Sprint
Together with NEXTEL

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Marlene H. Dortch
Secretary
Federal Communications Commission
TW-A325
445 12th St., SW
Washington, D.C. 20554

Re: Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; IP-Enabled Services, WC Docket No. 04-36

Dear Ms. Dortch:

On August 6, 2008, a coalition of companies and industry associations[1] submitted a letter in the above-captioned proceedings urging the Federal Communications Commission (FCC or Commission) to address intercarrier compensation for Internet Protocol (IP)-based services. Signatories urged the Commission to reaffirm that all IP-based voice services are subject to exclusive federal jurisdiction, and to adopt, pending implementation of comprehensive intercarrier compensation reform, a unified terminating rate for all traffic exchanged with or on the public switched telephone network (PSTN) -- including IP-based traffic -- that is "no higher than … $.0007 per minute" and to allow "appropriate alternative recovery mechanisms, if needed." Sprint Nextel here re-iterates its support for an interim capped rate of $.0007, and for the reaffirmation of federal jurisdiction over IP-based voice services. We also explain below our views on whether "alternative recovery mechanisms" are needed, and describe the appropriate scope of "comprehensive" intercarrier compensation reform.

Appropriate Alternative Recovery Mechanisms

As an initial matter, Sprint Nextel rejects the notion that any carrier or class of carrier is automatically entitled to a guaranteed revenue stream to neutralize the impact of regulatory reforms. We recognize that a unified maximum terminating rate of $.0007 is lower than the rates some local exchange carriers (LECs) currently impose for certain traffic exchanged with the PSTN. However, in considering whether, or the extent to which, alternative recovery mechanisms are warranted, the Commission must bear in mind the following precepts:

[1] Besides Sprint Nextel, this coalition includes AT&T, CTIA, CompTIA, Global Crossing, Information Technology Industry Council, National Association of Manufacturers, New Global Telecom, PointOne, TIA, T-Mobile, Verizon, and the VON Coalition.

1. Carriers are not entitled to replacement of revenue reductions caused by exchanging traffic at a capped rate of $.0007 rather than at higher rates.
2. The federal Universal Service Fund (USF) is not and should not be a "make whole" mechanism for any carrier.
3. A provider's overall portfolio of revenue sources and operations – for both its regulated services and its total corporate operations – should be considered in evaluating the need for any alternative recovery mechanisms.
4. An appropriate alternative recovery mechanism must promote competition.

In evaluating whether any alternative recovery mechanism is even necessary, the Commission should consider the overall operations and opportunities of the corporate entity as a whole, not just its local exchange operations. Carriers provide numerous services – such as broadband, video, wireless, voice over IP (VoIP), and Internet Service Provider (ISP) services -- over networks built in large part with USF subsidies and earnings from inflated access charges. Furthermore, revenue reductions experienced by a LEC in many cases translate directly into cost reductions to the LEC's long distance and/or wireless affiliates.[2] Thus, it is only reasonable to consider the overall corporate situation in assessing the need for any alternative recovery mechanism.

After taking into consideration the kind of factors discussed above, it is conceivable that no alternative recovery mechanism is necessary at all. Nevertheless, to the extent that a provider can justify and demonstrate a specific need for additional revenues, the only rational, pro-competitive mechanism is a modest loosening of regulatory restrictions on end user charges. Minor increases in federal subscriber line charge (SLC) caps (or, at a minimum, allowing price cap LECs to charge SLCs at least equal to existing caps) and setting local service rates at a reasonable national benchmark level would provide ILECs with a substantial revenue stream that is potentially greater than the revenue change associated with a uniform $.0007 rate; links cost recovery with cost causation more closely; and is consistent with the precepts listed above.

