ORIGINAL

WOMBLE CARLYLE SANDRIDGE & RICE
A PROFESSIONAL LIMITED LIABILITY COMPANY

One Atlantic Center
1201 West Peachtree Street
Suite 3500
Atlanta, GA 30309
Telephone: (404) 872-7000
Fax: (404) 888-7490
Web site: www.wcsr.com

Loretta A. Cecil
Direct Dial: (404) 888-7387
Direct Fax: (404) 870-4826
E-mail: lcecil@wcsr.com

July 10, 2003

VIA FEDERAL EXPRESS

030296-TP

Mrs. Blanca S. Bayo
Director, Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Re: Petition by AT&T Communications of the Southern States, LLC And TCG South Florida for Arbitration of Interconnection Agreement with Sprint-Florida, Incorporated Under the Telecommunications Act of 1996
Docket No.: ~~020396-TP~~ 030296-TP

Dear Mrs. Bayo:

Please find enclosed for filing in your office the original and fifteen (15) copies of Rebuttal Testimony of David L. Talbott and Jay M. Bradbury filed by AT&T Communications of the Southern States, LLC and TCG of South Florida (collectively "AT&T")

Please stamp two (2) copies of the Rebuttal Testimony in the usual manner and return to us via our courier.

If you have any questions, please do not hesitate to contact me at 404-888-7437.

Sincerely yours,

Loretta A. Cecil/DHR

Loretta A. Cecil

AUS
CAF
CMP
COM 3 1 1 original
CTR
ECR
GCL 1
OPC
MMS
SEC 1
OTH

Enclosure(s)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Rebuttal Testimony on behalf of AT&T Communications of the Southern States, LL C and TCG South Florida (collectively "AT&T") was furnished via electronic delivery and First-Class U. S. Mail to the following parties of record on this 10th day of July, 2003:

Ben Poag/Susan Masterton
Sprint Telecommunications, Inc.
1313 Blairstone Road
Tallahassee, FL 32301-3021

Janet Luehring, Esq.
Sprint Telecommunications, Inc.
6480 Sprint Parkway
Overland Park, KS 66251

Mitch Menezes, Esq.
AT&T
1875 Lawrence Street
Suite 1575
Denver, CO 80202-1847

Roxanne Douglas, Esq.
AT&T
1200 Peachtree Street, NE
Suite 8100
Atlanta, GA 30309

David Eppsteiner, Esq.
AT&T
Suite 8100
1200 Peachtree Street, NE
Atlanta, GA 30309

J. Jeffry Wahlen, Esq.
Ausley & McMullen
P. O. Box 391
Tallahassee, FL 32301
227 South Calhoun Street
Tallahassee, FL

Kenneth A. Schifman, Esq.
General Attorney Sprint
6450 Sprint Parkway
Overland Park, KS 66251

Ms. Lisa Riley
AT&T
1200 Peachtree Street, NE
Atlanta, GA 30309

Tracy Hatch, Esq.
AT&T
101 N. Monroe Street
Suite 700
Tallahassee, FL 32301

Loretta A. Cecil /LAR
Loretta A. Cecil, Esq.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of AT&T Communications of the Southern States, LLC and TCG South Florida For Arbitration of Certain Items and Conditions of a Proposed Interconnection Agreement with Sprint-Florida, Inc. Pursuant to 47 U.S.C. § 252	)	**DOCKET NO.: 030296-TP**
	)	**FILED: JULY 10, 2003**

REBUTTAL TESTIMONY OF

DAVID L. TALBOTT

ON BEHALF OF

AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC

AND TCG SOUTH FLORIDA

July 10, 2003

TABLE OF CONTENTS

INTRODUCTION

Q. MR. TALBOTT, PLEASE STATE YOUR FULL NAME, PRESENT POSITION, AND BUSINESS ADDRESS.

A. My name is David L. Talbott. I am employed by AT&T Corp. ("AT&T") in the Local Services Access Management group in AT&T Network Services as a District Manager. My business address is 3737 Parke Drive, Edgewater, Maryland 21037.

Q. ARE YOU THE SAME DAVID TALBOTT THAT FILED DIRECT TESTIMONY IN THIS PROCEEDING ON JUNE 19, 2003?

A. Yes. My rebuttal testimony addresses Issues 1 – 9, and Issue 11. Issues 10, 13, and 14 have been resolved by the Parties. Relative to Issue 12, Jay M. Bradbury is adopting my direct testimony regarding Issue 12 and also filing rebuttal testimony regarding Issue 12 on behalf of AT&T in this proceeding.

THE ISSUES IN THIS PROCEEDING:

ISSUE 1: POINT OF INTERCONNECTION. What are each Party's rights and obligations with respect to establishing a POI to the other Party's network and delivery of its originating traffic to such POI? (Network Interconnection, Part E, Sections 1.1 thru 1.1.6, 3.2, 4.1.3 thru 4.1.3.4 and 4.1.4.1)

AT&T's Position: Sprint, as an incumbent local exchange carrier ("ILEC"), is obligated to provide interconnection at any technically feasible point on its network (in accordance with Section 251(c)(2) of the Telecommunications Act of 1996 ("Act"),[1] whereas AT&T, as an competitive local exchange carrier

[1] *Telecommunications Act of 1996*, Pub. L. No. 104-104, 110 Stat. 56.

("CLEC"), has an obligation to interconnect directly or indirectly with another telecommunications carrier (in accordance with Section 251(a)(1) of the Act. Each Party is obligated to deliver traffic originating on its network to the POI, and it is impermissible for an originating carrier to assess charges to the terminating carrier for the transport of the originating carrier's traffic to the POI.

