

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**In the Matter of the Filing by Sprint)
Communications Company, L. P.)
for Approval of its Access Services) Docket No. TC09-086
Tariff)**

**PETITION FOR INTERVENTION AND REQUEST TO SUSPEND BY
AT&T COMMUNICATIONS OF THE MIDWEST, INC., ON FILING BY
SPRINT COMMUNICATIONS COMPANY, L.P., FOR APPROVAL OF ITS
SWITCHED ACCESS SERVICES TARIFF**

Pursuant to ARSD Sec. 20:10:01:15.02, AT&T Communications of the Midwest, Inc., (“AT&T”) petitions to intervene in the above captioned proceeding. In its Petition filed on August 20, 2009, Sprint Communications Company, L.P. (“Sprint”) requests approval for a modification to its 8YY Toll Free Transit Traffic Service with a requested effective date of October 1, 2009 (the “Proposed Tariff”). In addition to this Petition, AT&T also requests that the Commission suspend Sprint’s Proposed Tariff pending a hearing on the matter.

GENERAL OBJECTIONS

Sprint’s proposed Toll Free (“8YY”) Transit Traffic Service is a jointly provided¹ access service in which Sprint is proposing to transport toll free traffic, originated by a third party who is not an end user of Sprint’s local exchange or exchange access service,

¹ Sprint’s South Dakota P. U. C. Tariff No. 3, on page 2-28, at Section 2.4.7, sets forth the process for ordering, rating and billing of Access Services where more than one Exchange Telephone Company or Rates Schedule is involved (“jointly provided service”). Sprint states that it “will adhere to the standards set forth in the Multiple Exchange Carrier Access Billing (MECAB) and the Multiple Exchange Carrier Ordering and Design (MECOD) Guidelines when providing access service under Multiple Telephone Company (Interconnection Point) Billing arrangements.” Since Sprint does not have a Tandem Switch in the state of South Dakota, AT&T assumes that toll-free 8YY calls originating within South Dakota will be transported, at the expense of Sprint, from the Sprint Tandem back to the LATA of origin in South Dakota, pursuant to MECAB/MECOD standards.

through its wire center to an Interexchange Carrier. The connection can be either directly or indirectly connected.

Traditionally, toll-free 8YY traffic has been routed from a wireline or wireless originated end office to a local exchange carrier tandem located in the same LATA in which the call originates. The tandem provider queries the toll-free 8YY database to identify the toll-free service provider for each call and routes that call in an efficient and cost effective manner to the toll-free service provider. In most cases, South Dakota originated toll-free 8YY traffic only has to utilize a single tandem in the call flow to complete the query and routing functions for toll-free 8YY calls.

The toll-free 8YY Transit Traffic Service contained in Sprint's Proposed Tariff inserts additional tandems and a higher query cost into an existing call flow, increasing the cost to the IXC, without adding any efficiency or cost benefit.² Instead of introducing a competitive service offering resulting in a lower cost alternative, Sprint's Proposed Tariff inefficiently duplicates an already existing process and unreasonably adds additional costs for tandem switching and database query³ to the costs currently paid by South Dakota toll-free 8YY customers without adding any benefit.

In principle, network aggregation, as proposed by Sprint, can reduce costs for carriers and should benefit end users. However, Sprint's aggregation service does not allow carriers to reduce cost by eliminating multiple points of interface and supporting

² This occurs when 8YY traffic is routed from a third party, such as Sprint/Nextel, to the Sprint Tandem (which is likely located in Kansas City, MO) where Sprint will query the toll-free 8YY database to identify the toll-free service provider so Sprint can send the call back to the South Dakota incumbent local exchange carrier tandem located in the same LATA in which the call originates. This will result in IXCs being forced to pay for a second tandem and its associated costs, as well as a higher toll-free 8YY query rate.

³ While not a part of this instant filing, AT&T recommends that if the Commission allows the Proposed Tariff to become effective, it should not do so until it has had an opportunity to review Sprint's rate for a Toll Free Database Access Service (TFDBAS) Database Query. Such a review should ensure the impact of larger traffic volumes attributable to traffic aggregation is reflected in a revised TFDBAS Database Query rate.

interconnection facilities in and across LATAs, instead it will drive a higher cost per toll-free 8YY call when compared to the same access and query services provided today for toll-free 8YY traffic.

Although Sprint claims it is introducing its toll-free 8YY Transit Traffic Service as a new service, this type of function is not new to the industry. It is being offered today by other telecommunications carriers at much lower cost to AT&T and other IXC's. It is unreasonable that Sprint can inject itself into an existing call flow and drive higher cost for AT&T, when AT&T cannot reject Sprint's offering because of regulatory restrictions prohibiting call blocking, nor can it choose to stay with the existing lower cost toll-free 8YY aggregation function offered by Sprint's competitors.⁴ Sprint should not be allowed to take advantage of the fact that AT&T and other IXC's are captive customers in this type of network arrangement. Sprint's attempt to impose added and unneeded costs through this tariff filing will, if permitted, only place upward pressure on retail end users toll prices.

