ISSUES LIST
UT-073031

Whidbey Telephone Company ("Whidbey") hereby submits its Issues List for this docket. In an effort to limit the number of issues, Whidbey and Sprint Communications Company L.P. ("Sprint") have held a series of discussions the past two weeks. However, because of the inherent nature of discussions that have not reached an end, there may be some differences as to the listing of issues which are described as disputed. As a result, it may be very possible for one party to include an item on the issues list that the other party believes has been resolved. Whidbey reserves the right to reply to Sprint's Issues List if there is a difference in the issues that are listed or a difference in the way those issues are portrayed.

In addition, there are two types of disputes related to the issues on the Issues List. The first is where there is a dispute as to the conceptual substance of the matter. The second is where the parties have agreed in principle to the concept, but have yet to finalize the language. On the Issues List you will see a "C" listed beside the issue if it is contested in substance. There will be an "L" next to an issue if, from Whidbey's perspective, the issue has been agreed on a conceptual basis but the language remains open.

Attached is the latest working draft of the "Agreement," prepared by Sprint,[1] from the negotiations between Whidbey and Sprint. It is provided as a convenience to help identify the issues. Whidbey recognizes that the portions of the working draft may be difficult to follow. However, it appears that the working draft will be more helpful than simply trying to identify the issues in the abstract without some context as to where they fall in the flow of the draft Agreement.

ISSUES

Issue	Nature of Dispute	Whidbey's Position[2]
1. Background Section – deletion of two sentences: "Neither the entry into this Agreement, nor anything contained within the Agreement, shall constitute, or be deemed to constitute, a waiver by ILEC or modification in respect of ILEC's 'rural exemption' pursuant to	C	The Agreement should contain a preservation of Whidbey's rural exemption since Sprint is requesting interconnection only under Sections 251(a) and (b).

[1] In Sprint's transcription of language from the draft agreement that accompanied Whidbey's Answer in this proceeding, some typographical errors were introduced. Correction of these errors is not addressed in this Issues List, it being Whidbey's assumption that they will be subject to correction in any final version of the Agreement.

[2] A statement of Whidbey's position is not meant to be a full statement of position, but a shorthand identification of Whidbey's position on the issue.

Section 251(f)(1) of the Act or of any right conferred upon ILEC by Section 251(f)(2) of the Act. Nothing contained in this Agreement shall constitute an agreement by ILEC that it is subject to Section 251(c) of the Act or to be bound by any of the terms or provisions of Section 251(c) of the Act."		
2. Background Section - deletion of "with respect to the South Whidbey Exchange (as hereinafter defined),"	L	The parties are in agreement conceptually that the scope of the Agreement is to be limited to the South Whidbey Exchange. The parties have not finalized the language.
3. Section 2.1 - deletion of language	L	This is another instance of describing the geographic scope of the Agreement.
4. Section 3.7 – additional language	L	Proposed by Whidbey for clarification.
5. Section 3.8 – deletion	L	Related to geographic scope of the Agreement. To the extent it includes a reference to physical versus virtual service, the parties are in agreement that virtual service is not to be provided under this Agreement.
6. Section 3.11 – two deletions	L	Relates to geographic scope of the Agreement.
7. Section 3.13 – deletion of language related to limitation on Information Service Traffic	C	Whidbey's proposed language is consistent with current federal law which states that interconnection facilities should not be used solely for Information Service Traffic.
8. Section 3.17 – deletion of definition of South Whidbey Exchange	L	Relates to defining the geographic scope of the Agreement. Whidbey understands that the parties are in agreement that the definition of South Whidbey Exchange may be reinserted.
9. Section 3.18 – deletion of definition of Supplemental Service Area	L	Relates to geographic scope of the Agreement. Whidbey understands that the parties are in agreement that the definition of Supplemental Service Area may be reinserted to assist in defining

		the geographic scope of the Agreement.
10. Section 3.19 – definition of Telecommunications Traffic	L	Whidbey's proposed language relates to the service matter scope of the Agreement. The portion preceding the semi-colon is to conform the obligations under this Agreement with federal law. Whidbey believes that the parties are in agreement that the portion following the semi-colon may be included in the Agreement.
11. Section 5.1 – use of the language "charges for, or use of" in the second line	C	Whidbey's position is that the scope of the audit rights should be carefully defined and the Whidbey proposed language is a better description of the scope of the audit rights.
12. Section 5.1 – deleted language	C	To some extent this relates to scope of audit rights. It also allows an audit of Sprint's partner since Sprint's partner is the entity receiving the benefit of this Agreement and will be the entity originating traffic. It is important to be able to audit Sprint's partner to determine the extent, if any, to which improper routing of traffic or the use of Phantom Traffic has occurred.
13. Section 5.1 – additional language at end of the first sentence	C	Relates to scope of audit rights.
14. Section 5.3	L	Whidbey's proposed language is a more precise delineation of the corrective action process.
15. Section 6.3 – deleted language	C	Whidbey's position is that one Party should not be insulated from liability to the other Party when the first Party makes illegal use of a service obtained by it under this Agreement or makes such service available to a third party knowing that such third party intends to make unlawful use of the service.

