BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of Sprint Communications Company L.P. for Arbitration with Whidbey Telephone Company	Docket No. UT-073031 SPRINT COMMUNICATIONS COMPANY L.P.'S PETITION FOR ARBITRATION

1 Pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996 (the "Act") and WAC 480-07-630, Sprint Communications Company L.P. ("Sprint") submits this petition to request that the Commission approve Sprint's interconnection agreement ("ICA") with Whidbey Telephone Company ("Whidbey"). Whidbey has not identified any disputed issues that it has with Sprint's proposed agreement, instead taking the position of refusing to negotiate at all, based upon a baseless claim that Sprint is not entitled to interconnection.

2 Consistent with Section 252(b) and WAC 480-07-630, this petition provides (1) a description of the parties; (2) a summary of the parties' negotiations; (3) a description of the documentation Sprint is providing with this petition; and (4) a description of the disputed issues and a statement of Sprint's position with respect to each issue.

I. THE PARTIES

3 Sprint is a Limited Partnership organized under the laws of the State of Delaware with its principal place of business at 6200 Sprint Parkway, Overland Park, Kansas 66251-6102. It is a competitive local exchange carrier ("CLEC") that provides local telephone service in Washington.

4 Contacts relating to this arbitration should be addressed to the following Sprint counsel:

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Mail Stop KSOPHN312-3A321
Overland Park, KS 66251
Phone: (913) 315-9294
E-mail: Jeff.M.Pfaff@sprint.com

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2801 Alaskan Way
Seattle, WA 98121-1128
Phone: (206) 340- 9694
E-mail: jendejan@grahamdunn.com
E-mail: rbusch@grahamdunn.com

5 Whidbey is incorporated under the laws of the State of Washington with its principal place of business at 14888 SR 525, Langley, WA 98260. It is an incumbent local exchange carrier ("ILEC") authorized to provide local exchange services in Washington.

6 Whidbey's counsel in this proceeding is, based on information and belief, as follows:

Robert S. Snyder
1000 Second Avenue, 30th Floor
Seattle, WA 98104
Phone: (206) 622-2226
Fax: (206) 622-2227

II. THE PARTIES' NEGOTIATIONS AND TIMING OF THE ARBITRATION

7 On May 11, 2007, Whidbey received Sprint's Request for Interconnection ("RFI"), dated May 10, 2007, pursuant to Sections 251 and 252 of the Act. A copy of Sprint's RFI is attached hereto as Exhibit A. The dates which are 135 and 160 days after the date Whidbey received the RFI are September 22, 2007 and October 17, 2007, respectively.

Sprint attached a proposed Interconnection Agreement and Non-Disclosure Agreement to the RFI as a starting point for the negotiations. These are attached as Exhibits B and C, respectively.

8 On June 5, 2007, Whidbey responded to Sprint acknowledging Sprint's May 10, 2007 request and stated that Whidbey was a 'rural telephone company' and as such is exempt from Subsection 251(c) of the Act. Whidbey indicated that without waiving said exemption they would agree to engage in discussions and / or negotiations with Sprint only if Sprint agreed that Whidbey would not be waiving its rural exemption status. A copy of Whidbey's June 5, 2007 letter is attached hereto as Exhibit D.

9 On June 14, 2007, Sprint provided a written response to Whidbey's June 5, 2007 letter. Sprint stated that it is a CLEC partnering with Millennium Cable to provide local service in Washington and explained that its RFI was seeking interconnection under Subsections 251(a) and (b) and not under Subsection 251(c). As such, Sprint was not seeking to implicate or remove the rural exemption which Whidbey has under Subsection 251(c). Sprint again enclosed the Proposed Interconnection Agreement and Non-Disclosure Agreement sent on May 10, 2007. Sprint also requested that Whidbey's Attorney, Mr. Snyder, propose some days and times to meet and begin finalizing an interconnection agreement. A copy of Sprint's June 14, 2007 letter is attached hereto as Exhibit E.

10 On June 22, 2007, Whidbey responded to Sprint's June 14, 2007 letter wherein Whidbey accurately acknowledged Sprint's request for interconnection fell under Subsection 251(a), questioned the validity of the negotiation timeline stated in Sprint's May 10, 2007 letter and attempted to create two 'threshold' issues to be resolved prior to any substantive negotiations. Whidbey first contended that Millennium Cable had not obtained a certification in the state of Washington and therefore Whidbey could not

exchange traffic that originated from Millennium's end users. Second, Whidbey challenged Sprint's status as a telecommunications carrier under the wholesale business model that Sprint was deploying in Washington. Whidbey did provide Sprint with a red-line of the Non-Disclosure Agreement sent by Sprint on May 10, 2007. A copy of Whidbey's June 22, 2007 letter is attached hereto as Exhibit F.

11 On July 27, 2007, Sprint provided a written response to Whidbey's June 22, 2007 letter wherein Sprint restated its intent to negotiate an interconnection agreement under Sections 251 and 252 of the Communications Act, as amended. Sprint confirmed its intent to file for arbitration within the dates established in its May 10, 2007 letter. Sprint refuted Whidbey's attempt to artificially create threshold issues, noting that the FCC's decision in WC Docket No. 06-55 specifically validated Sprint's wholesale business model (finding that wholesale providers are telecommunications carriers under Section 251 of the Act entitled to interconnection rights), and held that the regulatory status of Sprint's wholesale customer is irrelevant to Sprint's right to interconnection. Again Sprint asked to begin negotiations immediately. A copy of Sprint's July 27, 2007 letter is attached hereto as Exhibit G. A copy of the FCC's decision in WC Docket No. 06-55 is attached hereto as Exhibit H ("FCC Decision").

12 On August 10, 2007, Whidbey responded to Sprint's July 27, 2007 letter and stated that the parties may be at an impasse regarding the threshold issues because Whidbey did not agree with Sprint's (and several District Courts') interpretation of the FCC Decision. Whidbey indicated that it would enter into a Non-Disclosure Agreement if Sprint was willing to address the threshold issues raised in Whidbey's June 22, 2007 letter. A copy of Whidbey's August 10, 2007 letter is attached hereto as Exhibit I.

13 On October 4, 2007 Sprint contacted Whidbey via e-mail to discuss Whidbey's edits to the proposed Non-Disclosure Agreement. This e-mail is attached as Exhibit J. Whidbey's response is attached as Exhibit K. Thereafter the parties discussed, but could not agree upon, an extension of time within which to seek arbitration. Excerpts of the parties' communications on this issue are attached in Exhibit L.

14 Section 252(b)(1) provides that an ILEC or a CLEC may petition a state commission for arbitration "[d]uring the period from the 135th to the 160th day (inclusive) after the date on which an incumbent LEC receives a request for negotiation under this section . . . ." Based on Sprint's May 10, 2007 letter, this petition is timely filed.

III. BRIEF STATEMENT OF UNRESOLVED ISSUES

15 Should Whidbey be required to negotiate and sign an interconnection agreement with Sprint under Sections 251 and 252 of the Act? Sprint's position is that it is entitled to negotiate and sign an interconnection agreement with Whidbey, which contends that Sprint is not entitled to negotiate and sign an interconnection agreement with Whidbey.

16 Should Whidbey be sanctioned by the Commission for its failure to negotiate an interconnection agreement with Sprint pursuant to Subsection 252(b)(5) of the Act? Sprint's position is that Whidbey has raised baseless "threshold issues" to avoid negotiating with Sprint, even when Sprint has refuted Whidbey's claims with law that is directly on point. Whidbey's position is that it is entitled to refuse to negotiate until its "threshold issues" are resolved.

IV. TERMS AND CONDITIONS TO BE IMPOSED

17 Since Whidbey refused to negotiate any terms and conditions of the interconnection agreement in good faith, Sprint requests the Commission to impose the terms and

conditions of the Sprint Interconnection Agreement upon Whidbey, plus any appropriate penalties as allowed by 47 U.S.C. Sections 501, 502 and 503, pursuant to the Commission's authority under Section 252(b)(5) of the Act.

V. PROPOSED ARBITRATION SCHEDULE

18 Sprint asks that the Commission hold a pre-hearing conference expeditiously to set a schedule that the Commission's calendar can accommodate.

VI. DOCUMENTATION

19 With respect to the relevant documents described in the Commission's rule and 47 U.S.C. § 252(b) (2) (A), Sprint is providing with this petition: (1) Sprint's proposed Interconnection Agreement, and Interconnection Discussion Nondisclosure Agreement (Exhs. B and C); (2) the parties' correspondence regarding this arbitration (Exhs. A, D through G, I through L), and (3) the FCC's decision in WC Docket No. 06-55 (Exhibit H).

20 Sprint expects that the parties will submit additional documentation when they submit their pre-filed testimony.

VII. LEGAL BRIEF

21 Duty to Negotiate. Whidbey's repeated refusal to negotiate an interconnection agreement is a breach of its legal duty to negotiate in good faith under Section 252 (b)(5) and 47 C.F.R. Section 51.301(c)(4), among other legal provisions. Whidbey first raised the issue that it was entitled to the rural exemption under Section 251(f) until Sprint explained that Sprint was not seeking interconnection terms and conditions under Section 251(c), which provides the basis for the rural exemption. Whidbey next contended that

two "threshold issues" precluded negotiation. First, Whidbey claimed that Sprint did not qualify as a "telecommunications carrier" entitled to interconnection under the Act. Sprint explained that, as a wholesale carrier, Sprint is entitled to negotiate and sign an interconnection agreement with Whidbey. The FCC expressly ruled in Sprint's favor on this very issue, declaring that: "[c]onsistent with [Federal Communications] Commission precedent, we find that the Act does not differentiate between the provision of telecommunications services on a wholesale or retail basis for the purposes sections 251(a) and (b), and ***we confirm that providers of wholesale telecommunications services enjoy the same rights as any "telecommunications carrier" under those provisions of the Act.***" FCC Decision at para. 9 (emphasis added).

22 The Nature of Sprint's Proposed Customer. Whidbey's next "threshold issue" was that Sprint's proposed wholesale customer was not registered with the Commission and therefore Whidbey would not allow any interconnection with Sprint. Sprint, as a duly registered CLEC in Washington State, proposes to provide interconnection services for Millennium Cable's VoIP services. Again, Sprint explained that it is entitled to negotiate and sign an interconnection agreement with Whidbey, even though one of Sprint's potential customers has not registered with the Commission. Here, Whidbey refused to negotiate with Sprint because one of Sprint's potential customers hasn't obtained a state certification – even though Sprint already has its state certification. More to the point – the FCC Decision held that ILECs may not refuse to negotiate an interconnection agreement with Sprint because Sprint's potential customer will provide VoIP service: "The regulatory classification of the service provided to the ultimate end user has no bearing on the wholesale provider's rights as a telecommunications carrier to interconnect under section 251. ***As such, we clarify that the statutory classification of a third-party provider's VoIP service as an information service or a telecommunications***

service is irrelevant to the issue of whether a wholesale provider of telecommunications may seek interconnection under section 251(a) and (b)." FCC Decision at para. 15 (emphasis added).

23 Whidbey's repeated refusal to negotiate an interconnection agreement is a breach of the duty to negotiate in good faith set forth in Subsection 252(b)(5) as well as 47 C.F.R. Section 51.301(c)(4) and (6). Under 47 U.S.C. Sections 501, 502 and 503 the Commission has the authority to impose penalties against Whidbey. See *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996,* CC Docket No. 96-98, FCC 96-325 (August 8, 1996), at para. 143. However, in Sprint's view, the best sanction would be to order that Whidbey must accept the terms and conditions of the Sprint Interconnection Agreement.

VIII. CONCLUSION

Sprint respectfully requests that this Commission adopt Sprint's proposed interconnection agreement, and sanction Whidbey as it deems appropriate for its failure to negotiate in good faith.

DATED this 17th day of October, 2007.

SPRINT COMMUNICATIONS COMPANY L.P.

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EXHIBIT INDEX

A. May 10, 2007 Request for Interconnection with Whidbey Telephone Co.

B. Proposed Interconnection Agreement

C. Proposed Interconnection Discussion Nondisclosure Agreement

D. June 5, 2007 Whidbey Response

E. June 14, 2007 Sprint Response

F. June 22, 2007 Whidbey Response

G. July 27, 2007 Sprint Response

H. FCC Memorandum Opinion and Order: WC Docket No. 06-55

I. August 10, 2007 Whidbey Response

J. October 4, 2007 Sprint Email

K. October 9, 2007 Whidbey Email

L. October 15 and 16, 2007 Email

EXHIBIT A

Sprint
Together with NEXTEL

Sprint Nextel
KSOPHA0310-3B422
6330 Sprint Parkway
Overland Park, KS 66251-6102
Voice: (913) 762-2193 Fax: (913) 762-0117
William.Sanfilippo@sprint.com

William Sanfilippo
Contracts Negotiator

May 10, 2007

Via Federal Express

Mr. Marion Henry
President
Whidbey Telephone Company
14888 SR 525
Langley, Washington 98260

Re: Request for Interconnection with Whidbey Telephone Company

Dear Mr. Henry:

This letter serves as a request to negotiate an interconnection agreement for the State of Washington pursuant to Sections 251 and 252 of the Communications Act of 1934 as amended (the "Act") between Sprint Communications Company L.P. ("Sprint"), a telecommunications carrier and Whidbey Telephone Company, an incumbent local exchange carrier. Sprint requests an interconnection agreement which encompasses the carrier duties of: 251(a) direct and indirect interconnection, 251(b)(2) Number Portability, 251(b)(3) Dialing Parity including directory listings, 251(b)(5) Reciprocal Compensation, and directory distribution.

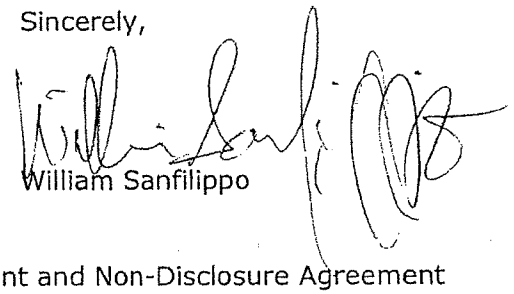
Additionally, as provided for in 47 U.S.C. §252(b)(2) under the provisions and timelines established in 47 CFR 52.23(c), Sprint requests a list of Whidbey Telephone Company's switches for which number portability (1) is available, (2) has been requested but is not yet available or (3) has not yet been requested. This information can be sent to me at the address shown above.

Pursuant to 47 U.S.C. § 252(b)(1), receipt of Sprint's request for negotiations commences the statutory timelines as identified in the Act. Should negotiations not be completed between the 135th and 160th day after the receipt of this letter, September 22, 2007 and October 17, 2007, respectively, either party may petition the state commission to arbitrate any open issues.

Please provide me with Whidbey Telephone Company's point of contact for negotiations. Sprint would like to begin discussions using the enclosed interconnection agreement containing proposed terms and conditions for the above carrier duties, directory listings and directory distribution. Sprint also provides a Non-Disclosure Agreement, intended to protect both parties' confidential information.

I look forward to hearing from you at your earliest convenience.

Sincerely,



William Sanfilippo

WS/
Enclosures: Proposed Agreement and Non-Disclosure Agreement

cc: Carole Washburn, Executive Secretary, Washington Utilities and Transportation Commission

FedEx Express
Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38116

U.S. Mail: PO Box 727
Memphis, TN 38194-4643

Telephone: 901-369-3600

May 18,2007

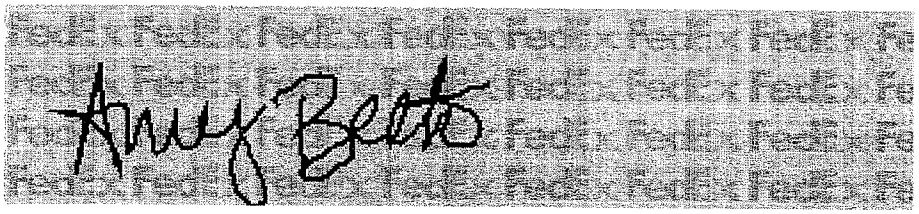
Dear Customer:

Whidbey

The following is the proof of delivery you requested with the tracking number **798171047723**.

Delivery Information:

Status:	Delivered	**Delivery location:**	Langley, WA
Signed for by:	A.BERTH	**Delivery date:**	May 11, 2007 11:40
Service type:	Priority Envelope		



Shipping Information:

Tracking number:	798171047723	**Ship date:**	May 10, 2007
		Weight:	0.5 lbs.

Recipient:
Langley, WA US

Shipper:
OVERLAND PARK, KS US

Reference

WA RFI

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Tracking number	798171047723	**Reference**	WA RFI
Signed for by	A.BERTH	**Destination**	Langley, WA
Ship date	May 10, 2007	**Delivered to**	Receptionist/Front Desk
Delivery date	May 11, 2007 11:40 AM	**Service type**	Priority Envelope
		Weight	0.5 lbs.

