COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition of Sprint Communications Company L.P.

For an Arbitration Award of Interconnection Rates, Terms and Conditions Pursuant to 47 U.S.C. § 252(b) And Related Arrangements with Bell Atlantic-Massachusetts

D.T.E. 00-54

SPRINT COMMUNICATIONS COMPANY L.P.

MOTION FOR RECONSIDERATION

Pursuant to Procedural Rule 220 C.M.R. § 1.11(10), Sprint Communications Company L.P. ("Sprint") respectfully seeks reconsideration by the Massachusetts Department of Telecommunications and Energy ("Department") of its December 11, 2000 Order in the above-referenced proceeding.

I. INTRODUCTION

On December 11, 2000, the Department issued its Order in the above-referenced proceeding. This proceeding is an arbitration conducted by the Department pursuant to 47 U.S.C. § 252(b) to determine the rates, terms and conditions for interconnection between Sprint and Verizon-Massachusets ("Verizon") that the parties were unable to resolve through negotiation.

Sprint seeks reconsideration of the following issues: (1) resale of vertical features; (2) local calls over access trunks; (3) reciprocal compensation and Internet traffic; (4) loop query information; (5) interconnection rates for access to Sprint’s facilities; (6) calling party number; and (7) Sprint’s proposed language regarding the Federal Communications Commission’s ("FCC’s")

UNE Remand Order.

II. STANDARD OF REVIEW

The Department's Procedural Rule 220 C.M.R. § 1.11(10) authorizes a party to file a motion for reconsideration within 20 days of service of a final Department Order. The Department will reconsider a decision if previously unknown or undisclosed facts that would have a significant impact upon the decision already rendered. Also, a motion for reconsideration may be based on the argument that the Department's treatment of an issue was the result of mistake or inadvertence.

III. ISSUES FOR RECONSIDERATION

A. The Department, through mistake or inadvertence, misread the record in permitting Verizon to unlawfully restrict resale of vertical features

The Department held that Verizon's refusal to offer vertical features on a stand-alone basis to Sprint at the wholesale discount does not violate the Telecommunications Act or the FCC's rules. The Department based its decision on the finding that Verizon does provide Custom Calling Features on a stand-alone basis to its retail customers, but such services are offered only in conjunction with its basic exchange service.

Through mistake or inadvertence, the Department failed to acknowledge that Verizon's vertical features and local service are separately tariffed offerings. It is undisputed that it is technically feasible to offer vertical features separate from Verizon's local service. As such, Verizon's practice of making it s vertical features available only with the purchase of its local service is a restriction on resale. The FCC has stated that "resale restrictions are presumptively unreasonable" and "restrictions and conditions may have anticompetitive results." Further, FCC regulations state that '[w]ith respect to any restrictions on resale not permitted under [section 251(c)(4)(a) of the federal Telecommunications Act], an incumbent LEC may impose a restriction only if it proves to the state commission that the restriction is reasonable and nondiscriminatory."

In addition to the recent California decision discussed in Sprint's reply brief, a recent decision issued in December 2000, the Texas Public Utility Commission ("Texas PUC") supports the resale of vertical features. Southwestern Bell Telephone Company ("SWBT") offered a discounted package of services to business customers called Essential Office. Prior to obtaining the service, SWBT required the wholesale customer to also purchase business local service along with the Essential Office package. AT&T Communications of the Southwest, Inc. ("AT&T") filed a complaint alleging that SWBT's practice of offering Essential Office only in conjunction with its local service is an

unreasonable restriction on resale. The Texas PUC found that Essential Office must be separately available on a wholesale basis and that SWBT may not require customers to purchase local services as a prerequisite to obtaining Essential Office. The Texas PUC also established a general presumption that local loop restrictions on separately tariffed services are unreasonable.

In reaching their decision, the Texas PUC stated,

Essential Office and local service are separately tariffed offerings. It is undisputed that it is technically feasible to offer Essential Office separate from SWBT's local service. As such, SWBT's practice of making Essential Office available only on with the purchase of its business local service is a restriction on resale. The FCC has stated that 'resale restrictions are presumptively unreasonable' and 'restrictions and conditions may have anticompetitive results.' Further, FCC regulations state that '[w]ith respect to any restrictions on resale not permitted under [section 251(c)(4)(a) of the federal Telecommunications Act], an incumbent LEC may impose a restriction only if it proves to the state commission that the restriction is reasonable and nondiscriminatory. (Citations omitted).

