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April 16, 2009

Secretary James J. McNulty
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Answer of Sprint to the Joint Motion of the Pennsylvania Telephone Association, Office of Consumer Advocate, and Embarq Pennsylvania for the Commission to Further Stay This Investigation Pending Resolution of the FCC Intercarrier Compensation Proceeding
Docket No. I-00040105

Dear Secretary McNulty:

Enclosed for filing please find the Answer of Sprint Communications Company, L.P., Sprint Spectrum, L.P., Nextel Communications of the Mid-Atlantic, Inc., and NPCR, Inc. to the Joint Motion of the Pennsylvania Telephone Association, Office of Consumer Advocate, and Embarq Pennsylvania for the Commission to Further Stay This Investigation Pending Resolution of the FCC Intercarrier Compensation Proceeding at CC Docket No. 01-92, filed in this matter. Copies have been served in accordance with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Very truly yours,

STEVENS & LEE



Renaldo L. Hicks

cc: Certificate of Service

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Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation Regarding Intrastate :
Access Charges and IntraLATA Toll :
Rates of Rural Carriers, and the : Docket No. I-00040105
Pennsylvania Universal Service Fund :

**SPRINT'S ANSWER TO JOINT MOTION OF
THE PENNSYLVANIA TELEPHONE ASSOCIATION,
OFFICE OF CONSUMER ADVOCATE,
AND EMBARQ PENNSYLVANIA
FOR THE COMMISSION TO FURTHER STAY THIS INVESTIGATION
PENDING RESOLUTION OF THE FCC INTERCARRIER
COMPENSATION PROCEEDING
AT CC DOCKET NO. 01-92**

In accordance with 52 Pa. Code § 5.103, Sprint Communications Company, L.P., Sprint Spectrum, L.P., Nextel Communications of the Mid-Atlantic, Inc., and NPCR, Inc. (collectively "Sprint") submit this Answer in response and in opposition to the "Joint Motion of the Pennsylvania Telephone Association, Office of Consumer Advocate, and Embarq Pennsylvania for the Commission to Further Stay This Investigation Pending Resolution of the FCC Intercarrier Compensation Proceeding at CC Docket No. 01-92" ("Joint Motion") filed on March 25, 2009.

I. Introduction and Summary.

In the Joint Motion the filing parties ("Joint Movants") urge the Pennsylvania Public Utility Commission ("Commission") to stay this investigation for a fourth consecutive year. The Joint Movants largely point to activity in the Federal

Communications Commission's ("FCC") *Unified Intercarrier Compensation* proceeding, CC Docket No. 01-92, to justify their request.

In an Order entered on December 20, 2004,¹ the Commission initiated an investigation to answer six questions.² Those questions were not answered by August 30, 2005, and on that date the Commission entered an Opinion and Order that granted a stay of its investigation into intrastate access and universal service issues for a period not to exceed 12 months or until the FCC issued an order in its *Unified Intercarrier Compensation* proceeding, whichever occurred earlier.³ In the Opinion and Order the Commission specifically rejected a request that it institute a twenty-four (24) month stay.⁴ Subsequently, by Order entered November 15, 2006, the Commission again stayed this investigation.⁵ The Commission indicated that the following factors influenced its decision to again stay this investigation: submission of the so called 'Missoula Plan' to the FCC on July 16, 2006, introduction in the United States House of Representatives of a bill called the Universal Service Reform Act of 2006 (HR 5072), and a comprehensive

¹ Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Exchange Carriers and the Pennsylvania Universal Service Fund, Docket No. I-00040105, Order (December 20, 2004)(*Investigation Order*).

² Those questions were: (1) whether intrastate access charges and intraLATA toll rates should be further reduced or rate structures modified in the rural ILECs' territories? (2) What rates are influenced by contributions to and/or disbursements from the Fund? (3) Should disbursements from the Fund be reduced and/or eliminated as a matter of policy and/or law? (4) Assuming the Fund expires on or about December 31, 2006, what action should the Commission take to advance the policies of this Commonwealth? (5) If the Fund continues beyond December 31, 2006, should wireless carriers be included in the definition of contributors to the Fund? If included, how will the Commission know which wireless carriers to assess? Will the Commission need to require wireless carriers to register with the Commission? What would a wireless carrier's contribution be based on? Do wireless companies split their revenue bases by intrastate, and if not, will this be a problem? (6) What regulatory changes are necessary to 52 Pa. Code §§ 63.161 - 63.171 given the complex issues involved as well as recent legislative developments? *Investigation Order*, at 5-6.

