



**Benjamin J. Aron**  
Counsel  
State Regulatory – Northeast

Sprint Corporation  
12502 Sunrise Valley Drive  
VARESA0209-2d677  
Reston, VA 20196

[Benjamin.Aron@Sprint.com](mailto:Benjamin.Aron@Sprint.com)

(703) 592-7618 Office  
(703) 433-4804 Facsimile

August 29, 2013

via Electronic Filing and Overnight Delivery

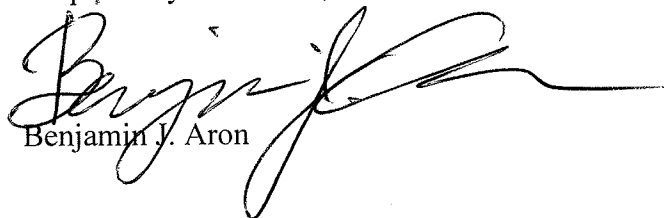
Catrice C. Williams, Secretary  
Department of Telecommunications and Cable  
1000 Washington Street, Suite 820  
Boston, MA 02118-6500

Re: DTC 13-6; Investigation by the Department on its Own Motion to Determine whether an Agreement entered into by Verizon New England Inc., d/b/a Verizon Massachusetts is an Interconnection Agreement under 47 U.S.C. § 251 Requiring the Agreement to be filed with the Department for Approval in Accordance with 47 U.S.C. § 252

Dear Secretary Williams,

Enclosed please find Sprint's<sup>1</sup> Opposition to Motion for Abeyance ("Opposition") and Certificate of Service. Sprint has filed copies of the Opposition and Certificate of Service with the Department electronically as well. Copies of Sprint's Opposition have been served upon the service list via email and first class mail. Please address any questions regarding this filing to the undersigned counsel.

Respectfully Submitted,



Benjamin J. Aron

---

<sup>1</sup> Sprint Communications Company L.P., Sprint Spectrum L.P., Nextel Communications of the Mid-Atlantic, Inc., and Virgin Mobile USA, L.P. are all subsidiaries of Sprint Corporation and are referred to herein collectively as "Sprint."

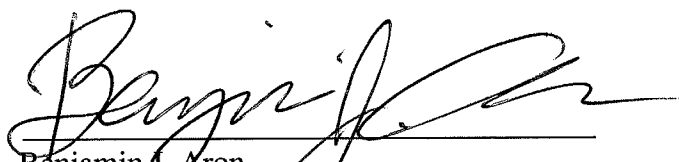
**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

Investigation by the Department on its Own Motion to Determine whether an Agreement entered into by Verizon New England Inc., d/b/a Verizon Massachusetts is an Interconnection Agreement under 47 U.S.C. § 251 Requiring the Agreement to be filed with the Department for Approval in Accordance with 47 U.S.C. § 252

DTC Docket No. 13-6

**CERTIFICATE OF SERVICE**

I certify that on this 29<sup>th</sup> day of August, 2013, copies of Sprint's Opposition to Motion for Abeyance have been served via first class mail, and service via electronic mail will be made on August 30, 2013, upon the service list in the above captioned docket accordance with 220 CMR 1.00 *et seq.*



Benjamin J. Aron  
12502 Sunrise Valley Drive  
VARESA0202-2D677  
Reston, Virginia 20196  
Phone: (703) 592-7618  
Fax: (703) 433-4804  
[benjamin.aron@sprint.com](mailto:benjamin.aron@sprint.com)

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

Investigation by the Department on its Own Motion to Determine whether an Agreement entered into by Verizon New England Inc., d/b/a Verizon Massachusetts is an Interconnection Agreement under 47 U.S.C. § 251 Requiring the Agreement to be filed with the Department for Approval in Accordance with 47 U.S.C. § 252