In adopting the general presumption of unreasonableness, the Texas PUC opined,

When addressing the legal requirements that apply to the Essential Office package, the Commission must also give serious consideration to the broader public interest issues involved in this matter. The Commission agrees with the ALJs' suggestion that we establish policy applicable to other vertical services. The ultimate goal is to expand the number of quality products and services available to the public. The Commission recognizes that pricing flexibility packages and lower rates are also in the public interest. Through the wholesale discounts offered, packages like Essential Office encourage competition and provide a mechanism by which telecommunications utilities can create distinct service packages, thereby increasing customer choice. (Citations omitted).

When considering vertical services, Verizon's dominance and control over the market is evident. Verizon currently restricts customer choice through resale restrictions by tying local services to the purchase of its vertical services. The Department needs to be mindful of the need to promote competition in the expanding vertical services market. The Telecommunications Act requires the wholesale availability of vertical services without the imposition of unreasonable or discriminatory resale restrictions. Resale availability is a critical component to wholesale competition of vertical services. As the Texas PUC held, "[a]llowing the resale of vertical services without restrictions is a step toward a telecommunications market unhindered by the dominance of any carrier."

Based on the foregoing, the Department should reconsider its decision and require Verizon to offer vertical features for resale on a stand-alone basis to Sprint at the wholesale discount.

B. Local Calls Over Access Trunks (Arbitration Issue No. 17)

With respect to local calls over access trunks, the Department held that Sprint is required to pay Verizon exchange access rates instead of reciprocal compensation for terminating such calls. In reaching this conclusion, the Department stated,

This issue affects a small percentage of calls, specifically those calls in which a Verizon customer uses a Sprint dial-around option to place a call to another Verizon customer in the same local calling area.

In a following footnote, the Department added,

The issue is limited to this scenario because any call placed between a Verizon customer and a Sprint customer in the same local calling area (except ISP-bound traffic) would be subject to reciprocal compensation regardless of the facilities over which the call is carried (In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report and Order, FCC 96-325, at ¶ 1034). Further, calls between two Sprint customers in the same local calling area over Sprint's network facilities would not be subject to reciprocal compensation (or any type or intercarrier compensation). Id.

Initially, the Department through mistake or inadvertence misread the record with respect to its finding that this issue affects a small percentage of calls. There is no basis for this finding in the record. Beyond an assertion through its counsel in its Final Position Statement, Verizon offered no evidence through testimony or exhibits to support this finding. Therefore, this finding cannot be relied upon to deny Sprint's request to pay reciprocal compensation for this traffic.

Even assuming for the sake of argument that the number of these calls is small, this should not dispose of this issue. The jurisdictional nature of these calls, not the frequency, should govern whether reciprocal compensation should apply. Moreover, as Sprint witness Oliver testified, Sprint desires to introduce a new product that will rely on these types of calls. Thus, if Sprint's new product is successful, then the frequency of these calls could dramatically increase. Forcing Sprint to pay access rates levels would makes this product uneconomic.

The Department also held that these calls do not fall within the definition of reciprocal compensation as defined by the FCC because "Sprint is not the

originating carrier for calls between two Verizon customers who use a Sprint dial-around mechanism…"

Through mistake or inadvertence, the Department misread the definition of local traffic subject to reciprocal compensation. The determinative factor for when reciprocal compensation applies is whether the call is local, i.e.; the call is completed in the same local calling area. The determinative factor for when a call is local is if the call is completed in the same local calling area. The FCC's federal regulation is clear:

§ 51.701 Scope of transport and termination pricing rules.

(a) The provisions of this subpart only apply to reciprocal compensation for transport and termination of local telecommunications traffic between LECs and other telecommunications carriers.

(b) Local telecommunications traffic.

For purposes of this subpart, local telecommunications traffic means:

(1) Telecommunications traffic between a LEC and a telecommunications carrier other than a CMRS provider that originates and terminates within a local service area established by the state commission; or

The FCC definition of local telecommunications traffic clearly contains no requirement that Sprint be the originating carrier.

Furthermore, the FCC paragraph cited by the Department supports Sprint's position, and does not support the Department's ruling. In paragraph 1034 the FCC is addressing a request by a party to pay reciprocal compensation for long-distance calls. The paragraph reads as follows,

We conclude that section 254(b)(5) reciprocal compensation obligations should apply only to traffic that originates and terminates within a local calling area, as defined in the following paragraph.