As an interexchange carrier, AT&T is required to pay intrastate switched access fees to competitive local exchange carriers, such as Sprint, when providing toll-free 8YY service in South Dakota. Any additional costs incurred as a result of Sprint's Proposed Tariff may effect how AT&T provides services in the state. Thus, AT&T has a substantial interest in ensuring that access fees, including toll-free 8YY transit charges, are reasonable, accurate and consistent with the public interest. Existing customers of

⁴ In a competitive market, where the market forces function properly, a new provider could not enter the market expecting to extract a higher rate and win customers away from other providers offering the same product at a lower rate. Because of the bottleneck characteristics of switched access, including toll-free 8YY transit service, Sprint is able to charge a higher price for its toll-free 8YY transit service and IXC's have no alternative but to pay the higher rate.

AT&T, as well as the company itself, would be directly and adversely impacted by the implementation of the Proposed Tariff.

SPECIFIC CONCERNS AND ISSUES OF AT&T

1. Proposed Direct Connect Description is Confusing and Unreasonable.

The Proposed Tariff specifies that IXCs are provided the option to directly connect to the company's (i.e. Sprint's) switch via a Direct End Office Trunk (DEOT). See Section 6.1.2(E). AT&T interprets this section to mean that tandem transport usage is not involved with this routing option. However, directly below this paragraph, at Section 6.1.2(E)(1) and in footnote "#" at Section 8.2.8, Sprint proposes to charge tandem transport rate elements such as: "one-half Tandem Transport Termination (fixed) and Tandem Transport Mileage (1 mile); Tandem Switching, and one-half Common Transport Multiplexing." These tandem transport elements should not apply if, as indicated above, the connection is at Sprint's DEOT which would not involve any tandem transport function performed by Sprint. Sprint should be compensated only for the functions it performs.

2. Disaggregation Needed to Avoid Overbilling.

The tariff contains aggregated rates that combine multiple rate elements. Section 8.2.8, footnotes "#" and "##" detail the components used in calculating the per access minute rate to be assessed for a direct or indirect connect for Toll Free 8YY Transit Traffic Service. Footnote "##" states: "Toll Free 8YY Transit Traffic – Indirect Connect is comprised of Tandem Switched Transmission, which includes Tandem Transport Termination (fixed) and Tandem Transport Mileage (10 miles); Tandem Switching, and Common Transport Multiplexing." While the elements that make up the aggregated rate

were provided, the method, as well as the individual rates used to calculate the blended rate was not explained in the filing, nor contained in the tariff. At a minimum, the aggregated rates for this service should be disaggregated to ensure that only those parts of the blended rate applicable to particular circumstances are charged. Without disaggregating, it would be impossible to ensure Sprint does not charge for services or functions it does not perform.

3. Jurisdiction Discernment for Aggregated 8YY Calls

The filing does not include any information to ensure Intrastate toll-free 8YY calls are accurately jurisdictionalized and billed correctly. When a carrier, such as Sprint, aggregates toll-free 8YY calls, it does not know the destination of that call. It therefore cannot determine the jurisdiction (Interstate or Intrastate) of toll-free 8YY calls from its own call record. This issue exists for all toll-free 8YY traffic across the industry. Sprint must rely on jurisdictional reports provided by AT&T, an 8YY service provider, to classify toll-free 8YY traffic and bill appropriate intrastate rates.

Jurisdictional reports produced by AT&T for Sprint will not include any third party aggregated toll-free 8YY traffic associated with this new service because the call detail will be associated with the third party originating the call and not Sprint. The network call recordings for toll-free 8YY originated traffic only identify the originating carrier of a call. As a result, toll free 8YY traffic aggregated from other carriers in or out of the state of South Dakota will not be reflected accurately in Sprint's jurisdictional reports.

This filing should clearly delineate how Sprint will accurately account for and jurisdictionalize third party intrastate toll-free 8YY aggregated traffic, so that the proposed intrastate toll-free 8YY transit rates are not applied to interstate traffic.

REQUEST TO SUSPEND THE PROPOSED TARIFF REVISIONS

AT&T requests that the proposed tariff revisions of Sprint be suspended until such time as the Public Utilities Commission of South Dakota has had an opportunity to conduct a necessary investigation and hearing in this matter.

CONCLUSION

For the reasons stated above, AT&T respectfully requests that the Commission grant this intervention and suspend Sprint's proposed tariff revisions to its Access Service Tariff pending the outcome of this matter.

Submitted this 10th day of September, 2009.

OLINGER, LOVALD, MCCAHERN & REIMERS, P. C.

/s/ filed electronically _____
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CERTIFICATE OF SERVICE

On this 10th day of September, 2009, a true and correct copy of the foregoing was mailed electronically to:

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