Status Delivered

Signature image available Yes

Date/Time		Activity	Location	Details
May 11, 2007	11:40 AM	**Delivered**	Langley, WA	
	9:21 AM	On FedEx vehicle for delivery	BURLINGTON, WA	
	8:26 AM	At local FedEx facility	BURLINGTON, WA	
	5:43 AM	At dest sort facility	SEATTLE, WA	
	3:54 AM	Departed FedEx location	MEMPHIS, TN	
May 10, 2007	11:56 PM	Arrived at FedEx location	MEMPHIS, TN	
	8:25 PM	Left origin	KANSAS CITY, MO	
	5:13 PM	Picked up	KANSAS CITY, MO	
	2:44 PM	Package data transmitted to FedEx		

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Submit

FROM: PHONE: 9137624-847
MARY K JOSHI
SPRINT
6330 SPRINT PKWYBLDG 1
KSOPHA0310-3B268
OVERLAND PARK, KS 66251

FedEx

FedEx

SHIP DATE: 10 MAY 07
SYSTEM # 1433612
ACTUAL WGT: 0.5LBS

TO: PHONE: 360-321-1111
MARION HENRY
WHIDBEY TELEPHONE CO.
14888 SR 525
LANGLEY WA 98260

REF: WA RFI

PRIORITY OVERNIGHT

FRI
PM

TRK # 798171047723 FORM 0201

SEA

Deliver by:
11MAY07

98260-WA-USA

XH ODWA

EXHIBIT B

DRAFT - FOR DISCUSSION PURPOSES

INTERCONNECTION AGREEMENT

BY AND BETWEEN

ILEC

AND

SPRINT COMMUNICATIONS COMPANY L.P.

THIS DOCUMENT IS A DRAFT AND REPRESENTS THE CURRENT POSITIONS OF SPRINT WITH RESPECT TO INTERCONNECTION AND RESALE. SPRINT RESERVES THE RIGHT TO MODIFY THIS DRAFT AGREEMENT, INCLUDING ANY APPENDICES, SCHEDULES AND ATTACHMENTS, AT ANY TIME PRIOR TO THE SIGNATURE OF THE FINAL AGREEMENT BY BOTH PARTIES. THIS DOCUMENT IS NOT AN OFFER.

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This Interconnection Agreement ("Agreement") is made effective as of the _____ day of _____ 2006 by and between [INSERT ILEC NAME] ("ILEC"), a [INSERT STATE] corporation with offices at [INSERT ADDRESS, CITY, STATE, ZIP] and Sprint Communications Company L.P. ("Sprint") a Delaware limited partnership with offices at 6200 Sprint Parkway, Overland Park, KS 66251. ILEC and Sprint may also be referred to herein singularly as a "Party" or collectively as the "Parties."

BACKGROUND

The Parties are entering into this agreement under Sections 251 and 252 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996 (the "Act").

ILEC is an incumbent local exchange carrier ("ILEC") and Sprint is a telecommunications carrier.

The Parties are entering into this Agreement to set forth the respective obligations of the Parties and the terms and conditions under which the Parties will interconnect their networks and provide other services as required by the Act and applicable law.

In consideration of the mutual obligations set forth below, the Parties agree to the following terms and conditions:

1. Term of Agreement

1.1. This Agreement is effective upon signature by both parties and has an initial term of _____ year. Unless renegotiated or terminated pursuant to this Section 1, this Agreement will automatically renew for successive _____ periods.

1.2. Sprint may seek to negotiate a new agreement by either:

1.2.1. Providing written notice to ILEC at least sixty (60) days prior to expiration of the initial term or any succeeding term; or,

1.2.2. If ILEC sends a timely notice to terminate under section 1.3, by providing ILEC a written notice to re-negotiate within (60) days of receiving ILEC's notice to terminate.

1.3. Either Party may seek to terminate this Agreement by providing written notice to the other Party at least sixty (60) days but no more than 90 days prior to expiration of the initial term or any succeeding term. If ILEC sends a timely notice to terminate and Sprint replies with a timely notice

for re-negotiation under section 1.2.2, this Agreement will continue in full force and effect until such new Agreement is effective through negotiation, mediation or arbitration under Section 252 of the Act.

2. Scope

2.1. This Agreement is for Interconnection, the exchange of Telecommunications Traffic and information services, and related services between Sprint and ILEC, including exchange access and Transit Traffic. This Agreement may be used by Sprint to provide retail services or wholesale services, including voice over internet services. The Traffic Sprint delivers to ILEC is treated under this Agreement as Sprint Traffic, and all billing associated with that Traffic will be in the name of Sprint subject to the terms and conditions of this Agreement.

2.2. Nothing in this Agreement alters or otherwise affects in any manner the local calling areas or services offered by either Party to its End Users.

3. Definitions

3.1. The following definitions will apply to all sections contained in this Agreement. Additional definitions that are specific to the matters covered in a particular section may appear in that section. Any term used in this Agreement that is not specifically defined shall have the meaning ascribed to such term in the Act. If no specific definition exists in the Act for a specific term used in this Agreement, then normal usage in the telecommunications industry shall apply.

3.2. Act, as used in this Agreement, means the Communications Act of 1934 (47 U.S.C. Section 151 et seq.), as amended, and as from time to time interpreted in the duly authorized rules and regulations of the Federal Communications Commission ("FCC") or the Commission.

3.3. Bill and Keep means that neither of the two interconnecting carriers charges the other for the transport and termination of Telecommunications Traffic or information services traffic originated by the other Party's End User.

3.4. Commission means the commission, board, or official (by whatever name designated) which under the laws of the state in which this Agreement is filed has regulatory jurisdiction over ILEC.

3.5. EAS Traffic means two-way traffic that falls within the definition of "EAS" as set forth in applicable tariffs and regulatory rules and orders that is exchanged between the Parties.

3.6. End User means the residential or business subscriber or other ultimate user of services provided by either of the Parties.

3.7. Extended Area Service ("EAS") means a service arrangement whereby End Users in a specific local service exchange area are provided the ability to place and receive interexchange calls to End Users in another local service exchange area on the basis of terms, conditions and charges that are distinct from the terms applicable to message toll service.

3.8. Interconnection means the direct or indirect linking of the Parties' networks for the exchange of Traffic.

3.9. Interconnection Facility is the dedicated transport facility used to connect the two Parties' networks.

3.10. Local Access and Transport Area ("LATA") is as defined in the Act.

3.11. Point of Interconnection ("POI") means the physical location(s) at which the Parties' networks meet for the purpose of exchanging Traffic.

3.12. Telecommunications Traffic is as defined in 47 C.F.R. 51.701(b)(1) and is traffic subject to reciprocal compensation under 47 U.S.C. 251(b)(5).

3.13. Telecommunications Services is as defined in 47 U.S.C. 153(46).

3.14 Traffic means Telecommunications Traffic, information services traffic, exchange access traffic and Transit Traffic.

3.15 Wireless Traffic means Traffic originated by or terminated to a wireless provider.

4. Billing and Payments

4.1. The Parties will bill each other for all charges due on a monthly basis and all such charges, except those in dispute, are payable within thirty days of the bill date but no less than twenty days after receipt of the bill. Any undisputed amounts not paid when due accrue interest from the date such amounts were due at the highest rate of interest that may be charged under applicable law.

4.2. Billed amounts for which written, itemized disputes or claims have been filed are not due for payment until such disputes or claims have been resolved in accordance with the dispute resolution provisions of this Agreement.

5. Audits

5.1. Either Party may conduct an audit of the other Party's books and records pertaining to the Services provided under this Agreement, no more frequently than once per twelve (12) month period, to evaluate the other Party's accuracy of billing, invoicing and other services in accordance with this Agreement.

5.2. Any audit will be performed as follows: (i) following at least thirty (30) Business Days' prior written notice to the audited Party; (ii) subject to the reasonable scheduling requirements and limitations of the audited Party; (iii) at the auditing Party's sole cost and expense; (iv) of a reasonable scope and duration; (v) in a manner so as not to interfere with the audited Party's business operations; and (vi) in compliance with the audited Party's security rules.

5.3. Adjustments, credits or payments shall be made and any corrective action shall commence within thirty (30) Days from the requesting Party's receipt of the final audit report to compensate for any errors or omissions which are disclosed by such audit and are agreed to by the Parties.

5.4. In addition to the audit rights in section 5.1, if ILEC uses a third-party to provide any services under this Agreement, including but not limited to 911 or directory listings, ILEC will cooperate with Sprint to obtain the necessary documentation to conduct an audit related to those services.

6. Limitation of Liability

6.1. The Parties will limit liability in accordance with this Section.

6.2. Except for damages resulting from the willful or intentional misconduct of one or both Parties, the liability of either Party to the other Party for damages arising out of (i) failure to comply with a direction to install, restore or terminate facilities, or (ii) failures, mistakes, omissions, interruptions, delays, errors, or defects occurring in the course of furnishing any services, arrangements, or facilities hereunder shall be determined in accordance with the terms of the applicable tariff(s) of the providing Party. In the event no tariff(s) apply, the providing Party's liability shall not exceed an amount equal to the pro rata monthly charge for the period in which such failures, mistakes, omissions, interruptions, delays, errors, or defects. Because of the mutual nature of the exchange of Traffic arrangement between the Parties pursuant to this Agreement, the Parties acknowledge that the amount of liability incurred under this Section may be zero.

6.3. Neither Party shall be liable to the other in connection with the provision or use of services offered under this Agreement for any indirect, incidental, special or consequential damages including but not limited to damages for lost profits or revenues, regardless of the form of action, whether in contract, warranty, strict liability, or tort, including without limitation, negligence of any kind, even if the other Party has been advised of the possibility of such damages; provided that the foregoing shall not limit a Party's liability with respect to its indemnification obligations under Section 6 of this Agreement.

6.4. Except in the instance of harm resulting from an intentional action or willful misconduct, neither Party shall be liable to the End User of the other Party in connection with its provision of services to the other Party under this Agreement. In the event of a dispute involving both Parties with a customer of one Party, both Parties shall assert the applicability of any limitations on liability to End Users that may be contained in either Party's applicable tariff(s) or applicable End User contracts.

7. No Warranties.

7.1. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES, AND EACH PARTY HEREBY SPECIFICALLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING ANY MATTER SUBJECT TO THIS AGREEMENT, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.

8. Indemnification

8.1. Each Party (the "Indemnifying Party") shall release, indemnify, defend and hold harmless the other Party ("Indemnified Party") from and against all losses, claims, demands, damages, expenses (including reasonable attorney's fees), suits or other actions, or any liability whatsoever related to the subject matter of this Agreement, (i) whether suffered, made, instituted, or asserted by any other party or person, relating to personal injury to or death of any person, or for loss, damage to, or destruction of real and/or personal property, whether or not owned by others, incurred during the term of this Agreement and to the extent proximately caused by the act(s) or omission(s) of the Indemnifying Party, regardless of the form of action, or (ii) whether suffered, made, instituted, or asserted by its own customer(s) against the other Party arising out of the other Party's provisioning of services to the Indemnifying Party under this Agreement, except to the extent caused by the gross negligence or willful misconduct of the Indemnified Party, or (iii) arising out of the libel, slander, invasion

of privacy, misappropriation of a name or likeness. Notwithstanding the foregoing, nothing contained herein shall affect or limit any claims, remedies, or other actions the Indemnifying Party may have against the Indemnified Party under this Agreement, any other contract, or any applicable tariff(s), regulation or laws for the Indemnified Party's provisioning of said services.

8.2. The Indemnified Party shall (i) notify the Indemnifying Party promptly in writing of any written claims, lawsuits, or demand by third parties for which the Indemnified Party alleges that the Indemnifying Party is responsible under this Section and (ii) tender the defense of such claim, lawsuit or demand to the Indemnifying Party, (iii) assert any and all provisions in its tariff that limit liability to third parties as a bar to any recovery by the third-party claimant in excess of such limitation. The Indemnified Party also shall cooperate in every reasonable manner with the defense or settlement of such claim, demand, or lawsuit. The Indemnifying Party shall keep the Indemnified Party reasonably and timely apprised of the status of the claim, demand or lawsuit. In no event shall the Indemnifying Party settle or consent to any judgment pertaining to any such action without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld, delayed or conditioned. The Indemnified Party shall have the right to retain its own counsel, at its expense, and participate in but not direct the defense, except that if the Indemnifying Party does not promptly assume or diligently pursue the tendered action, then the Indemnified Party may proceed to defend or settle said action at the expense of the Indemnifying Party.

8.3. The Indemnifying Party shall not be liable under this Section for settlements or compromises by the Indemnified Party of any claim, demand, or lawsuit unless the Indemnifying Party has approved the settlement or compromise in advance, and such approval by the Indemnifying Party shall not be unreasonably withheld, or unless the defense of the claim, demand, or lawsuit has been tendered to the Indemnifying Party in writing and the Indemnifying Party has failed to promptly undertake the defense.

9. Force Majeure

9.1. Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, regardless of whether such delays or failures in performance were foreseen or foreseeable as of the date of this Agreement, including, without limitation, acts of God, acts of civil or military authority, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power failure or blackouts. If performance of either Party's obligations is

delayed under this Section, the due date for the performance of the original obligation(s) shall be extended by a term equal to the time lost by reason of the delay. In the event of such delay, the delaying Party will perform its obligations at a performance level no less than that which it uses for its own operations.

10. Nondisclosure of Proprietary Information

10.1. It may be necessary for the Parties to exchange with each other certain confidential information during the term of this Agreement including, without limitation, technical and business plans, technical information, proposals, specifications, drawings, procedures, orders for services, usage information in any form, customer account data, call detail records, Customer Proprietary Network Information ("CPNI") and Carrier Proprietary Information ("CPI") as those terms are defined by the Communications Act of 1934, as amended, and the rules and regulations of the FCC and similar information (collectively, "Confidential Information"). Confidential Information includes (i) all information delivered in written form and marked "confidential" or "proprietary" or bearing mark of similar import; (ii) oral information, if identified as confidential or proprietary at the time of disclosure and confirmed by written notification within ten (10) days of disclosure; (iii) information derived by the Recipient (as hereinafter defined) from a Disclosing Party's (as hereinafter defined) usage of the Recipient's network; and (iv) or information that the circumstances surrounding disclosure or the nature of the information suggests that such information is proprietary or should be treated as confidential or proprietary. The Confidential Information will remain the property of the Disclosing Party and is proprietary to the Disclosing Party. Recipient will protect Confidential Information as the Recipient would protect its own proprietary information, including but not limited to protecting the Confidential Information from distribution, disclosure, or dissemination to anyone except employees or duly authorized agents of the Parties with a need to know such information and which the affected employees and agents shall be bound by the terms of this Section. Confidential Information will not be disclosed or used for any purpose other than to provide service as specified in this Agreement, or upon such other terms as may be agreed to by the Parties in writing. For purposes of this Section, the Disclosing Party means the owner of the Confidential Information, and the Recipient means the Party to whom Confidential Information is disclosed.

10.2. Recipient has no obligation to safeguard Confidential Information (i) which was in the Recipient's possession free of restriction prior to its receipt from Disclosing Party, (ii) after it becomes publicly known or available through no breach of this Agreement by Recipient, (iii) after it is rightfully acquired by Recipient free of restrictions on the Disclosing

Party, or (iv) after it is independently developed by personnel of Recipient to whom the Disclosing Party's Confidential information had not been previously disclosed. Recipient may disclose Confidential Information if required by law, a court, or governmental agency, provided that Disclosing Party has been notified of the requirement promptly after Recipient becomes aware of the requirement, and provided that Recipient undertakes all reasonable lawful measures to avoid disclosing such information until Disclosing Party has had reasonable time to obtain a protective order. Recipient will cooperate with the Disclosing Party to obtain a protective order and to limit the scope of such disclosure. Recipient will comply with any protective order that covers the Confidential Information to be disclosed.

10.3. Each Party agrees that Disclosing Party would be irreparably injured by a breach of this Agreement by Recipient or its representatives and that Disclosing Party is entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any breach of this paragraph. These remedies are not exclusive, but are in addition to all other remedies available at law or in equity.

11. Notices

11.1. Notice given by one Party to the other under this Agreement must be in writing and delivered by hand, overnight courier or pre-paid first class mail certified U.S mail, return receipt requested, and is effective when received and properly addressed to:

For Sprint:
Manager, ICA Solutions
Sprint
P. O. Box 7954
Shawnee Mission, Kansas 66207-0954

or
Manager, ICA Solutions
Sprint
KSOPHA0310-3B268
6330 Sprint Parkway
Overland Park, KS 66251
(913) 762-4847 (overnight mail only)

With a copy to:

Legal/Telecom Mgmt Privacy Group
P O Box 7966
Overland Park, KS 66207-0966

or

Legal/Telecom Management Privacy Group
Mailstop: KSOPKN0214-2A568
6450 Sprint Parkway
Overland Park, KS 66251
913-315-9348 (overnight mail only)

For ILEC:

Business Name:
Mailing Address:
City/State/Zip Code:
Contact Phone Number:
Fax:

With a copy to:

11.2. The address to which notices or communications may be given to either Party may be changed by written notice given by such Party to the other Party pursuant to this Section.