The FCC declined to apply reciprocal compensation to long-distance calls, and further stated, "[b]y contrast, reciprocal compensation for transport and termination of calls is intended for a situation in which two carriers collaborate to complete a local call." The current situation does not involve long-distance calls, but a situation in which two carriers collaborate to complete a local call. Therefore, reciprocal compensation should apply.

In addition to defining defined local telecommunications traffic for CLEC interconnection purposes as telecommunications traffic between a local exchange carrier and a telecommunications carrier other than a CMRS provider

that originates and terminates within a local service area established by the state commission, the FCC rules clearly provide that the local exchange carrier may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network. The relevant FCC Rule reads as follows:

§ 51.703 Reciprocal compensation obligation of LECs.

(a) Each LEC shall establish reciprocal compensation arrangements for transport and termination of local telecommunications traffic with any requesting telecommunications carrier.

(b) A LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC’s network.

It is apparent that Verizon should not be able to charge access rates for the origination or termination of these calls. Even if the call traverses the Sprint interexchange network, the origin and termination points determine the jurisdiction of the call. The fact that the call originates and terminates within the local calling area precludes Verizon from charging access as a matter of law.

Moreover, as noted in section C below, in another jurisdiction Verizon has acknowledged the FCC definition of a local call and, in addition, the U.S. Court of Appeals for the District of Columbia recently explained that when determining whether traffic is "local" for purposes of its regulation limiting reciprocal compensation obligations, the FCC has traditionally used the "end-to-end" analysis to determine whether particular traffic is interstate.

The Department’s ruling misreads the plain language of the FCC’s regulation and overlooks the end-to-end analysis employed by telecommunications carriers for compensation. Accordingly, the Department should reconsider its decision to require Sprint to pay access charges for local calls.

C. Reciprocal Compensation and Internet Traffic (Arbitration Issue No. 15)

With respect to the issue of reciprocal compensation and its relation to traffic to Internet Service Providers ("ISPs") and the definition of local traffic (arbitration issue number 15 in the arbitration petition), the Department held that "the definition of ‘local traffic’ that states that ISP-bound traffic is not local, but interstate, for purposes of the 1996 Act’s

reciprocal compensation provisions, is reasonable"… and adopted the language proposed by Verizon.

Issue number 15 as raised by Sprint in the arbitration dealt with the issue of ISP-bound traffic and its relation to the definition of local traffic. It was in this context that the Department analyzed this issue and adopted Verizon's proposed language. However, the Department's Order does not expressly identify the language it adopted. Sprint respectfully contends that the Department mistakenly or inadvertently adopted Verizon's proposed definition of local traffic in its entirety, and not just with respect to the language dealing with ISP-bound traffic.

The specific sections of the interconnection contract affected by this ruling are contained in the Definitions section of the proposed interconnection agreement. The definition of "local traffic" appears on page 68 of Attachment 1.

Only two sentences in the Definitions section expressly reference ISP-bound traffic. On page 68, Verizon proposed language reads "Local traffic does not include any Internet Traffic." Later, on page 72 of the same Definitions section of the proposed interconnection agreement, Verizon's proposed language reads "Reciprocal Compensation Traffic does not include Internet Traffic." As set forth below, both of these sentences relating to ISP-bound traffic are contrary to Federal Communications Commission ("FCC") and Department rulings.

Also, as noted above, Sprint respectfully contends that the Department mistakenly or inadvertently adopted Verizon's proposed definition of local traffic in its entirety, and not just with respect to the language dealing with ISP-bound traffic. The remaining portion of the definition of local traffic as proposed by Verizon is improper. As shown below, the Verizon's proposed definition is inconsistent with the plain language of the FCC's regulation and overlooks the end-to-end analysis employed by telecommunications carriers for compensation. Accordingly, the Department should reconsider its decision adopting Verizon's definition of local traffic in its entirety. Instead, the Department should adopt Sprint's definition of local traffic.

