

Schenkenberg Aff.
Exhibit L



A. Enrico C. Soriano
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November 27, 2008

VIA E-MAIL AND OVERNIGHT COURIER

Philip R. Schenkenberg, Esq.
Kevin M. Decker, Esq.
Briggs and Morgan, P.A.
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402

Re: Tekstar Communications, Inc. v. Sprint Communications Company, L.P., Court
File No. 08-cv-1130 (JNE/RLE)

Dear Messrs. Schenkenberg and Decker:

Attached please find Tekstar Communications, Inc.'s First Set of Interrogatories and First Request for Production of Documents. Also attached is an Affidavit of Service.

Please contact me promptly if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read 'A. Soriano'.

A. Enrico C. Soriano
Counsel for
Tekstar Communications, Inc.

Copy: David Schornack (w/ encl.)
Peter A. Koller (w/ encl.)
Kristin B. Heebner (w/ encl.)

202479v1

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION – MINNEAPOLIS

_____)	
TEKSTAR COMMUNICATIONS, INC.,)	Court File No. 08-cv-1130
)	(JNE/RLE)
<i>Plaintiff,</i>)	
)	
v.)	<u>FIRST SET OF</u>
)	<u>INTERROGATORIES</u>
SPRINT COMMUNICATIONS)	<u>AND FIRST REQUEST</u>
COMPANY L.P.)	<u>FOR PRODUCTION</u>
)	<u>OF DOCUMENTS</u>
<i>Defendant.</i>)	
_____)	

TO: Defendant Sprint Communications Company L.P. and its counsel, Philip R. Schenkenberg, Esq. and Kevin M. Decker, Esq., Briggs and Morgan, P.A., 2200 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402:

TEKSTAR COMMUNICATIONS, INC. (“Tekstar”) submits the following discovery requests pursuant to Fed. R. Civ. P. 26, 33, and 34, and the Court’s August 1, 2008 Pretrial Order as further modified on August 28, 2008. Tekstar requests that Sprint Communications Company L.P. (“Sprint”) respond to the discovery requests in the manner and within the timeframe prescribed by the Federal Rules and the Court’s Pretrial Order.

DEFINITIONS

For the purpose of these discovery requests, the following definitions shall apply:

1. “And” and “or” shall be construed both conjunctively and disjunctively, and each shall include the other whenever such construction will serve to bring within the

scope of these discovery requests that which would not otherwise be brought within their scope.

2. "Documents" is used in the broadest sense and includes all tangible things that record or contain information, and that are in Sprint's possession, custody or control, regardless of who prepared, signed or retained them. "Documents" includes both the original and any copy or draft, and all copies that contain any notation not on the original. Examples of "documents" include, but are not limited to, handwritten, typed or printed papers, handwritten notations, office notes, calendar entries, diaries, notes of telephone conversations, photographs, reports, receipts, invoices, memoranda, written correspondence, electronic or e-mail correspondence (including attachments), faxes, manuals, technical writings, message logs, call logs, meeting minutes, ledger entries, and computer printouts, cards, tapes, disks, and other means of electronically or magnetically maintained information.

3. "Identify" means (1) when used with reference to a natural person, give the person's full name, business or residence address, business or residence telephone numbers, occupation, and employer, and title; (2) when used with reference to an entity, give the entity's full name, principal place of business, address, and telephone number; (3) when used with reference to a document, give the document's date, title, author, recipient, type (*e.g.*, letter, memorandum, note, etc.), name of the custodian of the document, the portion of the document responsive to the discovery item, and a description of the contents with sufficient specificity to be the basis for discovery; and (4) when used with reference to an action taken by an entity, identify the person(s) taking the action, describe the nature of the action, and give the date on which the action was taken.

If any action identified pursuant to (4) involved a communication with another person, identify the person(s) with whom the actor(s) communicated; and, if the communication was through the use of a document, identify the document through which the communication was made.

4. "Persons" means any natural person, corporation, corporate division, partnership, other unincorporated association, trust, government agency, or entity.

5. "Sprint" refers to Sprint Communications Company L.P., and all divisions, subsidiaries, parents, and affiliates thereof, including but not limited to, Embarq.

6. "The present" means the date on which you filed your response to these discovery requests.

7. "You" and "your" refer to Sprint, its affiliates, designees, assignees, employees, and representatives.

