regime.

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[5] *Worldcom, Inc. v. FCC,* 288 F.3d 429, 432 (D.C. Cir. 2002).
[6] *Id.* at 433.

There can be no dispute that the interexchange market is fully competitive, with multiple intermodal service providers offering a broad array of service plans. Under such market conditions, rate averaging and integration rules are unnecessary if the underlying access charges are uniform and based on a rational compensation mechanism. However, under the current intercarrier compensation regime, some local exchange carriers assess very high access charges (particularly for intrastate access), which are masked by rate averaging and integration. Those LECs are insulated to a significant degree against pressure to reduce high access rates, because those rates remain hidden to consumers by the averaging/integration process. The continued mandatory enforcement of rate averaging and integration rules thus skews economic signals by preventing cost-based pricing and perpetuating competitive imbalances.[7]

In contrast, implementation of a unified intercarrier compensation mechanism would reduce IXCs' incentives to price toll services differently based on the underlying access charges, and thus would moot the need for rate averaging and integration. Even if certain non-access geographic cost differences remain after implementation of a unified system of intercarrier compensation, elimination of the rate averaging and integration requirements is unlikely to result in dramatically higher rates to consumers in high-cost regions. Nationwide long distance carriers may well choose to continue to offer at least some geographically averaged and integrated calling plans because such plans present the fewest back office (billing system, customer service, etc.) challenges, and can be advertised nation-wide. "Anytime/anywhere" calling plans offered by wireless service

[7] A stand-alone national IXC that is forced to average and integrate its rates could be at a competitive disadvantage vis-à-vis an IXC affiliated with a local service provider that can

Footnote continued on next page

providers, block-of-time bundled local and long distance calling plans offered by local telephone companies, and prepaid calling cards all constitute economical alternatives to consumers who find that a deaveraged/non-integrated long distance calling plan does not meet their calling needs.

In short, giving IXCs that have no market power the flexibility to set their rates as they see fit will benefit competition, promote the removal of implicit subsidies from access rates, and will not harm consumers.

Respectfully submitted,

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subsidize its long distance operations with above-cost access rates.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Comments of Sprint Nextel Corporation** was delivered by electronic mail, or First Class, postage prepaid, U.S. Mail on this 5th day of June 2006 to the below-listed parties.

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