³ August 30, 2005 Opinion and Order, Ordering Paragraph 4 (August 30, 2005)(*Opinion and Order*).

⁴ *Id.*, at 17.

⁵ November 15, 2006 Order (November 15, 2006)(*November 2006 Order*).

legislative telecommunications reform initiative sponsored by Senator Stevens.⁶ The Commission's motivation generally was to wait until the federal landscape was more settled before continuing its investigation.⁷ In an Order issued in this docket on April 24, 2008, the Commission again stayed this proceeding citing largely the same reasons listed in its November 2006 Order.

As articulated more fully below, Sprint urges the Commission to resume its investigation. Intrastate access reform is urgently needed, and will not be realized in Pennsylvania unless the Commission resumes its investigation. Sprint continues to pay intrastate access rates in Pennsylvania that are far higher than the national average.⁸ Moreover, these rates are markedly higher than the interstate rates Sprint pays, and are priced well above the cost of providing such services. This disparity exists despite the fact that the same network components are used for both interstate and intrastate calls.

II. Response to Joint Motion.

1. In response to the assertions in Paragraph 1, Sprint admits that the Commission entered an Order on July 15, 2003 at M-00021596 entitled *In re: Access Charge Investigation per Global Order of September 30, 1999*. Sprint further admits that in that Order the Commission discussed the need for further access reform in Pennsylvania. Otherwise, denied.

2. In response to the assertions in paragraph 2, Sprint admits that the FCC issued a Further Notice of Proposed Rulemaking ("FNPR") on March 3, 2005 to address

⁶ *Id.* at 12.

⁷ *Id.*

⁸ In an earlier Order in this docket, the Commission indicated that Sprint had not provided factual support for its claims regarding how high Pennsylvania intrastate access rates rank nationally. Sprint will gladly place evidence on the record regarding intrastate access rates at such time as the Commission reopens this proceeding to investigate rural access rates in Pennsylvania.

intercarrier compensation issues in CC Docket No. 01-92. The FNPR speaks for itself. It should be noted that the FNPR has not led to the promulgation of any final rules.

Otherwise denied.

3. Sprint admits in part and denies in part the assertions in Paragraph 3. Sprint admits that access charges, toll charges and local service are three sources of revenue for rural ILECs, but denies the Joint Movants' characterization of such charges as "fundamental." ILECs have more revenue sources today than ever before and only through the discovery process can the amount of revenue the ILECs receive from various sources be quantified. Sprint denies that consideration of access charge reform at the federal level provides any justification or compelling reason for the Commission to delay addressing unreasonably, unjust and anticompetitive intrastate access rates in Pennsylvania. Otherwise, denied.

4. Admitted.

5. Admitted, except Sprint denies the characterization of the Missoula Plan as "pending." The Missoula Plan, while not expressly rejected by the FCC, is no longer being considered by the FCC as a solution for intercarrier compensation reform. Any assertion to the contrary is mere sophistry.

6. Denied. Sprint particularly takes issue with the Joint Movants' statement that federal action may render moot the issues in the instant proceeding. Unless the Commission loses or cedes its jurisdiction over intrastate traffic – neither of which Sprint sees as a likely outcome of the *Unified Intercarrier Compensation* proceeding, action by the Commission will be required to effectuate any solution to Pennsylvania's inflated access rates announced by the FCC. The Joint Movants, as they did last year, repeat to

the Commission the fear-filled admonition that present action is likely to harm Pennsylvania consumers. Pennsylvania consumers are already being harmed through the allocation of funds in the marketplace by regulatory regime – access charges – rather than via competition. Consumers benefit from a healthy, competitive marketplace, not by one riddled with inflated charges imposed via regulatory fiat. Furthermore, while the Joint Movants claim that no pass-through benefit from access reductions will be realized by consumers,⁹ they fail to acknowledge that inflated access charges are already paid for by consumers as they are indirectly included in the price of the services which consumers purchase. The Joint Movants also fail to acknowledge that access charge reductions may lead to monetary benefits (rate reductions) and non-monetary benefits (new services, improved coverage, new products, etc.). Thus, the question is not whether consumers will benefit from access reduction, but the question is how soon such benefits will be realized and in what form (monetary, non-monetary or likely both).

7. Denied. Sprint will not speculate as to the identity of the three orders referenced, but not named or cited, in paragraph 7 and therefore denies the allegations contained in paragraph 7 in full.

