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August 24, 2011

Hon. Jaclyn A. Brillling
Secretary
State of New York
Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: Cases 09-M-0527

Dear Secretary Brillling:

Please accept this letter as the comments of Sprint Nextel Corporation ("Sprint") in response to the Commission's August 12, 2011 Notice Seeking Comment on Interim Transition Fund ("Notice"). The Notice seeks comment on whether the Temporary Transition Fund Extension ("TTFE") should be extended past September 30, 2011. Sprint objects to any TTFE extension for the reasons set forth below.

An extension to the TTFE is proposed seemingly because all of the parties did not reach settlement on access charge and/or a replacement fund for the TTFE.¹ It is no surprise that settlement was not reached because the recipients of the TTFE and the other incumbent and competitive local exchange carriers that benefit from high intrastate access rates do not want the Commission to ever address their access rates. They would rather extend the TTFE indefinitely than have the Commission address the access rate issue. Meanwhile, Sprint is forced to

¹ Notice, p. 1.

submit money into a fund that is neither policy nor cost justified to support other carriers.

Sprint opposes the solution proposed to extend the TTFE. Sprint first filed its Complaint seeking to reduce Verizon's access charges on March 20, 2007 in case 07-C-0347. Sprint patiently has participated in this proceeding (09-M-0527) where it temporarily ordered the TTFE until September 30, 2011 and then accepted evidence and briefs to determine if there should be any replacement fund for the TTFE. Sprint continuously has maintained that the time for access reductions should not be delayed and that there is no need for a TTFE or a replacement fund. The Commission itself made its thoughts known in the July 16, 2010 Order adopting the short extension of the TTF, which is set to expire on September 30, 2011, by stating:

"At the outset, we wish to make clear that we agree with opponents of the Phase I Joint Proposal that the time to address intrastate access rate reform in New York has come. This proceeding will provide a forum for achieving it in due course." (July 16, 2010 Commission Order in Case 09-M-0527)

The Commission adopted the TTF extension over the objections of Sprint and AT&T and found that the Commission will consider access reductions after it made its decision on Phase II issues related to whether a successor fund to the TTFE should be created. The Commission adopted a carefully crafted schedule proposed by the proponents of the TTFE where the Commission would consider whether a successor fund should be created and then consider reductions to access charges, with litigation on the access issue to commence no later than August 31, 2011.

Now, Verizon, Frontier and other signatories to the Joint Proposal approved of by the Commission on July 16, 2010, seek to renege on the schedule adopted by the Commission. Now, Verizon and other parties claim that new FCC proposals should delay the New York proceedings and it will propose an extension to the TTFE. While Sprint agrees that access rates must be reduced and that the ABC plan proposed at the FCC contains some promising proposals, Sprint is not a signatory to the ABC plan and it is far from an industry consensus plan. There are many, many issues that must be decided by the FCC. If the FCC acts, then the Commission can then determine what impact the FCC decision has on its inquiry regarding access charges.

In the meantime, Sprint and its customers should not be required to fund the ILECs in New York through an extension to the TTFE. Evidence and briefs have been submitted long ago in Case 09-M-0527 on whether the Commission has the authority, whether a need has been established to fund some companies, and whether consumers throughout the state are harmed by the creation of a fund. Sprint submits that the Commission can and should deny the creation of a State Fund to replace the TTFE and should act on the record already created. Furthermore, the Commission should not shirk its responsibility to make a decision based on the record by continually extending the TTFE.

The Joint Proposal approved by the Commission contained a specific extension timeframe for the TTFE. There was no provision for that timeframe to be altered. The Commission has no justification to keep taking money out of the pockets of interexchange carriers like Sprint without evidence or a record to do so. It is folly for the Commission to again extend the TTFE on the basis that some parties will propose extending it to simply avoid the Commission beginning litigation on the access charge phase of this case. The signatories of the Joint Proposal should not be allowed to now renege on the schedule of issues to be considered by the Commission. The Commission's July 16, 2010 Order contained no such contingency and made it clear that access charges must be addressed.

Sprint urges the Commission to reject any proposed extension to the TTFE and any delay in implementing the litigation schedule from its July 16, 2010 Order.

Sincerely,



Ken Schifman

pc:
Honorable Jaclyn A. Brillling
Judge Jack
Active Parties