12. Dispute Resolution

12.1. If any matter is subject to a dispute between the Parties, the disputing Party will give written notice to the other Party of the dispute. Each Party to this Agreement will appoint a good faith representative to resolve any dispute arising under this Agreement.

12.2. If the Parties are unable to resolve the issues related to the dispute in the normal course of business within thirty Days after delivery of notice of the dispute to the other party, the dispute shall be escalated to a designated representative who has authority to settle the dispute and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. If negotiations do not resolve the dispute, then either party may proceed with any remedy available to it pursuant to law, equity, or agency mechanisms. Notwithstanding the above provisions, if the dispute arises from a service affecting issue, either Party may immediately seek any available remedy.

12.3. Each Party waives its right to a jury trial in any court action arising among the Parties under this Agreement or otherwise related to this Agreement, whether made by claim, counterclaim, third-party claim or otherwise. The agreement of each Party to waive its right to a jury trial will be binding on its successors and assigns.

13. Miscellaneous

13.1. Amendments. No amendment of this Agreement is valid unless it is in writing and signed by both Parties.

13.2. Independent Contractors. The Parties to this Agreement are independent contractors. Neither Party is an agent, representative, or partner of the other Party.

13.3. Taxes. Each Party is responsible for any and all taxes and surcharges arising from its conduct under this Agreement and shall, consistent with Section 8 indemnify and hold harmless the other Party for its failure to pay and/or report any applicable taxes and surcharges. Sprint is not required to pay any tax or surcharge for which it provides an exemption certificate or other proof of exemption to ILEC.

13.4. Survival. The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement survive the termination or expiration of this Agreement.

13.5. Publicity. Neither Party nor its subcontractors or agents will use the other Party's trademarks, service marks, logos, company name or other proprietary trade dress in any advertising, press releases, publicity matters or other promotional materials without that Party's prior written consent.

13.6. Default. If either Party believes the other is in breach of this Agreement or otherwise in violation of law, it will first give thirty (30) days notice of such breach or violation and an opportunity for the allegedly defaulting Party to cure. Thereafter, the Parties will employ the dispute resolution procedures set forth in this Agreement.

13.7. Waiver. Any failure on the part of a Party hereto to comply with any of its obligations, agreements or conditions hereunder may be waived by written documentation by the other Party to whom such compliance is owed. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, nor shall any waiver constitute a continuing waiver.

13.8. Change of Law. If a federal or state regulatory agency or a court of competent jurisdiction issues a rule, regulation, law or order which has the effect of canceling, changing, or superseding any material term or provision of this Agreement then the Parties will negotiate in good faith to modify this Agreement in a manner consistent with the form, intent and purpose of this Agreement and as necessary to comply with such change of law. Should the Parties be unable to reach agreement with respect to

the applicability of such order or the resulting appropriate modifications to this Agreement, either Party may invoke the Dispute Resolution provisions of this Agreement, it being the intent of the Parties that this Agreement shall be brought into conformity with the then current obligations under the Act as determined by the change in law.

13.9. No Third-Party Beneficiaries. This Agreement does not provide any third party with any benefit, remedy, claim, right of action or other right.

13.10. Governing Law. To the extent not governed by, and construed in accordance with, the laws and regulations of the United States, this Agreement is governed by, and construed in accordance with, the laws and regulations of the FCC and the state of INSERT, without regard to its conflicts of laws principles.

13.11. Severability. If any part of this Agreement is held to be unenforceable or invalid in any respect under law or regulation, such unenforceability or invalidity will affect only the portion of the Agreement which is unenforceable or invalid. In all other respects this Agreement will stand as if the invalid provision had not been a part thereof, and the remainder of the Agreement remains in full force and effect, unless removal of that provision results in a material change to this Agreement. In such a case, the Parties shall negotiate in good faith to replace the unenforceable language with language that reflects the intent of the Parties as closely as possible. If replacement language cannot be agreed upon, either Party may request dispute resolution pursuant to Section 12.

13.12. Assignment. This Agreement will be binding upon, and inure to the benefit of, the Parties hereto and their respective successors and permitted assigns. Any assignment or transfer (whether by operation of law or otherwise) by either Party of any right, obligation, or duty, in whole or in part, or of any interest, without the written consent of the other Party will be void ab initio, provided however that consent will not be unreasonably withheld, conditioned or delayed. Consent is not required if assignment is to a corporate affiliate or an entity under common control or an entity acquiring all or substantially all of its assets or equity, whether by sale, merger, consolidation or otherwise or in connection with a financing transaction.

14. Interconnection

14.1. The Parties shall make available to each other Interconnection Facilities for the reciprocal exchange of Traffic. For Interconnection under 251(a) of the Act the following terms apply:

14.2. Direct Interconnection

14.2.1. Direct Interconnection Using One-way Facility

14.2.1.1. Unless the Parties agree to provide two-way facilities pursuant to Section 14.2.2, each Party will provision a one-way Interconnection Facility for the delivery of its Traffic to the other Party's network.

14.2.1.2. For direct interconnection, Sprint will establish a minimum of one POI within the LATA at any technically feasible point on the ILEC's network, and each Party will be responsible for engineering and maintaining its network on its side of the POI on the ILEC's network.

14.2.1.3. Sprint will provide ILEC a technically feasible POI within Sprint's network for delivery of ILEC-originated Traffic, and each Party will be responsible for engineering and maintaining its network on its side of the POI on Sprint's network.

14.2.2. Direct Interconnection using Two-way Facility.

14.2.2.1. The parties may agree to use a two-way Interconnection Facility subject to the following terms.

14.2.2.2. For direct interconnection, Sprint will establish a minimum of one POI within each LATA, at any technically feasible point on the ILEC's network, and Sprint will be responsible for engineering and maintaining its network on its side of the POI

14.2.2.3. Sprint may provide the two-way Interconnection Facility via lease of meet-point circuits between ILEC and a third party, lease of ILEC facilities, lease of third-party facilities, or use of its own facilities.

14.2.2.4. If Sprint leases the two-way Interconnection Facility from ILEC, ILEC will reduce the recurring and non-recurring facility charges and only invoice Sprint for that percentage of the facility that delivers Traffic sent by Sprint over the facility to the ILEC network POI. Sprint shall pay ILEC a rate that reflects only the proportion of the trunk capacity that Sprint uses to send terminating Traffic to ILEC.

14.2.2.5. Each party will deliver its Traffic to the POI.

14.2.3. Regardless of how one-way or two-way Interconnection Facilities are provisioned (e.g., owned, leased or obtained pursuant to tariff, etc.) each Party is individually responsible to provide facilities to the POI that are necessary for routing, transporting, measuring, and billing Traffic from the other Party's network and for delivering Traffic to the other Party's network in a mutually acceptable format and in a manner that neither destroys nor degrades the normal quality of service.

14.3. Indirect Interconnection

14.3.1. The Parties agree to exchange Traffic indirectly through one or more third-party networks ("Transiting Carrier"). In an indirect interconnection arrangement there is no POI directly linking the two parties' networks.

14.3.2. Once an indirect Interconnection arrangement between Sprint and ILEC's network is no longer considered by an originating Party to be an economically preferred method of interconnection, the originating Party may provision a one-way Interconnection Facility at its own cost to deliver its Traffic to the terminating Party's network. If, however, the Parties mutually agree that the indirect Interconnection arrangement is no longer the economically preferred method of interconnection for both Parties and the Parties have agreed to use a two-way interconnection facility, Sprint will establish a direct Interconnection with ILEC as set forth in Section 14.2 of this Agreement.

14.3.3. Each Party is responsible for the transport of originating calls from its network to the Transiting Carrier and for the payment of any transit charges assessed by the Transiting Carrier for that Party's originated Traffic.

14.4. Technical Requirements for Interconnection

14.4.1. The Parties agree to utilize SS7 Common Channel Signaling ("CCS") between their respective networks. Both Parties will provide CCS connectivity in accordance with accepted industry practice and standard technical specifications. For all Traffic exchanged, the Parties agree to cooperate with one another on the exchange of all appropriate unaltered CCS messages for call set-up, including without limitation ISDN User Part ("ISUP") and Transaction Capability User Part ("TCAP") messages to

facilitate interoperability of CCS-based features and functions between their respective networks, including CLASS features and functions. All CCS signaling parameters, including, but not limited to the originating end user telephone number, will be provided by each Party in conjunction with all Traffic it exchanges to the extent required by industry standards. Each Party will transmit calling party number (CPN) as required by FCC rules (47 C.F.R. 64.1601).

15. Transit Traffic

15.1. Transit Traffic means ILEC's delivery of Traffic between Sprint and a third party incumbent local exchange provider, competitive local exchange provider ("CLEC") or wireless provider. Transit Traffic includes the delivery of intraMTA wireless Traffic to ILEC originated or terminated by the End User of Sprint and originated or terminated to a third party wireless provider over the interconnection trunks. ILEC will provide transit service to Sprint and charge Sprint for Transit Traffic that Sprint sends ILEC for delivery to a third party incumbent local exchange provider, CLEC or wireless provider at the rates specified in Attachment I.

15.2. ILEC will use reasonable efforts to deliver each call it transits to Sprint's network with all SS7 Common Channel Interoffice Signaling (CCIS) and other appropriate messages ILEC receives from the third-party originating carrier in order to facilitate full interoperability and billing functions. ILEC agrees to send all message indicators according to industry standards and to provide the terminating Party information on Traffic originated by a third-party CLEC, incumbent local exchange carrier, or wireless provider. To the extent that the industry adopts a standard record format for recording originating and/or terminating transit calls, ILEC will comply with the industry-adopted format to exchange records.

15.3. Traffic to or from Sprint under the business arrangement with a third party last mile provider for interconnection services is not considered Transit Traffic under this Agreement.

16. Compensation

16.1. Interconnection Facilities

16.1.1. Compensation for Interconnection Facilities is separate and distinct from any transport and termination per minute of use charges or an otherwise agreed upon Bill and Keep arrangement. To the extent that one Party provides a two-way Interconnection Facility, regardless of who the underlying carrier is, it may charge the other Party for its proportionate

share of the recurring charges for Interconnection Facilities based on the other Party's percentage of the total sent Traffic.

16.1.2. When either one way or two-way Interconnection Facilities are utilized, each Party shall be financially responsible for the proportion of the Interconnection Facility used to transmit its originating Traffic.

16.1.3. A state-wide shared facilities factor may be agreed to by the Parties that represents each Party's proportionate use of all direct two-way Interconnection Facilities between the Parties. The shared facilities factor may be updated by the Parties annually based on current traffic study data, if requested by either Party in writing.

16.1.4. Interconnection Facilities that are leased from ILEC for interconnection purposes must be provided to Sprint at forward-looking economic cost-based rates.

16.1.5. Notwithstanding any other provision of this Agreement or ILEC's tariff, if Sprint elects to order Interconnection Facilities from ILEC's access tariff or purchases the Interconnection Facility from ILEC under this Agreement the terms in this Section 16.1 will apply.

16.2. Compensation for Telecommunications Traffic

16.2.1. The reciprocal compensation for the exchange of Telecommunications Traffic and information services will be on a Bill and Keep basis.

16.3. Compensation for Toll Traffic (non-47 C.F.R. 51.701(b) traffic)

16.3.1. Compensation for the termination of toll traffic and the origination of 800 traffic between the Parties shall be based on applicable tariff access charges in accordance with FCC and Commission Rules and Regulations and consistent with the provisions of this Agreement.

16.3.2. Sprint and ILEC may provide jointly provisioned access to a third party interexchange carrier (IXC). Each Party will bill the IXC for the portion of jointly provisioned access service it provides to the IXC based on the Party's applicable tariff access charges.

17. Dialing Parity

17.1. Neither Party shall require its End User to dial more digits to call the other Party's End User than would be required to call any other End User within a given Rate Center.

18. Office Code Translations

18.1. It shall be the responsibility of each Party to program and update its own switches and network systems in accordance with the Local Exchange Routing Guide ("LERG") in order to recognize and route Traffic to the other Party's assigned NXX codes at all times.

18.2. When more than one carrier is involved in completing the call, the N-1 carrier has the responsibility to determine if a query is required, to launch the query, and to route the call to the appropriate switch or network in which the telephone number resides.

18.3. If a Party does not fulfill its N-1carrier responsibility, the other Party shall perform queries on calls to telephone numbers with portable NXXs received from the N-1 carrier and route the call to the appropriate switch or network in which the telephone number resides. The N-1 carrier shall be responsible for payment of charges to the other Party for any queries, routing, and transport functions made on its behalf, including any reciprocal compensation assessed by the terminating carrier or transit charges assessed by a tandem provider.

19. Local Number Portability

19.1. Local Number Portability (LNP) provides an End User the ability to retain its existing telephone number when changing from one telecommunications carrier to another.

19.2. The Parties recognize that some of the Traffic to be exchanged under this Agreement may be destined for telephone numbers that have been ported. The Parties shall provide LNP query, routing, and transport services in accordance with rules and regulations as prescribed by the FCC and the guidelines set forth by the North American Numbering Council ("NANC"). The applicable charges for LNP query, routing, and transport services shall be billed in accordance with each Party's applicable tariff or contract.

19.3. The Parties will mutually provide LNP services. LNP applies when an End User with an active account wishes to change carriers while retaining the telephone number or numbers associated with the account. LNP is also used with the provisioning of number pooling which the Parties will

mutually provide in accordance with rules and regulations as prescribed by the appropriate regulatory bodies and using the industry guidelines set forth for number pooling.

19.4. Both Parties will cooperate to perform testing as specified in industry guidelines to ensure interoperability between networks and systems. Each Party shall inform the other Party of any system updates that may affect the other Party's network and each Party shall, at the other Party's request, perform tests to validate the operation of the network.

19.5. The Parties agree that Traffic will be routed via a Location Routing Number ("LRN") assigned in accordance with industry guidelines.

20. Coordination of Transfer of Service

20.1. When an End User transfers service from one Party to the other Party, the Parties will coordinate the timing for disconnection from one Party and connection with the other Party so that transferring End Users are not without service for any extended period of time. Other coordinated activities associated with transfer of service will be coordinated between the Parties to ensure quality services to the public.

20.2. The Parties will establish mutually acceptable, reasonable, and efficient transfer of service procedures that utilize the industry standard LSR format for the exchange of necessary information for coordination of service transfers between the Parties. Neither Party will charge the requesting Party for LSRs or the associated Customer Service Records (CSRs).

20.3. Each Party is responsible for following FCC rules for obtaining authorization from each End User initiating transfer of service from one Party to the other Party.

20.4. Each Party will accept transfer of service requests from the other Party for one End User that includes multiple requests for transfers where the End User will retain one or more telephone numbers.

21. Directory Listings and Distribution Services

21.1. Sprint may provide to ILEC or ILEC's directory publisher, as specified by ILEC, the subscriber list information (including additions, changes and deletions) for its End Users located within ILEC's operating areas. It is the responsibility of Sprint to submit directory listings in the prescribed manner to ILEC or ILEC's directory publisher prior to the directory listing publication cut-off date, which will be provided by ILEC or ILEC's directory publisher to Sprint.

21.2. ILEC will include Sprint's End Users primary listings (residence and business) in its White Pages Directory, and if applicable, in its Yellow Pages Directory under the appropriate heading classification as determined by directory publisher as well as in any electronic directories in which ILEC's own Customers are ordinarily included. Listings of Sprint's End Users will be interfiled with listings of ILEC's customers and the customers of other LECs, in the local section of ILEC's directories.

21.3. Sprint may identify End Users that have elected not to have their number published. To the extent Sprint elects to have its End User's listing deleted from the directory database, Sprint may remove such listing from the ILEC's database via the industry standard process. No charges will apply for End Users deleted or identified as "Non-Published" or "Non-Listed".

21.4. ILEC will provide Sprint's End Users a primary listing in its telephone directories at no charge. Sprint will pay ILEC's tariffed charges for additional directory listings for the same End User. No other charges will apply.

21.5. ILEC will distribute its telephone directories to Sprint's End Users in the same manner it distributes telephone directories to its own End Users.

21.6. If ILEC uses a third party to publish and provide directories, ILEC will provide the contact information for the directory provider. ILEC will cooperate with Sprint and the directory provider to ensure that Sprint's End-User's listings are included in the directory consistent with ILEC's End-User's listings and that directories are distributed to Sprint's End Users in the same manner that directories are distributed to ILEC's End Users.

22. 911 Requirements / Master Street Address Guide (MSAG)

22.1. If ILEC maintains MSAG information, ILEC shall provide Sprint with a file containing the MSAG for the exchanges or communities in which Sprint provides service.

22.2. Sprint or its agent shall provide initial and ongoing updates of Sprint's End Users 911 Records that are in valid electronic format based upon established NENA standards.

22.3. Each Party is solely responsible for the receipt and transmission of 911/E911 Traffic originated by it. The Parties acknowledge and affirm that calls to 911/E911 shall not ordinarily be routed over the interconnection trunk group(s) identified in and required under this Agreement.

