

**VIA E-MAIL AND FEDERAL EXPRESS**

March 25, 2004

Mary L. Cottrell, Secretary  
Department of Telecommunications & Energy  
Commonwealth of Massachusetts  
One South Station, Fl. 2  
Boston, Massachusetts 02110

Re: D.T.E. 04-33: Verizon Consolidated Arbitration

Dear Ms. Cottrell:

Pursuant to the procedural schedule noted in the Memorandum to the CLEC General Distribution List in this proceeding,<sup>1</sup> Sprint Communications Company L.P. ("Sprint") respectfully files the original and eight (8) copies of these Comments on Motions to Dismiss with the Department.

As noted in the Memorandum, three Motions to Dismiss were filed in this proceeding: Competitive Carrier Coalition's Motion to Dismiss and Response (Coalition Motion"),<sup>2</sup>

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<sup>1</sup> D.T.E. 04-33, Memorandum dated March 18, 2004 from Tina W. Chin, Hearing Officer, to CLEC General Distribution List ("Memorandum"), at 2.

<sup>2</sup> Motion to Dismiss and Response of Allegiance Telecom of Massachusetts, Inc., ACN Communications Services, Inc., Adelphia Business Solutions Operations, Inc. d/b/a Telcove, CoreComm Massachusetts, Inc., CTC Communications Corp., DSLnet Communications, LLC, Focal Communications Corporation of Massachusetts, ICG Telecom Group, Inc., Level 3 Communications, LLC, Lightship Telecom, LLC,

Response and Motion to Dismiss of Sprint (“Sprint Motion”), and Motion to Dismiss and Response of Z-Tel Communications Inc. (“Z-Tel Motion”). The Department should dismiss Verizon’s consolidated arbitration petition, at least as to these parties. To the extent that other parties choose to proceed, it is their right and prerogative to do so either in a separate arbitration or in this proceeding if the Motions are not granted. Given the lack of prior negotiation, the absence of a proper statement of the issues and parties’ positions in Verizon’s petition, and the uncertainty created by *USTA II*,<sup>3</sup> it would be more efficient and a better use of Sprint’s and the Department’s resources to dismiss the Petition (at least as to Sprint and the other moving parties). For the same reasons that the North Carolina Utilities Commission and the Maryland Public Service Commission suspended and rejected, respectively, Verizon’s similar petitions filed in those states, the Department should likewise dismiss Verizon’s arbitration petition.<sup>4</sup>

In addition, yesterday the Virginia State Corporation’s staff asked for dismissal of a similar Petition submitted by Verizon Virginia, Inc., and Verizon South, Inc., claiming the case is based on faulty logic and that Verizon didn’t follow proper rules when filing it.<sup>5</sup> Staff noted that [f]ailure to file supporting documentation is cause for denial of the relief sought in the Petition . . .”<sup>6</sup>

The three Motions to Dismiss include many similar arguments, and Sprint supports the dismissal remedy sought in all Motions to Dismiss filed in this proceeding. Sprint offers the following specific comments in response the Coalition and Z-Tel Motions.

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LightWave Communications, Inc., PAETEC Communications, Inc., RCN-BecoCom, LLC, and RCN Telecom Services of Massachusetts, Inc.

<sup>3</sup> *United States Telecom Ass’n v. FCC*, Nos. 00-1012, 00-1015, 03-1310 *et al.*, (*hereinafter* “*USTA II*”).

<sup>4</sup> A copy of the North Carolina decision was attached to Sprint’s Motion. A copy of the letter dated March 15, 2004 from Felicia L. Greer, Maryland PSC Executive Secretary, to David A. Hill, is attached as Attachment 1 to these comments.

<sup>5</sup> Commonwealth of Virginia State Corporation Commission, Case No. PUC-2004-00030, Staff Motion to Dismiss dated March 24, 2004 is attached (without the Certificate of Service and lengthy Service List) as Attachment 2 to these comments.

<sup>6</sup> *Id.* at 4.

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Sprint's, the Coalition's and Z-Tel's Motions raise similar procedural points regarding Verizon's failure to comply with the filing requirements mandated by Section 252(b)(2) of the Act. In addition to being woefully procedurally deficient, Verizon's Petition places the parties and the Department at a disadvantage because we don't know what the issues or parties' positions are due to a lack of prior negotiation. Arbitrations usually follow prior negotiations, a narrowing of the issues, and parties' understanding each other's positions. These elements are absent from this arbitration.

Sprint concurs with the Coalition's Motion that consideration of Verizon's Petition at this time would waste administrative resources. Sprint shares Z-Tel's concerns regarding the lack of negotiation between the parties. Sprint also concurs with Z-Tel that the specific provisions of existing interconnection agreements should govern implementation of the new TRO rules.

For the forgoing reasons and those noted in Sprint's Motion to Dismiss, the Department should dismiss Verizon's arbitration petition, at least as to Sprint.

Respectfully submitted,

Craig D. Dingwall

cc: Tina W. Chin, Hearing Officer  
D.T.E. 04-33 CLEC General Distribution List