Sprint's Position: Pursuant to state and federal laws and regulations, AT&T is entitled to designate one or more POIs in a local access transport area ("LATA") on Sprint's network for the mutual exchange of Sprint-originated and AT&T-originated traffic. Sprint does not agree that it may be required to establish POIs on AT&T's network.[2]

Q. DID SPRINT FILE DIRECT TESTIMONY REGARDING ISSUE 1?

A. Yes. Mr. James Michael Maples filed direct testimony on behalf of Sprint in this proceeding regarding Issue 1.

Q. IN MR. MAPLES' TESTIMONY ON PAGE 4, LINES 23-24, MR. MAPLES STATES ". . . AT&T ALSO MAY SELECT THE POI OR POI(S) ON AT&T'S NETWORK FOR THE DELIVERY OF SPRINT ORIGINATED TRAFFIC." DO YOU AGREE WITH MR. MAPLES' STATEMENT?

A. No. Mr. Maples mischaracterizes AT&T's position relative to selection of the POI for the delivery of Sprint originated traffic. AT&T's proposed language in Part E, §1.1.3, provides that "Sprint shall interconnect to AT&T'S network (i.e., establish a POI) for the delivery of traffic originating on Sprint's network. . . *at such points as mutually agreed to by the Parties*, or lacking mutually agreement, at each

[2] Sprint Response at Page 2.

respective AT&T Switch serving the terminating AT&T end user." [emphasis added] Consistent with AT&T's experience with the implementation of this same POI language with Verizon in Virginia, AT&T expects that the Parties will have little trouble coming to agreement on POIs. However, in order to resolve Issue 1, AT&T will agree that Sprint may continue to interconnect with AT&T at each POI which Sprint currently has with AT&T, provided, Sprint agrees to compensate AT&T for Sprint's proportionate use of the interconnection facility used by Sprint to transport Sprint originated traffic. Such compensation would be consistent with Mr. Maples' testimony found on Page 13, lines 18-21, of his direct testimony.[3]

Q. ON PAGE 5, LINES 1-5, MR. MAPLES ALSO STATES "THE EFFECT OF AT&T'S PROPOSAL IS THAT SPRINT COULD BE FORCED TO INCUR ADDITIONAL FACILITIES AND ENGINEERING COSTS TO TRANSPORT ITS TRAFFIC TO MULTIPLE POI(S) AT AT&T OFFICES WHILE AT&T WOULD ONLY HAVE TO INCUR THE COSTS AND ENGINEERING OF DELIVERING TRAFFIC TO ONE POINT ON SPRINT'S NETWORK." IS MR. MAPLES CORRECT?

A. No. Moreover, Mr. Maples' characterization is misleading, because it leaves the impression that AT&T does not have a reciprocal duty to

[3] If new interconnection facilities were required for new AT&T service areas or if Sprint substantially increased its volume of traffic at existing POI(s), a new POI may be required that would be subject to Part E, § 1.1.3, of the interconnection agreement.

incur additional facilities and engineering costs to transport its traffic to multiple Sprint end office locations. Under current FCC Rules, each carrier is obligated to bear the cost to deliver its traffic to the POI which it has established with the terminating carrier, and also to compensate the terminating carrier to transport its traffic to the terminating switch, *irrespective of how many terminating switches of the terminating carrier may exist.* AT&T's proposal is completely reciprocal in this respect. However, Mr. Maples conveniently omits the fact that although AT&T may elect to have a single POI in a LATA with Sprint for AT&T originated traffic, AT&T still must compensate Sprint for transport of AT&T's traffic between that POI and *every Sprint end office in the LATA.* AT&T may reduce the amount of compensation paid to Sprint only by building out AT&T's network to additional Sprint locations and establishing new POIs. Looking at the issue from Sprint's perspective, it too must either compensate AT&T for the transport of Sprint's traffic to each AT&T terminating switch or build out its network to carry the traffic itself.

Q. AT PAGE 5, LINES 10-12, MR. MAPLES STATES THAT "THE COSTS OF THE INTERCONNECTION FACILITY SHOULD BE SHARED BY THE PARTIES BASED ON THE PROPORTIONATE USAGE OF THE INTERCONNECTION FACILITY." DOES MR.

MAPLES' TESTIMONY PROVIDE AT&T WITH HOPE THAT ISSUE 1 MAY BE RESOLVED?

A. Yes. AT&T hopes that Mr. Maples' statement will lead to resolution of Issue 1 by the Parties without Commission intervention. In fact, Mr. Maples makes this same statement on Page 13, lines 21-23, of his direct testimony. If Sprint agrees to the above statement *unconditionally,* then AT&T would agree to Sprint's single POI proposal and Issue 1 would be resolved. However, Sprint's proposed language is at odds with Mr. Maples' direct testimony. Rather, in Part E, §4.1.3.1, Sprint limits the cost of the interconnection facility that AT&T may recover to "Sprint's cost-based dedicated transport rate or its own cost-based rates if filed and approved by a commission of appropriate jurisdiction in accordance with 47 C.F.R. § 51.711(b)." Currently, AT&T sole economical choice to interconnect with Sprint is to obtain special access facilities,[4] and the cost of these special access facilities is substantially *greater* than "Sprint's cost-based dedicated transport rate." Thus, by limiting its compensation obligation for such facilities to "[Sprint's] cost-based dedicated transport rate or Sprint's cost-based rates," Sprint does not compensate AT&T for Sprint's proportionate share of the interconnection facility.