8. "Intrastate switched access service" means services and facilities provided for the origination or termination of intrastate telecommunications.

9. "Interstate switched access service" means services and facilities provided for the origination or termination of interstate telecommunications.

10. "Long distance service" shall mean toll services.

11. "Long distance providers" shall mean carriers that provide long distance service (also referred to as "interexchange carriers" or "IXCs").

12. "Intrastate long distance service" means long distance service provided within the state of Minnesota.

13. "Interstate long distance service" means long distance service originating in one state and terminating in another.

14. "Local exchange carrier" or "LEC" is as defined in 47 U.S.C. § 153(26).

15. "Exchange access" is as defined in 47 U.S.C. § 153(16).

16. "Rural CLEC" is as defined in 47 C.F.R. § 26(a)(6).

17. "Access stimulation" is as defined in *High-Cost Universal Support*, WC Docket No. 05-337, et al., FCC 08-262, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking (rel. Nov. 5, 2008).

18. "Transit service" means service in which the intermediate carrier provides neither call origination nor call termination, but only switching or intermediary service, for traffic between the originating carrier and terminating carrier.

19. "Conference calling service" means any service, product, or offering that provides the ability for telephone users to call a designated number for the purpose of initiating or participating in a conference call.

20. "Conference calling service provider" or "CCSP" means a provider of conference calling service.

21. "MOU" shall mean minutes of use.

INSTRUCTIONS

1. The following discovery requests should be answered separately, fully, and to the best of Sprint's ability, and must be served on or before the applicable deadline on Tekstar's counsel.

2. Each of the following discovery requests is intended to be continuing; in the event that at any later date Sprint obtains any additional facts or documentation, or forms any conclusions, opinions or contentions that are different from those set forth in its answers to such discovery requests, Sprint shall amend and/or supplement its answers

to such discovery requests promptly and within the timeframe contemplated by the applicable Federal Rules.

3. Label each response clearly as to the discovery request to which it responds.

4. If you maintain that any document or record which refers to or relates to anything about which these discovery requests ask or that would be responsive to any of the discovery requests has been destroyed, set forth the content of said document, the location of any copies of said document, the date and circumstances of said destruction, and the name of the person who ordered or authorized such destruction.

5. If you cannot answer a discovery request in full after exercising due diligence to secure all the information requested, or do not have precise information with regard to any part of a discovery request, you should so state in your response, describing in full your efforts to obtain the information requested, and then proceed to respond to the fullest extent possible. If you object to any part of a discovery request, answer all parts of the discovery request to which you do not object, and as to each part to which you do object, separately set forth the specific basis for the objection.

6. Where the data requested is or can be made available on computer diskette, please provide the documentation on computer diskette and indicate what format in which the data reside.

7. Where the response includes documents, please supply both paper and electronic formats when available. When the request calls for data and that data is maintained in a database, please include the database, all queries run against the database, all extracts from the database and documentation that explains the meaning of the data

(*i.e.*, documentation that describes the meaning of the various fields in the database, all acronyms used, etc.). If data is available in an electronic format, such data should be provided in an electronic format that allows data manipulation (*e.g.*, spreadsheet, database, not .pdf).

8. If any information is withheld under a claim of privilege, please create and produce, contemporaneous with your responses, a privilege log that identifies the relevant discovery request and describes the information without revealing the asserted privileged information, and provide a statement of the basis upon which the claim of privilege is based.

9. When the information requested by a discovery request varies over time, state the response for each period and identify the relevant time periods.

10. Unless otherwise indicated, the relevant period for each discovery request is the period beginning January 1, 2005, through and including the present.

INTERROGATORIES

1. Identify each person who assisted or participated in preparing or supplying any of the information given in answer to, or relied upon in preparing answers to, these discovery requests.

2. State whether it is customary in the telecommunications industry for a LEC providing exchange access service to affirmatively notify IXCs using the LEC's exchange access service of the type and nature of the LEC's customers receiving IXC-originated long distance calls. If the response is in the affirmative explain the process, including any notification forms or other documents that may be required, that Sprint claims to be customary in the telecommunications industry; identify all the LECs that

provide exchange access service to Sprint that have a process similar to the one described in your response above; identify all the LECs that provide exchange access service to Sprint that *do not have* a process similar to that described in your response above; as to the LECs provide exchange access service to Sprint that do not have a process similar to that described in your response above, state whether Sprint has paid any of them compensation for exchange access; as to the LECs that provide exchange access service to Sprint that *do* have a process similar to that described in your response above, state whether Sprint has paid any of them compensation for exchange access.

