

**BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

In the Matter of) UT-991573
Rulemaking Relating)
to Toll Carrier Obligations) COMMENTS OF SPRINT
_____) CORPORATION

Pursuant to the Notice of Opportunity to Submit Written Comments and Notice of Proposed Rule Adoption Hearing issued in this docket on March 7, 2000, Sprint Corporation ("Sprint"), on behalf of United Telephone Company of the Northwest and Sprint Communications Company, L.P., respectfully submits comments on the draft rule.

I. INTRODUCTION

Sprint appreciates the changes that Staff has made to the rule in response to parties' comments, particularly the elimination of the average toll rate requirement. Nevertheless, Sprint continues to believe that the conditions the rule places on toll carriers are not competitively neutral and are not in the public interest. The conditions constitute competitive barriers, and as such will retard competition in Washington. By tying inter- and intraLATA toll offerings together the rule will likely limit the choices that customers have in high-cost exchanges and may drive some IXCs out of these markets altogether.

II. SPRINT'S CURRENT TOLL OFFERINGS

Today, Sprint Long Distance offers presubscribed originating interLATA service to business and residential customers in all exchanges within the state. As a national carrier, Sprint's policy is to participate as a provider of presubscribed originating intraLATA service wherever it is informed that intraLATA presubscription is available. Sprint is currently providing this service in all known equal access areas. To the best of our knowledge, all exchanges in Washington are now equal access, and therefore all Washington customers should be able to presubscribe to Sprint for both inter and intraLATA toll service. Moreover, Sprint Long Distance does not price its intrastate interLATA toll differently from its intrastate intraLATA toll.

United Telephone Company of the Northwest, dba Sprint, offers intraLATA toll to its Washington local exchange customers as PIC 000. United also offers Sprint Long Distance toll service (PIC 333) to the same Washington customers for both inter- and intraLATA service.

The proposed rule would thus have no immediate effect on Sprint—that is, it would not require Sprint to offer toll services that it is not currently offering. Nevertheless, Sprint values its flexibility to fluidly enter and exit markets in response to market conditions. If, for example, access rates for Intrastate intraLATA traffic should increase in particular exchanges to the point that it becomes unprofitable to offer toll service, Sprint would want the ability to exit the market. In a competitive market, firms should be allowed enter and exit freely, and choose the type of services they wish to supply that meet their marketing strategy. Without such freedom, Sprint, along with all other non-USWC toll providers, will have no other choice but to either cross-subsidize between the two

products, or stop offering both products in exchanges where only one of the products is profitable.

THE RULE CREATES MARKET BARRIERS THAT WILL IMPEDED COMPETITION

There should be little debate that today's toll market is competitive. Toll prices continue to fall while the number of providers and network capacity increase. When one provider offers a new toll package or pricing plan, other providers must quickly follow suit, or introduce their own variation(s) aimed for broader appeal. One of the characteristics of a competitive market is that firms have complete freedom of entry and exit. Ease of entry and exit has certainly been the case for toll providers, with the exception of the RBOCs, which are legally bound by the 271 requirements under the Act before they can enter the interLATA market. Since the toll market is competitive, and absent any demonstrated market failures, it makes little sense to erect entry and exit barriers. Doing so will increase both the costs and risk of doing business in Washington, and will impede development and market competition.

Not long ago, FCC Commissioner Harold Furchtgott-Roth described and argued against this particular form of regulation:

Unrestricted entry must also be voluntary entry. If I want to offer telephone service in St. Louis, but a government official who has the power to stop me insists that I have permission to serve St. Louis only if I agree to serve Kansas City as well, I have no unrestricted entry into either city. In a truly competitive market, someone else will enter if I don't and the proper role of government is not to restrict entry or even condition it. . . . [W]hen government restricts entry, or forces entry, or conditions, it – willingly or not – is engaged in a corrupt practice of picking winners and losers in a market [. . .]¹

While it is true that many IXC's, such as Sprint, have already entered the intraLATA toll market throughout the state, and thus do not face the entry barrier that the proposed rule creates for new providers, these carriers would be faced with a new exit barrier under the rule. In order to exit the intraLATA market in a given exchange, IXC's like Sprint would now have to forgo any interLATA profit margin they were realizing. In other words, if interLATA toll was profitable in a given exchange, but intraLATA toll was not, then toll carriers would have to forgo cost recovery for intraLATA in order to retain profits on interLATA, or be forced to give up interLATA profits to exit the intraLATA market.

IV. THE RULE IS NOT COMPETITIVELY NEUTRAL

Ironically, the Commission's recent decision to relieve US West of an exit barrier (i.e., the obligation to serve as the carrier of last resort), has led to the new rule which creates an exit barrier for all other toll providers, as well as an entry barrier for any new toll providers. The effect, therefore, is not competitively neutral. Existing toll carriers such as Sprint, AT&T, and MCI-WC may exit a particular market where it is uneconomic to provide intraLATA service (perhaps because an ILEC sets intraLATA access rates at a level relatively higher than interLATA), just as US WEST may. However, to do so, Sprint, AT&T and MCI-WC must also

¹ Speech by Harold Furchtgott-Roth "Turbulence in the Transition from Regulation to Competitor" University of Missouri 25th Annual Rate Symposium, April 26, 1999.

stop providing interLATA service to the market.

Relieved of its toll carrier obligation, US West may selectively serve areas where access costs are relatively inexpensive, for instance in its own exchanges. The savings it realizes should allow US WEST to reduce its toll prices to gain greater market share. To compete with US WEST, other IXCs will want to exit high access cost exchanges in order to match US WEST's toll prices. However, USWC will always be able to undercut the IXC on intraLATA toll by the margin the IXC is receiving on the interLATA offering.

V. THE RULE IS UNNEEDED AND WILL HARM CONSUMERS

According to the CR-102 and the staff memo dated December 29, 1999, the new rule is being created to assure that no customers are left without a provider. However, even if all toll providers were to exit an exchange, customers could still place toll calls via "dial around."

By forcing toll providers to provide all or nothing toll service by exchange, the Commission will be tinkering with market dynamics. The public policy results may be unpredictable and undesirable. As explained previously, the rule may have the unintended consequence of forcing IXCs out of an exchange entirely, rather than assure that IXCs continue to offer intraLATA service.

VI. SUMMARY

Sprint urges the Commission against adopting the proposed rule. Sprint continues to believe that the best way to protect consumers is by assuring that economic efficiencies are eliminated and competitive companies are provided with the flexibility they need to allow pro-consumer competitive forces to work.

Respectfully submitted this 12th day of April, 2000.

SPRINT CORPORATION

By: _____

Nancy Judy

AVP External Affairs