[4] The records which I have reviewed show that AT&T has no existing collocations with Sprint. Thus, the capital required to build-out the AT&T network to multiple Sprint locations may be prohibitive. That leaves AT&T with the option of leasing facilities between AT&T's network in BellSouth and Verizon territories to the interconnection points with Sprint. Predominantly, if not exclusively, these leased facilities will be special access provided jointly by Sprint and BellSouth or Verizon.

Q. WHAT ABOUT MR. MAPLES' TESTIMONY ON PAGE 5, LINES 21-24, THAT AT&T GETS TO ". . . SELECT MULTIPLE POI'S . . . ON AT&T'S NETWORK . . . AT AT&T'S SOLE DISCRETION, WHICH COULD RESULT IN UNECONOMIC TRANSPORT COSTS FOR SPRINT"?

A. Sprint seems to forget that in ¶176 of the FCC's *Local Competition Order,* the FCC clearly stated that only the new entrant's costs that are of concern, not the incumbent's. Notwithstanding, as discussed in my direct testimony and further above, AT&T's proposed language gives Sprint multiple options for lowering its costs without also inappropriately raising AT&T's costs.

Q. AT PAGE 7, LINES 21-25, MR. MAPLES ALSO RAISED CONCERNS ABOUT AT&T SELECTING A POI ". . . OUTSIDE OF SPRINT'S LOCAL CALLING AREA, OUTSIDE OF THE LATA, OR EVEN OUTSIDE OF THE LATA, OR EVEN OUTSIDE OF THE STATE OF FLORIDA." COULD THIS HAPPEN?

A. No. AT&T's proposed POI language clearly states that, irrespective of where AT&T locates its switches, Sprint would have no obligation to transport traffic outside the LATA where the traffic originates. Specifically, AT&T's proposed language in Part E, §4.1.3.2, states "[I]n the event that AT&T elects to offer service within a LATA using a

switch located in another LATA, AT&T agrees to provide the transport for both Party's traffic between the remote AT&T switch and a point (*i.e.*, a facility point of presence) within the LATA in which AT&T offers service, at no charge to Sprint."[5]

Q. MR. MAPLES ALSO STATES ON PAGE 9, LINES 11-15 OF HIS TESTIMONY THAT ". . . THE ILEC INTERCONNECTION OBLIGATIONS INCLUDED IN §251(C)(2) OF THE ACT AND CODIFIED IN PART 51 OF THE FCC'S RULES ARE ALL DIRECTED AT ALLOWING THE [CLEC] TO SELECT A POINT OF INTERCONNECTION ON THE ILEC NETWORK. THERE ARE NO CORRESPONDING RULES OBLIGATING ILECS TO SELECT A POI ON A[N] [CLEC] NETWORK." IS MR. MAPLES CORRECT?

A. Again, Sprint tells only half the story. AT&T agrees that Sprint is obligated to provide interconnection at any technically feasible point on its network pursuant to § 251(c)(2) of the Act. However, Sprint ignores the fact that the Parties' trunking arrangements will impact the location of each Party's POI, and also will affect each Party's obligations that are placed upon all carriers under § 251(a)(1) of the Act. For example, whenever the Parties use two-way trunking, each

[5] This language is unchanged since AT&T first proposed it to Sprint. However, a drafting error occurred in the interconnection agreement which was attached to AT&T's Petition, and thus this language inadvertently was not included in that interconnection agreement filed with the Commission. Notwithstanding, it has not been objected to by Sprint and AT&T still proposes Part E, §4.1.3.2, to Sprint for inclusion in the interconnection agreement.

party's POI *is by necessity a common and single point,* and is selected by the CLEC. On the other hand, where the Parties use one-way trunking, Sprint also must independently interconnect with AT&T for the delivery of Sprint's originating traffic. In particular, §251(a)(1) of the Act obligates all carriers, including Sprint, to arrange for the delivery of its originating traffic to all other carriers. Thus, in a one-way trunking arrangement, Sprint cannot fulfill its §251(a)(1) obligation unless and until it has also interconnected to the AT&T network. If, as an economic necessity, AT&T is required to lease special access facilities to interconnect to the Sprint network, then AT&T has no physical network at such location to which Sprint may interconnect for the delivery of Sprint's traffic to AT&T. Thus, the Commission is left with the decision whether to require AT&T to lease additional capacity to transport Sprint's traffic (and require Sprint to compensate AT&T for such transport) or require Sprint to provide the facilities itself. AT&T believes that Sprint is in the best position to determine its own requirements and implement them without the involvement of AT&T. Moreover, such would provide Sprint the possibility of lowering its costs though alternative interconnection methods.

Q. WHAT ABOUT MR. MAPLES' TESTIMONY ON PAGE 9, LINES 21-22, WHERE HE DISCUSSES THAT SPRINT BE ALLOWED ". . . AT

ITS OPTION, TO SELF-PROVISION TRANSPORT AND DELIVER ITS TRAFFIC AT A LOCATION ON AT&T'S NETWORK"?