1. Verizon's proposed statement that local traffic does not include any Internet traffic is inconsistent with the FCC ruling

As noted above, Verizon's proposed definition of "local traffic" appears on page 68 of Attachment 1 in the interconnection agreement. On page 68, a portion of Verizon's proposed definition reads "Local traffic does not include any Internet Traffic." Verizon's definition is clearly overbroad and inconsistent with the FCC's decision regarding traffic directed to ISPs. In

the February 1999 decision, the FCC determined that ISP-bound traffic was, in fact, largely interstate and, therefore, not subject to its reciprocal compensation rule. The FCC ruled that

after reviewing the record…, we conclude that ISP-bound traffic is jurisdictionally mixed and appears to be largely interstate. This conclusion, however, does not in itself determine whether reciprocal compensation is due in any particular instance.

Thus, the FCC did not rule that ISP-bound traffic does not contain any local traffic. Verizon's proposed language does not acknowledge that ISP-traffic is jurisdictionally mixed, but instead proclaims that local traffic does not include any Internet traffic. This statement is patently inaccurate and inconsistent with the FCC's ruling.

The most efficient for the Department to remedy this mistake is to strike the proposed sentence "Local traffic does not include any Internet Traffic" from the Definitions section of the proposed interconnection agreement.

The omission of this language will in no way adversely impact operation of the proposed interconnection agreement since reciprocal compensation will not apply to ISP-bound traffic under the remaining terms of the agreement. As Sprint has maintained throughout this proceeding, it will abide by the terms of the Department's decision regarding compensation for ISP-bound traffic (i.e., the 2:1 terminating-to-originating traffic ratio) pending the outcome of the FCC rulemaking and the appeals pending in federal courts.

2. Verizon's proposed language regarding the definition of local traffic for purposes of reciprocal compensation is inconsistent with a prior Department decision

Verizon's proposed language regarding the definition of local traffic for purposes of reciprocal compensation is inconsistent with a prior Department decision. In a recent arbitration decision, the Department held that,

it is reasonable and appropriate for [Verizon] to include language that ISP-bound traffic is not subject to reciprocal compensation, as long as that language reflects the Department's findings in the MCI WorldCom Order concerning the 2:1 traffic ratio and the ability of the parties to negotiate their own compensation mechanism for ISP-bound traffic.

Thus, the Department requires that language governing reciprocal compensation in an interconnection agreement include 1) the 2:1 traffic ratio, and 2) the ability of the parties to negotiate their own compensation mechanism for ISP-bound traffic.

On page 72 of the Definitions section of the proposed interconnection agreement, Verizon’s proposed language reads "Reciprocal Compensation Traffic does not include Internet Traffic." This proposed language is inconsistent with the Greater Media Order in that it does not contain the language required by the Department.

Accordingly, the Department should reconsider adopting Verizon’s proposed language regarding ISP-bound traffic. Instead, the Department should require the reciprocal compensation language to reflect the Greater Media Order.

The Department, through mistake or inadvertence, adopted Verizon’s definition of local traffic
As discussed above, the Department adopted the language in Verizon’s definition of local traffic pertaining to ISP-bound traffic and reciprocal compensation. In so doing, the Department also adopted the entire definition of local traffic as proposed by Verizon. Sprint respectfully contends that the Department mistakenly or inadvertently adopted Verizon’s proposed definition of local traffic in its entirety, and not just with respect to the language dealing with ISP-bound traffic.

Verizon’s proposed definition of local traffic is inconsistent with the plain language of the FCC’s regulation and overlooks the end-to-end analysis employed by telecommunications carriers for compensation. Accordingly, the Department should reconsider its decision to adopt Verizon’s definition of local traffic.

The determinative factor for when a call is local is if the call is completed in the same local calling area. The FCC’s federal regulation is clear:

§ 51.701 Scope of transport and termination pricing rules.

(a) The provisions of this subpart only apply to reciprocal compensation for transport and termination of local telecommunications traffic between LECs and other telecommunications carriers.

(b) Local telecommunications traffic.

For purposes of this subpart, local telecommunications traffic means:

(1) Telecommunications traffic between a LEC and a telecommunications carrier other than a CMRS provider that originates and terminates within a local service area established by the state commission; or

Thus, the FCC defines local telecommunications traffic for CLEC interconnection purposes as telecommunications traffic between a local exchange carrier and a telecommunications carrier other than a CMRS provider

that originates and terminates within a local service area established by the state commission.

