

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF REVISIONS AND/OR  
ADDITIONS TO THE COMMISSION'S  
SWITCHED ACCESS RULES CODIFIED IN  
ARSD 20:10:27 THROUGH ARSD 20:10:29

Docket No. RM 05-002

**SPRINT'S COMMENTS ON PROPOSED RULES**

Sprint Communications Company, L.P., Sprint Spectrum, L.P. d/b/a Sprint PCS,, Nextel West Corp. d/b/a Nextel, and NPCR, Inc. d/b/a Nextel Partners (collectively, "Sprint") submit these comments on the proposed rules pursuant to the Notice of Public Hearing to Adopt Rules dated November 24, 2010.

As a threshold issue, Sprint believes that codifying specific rate caps for CLECs is not appropriate and does not adequately mitigate the harms to competition and consumers associated with excessive CLEC access rates. Instead, each CLEC's rates should be capped at the same rates as the ILEC with whom the CLEC competes. Capping at the ILEC rate allows for CLEC rates to be automatically adjusted as ILECs revise their rates over time, and is consistent with principles of competitive neutrality. In addition, Sprint believes the rates set forth in Section 20:10:27:02.01 of the proposed rules, which are based on whether the CLEC has greater or fewer than 15% of its access lines in communities of 10,000 or more (6.042 cents or 9 cents, respectively), are arbitrary and there is no rational basis to conclude that such rates are "just and reasonable." Furthermore, Sprint believes that Section 20:10:27:02.02, which allows for facilities-based CLECs to charge rates higher than the benchmark, should be eliminated. There is no reason to assume that CLECs have higher cost structures than the ILECs with whom they

compete. The most simple, effective, and competitively neutral solution is to simply cap each CLEC's rates at the same rates as the ILEC with whom it competes.

Sprint also believes that CLEC access rates are only a small part of the problem. To properly address the harm from high access rates in South Dakota, the Commission should also reform ILEC switched access rates in South Dakota. Inflated switched access rates are harmful to both consumers and competition in South Dakota. While capping CLEC access rates at ILEC rates would be a step in the right direction, much more significant reform is needed for ILECs, particularly rural ILECs. Sprint believes that, in addition to capping CLEC rates, the Commission should move forward promptly to require all ILECs in South Dakota to reduce their intrastate switched access rates to interstate levels, consistent with the framework outlined by the FCC in the National Broadband Plan.<sup>1</sup>

As the Commission is aware, high switched access rates in South Dakota have created a favorable environment for companies to engage in access traffic stimulation schemes that are harmful to consumers and of questionable legality. The Commission could take a dramatic step toward eliminating the incentive for companies to engage in traffic pumping schemes in South Dakota by reforming both CLEC and ILEC access rates as discussed above. Regardless, no matter what CLEC and/or ILEC access rates result from this docket, no outcome or conclusion from this proceeding should be construed, either expressly or implicitly, to legitimize the practice of traffic pumping or the application of access rates to such traffic, or to impact in any way the outcome of any proceeding involving traffic pumping currently pending before this Commission.

With regard to the rule amendment proposed by Northern Valley Communications, LLC, ("NVC"), the proposed amendment should be rejected. Adoption of NVC's proposed

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<sup>1</sup> Connecting America: The National Broadband Plan ("National Broadband Plan"), p. 148.

amendment would allow the limited changes set forth in the proposed rules to be easily circumvented. NVC's proposed amendment would allow a CLEC to go into a large community while serving a small service area contiguous to that community or even potentially distant from that community, and then claim the higher rate, even though the great majority of that CLEC's traffic comes from the larger community. Such a rule could actually result in an increase in some CLEC rates over the currently effective rates.

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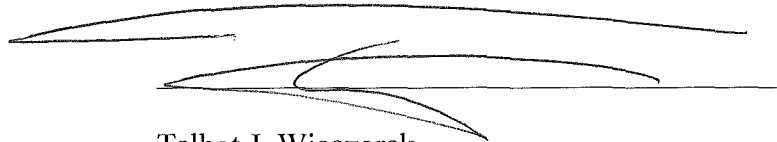
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A handwritten signature in black ink, appearing to read 'Talbot J. Wiczorek'. The signature is fluid and cursive, with a long horizontal stroke at the end.

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