A. Sprint proposes to write into the interconnection agreement a right that it is not conveyed to it under the Act. Because AT&T is not subject to §251(c) "incumbent obligations," Sprint should be required to obtain AT&T's mutual agreement to its proposed interconnection. The key point here is that the FCC's Rules and all prior Orders of this Commission mandate that the interconnecting carrier's POI be on the ILEC's network. However, Sprint's version of Part E, §3.2, provides Sprint with the discretion to provide its own transport to AT&T's network if it is more efficient and economical for Sprint to do so. AT&T has no issue with Sprint exercising its discretion, provided that Sprint's choice does not increase AT&T's costs or impair AT&T's ability to compete with Sprint. That requires that Sprint's discretion be bounded by AT&T's mutual agreement. All the FCC's Rules on interconnection are designed to provide the CLEC with options for lowering its costs.[6] The FCC's intent is to establish conditions where competition may expand. *There are no rules that mandate lower costs for ILECs.* It is commonly understood that ILECs will incur greater costs to deliver traffic to customers of interconnected carriers than to its own customers. To enact such a rule would erect an

---

[6] In the Matter of Implementation of the Local Competition Provision in the Telecommunications Act of 1996, *First Report and Order*, 11 FCC Rcd. 15499, 172, 176 (1996) ("*Local Competition Order*"), See, specifically ¶172.

insurmountable barrier to local competition. Moreover, Sprint does not even assert that such Rules exist. It is not AT&T's intention to raise Sprint's costs, but to preserve the options that the FCC provides new entrants to lower their costs.

Q. ON PAGE 11, LINES 1-4, OF MR. MAPLES' TESTIMONY, HE DEFINES "INTERCONNECTION FACILITY" AS ". . . AS THE TRANSMISSION FACILITY THAT CONNECTS THE TWO PARTIES' NETWORKS. THE POI IS AT THE END OF THE INTERCONNECTION FACILITY ON SPRINT'S NETWORK WHERE THE TWO CARRIER'S NETWORKS MEET." DO YOU AGREE WITH MR. MAPLES?

A. No. Once again Mr. Maples has this only half right. In Sprint's view, only AT&T provides an interconnection facility, *but in the FCC's view*, each Party provides an interconnection facility.[7] Specifically, interconnection is the facility each Party provides between its originating switch and the POI which it has with the terminating carrier and the terminating party provides the "transport" between the POI and the terminating switch.[8] Sprint's view of interconnection is at odds with the FCC's view because it would require AT&T's interconnection facility to be simultaneously "interconnection" and

[7] Id. at ¶176; (. . . interconnection does not include transport and termination. . .)
[8] Id. at ¶1039.

"transport." The FCC has said these are separate functions.

Q. ON PAGE 12, AT LINES 3-6, MR. MAPLES ALSO STATES "BY DEFINITION, THE INTERCONNECTION FACILITY IS INCLUDED IN THE TRANSPORT COMPONENT OF RECIPROCAL COMPENSATION. . ." THUS SUGGESTING THAT INTERCONNECTION AND RECIPROCAL COMPENSATION ARE ONE AND THE SAME OBLIGATION. DO YOU AGREE?

A. No. Sprint's suggestion is contrary to the FCC's pronouncement in ¶ 176 of the its *Local Competition Order.* The FCC has determined that interconnection and reciprocal compensation are separate obligations, and thus has established two completely separate, yet complementary, Rules for these obligations. Interconnection is dealt with in 47 C.F.R. § 3. and reciprocal compensation is dealt with in 47 C.F.R. §7. Moreover, the FCC's *Local Competition Order* is divided in this same way. Sprint is inappropriately combining interconnection and reciprocal compensation to win its argument. The Commission should follow the FCC's guidelines on this point and reject Sprint's view.

Q. AT PAGE 12, LINES 24-25, MR. MAPLES ALSO ASSERTS THAT ". . . AT&T'S PROPOSAL IGNORES FCC RULE 51.709(B)'S MANDATE THAT CARRIERS SHARE THE COSTS OF THE DEDICATED

FACILITY CONNECTING THE TWO NETWORKS BASED UPON THE PROPORTIONATE SHARE OF TRAFFIC THAT TRAVELS OVER THE INTERCONNECTION FACILITY." IS MR. MAPLES CORRECT?

A. No. Actually, just the opposite occurs with AT&T's proposed language. As discussed above, if Sprint indeed is willing to share the proportional costs of interconnection facilities without conditions (i.e. that cost may not be greater than Sprint's UNE transport rates), then this would not be an issue. AT&T will agree to proportional cost allocation of the costs of interconnection, provided Sprint agrees to delete the cost limitations which it proposed in Part E, §4.1.3.1.

Q. BUT WHAT ABOUT MR. MAPLES' TESTIMONY AT PAGE 13, LINES 4-7 THAT "UNDER SPRINT'S PROPOSAL, THE PARTIES SHARE THE COST OF THE INTERCONNECTION FACILITY BASED UPON THEIR SHARE OF TRAFFIC TERMINATED OVER THE INTERCONNECTION FACILITY"?

A. This assertion is at odds with Sprint's proposed Part E, §4.1.3.1. Again, if Sprint is willing to do what Mr. Maples claims in his direct testimony, the Parties could resolve Issue 1 without Commission intervention.

Q. REGARDING MR. MAPLES' TESTIMONY AT PAGE 13, LINES 17-23 THAT ". . . AT&T IS PERMITTED TO CHARGE SPRINT FOR A

PROPORTIONATE USE OF THAT INTERCONNECTION FACILITY. . . " COULD AT&T STILL BE HARMED IF SPRINT UNILATERALLY SELECTS ITS POI AT A SPRINT OFFICE?

A. Absolutely. As I discussed earlier, because AT&T has not obtained collocation space in a Sprint office or serving wire center, AT&T most frequently must deliver its traffic to Sprint by using special access services.[9] In such circumstances, AT&T has not installed its own facilities into Sprint's premises, and therefore the POIs that AT&T uses to deliver its traffic in such circumstances are not on AT&T's network. Rather, such AT&T POIs are on Sprint's network because the special access is a service riding on Sprint's network facilities.