Verizon's proposed definition appearing on page 68 of Attachment 1 in the interconnection agreement contains a requirement that the local traffic be "originated by a Customer of one Party on that Party's network and terminates to a customer of the other party on that other Party's network within a local calling area." This proposed definition is clearly inconsistent with the FCC's definition of local traffic. The FCC definition of local telecommunications traffic cited above clearly contains no requirement that Sprint be the originating carrier.

Moreover, in another jurisdiction Verizon has acknowledged the FCC definition of a local call. In an arbitration with Sprint in California, although a witness for Verizon did not indicate he was specifically familiar with the citation to Section 51.701, he nevertheless indicated not only that he was familiar with the concept of a local call being one that originates and terminates in the same local calling area, but that the definition contained in Section 51.701 was consistent with the understanding of a local call at the time the testimony was filed.

As the U.S. Court of Appeals for the District of Columbia recently explained, when faced with the question of determining whether traffic is "local" for purposes of its regulation limiting reciprocal compensation obligations, the FCC has traditionally used the "end-to-end" analysis to determine whether particular traffic is interstate. As the court explained, "[u]nder this method, it [the FCC] has focused on the 'end points of the communications and consistently has rejected attempts to divide communications at any intermediate points of switching or exchanges between carriers.'"

The Department's ruling misreads the plain language of the FCC's regulation and overlooks the end-to-end analysis employed by telecommunications carriers for compensation. Accordingly, the Department should reconsider its decision adopting Verizon's proposed definition of local traffic.

In summary, based on the foregoing, for this issue the Department should reconsider its decision and

(1) adopt Sprint's definition of local traffic as set forth in its arbitration petition as follows:

'Local Traffic' means traffic that is originates and terminates within a given local calling area or expanded area service ("EAS") area, as EAS is defined in Verizon's effective Customer tariffs.

and

(2) require that the reciprocal compensation definition include the 2:1 traffic ratio and the ability of parties to negotiate their own compensation schemes.

D. Loop Query Information (Arbitration Issues No. 11, 12, and 18)

1. The Issue of Access Parity was Raised by Sprint and Not Rebutted by Verizon

With respect to loop query information, the Department declined to require Verizon to provide the information on DLCs sought by Sprint because it found that the information sought by Sprint goes beyond what is required by the UNE Remand Order. Through mistake or inadvertence, the Department misread the UNE Remand Order and the record in this proceeding.

As an initial matter, the Department through mistake or inadvertence asserts that Sprint raised this issue for the first time in the testimony of Michael J. Nelson. Sprint’s petition clearly raised this as an issue in the petition in arbitration issue number 18. The petition, in arbitration issue number 18, contained the issues concerning the UNE Remand Order. On page 41, Sprint’s arbitration petition listed Sprint’s proposed language. That language read as follows:

Parity Access to Loop Information (Section 1.6)

BA shall provide nondiscriminatory access in accordance with 47 C.F.R. §51.311 and section 251(c)(3) of the Act to operations support systems on an unbundled basis to Sprint upon request for the provision of telecommunications service. Operations support system functions consist of preordering, ordering, provisioning, maintenance, and repair, and billing functions supported by BA's databases and information. BA, as part of its duty to provide access to the pre-ordering function, must provide Sprint upon request with nondiscriminatory access to the same detailed information about the loop that is available to BA.

Sprint further proposes the language in Section 1.2.9.6 to read as follows:

To the extent required by applicable law, BA shall offer unfiltered access to all loop data, including, but not limited to, Digital Designed Loop information, subject to the rates, terms and conditions specified in Part IV herein.

In addition to identifying Sprint’s proposed language, the discussion on the

following page of the Sprint's arbitration petition contains a reference to the affidavit of Bryant Smith that described the level of access to Verizon's loop make up database Sprint requests. This affidavit was attached as Exhibit 5 to the arbitration petition. Accordingly, the issue was clearly raised by Sprint prior to the Nelson testimony.

The Department also through mistake or inadvertence asserts that the record is not well developed on this issue. Sprint witness Nelson testified that before making a decision to collocate with field located DLC units to deliver xDSL services, Sprint must evaluate whether the huge cost of collocation is justified by "several factors that include technical parameters of the DLC, technical parameters of the plant, and the potential number of customers." Sprint requests the Department to require Verizon to provide Sprint parity access to all DLC information in the same manner that Verizon provides this information to itself.