3. For the period January 1, 2005 through and including the date of this discovery request, please state whether Sprint has refused to pay a LEC (other than Tekstar) for exchange access or for any communications services provided by the LEC to Sprint in connection with the delivery of long distance calls to CCSPs. If the response is in the affirmative, for each such LEC identify the LEC; explain the reason why Sprint refused to pay the LEC's exchange access charges; state the amount of the exchange access charges billed by the LEC that Sprint refused to pay; and state (i) whether Sprint disputed the LEC's exchange access charges; (ii) whether the dispute has been resolved; and (iii) the resolution of the dispute.

4. State whether Sprint has ever been the subject of an administrative or civil complaint in which the complainant sought payment from Sprint for exchange access service for any communications services provided by the complainant to Sprint in connection with the delivery of long distance calls to CCSPs (excluding this case). If the response is in the affirmative, for each such complaint, identify the complainant(s); identify the caption and docket number of the complaint; briefly explain the claims and

counterclaims raised; and state whether the complaint has been resolved and explain the resolution of the complaint.

5. State whether Sprint has ever been a complainant in an administrative or civil proceeding in which Sprint sought payment from another carrier for exchange access service or for any communications services provided by Sprint in connection with the delivery of long distance calls to CCSPs. If the response is in the affirmative, for each such complaint, identify the defendant(s); identify the caption and docket number of the complaint; briefly explain the claims and counterclaims raised; state whether the complaint has been resolved and explain the resolution of the complaint.

6. Has Sprint, during the period January 1, 2005 through and including the date of this request, participated in any judicial or administrative proceeding (whether state or federal), including rulemaking proceedings, whose subject is the provision of exchange access service and the rates therefor, including but not limited to, access stimulation? If the response is in the affirmative, for each such proceeding, identify the caption and docket number of the proceeding; identify the administrative agency in charge of the proceeding; briefly describe the matters addressed in the proceeding; state whether the relevant administrative agency has released a decision or order regarding the subject matter of the proceeding; briefly explain the decision or order of the administrative agency, if any.

7. From the period January 1, 2005 to date, has Sprint paid any LEC for charges associated with the provision of exchange access or any other communications service provided by the LEC to deliver Sprint's originated long distance calls to (i) the LEC's customers who are *not* CCSPs, and (ii) the LEC's customers who are CCSPs. If

the response is in the affirmative, for each such LEC, identify the LECs involved; state the amount billed by the LEC and the amount paid by Sprint (separately for Caps and non-Caps); and state the rate per MOU assessed by the LEC for the service.

8. Has Sprint entered into any agreement with any LEC pursuant to which Sprint agreed to compensate the LEC for the provision of exchange access or any communications services in connection with the delivery of Sprint-originated long distance calls destined to CCSPs. If the response is in the affirmative, for each such agreement, identify the LEC involved; briefly explain the substance of the agreement; identify the amount paid by Sprint for past due charges, if any; identify the rate(s) per MOU that would apply going forward; and identify any traffic volume cap, if any, that would apply going forward.

9. List the long distance service plans, programs, or packages offered or marketed by Sprint to customers or potential customers in the United States. For each such plan, program, or package describe the plan, program, or package; state the per-minute rate for long distance calls; and identify what percentage of the per-minute long distance rate or, if the plan is "all you can eat", what percentage of the total package or plan, is attributable to exchange access charges.

10. From the period January 1, 2005 to date, how much does Sprint owe LECs in unpaid charges for exchange access or any communications services provided and/or billed by the LECs in connection with the delivery of Sprint-originated long distance calls destined to CCSPs?

11. From the period January 1, 2005 to date, how much has Sprint paid LECs in charges for exchange access or any communications services provided and/or billed by

the LECs in connection with the delivery of Sprint-originated long distance calls destined to CCSPs?