The Commission should resist any suggestion that the USF be used as a "make whole fund" for ILECs or any other class of carrier.[3] It is obviously and grossly inequitable to provide this type of revenue guarantee to only a limited number or type of carrier, and such

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[2] For example, exchanging VoIP-PSTN traffic at a maximum $.0007 rate per minute may reduce a provider's LEC revenues if it was exchanging such traffic at a higher rate (although, since the Commission has never explicitly stated what rates apply to VoIP-PSTN traffic, there is no "lost" revenue at all if LECs charge a maximum $.0007 for this traffic). However, a maximum $.0007 rate will also reduce expenses (for direct traffic termination and for resold long distance services) of its long distance and/or wireless affiliates. It makes no sense to consider "lost" LEC revenues but to ignore related expense reductions.

[3] Sprint Nextel is unaware of any situation in which the Commission has adopted any sort of alternative recovery mechanism for CLECs, wireless carriers, or long distance carriers that were adversely affected by regulatory changes.

guarantee could irretrievably damage competition in the local, long distance and wireless markets. Moreover, adoption of this sort of guarantee could cause the USF to balloon to an unsustainable size, destabilizing the fund and causing an unacceptable increase in end user USF surcharges. Nor should the Commission even consider inter-carrier transfers as a means of managing USF fund size -- it would be blatantly contrary to the public interest to, for example, make ILECs whole by transferring USF support currently provided to competitive eligible telecommunications carriers (ETCs) to incumbent LECs. So-called reforms that target specific carriers or a specific class of carrier (including "interim" caps on high-cost USF to competitive ETCs; elimination of the equal support rule; and wireless industry-only reverse auctions) violate the Commission's long-held principles of competitive and technological neutrality, and should be rejected outright.

Scope of "Comprehensive" Reform

Much of the focus of "comprehensive" intercarrier compensation reform efforts has been on switched access rates and what rate(s), if any, should apply to different types of traffic. Sprint Nextel certainly agrees that the plethora of intercarrier compensation regimes has caused rampant uneconomic arbitrage, and that it remains critically important for the Commission to rationalize the intercarrier compensation regimes associated with switched traffic.

Of even greater importance than rationalizing arrangements for the exchange of voice traffic, but routinely ignored in most "comprehensive" reform proposals, are measures necessary to address the market failure that plagues other categories of intercarrier compensation – in particular, for special access arrangements. Special access is a critical and extremely costly element in the provision of competitive telecommunications services, and large ILECs' interstate special access revenues now exceed switched access revenues by almost 40% -- $17.067 billion for special versus $11.945 billion for switched in 2007.[4] Rates currently charged for special access services substantially exceed just and reasonable levels, as evidenced by ILECs' earned rates of return for special access, which are stratospheric and climbing.[5] As is crystal clear from the record in the special access proceeding,[6] the special access market is not competitive, and the rates charged by the near-monopoly ILECs must be subjected to stringent regulatory pricing discipline to bring them

[4] *See* FCC Industry Analysis Division, "*Basic Financial Data for 2007 for Large ILECs*," http://fjallfoss.fcc.gov/eafs7/preset/basicfinancialdata/BFD_Result.cfm

[5] According to their ARMIS reports (Form 43.01), AT&T, Verizon and Qwest earned the following rates of return for interstate special access services for the past 3 years:

	2005	2006	2007
AT&T	94%	100%	138%
Verizon	41%	51%	62%
Qwest	109%	132%	175%

[6] *Special Access Rates for Price Cap Local Exchange Carriers*, WC Docket No. 05-25 (*see, e.g., ex parte* presentation filed by Sprint Nextel on August 22, 2007).

down to just and reasonable levels. Excessive special access rates affect end user rates, as well as independent (non-ILEC-affiliated) carriers' ability to invest in their network and in new service offerings. The public interest requires that the Commission take action to ensure that special access rates, as well as the terms and conditions associated with provision of these services, are just and reasonable as required under Section 201(b) of the Act, 47 U.S.C. § 201(b). Sprint Nextel therefore urges the Commission to incorporate special access reform in its comprehensive intercarrier compensation analysis.

I request that this letter, which is being filed electronically, be placed in the file for the above-captioned proceedings.

Please contact me at (703) 433-4503 with any questions.

Sincerely,

Norina Moy

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