Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Business Broadband Marketplace	)	WC Docket No. 10-188

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation ("Sprint"), pursuant to the Public Notice released on September 15, 2010, (DA 10-1743), hereby respectfully submits its comments in the above-captioned proceeding. In this Public Notice (p. 1), the Commission has asked for comment on "the current state of, and trends and issues in, business broadband markets." As with other broadband markets, Sprint remains concerned that continued dominance by the large incumbent local exchange carriers over critical inputs to the business broadband market threatens viable competition. The failure of the current regulatory structure to address these barriers to competition is harming businesses, the economy, and the rapid roll out of additional broadband services.

I. INTRODUCTION

Sprint is both a provider of wireless and wireline broadband services to business customers, and a major purchaser of special access, which is a critical input to broadband facilities. Sprint's business customer base includes single-location mom-and-pop operations, medium-sized companies, multi-national corporations, and federal and state government entities. Sprint itself also is one of the largest special access customers in the Nation, purchasing these dedicated facilities to connect its approximately 60,000 cell

sites and 133,000 wireline enterprise customer sites to its backbone network. Sprint is thus well situated to offer the following observations:

- The provision of business broadband service is dependent upon access to dedicated special access facilities at just and reasonable rates, terms and conditions. The excessive rates and onerous terms for these special access facilities severely impact Sprint's ability to provide broadband services and the development of a competitive broadband market. Sprint highlights below specific examples (which we believe to be representative) of a major business deal in which Sprint was underbid *due entirely to its special access cost disadvantage vis-à-vis the RBOC affiliates,* and of numerous cases in which AT&T and Verizon have offered retail business customers special access facilities at a fraction of the wholesale access rates available to Sprint.

- Businesses of all sizes want and need broadband services to perform a range of tasks, from credit card swipes to email to massive data file transfers. Despite the increase in data demand, the vast majority of these business broadband services continue to rely on DS1 and DS3 special access facilities.

II. THE LACK OF JUST AND REASONABLY PRICED SPECIAL ACCESS FACILITIES CONTINUES TO HAVE A DELETERIOUS IMPACT ON THE DEVELOPMENT OF A COMPETITIVE BUSINESS BROADBAND MARKET

A key input to broadband services is dedicated access facilities – the circuits that connect an individual site or a multiplexed hub to the interexchange carrier's backbone network or to the Internet. As Sprint and others have documented,[1] the market for the provision of dedicated access facilities remains a virtual monopoly, particularly for DS-1 and DS-3 circuits. In the overwhelming majority of cases, these circuits are available

[1] *See, e.g.,* Sprint's comments and reply comments in WC Docket No. 05-25 dated June 13, 2005; July 29, 2005; August 10, 2007; August 15, 2007; January 20, 2010; and February 24, 2010. *See also* Sprint's comments in GN Docket Nos. 09-47, 09-51 and 09-137 (Impact of Middle and Second Mile Access on Broadband Availability and Deployment; A National Broadband Plan for Our Future; Inquiry Concerning the Deployment of Advanced Telecommunications capability to All Americans) filed November 4, 2009.

only from incumbent local exchange carriers at excessively high rates and unreasonable terms and conditions.

To say that the RBOCs' near-monopoly in the wholesale special access market has had and is continuing to have a deleterious impact on the competitiveness of the retail broadband market is far from mere rhetoric. As demonstrated in the real-world examples below (which Sprint has found to be representative of the market in general), AT&T and Verizon frequently underbid Sprint in the highly competitive *retail* business market purely as a result of the inflated special access rates Sprint is forced to pay primarily to AT&T, Verizon and other incumbent local exchange carriers. AT&T and Verizon thus leverage their inflated special access rates to undermine the retail business market.

Even where Sprint's internal network and operational costs are below those of the wireless and interexchange AT&T or Verizon entities, the disparity in special access expense is so wide that the RBOC affiliates are able to under-bid Sprint by up to 20%. Indeed, in the example below, the special access expense that Sprint would have incurred to provide service under this contract was almost equal to Verizon's *total* service bid (access plus port charges). It is difficult to imagine how competition in the retail broadband market can be sustained – much less expanded -- if a critical broadband service input continues to be available only at monopoly rates and terms.

