

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of)	
)	Docket No. UT-033025
the Implementation of the Federal)	
Communications Commission's Triennial)	Comments of Sprint
Review Order)	

Sprint Corporation ("Sprint") submits these comments pursuant to the Commission's August 22, 2003 Notice Inviting Comments Concerning Process For Implementing FCC Triennial Review Order. Sprint appreciates the opportunity to comment on what procedures the Commission should consider adopting for its implementation of the FCC's Triennial Review Order ("Order").¹ These comments address the specific questions raised in the Commission's August 22, 2003 notice.

Sprint notes that, because the Order is substantial in length and complexity, it is still reviewing the Order and digesting what impact it will have on Sprint's operations and policies. Therefore, in providing these comments Sprint does not waive the right to further develop or modify its positions as Sprint's understanding of the implications of the Order becomes more clear.

¹ *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, FCC 03-36, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking (2003).

SPRINT'S COMMENTS ON THE SPECIFIC QUESTIONS RAISED IN THE COMMISSION'S NOTICE

Sprint submits the following response to the questions asked by the Commission in its Notice Inviting Comments:

- 1. Who bears the burden of going forward and the burden of proof regarding the various issues identified in the FCC's order, i.e., should the Commission initiate the proceedings, or is it more appropriate for an ILEC or CLEC to initiate a proceeding?**

Switching on High Capacity Loops in Enterprise Markets (90-day). The Order makes a national finding of "no impairment" for enterprise local switching. However, the Order allows a state to file a petition for waiver of the no impairment finding if the state finds that impairment exists for the element in individual markets. Only if a CLEC claims impairment should the Commission initiate an impairment investigation, and subsequently file a waiver petition with the FCC upon a finding of impairment. Sprint takes no position at this time on whether any party should carry the burden of proving that impairment exists for switching in enterprise markets.

Remaining Network Elements (nine-month proceeding). The Order mandates that the states conduct proceedings to determine whether impairment exists in individual markets for remaining network elements, including switching for mass-markets. However, the Order does not impose a burden of proof on any party and Sprint does not advocate that the Commission assign any party that burden.

- 2. How does the Commission's review of the FCC's Order affect ongoing proceedings before the Commission, e.g., issues pending in Dockets UT-003022/003040, UT-023003, UT-011219, UT-030614?**
 - a. Should the Commission consolidate proceedings, or hold certain proceedings in abeyance pending resolution of issues arising from the FCC's Order?**

b. Should the Commission import evidence from these or other proceedings to a new docket addressing the various issues identified in the FCC's Order?

Sprint takes no position on these issues at this time.

3. Should the Commission address issues affecting Verizon and Qwest in separate proceedings or in one generic proceeding addressing all companies?

The Order contemplates that impairment must be determined on a market-by-market basis. Thus, Sprint believes it is appropriate for the Commission to determine the appropriate geographic markets and level of impairment in a single generic proceeding that addresses all companies.

4. What hearing format should the Commission adopt for the various issues identified in the FCC's Order, i.e., a paper process, workshop, or hearing process?

Sprint recommends, for the nine-month proceeding, that the Commission establish an initial, expedited collaborative in which the Commission staff and interested parties develop the relevant geographic markets that the Commission will adopt for its consideration of whether impairment exists for the applicable network elements. Upon conclusion of this phase, the Commission should commence an adjudicated proceeding.

5. Should the Commission coordinate any of the proceedings arising from the FCC's Order with other states in Qwest's region?

To the extent coordination with other Qwest states will allow the Commission to conduct, and the parties to participate in the proceeding in a more efficient manner, Sprint is not opposed. However, as indicated in response to item 4 above, the impairment analysis must be completed for each relevant geographic market, rather than on an ILEC-specific basis. Therefore, Sprint supports coordinating procedural schedules and

standardizing discovery in the 14-state former U S West region, but does not support a coordinated effort to address the substantive question of whether impairment exists.

While a collaborative multi-state process was appropriate in the 271 process, it is not appropriate in this case. The analyses that the Commission is directed by the FCC to undertake is highly fact specific. Moreover, if a 90-day proceeding is initiated, the Commission would make its own finding of impairment, based on facts specific to Washington. In the nine-month proceeding the Commission's decision is state-specific and is not subject to additional FCC approval, unlike in the 271 process. In both cases the Commission fills more than an advisory role, and both the 90-day and nine-month proceedings would appear to be subject to state law, including Washington's Administrative Procedures Act and the Commission's rules.

Respectfully submitted this 10th day of September, 2003.

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