COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

SPRINT'S COMMENTS ON THE COMMISSION'S FINDING AND RECOMMENDATIONS AS TO HOW THE PROCEEDING SHOULD PROGRESS IN LIGHT OF THE ICC/USF ORDER

In accordance with the procedural directive included in the Kentucky Public Service Commission's ("Commission" or "KPSC") Order, issued on March 22, 2012 in the above-styled docket, Sprint Communications Company L.P. , Sprint Spectrum, L.P. and SprintCom, Inc. d/b/a Sprint PCS, Nextel West Corp., Inc. and NPCR, Inc. d/b/a Nextel Partners (collectively "Sprint") submit these Comments on the Commission's recommendations and the impact of the Federal Communications Commission's ("FCC") Connect America Fund Order[1] on telecommunications customers in the Commonwealth of Kentucky. Sprint reserves its right to comment on portions of the FCC Order not specifically discussed below.

I. INTRODUCTION

In the long-pending intercarrier compensation and universal service reform proceedings, the FCC has finally taken the first steps toward disassembling the access

[1] WC Docket No. 10-90 *et al*., *In the Matter of Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking (rel. Nov. 18, 2011) (hereinafter "ICC/USF Order").

charge regime that has plagued the telecom industry since its inception in the early 1980s, as well as the defunct, unilateral "calling party network pays" system which failed to recognize that both called and calling parties benefit[2]. The ICC/USF Order substantially ends the switched access regime by finally implementing the reciprocal compensation required by the Telecommunications Act of 1996 in Section 251(b)(5). The FCC's plan as articulated in its 751-page Order is comprehensive. It addresses intercarrier compensation for all types of traffic, including the intrastate switched access traffic that has been the subject of this proceeding. The FCC's access reform scheme phases down intercarrier compensation rates while providing ILECs with sufficient end-user and explicit funding recovery mechanisms. The ICC/USF Order will ultimately benefit consumers and enhance competition by eliminating the imposition of high local exchange carrier intrastate switched access fees that inflate the cost of services and distort the market.

In light of the comprehensive and controlling intercarrier compensation regime articulated in the ICC/ USF Order and associated FCC rules, which Order and rules have not been stayed in court, Sprint asserts that the most prudent and administratively efficient action for the KPSC to take at this juncture is to hold these proceedings in abeyance during the pendency of the various Federal Court appeals. If the ICC/USF Order is ultimately overturned on appeal, the Commission should at that time consider further action in this proceeding. By holding these proceedings in abeyance, the KPSC can safeguard the valuable and extensive evidentiary record already compiled in this

[2] *See* ICC/USF Order, ¶ 756: "Given the understanding that both the calling and called party benefit from a call, the "direction" of the traffic – i.e., which network is originating or terminating the call - is no longer as relevant."

docket for possible later use should the relevant portions of the ICC/USF Order and corresponding FCC rules be subsequently vacated.

At the same time, the KPSC should be performing the tasks the FCC has requested of states in order to implement the ICC/USF Order. The ICC/USF Order states the following in relation to the intercarrier compensation reforms:

> In particular, state oversight of the transition process is necessary to ensure that carriers comply with the transition timing and intrastate access charge reductions outlined above. Under our framework, rates for intrastate access traffic will remain in intrastate tariffs. As a result, to ensure compliance with the framework and to ensure carriers are not taking actions that could enable a windfall and/or double recovery, state commissions should monitor compliance with our rate transition; review how carriers reduce rates to ensure consistency with the uniform framework; and guard against attempts to raise capped intercarrier compensation rates, as well as unanticipated types of gamesmanship. Consistent with states' existing authority, therefore, states could require carriers to provide additional information and/or refile intrastate access tariffs that do not follow the framework or rules adopted in this Order. Moreover, state commissions will continue to review and approve interconnection agreements and associated reciprocal compensation rates to ensure that they are consistent with the new federal framework and transition. Thus, we will be working in partnership with states to monitor carriers' compliance with our rules, thereby ensuring that consumers throughout the country will realize the tremendous benefits of ICC reform.

ICC/USF Order, ¶ 813 (footnote omitted). Accordingly, this Commission's participation in the transition process is essential in order to facilitate the ICC reform outlined in the ICC/USF Order.

