



December 16, 2011

Via Electronic Submission

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St., SW, Room TW-A325
Washington, DC 20554

**Re: Ex Parte Communication
WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51;
CC Docket Nos. 01-92 and 96-45; and WT Docket No. 10-208**

Dear Ms. Dortch:

On December 14, several local exchange carriers filed *ex parte* letters in the above-referenced dockets requesting changes to the rules relating to immediate application of a bill-and-keep mechanism for non-access traffic exchanged between LECs and CMRS carriers.¹ These LECs recommended the following alternatives: that bill-and-keep for this traffic be phased in over a 6-year period; that bill-and-keep be delayed until July 1, 2012; or that the access recovery mechanism be revised to ensure that LECs are reimbursed in full for any net reciprocal compensation loss incurred between December 29, 2011 – June 30, 2012.² The Commission should reject each of these alternatives.

The Commission correctly found that bill-and-keep will generate significant economic, administrative and consumer benefits, and that replacing the current intercarrier compensation system with a bill-and-keep mechanism is in the public interest.³ Sprint vigorously agrees. Because bill-and-keep is so much more rational and efficient than the imposition of inflated per minute charges, its implementation should be expedited rather than slowed down.

Rejection of the LECs' demands to defer bill-and-keep for non-access LEC-CMRS traffic is warranted for several reasons. First, the public record contains no information demonstrating that implementation of bill-and-keep on December 29 for this traffic will have a "significant,

¹ See *ex parte* letter from Karen Brinkman PLLC on behalf of CenturyLink, FairPoint Communications Inc., Frontier Communications Corp. and Windstream Communications, Inc., to Marlene Dortch, FCC ("ILEC Letter"); and *ex parte* letter from Michael Romano, NTCA, to Marlene Dortch, FCC ("NTCA Letter").

² ILEC Letter, pp. 3-4; NTCA Letter, p. 1 (recommending delay until July 1, 2012).

³ See, e.g., *Connect America Fund; A National Broadband Plan for our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform-Mobility Fund, Report and Order and Further Notice of Proposed Rulemaking*, released November 18, 2011 ("USF/ICC Reform Order"), para. 741.

measurable negative financial impact” on LECs.⁴ Insofar as Sprint is aware, the LECs made this claim for the first time in their December 14 letter; because this letter was redacted, interested parties have no ability to evaluate the LECs’ claim.

Second, the letter is devoid of any information, redacted or otherwise, of the impact of the LECs’ proposed rule change on other carriers and consumers. While the LECs may attempt to ignore the fact that a change in a payment mechanism impacts both sides to a transaction, the Commission must consider the impact of a proposed rule change on *both* the payer and the payee.

Third, the Commission has emphasized the importance of transparent, fact-based decision making. The last-minute lobbying by the LECs here, based upon unsubstantiated financial impact estimates not available for review by other parties, is not conducive to thorough and considered decision making. Hasty decisions based upon incomplete information could well have a ripple effect of potentially significant unintended consequences.

Fourth, the Commission’s ICC/USF reforms were appropriately made within a USF “budget.” Assuming *arguendo* that there is any merit to the argument that LECs are entitled to guaranteed revenue streams, the Commission must bear in mind that granting the LECs’ request for additional revenue replacement subsidies could “bust the USF budget” and upset the careful balance which the Commission has attempted to craft. There has been no discussion of how additional subsidies to LECs would be funded, or any consideration of what impact giving more money to LECs would have on other USF recipients, on other carriers’ broadband deployment initiatives, and on American consumers who ultimately pay the USF surcharge.

If, contrary to Sprint’s recommendation, the Commission does conclude that a delay in the effective date of bill-and-keep for non-access LEC-CMRS traffic is warranted, any such delay should be brief – no later than July 1, 2012 – and should be contingent on no further delays caused by prolonged implementation of change-in-law provisions. In Sprint’s experience, implementation of change-in-law provisions in interconnection agreements can drag on for months, even years. To avoid this clearly unacceptable outcome, the Commission should direct carriers to automatically implement bill-and-keep – that is, to cease sending invoices -- for this traffic on July 1, 2012. This approach has the added benefit of relieving LECs of the burden of re-negotiating hundreds of agreements with CMRS carriers as they pertain to intercarrier compensation for non-access traffic. Any change-in-law negotiations relating to other aspects of the *ICC/USF Reform Order* will proceed in accordance with the Order.

⁴ ILEC Letter, p. 2.

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Pursuant to Section 1.1206 of the Commission's Rules, a copy of this letter is being filed electronically in the above-referenced dockets. If you have any questions, please feel free to contact me at (703) 433-4503.

Sincerely,

/s/ Norina T. Moy

Norina T. Moy
Director, Government Affairs

c: Randy Clarke
Rebekah Goodheart
Victoria Goldberg
Albert Lewis