Under Sprint's proposal, Sprint would be able to force AT&T to accept Sprint's traffic at such Sprint locations. To service that Sprint traffic, AT&T would be required to obtain additional special access services from Sprint back to AT&T's switch location. To add insult to injury, under Sprint's scheme Sprint would compensate AT&T at the much lower reciprocal compensation rates for the transport that AT&T would be providing for Sprint's traffic, using expensive special access services. This price squeeze is in direct conflict with 47 C.F.R. § 51-

[9] Special access facilities are substantially more expensive than comparable UNE dedicated transport. AT&T would be forced into this arrangement where AT&T has not constructed network into Sprint's operating territory, because ILECs are not required to provide unbundled dedicated transport between two ILEC territories.

703(b) which prohibits any LEC from assessing charges to another carrier for telecommunications that originates on the LEC's network.

In such circumstances, just as Sprint is seeking to have AT&T deliver its originating traffic to a point on Sprint's network (which AT&T agrees it will do), Sprint should accept a reciprocal obligation to deliver Sprint's traffic to a point on AT&T's network. Sprint's POI to deliver its traffic to AT&T should be on AT&T's network. A Sprint POI location on its own network and not on AT&T's network only should be allowed with AT&T's agreement.[10] Otherwise, AT&T would be harmed because AT&T would have to bear the cost of transporting Sprint's traffic.

Sprint should not be permitted to create a situation where AT&T is forced to buy facilities from Sprint at special access rates to carry Sprint's own traffic to AT&T's network. Accordingly, the requirement that AT&T provide interconnection at a point on Sprint's network should be rejected by the Commission.

Moreover, in order to resolve Issue 1, as discussed above, AT&T will

[10] As an alternative to Sprint delivering its traffic to the AT&T network, where AT&T leases special access facilities for network interconnection, AT&T would agree to the "mutual" POI provided Sprint agrees to compensate AT&T for the usage of such facilities at the Sprint tariffed rate for DS-1 and DS-3 special access, as appropriate.

agree that that Sprint may pay the proportional cost of the interconnection facility. However, if AT&T's cost is a special access rate (which is greater than Sprint's UNE rate), then Sprint should be required to share the greater cost and not arbitrarily limit its proportion to its TELRIC cost based rate.

Q. IN ORDER TO BETTER UNDERSTAND ISSUE 1, DO YOU HAVE ANY DIAGRAMS THAT CORRECTLY DEPICT THE OBLIGATIONS OF EACH PARTY UNDER THE FCC'S RULES AND UNDER THE COMPETING PROPOSALS OF AT&T AND SPRINT AS DISCUSSED ABOVE?

A. Yes. Rebuttal Exhibit DLT-1 is a depiction of the originating Party's financial obligations under current Federal Rules,[11] where the originating Party's POI is located at the terminating switch location. Rebuttal Exhibit DLT-2 is a depiction of the originating Party's financial obligations under current Federal Rules, where the originating Party's POI is not located at the terminating switch location. In both DLT-1 and DLT-2 the originating Party bears the cost to bring its traffic to the POI by providing an interconnection facility and compensates the terminating Party for any transport and termination that the terminating Party provides from the POI to the end user. Stated another way, each Party, when in the role of

originating carrier, bears the full cost of its traffic. Rebuttal Exhibit DLT-3 is a depiction of the interconnection arrangement specified in AT&T's proposed interconnection agreement language, where the originating Party's POI is located at the terminating switch location. Rebuttal Exhibit DLT-4 is a depiction of the interconnection arrangement specified in AT&T's proposed interconnection agreement language, where the originating Party's POI is not located at the terminating switch location. AT&T and Sprint have agreed to exchange traffic using a one-way trunking architecture. In such an arrangement, each Party's traffic is carried on a separate trunk group (*i.e.*, on separate transmission facilities). Accordingly, these diagrams show two separate traffic flow lines. The blue line represents the trunks that carry traffic originating on AT&T's network to Sprint, and the red line represents the trunks that carry traffic originating on Sprint's network to AT&T. Note that in each of these diagrams the originating Party bears the cost to bring its traffic to the POI via an interconnection facility and compensates the terminating Party for any transport and termination that the terminating Party provides. In other words, each Party has a comparable obligation to deliver, transport and terminate traffic. This precisely tracks the FCC Rules depicted in Rebuttal Exhibits DLT-1 and DLT-2.

[11] *See* 47 C.F.R. § 51 305(a)(2) and 47 C.F.R. § 51. 703 (b).

ISSUE 2: ESTABLISHMENT OF MID-SPAN FIBER MEET. May AT&T require the establishment of a Mid-Span Fiber Meet arrangement or is the establishment of a Mid-Span Fiber Meet arrangement conditional on the amount of traffic from one network to the other being roughly balanced? (Network Interconnection, Part E, Section 3.1.6.1)

AT&T's Position: AT&T, as a CLEC, may interconnect to Sprint's network using any technically feasible method of interconnection in accordance with Section 252(c)(2) of the Act. Sprint, as an ILEC, has a duty to provide Mid-Span Fiber Meet arrangements upon request in accordance with 47 C.F.R. § 51.321(b)(2). Sprint may only deny such a request if it proves to the Commission, with clear and convincing evidence, that specific and adverse impacts would result.

Sprint's Position: Sprint's obligation to construct facilities and establish a new meet point should not extend to situations where the traffic between the carriers is not in balance, as is the case when the CLEC's primary business interest is in providing Internet access.[12]

Q. DID SPRINT FILE DIRECT TESTIMONY REGARDING ISSUE 2?

A. Yes. Mr. Maples filed direct testimony on behalf of Sprint in this proceeding regarding Issue 2.

Q. IN MR. MAPLES' DIRECT TESTIMONY, DID SPRINT PROPOSE ANY NEW ARGUMENTS REGARDING ISSUE 2 WHICH AT&T PREVIOUSLY HAD NOT ADDRESSED IN YOUR DIRECT TESTIMONY?

