

**BEFORE THE WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

Rulemaking Relating to ) UT-991573  
Toll Carrier Obligations ) COMMENTS OF  
) SPRINT CORPORATION  
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Introduction

Sprint appreciates the opportunity to comment in this proposed rulemaking that would require interexchange carriers to transmit calls to all areas of the state from where they serve and would also require statewide average toll rates.

Sprint has no objection to terminating calls to all areas of the state. However, Sprint is concerned that the intent of the rule is to require toll carriers that offer interLATA toll calling to also offer intraLATA toll calling. Sprint believes that this goes well beyond the Staff's stated goal of protecting inadequate service in some areas without erecting substantial barriers to entry or exit of the toll market.<sup>1</sup> In addition, Sprint has some serious concerns about the proposal requiring statewide average toll rates.

II. Comments Regarding Proposed Paragraph (1)

Sprint understands the Commission's concern that the exit of U S WEST from the intraLATA toll market in certain areas of the state could leave some customers without access to, or with very limited choice of intraLATA toll service. However, Sprint urges the Commission against flatly requiring that carriers offering interLATA toll calling be required to also offer intraLATA toll calling. Sprint believes that enacting a statewide requirement to address a hypothetical and remotely possible problem is excessive. As an active competitor for intraLATA toll traffic, Sprint is very interested in providing its services to as many customers as possible, provided that the economics of the business justify Sprint's participation. Because of the potential for differing economic and competitive factors, a toll carrier should have a certain element of flexibility to modify its offering of products and services according to the particular environment within which it operates. Without such flexibility, toll providers could be forced to operate at a loss, and would be subject to access cost increases with no recourse.

By proceeding with this rulemaking, the Commission itself recognizes that a healthy competitive marketplace requires the ability of companies to enter and exit depending on the underlying economic conditions. Sprint acknowledges that an element of risk exists when moving from a controlled marketplace to a competitive one wherein competitors are allowed to enter and exit at their discretion. Nevertheless, Sprint believes that the best way to protect customers is not by imposing a new statewide regulatory requirement but rather by assuring that economic inefficiencies are eliminated and competitive companies are provided with the flexibility they need to allow pro-consumer competitive forces to work.

The offering of interLATA toll and the offering of intraLATA toll are two distinct endeavors with different costs and strategies associated with each. In the intraLATA market, Sprint faces a very different mix of competitors than it does in the interLATA market. The strengths and strategies of these competitors vary greatly. It would stand to reason that toll carriers should possess some degree of flexibility to meet the challenges posed by the two distinct jurisdictions. Ideally, Sprint would prefer to enter every market in the state and across the country and have the ability to offer both interLATA and intraLATA toll service profitably to every consumer. However, certain markets present very difficult challenges, particularly with respect to intraLATA toll service, because of underlying economic factors. Sprint requests that this Commission resist the temptation to flatly obligate toll carriers to serve "all or nothing" in Washington. That type of policy discourages vigorous market-based competition and may result in less than desirable Washington-specific pricing in order to compensate for a costly lack of operational flexibility. Instead, Sprint suggests that toll carriers be allowed to offer intraLATA toll calling on an exchange-by-exchange

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<sup>1</sup> Staff Memo on UT-991573 dated December 29, 1999.

basis, or at a minimum, according to a customer's LEC. In addition, Sprint would support the requirement that, where a toll carrier chooses to offer originating intraLATA toll service, the toll carrier be required to transmit toll calls to all other exchanges outside the local calling area and within the LATA. This distinction would preserve the integrity of intraLATA toll service in the state without unduly forcing toll carriers to offer their services ubiquitously. Sprint also emphasizes that when the opportunity exists to conduct business profitably in any market, competitors will be many and competition will be fierce.

### III. Comments Regarding Proposed Paragraph (2)

Interexchange carriers need the regulatory flexibility to respond to competitor's prices. Sprint recognizes that proposed paragraph (2) seems to allow for some degree of price variance. However, the ability to price according to distance is not a meaningful option. In fact, that characteristic already exists in most toll carrier Basic MTS rate tables. The issue here is that the distance between two points is not the primary cost driver. The primary cost driver in the toll market is the price of originating and terminating access associated with individual LECs. Pricing flexibility should be granted not according to distance, but rather according to underlying costs.

Sprint believes the proposed rulemaking would give USWC a competitive advantage over other IXCs within USWC's territory. There is a significant difference between USWC's access rates and those of non-USWC carriers. The recent elimination of USWC's designated toll provider responsibilities thus amounts to a substantial cost savings for USWC in that it is no longer required to pay the high access rates charged by ILECs outside of USWC's territory<sup>2</sup>. This effectively lowers USWC's price floor. In order to be able to compete with USWC, IXCs need the ability to reduce prices in USWC exchanges where underlying costs are lower than average. Without this flexibility, IXCs may be forced to stop offering toll service in rural areas of the state in order to pass price imputation tests that meet USWC's prices in urban markets.<sup>3</sup>

Pricing flexibility that recognizes underlying cost differences would not be discriminatory because similarly situated customers would receive the same rate. Conversely, forcing providers to price services at the same rate where differences in cost justify different prices would be discriminatory. While this form of controlled discrimination may have been warranted for social policy reasons in a regulated monopoly environment, it can no longer serve society in a fully competitive marketplace. On the contrary, such a rule would now have a detrimental effect on competition by either forcing IXCs out of rural markets, depriving consumers of price competition by providing USWC with an artificial price umbrella, or by effectively eliminating competition in USWC's markets.

### IV. Conclusion

This Commission has long been supportive of competition within the state. If toll competition is to continue to flourish, then new rules should not be implemented that interfere with the normal dynamics of a competitive marketplace. The Commission, therefore, should not adopt the proposed rules as written, but instead should continue to 1) permit toll carriers the flexibility to make interLATA services or intraLATA services available as stand alone services, 2) allow toll carriers to offer intraLATA service without requiring a ubiquitous offering, and 3) allow toll carriers the flexibility to have "justified variance" in toll rates based upon underlying cost differences rather than distance.

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<sup>2</sup> USWC is still required to pay terminating access charges to ILECs when a USWC customer calls an ILEC customer; however, USWC is no longer required to pay originating and terminating access charges for all of the non-USWC customer's intraLATA traffic.

<sup>3</sup> Toll carriers have long been required to demonstrate that they are not pricing below cost (predatory pricing), nor would most IXCs wish to operate at a loss.

Respectfully submitted this 25<sup>th</sup> day of January 2000.

SPRINT CORPORATION

Nancy Judy

By:\_\_\_\_\_

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