23. Multiple Counterparts

23.1. This Agreement may be executed in counterparts and each of which shall be an original and all of which shall constitute one and the same instrument and such counterparts shall together constitute one and the same instrument.

24. Entire Agreement

24.1. This Agreement, including all attachments and subordinate documents attached hereto or referenced herein, all of which are incorporated by reference, constitute the entire matter, and supersede all prior oral or written agreements, representations, statements, negotiations, understandings, proposals, and undertakings with respect to the subject matter.

IN WITNESS WHEREOF, the Parties agree that the effective date of this Agreement is the date first written above, and each Party warrants that it has caused this Agreement to be signed and delivered by its duly authorized representative.

By: Sprint Communications Company L.P.	By: [INSERT ILEC NAME]
Signature	Signature
Typed or Printed Name	Typed or Printed Name
Title	Title
Date	Date

Attachment I

PRICING SCHEDULE

SERVICE	CHARGE
RECIPROCAL COMPENSATION:	
TANDEM INTERCONNECTION	Bill and Keep
END OFFICE TERMINATION	Bill and Keep
TRANSIT	$ TBD

EXHIBIT C

INTERCONNECTION DISCUSSION NONDISCLOSURE AGREEMENT

This Interconnection Discussion Nondisclosure Agreement ("Agreement") is made as of the _____ day of _____, _____ by and between Sprint Communications Company L.P., a Delaware Limited Partnership, with its principal place of business at _____, (referred to herein as "Sprint") and Whidbey Telephone Company, a Washington corporation, with its principal place of business at 14888 SR 525, Langley, Washington, (referred to herein as "Company"). Sprint and Company are sometimes collectively referred to herein as the "Parties" and individually as a "Party".

WHEREAS, the networks of Sprint and Whidbey are presently interconnected for purposes of the exchange of interexchange traffic; and

WHEREAS, in connection with the discussion or negotiation between them of a potential further interconnection of the Parties' respective networks and/or a further exchange of traffic between their respective networks, pursuant to 47 U.S.C. §§ 251(a) and/or (b) of the Communications Act of 1934, as amended (referred to herein as the "Purpose"), each Party hereto may disclose certain non-public and/or proprietary information to the other relating to their respective operations and businesses; and

WHEREAS, the Parties wish to preserve the confidentiality and prevent the unauthorized disclosure and use of any such non-public and/or proprietary information disclosed to the other hereunder.

NOW, THEREFORE, for and in consideration of the mutual promises set forth below, the Parties hereby agree as follows:

1. As used herein, the term "Information" shall mean all non-public information disclosed hereunder, whether written or oral, that is designated as confidential or proprietary or that, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as confidential. Information shall include, but not be limited to, financial papers and financial, statements, customer lists, research and development activities, technology, vendors, computer hardware and software, products, drawings, trade secrets and information regarding operating procedures, pricing methods, marketing strategies, customer relations, future plans and other information identified by the Disclosing Party to the Receiving Party as being proprietary or confidential to the Disclosing Party and/or any third party.

2. As a condition to receiving the Information which either Party or any of its employees, representatives or agents (herein the "Disclosing Party") may furnish to the other Party or any of its employees, representatives or agents (herein the "Receiving Party") or to which the Receiving Party is afforded access by the Disclosing Party, directly or indirectly, the Receiving Party shall take all reasonable measures to avoid

unauthorized disclosure, unauthorized dissemination and/or unauthorized use of the Information, including, at a minimum those measures that it takes to protect its own confidential information of a similar nature (provided that such measures are consistent with at least a reasonable degree of care) and shall not, without the prior written consent of the Disclosing Party, use or disclose the Information or any part thereof except as necessary or appropriate for the Purpose.

3. The term Information does not include information which:

(a) without breach of this Agreement or breach of any similar agreement by a third-party, has been or becomes published or is now, or in the future, becomes publicly available or in the public domain;

(b) prior to disclosure hereunder, is properly within the legitimate possession of the Receiving Party free of any restriction on its disclosure or use not imposed by the Receiving Party;

(c) subsequent to disclosure hereunder, is lawfully received by the Receiving Party from a third party having rights therein without restriction of such third party's or the Receiving Party's right to disseminate the information and without the Receiving Party having any notice of any restriction against further disclosure of such information; or

(d) is independently developed by the Receiving Party through persons who have not had, either directly or indirectly, access to or knowledge of such Information; or,

(e) is disclosed by the Receiving Party with the prior written consent of the Disclosing Party.

4. The Receiving Party shall use the Information only for the Purpose. The Receiving Party shall not, without the prior written consent of the Disclosing Party, disclose Information to any person or entity other than employees, representatives or agents of the Receiving Party to whom such disclosure is necessary or appropriate in connection with the Purpose. The Receiving Party shall ensure that all such entities and personnel comply with the restrictions on the use and disclosure of Information set forth in this Agreement with respect to Information furnished to them by the Receiving Party. The Receiving Party shall not export any Information in any manner contrary to the export regulations of the United States. The Receiving Party shall not reproduce the Information except in furtherance of the Purpose or in connection with the disclosures permitted by Paragraph 9 below.

5. All Information shall remain the exclusive property of the Disclosing Party, and the Receiving Party shall have no rights, by license or otherwise, to use the Information except as expressly provided herein or as granted or acquired other than by reason of disclosure or use pursuant to this Agreement. No patent, copyright, trademark or other proprietary right with respect to the Information is licensed, granted or otherwise conveyed by this Agreement.

6. [Reserved.]

7. Nothing in this Agreement shall impose any obligation upon either Party to take any other action not expressly agreed to herein. Neither Party shall have any obligation to the other Party for any action such other Party may take or refrain from taking based on or otherwise attributable to any information (whether or not constituting Information) furnished to such other Party hereunder.

8. If a Receiving Party is requested by a Governmental entity or other third party to disclose any Information furnished to the Receiving Party by the Disclosing Party, unless prohibited by law from so doing or requested by subpoena, warrant or other governmental request not to give such notification, it will promptly notify the Disclosing Party to permit the Disclosing Party to seek a protective order or take other appropriate action. In such circumstances, the Receiving Party will also cooperate in the Disclosing Party's efforts to obtain a protective order or other reasonable assurance that confidential treatment will be afforded the Information.

9. Notwithstanding any other provision(s) of this Agreement, nothing contained in this Agreement shall be construed (a) to limit the information (whether or not constituting Information) that either Party may disclose to the Washington Utilities and Transportation Commission or the Federal Communications Commission in connection with the Purpose or in any proceeding commenced by either Party before the Washington Utilities and Transportation Commission or the Federal Communications Commission pertaining to (i) the Purpose, (ii) the interconnection of the Parties' respective networks or the exchange of traffic between those networks, or (iii) the discussions and/or negotiations referred to above, or (b) to impose upon such disclosure any condition(s) precedent.

10. This Agreement shall apply to Information received by a Receiving Party subsequent to the date first above written. Unless extended by mutual written consent of both Parties hereto, this Agreement shall expire either two (2) years after the date hereof or upon the effective date of a subsequent written Interconnection Agreement or Traffic Exchange Agreement between the Parties limitations on the use and disclosure of Information and exceptions thereto, substantially similar to the terms contained in this Agreement, whichever first occurs, provided, however, that expiration of this Agreement shall not relieve the Receiving Party of its obligations under this Agreement with respect to Information exchanged prior to the expiration of this Agreement.

11. The Parties acknowledge that a Recipient's unauthorized disclosure or use of Information furnished by the Disclosing Party may result in irreparable harm to the Disclosing Party. Because money damages may not be a sufficient remedy for any breach of the foregoing covenants and agreements, the Disclosing Party shall be entitled to specific performance and injunctive and other equitable relief as a remedy for any such breach of this Agreement in addition to all monetary remedies available at law or in equity. If there is a breach or threatened breach of this Agreement, the Disclosing Party may seek a temporary restraining order and injunction to protect the Disclosing Party's Information. This provision does not alter any other remedies available to either Party. The Party who has breached or threatened to breach this Agreement will not raise the defense of an adequate remedy at law to any request by the Disclosing Party for specific performance of, or an injunction requiring compliance with, the terms of this Agreement.

12. The Disclosing Party makes no representation or warranty as to the accuracy or completeness of the Information and the Receiving Party agrees that neither the Disclosing Party nor any of its employees, representatives, or agents shall have any liability to the Receiving Party resulting from any use of the Information by the Receiving Party, its employees, representative and/or agents. Each Disclosing Party represents and warrants that it has the right to disclose all Information that it discloses to the Receiving Party. Each Party shall indemnify and defend the other Party, its officers, directors, trustees, employees, attorneys, agents and representatives from all third-party claims resulting from the negligent or wrongful disclosure by the indemnifying party of a third-party's confidential or proprietary information. Otherwise, neither Party makes any representation or warranty about the Information. Neither party will be liable for indirect, incidental, punitive, or consequential damages for any cause of action, whether in contract, tort, or otherwise, arising out of a breach of this Agreement.

13. Subject to Paragraph 9 above, neither Party shall in any way or in any form publicize or advertise in any manner the discussions that give rise to this Agreement or the discussions covered by this Agreement without the prior written consent of the other Party.

14. This Agreement comprises the entire agreement between the Parties with respect to the subject matter contained herein. This Agreement may not be amended except in writing executed by both Parties.

15. This Agreement shall inure to the benefit of the respective Parties, their legal representatives, successors, and assigns. Except for the additional persons eligible for indemnification pursuant to Paragraph 12 above, there are no third party beneficiaries to this Agreement.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, without regard to it choice of law provisions.

17. Nothing contained in this Agreement shall be construed as acquiescence by either Party with, or agreement by either Party to, any theory or right claimed by the

other Party, or give rise to any estoppel with respect to any such theory or right. Each Party reserves to itself the right to espouse, agree with, or oppose any interpretation of any provision of the Communications Act of 1934, as amended, or any rule or regulation promulgated by the Federal Communications Commission or any other governmental agency or any order of any court.

18. If any provision of this Agreement is illegal or unenforceable, its invalidity shall not affect the other provisions of this Agreement that can be given effect without the invalid provision. If any provision of this Agreement does not comply with any law, ordinance or regulation, such provision to the extent possible shall be interpreted in such a manner to comply with such law, ordinance or regulation, or if such interpretation is not possible, it shall be deemed modified to the minimum extent necessary to satisfy the minimum requirements thereof. This Agreement may be executed by facsimile and in counterpart copies.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

Sprint Communications Company L.P.	Whidbey Telephone Company
By	By
Signature	Signature
Typed or Printed Name	Typed or Printed Name
Title	Title
Date	Date

EXHIBIT D

WHIDBEY
TELECOM

Local Telephone Services – Internet & Broadband – Long Distance
Security & Alarms – Data Center Services

June 5, 2007

BY TELECOPIER (913) 762-0117
AND EXPRESS MAIL

Mr. William Sanfilippo
Contracts Negotiator
Sprint Communications Company L.P.
KSOPHA0310-3B422
6330 Sprint Parkway
Overland Park, KS 66251-6102

Dear Mr. Sanfilippo:

Re: Request for Interconnection from Sprint Communications Company L.P. to Whidbey Telephone Company

This is in reply to your letter, dated May 10, 2007, addressed to Mr. Marion Henry, President of Whidbey Telephone Company ("Whidbey"),[1] setting forth a request on behalf of Sprint Communications Company L.P. ("Sprint") to negotiate an interconnection agreement with Whidbey for the State of Washington encompassing "the carrier duties of: sections 251(a) direct and indirect interconnection, 251(b)(2) Number Portability, 251(b)(3) Dialing Parity including directory listings), 251(b)(5) Reciprocal Compensation, and directory distribution." The naming of these items here is solely to acknowledge their inclusion in your letter and should be not be construed as evidencing any position by Whidbey at this juncture as to whether or not they are (i) correctly described, (ii) are appropriate for inclusion in an interconnection or traffic exchange agreement or (iii) are required to be negotiated or provided by Whidbey.

The second paragraph of your letter requests that Whidbey provide Sprint with a list of Whidbey's switches for which number portability (1) is available, (2) has been requested but is not yet available or (3) has not yet been requested. Please be advised that number portability is not available in any of Whidbey's switches and that, except for a purported request for number portability received by Whidbey from Sprint and that is being addressed in separate correspondence, no carrier requests for number portability are currently pending with Whidbey. Please let us know if you need a list of Whidbey's switches, or whether the foregoing response is sufficient for Sprint's present

[1] Please be advised that correspondence addressed to Whidbey's President should be addressed to Ms. Marion F. Henny.

purposes. Again, this information is being furnished in order to accommodate your request for the information, and no inference regarding Sprint's eligibility to request number portability from Whidbey is to be drawn from Whidbey's furnishing of such information.

Whidbey is a "rural telephone company," as that term is defined in the Communications Act of 1934, as amended. Accordingly, pursuant to paragraph 251(f)(1) of the Communications Act of 1934, as amended, 47 U.S.C. § 251(f)(1), Whidbey is exempt from the requirements of subsection 251(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 251(c) ("rural exemption"). Sprint is hereby given notice of Whidbey's claim of such exemption. Nevertheless, and without waiving such exemption, Whidbey is willing to engage in discussions and/or negotiations with Sprint looking toward the possibility of developing a mutually acceptable interconnection or traffic exchange agreement, provided that Sprint agrees that by so proceeding, Whidbey does not waive its rural exemption. Sprint's participation in any discussions and/or negotiations with Whidbey regarding such possibility and/or the terms of any such agreement shall constitute agreement by Sprint that Whidbey's participation in such discussions and/or negotiations will not constitute a waiver by Whidbey of its "rural exemption" or any portion thereof, unless, in a writing delivered to Whidbey at least ten (10) calendar days prior to the commencement of such discussions and/or negotiations, Sprint advises Whidbey otherwise; provided, however, that Sprint may at any time prospectively withdraw its agreement to such non-waiver of Whidbey's rural exemption with respect to any discussions and/or negotiations occurring after the expiration of ten (10) days following delivery to Whidbey of Sprint's written notice of such withdrawal; and provided further that such prospective withdrawal by Sprint of its agreement to the non-waiver of Whidbey's rural exemption shall not result, directly or indirectly, in Whidbey's participation in discussions and/or negotiations with Sprint prior to the expiration of the said ten-day period having constituted a waiver by Whidbey of its rural exemption or any portion thereof. Whidbey is proposing this manner of proceeding so as to permit an expeditious exploration of interconnection and/or traffic exchange possibilities between Sprint and Whidbey without jeopardizing Whidbey's rural exemption. However, neither Whidbey's willingness to proceed in this manner, nor anything else contained in this letter, is to be construed as agreement by Whidbey that your May 10 letter constitutes a "bona fide request" within the meaning of that term as used in paragraph 251(f)(1) of the Communications Act of 1934, as amended, 47 U.S.C. § 251(f)(1). If Sprint is not willing to proceed on the basis set forth in this paragraph, please so advise Whidbey promptly in writing.

Your letter also asks that Whidbey provide you with a point of contact for negotiations. If Sprint is willing to proceed upon the terms outlined in the immediately preceding paragraph, Whidbey's initial point of contact for the above-mentioned discussions and/or negotiations is as follows:

Robert S. Snyder, Esq.
Law Offices of Robert S. Snyder
1000 Second Avenue, 30th Floor
Seattle, WA 98104
Tel. (206) 622-2226 / Fax (206) 622-2227
E-mail: 74541.2515@compuserve.com and
rss@whidbeytel.com (please use both addresses)

I would appreciate it if Sprint would furnish me with a copy any correspondence from Sprint to Mr. Snyder relating to such discussions and/or negotiations. My address and e-mail address are as follows:

Ms. Julia H. DeMartini, Vice President
Whidbey Telephone Company
14888 SR 525
Langley, WA 98260
E-mail: julia.demartini@whidbeytel.com

If Sprint is willing to proceed on the terms set forth above, please let us know and Whidbey will proceed to review both the Non-Disclosure Agreement and the Interconnection Agreement that were enclosed with your letter. To facilitate such review, it would be appreciated if you would e-mail to Mr. Snyder and me (at the e-mail addresses immediately above) a copy of each of those documents in Word (.doc) format or, if not available in Word (.doc) format, then in WordPerfect (.wpd) format.

[continued on page 4]

Future correspondence directly with Whidbey regarding this matter should be addressed to my attention. The ten-day notices referred to above, if sent by Sprint, should be addressed to me, with a copy to Mr. Snyder.

Thank you.

Sincerely,

Julia H. DeMartini
Vice President

cc: Robert S. Snyder, Esq.

EXHIBIT E

Sprint
Together with NEXTEL
Sprint Nextel
6450 Sprint Parkway
KSOPHN0212-2A621
Overland Park, KS 66251
Office: (913) 315-9164 Fax: (913) 523-7723
Joseph P. Cowin
Senior counsel

June 14, 2007

Via: Email and Overnight Federal Express

Ms. Julia H. DeMartini, Vice President
Whidbey Telephone Company
14888 SR 525
Langley, WA 98260

RE: Sprint's request for interconnection with Whidbey Telephone Company

Dear Ms. DeMartini:

William Sanfilippo forward your June 5, 2007 letter to me for response. If, after reading Sprint's response to your questions, you have additional questions, please do not hesitate to contact me.