12. Does Sprint pay any carrier or service provider fees for transit service in connection with the delivery of long distance telephone calls originated by Sprint? If the response is in the affirmative identify or describe the situation(s) in which transit service fees are paid by Sprint; Identify the carriers or service providers to whom Sprint pays such transit service fees; for each such carrier or service provider, identify the rate paid by Sprint for transit service (if there are multiple rate components or charges, identify the rate for each component or charge); and state whether, in addition to transit fees, Sprint also pays a separate fee to the terminating carrier involved in the delivery of Sprint's originated long distance telephone calls, and describe what that fee is.

13. Has Sprint paid, or agreed to pay, any LEC a transit service fee for delivering Sprint-originated long distance calls destined to CCSPs? If the response is in the affirmative, for each such LEC identify the LEC; identify the applicable transit rate(s), and state whether the rate being paid is pursuant to tariff or contract.

14. Has Sprint paid, or agreed to pay, any CCSP for any communications service provided to Sprint and/or used by Sprint in connection with the delivery of Sprint-originated long distance calls? If the response is in the affirmative, for each such CCSP identify the CCSP; state the applicable rate or charge; state whether the rate or charge being paid is pursuant to tariff or contract; and describe what type of charge it is (e.g., transit service fee, exchange access fee, reciprocal compensation, etc.)

15. State the total minutes of use and revenues, per month, for long distance service that Sprint has originated from the period January 1, 2005 to date. Of this total,

state the total minutes of use and revenues, per month, for long distance calls terminating in Minnesota. Of this Minnesota total, state the total minutes of use and revenues, per month, for long distance calls destined to CCSPs.

16. Has Sprint conducted any studies, evaluation, research, or similar activities, regarding the impact of access stimulation on Sprint's business? If the response is in the affirmative, briefly describe each such study, evaluation, or research; the date on which such study, evaluation, or research was conducted; and the person(s) involved in the evaluation, study, or research.

17. Does Sprint have a budget for exchange access fees? If the response is the affirmative, state Sprint's annual budget for exchange access fees.

18. Does Sprint have any revenue sharing arrangement with any entity pursuant to which Sprint splits its revenues associated with, or pays commissions on revenues derived from, the provision of communications services by Sprint? If the response is in the affirmative, for each such revenue-sharing arrangement, identify the parties involved; and describe the substance of the revenue sharing arrangement, including the amounts paid and to whom.

19. Does Sprint terminate long distance calls originated by other IXCs to Sprint customers that generate high-volume terminating calls, including conference calling providers, chat room providers, etc.? If the response is in the affirmative, for each such IXC, identify the IXC; describe the nature of the business of Sprint's customers receiving high-volume terminating calls from the IXC; and identify the rate(s) charged by Sprint, whether the rate is applied per minute of use or per call, and whether the rate is assessed pursuant to tariff or contract.

20. Identify any internal high-level meetings (i.e., meetings in which a director, vice president, higher level personnel, or any personnel with decision-making authority, is present) (hereinafter, "Sprint decision makers") of which the subject is access stimulation or the payment of charges associated with the delivery of long distance calls destined to CCSPs. For each such meeting, identify the Sprint decision makers involved; explain the substance of the meeting; and state the date on which the meeting was held.

21. Identify any meetings Sprint has had with other IXC's in which a Sprint decision maker has participated and of which the subject is access stimulation or the payment of charges associated with the delivery of long distance calls destined to CCSPs. For each such meeting, identify the Sprint decision maker(s) involved; explain the substance of the meeting; state the date on which the meeting was held; and identify the parties present, other than Sprint.

DOCUMENT REQUESTS

1. Produce any and all documents relating to, dealing with, or supporting Sprint's responses to the Interrogatories.
2. Produce any and all documents relating to, dealing with, or supporting Sprint's "Answer and Counterclaim."
3. Produce copies of agreements with LECs pursuant to which Sprint agreed to compensate the LECs for the provision of exchange access or any communications services in connection with the delivery of long distance calls destined to CCSPs.

4. Produce marketing brochures, advertising materials, or other collaterals produced by Sprint during the period January 1, 2005 to date, in connection with its long distance service.

5. Produce Sprint's tariffs or price sheets for interstate long distance service and Minnesota intrastate long distance service.

6. Produce Sprint's interstate and Minnesota intrastate exchange access tariffs,

7. Produce any agreements between Sprint and CCSPs.

8. Produce any revenue-sharing agreements between Sprint and other entities relating to the provision of communications services.