16. Section 7.2 – entire section – relates to legal use of the services provided under the Agreement	C	Whidbey's position is that the Agreement should clearly contain a representation, warranty and covenant that the Traffic delivered to Whidbey will be originated by a lawful telecommunications carrier that is either registered with the Commission or is allowed to operate without registration by virtue of federal preemption, and that the Traffic delivered by Whidbey to Sprint will not be redelivered by Sprint to any telecommunications carrier that is required to be registered with the Commission but lacks such registration. The section also addresses burden of proof.
17. Section 7.3 – entire section	C	Whidbey's position is that Sprint should clearly represent, warrant and covenant that it qualifies, and for the duration of the Agreement, will continue to qualify, as a telecommunications carrier for purposes of the Agreement.
18. Section 8.1 – sub-provision (iv)	C	This relates to the scope of 7.2 and 7.3 and, in Whidbey's view, needs to be included in the Agreement if the representations and warranties of Section 7.2 and 7.3 are included in the Agreement.
19. Section 13.6 – language related to illegal activities	C	Whidbey's position is that the Agreement should provide either party with the clear remedy to allow it to protect itself from being at risk for civil damages or penalties or criminal sanctions and to take action to avoid such situation where caused by actions of the other party.
20. Section 13.13 – language related to scope of assignment rights and effect of assignment	C	Whidbey's position is that if less than all of the rights or obligations under the Agreement

		are transferred, there should be a requirement of advance written consent to such partial transfer. There should also be a written instrument evidencing the transfer and the transferee's acceptance of the rights and obligations under the Agreement. Furthermore, there should be a clear statement of the effect of any assignment upon rights and obligations arising prior to the assignment, and the effect of the assignment upon the non-assigning Party's defenses. These are common provisions in commercial transactions.
21. Section 14.2 – entire section	L	The parties are conceptually in agreement with a physical Point of Interconnection (POI) at Whidbey's meet point in the vicinity of the common boundary between Verizon's Coupeville Exchange and Whidbey's South Whidbey Exchange (excluding the Supplemental Service Area) on the route between the South Whidbey's wire center having the CLLI code of SWHDWAXX and the location of Sprint's POP located in Everett, Washington associated with Verizon's Everett wire center having the CLLI code of EVRTWAXF, with Sprint and Whidbey each being responsible for its costs of reaching that meet point. Subsequent changes to that meet point would be subject to mutual agreement to be negotiated in good faith. Mutually agreeable language is still left to be worked out.
22. Section 14.3, other than Section 14.3.4	L	Whidbey believes the parties have reached conceptual agreement that this section should be substantially deleted with a

		commitment to negotiate in good faith should such an indirect arrangement be desired by either party at some time in the future. Through the agreement in Section 14.2 for interconnection at a defined POI, the indirect interconnection language contained in Section 14.3, other than Section 14.3.4, would appear to no longer be needed.
23. Section 14.3.4	L?	The reference to "industry standards" in this Section is problematic for Whidbey. A more meaningful identification of the requirement may be appropriate.
24. Section 14.4 – entire section	C	Whidbey's position is that the Agreement should clearly state that Whidbey is not required to deploy capabilities, capacities or functionalities that it would not otherwise deploy (other than LNP). Also, Whidbey is concerned that references to unspecified industry standards, industry guidelines or industry practices creates ambiguity, particularly since those standards, guidelines and practices, if they can be said to exist, may vary depending on the part of the country and the nature of the network or industry segment involved.
25. Section 14.5 – entire section	C	Whidbey's position is that there should be a clear provision preventing commingling of different types of traffic.
26. Section 14.6 – entire section	L	Whidbey believes that the parties are in agreement conceptually on this section, although mutually acceptable wording consistent with the geographic scope of the Agreement still needs to be developed..

27. Section 14.7	?	Whidbey believes that Sprint has concurred in this section subject to checking with their network operations personnel.
28. Section 14 – deletion of transit traffic language	L	The transit traffic language has been moved to Section 15.
29. Section 15 – transit traffic	C	Whidbey's position is that the law imposes absolutely no obligation on Whidbey to offer transit traffic service to Sprint. However, if an agreement can be reached, Whidbey is willing voluntarily to include the language that appears in the draft. For purposes of arbitration, Whidbey's position is that the Commission lacks the authority to require Whidbey to offer transit traffic service.
30. Second Section 15.1 (Note that there are two Section 15's in the working draft).	L	Whidbey believes that the parties are in agreement conceptually on the treatment of compensation for Interconnection, assuming that the POI is as specified in the comment column of Section 14.2 above. The language of Sections. 15.1 and 15.2 still needs to be reviewed for consistency with the parties' approach to Section 14.
31. Second Section 15 – compensation – deleted language	L	This language appears in the working draft as though it were still at issue. Whidbey believes that the parties have agreed to deletion of this language.
32. Section 16.1 – deletion of references to South Whidbey exchange and South Whidbey Rate Center, coupled with additional language proposed by Sprint.	C?	Relates to the geographic scope of the Agreement and to the rate center with which numbers assigned by Sprint may be associated. Whidbey believes that the language must tie the obligation of dialing parity to the rate center with which the called party's telephone number is associated. This issue involves, in part, End Users in the Supplemental Service Area ("SSA") portion of Whidbey's