II. BRIEF FCC PLAN OVERVIEW

a. Access Rate Transition

In the ICC/USF Order, intrastate terminating LEC end office and transport rates are transitioned to their equivalent interstate rates in two steps, effective July 1, 2012, and July 1, 2013.[3] The FCC's plan continues transition of intrastate terminating access end office rates to $.0007 in three more steps, effective July 1, 2014, July 1, 2015 and July 1, 2016.[4] Finally, terminating end office rates and certain common transport rates are phased out in two steps, effective July 1, 2017 and July 1, 2018.[5]

b. ILEC Access Recovery

As a means of recovery for reductions in access rates, the ICC/USF Order permits ILECs to implement a new end-user charge called the Access Recovery Charge ("ARC") that can increase $.50 each year, for a total of $2.50, for single-line customers, and $1.00 each year, for a maximum of $5.00, for multiline customers.[6]

c. Additional Recovery Mechanism

In addition, ILECs are allowed to recover access revenues not collected by the ARC via the new Connect America Fund ("CAF"), subject to limitations that reflect the declining trend in access revenues.[7]

d. Compensation for VoIP-Originated and/ or VoIP-Terminated Traffic

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[3] ICC/USF Order, ¶ 801, Fig. 9.
[4] *Id*.
[5] *Id*.
[6] ICC/USF Order, ¶ 852.
[7] ICC/USF Order, ¶ 853.

The FCC further determined that all toll calling from or to an end user using IP service will be compensable on a prospective basis at existing interstate access rate levels.[8]

III. KPSC SUPPORT OF INTRASTATE ACCESS CHARGE REFORM

To support the intercarrier compensation reform transition plan the FCC has ordered, each state Commission has been tasked with monitoring carriers' compliance with new rules. The KPSC should undertake the following:

a. Ensure the LECs' Compliance with the FCC's Intrastate Rate Transition

On July 1, 2012, each LEC is required to begin the transition of its intrastate switched access rates for terminating end office and transport to the corresponding interstate rate levels. On that date, intrastate access revenues are to be reduced one-half of the revenue difference between current intrastate revenues and the revenues that would be generated if the rates were set equal to the corresponding interstate rate level.[9] LECs are then permitted to recover portions of the revenue reduction from end-user rates and from FCC CAF universal service support. It is essential that each LEC demonstrate that the rate changes eliminate fully 50% of the of the rate difference. The LECs should also be required to quantify the access revenue reduction that is shifted to other recovery mechanisms. This quantification of the revenue shift will be necessary information in order for the FCC to ensure carriers are not taking actions that could enable a windfall and/or double recovery.

[8] ICC/USF Order, ¶¶ 943-45, 960.
[9] If the rate of an intrastate switched access element is below the corresponding interstate rate level on 12-29-11, that rate is capped and must remain at that current level through 7-1-13.

It is also important that the Commission ensure LECs are not shifting recovery for reductions in terminating rates to originating rates that are capped by the ICC/USF Order as of the effective date of the Order.

b. To Comply with the ICC/USF Order Mandate to Mirror the Interstate Rate Structure, the NTSRR Charges on Terminating Minutes Must be Eliminated

The FCC has mandated that LECs transition their intrastate switched access rates on terminating traffic to mirror the interstate rate levels and rate structure. The interstate access rate structure for the ILECs in Kentucky does not include an access rate element charged to interexchange carriers that recovers any non-traffic sensitive revenue requirement ("NTSRR"). Therefore, the annual intrastate revenues generated from applying the NTSRR rate to terminating intrastate access minutes[10] must be reduced by half on 7-1-12 and the rate applicable to terminating intrastate minutes must be eliminated as of 7-1-13. The ICC/USF Order permits alternative recovery for those access revenue decreases via the ARC and CAF. The Commission need not create another recovery mechanism for the ILECs for the NTSRR revenue reductions.

c. Review and Approval of Interconnection Agreements

The FCC in its Order addressed numerous aspects of the carrier-to-carrier traffic interconnection relationships. The FCC clarified several rules that were disputed in the past, and authorized several changes to other rules. The FCC has also authorized a rate transition for reciprocal compensation rate levels. These changes may encourage carriers to re-open interconnection contract negotiations that in turn may lead to arbitrations on aspects of the agreements. In accordance with the ICC/USF Order, the KPSC should

[10] ICC/USF Order states the current revenues are derived by multiplying the rate in effect on 12-29-11 times fiscal year 2011 demand (October 1, 2010 through September 30, 2011)

ensure disputes are resolved consistent with the new federal framework and rate transition.

IV. CONCLUSION

Based on the reasons discussed above, Sprint recommends that the most prudent action for the Commission to take in light of the ICC/USF Order is hold the current proceedings in abeyance pending the outcome of the various pending Federal Court appeals of the ICC/USF Order, and thus safeguard the valuable and extensive evidentiary record compiled in these proceedings for possible future use by the KPSC. Further, it is critical that the KPSC facilitate the transitions the FCC has authorized in the intercarrier compensation system. In Kentucky, this includes a 50% reduction in the NTSRR by 7-1-12, and the complete elimination of the NTSRR by 7-1-13. Also, this Commission should facilitate the transition the FCC has authorized with regard to traffic interconnection agreements.

Submitted this 23rd day of April, 2012.

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I certify that a copy of this response was filed electronically with the PSC and on all parties providing an email service address.

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