Sprint Communications Company L.P. ("Sprint") is a competitive local exchange carrier ("CLEC") partnering with Millennium Cable to provide service in Washington. It is in Sprint's capacity as a CLEC that Sprint seeks to interconnect with Whidbey Telephone Company ("Whidbey") under section 251(a) of the Act. Sprint is a facilities-based provider and therefore does not need to interconnect pursuant to section 251(c). For example, Sprint does not require unbundled network elements, resale or collocation. Therefore, Sprint is not seeking to implicate or remove the rural exemption which Whidbey Telephone Company has under section 251(c). It is also in its capacity as a wireline carrier that Sprint seeks to negotiate the terms of intramodal number portability, not intermodal number portability.

Per your request I am emailing this letter to you, with copy to Mr. Snyder, so that we can save time and move toward discussing the terms of an interconnection agreement and to attach a word version of the Non-Disclosure Agreement and Sprint's proposed Interconnection Agreement you requested. The template is being sent as a starting point for us to begin our discussions.

Sprint looks forward to setting up a time to discuss the template agreement with Mr. Snyder on your behalf and request that he propose some days/times to allow us to coordinate our schedules and work towards finalizing an interconnection agreement that is acceptable to both parties.

I would ask that Mr. Snyder copy all correspondence to Mr. William Sanfilippo and Sprint will ensure that you are included in all correspondences from Sprint to Mr. Snyder.

Again, if you have questions about this response, please do not hesitate to contact me.

Sincerely,

Joseph Cowin

cc: Robert S. Snyder, Esq.
William Sanfilippo

EXHIBIT F

Law Offices Of
Robert S. Snyder
1000 Second Avenue, 30th Floor
Seattle, Washington 98104
Tel. (206) 622-2226
FAX (206) 622-2227

June 22, 2007

BY E-MAIL (Joseph.Cowin@sprint.com)
AND FEDERAL EXPRESS

Joseph P. Cowin, Esq.
Senior counsel
Sprint Communications Company L.P.
c/o Sprint Nextel
6450 Sprint Parkway
KSOPHN0212 – 2A621
Overland Park, KS 66251

Dear Mr. Cowin:

Re: Sprint's request for interconnection with Whidbey Telephone Company

I am writing in response to your letter, dated June 14, 2007, to Ms. Julia H. DeMartini, Vice President of Whidbey Telephone Company ("Whidbey") regarding the above subject.

At the outset, I wish to be sure that there is no misunderstanding as to the status of the request for interconnection being made of Whidbey by Sprint Communications Company L.P. ("Sprint"). First, based upon your June 14 letter, it is Whidbey's understanding that Sprint is not requesting interconnection, or any other arrangement, right or remedy, pursuant to subsection 251(c) of the Communications Act of 1934, as amended ("Act"). Second, it is Whidbey's understanding that Sprint is in agreement with Whidbey that, by proceeding to enter into and conduct discussions or negotiations with Sprint relating to interconnection or the exchange of traffic, Whidbey does not waive its "rural exemption" arising under subsection 251(f) of the Act in any respect or to any extent.[1] Third, it is Whidbey's understanding that Sprint seeks interconnection with Whidbey solely for the purpose of exchanging "local" traffic that both originates and terminates in the South Whidbey exchange, as defined by Whidbey's exchange area maps on file with the Washington Utilities and Transportation Commission, and for which the rate center is also known as "South Whidbey."[2] Fourth, it is Whidbey's understanding that Sprint does not, and does not presently intend to, provide local exchange telecommunications services directly to end user customers within the South Whidbey exchange, but rather intends to provide solely wholesale local exchange services to the entity that your

[1] Your letter refers to Whidbey's rural exemption as arising under subsection 251(c) of the Act, but the exemption arises under subsection 251(f) of the Act. I assume that the reference in your letter to subsection 251(c) in this context was simply a typographical error.

[2] There are already substantial interconnection arrangements between Sprint and Whidbey for the exchange of interexchange traffic originating or terminating in Whidbey's South Whidbey exchange and carried by Sprint.

letter identifies as "Millenium Cable," and that it would be that entity that would provide retail local exchange telecommunications services to its end user customers utilizing the underlying wholesale local exchange services furnished by Sprint.

Please let me know by return correspondence whether any of the understandings set forth above is in any respect incorrect. If any of them is incorrect, then please provide a statement that accurately corrects what is stated incorrectly.

I would also take this opportunity to note one area where there appears to be a difference of understanding between Sprint and Whidbey in connection with the present matter. Mr. Sanfilippo's letter of May 10, 2007, referred to the time-line for negotiations set forth in section 252 of the Act. It is Whidbey's understanding that that timeline applies only in connection with interconnection negotiations arising under subsection 251(c) of the Act, which specifically invokes section 252 of the Act. This may or may not become a relevant issue, but if you are aware of any court or other governmental ruling(s) by which the timeline set forth in section 252 of the Act has been held to be applicable in any context other than a request for interconnection pursuant to subsection 251(c) of the Act, it would be appreciated if, at your earliest opportunity, you would provide us with citation to, or copies of, such ruling(s).

It appears to Whidbey that there are two threshold issues that need to be resolved before discussions or negotiations between Sprint and Whidbey looking toward "local" interconnection or exchange of local traffic between Sprint and Whidbey can proceed, because they go the heart of the issue of whether Sprint is entitled to seek interconnection under subsection 251(a) of the Act. First, to the best of Whidbey's knowledge, Millenium Cable is not authorized by the Washington Utilities and Transportation Commission to provide local exchange telecommunications services in the State of Washington, or, more particularly, in the area encompassed by Whidbey's South Whidbey exchange. Thus, if the purpose of the requested interconnection being request of Whidbey by Sprint is to facilitate an exchange of traffic with respect to which Millenium Cable is (or would be) providing local exchange telecommunications services, without Millenium Cable being properly authorized by the Washington Utilities and Transportation Commission to provide such services in the relevant geographic area, Whidbey would likely be unwilling to provide such interconnection on the basis that such interconnection has an unlawful purpose. That issue – whether the interconnection requested by Sprint is for the purpose, either in whole or in part, of facilitating the provision by Sprint's customer of local exchange telecommunications services in violation of the laws of the State of Washington – is a significant initial issue that needs to be resolved before interconnection discussions can proceed.

The second threshold issue is whether, insofar as the present context is concerned, Sprint is a "telecommunications carrier," since only telecommunications carriers are entitled to interconnection under subsection 251(a) of the Act. That, in turn, requires a determination of whether Sprint, in this context, is a provider of "telecommunications services," which in turn requires a determination of whether, insofar as is relevant to Sprint's request for interconnection, Sprint is

"offering . . . telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public" (47 U.S.C. § 153(46)). This issue also implicates the question of whether, in providing services to Millenium Cable, Sprint is acting as a "common carrier." Without knowing more about the relationship between Sprint and Millenium Cable and the nature of Sprint's undertaking to provide "wholesale exchange services," Whidbey cannot ascertain whether the capacity in which Sprint is acting would entitle Sprint to the interconnection it requests.

With the thought that Sprint may be reluctant to disclose the details of its relationship with Millenium Cable and/or others in sufficient detail to address Whidbey's concerns without a non-disclosure agreement being in place, I am enclosing clean and redlined versions of a revised draft of the Non-Disclosure Agreement that was transmitted to Ms. DeMartini and me by Ms Shelley Green's e-mail of June 14, 2007. The redlining reflects suggested changes to the draft proposed by Sprint.[3] In this regard, thank you for furnishing the .doc versions of the draft Non-Disclosure Agreement and draft Interconnection Agreement.

One additional question at this time: Ms. Victoria Danilov of Sprint Nextel has been corresponding with Ms. Julia DeMartini of Whidbey regarding local number portability. Ms. Danilov's most recent letter (dated June 13, 2007) has been referred to me for reply. Since you are evidently representing Sprint with respect to the pending "interconnection" request, I am reluctant to correspond directly with Ms. Danilov without your consent as Sprint's counsel. Would you prefer that my response to Ms. Danilov's letter be addressed to you, or do you consent to my responding to her directly?

I look forward to receiving your reply to the matters addressed above. If you have any questions regarding any of those matters or would like to discuss them, please don't hesitate to contact me. If you wish to e-mail me, please use both of the following e-mail addresses: rss@whidbey.com and 74541.2515@compuserve.com. Meanwhile, pursuant to your request, by e-mail I am forwarding a copy of this letter to Mr. Sanfilippo.

Very truly yours,

Robert S. Snyder
Attorney for Whidbey Telephone Company

cc: (by e-mail only)
Mr. William Sanfilippo
Ms. Julia H. DeMartini

[3] The e-mailed version of this letter includes those two documents in .pdf format. For your convenience, a copy of the clean version of the revised draft Non-Disclosure Agreement in .doc format also accompanies the e-mailed version of this letter.

EXHIBIT G

Sprint
Together with NEXTEL

Sprint Nextel
6450 Sprint Parkway
Overland Park, KS 66251
Office: (913) 315-9294 Fax: (913) 315-0785

Jeffrey M. Trauff
Senior Counsel

July 27, 2007

Via Overnight Federal Express

Robert S. Snyder, Esq.
1000 Second Avenue, 30th Floor
Seattle, Washington 98104
(206) 622-2226 office
(206) 622-2227

RE: Sprint Communications Company L.P. ("Sprint") request for interconnection with Whidbey Telephone Company ("Whidbey")

Dear Mr. Snyder:

I am writing in response to your letter to Mr. Cowin dated June 22, 2007. I will be the legal contact for Sprint on these negotiations. I will attempt to address your letter in a succinct manner.

Sprint intends to negotiate an interconnection agreement with Whidbey in accordance with Sections 251 and 252 of the Communications Act, as amended. Sprint will be providing a facilities-based service and does not intend to obtain certain services from Whidbey such as unbundled network elements or collocation. We intend to exchange local traffic with Whidbey, but would expect that the parties would also exchange extended area service traffic to the extent Whidbey has such arrangements. Initially Sprint intends to provide wholesale services, but we do not intend for the resulting interconnection agreement to preclude Sprint's provision of services on a retail basis.

Mr. Sanfilippo's letter of May 10, 2007 establishes an arbitration timeline for the parties. In the event that an acceptable interconnection agreement has not been negotiated in accordance with that timeline, Sprint is entitled to seek arbitration with the Washington Utilities and Transportation Commission ("Washington Commission"). Sprint's ability to seek arbitration has been established by the Washington Commission in its October 25, 2002 order in Docket No. UT-023043. We intend to follow that timeline unless we agree to an extension.

Whidbey appears to believe that there are "threshold issues" that must be resolved before interconnection negotiations can proceed. I call your attention to the FCC's decision in WC Docket No. 06-55 wherein the FCC validated Sprint's wholesale business model and stated that wholesale providers are telecommunications carriers under Sections

251 of the Act are entitled to interconnection rights. Furthermore, in that decision, the FCC noted that the regulatory status of Sprint's wholesale customer is irrelevant to

Sprint's right to obtain interconnection. Accordingly, there are no "threshold issues" to resolve before negotiations can proceed. However, we are willing to generally discuss our relationship with the wholesale customer as part of the negotiations. I will be providing a response to your proposed revisions to the Non-Disclosure Agreement concurrently with this letter.

Finally, with respect to the request for local number portability, there is no need to respond to Ms. Danilov because Sprint will include the local number portability issue in the interconnection negotiations. Ms. Danilov's correspondence will serve as the specific request for the provision of number portability.

We look forward to commencing negotiations with Whidbey immediately. Who should we contact so that substantive negotiations can proceed?

Very truly yours,

Jeffrey M. Pfaff

Cc: William Sanfilippo

EXHIBIT H

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Time Warner Cable Request for Declaratory	)	
Ruling that Competitive Local Exchange Carriers	)	WC Docket No. 06-55
May Obtain Interconnection Under Section 251 of	)	
the Communications Act of 1934, as Amended, to	)	
Provide Wholesale Telecommunications Services	)	
to VoIP Providers	)	
	)	

MEMORANDUM OPINION AND ORDER

Adopted: March 1, 2007 **Released: March 1, 2007**

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) grants a petition for declaratory ruling filed by Time Warner Cable (TWC) asking the Commission to declare that wholesale telecommunications carriers are entitled to interconnect and exchange traffic with incumbent local exchange carriers (LECs) when providing services to other service providers, including voice over Internet Protocol (VoIP) service providers pursuant to sections 251(a) and (b) of the Communications Act of 1934, as amended (the Act).[1] As explained below, we reaffirm that wholesale providers of telecommunications services are telecommunications carriers for the purposes of sections 251(a) and (b) of the Act, and are entitled to the rights of telecommunications carriers under that provision. We conclude that state commission decisions denying wholesale telecommunications service providers the right to interconnect with incumbent LECs pursuant to sections 251(a) and (b) of the Act are inconsistent with the Act and Commission precedent and would frustrate the development of competition and broadband deployment.

II. BACKGROUND

A. TWC's Petition

2. On March 1, 2006, TWC filed a petition for declaratory ruling requesting that the Commission affirm that "requesting wholesale telecommunications carriers are entitled to obtain

[1] Petition of Time Warner Cable for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers, WC Docket No. 06-55 (filed Mar. 1, 2006) (Petition); 47 U.S.C. § 251; Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act or the Act).

interconnection with incumbent LECs to provide wholesale telecommunications services to other service providers" (including VoIP-based providers).[2] In its Petition, TWC states that in 2003 it began to deploy a facilities-based competitive telephone service using VoIP technology, which enables it to offer a combined package of video, high-speed data, and voice services.[3] TWC purchases wholesale telecommunications services from certain telecommunications carriers, including MCI WorldCom Network Services Inc. (MCI)[4] and Sprint Communications Company, L.P. (Sprint), to connect TWC's VoIP service customers with the public switched telephone network (PSTN).[5] MCI and Sprint provide transport for the origination and termination on the PSTN through their interconnection agreements with incumbent LECs. In addition, MCI and Sprint provide TWC with connectivity to the incumbent's E911 network and other necessary components as a wholesale service.[6]

3. TWC claims that MCI has been unable to provide wholesale telecommunications services to TWC in certain areas in South Carolina and that Sprint has been unable to provide wholesale telecommunications services to TWC in certain areas in Nebraska because, unlike certain other state commissions, the South Carolina Public Service Commission (South Carolina Commission) and the Nebraska Public Service Commission (Nebraska Commission) have determined that rural incumbent LECs are not obligated to enter into interconnection agreements with competitive service providers (like MCI and Sprint) to the extent that such competitors operate as wholesale service providers.[7] TWC argues

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[2] Petition at 11. The Petition was placed on public notice on March 6, 2006 with comments due by March 27, 2006, and reply comments due by April 11, 2006. *Pleading Cycle Established for Comments on Time Warner Cable's Petition for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection to Provide Wholesale Telecommunications Services to VoIP Providers*, WC Docket No. 06-55, Public Notice, 21 FCC Rcd 2276 (Wireline Comp. Bur. 2006). Upon Motions for Extension, the comment cycle was extended by two weeks, to April 10, 2006 for comments and April 25, 2006 for reply comments. *Wireline Competition Bureau Grants Request for Extension of Time to File Comments on Time Warner Cable's Petition for Declaratory Ruling That Competitive Local Exchange Carriers May Obtain Interconnection to Provide Wholesale Telecommunications Service to VoIP Providers*, WC Docket 06-55, Public Notice, 21 FCC Rcd 2978 (Wireline Comp. Bur. 2006). Contemporaneously with its filing of the Petition, TWC filed a Petition for Preemption requesting that the Commission preempt the South Carolina Commission's denial of TWC's application for a Certification of Public Convenience and Necessity in areas where rural LECs provide service. That preemption petition remains pending, and we do not address it here. Petition of Time Warner Cable for Preemption Pursuant to Section 253 of the Communications Act of 1934, as Amended, WC Docket No. 06-54 (filed Mar. 1, 2006).

[3] Petition at 2-3.

[4] As a result of the merger between MCI and Verizon, TWC's contractual arrangements with MCI have been assigned to Verizon Business. *Id.* at 4 n.5

[5] *Id.* at 4.