9. Produce any agreements between Sprint and other providers dealing with the provision of transit service.

10. Produce Sprint's SEC reports and filings from the period January 1, 2005 through and including the present.

11. Produce copies of studies, evaluation, research, or similar activities, conducted by Sprint relating to the impact of access stimulation on Sprint's business

12. Produce spreadsheets, calculations, analysis, and similar documents relating to Sprint's budget for exchange access fees.

13. Produce copies of documents distributed at, prepared in connection with, or prepared as a result of, any meetings identified in response to Interrogatory No. 20.

14. Produce copies of documents distributed at, prepared in connection with, or prepared as a result of, any meetings identified in response to Interrogatory No. 21.

15. Produce copies of documents showing that calls destined to CCSPs do not terminate at the CCSPs.

16. Produce copies of documents showing that Tekstar's CCSP end-user customers/subscribers do not subscribe to Tekstar or are not end-user customers of Tekstar.

17. Produce Sprint's financial statements, whether audited or unaudited, for the most recent four fiscal periods.

18. Produce copies of judicial or administrative decisions and documents filed or prepared by Sprint related to Interrogatory No. 4.

19. Produce copies of judicial or administrative decisions and documents filed or prepared by Sprint related to Interrogatory No. 5.

20. Produce copies of administrative decisions and documents filed or prepared by Sprint related to Interrogatory No. 6.

21. Produce all documents identified by Sprint in its Rule 26 initial disclosures.

22. Produce copies of agreements with CCSPs pursuant to which Sprint agreed to compensate the CCSPs for the provision of exchange access or any communications services in connection with the delivery of long distance calls destined to CCSPs.

23. Produce any and all documents showing that Sprint has not agreed to utilize Tekstar's exchange access services.

24. Produce any and all documents showing that Tekstar has engaged in an unlawful or illegal scheme related to the provision of communications services, including but not limited to, exchange access service.

25. Produce any and all documents showing that Tekstar's conduct violated the "limited authorization by which it provides service."

26. Produce any and all documents showing that Tekstar was or is engaged in a partnership or joint venture with any entity for the purpose of engaging in an illegal or unlawful scheme related to the provision of communications services, including but not limited to, exchange access service.

27. Produce any and all documents showing that Tekstar deliberately or intentionally established a "high access rate" in order to "stay in business."

28. Produce any and all documents showing that Tekstar provides communications service to entities that provide free international calling and chat line services.

29. Produce any and all documents showing that Tekstar was not or is not providing exchange access services to Sprint in connection with the delivery of Sprint-originated long distance calls destined to Tekstar's CCSP end-user customers.

30. Produce any and all documents showing that "traffic pumping" or access stimulation is unlawful.

31. Produce any and all documents showing that the services provided by Tekstar to Sprint in connection with the delivery of Sprint-originated long distance calls destined to Tekstar's CCSP end-user customers, and the charges therefor, were not authorized in Tekstar's tariffs.

32. Produce any and all documents showing that Tekstar breached its federal tariff obligations and/or provisions of the Communications Act.

33. Produce any and all documents showing that Tekstar breached its state tariff obligations and/or provisions of Minnesota law.

34. Produce any and all documents showing that Tekstar engaged in misrepresentation in the course of providing services to Sprint in connection with the delivery of Sprint-originated long distance calls destined to Tekstar's CCSP end-user customers.

FLEISCHMAN AND HARDING LLP

Dated: November 26, 2008

By: 

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H. Russell Frisby Jr.

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION – MINNEAPOLIS

TEKSTAR COMMUNICATIONS, INC.,

Plaintiff,

v.

SPRINT COMMUNICATIONS
COMPANY L.P.

Defendant.

Court File No. 08-cv-1130
(JNE/RLE)

CERTIFICATE OF SERVICE

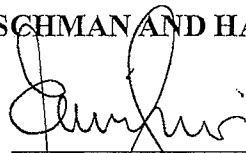
I hereby certify that on November 26, 2008, I caused a copy of the foregoing First Set of Interrogatories and First Request for Production of Documents to be served by electronic mail and overnight courier upon the following:

Philip R. Schenkenberg, Esq.
Kevin M. Decker, Esq.
Briggs and Morgan P.A.
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402

FLEISCHMAN AND HARDING LLP

Dated: November 26, 2008

By:



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H. Russell Frisby Jr.

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