8. The assertions in Paragraph 8 are denied in part and admitted in part. Sprint admits that a bill to reform the USF (H.R. 2054) was introduced in the House of Representatives – in 2007. Sprint is unaware of and therefore denies that similar legislation is being considered in the Senate.¹⁰ Sprint admits that the statement attributed to the Federal-State Joint Board on Universal Service was made by that body, but points out that the FCC rejected the Federal-State Joint Board on Universal Service's last

⁹ See Joint Motion at fn. 5.

¹⁰ Joint Movants have failed to provide a citation or other reference.

Recommended Decision.¹¹ The Joint Movants failed entirely to mention that fact. Sprint is unaware whether any hearing occurred on March 12, 2009, or what might have been the subject of that hearing, and thus can neither admit nor deny this allegation.

Otherwise, denied.

9. Admitted in part. The FCC may release an Order on November 5, 2009, but as that date has not yet occurred, Sprint denies that such an Order has yet been released.

Otherwise, denied.

10. Admitted as to dates, but otherwise denied. The Commission's January 8, 2008 Order speaks for itself and Sprint will not speculate beyond the text of the Order.

11. Admitted.

12. Admitted.

13. Sprint has not attempted to quantify and categorize all intercarrier compensation reform proposals (and it highly doubts that the Joint Movants have either), so it denies the Joint Movants assertions that “[v]irtually all,” “many,” or “most” such proposals urge particular actions. Some of the proposals submitted to the FCC in docket 01-92 do include some of the reform elements described by the Joint Movants. Otherwise, denied.

14. Denied.

15. This paragraph contains no more than legal theories or statements of opinion to which no response is required. Otherwise, denied.

¹¹ *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Lifeline and Link Up; Universal Service Contribution Methodology; Numbering Resource Optimization; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Developing a Unified Intercarrier Compensation Regime; Intercarrier Compensation for ISP-Bound Traffic; IP-Enabled Services*, CC Docket Nos. 96-45, 96-98, 99-68, 99-200, 01-92, WC Docket Nos. 03-109, 04-36, 05-337, 06-122, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, FCC 08-262, ¶ 30 (rel. Nov. 5, 2008) (“Intercarrier Compensation FNPR”) (rejecting *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, 22 FCC Rcd 20477 (JB 2007) (*Comprehensive Reform Recommended Decision*)).

16. This paragraph contains no more than legal theories or statements of opinion to which no response is required. Otherwise, denied. As stated in the introduction, above, Pennsylvania consumers are already being harmed through the allocation of funds in the marketplace by regulation rather than competition. The greatest opportunity for consumer benefit arises from a healthy, competitive marketplace, not from one riddled with inflated, mandated access charges. Consumers ultimately bear the load of inflated access charges as all such charges are indirectly included in the price of the services which consumers purchase. Consumers will benefit from access charges reductions whether in the form of monetary or non-monetary benefits, or both.

17. Denied. There is no reason to further delay the Commission's investigation of rural LEC access charges. While it is no doubt convenient for the rural LECs to point to other issues that may need be addressed, the rural LECs access charges are greatly inflated beyond all reasonable measures and in need of immediate reduction. Reforming the access rates of Pennsylvania's rural LECs is an appropriate place for the Commission to re-start its stalled access reform efforts.

18. This paragraph contains the Joint Movants' prayer for relief and need neither be admitted nor denied. Sprint obviously opposes the requested relief.

III. Conclusion.

For all of those reasons provided above, Sprint urges the Commission to deny the Joint Motion and reinstate the Commission's long stayed investigation

Respectfully submitted,

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Sprint Spectrum, L.P.

Nextel Communications of the Mid-Atlantic, Inc.
NPCR, Inc.

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Dated: April 16, 2009

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Investigation Regarding Intrastate Access)	
Charges and IntraLATA Toll Rates of)	
Rural Carriers and the Pennsylvania)	Docket No. I-00040105
Universal Service Fund)	

CERTIFICATION OF SERVICE

I hereby certify that I have served a copy of the foregoing Answer to Motion to Stay upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 and 1.55, via electronic mail.

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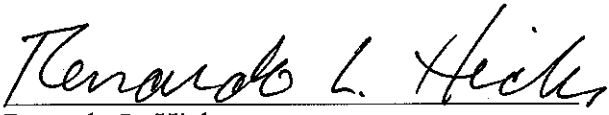
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Dated: April 16, 2009