The Federal government Networx contract, for which competitive bid and access cost data are publicly available, demonstrates the effect of excessively priced access

facilities on retail competition.[2] The Networx bids analyzed by Sprint have two components – an access fee (for the special access facilities required by the customer to reach the IXC's network or the Internet), and a port charge (which recovers the costs associated with using the IXC's network). The examples below show that, overall, the retail access prices offered by the incumbent AT&T and Verizon LECs to business end users were substantially below the wholesale access price available to Sprint. This disparity was so significant that AT&T and Verizon were able to submit retail price bids for both the access fee and port charge that were not much higher than the charges they imposed on Sprint for special access alone.

In 2008, Verizon won a Networx contract to provide service to a Federal government agency ("Department ABC") with 28 sites for the fiscal year ending September 30, 2010. As summarized in Table 1 below, Verizon's access monthly recurring charge (MRC) for the combination of DS3s and DS1 circuits needed by the customer was *less than half* of the access charge MRC bid by Sprint, *even though Sprint's bid for the access portion was set at almost 38% below Sprint's cost.* This gross disparity in access expense held true in all but one of the sites associated with this contract; there is no evidence to suggest that either Verizon or AT&T was incurring a loss in one location and making up for it at another location – they enjoyed an enormous access cost advantage over Sprint in 27 of the 28 sites involved.

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[2] *See* http://www.gsa.gov/portal/content/104870 for a description of the GSA-administered Networx program. Tables 1-3 below are based on information from the publicly available Networx Pricer Tool, https://releasedprices.networx.gov/unit/.

Even though Sprint's monthly port charge (the interexchange portion of the service) was lower than either Verizon's or AT&T's, Sprint's internal efficiencies were insufficient to overcome its dramatic special access cost disadvantage. In fact, for Sprint to have matched Verizon's access bid alone, Sprint would have had to provide its network services for free – hardly a sustainable business model.

Table 1
"Dept. ABC" Networx Bids

	Verizon	**AT&T**	**Sprint**
Access MRC	$ 5,649.78	$ 8,594.00	$12,474.59*
Port MRC	$15,876.04	$15,736.10	$14,296.26

* Sprint's access MRC bid was less than the cost it would actually have incurred

This Networx contract is *not* atypical. Sprint also performed an analysis of special access (DS1 and DS3) charges at several dozen sites for which Sprint, the AT&T IXC, and the Verizon IXC each submitted a Networx bid. In each of the sites included in the analysis, either AT&T or Verizon was the incumbent LEC.[3] Sprint compared AT&T's and Verizon's Networx access facility bids to the access costs Sprint would have incurred for DS1 or DS3 facilities provided by the AT&T or Verizon ILEC. As summarized in Tables 2 and 3 below, Sprint's average wholesale access expense (charges assessed by the AT&T or Verizon LEC) was significantly higher than the retail access charges bid by AT&T and Verizon – up to a 49% differential for Verizon, and up to a 27% differential for AT&T.

[3] The end office sites were chosen to demonstrate pricing by several different AT&T and Verizon LEC operating companies (*i.e.*, Ameritech, BellSouth, Pacific Bell, Southwestern Bell, Bell Atlantic, and Nynex), but were otherwise randomly selected.

In other words, the AT&T and Verizon IXCs are in a position to underbid Sprint by a huge factor purely on the basis of their access cost advantages from their respective ILEC affiliates. This pattern held true in almost all of the sites surveyed by Sprint. Here again, it is difficult to imagine how retail competition in the business broadband services market can flourish if the monopoly providers of essential input facilities are allowed to price such facilities at unjust and unreasonable levels for downstream carriers that happen to be competitors of their wireless or interexchange affiliates.