A. No. On Page 14, lines 22-23, of Mr. Maples' direct testimony, Mr. Maples merely reiterates Sprint position from its negotiations with AT&T that "Sprint's terms at [Part E] 3.1.6.1 condition the obligation to provide meet point interconnection based on the balance of traffic between the parties." Thus, Sprint's arguments appear to be about

"fairness," rather than addressing Sprint's obligations under the FCC's Rules. Sprint attempts to justify its "fairness" argument based solely on its concerns regarding ISP bound traffic—again complaining that many CLECs have been successful in providing local service to their ISP customers. Notwithstanding Sprint's concerns about ISP-bound traffic, Sprint has clear and unrefuted obligations under applicable law to provide interconnection using any technically feasible method, including mid-span fiber meet arrangements.[13]

Q. WHAT ABOUT SPRINT'S ARGUMENTS REGARDING MID-SPAN FIBER MEET ARRANGEMENTS IN THE CONTEXT OF ISP BOUND TRAFFIC?

A. Sprint apparently has forgotten that the FCC already has dealt with the alleged market distortions that resulted from ISP-bound traffic in the *FCC's ISP Remand Order.*[14] The FCC put into effect a specific compensation regime applicable to ISP-bound traffic,[15] believing that it has taken the proper and necessary action to deal with any "market distortions" that Sprint asserts exists with respect to ISP-bound

---

[12] Sprint Response at Page 5.

[13] *Local Competition Order* at ¶¶549 and 553.

[14] *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic*, FCC Docket Nos.: 96-98, 99-68, Order on Remand and Report and Order, April 27, 2001, ("*FCC ISP Remand Order*").

[15] The *FCC ISP Remand Order* establishes (1) rate caps for ISP-bound traffic, (2) growth caps, beyond which there is no compensation for transport and termination and (3) new market limitations for which no compensation applies for transport and termination. See, FCC 01-131 ¶ 78-81.

traffic. As I discussed in my direct testimony, Sprint is undertaking for itself additional actions beyond what the FCC prescribed to correct market distortions resulting from ISP-bound traffic. As the Parties have agreed to implement the compensation terms of the FCC's ISP Remand Order, this addresses Sprint's concerns with the transport of ISP-bound traffic over a mid span fiber arrangements.

Q. SPRINT'S RESPONSE TO AT&T'S PETITION DRAWS A DISTINCTION BETWEEN INTERCONNECTION OBLIGATIONS FOR THE MUTUAL EXCHANGE OF TRAFFIC AND INTERCONNECTION FOR ACCESS TO NETWORK ELEMENTS. DOES AT&T AGREE THAT SPRINT'S OBLIGATION TO CONSTRUCT MEET POINT FACILITIES IS LIMITED ONLY TO THE ESTABLISHMENT OF AN INTERCONNECTION ARRANGEMENT FOR THE MUTUAL EXCHANGE OF TELECOMMUNICATIONS TRAFFIC?

A. Yes. AT&T agrees to this Sprint position and is not seeking to use mid-span fiber meet arrangements in order to gain access to unbundled network elements ("UNE's"). Accordingly, AT&T has placed its proposed language regarding mid-span fiber meet arrangements in Part E of the interconnection agreement which deals with network interconnection and does not cover UNE's.

ISSUE 3: MID-SPAN FIBER MEET CONSTRUCTION COSTS. When establishing a Mid-Span Fiber Meet arrangement, should AT&T and Sprint

equally share the reasonably incurred construction costs? (Network Interconnection Part E, Sections 3.1.6.9 and 3.1.6.10)

AT&T's Position: As AT&T and Sprint will share equally the capacity of a Mid-Span Fiber Meet arrangement, AT&T proposes that AT&T and Sprint should share (i.e., 50:50) the reasonably incurred construction costs for establishing a Mid-Span Fiber Meet arrangement.

Sprint's Position: Sprint should not be required to pay for construction outside of its exchange boundaries or for more than fifty percent (50%) of the facilities, whichever is less.[16]

Q. DID SPRINT FILE DIRECT TESTIMONY REGARDING ISSUE 3?

A. Yes. Mr. Maples filed direct testimony on behalf of Sprint in this proceeding regarding Issue 3.

Q. REGARDING MR. MAPLES' DIRECT TESTIMONY AT PAGE 21, LINES 2-3, IN WHICH HE STATES "SPRINT BELIEVES THAT IT SHOULD NOT BE REQUIRED TO CONSTRUCT FACILITIES OUTSIDE OF ITS EXCHANGE BOUNDARIES," WHY SHOULD SPRINT BE REQUIRED TO CONSTRUCT FACILITIES OUTSIDE OF SPRINT'S EXCHANGE BOUNDARIES?

A. Sprint has a double standard that discriminates against CLECs. Sprint applies one standard for the establishment of mid-span fiber meet arrangements between itself and other ILECs and another standard for the establishment of mid-span fiber meet arrangements between itself and CLECs. We believe Sprint has numerous mid-span fiber meet arrangements with other incumbent LECs. Specifically, in

[16] Sprint Response at Page 8.

his testimony, Mr. Maples makes reference to the FCC's assertion in the FCC's *Local Competition Order* that mid-span fiber meet arrangement are common between ILECs. Sprint does not dispute this. It also is not disputed that that mid-span fiber meet arrangements between two ILECs extend outside of the operating territory of each ILEC. This ILEC-to-ILEC mid-span meet fiber arrangement does not seem to be a problem for Sprint. However, if a CLEC switch lies outside Sprint's territory, then a mid-span fiber meet arrangement between Sprint and the CLEC is objectionable to Sprint. Sprint's only justification for its position: *"Sprint believes that it should not be required to construct facilities outside of its exchange boundaries."* Clearly, Sprint's discriminatory position is anti-competitive and is not supportable under applicable law.