[6] *Id.*

[7] *See Petition of MCImetro Access Transmission Services LLC for Arbitration of Certain Terms and Conditions of Proposed Agreement with Farmers Telephone Cooperative, Inc., Home Telephone Co., Inc., PBT Telecom, Inc., and Hargray Telephone Company, Concerning Interconnection and Resale under the Telecommunications Act of 1996*, Docket No. 2005-67-C, Order Ruling on Arbitration, Order No. 2005-544 (Oct. 7, 2005) (*South Carolina Commission RLEC Arbitration Order*); *Sprint Communications Company L.P., Overland Park, Kansas, Petition for arbitration under the Telecommunications Act, of certain issues associated issues with the proposed interconnection agreement between Sprint and Southeast Nebraska Telephone Company, Falls City*, Application No. C-3429, Findings and Conclusions (Sept. 13, 2005) (*Nebraska Commission Arbitration Order*) *appeal filed,* Sprint (continued....)

that the South Carolina and Nebraska Commissions misinterpreted the statute when they decided, among other things, that competitive LECs providing wholesale telecommunications services to other service providers, in this case VoIP-based providers, are not "telecommunications carriers" for the purposes of section 251 of the Act, and, therefore, are not entitled to interconnect with incumbent LECs.

4. TWC asks the Commission to grant a declaratory ruling reaffirming that telecommunications carriers are entitled to obtain interconnection with incumbent LECs to provide wholesale telecommunications services to other service providers. The Petition also requests that the Commission clarify that interconnection rights under section 251 of the Act are not based on the identity of the wholesale carrier's customer.

B. State Commission Decisions

5. *South Carolina.* On October 8, 2004, MCI initiated interconnection negotiations pursuant to section 252(a) of the Act with four rural incumbent LECs operating in South Carolina. These rural incumbent LECs claimed that they were not required to accept traffic from a third-party provider that purchases wholesale telecommunications services from MCI.[8] On March 17, 2005, MCI filed a petition with the South Carolina Commission seeking arbitration of the unresolved issues between MCI and the rural incumbent LECs.[9] In arbitrating this dispute, the South Carolina Commission agreed with the rural incumbent LECs that the arbitrated interconnection agreement should be limited to the traffic generated by the rural incumbent LECs' customers and MCI's direct end-user customers on their respective networks.[10] The South Carolina Commission determined that MCI is not entitled to seek interconnection with the rural incumbent LECs with respect to the wholesale services MCI proposed to provide to TWC because such wholesale service does not meet the definition of "telecommunications service" under the Act and, therefore, MCI is not a "telecommunications carrier" with respect to those services.[11] The South Carolina Commission also found that section 251(b) obligations "relate to parallel obligations between two competing telecommunications carriers" and that MCI's intent to act as an "intermediary for a

(Continued from previous page)
Communications Company L.P. v. Nebraska Public Service Commission, No. 4:05CV3260 (D. Neb. Oct. 11, 2005). As explained below, this aspect of the state decisions regarding wholesale services is not specific to wholesale carriers that serve VoIP service providers.

[8] Petition at 4-5. *See also South Carolina Commission RLEC Arbitration Order.* The four rural incumbent LECs with which MCI sought interconnection agreements were Farmers Telephone Cooperative, Inc., Home Telephone Co., Inc., PBT Telecom, Inc., and Hargray Telephone Company. The South Carolina Commission referred to the four rural LECs collectively as "the RLECs" throughout its order. The South Carolina Commission addressed similar issues and made similar findings in the *South Carolina Commission Horry Arbitration Order. Petition of MCImetro Access Transmission Services, LLC for Arbitration of Certain Terms and Conditions of Proposed Agreement with Horry Telephone Cooperative, Inc. Concerning Interconnection and Resale under the Telecommunications Act of 1996*, Order Ruling on Arbitration, Docket No. 2005-188-C (South Carolina PSC Jan. 11, 2006) (*South Carolina Horry Arbitration Order*).

[9] *South Carolina Commission RLEC Arbitration Order* at 2.

[10] *South Carolina Commission RLEC Arbitration Order* at 7. *See also South Carolina Commission Horry Arbitration Order* at 6. In addition, the South Carolina Commission denied TWC's request to intervene in the arbitration.

[11] *See South Carolina Commission RLEC Arbitration Order* at 11.

facilities-based VoIP service provider" is a type of non-parallel relationship not contemplated or provided for under the Act.[12]

6. *Nebraska.* On December 16, 2004, Sprint commenced interconnection negotiations with Southeast Nebraska Telephone Company (SENTCO), a rural incumbent LEC, pursuant to section 252(a) of the Act.[13] In its September 13, 2005 arbitration decision, the Nebraska Commission determined that Sprint is not a "telecommunications carrier" under the *NARUC I* and *Virgin Islands* test for common carriage because the relationship between Sprint and TWC is an "individually negotiated and tailored, private business arrangement" that is an untariffed offering to a sole user of this service,[14] and, therefore, Sprint cannot assert any rights under sections 251 and 252 of the Act. In addition, the Nebraska Commission held that because TWC operates the switch that "directly serves the called party," Sprint was not entitled to exercise rights under section 251(b).[15]

7. *Other State Proceedings.* TWC asserts that, in contrast to the South Carolina and Nebraska decisions, public utility commissions in Illinois, Iowa, New York and Ohio have recognized that wholesale service providers, such as Sprint and MCI, are telecommunications carriers with rights under section 251 of the Act.[16] In addition, TWC and other commenters point to other state commissions that have before them pending proceedings on this same issue.[17]

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[12] *Id.* at 9.

[13] *See Nebraska Commission Arbitration Order.*

[14] *Id.* at 7-9 (citing *National Ass'n of Regulatory Util. Comm'rs v. FCC*, 525 F.2d 630 (D.C. Cir. 1976) (*NARUC I*), *cert. denied*, 425 U.S. 992 (1976); *Virgin Islands Tel. Co. v. FCC*, 198 F.3d 921 (D.C. Cir. 1999)).

[15] *Id.* at 7-8.

[16] Petition at 8-9 (citing *Cambridge Telephone Company, et al. Petitions for Declaratory Relief and/or Suspensions for Modification Relating to Certain Duties under §§ 251(b) and (c) of the Federal Telecommunications Act*, Case Nos. 050259, *et al.*, Order (Illinois Commerce Commission Aug. 23, 2005), *appeal pending Harrisonville Telephone Company, et al. v. Illinois Commerce Commission, et al.*, Case No. 3:06-CV-00073, GPMDGW, Complaint for Declaratory and Other Relief (S.D. Ill. filed Aug. 16, 2006); *Arbitration of Sprint Communications Co. v. Ace Communications Group*, et al., Docket No. ARB-05-02, Order on Rehearing (Iowa Utilities Board Nov. 28, 2005); *Petition of Sprint Communications Company L.P., Pursuant to Section 252(b) of the Telecommunications Act of 1996 for Arbitration to Establish an Intercarrier Agreement with Independent Companies*, Case 05-C-0170, Order Resolving Arbitration Issues (New York Public Service Commission May 24, 2005), *on appeal Berkshire Telephone Corp. v. Sprint Communications Co. L.P.*, Civ. Action No. 05-CV-6502 (CJS)(MWP)(W.D.N.Y. filed Sept. 26, 2005); *Application and Petition in Accordance with Section II.A.2.B of the Local Service Guidelines Filed by: The Champaign Telephone Co., Telephone Services Co., the Germantown Independent Telephone Co., and Doylestown Telephone Co.*, Case Nos. 04-1494-TP-UNC, *et al.*, Finding and Order (Public Utility Commission of Ohio Jan. 26, 2005), *reh'g denied in pertinent part*, Order on Rehearing (Public Utilities Commission of Ohio Apr. 13, 2005)).

[17] *See* Petition at 9. *See, e.g.,* Letter from Cherie R. Kiser, Counsel for IDT Telecom, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-55, Appendix (filed Sept. 25, 2006) (providing an updated overview of pending state and court proceedings in Illinois, Iowa, New York, North Carolina and Texas).

III. DISCUSSION

8. The Bureau grants TWC's request to the extent described below. Because the Act does not differentiate between retail and wholesale services when defining "telecommunications carrier" or "telecommunications service," we clarify that telecommunications carriers are entitled to interconnect and exchange traffic with incumbent LECs pursuant to section 251(a) and (b) of the Act for the purpose of providing wholesale telecommunications services.[18] The Bureau finds that a contrary decision would impede the important development of wholesale telecommunications and facilities-based VoIP competition, as well as broadband deployment policies developed and implemented by the Commission over the last decade, by limiting the ability of wholesale carriers to offer service.

A. "Telecommunications Service" Can Be Either a Wholesale or Retail Service

9. Consistent with Commission precedent, we find that the Act does not differentiate between the provision of telecommunications services on a wholesale or retail basis for the purposes of sections 251(a) and (b), and we confirm that providers of wholesale telecommunications services enjoy the same rights as any "telecommunications carrier" under those provisions of the Act.[19] We further conclude that the statutory classification of the end-user service, and the classification of VoIP specifically, is not dispositive of the wholesale carrier's rights under section 251.

10. The Act defines "telecommunications" to mean "the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received."[20] The Act defines "telecommunications service" to mean "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used."[21] Finally, any provider of telecommunications services is a "telecommunications carrier" by definition under the Act.[22]

11. It is clear under the Commission's precedent that the definition of "telecommunications services" is not limited to retail services, but also includes wholesale services when offered on a common carrier basis. The South Carolina Commission's contrary interpretation – that services provided on a

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[18] Because neither of the primary state commission proceedings underlying the Petition relied on or even interpreted section 251(c) of the Act, we do not read the Petition to seek clarification on the ability to interconnect pursuant to that provision. As such, we only address the issues raised in the Petition as they apply to sections 251(a) and (b) of the Act.

[19] To resolve the confusion over the meaning of "wholesale," we affirm the longstanding Commission usage of a wholesale transaction of a service or product as an input to a further sale to an end user, in contrast to a retail transaction for the customer's own personal use or consumption. *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Second Report and Order, 14 FCC Rcd 19237, 19423, para. 13 (1999) ("Black's Law Dictionary defines retail as '[a] sale for final consumption in contrast to a sale for further sale or processing (*i.e.*, wholesale) . . . to the ultimate consumer.'") (quoting Black's Law Dictionary 1315 (6th ed. 1990)).

[20] 47 U.S.C. § 153(43).

[21] 47 U.S.C. § 153(46).

[22] 47 U.S.C. § 153(44).

wholesale basis to carriers or other providers are not telecommunications services because they are not offered "directly to the public"[23] has been expressly rejected by the Commission in the past, as we explain below.[24]

12. The definition of "telecommunications services" in the Act does not specify whether those services are "retail" or "wholesale," but merely specifies that "telecommunications" be offered for a fee "directly to the public, or to such classes of users as to be effectively available directly to the public."[25] In *NARUC II*, the D.C. Circuit stated that "[t]his does not mean that the particular services offered must practically be available to the entire public; a specialized carrier whose service is of possible use to only a fraction of the population may nonetheless be a common carrier if he holds himself out to serve indifferently all potential users."[26] Thus, the question at issue in this proceeding is whether the relevant wholesale telecommunications "services" are offered "directly to the public, or to such classes of users as to be effectively available directly to the public." Indeed, the definition of "telecommunications services" long has been held to include both retail and wholesale services under Commission precedent. In the *Non-Accounting Safeguards Order*, the Commission concluded that wholesale services are included in the definition of "telecommunications service."[27] To reach this result, the Commission determined that the term "wholesale" in section 251(c)(4) "implicitly recognizes that some telecommunications services are wholesale services."[28] The *Non-Accounting Safeguards Order* went on to find that the legislative history of the Act also supports this determination, as it "indicates that the definition of telecommunications services is intended to clarify that telecommunications services are common carrier services, which include wholesale services to other carriers" and that "the term 'telecommunications service' was not intended to create a retail/wholesale distinction."[29] The Commission affirmed these conclusions in the *Non-Accounting Safeguards Reconsideration Order* where it found "no basis in the statute, legislative history, or FCC precedent for finding the reference to 'the public' in the statutory definition to be

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[23] *South Carolina Commission Arbitration Order* at 7 (stating that "[t]he carrier directly serving the end user customer is the only carrier entitled to request interconnection for the exchange of traffic under Section 251(b) of the Act."), 11 (concluding that "MCI is not entitled to seek interconnection with the RLECs with respect to the service MCI proposed to provide indirectly to TWCIS' end user customers.").

[24] *Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended*, CC Docket No. 96-149, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905, 22033, para. 264 (1996) (subsequent history omitted) (*Non-Accounting Safeguards Order*); *see also Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended*, CC Docket No. 96-149, Second Order on Reconsideration, 12 FCC Rcd 8653, 8670-71, para. 33 (1997) (*Non-Accounting Safeguards Reconsideration Order*); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9177-8, para. 785 (1997) (*Universal Service Order*) (subsequent history omitted).

[25] 47 U.S.C. § 153(46).

[26] *National Ass'n of Regulatory Utility Com'rs v. FCC*, 533 F.2d 601, 608 (C.A.D.C. 1976) (*NARUC II*).

[27] *Non-Accounting Safeguards Order*, 11 FCC Rcd at 22033, para. 264.

[28] *Id. See also* 47 U.S.C. § 251(c)(4) (requiring incumbent LECs "to offer for resale at *wholesale* rates any *telecommunications service* that the carrier provides at retail to subscribers who are not telecommunications carriers") (emphasis added).

[29] *Id.* at 22032-33, 22033-34, paras. 263, 265.

intended to exclude wholesale telecommunications services."[30] Further, in the *Universal Service Order*, the Commission determined that, while "telecommunications services" are intended to encompass only telecommunications provided on a common carrier basis, "common carrier services include services offered to other carriers, such as exchange access service, which is offered on a common carrier basis, but is offered primarily to other carriers."[31] In *Virgin Islands*, the D.C. Circuit stressed that the Commission did not rely on a wholesale-retail distinction, stating that "the focus of its analysis is on whether AT&T-SSI offered its services indiscriminately in a way that made it a common carrier . . . and the fact that AT&T-SSI could be characterized as a wholesaler was never dispositive."[32]

13. We further find that our decision today is consistent with and will advance the Commission's goals in promoting facilities-based competition as well as broadband deployment. Apart from encouraging competition for wholesale services in their own right,[33] ensuring the protections of section 251 interconnection is a critical component for the growth of facilities-based local competition.[34] Moreover, as the Commission has recognized most recently in the *VoIP 911 Order*, VoIP is often accessed over broadband facilities, and there is a nexus between the availability of VoIP services and the goals of section 706 of the Act.[35] Furthermore, as the Petition and some commenters note, in that order the Commission expressly contemplated that VoIP providers would obtain access to and interconnection with the PSTN through competitive carriers.[36] Therefore, we also rely on section 706 as a basis for our determination today that affirming the rights of wholesale carriers to interconnect for the purpose of exchanging traffic with VoIP providers will spur the development of broadband infrastructure.[37] We further conclude that such wholesale competition and its facilitation of the introduction of new

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[30] *Non-Accounting Safeguards Reconsideration,* 12 FCC Rcd at 8670-71, para. 33.

[31] *Universal Service Order*, 12 FCC Rcd at 9177-8, para. 785.

[32] *Virgin Islands Tel. Co. v. FCC*, 198 F.3d 921, 930 (D.C. Cir. 1999) (*Virgin Islands*).

[33] As explained above, *see supra* para. 1, we affirm today the rights of *all* wholesale carriers to interconnect when providing service to other providers, and therefore we reject the notion that we must dismiss the Petition in part with respect to the Nebraska Commission's decision because the *Nebraska Commission Arbitration Order* did not discuss Sprint's provision of service to VoIP providers. *See* Letter from Thomas J. Moorman and Paul M. Schudel, Counsel to SENTCO, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-55 (filed Feb. 12, 2007).

[34] *E.g.*, Advance-Newhouse Comments at 3 (facilities-based residential competition); Verizon Comments at 3 (wholesale service and local competition).

[35] *IP-Enabled Services*, WC Docket No. 04-36; *E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196, First Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 10245, 10264, para. 31 (2005) (*VoIP 911 Order*) (citing 47 U.S.C. §157 nt.). Section 706 directs the Commission (and state commissions with jurisdiction over telecommunications services) to encourage the deployment of advanced telecommunications capability to all Americans by using measures that "promote competition in the local telecommunications market" and removing "barriers to infrastructure investment." *Id.*

[36] *See* Petition at 21 (citing *VoIP 911 Order*, 20 FCC Rcd at 10267, para.38); *see also, e.g.*, VON Coalition Comments at 3.

