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September 15, 2009

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SEP 17 2009

PUBLIC SERVICE  
COMMISSION

Jeff DeRouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40601

Re: **Complaint of Sprint Communications Company LP Against Brandenburg Telephone Company and Request for Expedited Relief**  
**Case No. 2008-00135**

Dear Mr. DeRouen:

Pages 5 and 16 of Brandenburg Telephone Company's September 9, 2009 post-hearing brief include a fragment lifted from a footnote in a 116 page Federal Communications Commission Further Notice of Proposed Rulemaking. Brandenburg Telephone Company's brief did not include a full citation to the FCC's official reporter and did not indicate that its quotation is of a footnote. The quotation should be considered within the context of the paragraph in which the footnote appears. Therefore, for the Commission's convenience, enclosed is a copy of the page containing the text cited by Brandenburg Telephone Company in its brief. The complete citation is *Developing a Unified Intercarrier Compensation Regime*, WC Dkt. 01-92, Further Notice of Proposed Rulemaking, 20 FCC Rcd 2685, para. 22, n. 59 (2005).

Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me via the enclosed envelope.

Sincerely yours,

Douglas F. Brent

DFB:jms  
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cc: Parties of Record  
John N. Hughes  
Philip R. Schenkenberg

22. Even if there were economic or technical differences among the different types of services that warranted different termination rates, the increased use of alternative services makes it difficult to sustain current regulatory distinctions. Technological alternatives to POTS service that are not tied to a geographic location, such as wireless services and some IP-based services, make regulatory distinctions based on jurisdiction difficult to enforce. Combined with other developments, such as our recent decision requiring wireline-wireless (intermodal) local number portability,<sup>58</sup> the availability of these alternatives makes it difficult to identify the geographic end points of a call using telephone numbers.<sup>59</sup> Further, as one commenter notes, services provided via the Internet “neither respect nor reflect most of the traditional boundaries and classifications of service used to define regulatory status.”<sup>60</sup> As the demand for these new services and offerings continues to grow, so will the challenges associated with determining the appropriate intercarrier compensation for this traffic under our current rules.

### c. Developments in Telecommunications Infrastructure

23. Another consideration is how the telecommunications infrastructure has developed, which affects the way carrier costs are incurred and recovered under the intercarrier compensation regimes. Our existing compensation regimes are based largely on the recovery of switching costs through per-minute charges.<sup>61</sup> In a separate rulemaking before the Commission,<sup>62</sup> however, a number of carriers argue that a substantial majority of switching costs do not vary with minutes-of-use (MOU). MCI argues, for example, that vendor contracts for switches establish per-line prices, rather than per-minute prices, and thus LECs do not incur switching costs on a per-minute basis.<sup>63</sup> Similarly, AT&T argues that switches generally have excess capacity so that increases in usage do not increase the cost of a switch.<sup>64</sup> In addition, the overall capacity of telecommunications networks has increased dramatically due to the increased deployment of fiber optic facilities.<sup>65</sup> It appears, therefore, that most network costs, including

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<sup>58</sup>See *CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues*, CC Docket No. 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd at 23698, para. 1(2003) (*CTIA Number Portability Order*).

<sup>59</sup>Telecommunications carriers typically compare the telephone numbers of the calling and called party to determine the geographic end points of a call, which may be relevant for jurisdiction and compensation purposes. See *Starpower Communications, LLC v. Verizon South Inc.*, EB-00-MD-19, Memorandum Opinion and Order, 18 FCC Rcd 23625, 23633, para. 17 (2003).

<sup>60</sup>ALLTEL Comments at 6.

<sup>61</sup>See *Inter-carrier Compensation NPRM*, 16 FCC Rcd at 9618, para. 17 (discussing rate structure issues raised by the existing intercarrier compensation regulations).

<sup>62</sup>See *TELRIC NPRM*, 18 FCC Rcd at 18945.

<sup>63</sup>*Review of the Commission's Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Service by Incumbent Local Exchange Carriers*, WC Docket No. 03-173, Comments of MCI, at 30 (filed Dec. 16, 2003) (MCI TELRIC Comments).

<sup>64</sup>*Review of the Commission's Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Service by Incumbent Local Exchange Carriers*, WC Docket No. 03-173, Comments of AT&T, at 73-76 (filed Dec. 16, 2003) (AT&T TELRIC Comments).

<sup>65</sup>See Fred Donovan, *Carrier Fiber-Optic Spending to Top \$24B in 2004*, Vol. 21, Issue 4, Fiber Optic News (2001) (noting the findings of a study done by the Telecommunications Industry Association (TIA) concluding that (continued....)