

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Information Collection(s) Being Reviewed by the) 78 Fed. Reg. 9911
Federal Communications Commission,)
Comments Requested)

**PAPERWORK REDUCTION ACT COMMENTS
OF SPRINT NEXTEL CORPORATION**

Sprint Nextel Corporation (“Sprint”) hereby responds to the Commission’s Federal Register Notice seeking comment on the application of the Paperwork Reduction Act (“PRA”) to the Commission’s Comprehensive Market Data Collection for Special Access Services (“Data Request”).¹

The PRA serves to “minimize the paperwork burden for” respondents to an information collection.² Agencies that collect information must (1) estimate the burden of proposed information collections, (2) justify the need for the collection, and (3) certify that the collection is necessary for the proper performance of agency functions.³ The Office of Management and Budget (“OMB”) Director must then independently assess the rule and determine whether the information collection “is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility.”⁴ The Commission, prior to

¹ *Information Collection(s) Being Reviewed by the Federal Communications Commission, Notice and Request for Comments, 78 Fed. Reg. 9911-01 (Feb. 12, 2013) (“FR Notice”)* (requesting comment on the PRA implications of the special access data request).

² 44 U.S.C. § 3501(1).

³ *See* 44 U.S.C. § 3506(c).

⁴ 44 U.S.C. § 3508.

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submitting the Data Request to the OMB Director, has sought comment on each of the three PRA objectives.⁵ As explained below, the Data Request meets each objective.

First, the Commission's estimated annual burden for the Data Request – 134 hours per respondent – is certainly reasonable and may be too high. Sprint has significant insight into the time needed to respond to the matters contained in the Data Request because it responded to two prior FCC voluntary special access data requests that covered similar topics.⁶ Based on this experience, Sprint believes that only a small number of very large respondents, like Sprint, will need more than the FCC's reasonable estimate of 134 hours⁷ to respond. The vast majority of respondents are likely to need substantially less than 134 hours to respond to the Data Request.

A handful of very large companies, like Sprint, will need additional time because their responses will require them to analyze a large number of special access lines and report on purchases from a larger group of vendors (while Sprint purchases the vast majority of its DS-1 and DS-3 circuits from incumbent LECs, it also purchases some lines from a set of smaller providers in the few areas where those providers offer service), under a wide variety of tariffs and plans. Conversely, the vast majority of potential respondents will file responses related to only a relatively small number of special access circuits, purchased from only one or two vendors, under only one or two tariffs or plans. In fact, in the case of special access sellers, other than the top twenty U.S. sellers in terms of on-net buildings, it is unlikely that any vendor has

⁵ FR Notice at 9911.

⁶ See *Competition Data Requested in Special Access NPRM*, Public Notice, 26 FCC Rcd. 14000 (2011); *Data Requested in Special Access NPRM*, Public Notice, 25 FCC Rcd. 15146 (2010).

⁷ FR Notice at 9911.

even 1,000 total owned-and-operated circuits to report to the FCC.⁸ Thus, Sprint is confident that the average respondent will require significantly less than 134 hours to respond to the Data Request.

Second, the Commission has provided ample justification for the information collection. As the FCC has stated, it will use this “comprehensive data collection” to “evaluate competition in the market for special access services.”⁹ This is a critical evaluation that is long overdue. Special access circuits connect Fortune 500 companies, small employers, hospitals, schools, technology innovators, and wireless facilities – a \$10-\$20 billion market per year.¹⁰ Special access purchasers have suffered from supra-competitive prices and anticompetitive terms and conditions for years because the Commission’s rules are out of date.

The Data Request seeks information that a wide variety of parties – buyers, sellers, incumbents, and competitors alike – agree will help the FCC resolve this long-running proceeding.¹¹ The comprehensive nature of the Data Request’s facilities and pricing data will provide the FCC with important information about whether competitive entry has disciplined

⁸ See *Metro Fiber and On-Net Buildings List*, TELECOM RAMBLINGS (July 2012) (listing the number of on-net buildings per vendor), <http://www.telecomramblings.com/metro-fiber-provider-list/> (last visited Apr. 9, 2013).

