COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO THE INTRASTATE SWITCHED ACCESS RATES OF ALL KENTUCKY INCUMBENT AND COMPETITIVE LOCAL EXCHANGE CARRIERS	))))	ADMINISTRATIVE CASE NO. 2010-00398

SPRINT NEXTEL'S COMMENTS

Pursuant to the Kentucky Public Service Commission's ("Commission" or KPSC") Order issued on March 10, 2011, Sprint Communications Company L.P. ("Sprint"), Sprint Spectrum, L.P. and SprintCom, Inc. d/b/a Sprint PCS ("Sprint PCS"), Nextel West Corp., Inc. ("Nextel") and NPCR, Inc., d/b/a Nextel Partners ("Nextel Partners") (collectively, "Sprint Nextel") now file Comments on BellSouth Telecommunications, Inc., d/b/a AT&T Kentucky's ("AT&T") Plan for Kentucky Switched Access Reform as included in Exhibit A of AT&T Kentucky's Comments filed on December 17, 2010. Sprint Nextel reserves its right to provide further comments on the AT&T plan features discussed below, or provide comments on AT&T plan features not discussed below.

INTRODUCTION

Sprint Nextel applauds the Commission for establishing a procedural schedule in intrastate switched access rates. In doing so, this Commission joins the state regulatory Commissions in Pennsylvania,[1] North Carolina,[2] New Jersey,[3] and the other jurisdictions

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[1] Pennsylvania Public Utility Commission Docket No. I-00040105, Phase I, *Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers, and the Pennsylvania Universal Service Fund.*

noted in the Commission's initial Order in this proceeding,[4] which have also recently examined or are currently examining this subject that is so critically important to a competitive intrastate telecommunications environment.

To reiterate from Sprint Nextel's initial Comments filed in this matter on December 17, 2010, incumbent local exchange carrier ("ILEC") access prices in Kentucky and elsewhere were established at levels that greatly exceeded the cost of providing access, and were designed to subsidize the price of basic local exchange service in a traditionally regulated monopoly setting. But today, these inflated intrastate switched access fees act as a means to unduly enrich LECs and hinder competition. The current system was established long before ILECs developed numerous other revenue streams, i.e., other ILEC services, some unregulated, which are provisioned over the same common network on which the ILECs provide local voice service and exchange access. ILECs within their service territories now offer wireline long distance, numerous new vertical calling features, broadband and even video services. Often, these services are bundled in an attempt to fulfill the ILEC end user's complete communications service needs. Indeed, the substantially changed telecommunications environment in which this outdated access charge regime still operates was duly acknowledged by the Commission in its initial Order in this proceeding.[5]

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[2] North Carolina Utilities Commission Docket No. P-100, Sub 167, *In the Matter of Petition of Sprint to Reduce the Intrastate Switched Access Rates of Rural Incumbent Local Exchange Carriers Operating in North Carolina.*

[3] New Jersey Board of Public Utilities Docket Nos. TX07110873, TO08060451, *In the Matter of the Board Investigation Regarding the Reclassification of Incumbent Local Exchange Carrier (ILEC) services as Competitive; In the Matter of The Application of New Jersey Inc. d/d/a Embarq for Approval of a Plan for Alternative Regulation.*

[4] KPSC Case No. 2010-00398, Order (issued November 5, 2010), at 2, ftnte 2.

[5] *Id.*, at 3: "The existing cost-recovery mechanism was developed for a communications world where single narrowband wireline connections were the dominant form of telecommunications and competition was very limited. That is no longer the case. The legacy narrowband world is quickly being superseded by a very intermodal, competitive, and increasingly Internet-oriented telecommunications environment. The

The historic trend of retail revenue growth and the potential for further growth in the future underscores the unnecessary and anti-competitive nature of the current, wildly excessive intrastate switched access charge regime. ILECs can and must collect the costs of providing retail services from the customers purchasing those retail services, the same as any other carrier operating in the marketplace, as opposed to burdening competitors by charging inflated rates for monopoly intrastate switched access. This change is critical to developing a level competitive playing field for all service providers.

COMMENTS ON AT&T KENTUCKY'S PLAN

a. Primary features of AT&T's plan

AT&T's plan for Kentucky intrastate switched access reform, as filed with the Commission on December 17, 2010, displays certain hallmarks of AT&T access reform proposals seen elsewhere.[6] The major features of AT&T's plan are as follows. The intrastate switched access rates of Kentucky's incumbent local exchange carriers ("ILECs") would be reduced to parity with the ILEC's corresponding interstate switched access rates within 180 days of the Commission's Order in this proceeding. Within 30 days of the KPSC's Order, CLEC rates would be capped at the weighted average intrastate switched access rates of the ILEC(s) with which the CLEC competes. Also under AT&T's plan, the Commission would establish a local exchange rate benchmark, which would allow ILECs to recover intrastate switched access revenue reductions through a combination of local rate increases up to the benchmark and disbursements

Commission recognizes that the legacy environment has allowed many traditional telephone carriers to maintain their existing networks and extend new portions of their networks (i.e., broadband) to their retail customers because they could depend on consistent revenue from other areas, such as access rates."