Although Sprint did not provide a detailed list to the Department, Sprint did provide the information to Verizon. Thus, Verizon did have the detailed information and chose not to respond to Sprint or the Department. Instead, Verizon misrepresents the fact that Sprint did in fact identify the information it seeks. The truth is that Verizon was provided with a detailed list of the information sought. Verizon chose not to respond to Sprint's specific requests on the record in this proceeding despite the opportunity to do so. Indeed, in many instances, Verizon, not Sprint, has the relevant information for the record regarding the information Sprint seeks. It was Verizon's burden to respond whether such information was available, how it might be provided, or what the cost of providing the information might be. Sprint should not be blamed for Verizon's lack of response and further development of the record. Denying Sprint access to this critical information would amount to punishing Sprint for Verizon's lack of effort in responding to Sprint's request for this information.

2. The FCC UNE Remand Order Requires Access to the Information Sought By Sprint

The Department found that the information sought by Sprint goes beyond what is required by the UNE Remand Order. The Department, through mistake or inadvertence, misinterpreted the UNE Remand Order.

The Department referenced the following portion of the UNE Remand Order:

"...the incumbent LEC must provide to requesting carriers the following: (1) the composition of the loop material, including, but not limited to, fiber optics, copper; (2) the existence, location, and type of any electronic or other equipment on the loop, including but not limited to, digital loop carrier or other remote concentration devices, feeder/distribution interfaces,

bridge taps, load coils, pair-gain devices, distributers in the same or adjacent binder groups ..."

The Department is correct that the FCC listed the specific underlying loop information that local exchange carriers such as Verizon must provide to CLECs. However, the information listed is a minimum of the information that must be made available. Also, the obligation to make available OSS in a non-discriminatory manner extends to all information needed to determine whether a particular loop can support advanced services. The test of whether Verizon has to provide certain loop information to a CLEC is not whether it is listed in paragraph 427 of the UNE Remand Order. Instead, the FCC has made it clear that the relevant inquiry is whether such information exists anywhere within the incumbent's back office and can be accessed by any of the incumbent LEC's personnel.

3. The Record Establishes that the Loop Information Sought by Sprint is Critical for Determining the Economic and Technical Feasibility of Collocating with DLC units to Deliver xDSL Services

Verizon should be required to provide requesting carriers with demographic and other information regarding particular remote terminals similar to the information available regarding its central offices. There is a sharp contrast between the availability of information pertaining to central offices and information on remote terminals. Sprint made the decision to collocate in approximately 1000 central offices in 2000 based on information that was readily available. In contrast, Sprint is very reluctant to do the same at a remote terminal given the lack of information. To do so would be financially irresponsible due to the uncertainty of ever receiving an acceptable return on the investment. To illustrate one such example, Sprint spent considerable time and effort trying to acquire and analyze data provided by one RBOC. Four full-time employees spent two full weeks analyzing over 40,000 rows of data and contacted two third-party database providers, only to determine that the information required to make a sound economic decision was not available.

Thus, detailed information is essential if requesting carriers are to have any hope of determining whether it is both technically and economically feasible to request interconnection at ILEC remote terminals. Unless a potential requesting carrier knows how many customers are served by each remote terminal, what type of equipment is located in the remote terminal, whether there is any space available within the remote terminal for collocation, etc., the carrier will have no idea whether it is economic even to consider attempting to engage in virtual or physical collocation. In order to give Sprint a meaningful opportunity for analysis, Verizon should be required to furnish the following information in a digital tabular form (e.g., Excel):

Serving Wire Center CLLI
Serving Wire Center CLLI Address (city, street, zip code)
Remote Terminal (RT) CLLI
Remote Terminal Address (city, street, zip code)
Remote Terminal Equipped Lines
Remote Terminal Working Lines
Remote Terminal to Central Office Transport Type(s) Available and Planned, e.g., dark fiber, DS3, etc.
Remote Terminal Type (manufacturer, model, etc.)
Remote Terminal Housing Size and Type, e.g., CEV
All Serving Area Interface ("SAI") CLLIs for each Remote Terminal
Serving Area Interface Address(es) (city, street, zip code)
Number of Terminal Connections (F1 & F2) Available in each Serving Area Interface
All Services Addresses for each Serving Area Interface (city, street, zip code)