		South Whidbey Exchange. The geographic area encompassed by the SSA is included within two differing rate centers. Sprint's number assignment practices will affect whether calls to End Users in the SSA are subject to local dialing patterns or toll dialing patterns. Also, Sprint should not be allowed to create a requirement for Whidbey's customers to reach Sprint's customers on a local dialing basis over what are traditionally toll routes.
33. Section 17.1 – language related to notice and use of the LERG	C	Whidbey's position is that Sprint should provide written notice of the activation by Sprint of any NXX code within the South Whidbey rate center so that Whidbey is capable of allowing calling to that NXX code without disruption. Requiring Whidbey to subscribe to the LERG to obtain that information imposes upon Whidbey an unnecessary expense.
34. Section 17.2	C	The issue relates to the extent to which LNP is to be provided and the timing for Whidbey's provision of LNP, if Whidbey is required to provide LNP to Sprint. If Whidbey is required to provided LNP to Sprint, the language in 17.2 is acceptable to Whidbey, provided that it is made subject to proposed Section 15.1.4.
35. Section 17.3	C	This provision relates to the performance of LNP functions with respect to traffic that has been misrouted. At this juncture, lacking operating experience with LNP and without further technical research, Whidbey does not believe that it can commit to performing LNP functions with respect to traffic that Sprint might

		misroute to it. Agreement by Whidbey to this provision is also subject to the determination of whether Whidbey is required to provide LNP to Sprint, and, if so, the extent of such requirement and the timing for the deployment of such LNP.
36. Section 18 – entire	C	The principal differences between the parties with respect to this section relate to whether, and if so, the extent to which, Whidbey is required to provide LNP to Sprint. Whidbey believes that if it were to be required to provide LNP to Sprint, the extent of its contractual obligation should be only as required by law. For example, there are conditions to the provision of LNP to an interconnected VoIP provider. Those conditions are that the interconnected VoIP provider must be able to port out numbers and that the interconnecting CLEC must have facilities or numbering resources within the rate center for which LNP is sought. This language addresses the fact that there are qualifications to the provision of LNP.
37. Section 18.5	C	For Whidbey, the reference to "industry guidelines" is problematic. It seems to Whidbey that a party will not be able to know with certainty whether or not an LRN has or has not bee assigned "in accordance with industry guidelines." Whidbey anticipates that if LNP were to be deployed, it would route calls for which an LNP query had been performed by it in accordance with the LRN returned by the queried data base, regardless of

		whether or not that LRN had been "assigned in accordance with industry guidelines."
38. Section 19 – entire	L	The deletions primarily relate to the geographic scope of the Agreement and whether the qualifier "exchange" should appear in front of the word "service." Whidbey believes that the qualifier should appear to avoid potential ambiguity.
39. Section 19.2 – reference to Customer Service Records (CSRs)	C	Whidbey is concerned over this provision to the extent that it might be construed to require Whidbey to provide Sprint with CSRs. Whidbey is not agreeable to a provision that would require it to provide CSRs to Sprint. At a minimum, the specific content of the CSR would need to be defined, CPNI rules would need to be complied with, and, if Sprint wishes CSR records from Whidbey, an appropriate charge should apply.
40. Section 19.3 – New language	?	It is Whidbey's understanding that the language shown as new is acceptable to both parties.
41. Section 20 – directory listings – scope of reciprocal responsibilities	C	In the working draft, it appears that the language has not been agreed to by the parties. With three exceptions, it is Whidbey's understanding that the language is acceptable to the parties. The first exception is that Whidbey believes that Section 20.1 should be written to contain an affirmative representation by Sprint concerning its non-publication or distribution of any directory by Sprint. The second exception is that Section 20 should require Sprint's partner to include Whidbey numbers that Whidbey may submit to it in any directory such partner may

		publish or distribute for the relevant exchange(s). The third exception involves an open question as to whether Section 20.4 needs to be retained and, if so, the appropriate language by which to address "Non-Published" and "Non-Listed" listings. Due to time limitations, this third exception has not been resolved, but appears likely to be resolvable by further discussion between the parties. (Please note that the working draft contains a section number 22.7 which should be 20.7.)
42. Section 21 – E911	L	The parties are agreeable to deleting most of this language. The parties are agreeable to using language that reads substantially as follows: "Neither Party shall have any obligation to the other Party related to MSAG administration, 911 call routing or ALI database administration."
43. Attachment I - Pricing Schedule	L	The parties have not yet finished drafting language for this section.