DTC Docket No. 13-6

**OPPOSITION TO MOTION FOR ABEYANCE**

Sprint<sup>1</sup> hereby responds to the Motion for Abeyance (“Motion”) filed by Verizon New England Inc., d/b/a Verizon Massachusetts (“Verizon MA”) and urges the Department of Telecommunications and Cable (“Department”) to deny Verizon MA’s Motion. Verizon MA has failed to state adequate grounds to postpone further proceedings in the instant docket. Although admitting that it has entered into an agreement and is exchanging traffic in internet protocol (“IP”) format under the agreement, Verizon MA claims that it would be “impractical and wasteful” for the Department to determine whether its agreement “is subject to Department approval under sections 251 and 252 of the Telecommunications Act.” Motion at 1. Verizon MA alleges that “few of the terms and conditions of this arrangement are set forth in any written agreement of the parties, although the parties have begun the process of developing such an agreement.” *Id.* Verizon MA urges the Department to wait until some undetermined time in the future when Verizon will submit the negotiated and executed agreement to the Department for its consideration. *Id.*

---

<sup>1</sup> Sprint Communications Company L.P., Sprint Spectrum L.P., Nextel Communications of the Mid-Atlantic, Inc., and Virgin Mobile USA, L.P. are all subsidiaries of Sprint Corporation and are referred to herein collectively as “Sprint.”

In its *Order Opening Docket*, the Department provided an overview of the statutory obligation imposed on incumbent local exchange carriers (“ILECs”) to file interconnection agreements (“ICAs”) with state commissions, and the state commissions’ duty to approve or reject such agreements. *Order Opening An Investigation, Declining to Issue an Advisory Ruling, and Denying Verizon MA’s Motion to Dismiss or Stay the Proceeding, Investigation by the Department on its Own Motion to Determine whether an Agreement entered into by Verizon New England d/b/a Verizon Massachusetts is an Interconnection Agreement under 47 U.S.C. § 251 requiring the Agreement to Be Filed with the Department for Approval in Accordance with 47 U.S.C. § 252, DTC 13-6, 9-12 (May 13, 2013)*(“*Order Opening Docket*”). The Department also noted that it is not preempted by any action or statement of the Federal Communications Commission (“FCC”), or otherwise, from determining that the exchange of voice traffic in IP format is subject to sections 251 and 252 of the Communications Act, 47 U.S.C. §§ 251 and 252. *Order Opening Docket* at 10, fn. 6.

The Department identified “the central question presented” as “whether the identified agreement is an interconnection agreement under 47 U.S.C. § 251.” *Id.* at 9. And whether an agreement constitutes an ICA hinges on whether it is “[a]n agreement that creates an *ongoing* obligation pertaining to resale, number portability, dialing parity, access to right-of-way, reciprocal compensation, interconnection, unbundled network elements, or collocation.” *Order Opening Docket* at 11 (quoting *In re Qwest Commc’ns Int’l Inc. Pet. For Declaratory Ruling on the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements under Sec. 252(a)(1)*), WC Docket No. 02-89, Mem. Op. and Order, FCC 02-276, ¶ 10 (Oct. 4, 2002)(“*Qwest Declaratory Ruling*”)(emphasis in original). “Interconnection is

defined as “the physical linking of two networks for the mutual exchange of traffic.” 47 C.F.R. § 51.5.

The obligation to file interconnection agreements traditionally has been broadly interpreted as a means of ensuring that local markets are competitive and that interconnection is available on just, reasonable and nondiscriminatory terms. *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 15583-84 (1996)(“Local Competition Order”). The instant matter requires the Department to ensure that Verizon MA is not discriminating against some carriers by offering to Comcast Phone of Massachusetts, Inc. (“Comcast”)<sup>2</sup> interconnection terms, or other terms that trigger the filing requirement under the Communications Act, that it has not made available to other carriers. *See Qwest Declaratory Ruling at ¶ 10*.

Even were the Department to determine that the agreement submitted in this docket is not in fact an interconnection agreement, the Department’s analysis will provide guidance to the industry that will be crucial towards ensuring that future agreements meeting the statutory criteria are timely filed. In conducting its review, the Department is exercising its traditional role of enforcing obligations imposed on ILECs by the Communications Act, and thereby securing vibrant competition in Massachusetts. The Department can also guarantee that the next wave of interconnection agreements will be negotiated in good faith and, if necessary, resolved under its watch. The Department’s oversight will be good for consumers and carriers, both of which need