Even though much of the above information might arguably be encompassed by the existing definition of preordering and ordering information in rule 51.5, which the ILECs are required in Section 51.319(g) to provide through access to their OSS, Verizon should be required to provide the above information, apart from ordering and preordering data. The information here at issue is needed well before the requesting carrier even comes to the point of having the potential to place an order for a particular loop or sub-loop to serve a particular customer. Rather, as explained above, this information is needed before Sprint can make a sound decision whether to interconnect at a particular remote terminal – a decision that would come well before Sprint is able to start soliciting customers served via that remote terminal. In addition, rules that specify exactly what information the ILEC must provide to CLECs eliminate unnecessary controversy and delay. The information Sprint is requesting is substantially similar to information that one RBOC has already agreed to make available and is, in Sprint's view, a reasonable trade-off between the burden on the ILEC of furnishing such information and the CLECs' need for detailed information upon which to base sound entry and network engineering decisions.

Based on the foregoing, the Department should require Verizon to provide Sprint with the requested loop information. Accordingly, the Department should adopt Sprint's proposed language concerning parity of access to DLC information for the interconnection agreement.

E. Interconnection Rates for Access to Sprint's Facilities (Arbitration Issue No. 6)

The Department ruled with respect to arbitration issue number 6 that unless Sprint either uses Verizon's rates as a proxy or negotiate with Verizon for other rates, Sprint must file cost information on which its rates are based.

As an initial matter, unless Sprint uses Verizon's rates as a proxy or negotiates with Verizon for other rates, the Department directed Sprint to file cost support within 20 days of the date of the Order. Since Sprint is seeking reconsideration of this issue, Sprint respectfully requests that this requirement be held in abeyance pending the Department's decision on Sprint's motion for reconsideration.

1. 47 U.S.C. §§ 251(a)(1) and 252 (d)(1) do not require the Department to Determine the Reasonableness of CLEC Interconnection Rates or that CLEC rates be cost-justified

The Department, through mistake or inadvertence, misreads 47 U.S.C. §§ 251(a)(1); 252 (d)(1). The sections cited by the Department do not require the Department to determine the reasonableness of CLEC interconnection rates, or that CLEC rates be cost-justified.

Section 251(a)(1) provides for the general obligation of interconnection for both CLECs and ILECS. Section 251(a)(1) does not contain any reference to interconnection rates.

The other portion of the statute cited by the Department, Section 252(d)(1), provides

(d) PRICING STANDARDS

(1) INTERCONNECTION AND NETWORK ELEMENT CHARGES

Determinations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of subsection (c)(2) of section 251, and the just and reasonable rate for network elements for purposes of subsection (c)(3) of such section-

shall be-
based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and
nondiscriminatory, and
(B) may include a reasonable profit.

The above statute requires a state commission to determine the reasonableness of rates for interconnection and unbundled network elements for purposes of Section 251(c)(2) and 251(c)(3). Subsection c expressly applies to ILECs, but not CLECs. Subsection c is entitled "ADDITIONAL OBLIGATIONS OF INCUMBENT LOCAL EXCHANGE CARRIERS." Thus, the Department is not required to determine the reasonableness of Sprint's interconnection rates, and Sprint's rates do not

have to be cost-justified under the sections of the Telecommunications Act cited by the Department.

2. The Department's Cap on Sprint's Interconnection Rates violates Section 253 of the Telecommunications Act.

The Department, through mistake or inadvertence failed to consider that adopting a rate cap for Sprint in this arbitration violates Section 253 of the Telecommunications Act. Section 253(a) provides that no state requirement "may prohibit or have the effect of prohibiting the ability of any entity to provide any … intrastate telecommunications service." In addition, Section 253(b) requires that State requirements be imposed on a "competitively neutral basis."

To Sprint's knowledge, no other CLECs in Massachusetts are currently subject to a rate cap. Certainly, for Sprint to be subject to a rate cap while other CLECs are not is inherently unfair and severely impairs Sprint's ability to compete in the Massachusetts local exchange market. Such a discriminatory requirement clearly violates Section 253 of the Act. For the Department's rate cap to be non-discriminatory and competitively neutral, it would have to apply to all CLECs.

3. The Record Contains No Evidence to Support a Rate Cap

The Department, through mistake or inadvertence, failed to cite any evidence that Sprint's rates are unreasonable justifying the imposed cap on Sprint's interconnection rates. Verizon failed to present any evidence that a rate cap is justified. As in its Final Position Statement, in its Initial Brief, Verizon claims that the rates that Sprint proposes to charge Verizon and any other carrier, for access to Sprint facilities for interconnection are "exorbitant," and that they are "demonstrably unreasonable because they are significantly higher than the rates the department has allowed Verizon to charge for competitive services."