⁹ *Special Access for Price Cap Local Exchange Carriers*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd. 16318, ¶ 1 (2012).

¹⁰ See Reply Comments of Sprint Nextel Corporation at 14, WC Docket No. 05-25 (filed Mar. 12, 2013).

¹¹ See Comments of Sprint Nextel Corporation at 2, WC Docket No. 05-25 (filed Feb. 11, 2013) (“The FNPRM, along with the accompanying Report and Order and mandatory data request... will, hopefully, lead to much needed reform of special access regulation”); Comments of AT&T Inc. at 10, WC Docket No. 05-25 (filed Feb. 11, 2013) (“In the *Notice*, the Commission properly determined that it will gather the full range of facilities data necessary for a rigorous evaluation of its pricing flexibility rules...”); Comments of Verizon and Verizon Wireless at 9, WC Docket No. 05-25 (filed Feb. 11, 2013) (“[T]he Commission has asked for data that will help it to analyze the competitive dynamics of the high-capacity marketplace...”).

incumbent LEC behavior. This information is at the heart of the FCC's competition analysis methodology, and the FCC is justified in asking these questions.¹² The Data Request also includes questions on incumbent LEC terms and conditions. Sprint believes that the FCC could conduct its analysis of terms and conditions without gathering additional data, and that it can act now to declare certain types of terms and conditions unjust and unreasonable. But if the Commission believes that gathering data on terms and conditions will contribute to the competitive analysis it will undertake as part of reforming special access triggers or rates, it is justified in including questions about terms and conditions in the Data Request.

If the Commission determines that it should reduce the compliance burden for parties further, there is one element of the Data Request that it could remove. The FCC seeks data on "best-efforts broadband" services. Sprint has explained that it believes that this data is not necessary for the Commission to conduct its competition analysis. If the Commission finds that it must reduce filing burden, it should eliminate this portion of the Data Request.

Third, the Data Request is necessary for the proper performance of the Commission's functions. Congress requires the FCC to "execute and enforce the provisions" of the Communications Act,¹³ which requires that the FCC ensure that all "charges" and "practices" of

¹² See *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Phoenix, Arizona Metropolitan Statistical Area*, Memorandum Opinion and Order, 25 FCC Red. 8622, 8635 ¶ 28 (2010) (indicating that a market-power analysis requires an assessment of "whether potential entry would be timely, likely, and sufficient to counteract the exercise of market power"); U.S. Dep't of Justice & Fed. Trade Comm'n, *Horizontal Merger Guidelines*, § 9 (2010) ("As part of their full assessment of competitive effects, the Agencies consider entry into the relevant market. The prospect of entry into the relevant market will alleviate concerns about adverse competitive effects only if such entry will deter or counteract any competitive effects of concern so the merger will not substantially harm customers.").

¹³ 47 U.S.C. § 151.

telecommunications carriers are “just and reasonable.”¹⁴ As the Commission has explained, in order to determine whether current special access charges and practices are just and reasonable, it must study (1) whether its current triggers for determining when incumbent LECs can exceed price caps are rational and (2) whether the price caps levels accurately mirror the prices that would prevail in a competitive market. As described above, the data request will provide the Commission with the information it needs to make these decisions, and therefore to perform its Congressionally mandated function.

In sum, Sprint believes that: (1) the Commission’s burden estimate for the Data Request is reasonable; (2) the FCC has justified the need for the information sought; and (3) the information sought is necessary for the Commission to perform a vital function.

Respectfully submitted,



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April 15, 2013

¹⁴ 47 U.S.C. § 201(b).

From: Walter Anderson [walter.anderson@wiltshiregrannis.com]
Sent: Monday, April 15, 2013 6:42 PM
To: Judith Boley Herman; PRA
Cc: Paul Margie
Subject: Sprint Nextel Corporation PRA Comments re: 78 Fed. Reg. 9911

Dear Ms. Herman:

Please find attached Sprint Nextel Corporation's comments regarding the Federal Communications Commission's Notice seeking comment on the application of the Paperwork Reduction Act to the Comprehensive Market Data Collection for Interstate Special Access Services, FCC 123-153. See 78 Fed. Reg. 9911 (Feb. 12, 2013).

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