[6] Similar AT&T access reform proposals have been filed in Arizona, Ohio, New Jersey and Pennsylvania.

from the Kentucky Universal Service Fund ("USF"). ILECs' access revenue recovery from their local exchange end users may increase up to $2 per year, as limited by the established local rate benchmark. The remainder of ILEC access revenues that are not recovered through local rate increases would be recouped through the Kentucky USF. ILECs' access subsidies would be transitioned away from the Kentucky USF over a period of five years, as the established local rate benchmark permits. Regarding the structure of the Kentucky USF under AT&T's plan, all carriers would pay into the fund. The basis for carrier contributions to the Kentucky USF would mirror the Federal Communications Commission's ("FCC") USF contribution methodology, which is currently end user telecommunications revenues. Carriers would be allowed, but not required, to pass through USF contributions to their end users through a separate line item on end users' invoices. ILECs would not need to undergo an earnings test in order to receive disbursements from the Kentucky USF. Finally, the Commission would reserve the right to revisit the features of any plan it adopts in the event that the FCC modifies its current methodology for establishing interstate switched access rates.

b. Novel aspects of AT&T's plan

Two features in particular of AT&T's proposed plan have not been proposed in many, if any, other jurisdictions. Under Section 3.1 of the plan, ILEC local rates that are capped by existing ILEC price cap plans remain capped for the life of the price cap plans, and the Kentucky USF would cover the ILECs' intrastate access revenue reductions for the duration of the ILECs' price cap plans. Also, under AT&T's proposed Section 3.2, if the KPSC allows an ILEC to charge local exchange rates above the established benchmark during the 5-year transition period, that revenue would not offset any USF subsidies received by the ILEC

c. **Most beneficial features of AT&T's plan**

The following are the most positive features of AT&T's proposal from Sprint's perspective. Under AT&T's plan, ILEC access overcharges remaining in the system during the transition period and beyond are fixed at the beginning on a per-line basis, and then are subsequently tied to actual lines that remain in service. This aspect of AT&T's plan ensures that ILECs are not insulated from competitive line losses during the 5-year transition period. In addition, setting ILEC intrastate switched access rates at the ILEC's corresponding interstate rates constitutes a long overdue step in the right direction toward incremental cost-based rates, and makes perfect sense since ILECs' provision of switched access to competitive carriers does not change at all in function from the intrastate to the interstate jurisdictions. Sprint Nextel strongly supports AT&T's proposal in this regard, which includes eliminating the Non-Traffic Sensitive Revenue Requirement ("NTSRR") charges,[7] since these NTSRR charges do not appear in the ILECs' interstate rate structures.

d. **Problematic aspects of AT&T's proposed plan**

Unfortunately, AT&T's proposal is based in part on the fundamentally flawed assumption that other carriers will always partially fund ILEC operations, be it through inflated intrastate switched assess rates or through the Kentucky USF. Not only is this intrinsically wrong, but it sends the ILECs irrational pricing signals. The market should be allowed to discipline ILEC pricing, unimpeded by competitive carriers' subsidies of

ILEC service offerings. Further, changing the vehicle through which competitive carriers fund ILEC operations from inflated intrastate switched access rates to the Kentucky USF merely moves the geography, so to speak, of the problem – it does little or nothing to actually solve the root problem.

e. **Sprint's proposed changes to AT&T's proposal**

First, if the Commission is disinclined to adopt AT&T's "flash cut" LEC switched access reduction proposal, Sprint recommends that ILEC switched access rates be transitioned down to the ILECs' corresponding interstate rates over a short period of time, no more than three years, as ILEC local exchange rates are allowed to increase to the Commission-established benchmark. If local rates cannot increase $2 per year due to the KPSC's benchmark, rather than increase the burden on Kentucky citizens and businesses by increasing the Kentucky USF, the ILECs should be expected to adapt to access rate reductions by focusing efforts on marketing other retail services or by ILEC-implemented operational efficiencies, in the same manner as every other carrier in the marketplace would be forced to deal with revenue reductions relating to a service offering. Similarly, at the end of the 5-year transition period, any intrastate switched access rate reductions not offset by local rate increases should be addressed by the ILECs though efforts to market other retail services or by ILEC-implemented operational efficiencies, again, just the same as any other carrier in the marketplace. Next, Sprint recommends that in setting the local rate benchmark, the Commission should adopt a more global, national view of affordable local exchange service, which should include consideration of ILEC pricing flexibility with regard to such unregulated retail ILEC

[7] *See* KPSC Case No. 2010-00398, Comments of AT&T (filed December 17, 2010), at 10.

services as wireless, broadband and video. Under Sprint's recommended approach, the Commission's local rate benchmark will provide for reasonable ILEC access revenue recovery from local exchange rates while still ensuring affordable ILEC local rates, because under Sprint's approach, the KPSC-set benchmark would take into account the rates of the ILECs' alternative, unregulated retail services.

CONCLUSION

Sprint Nextel looks forward to sponsoring testimony in this proceeding on the Sprint Nextel proposals discussed above, as well as other relevant topics. In recognition of the foregoing, Sprint Nextel respectfully requests that the Commission adopt all of its recommendations in this proceeding.

Submitted this 15th day of April, 2011.

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