---

<sup>2</sup> The Department identified Comcast as the other party to the agreement, so that information can no longer be deemed confidential. *See* Hearing Officer Ruling on Comcast Phone of Massachusetts, Inc. Petition to Intervene and Motion for Leave to Late File, *Investigation by the Department on its Own Motion to Determine whether an Agreement entered into by Verizon New England d/b/a Verizon Massachusetts is an Interconnection Agreement under 47 U.S.C. § 251 requiring the Agreement to Be Filed with the Department for Approval in Accordance with 47 U.S.C. § 252*, DTC 13-6, at 3-4 (August 9, 2013)(“Comcast as a signatory to the agreement with Verizon New England d/b/a Verizon Massachusetts ... will have its legal rights, duties, or privileges with regard to the agreement determined in this proceeding, which may entitle Comcast to party status ... Moreover, Comcast’s participation in the proceeding ensures for the Department that both of the signatories to the agreement at issue are aware of the proceeding and are exercising their participatory rights.”).

the protection that Department oversight brings. None of these important goals are furthered by granting the abeyance Verizon MA requests.

Sprint presents below its specific denials. The Motion should be denied, and the Department should proceed to answer the important questions raised in this docket. The Department should conclude that the agreement submitted by Verizon MA in this docket constitutes an interconnection agreement subject to section 251 and 252 of the Communications Act.

1. The Department's statements in its *Order Opening Docket* speak for themselves and need be neither admitted nor denied.

2. Admitted that on May 30, 2013 Verizon MA submitted several agreements, to which Verizon MA and Comcast are both parties, for the exchange of certain traffic in Internet Protocol format. Denied that the agreement is a [Begin Proprietary] <sup>3</sup> [End Proprietary]. Otherwise, denied.

3. Denied. Verizon MA admits that the parties to the agreement are exchanging traffic in IP format. Motion at 1. To do so, the parties must have reached sufficient agreement on the "business and operational terms on which they agree to exchange voice traffic in IP format" to enable the parties to exchange traffic. Thus, Verizon MA's Motion itself provides sufficient information to deny Verizon MA's statement. Furthermore, to the extent that Verizon MA claims that "there is no agreement currently in a form that is reviewable by the Department," Sprint reminds the Department that state commissions have in the past found even oral agreements to be Interconnection Agreements subject to the Telecommunications Act. *See e.g. Order Adopting ALJ's Report and Establishing Comment Period Regarding Remedies, In the Matter of the Complaint of the Minnesota Department of Commerce Against Qwest Corporation*

---

<sup>3</sup> Sprint does note that Verizon has not submitted certain [Begin Proprietary] [End Proprietary]

*Regarding Unfiled Agreements*, Minnesota Public Utilities Commission Docket No. P-421 (issued Nov. 1, 2002)(finding that eleven unfiled written agreements and one unfiled oral agreement were all interconnection agreements required to be filed under federal law).

Accordingly, while Verizon MA alleges that there is not yet an agreement “in a form that is reviewable by the Department,” the terms under which the parties are currently exchanging traffic – whether oral or reduced to writing – can constitute an interconnection agreement.

The “form” of the parties’ agreement does not provide a reason for the Department to hold this proceeding in abeyance. The Department is in possession of the actual agreements under which Verizon MA admits that it is exchanging traffic with Comcast in IP format. If the Department finds that that agreement creates ongoing obligations regarding certain statutorily defined terms, *see Qwest Declaratory Ruling* at ¶10, then it is an interconnection agreement. Whether all business and operational terms have been agreed to is relevant only if their absence prevents an “ongoing obligation” from being found. These are questions of fact to be resolved in this docket, and Verizon MA’s allegations provide an inadequate basis upon which to grant an abeyance.

4. Verizon MA’s and Comcast’s intentions are not known to Sprint and Sprint can neither admit nor deny them. Verizon MA’s alleged “draft agreement” has not been produced, so Sprint can neither admit nor deny its existence or whether it has been presented to Comcast.