[37] Verizon Comments at 6 ("Simply put, just as the availability of VoIP drives both providers to deploy and end-user customers to purchase broadband services, state commission decisions that effectively prevent consumers from using their broadband connection for VoIP telephony discourage the deployment and use of broadband.").

technology holds particular promise for consumers in rural areas.[38]

14. In making this clarification, we emphasize that the rights of telecommunications carriers to section 251 interconnection are limited to those carriers that, at a minimum, do in fact provide telecommunications services to their customers, either on a wholesale or retail basis.[39] We do not address or express any opinion on any state commission's evidentiary assessment of the facts before it in an arbitration or other proceeding regarding whether a carrier offers a telecommunications service. However, we make clear that the rights of telecommunications carriers under sections 251 (a) and (b) apply regardless of whether the telecommunications services are wholesale or retail, and a state decision to the contrary is inconsistent with the Act and Commission precedent.[40]

B. The Section 251 (a) and (b) Rights of a Wholesale Telecommunications Carrier Do Not Depend on the Regulatory Classification of the Retail Service Offered to the End User

15. As explained above, a provider of wholesale telecommunications service is a telecommunications carrier and is entitled to interconnection under section 251 of the Act. The regulatory classification of the service provided to the ultimate end user has no bearing on the wholesale provider's rights as a telecommunications carrier to interconnect under section 251. As such, we clarify that the statutory classification of a third-party provider's VoIP service as an information service or a telecommunications service is irrelevant to the issue of whether a wholesale provider of telecommunications may seek interconnection under section 251(a) and (b). Thus, we need not, and do not, reach here the issues raised in the *IP-Enabled Services* docket, including the statutory classification

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[38] *E.g.*, GCI Reply Comments at 4 ("offerings like those of TWC are especially valuable to rural consumers"); Sprint Nextel Comments at 4 n.6 ("Wholesale carrier services are particularly important to smaller cable operators, which often serve low density areas and lack the resources, scale or desire to enter the telephony market alone."); VON Coalition Comments at 3. *See also*, Letter from Vonya B. McCann, Vice President – Government Affairs, Sprint Nextel, to Marlene H. Dortch, FCC, WC Docket No. 06-55 at 2 (filed Jan. 30, 2007) ("These services enable even small cable providers to expand their service offerings -- faster and at lower cost -- and thus promote investment in areas previously under-served and lacking choices for consumers.").

[39] For example, under the Commission's existing rules, "[a] telecommunications carrier that has interconnected or gained access under section[ ] 251(a) . . . of the Act, may offer information services through the same arrangement, *so long as it is offering telecommunications services through the same arrangement as well.*" 47 C.F.R. § 51.100(b) (emphasis added). Thus, the fact that a telecommunications carrier is also providing a non-telecommunications service is not dispositive of its rights.

[40] *See South Carolina Commission RLEC Arbitration Order* at 14 (limiting the definition of end user to subscriber of telephone exchange service); *Nebraska Commission Arbitration Order* at 9, paras. 25-26 (reasoning that the exclusion of exchange access in the Commission's reciprocal compensation rules indicates that TWC's offering of exchange access is not offered to the general public). Although the Nebraska Commission's order expressly raised the issue of Sprint's entitlement to reciprocal compensation pursuant to section 251(b)(5), commenters contend that the Nebraska Commission's decision properly is interpreted to affect section 251(a) and (b) rights more broadly. See AT&T Comments at 1-2. We do not address commenters' requests for classification of other specific service offerings or traffic arrangements. *See, e.g.*, Neutral Tandem Comments (seeking a declaration of section 251 rights to provide tandem switching and transit services).

of VoIP services.[41] We thus reject the arguments that the regulatory status of VoIP is the underlying issue in this matter or that Commission action on this Petition will prejudge issues raised in the *IP-Enabled Services* docket.[42] We also make clear that we do not address any entitlement of a retail service provider to serve end users through such a wholesale arrangement, nor, contrary to the views of some commenters, do we read the Petition to seek such rights.[43] Rather, in issuing this decision, we reiterate that we only find that a carrier is entitled to interconnect with another carrier pursuant to sections 251(a) and (b) in order to provide wholesale telecommunications service.

16. Finally, we emphasize that our ruling today is limited to telecommunications carriers that provide wholesale telecommunications service and that seek interconnection *in their own right* for the purpose of transmitting traffic to or from another service provider. To address concerns by commenters

[41] In the *IP-Enabled Services NPRM*, the Commission sought comment on whether VoIP should be classified as a telecommunications service or an information service. *See IP-Enabled Services NPRM,* WC Docket No. 04-36, Notice of Proposed Rulemaking, 19 FCC Rcd 4863 (2004) (*IP-Enabled Services NPRM*).

[42] HTC/PBT Comments at 3 (referring to the ongoing *IP-Enabled Services* proceeding, "[t]his Commission should not fall prey to pressure from parties to issue piecemeal orders."); ITTA et al. Comments at 8 ("[t]he Commission should accordingly declare either that TWC is a telecommunications carrier itself, or is subject to the same intercarrier compensation, universal service and other requirements imposed on similarly situated carriers"); JSI Comments at 7 ("While the treatment of interconnected VoIP service providers remains unclear, Time Warner seeks to have the Commission make declarations that would greatly favor VoIP service providers by granting them certain rights without attendant obligations."); Pennsylvania Commission Comments at 5 (suggesting that the Commission "consider resolving complex policy matters in more generic proceeding such at the IP-Enabled Services and Intercarrier Compensation rulemakings, as opposed to limited decisions in case-specific pleadings"); Qwest Comments; NTCA Reply Comments at 4-5; SDTA Comments at 4; TCA Comments at 5-7; WTA Comments at 3. *See also*, Letter from Joshua Seidemann, Independent Telephone and Telecommunications Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-55, Attach at 6 (filed Dec. 14, 2006) (ITTA *Ex Parte*); Letter from Keith Oliver, Vice President -- Finance, Home Telephone Company, on behalf of South Carolina Telephone Coalition, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-55, Attach. at 8 (filed Jan. 30, 2007) (SCTC *Ex Parte*).

[43] *See, e.g.*, JSI Comments at 12 ("Time Warner is seeking to claim specific rights without accepting attendant obligations."); ITTA Comments at 12 ("In other words, entities that seek the benefits of carrier-type interconnection, including for example, the right to obtain numbering resources and number portability, should be subject to the same obligations as the traditional carriers with whom they compete."); Western Alliance at 3, 6 ("TWC is not entitled to any CLEC rights under Section 251 and 252 as long as it elects to reject its former CLEC status and characterize itself instead as a non-regulated information service provider."). Furthermore, and contrary to the position put forth in the *South Carolina Commission Arbitration Order* and the assertions of some commenters, we do not read the Act or have any policy reason to impose a requirement that telecommunications carriers seeking to interconnect must have obligations or business models parallel to those of the party receiving the interconnection request. *See South Carolina Commission Arbitration Order* at 9 (stating that "obligations imposed by Section 251(b) . . . relate to parallel obligations between two competing telecommunications carriers"); SCTC Comments at 8 (arguing that "the obligations imposed by Section 251(b) . . . relate to parallel obligations between two competing telecommunications carriers within a common local calling area."). *See also* Letter from Gerard J. Duffy, Counsel for Western Telecommunications Alliance, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-55 at 6 (filed Feb. 6, 2007) (stating that the "Sprint-Time Warner Model Unfairly Tilts Competitive Playing Field" and that Time Warner is not subject to the Title II and consumer protection standards of incumbent LECS) .

about which parties are eligible to assert these rights,[44] we make clear that the scope of our declaratory ruling is limited to wholesale carriers that are acting as telecommunications carrier for purposes of their interconnection request. In affirming the rights of wholesale carriers, we also make clear that today's decision in no way diminishes the ongoing obligations of these wholesalers as telecommunications carriers, including compliance with any technical requirements imposed by this Commission or a state commission.[45] In addition, we agree that it is most consistent with Commission policy that where a LEC wins back a customer from a VoIP provider, the number should be ported to the LEC that wins the customer at the customer's request,[46] and therefore we make such a requirement an explicit condition to the section 251 rights provided herein.[47] Other concerns about porting will be addressed in the *IP-Enabled Services* proceeding.[48]

C. Other Issues Raised by Commenters

17. Certain commenters ask us to reach other issues, including the application of section 251(b)(5)[49] and the classification of VoIP services.[50] We do not find it appropriate or necessary here to resolve the complex issues surrounding the interpretation of Title II more generally or the subsections of section 251 more specifically that the Commission is currently addressing elsewhere on more

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[44] *See, e.g.*, JSI Comments at 4 ("MCI's role as an intermediary is to be largely hands-off and remote."); SCTC Comments at 11-14 (asserting that "MCI merely proposed to act as an intermediary – a 'connection' – between two facilities-based carriers – the RLEC and Time Warner," and that "Time Warner is seeking . . . to make an 'end run' around the important federal state proceedings and powers"); Western Alliance at 3 ("What TWC is asking herein is for MCI and Sprint to be authorized to use the Section 252 procedures and to negotiate Section 251(b) and/or Section 252(c) interconnection agreements in TWC's behalf . . . ."). Although the Petition does refer in passing to MCI and Sprint acting "on behalf of" TWC, the focus of the Petition and even the underlying state commission decisions concern the rights of those carriers as wholesale telecommunications service providers, and we therefore do not reach the question of the rights of an agent of a VoIP service provider. *See* Petition at 12, 23; South Dakota Comments at 6. *See also*, Black's Law Dictionary (8th ed. 2004) (defining agent as "[o]ne authorized to act for or in place of another" or "representative").

[45] *See, e.g.*, SCTC *Ex Parte*, Attach. at 9 (asserting that each wholesale provider should be "technically responsible for the traffic it delivers to an ILEC.").

[46] *See, e.g., id.*, Attach. at 10 (seeking protection for "consumers that want to port numbers away from 3rd party service providers who do not have these porting responsibilities."); JSI Comments at 12-14 ("Time Warner is seeking to create a one-way approach to porting and the Commission should reject the Petition."). Because our number portability rules apply to all local exchange carriers, customers effectively are able to port numbers to VoIP providers today by virtue of their relationship with a wholesale local exchange carrier. 47 C.F.R. § 52.23.

[47] We note that Verizon already makes such a commitment under its agreements with Time Warner Cable. *See* Verizon Reply Comments at 11-12.

[48] *See IP-Enabled Services NPRM,* 19 FCC Rcd at 4911-12, para. 73.

[49] *See, e.g.*, Neutral Tandem Comments at 1, 5, 7 (seeking Commission protection against incumbent LEC and state restrictions on resale and tandem competition, and for the establishment of the right of third-party providers to be defined as "users" under interconnection agreements).

[50] *See, e.g.*, Qwest Comments at 6 ("The Nebraska position is obviously dependent on how the Commission ultimately classifies VoIP service.").

comprehensive records.[51] For example, the question concerning the proper statutory classification of VoIP remains pending in the *IP-Enabled Services* docket.[52] Moreover, in this declaratory ruling proceeding we do not find it appropriate to revisit any state commission's evidentiary assessment of whether an entity demonstrated that it held itself out to the public sufficiently to be deemed a common carrier under well-established case law. In the particular wholesale/retail provider relationship described by Time Warner in the instant petition, the wholesale telecommunications carriers have assumed responsibility for compensating the incumbent LEC for the termination of traffic under a section 251 arrangement between those two parties. We make such an arrangement an explicit condition to the section 251 rights provided herein.[53] We do not, however, prejudge the Commission's determination of what compensation is appropriate, or any other issues pending in the *Intercarrier Compensation* docket.

D. Procedural Issues

18. *Jurisdiction.* We reject SENTCO's contention that the Commission lacks jurisdiction over TWC's Petition because it is a request for preemption of state decisions on issues assigned by statute specifically to states for review.[54] TWC filed its petition as a request for declaratory ruling requesting clarification of the interpretation of the 1996 Act pursuant to section 1.2 of the Commission's rules.[55] As such, the Commission's authority over particular state decisions is not at issue here. And in any event, the Act establishes – and courts have confirmed – the primacy of federal authority with regard to several of the local competition provisions in the 1996 Act. First, section 201(b) authorizes the Commission to "prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of the Act."[56] As the Supreme Court has noted, this provision "*explicitly* gives the FCC jurisdiction to make rules governing matters to which the 1996 Act applies" – including issues addressed by section 251.[57] Second, except in limited cases, the Commission's authority with regard to the issues of local

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[51] *See, e.g., Developing a Unified Intercarrier Compensation Regime*, Further Notice of Proposed Rulemaking, CC Docket No. 01-92, 20 FCC Rcd. 4685 (2005).

[52] *IP-Enabled Services*, 20 FCC Rcd at 10245. Similarly, we disagree with the assertions that it is necessary to complete the proceedings pending in the IP-enabled services, intercarrier compensation, and universal service dockets in order to take action on or instead of taking action on this Petition. *See, e.g.,* NTCA Reply Comments at 5-6.

[53] *See, e.g.*, Verizon Comments at 2 (stating that one of the wholesale services it provides to Time Warner Cable is "administration, payment, and collection of intercarrier compensation"); Sprint Nextel Comments at 5 (offering to provide for its wholesale customers "intercarrier compensation, including exchange access and reciprocal compensation").

[54] SENTCO Comments at 8.

[55] 47 C.F.R. § 1.2.

[56] 47 U.S.C. § 201(b).

[57] *BellSouth Telecommunications, Inc. Request for Declaratory Ruling that State Commissions May Not Regulate Broadband Internet Access Services by Requiring BellSouth to Provide Wholesale or Retail Broadband Services to Competitive LEC UNE Voice Customers*, WC Docket No. 03-251, Memorandum Opinion and Order and Notice of Inquiry, 20 FCC Rcd 6830, 6841, para. 22 (2005) (*BellSouth DSL Order*) (quoting *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366, 380 (1999) (emphasis in original)).

competition specified in section 251 supersede state jurisdiction over these matters.[58] In the Supreme Court's words, "the question . . . is not whether the Federal Government has taken the regulation of local telecommunications competition away from the States. With regard to the matters addressed by the 1996 Act, it unquestionably has."[59] In clarifying existing statutory requirements under the Act as interpreted by the Commission, however, the Commission's decision may affect state decisions if state commissions have differing interpretations of the statute.

19. *Notice*. We disagree with the assertion that the Petition should be dismissed because TWC did not serve the Petition on the Nebraska Commission.[60] We do not read the Petition for Declaratory Ruling as a request for preemption of a particular order that would trigger this requirement. In its Petition, TWC requests that the Commission make a statement clarifying the conflicting interpretations among the states concerning wholesale carriers' rights under sections 251(a) and (b). Although TWC specifically describes the decisions of the Nebraska Commission and South Carolina Commission in its argument, this Petition for Declaratory Ruling does not request state preemption and we do not make any determination about whether to preempt any specific state decisions. As such, there is no notice requirement at issue.

IV. ORDERING CLAUSES

20. Accordingly, IT IS ORDERED, pursuant to sections 1, 3, 4, 201-205, 251, and 252 of the Communications Act, as amended, 47 U.S.C. §§ 151, 153, 154, 201-205, 251, and 252, and authority delegated under sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that the petition for declaratory ruling filed by Time Warner Cable in WC Docket No. 06-55 IS GRANTED to the extent described by this Order.

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[58] The Act, for example, expressly assigns to the states the authority to arbitrate interconnection disputes between carriers and incumbent LECs and, subject to the general framework set forth by the Commission, to establish appropriate rates for competitive carriers' use of unbundled network elements. *See generally* 47 U.S.C. § 252.

[59] *AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366, 379 n.6 (1999). *See also Southwestern Bell Tel. Co. v. Connect Communications Corp.*, 225 F.3d 942, 946-47 (8th Cir. 2000) ("The new regime for regulating competition in this industry is federal in nature . . . and while Congress has chosen to retain a significant role for the state commissions, the scope of that role is measured by federal, not state law."); *Pacific Bell v. Pac-West Telecomm, Inc.*, 325 F.3d 1114, 1127 (9th Cir. 2003) ("[T]he Act *limited* state commissions' authority to regulate local telecommunications competition.") (emphasis in original); *MCI Telecom Corp. v. Illinois Bell*, 222 F.3d 323, 342-43 (7th Cir. 2000) (stating, "with the 1996 Telecommunications Act . . . Congress *did* take over some aspects of the telecommunications industry," and "Congress, exercising its authority to regulate commerce has precluded all other regulation except on its terms"). Moreover, as the D.C. Circuit has held, the Commission is entitled to Chevron deference when applying the definition of "telecommunications carrier" in the context of a wholesale service provider. *Virgin Islands*, 198 F.3d at 926 (citing *Chevron U.S.A. Inc. v. Natural Resources Council, Inc.*, 467 U.S. 837, 843 (1984)).

[60] Nebraska Commission Comments at 7-8. The Nebraska Commission argues that the Petition effectively seeks to preempt state or local regulatory authority. As such, pursuant to Note 1 in section 1.1206(a) of the Commission's rules, the Nebraska Commission asserts that TWC is required to serve the original petition on the state "the actions of which are specifically cited as a basis for requesting preemption." 47 C.F.R. § 1.1206(a) NOTE 1 TO PARAGRAPH.

