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August 7, 2013

VIA EMAIL

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Re: Sprint/AT&T Michigan Arbitration in MPSC Case No. U-17349

Dear Panel Members:

AT&T Michigan ("AT&T") writes this letter to briefly address Sprint's "Request for the Production of Additional Information" and Sprint's "Request for Presentation." Pet. at ¶¶ 22-32. We discuss these requests here, rather than in our Response, because the Arbitration Panel may wish to rule on Sprint's requests before AT&T files its Response on August 16, 2013.

Request for the Production of Additional Information

Sprint asks the Panel to order AT&T to respond to 55 discovery requests (including subparts) that relate to the IP-to-IP Interconnection issue. It also asks for leave to supplement its Petition after it receives the responses. Pet. at ¶ 26. The Panel should reject these requests for several reasons.

First, Sprint has no valid need for the information requested. Under R484.705(1), an arbitration "shall not be patterned after a contested case proceeding, but rather shall be designed to inform the panel or arbitrator regarding the positions of the respective parties." Thus, there is "no right to conduct discovery." Instead, the Panel determines whether it needs additional information to "inform" itself regarding "the positions of the parties." R484.705(2).

Sprint does not need the requested information to inform the panel of its position on the IP-to-IP Interconnection issue. Sprint has explained its position in great detail in its brief (at pages 24-49) and in the testimony of James Burt (at pages 19-68). Sprint's submissions to the Panel show that Sprint has extensive knowledge about AT&T's

network and how that network relates to the IP-to-IP Interconnection issue.[1] Sprint gained this understanding in its recently-concluded Illinois arbitration with AT&T Illinois, in which the same IP-to-IP Interconnection issue was contested. There, AT&T witness Carl Albright submitted two pieces of testimony in which he explained how AT&T Illinois' network exchanges IP-based calls with other carriers (including its own affiliates) and that AT&T Illinois does not, and cannot, convert traffic between IP and TDM formats. Sprint cross-examined Mr. Albright at great length on these issues.[2] Sprint also conducted extensive discovery on the IP-to-IP Interconnection issue in Illinois.

All of this information is being used by Sprint in this proceeding. For example, AT&T Illinois provided a network diagram that Sprint relies in this proceeding. See, e.g., Burt Testimony at 48-51, 54; and Sprint Exhibits JRB-1.10, JRB-1.11 and JRB-1.12. Sprint also freely uses in Michigan the AT&T Illinois testimony, the AT&T Illinois discovery responses and the cross examination transcripts that were developed in the Illinois proceeding. See, e.g., Sprint Br. at 26-34; Burt Direct at 48-51, 54-57; Sprint Exhibits JRB-1.8 through JRB-1.12 and JRB-1.17.

Moreover, AT&T Michigan responded to three of Sprint's Michigan-specific "data requests" and told Sprint, in effect, that the IP-related network information that Sprint received in Illinois applies in equally Michigan. In short, Sprint is fully-informed and has fully developed its position in this proceeding. The Panel does not need any additional information to understand Sprint's position.

Second, the information Sprint requests cannot possibly serve any purpose unless the Panel grants Sprint's related request to allow Sprint to file a supplement to its Petition, and there is no time to build additional steps into the schedule. AT&T Michigan has just seven (7) business days remaining to prepare and file its response to the Petition - including testimony and briefs. Sprint filed a 162 page brief and over 260 pages of testimony. AT&T Michigan's submission will be roughly the same length. There is no time for AT&T Michigan to divert its attention away from preparation of its Response in order to answer Sprint's 55 discovery requests. Likewise, there is no time for the second round of testimony and/or briefing that Sprint requests, or for the reply to which AT&T would then be entitled. The time frame for resolution of this case is just too short. The Commission recognizes that an arbitration proceeding takes place within a "tight time frame mandated by Congress" and therefore "requires a quick and simple process."

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[1] Sprint says in its brief, "Despite AT&T's refusal to engage in meaningful negotiations on the IP Interconnection issue, Sprint drafted and has proposed contract language that identifies how and where such a connection will take place." Sprint Br. at 48. Sprint also says, "Sprint's proposed language contains all terms necessary for the parties to promptly implement and use IP Interconnection in Michigan." *Id.* Thus, Sprint clearly did not need answers to its questions in order to propose contract language.

[2] Indeed, Sprint acknowledges that its "understanding of the AT&T/AT&T Corp. network was then expanded greatly during the hearing in that [Illinois] case." Sprint Br. at 30.

February 21, 2006 Order in Case U-14678/14781, at 17. There is simply no time to accommodate the additional procedural steps that Sprint requests.

Third, much of Sprint's discovery request is directed at information in the possession of AT&T Corp. and not AT&T Michigan. See, e.g., DR Nos. 11-14. AT&T Corp. is not a party to this arbitration proceeding.

Finally, in this submission we have explained why the Panel should reject Sprint's requests for information outright. We have not identified the many requests that would be subject to valid objections if discovery were permitted. For example, much of the information Sprint seeks is not relevant to the IP-to-IP interconnection issue presented in this case.

Request for Presentation

Sprint also asks for permission to make live presentations to the Panel. Pet. at ¶¶ 28-32. AT&T Michigan does not believe that live presentations would materially assist the Panel in understanding the issues presented. Sprint has already submitted a voluminous, detailed filing in which it painstakingly explains its positions, as well as the factual and legal support for those positions. AT&T Michigan will do the same when it files its response on August 16. The only thing the Panel is likely to hear in any live presentation is a re-packaging of the same information it already has before it.

Sprint suggests that lives presentations are appropriate because the case raises "complex issues" of "first impression." Pet. at ¶29. But arbitration cases invariably require the Commission to resolve questions of first impression (i.e., open issues), and this arbitration is no more complex than most. If issues were not somewhat complex, or were not somehow unique, the parties would settle them without involving the Commission in an arbitration proceeding.

Sprint focuses on the IP-to-IP Interconnection issue, but that issue has already been considered by an arbitration panel. In the *ACD Telecom Arbitration*, Case No. U-16906, Decision of the Arbitration Panel at 24-26, the Panel rejected the CLEC request to include language in the ICA that would require the negotiation of IP-to-IP interconnection terms in the future. While the precise IP Interconnection issue in this case is different, the point is that the general IP Interconnection issue is familiar to the Commission and does not merit special handling here.

In sum, there is nothing unique in this case that would call for the unusual step of live presentations.

For the reasons set forth above, AT&T Michigan respectfully requests that the Arbitration Panel reject Sprint's Request for the Production of Additional Information and Sprint's Request for Presentation.

Sincerely,

Mark R. Ortlieb
General Attorney

MRO/ajb
Cc: Service List

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the petition of Sprint Spectrum, L.P. for arbitration pursuant to Section 252(b) of the Telecommunications Act of 1996 to establish Interconnection Agreements with Michigan Bell Telephone Company d/b/a AT&T MICHIGAN	**)** **)** **)** **)**	**U-17349**

PROOF OF SERVICE

**STATE OF ILLINOIS) **
) ss
COUNTY OF COOK)

Mark Ortlieb, first being duly sworn, deposes and says that he is employed at AT&T Michigan, and that on the 7th day of August 2013, he caused copies of the following documents to be served via U.S. Mail and/or electronic mail upon the parties listed on the attached service list:

Correspondence to Panel Members

____
Mark Ortlieb

Subscribed and sworn to before me this
7th day of August 2013

____
Aletha J. Blackmon
Notary Public, Cook County
My Commission Expires: April 23, 2014
Acting in the County of Cook

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MPSC Case No. U-17349

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