Q. IN MR. MAPLES' DIRECT TESTIMONY AT PAGE 21, LINES 7-10, MR. MAPLES QUOTES FROM ¶553 OF THE FCC'S LOCAL COMPETITION ORDER WHICH PROVIDES ". . . THE PARTIES AND STATE COMMISSIONS ARE IN A BETTER POSITION THAN THE COMMISSION TO DETERMINE THE APPROPRIATE DISTANCE THAT WOULD CONSTITUTE THE REQUIRED REASONABLE ACCOMMODATION OF INTERCONNECTION." DOES THIS MEAN THAT SPRINT'S OBLIGATIONS TO PROVIDE MID-SPAN FIBER MEET ARRANGEMENTS ARE "UNBOUNDED"?

A. No. As Sprint points out in Mr. Maples' direct testimony, Sprint does not have an unbounded obligation to provide mid-span meet arrangements. In this respect, ¶ 553 of the Local Competition Order provides for the ". . . the limited build-out of facilities from that point [on Sprint's network] may constitute an accommodation of interconnection." Accordingly, Sprint, as an ILEC, has an obligation to accommodate *reasonable* requests to establish mid-span meet arrangements. What is reasonable can only be understood in context of AT&T's request, the volume of traffic to be exchanged and the amount of build-out required by Sprint to fulfill that request. It cannot be fairly understood in advance by some arbitrary distance limitation or operating boundary as Sprint proposes in this proceeding. Moreover, the manner in which the FCC has limited Sprint's obligations, creates a strong incentive for AT&T to make only reasonable requests for mid-span meet fiber arrangements or Sprint would be justified in refusing such requests under the terms of the interconnection agreement. Unreasonable requests on AT&T's part would only frustrate AT&T's efforts to interconnect with Sprint and delay the interconnection process. Therefore, it should be clear that including arbitrary distance limitations in the interconnection agreement, as Sprint proposes, would unfairly limit AT&T's rights and provide no additional benefit to Sprint than that which Sprint already has under applicable law.

Q. BUT DOESN'T SPRINT EMPHASIZE THAT THE BUILD-OUT OBLIGATION SHOULD BE LIMITED AND THAT IT IS THE COMMISSION'S ROLE TO DETERMINE REASONABLE LIMITATIONS?

A. Yes. However, in attempting to persuade the Commission that its exchange boundary is a reasonable limitation, Mr. Maples asserts at Page 21, lines 14-16, of his direct testimony that "AT&T's proposed language could be interpreted to force Sprint to absorb fifty percent (50%) of the cost of establishing a meet point interconnection arrangement between an AT&T switch in Atlanta and Sprint switch in Tallahassee." This assertion is false. As I discussed in Issue 1, AT&T has agreed that Sprint's obligations to carry traffic or compensate AT&T for transport is limited to the LATA in which the traffic originates.[17]

ISSUE 4: MID-SPAN FIBER MEET TRAFFIC. Should certain traffic types be excluded from interconnection via a Mid-Span Fiber Meet Arrangement? (Network Interconnection, Part E, Section 3.1.6.11)

AT&T's Position: All traffic for which AT&T has a right to interconnect to Sprint in accordance with Section 251(c)(2) of the Act may be exchanged via a Mid-Span Fiber Meet arrangement.

Sprint's Position: Sprint is not attempting to limit the types of traffic that are exchanged over fiber meet facilities. Sprint is simply intending to describe the compensation arrangement that applies to certain traffic routed

[17] *See*, Part E, § 4.1.3.2.

over fiber meet facilities, that is, that non-transit local traffic and non-local traffic are subject to bill and keep compensation arrangement.[18]

Q. DID SPRINT FILE DIRECT TESTIMONY REGARDING ISSUE 4?

A. Yes. Mr. Maples filed direct testimony on behalf of Sprint in this proceeding regarding Issue 4.

Q. ON PAGE 23, LINES 18-20, OF MR. MAPLES' TESTIMONY, MR. MAPLES STATES THAT "SPRINT DOES NOT AGREE THAT TRANSIT TRAFFIC (AT&T-ORIGINATED TRAFFIC TRANSITING THROUGH A SPRINT TANDEM TO ANOTHER CARRIER) IS SUBJECT TO BILL-AND-KEEP OR THAT AN ILEC HAS AN OBLIGATION TO CONSTRUCT FACILITIES FOR THAT PURPOSE." DOES THIS APPEAR TO BE SPRINT'S MAIN CONCERN REGARDING THE LANGUAGE PROPOSED BY AT&T RELATIVE TO ISSUE 4?

