

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	

**COMMENTS
OF
SPRINT NEXTEL CORPORATION**

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subsidize its own, exciting, new, multi-media offerings available within its large customer base. By denying competitors IP interconnection, the cutting-edge multimedia and voice offerings of competitors are made unattractive because of the relatively small number of customers that can be addressed by the competitors as compared to the large base of customers that are already controlled by the ILECs and their affiliates. This stifles the adoption of new advanced telecommunications services as the ILECs enforce their interconnection bottleneck and provide advanced services through their preferred affiliates.

The Commission has recognized that “[i]nterconnection among [IP] communications networks is critical.”¹⁶ In response to the FCC’s request,¹⁷ Sprint identifies below several steps the Commission can take to facilitate IP interconnection negotiations, and thereby accelerate IP interconnection agreements and finally, actually begin operating in an “all-IP” world.

**A. THE FCC HAS AMPLE LEGAL AUTHORITY TO ADOPT AND ENFORCE
DEFAULT IP INTERCONNECTION RULES (¶¶ 1351-58)**

Some parties insist that voice applications provided over IP networks (“IP voice”) constitute telecommunications services and as a result, are subject to §§ 251-52 of the Act – even though these statutes were designed for “narrowband” voice (*aka*, TDM circuit-switched) networks that most parties acknowledge are becoming obsolete. Other parties contend that IP voice applications are information services and thus are not subject to §§ 251-52. While this debate is interesting, it is not relevant to the question of whether the FCC possesses the legal authority to adopt and enforce default IP voice interconnection rules.

The FCC unquestionably possesses such authority under Title II of the Act if retail IP voice applications are deemed to be telecommunications services. But as Sprint has previously

¹⁶ See *USF/ICC Transformation FNPRM* at ¶ 1336. See also *USF/ICC Transformation Order* at ¶ 1010.

¹⁷ See *USF/ICC Transformation FNPRM* at ¶ 1341.

demonstrated, if IP voice applications are instead classified as information services, then the FCC still possesses the authority, under its Title I ancillary jurisdiction, to adopt and enforce interconnection rules for the exchange of IP voice traffic.¹⁸ As a result, there is no need for the Commission to rely upon §§ 251-252 of the Act for IP voice interconnection authority; it has the freedom to require IP voice interconnection without declaring retail IP voice to be a telecommunications service.

In addition, § 706 of the 1996 Act can provide an independent source of regulatory authority over IP voice services.¹⁹ In this statute, Congress explicitly specified that the FCC “shall encourage the deployment on a reasonable and timely basis” of IP voice services “to all Americans.”²⁰ The Commission cannot comply with this statutory mandate without ensuring that IP networks interconnect expeditiously for the exchange of IP voice traffic.

So there is no misunderstanding over its position, Sprint would welcome Commission clarification over the regulatory status of retail IP voice applications, as well as the new multimedia applications discussed above. Nevertheless, Sprint submits that the handful of FCC rulings it seeks are all designed to jump start IP interconnection negotiations (by eliminating controversies that will almost certainly arise and that will stall negotiations while the parties ask the FCC to resolve the controversy) and would do far more to facilitate IP interconnection than could clarification of the regulatory status of retail IP voice applications.

It is important to emphasize that, as a practical matter, the choice for the Commission is simply one of timing: it can adopt a handful of default rules now, or it can wait to address these

¹⁸ See Sprint *USF/ICC Transformation NPRM* Reply Comments, Appendix D, at 3-9 (May 23, 2011). See also *USF/ICC Transformation FNPRM* at ¶ 1397.

¹⁹ See *id.*, Appendix D at 9-12. See also *USF/ICC Transformation FNPRM* at ¶ 1395.

²⁰ 47 U.S.C. § 1302(a).

issues later (after the parties are forced to suspend their interconnection negotiations because they cannot even agree over the fundamental requirements of federal law).

B. THE FCC SHOULD REJECT THE PROPOSAL THAT AN IP NETWORK OPERATOR CAN FORCE A REQUESTING CARRIER TO CONTINUE TO USE TDM INTERCONNECTION SIMPLY BY PAYING ALL TDM CONVERSION COSTS (¶¶ 1361-64)

The Commission seeks comment on a proposal by some parties whereby an IP network operator that “refuses” even to consider IP interconnection, or simply “fails to respond” to a *bona fide* request for IP interconnection, would be “required to bear financial responsibility for the IP-to-TDM conversion.”²¹ The Commission should reject this proposal.

At the outset, however, the FCC should declare unequivocally that the “failure to respond” to a request for IP interconnection or a “refusal” to discuss such interconnection *ipso facto* contravenes the good faith negotiation requirement. The Commission has already ruled that “even while our FNPRM is pending, we expect all carriers to negotiate in good faith in response to requests for IP-to-IP interconnection for the exchange of voice traffic”:

[W]e expect such good faith negotiations to result in interconnection arrangements between IP networks for the purpose of exchanging voice traffic.²²

It bears emphasis that the good faith negotiation requirement, as Sprint understands it, applies only to those firms that (a) operate an IP network and (b) use that IP network in transporting some of their own voice traffic. For these firms, IP interconnection not only is technically feasible, but it can also be implemented readily, because the IP network operator has already installed the equipment needed (*e.g.*, SIP functionally) to support IP interconnection.

²¹ See *USF/ICC Transformation FNPRM* at ¶ 1363.

²² *USF/ICC Transformation Order* at ¶ 1011. See also *USF/ICC Transformation FNPRM* at ¶ 1341 (“[W]e expect all carriers to negotiate in good faith in response to requests for IP-to-IP interconnection for the exchange of voice traffic, and that such good faith negotiations will result in interconnection arrangements between IP networks.”); *id.* at ¶ 1344 (“[W]e expect carriers to negotiate in good faith in response to requests for IP-to-IP interconnection for the exchange of voice traffic.”).