Table 2
Networx Cost Comparison
DS1 Access Facilities

Sites where VZ is the ILEC:	
Avg VZ Networx price (price VZ charges retail customers)	$179.47
Avg Sprint access cost (price VZ charges competitors)	$353.37
Difference	($173.90), or -49.21%
Sites where AT&T is the ILEC:	
Avg AT&T Networx price (price AT&T charges retail customers)	$236.68
Avg Sprint access cost (price AT&T charges competitors)	$324.49
Difference	($87.81), or -27.06%

Table 3
Networx Cost Comparison
DS3 Access Facilities

Sites where VZ is the ILEC:	
Avg VZ Networx price (price VZ charges retail customers)	$2072.42
Avg Sprint access cost (price VZ charges competitors)	$3377.67
Difference	($1305.25), or -38.64%
Sites where AT&T is the ILEC:	
Avg AT&T Networx price (price AT&T charges retail customers)	$2840.15
Avg Sprint access cost (price AT&T charges competitors)	$3576.20
Difference	($736.05), or -20.58%

III. CHARACTERISTICS OF THE BUSINESS BROADBAND MARKETPLACE

In the instant Public Notice (p. 3), the Commission has asked for comment on "transmission services, technologies, and types of facilities…used in the business broadband marketplace." Despite incumbent LEC claims to the contrary, the vast majority of circuits required for the provision of business broadband service continue to be DS1 and DS3s. While Ethernet and higher bandwidth facilities are certainly also critical inputs, the provision of business broadband will continue to require access to DS1 and DS3 circuits on just and reasonable terms.

To address this question, Sprint reviewed one of its internal databases for information on access facilities used to connect business customers to Sprint's global MPLS (Multiprotocol Label Switching) platform. Global MPLS is used to connect multiple locations and mobile devices, converging voice, video and data onto a single IP-based network. Sprint analyzed one of its largest Global MPLS hubs, and found that approximately 875 business customers connect thousands of sites to the Sprint network at this hub using everything from a 56 kbps circuit to multi-Gigabit facilities. The very largest circuits (above an OC-3) are used primarily by Sprint itself and its wholesale carrier customers. Sprint's retail customers at this hub include small end users that connect to the global MPLS platform via a single 56 kbps circuit; a Fortune 500 retail chain that uses a combination of 384 kbps, 512 kbps and T-1 circuits; a law firm that has one DS3; and a major energy company that uses a combination of T-1s, DS-3s, and OC-3 facilities. Table 4 summarizes the types of facilities by bandwidth used at this hub to reach the Sprint global MPLS platform.

Table 4
Access Facilities by Bandwidth

Below 512 kbps	839
Below 1024 kbps	208
T-1s	4511
DS-3s	175
Fractional DS-Ns (1.9 thru 25 Mbps)	153
OC-Ns	111
Over 1 Gbps	47

Note: vast majority of largest facilities (above OC-3) are used by Sprint or its wholesale carrier customers rather than retail business customers

As is clear from Table 4, Sprint's retail broadband business customers rely very heavily on circuits with DS3 capacity and below - the very facilities over which incumbent LECs such as AT&T and Verizon have the greatest competitive stranglehold - to meet their broadband service needs. Sprint expects these customers will continue to rely upon T-1s and DS-3s over the next several years. Thus, it is imperative that the Commission address excessive rates and onerous terms and conditions imposed by incumbent LECs for the purchase of these special access facilities. Furthermore, to the extent that the Commission finds that business customers will come to rely upon Ethernet access, it must take steps to ensure that Ethernet access also is available at just and reasonable rates, terms and conditions.

IV. CONCLUSION

As is clear from the competitive bid and provisioning information set forth above, a viably competitive retail business broadband market is possible only if dedicated special access facilities are available on just and reasonable rates, terms and conditions. Verizon, AT&T and other incumbent LECs' exercise of near-monopoly power in the provision of special access services – particularly DSn facilities, which are now and for

the foreseeable future will continue to be critical inputs to broadband service – harms competition and impedes the roll-out of competitive broadband services, harms broadband business customers, and harms the economy in general. The Commission must therefore act now to ensure that special access services are provided at reasonable, cost-based rates and reasonable terms.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of Sprint Nextel Corp. was filed electronically or via US Mail on this 15th day of October, 2010 to the parties listed below.

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