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November 20, 2009

Honorable Howard A. Jack
Administrative Law Judge
New York State Department of Public Service
Three Empire State Plaza
Albany, NY 12223

RE: Case 09-M-0527, November 9, 2009 Procedural Ruling

Dear Judge Jack,

Sprint Nextel Corporation ("Sprint") hereby responds to the Procedural Ruling dated November 9, 2009. Sprint comments on items that should be included in Staff's factual status report¹ ("Staff Report") and also provides suggestions on issues to be added to the issues list in Phase 1 of the proceeding.

Staff Report Suggestions

Staff filed a letter on November 16, 2009 indicating matters it will address in the Status Report. Staff generally proposes to identify and count residences where no wireless service or cable modem Internet access service is available in the service areas of all New York state ILECs.

While information regarding competitive alternatives to ILEC service will be helpful, Sprint submits that additional areas of inquiry are important in determining the true status of the competitive environment in New York. Knowledge of cable and wireless offerings alone will not provide a full analysis of the competitive options available to customers.

Staff should collect factual information that will help determine if a successor fund to the Transition Fund is necessary. That inquiry should include the collection of information regarding the availability of competitive services provided by the ILECs or the affiliates and the revenues received from such services. A complete inquiry into whether a fund is necessary will include information also regarding intrastate access

¹ November 9, 2009 Procedural Ruling, p. 1.

charges and federal USF funds received. A complete inquiry will account for revenues from competitive sources. After all, a replacement fund to the Transition Fund is unnecessary in a competitive environment where the regulatory construct allows carriers to obtain sufficient revenues from their own customers.

The Staff Report should also include the following information:

1. Number of residential and business access lines for each New York State ILEC.
2. Identify and count New York State residences for which DSL Internet service is available in the areas of all New York State ILECs and the available speeds of service.
3. Identify and count New York State residences for which DSL Internet service is unavailable in the areas of all New York State ILECs.
4. State the amount of revenues received by each New York State ILEC and its affiliates for DSL Internet Services.
5. Identify and count New York State residences for which video entertainment service is available by an affiliate or agent of the ILEC in the areas of all New York State ILECs.
6. State the amount of revenues received by each New York State ILEC and its affiliates for video entertainment services.
7. Identify and state the amounts of Federal USF funds received by ILECs and other ETCs in the state of New York.
8. Identify and state the intrastate switched access minutes of use and revenues and interstate switched access rates for each New York State ILEC and how those rates and minutes of use may have changed over the last 5 years.
9. Identify and state the services and revenues from each of the services that are rate regulated for each of all New York State ILECs.
10. Identify and state the services, number of customers and revenues from each of the services that are not rate regulated or have upward pricing flexibility for each of all New York State ILECs. For example, identify services, number of customers and include revenues for bundled services, business services and local calling service features like call waiting, call forwarding, etc.
11. Identify if the ILEC has rate flexibility for certain services in a portion of its service area and identify those areas.
12. Identify any and all rate increases and revenues for each New York State ILEC for such competitive services since being granted competitive classification.
13. Identify and state whether the ILECs who receive money from the Transition Fund have upward pricing flexibility for their services.
14. Identify and state the services and revenues obtained from long distances services provided by the ILEC or its affiliate for each of all New York State ILECs.
15. Specifically identify and state the costs the ILECs have in fulfilling the responsibility of being a carrier of last resort.

Sprint submits that the collection of the above information will provide the parties and the Commission with the information necessary to make informed decisions on

whether New York consumers should be burdened to pay additional fees for a fund that succeeds the Transition Fund.

Phase I Issues

Judge Jack's Procedural Ruling also asks the parties to comment on Phase 1 issues related to the Transition Fund and its exhaustion. Many of the broad issues that must be decided in determining whether a successor fund should be established and the operations or mechanics of any such fund are already identified. Sprint suggests the following limited additions:

1. What is the overall size of the successor fund and how is the fund size developed? Will switched access reductions be considered in sizing the fund? Will the fund be sized based in part on switched intrastate access reductions less allowable rate increases or some other methodology like forward looking costs?
 - a. The size of the fund and the methodology utilized to size the fund are key questions that must be answered. Question 3 in the November 9 Procedural Ruling mentions whether a benchmark rate should be established. This is a useful question when considered as part of the broader issue of how big will the successor fund be and how will the fund size be developed. Usually benchmarks are utilized in sizing a fund such that the benchmark rate is compared to a carrier's forward looking costs or the amount of switched access reductions less allowable rate increases. Sprint submits that any inquiry into a successor fund must include issues related to fund size and the methodology to create the fund.
2. Should carriers with competitive classification for services (i.e. pricing flexibility, business lines, bundled lines) be able to obtain funds from a successor fund?
 - a. Inclusion of that issue is important as Sprint believes it is unnecessary for carriers that have been granted flexibility for pricing their services to obtain additional revenues from other carriers and their customers via a state universal service fund mechanism. For example, the Texas PUC state universal service fund denies funding in ILEC exchanges classified as competitive. *Petition for Review of Monthly Per Line Support Amounts from the Texas High Cost Universal Service Plan Pursuant to PURA § 56.031 and PUCR 26.403*, Texas Public Utility Commission, Final Order, Docket No. 34723 (April 25, 2008).
3. Will intrastate access charges be reduced in connection with the implementation of a successor fund?

Sprint thanks the Judge for this additional opportunity to comment on both the issues to be included in the Staff Report and the issues to be included in Phase 1. Collection of the data listed above and consideration of the two additional issues

Judge Jack Itr
Case 09-M-0527
11/20/2009
Page 4

suggested by Sprint will give the Commission important baseline information on whether a successor fund is necessary, and if so, how the fund will be sized. A more complete picture of the competitive environment will help develop a solution to benefit all New York customers.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Schifman". The signature is fluid and cursive, with a long horizontal flourish at the end.

Kenneth A. Schifman

cc: Service List
Honorable Eleanor Stein
Honorable Jaclyn A. Brillling