5. Denied. It is clear that no abeyance is warranted and that the Motion must be denied when Verizon MA’s statements in the Motion are considered in conjunctions with certain information contained in the documents Verizon submitted to the Department in compliance with the Department’s *Order Opening Docket*. Since the Department indicated it must determine whether the “identified agreement is an interconnection agreement,” for

Verizon MA to prevail on its Motion it must establish that the identified agreement cannot be an interconnection agreement. The Motion not only falls far short of making such a showing, but it is clear from the documents Verizon MA submitted, and its statements in its Motion, that

Verizon MA and Comcast:

- Have entered into an agreement. Motion at 2, ¶ 2;
- In accord with the terms thereof, they have interconnected their networks for the exchange of traffic and have exchanged traffic in IP format under such agreement(s). Motion at 1 (“The parties have begun exchanging traffic in IP format based on” their agreement.); and
- **[Begin Confidential] [End Confidential]**.

Arguably, the documents submitted to the Department and Verizon MA’s admissions in its Motion are collectively sufficient for the Department to conclude that the documents submitted constitute an interconnection agreement. At a minimum, however, the foregoing illustrates that there is every reason for the Department to proceed expeditiously with this docket rather than delay it as Verizon MA urges.

6. Denied. Not only would Sprint and other intervenors be prejudiced by an abeyance of the instant docket, but an injury – or the continuation of an injury – to competition itself could result. Verizon MA indicates that it has offered to enter into negotiations with other carriers for IP-to-IP interconnection but does not say that the offer is for a commercial agreement outside of the Section 251 and 252 process. Verizon MA’s willingness to negotiate is surely appreciated, but it must be noted that it would be obviously advantageous to parties negotiating with Verizon MA to know what interconnection terms it offered to Comcast and possibly to opt into the terms of such interconnection agreement under 47 U.S.C. § 252(i). The

Communications Act recognizes that ILECs, like Verizon MA, must not be allowed to offer preferential interconnection terms to some competitors over others,<sup>4</sup> so it is essential that the Department not delay a ruling in the instant docket. Any delay by the Department may have the effect of delaying carriers from obtaining favorable interconnection terms to which they are entitled under law, and from negotiating IP-to-IP interconnection with Verizon MA. Verizon MA indicates that intervenors have not entered into negotiations with it. It is likely that the desire to understand the interconnection terms offered to competitors, and to weigh the option of adopting such terms – as carriers are entitled to do under the Communications Act – is hindering the progress of such negotiations.

7. Verizon MA's offer to submit progress reports and any resulting agreement need neither be admitted nor denied. The Department must recognize, as stated above, that if the agreement submitted is an interconnection agreement, then it must be immediately placed on file and made publicly available for inspection. Furthermore, even if the instant agreement is not found to be an interconnection agreement, the Department can still provide guidance to the industry that may avoid disputes over the regulatory status of future agreements. In either case, prompt resolution of the questions raised in this docket is necessary and appropriate, and Verizon MA's offer constitutes an inadequate basis to support the requested abeyance. Otherwise, denied.

---

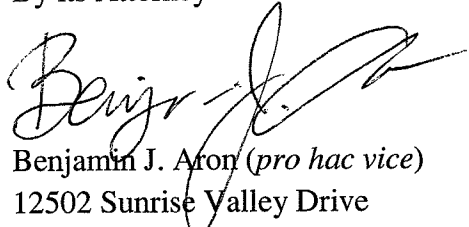
<sup>4</sup> *Sage Telecom, L.P. v. Public Utility Commission of Texas*, 2004 U.S. Dist. LEXIS 28357, at \*23-\*24 (W.D. Tex. 2004) ("The statute imposes the obligation for the very reason that its goal is to discourage ILECs from offering more favorable terms only to certain preferred CLECs"); *Local Competition Order* at 15583-85.

WHEREFORE, Sprint requests that the Motion be denied.

Respectfully submitted,

Sprint Communications Company L.P.  
Sprint Spectrum L.P.  
Nextel Communications of the Mid-Atlantic, Inc.  
Virgin Mobile USA, L.P.

By its Attorney

A handwritten signature in black ink, appearing to read "Benjamin J. Aron", written in a cursive style.

Benjamin J. Aron (*pro hac vice*)  
12502 Sunrise Valley Drive  
Reston, Virginia 20196  
Phone: (703) 592-7618  
Fax: (703) 433-4804  
[benjamin.aron@sprint.com](mailto:benjamin.aron@sprint.com)

August 29, 2013