Despite this assertion, as Sprint demonstrated in its Main Brief, the record contains no evidence to support their claim. Not until its Final Position Statement did Verizon ever even identify the rates it deems unacceptable and made no attempts to obtain or produce evidence concerning Sprint's rates. Indeed, as indicated in its Main Brief, Sprint is very surprised by Verizon's specific examples. Certainly throughout this arbitration Verizon has had the opportunity to challenge these rates and present evidence to support its claims. Verizon has simply, and not surprisingly, failed to do this prior to filing its Final Position Statement.

The rate comparison offered by Verizon to support its claim that Sprint's rates are unreasonable is improper and inaccurate and should be soundly

rejected by the Department. Even if the rate comparison was accurate, which it is not, the notion that Sprint's rates are inherently unreasonable just because they appear to be higher than Verizon's is patently absurd, and factually wrong, because Sprint's costs are separate and distinct from Verizon's costs. Furthermore, as shown in its Main Brief, the rate comparison is invalid because Verizon clearly misrepresented Sprint's rates. In sum, Verizon has submitted no evidence for this Department to make a determination that Sprint's' rates are unreasonable.

Based on the foregoing, the Department should reconsider its decision to cap Sprint's interconnection rates and require cost support.

F. Calling Party Number (Arbitration Issue No. 16)

With respect to the issue of the transmission of Calling Party Number ("CPN") information (arbitration issue number 16), the Department accepted Sprint's proposal that each party shall be required to provide CPN for at least 90 percent of the calls originating on its network. The Department also denied Sprint's proposal to allow for "true up" reconciliation of invoices when a carrier's CPN transmission falls below the 90 percent threshold, and held that if either carrier fails to transmit CPN on less than 90 percent of its originating calls, the other carrier has the right to bill calls without CPN at the interstate switched access rate. In denying the true up, the Department found that "requiring either carrier to perform a manual review of alternate calling records when the other carrier fails to meet its CPN requirements is unduly burdensome."

The Department through mistake or inadvertence denied Sprint's right to a true up. The record does not support such denial since there is no basis in the record for the Department's finding that such a true up based on alternate calling records would be unduly burdensome. A review of the record shows that Verizon never claimed or established that such an alternative would be unduly burdensome. Although Verizon had the opportunity to file testimony or evidence to support such a finding, Verizon failed to do so through testimony or exhibits.

Accordingly, the Department should reconsider its decision and allow for a "true up" reconciliation of invoices.

G. The Department through mistake or inadvertence failed to rule on Sprint's proposed language regarding the UNE Remand Order.

In its arbitration petition Sprint proposed certain language related to the FCC's recent UNE Remand Order. This issue was addressed in Arbitration Issue

Number 18. While a portion of this issue was resolved through stipulation, the remaining issues were left unresolved. The remaining language at issue mirrors the FCC's rules. Sprint requested that the Department adopt this language for the interconnection contract. Through mistake or inadvertence, the Department failed to rule on these remaining issues.

Verizon failed to address this remaining language in their Final Position Statement, or their briefs. As such, Sprint's proposed language is unrebutted. As noted above, the remaining language at issue mirrors the FCC's rules. Accordingly, Sprint requests that the Department adopt the language proposed by Sprint for arbitration issue number 18.

IV. CONCLUSION

For the foregoing reasons, Sprint's motion for reconsideration should be granted. Sprint respectfully requests that the Department reconsider its December 11, 2000 Order and

require Verizon to offer vertical features for resale on a stand-alone basis to Sprint at the wholesale discount;
permit Sprint to pay reciprocal compensation rates instead of exchange access rates for terminating local calls over access trunks
adopt Sprint's definition of local traffic;
require that the reciprocal compensation definition include the 2:1 traffic ratio and the ability of parties to negotiate their own compensation schemes;
adopt Sprint's proposed language concerning parity of access to DLC information and require Verizon to provide access to the loop information requested by Sprint;
rescind its decision to cap Sprint's interconnection rates and require cost support;
allow for "true up" reconciliation of invoices if a carrier's CPN transmission falls below the 90 percent threshold;
adopt Sprint's proposed language related to the FCC's UNE Remand Order;
and grant such other relief as may be just and proper.

Respectfully submitted,

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