21. IT IS FURTHER ORDERED, pursuant to section 1.103(a) of the Commission's rules, 47 C.F.R. § 1.103(a), that this Memorandum Opinion and Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin
Chief, Wireline Competition Bureau

LIST OF COMMENTERS

WC Docket No. 06-55

Commenter	Abbreviation
Advance-Newhouse Communications	Advance-Newhouse
Alpheus Communications, L.P. PAETEC Communications, Inc. U.S. Telepacific Corp. D/B/A Telepacific Communications	Alpheus *et al.*
AT&T Inc.	AT&T
Bridgecom International, Inc. Broadview Networks, Inc. CTC Communications Corp. NuVox Communications Xspedius Communications LLC COMPTEL	Bridgecom *et al.*
Broadwing Communications, LLC Fibertech Networks, LLC Integra Telecom, Inc. Lightyear Communications, Inc. McLeodUSA Telecommunications Services, Inc. Mpower Communications Corp. Norlight Telecommunications, Inc. Pac-West Telecomm, Inc.	Broadwing *et al.*
Comcast Corporation	Comcast
Global Crossing North America, Inc.	Global Crossing
Home Telephone Company, Inc. BPT, Inc.	HTC/BPT
Independent Telephone and Telecommunications Alliance National Exchange Carrier Association, Inc. National Telecommunications Cooperative Association The Organization for the Promotion and Advancement of Small Telecommunications Companies	ITTA *et al.*
Iowa RLEC Group	Iowa RLEC
Iowa Utilities Board	IUB
John Staurulakis, Inc.	JSI
Level 3 Communications, LLC	Level 3
National Cable & Telecommunications Association	NCTA
Nebraska Public Service Commission	Nebraska Commission
Neutral Tandem, Inc.	Neutral Tandem
Pennsylvania Public Utility Commission	Pennsylvania Commission
Pine Tree Networks	PTN
Qwest Communications International Inc.	Qwest
South Carolina Cable Television Association	SCCTA
South Carolina Telephone Coalition	SCTC
South Dakota Telecommunications Association Townes Telecommunications, Inc.	SDTA *et al.*

ITS Telecommunications Systems, Inc. Public Service Telephone Company Smart City Telecom South Slope Cooperative Telephone Co., Inc. Yadkin Valley Telephone Membership Corporation	
Southeast Nebraska Telephone Company The Independent Telephone Companies	SENTCO
Sprint Nextel Corporation	Sprint Nextel
TCA, Inc.	TCA
Time Warner Cable	TWC
Verizon	Verizon
Voice On The Net (VON) Coalition	VON
Western Telecommunications Alliance	WTA

LIST OF REPLY COMMENTERS

WC Docket No. 06-55

Commenter	**Abbreviation**
Advance-Newhouse Communications	Advance-Newhouse
Berkeley Cable TV and PBT Cable Services	Berkeley and PBT
Bridgecom International, Inc. Broadview Networks, Inc. CTC Communications Corp. NuVox Communications Xspedius Communications LLC COMPTEL	Bridgecom *et al.*
Broadwing Communications, LLC Fibertech Networks, LLC Integra Telecom, Inc. Lightyear Communications, Inc. McLeodUSA Telecommunications Services, Inc. Mpower Communications Corp. Norlight Telecommunications, Inc. Pac-West Telecomm, Inc.	Broadwing *et al.*
Earthlink, Inc.	Earthlink
General Communication, Inc.	GCI
Home Telephone Company, Inc. and PBT, Inc.	HTC/PBT
John Staurulakis, Inc.	JSI
Level 3 Communications, LLC	Level 3
Midcontinent Communications	Midcontinent
National Cable & Telecommunications Association	NCTA
National Telecommunications Cooperative Association	NTCA
Nebraska Public Service Commission	Nebraska Commission
Neutral Tandem, Inc.	Neutral Tandem

Rock Hill Telephone Company d/b/a Comporium Lancaster Telephone Company d/b/a Comporium Communications Fort Mill Telephone Company d/b/a Comporium Communications	Comporium
South Carolina Cable Television Association	SCCTA
South Carolina Telephone Coalition	SCTC
Southeast Nebraska Telephone Company The Independent Telephone Companies	SENTCO
Southern Communications Service, Inc. d/b/a SouthernLINC Wireless	SouthernLINC Wireless
Sprint Nextel Corporation	Sprint Nextel
Time Warner Cable	TWC
T-Mobile USA, Inc.	T-Mobile
United States Telecom Association	USTA
Verizon	Verizon

EXHIBIT I

Law Offices Of
Robert S. Snyder
1000 Second Avenue, 30th Floor
Seattle, Washington 98104
Tel. (206) 622-2226
FAX (206) 622-2227

August 10, 2007

BY FEDERAL EXPRESS AND
E-MAIL (Jeff.M.Pfaff@sprint.com)

Jeffrey M. Pfaff, Esq.
Senior Counsel
Sprint Nextel
6450 Sprint Parkway
Overland Park, KS 66251

Dear Mr. Pfaff:

Re: Sprint Communications Company L.P. / Whidbey Telephone Company – Sprint's Request for Interconnection

This letter is in reply to your letter, dated July 27, 2007 (received via Federal Express on July 30, 2007), which in turn was responding to my letter, dated June 22, 2007, to Joseph P. Cowan, Esq.

At this juncture, it appears that Sprint Communications Company L.P. ("Sprint") and Whidbey Telephone Company ("Whidbey") may be at an impasse. In previous correspondence, Whidbey has set forth threshold issues that it believes must be resolved before it can be determined whether negotiations relating to "local" interconnection, as requested by Sprint, or discussions relating to the exchange of local traffic can take place. Your letter, on the other hand, includes the statement, "there are no 'threshold issues' to resolve before negotiations can proceed."

Your letter refers to the decision of the Federal Communications Commission ("FCC") in WC Docket No. 06-55[1] ("FCC Order") as (i) validating Sprint's wholesale business model, (ii) stating that wholesale providers are telecommunications carriers under Sections [sic] 251 of the Act entitled to interconnection rights,[2] and (iii) noting that the regulatory status of Sprint's wholesale customer is irrelevant to Sprint's

[1] It is assumed that by this reference, you were referring to the Memorandum Opinion and Order, released March 1, 2007, by the Chief, Wireline Competition Bureau, in WC Docket No. 06-55, DA 07-709.

[2] This portion of your letters reads, "and stated that wholesale providers are telecommunications carriers under Sections 251 of the Act are entitled to interconnection rights." Is this what you intended to say? The fact that "Sections" is in the plural but only one section is then enumerated, as well as the duplicative appearance of the word "are" suggests that there may be something missing from the sentence.

right to obtain interconnection. Based upon that reading of the FCC Order, you conclude that "there are no 'threshold issues' to resolve before negotiations can proceed." Whidbey respectfully disagrees.

Whether or not the FCC Order validated Sprint's wholesale business model would seem to have relevance here only if the relationship between Sprint and its customer that was before the FCC in WC Docket No. 06-55 was the same as that which is present here and the salient aspects of that relationship were also before the FCC. Sprint has supplied Whidbey with no information that would permit Whidbey to form a conclusion as to these matters, so, at this juncture, Whidbey cannot agree with the validation thesis.

With respect to the issue of whether wholesale providers are telecommunications carriers under Section 251 of the Act, I do not read the FCC Order as holding that "all" wholesale service providers are "telecommunications carriers," but rather as recognizing that only those wholesale providers that are, in fact, providing telecommunications services as common carriers are included within the term "telecommunications carriers." The FCC Order includes a substantial discussion of the tests that must be satisfied for a service provider to be a common carrier, and it is that discussion which gave rise to one of the threshold issues raised by Whidbey – namely, that it appears that, in its relationship with its wholesale customer in this instance, Sprint is not acting as a "common carrier." If it is not acting as a common carrier, it is not eligible to exercise rights under Sections 251(a) and (b) of the Act. Your letter does not appear to address this issue at all. Accordingly, I would renew the opportunity that Whidbey has extended to Sprint to provide evidence that, insofar as is relevant here, Sprint is acting in a common carrier capacity, and would respectfully request that, if Sprint intends to pursue its request for interconnection, it provide Whidbey with evidence that Sprint's relationship with its wholesale customer is one in which Sprint is acting as a common carrier.

Finally, with respect to the FCC Order noting that the regulatory status of a wholesale telecommunications carrier's customer is irrelevant to any determination of the rights of the wholesale carrier under Sections 251(a) and (b) of the Act, the discussion in the FCC Order of the relationship between the regulatory status of a wholesale customer and a wholesale telecommunications carrier's eligibility to invoke 47 U.S.C. § 251(a) and (b) was with respect to the effect, if any, that characterization of the wholesale customer's service as an "information service" or a "telecommunications service" would have on the wholesale carrier's rights, if any, under 47 U.S.C. § 251(a) and (b). The issue here is quite different: it involves not just the regulatory classification of the

wholesale customer's service, but the apparent unlawfulness of that service and the potential unlawfulness of any aiding or abetting of the wholesale customer in the provision of such service.

With regard to this last issue and with exceptions not here relevant, under the laws of the State of Washington, an entity providing telecommunications services to the public for hire must be registered with the Washington Utilities and Transportation Commission ("WUTC"). RCW 80.36.350. Whidbey has endeavored to ascertain whether Sprint's wholesale customer is so registered, and it does not appear to be. A violation of the requirement for registration with the WUTC is a violation of Washington's public services laws. Aiding or abetting such a violation carries civil and criminal penalties. *See, generally,* RCW 80.04.380, -.385, -.387 and -.390. Whidbey is concerned that if, knowing the identity of Sprint's wholesale customer and it appearing that such customer is not registered with the WUTC, Whidbey were to provide the "interconnection" that Sprint appears to be seeking, so doing could potentially be viewed as aiding or abetting the unlawful provision of service by Sprint's wholesale customer, and Whidbey or its personnel might thereby become exposed to potential liability for civil or criminal penalties. Under these circumstances, Whidbey does not feel that it can move forward with steps looking toward effecting such interconnection – or the exchange of local traffic contemplated by such interconnection – unless and until there is adequate assurance that the service Sprint intends to facilitate by the requested interconnection and contemplated traffic exchange is not unlawful.

Your letter also touches upon the request for wireline-to-wireline local number portability ("LNP") submitted to Whidbey by Ms. Victoria Danilov on behalf of Sprint. As has been stated in previous correspondence from Whidbey to Sprint, Whidbey has declined to accept that request for reasons there explained. I would also note that Whidbey has requested information from Sprint in connection with LNP – including Whidbey's own conditional request to Sprint for LNP – and that Whidbey has not yet received from Sprint any of the requested information. If Sprint intends to seek LNP from Whidbey in the South Whidbey rate center, please respond to those requests.

Your letter stated that concurrently with your letter, you would be providing a response to Whidbey's proposed revisions to the Sprint Non-Disclosure Agreement. However, nothing in that regard accompanied your letter, nor has anything

[continued on page 4]

in that regard been received since receipt of your letter. However, I did receive a revised version of the Non-Disclosure Agreement as an attachment to your e-mail of July 23, 2007, which I have reviewed.

As a result of that review, I am enclosing with this letter (and attaching to the e-mail that transmits the electronic version of this letter) redlined and clean versions of a further revised draft of that agreement.[3] Please be sure to view the redlined version in a manner that allows you to see the comments that I have inserted in its right-hand margin. Whidbey has proceeded to address the Non-Disclosure Agreement so that, if Sprint is willing to address the threshold issues identified above and such an agreement would aid in that process, it could be executed expeditiously. However, if Sprint is not willing to address the threshold issues in a substantive way for which a Non-Disclosure Agreement might reasonably be desired by Sprint, then Whidbey does not see any purpose to entering into the Non-Disclosure Agreement at this time. If the parties subsequently proceed to negotiations, then such an agreement would be appropriate and be expected to be entered into at that time.

Whidbey is committed to fulfilling its obligations under Sections 251(a) and (b) of the Communications Act of 1934, as amended, and remains receptive to bona fide requests for interconnection from telecommunications common carriers eligible to submit them, where those requests do not have an unlawful purpose or effect. Whidbey would be willing to enter into an appropriate non-disclosure agreement with Sprint if Sprint is willing to address in a substantive and meaningful way the threshold issues that Whidbey has raised, and would be willing to proceed with non-Section 251(c) discussions/negotiations with Sprint regarding Section 251(a) and (b) matters, if it were to appear from such information as Sprint may choose to furnish in response to those threshold issues that Whidbey's concerns are misplaced and that Sprint is eligible to submit the subject requests for interconnection and LNP in the South Whidbey rate center.

[continued on page 5]

[3] The e-mailed version of this letter includes those two documents in .pdf format, as well as a copy of the clean version of the revised draft Non-disclosure Agreement in .doc format.

If you have any questions regarding any of the matters set forth above or would like to discuss any of them, please feel free to contact me at (206) 622-2226. Also, if the Non-Disclosure Agreement is to be entered into, I would welcome an opportunity to discuss with you and resolve any remaining areas of difference of in that agreement.

Very truly yours,

Robert S. Snyder
Attorney for Whidbey Telephone Company

Enclosures

cc: Whidbey Telephone Company

EXHIBIT J

From: Pfaff, Jeff M [LEG] [mailto:Jeff.M.Pfaff@sprint.com]
Sent: Thu 10/4/2007 3:19 PM
To: Rob Snyder
Cc: Sanfilippo, William [NTK]; Hassell, Mary Ellen E [LEG]
Subject: RE: Sprint Communiations Company L.P. / Whidbey Telephone Company

Robert: I have reviewed your proposals for the NDA. I am willing to accept most of them, but I have a question as to why you deleted Section 6 in its entirety. We think there should be the right to recover confidential information provided to the other party. Do you have a counterproposal for this section? Thanks.

EXHIBIT K

From: Rob Snyder [Rob.Snyder@whidbeytel.com]
Sent: Tuesday, October 09, 2007 12:38 PM
To: Pfaff, Jeff M [LEG]
Subject: RE: Sprint Communiations Company L.P. / Whidbey Telephone Company
Attachments: EXTENSION AGREEMENT.doc

Jeff -

I tried to reach you yesterday (10/08/07) by telephone, but was unsuccessful. However, I did leave you a voice mail message.

I'm a bit puzzled by the question (in your e-mail below) as to why Section 6 was propoed to be deleted from the Non-Disclosure Agreement. The reasons for the deletion were identified in the comment adjacent to that section in the right-hand margin of the redlined draft of the NDA that accompanied my letter and e-mail to you of August 10, 2007. If you still have a question, please let me know and I'd be happy to discuss it with you.

In response to your voice mail inquiry of last Thursday (10/04/07) regarding whether it would be possible to extend the window within which a request for arbitration might be filed, if Section 252(b) of the Communications Act of 1934, as amended, is applicable, I've prepared a draft Extension Agreement to accommodate such an extension. Please note that the date is blank, inasmuch as your telephone message did not indicate the date to which Sprint Communications Company L.P. ("Sprint") would like the relevant period, if applicable, to be extended. Please let me know what date Sprint desires so that I may review Sprint's request with my client, Whidbey Telephone Company.

Thank you.

Rob

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EXHIBIT L

From: Rob Snyder [Rob.Snyder@whidbeytel.com]
Sent: Tuesday, October 16, 2007 12:15 PM
To: Pfaff, Jeff M [LEG]
Subject: RE: Sprint Communiations Company L.P. / Whidbey Telephone Company

Jeff -

As I observed in a prevous e-mail, a sixty-day extension did not appear to be adequate, given the pace at which this matter has moved. A 30-day extension appears to be even less adequate, and likely will simply confont the parties with the need for another extension in 30 days. While your proposal would extend the time available to Sprint Communications Company L.P. ("Sprint") to develop and file its petition, it would not lengthen the interval for the response of Whidbey Telephone Company ("Whidbey") to the petition, which by my counting, would expire on December 11, 2007. Under that timeline, of the 25 statutory days allowed for Whidbey to respond, 10 would be weekend days or holidays. Under the present timeline, if Sprint were to file its arbitration petition on October 17, by my counting Whidbey's period of time to respond would expire on November 12, and of the available days that interval would permit, 8 days would be weekend days. This lengthing of Sprint's timeline and shortening of Whidbey's effective response interval does not seem particularly equitable. Moreover, your e-mail below suggests that there may be some doubt as to the ability of the parties to extend the statutory timelines, so even if there were a willingness on Sprint's part to lengthen Whidbey's response interval, its efficacy would appear to be questionable.

We've now made several attempts to find common ground. Regretably, at this late juncture I don't think that it is going to occur. If you wish to discuss this further, please feel free to give me a call on my cell phone - (206) 510-6222.

Thanks.

Rob

Robert S. Snyder
Law Offices of Robert S. Snyder
1000 Second Avenue, 30th Floor
Seattle, WA 98104
Tel. (206) 622-2226
FAX (206) 622-2227

-----Original Message-----
From: Pfaff, Jeff M [LEG] [mailto:Jeff.M.Pfaff@sprint.com]
Sent: Mon 10/15/2007 3:42 PM
To: Rob Snyder
Cc: Hassell, Mary Ellen E [LEG]
Subject: RE: Sprint Communiations Company L.P. / Whidbey Telephone Company

Mr. Snyder: As I mentioned in my voicemail, I am a little concerned that the Washington Commission may not agree that we can extend their deadlines. If your client is concerned about answering during the holiday season, I would suggest that we make the extension a 30 day extension instead. Then we do not need the language in Section 1 that I propose deleting. I have used your extension request and have included a redline and clean version under this approach. Please let me know by Noon PST on Tuesday if we are going to reach agreement on this proposal. Thanks.