A. Yes. However, in this one sentence, Mr. Maples forgets what he stated one page earlier in his direct testimony that "[p]ursuant to the Act, any interconnection arrangement established under §251(c)(2) can be used for the transmission and routing of telephone exchange and exchange access. . ."[19] It is beyond dispute that transit traffic falls within the definition of "telephone exchange and exchange access." Yet Sprint still objects. This is simply anti-competitive behavior

[18] Sprint Response at Page 9.
[19] Maples Direct Testimony at Page 22, lines 19-21.

because Sprint suffers absolutely no harm by the carriage of transit traffic across a mid-span fiber meet arrangement. First, with respect to transit traffic originating on AT&T's network, AT&T would place that traffic on the mid-span fiber meet arrangement channels allocated to AT&T. As that traffic does not affect the capacity allocated to Sprint, Sprint suffers no loss. Second, with respect to transit traffic originating on a third-party's network, Sprint (subject to the terms of its agreement with the third-party) is responsible for delivering the third-party's transit traffic to the POI that Sprint has with AT&T and the third party would compensate Sprint for the transit functions it provides. Sprint would have the obligation to delivery this traffic to AT&T whether or not Sprint and AT&T had a mid-span meet arrangement in place. Without a mid-span fiber meet arrangement, Sprint would likely have only a higher-cost option available to use. Sprint certainly cannot be arguing that it is harmed because it has a lower cost option to deliver transit traffic to AT&T. Obviously, in neither of these cases does Sprint suffer any loss.

ISSUE 5: DEFINITION OF LOCAL CALLING AREA. How should AT&T and Sprint define Local Calling Area for purposes of their interconnection agreement? (Network Interconnection, Part E, section 4.1)

AT&T's Position: AT&T proposes the Florida Public Service Commission's definition of Local Calling Area as ordered in Docket No. 000075-TP.

Sprint's Position: Sprint believes the default definition of Local Calling Area set forth in Docket No. 000075-TP is "skewed" to the CLECs and a disincentive to negotiations.[20]

Q. DID SPRINT FILE DIRECT TESTIMONY REGARDING ISSUE 5?

A. Yes. Mr. Maples and Mr. Kenneth J. Farnan filed direct testimony on behalf of Sprint in this proceeding regarding Issue 5.

Q. WHAT IS SPRINT'S CONCERN REGARDING IMPLEMENTATION OF THE COMMISSION'S DEFINITION OF LOCAL CALLING AREA AS ORDERED BY THE COMMISSION IN DOCKET NO. 000075-TP?[21]

A. Sprint is concerned about the "costs" associated with implementing alleged billing changes in order to comply with the Commission's definition of Local Calling Area from Docket No. 000075-TP.

Q. DID SPRINT INDICATE HOW MUCH THESE CHANGES WOULD COST?

A. Yes. On page 4, lines 7-14, of Mr. Farnan's direct testimony, he estimates the cost to "design, code and implement" the changes would be $3.5 Million, plus another $12 Million for computer storage of the billing tables, plus another $10,000 "set-up" charge per carrier.

---

[20] Sprint Response at Page 11.

[21] *In Re: Investigation into Appropriate Methods to Compensate Carriers for Exchange of Traffic Subject to Section 251 of the Telecommunications Act of 1996*, Florida PSC Docket No. 000075-TP, FL PSC Order PSC-02-1248-FOF-TP, September 10, 20002 ("*Florida Reciprocal Compensation Order*").

Q. DID MR. FARNAN PROVIDE ANY SUPPORT FOR THESE NUMBERS?

A. None whatsoever. Mr. Farnan produced no work papers, no analysis and no cost studies to support any of Sprint's numbers.

Q. DID MR. MAPLES PROVIDE ANY INFORMATION REGARDING HOW MUCH THESE CHANGES WOULD COST?

A. No. Mr. Maples merely states on page 27, lines 1-10, of his direct testimony that the billing changes would be "costly" based on billing changes which Sprint has made to implement reciprocal compensation on the basis of ILEC Local Calling Areas. Thus, Mr. Maples also failed to provide the Commission with any data – *hard or soft* – to support Sprint's alleged costs to implement such billing changes. Accordingly, once again Sprint is before this Commission arguing for the adoption of its antiquated Local Calling Area without providing the Commission with any evidence to support its allegations regarding costs associated with billing changes. The Commission heard and rejected these same Sprint "cost" arguments in Docket No. 000075-TP. Likewise, it should reject Sprint's argument in this proceeding. Moreover, the Commission should send a strong signal to Sprint and other ILEC's which want to force competitors to adopt their Local Calling Areas that the Commission is not going to address this

issue without verifiable cost studies to back up ILEC claims of exorbitant billing costs.

Q. COULDN'T SPRINT AVOID MOST OF THESE BILLING COSTS BY USING A BILLING "FACTOR" (SUCH AS A "PERCENT LOCAL USAGE" FACTOR) TO BILL FOR TRAFFIC RATHER THAN USING ONLY INFORMATION RECORDED BY ITS SWITCHES?

A. Yes, that would be a logical solution – in fact it's a solution used by BellSouth and other ILECs. However, on page 28, lines 10-14, of Mr. Maples' direct testimony, he states that "Sprint deliberately designed [its] process not to depend upon factors due to the historical inaccuracy of that approach ..." Thus, based on Mr. Maples' own statement, Sprint's implementation of a cheaper factor method is a calculated business decision on Sprint's part to develop a more complex billing system which does not fit the needs of the modern regulatory environment. AT&T and other competitors of Sprint should not be penalized because of a business judgment made by Sprint. Additionally, the fact remains that yet another time Sprint is before this Commission complaining about the Commission's Order in Docket No. 000075-TP, without one shred of back-up data to support its billing costs argument, including no back-up data to support its claim that utilizing a factor to generate bills leads to inaccurate bills.

Q. DID MR. MAPLES OR MR. FARNAN RAISE OTHER CONCERNS REGARDING IMPLEMENTING THE COMMISSION'S ORDER IN DOCKET NO. 000075-TP?

A. Yes. On page 25, lines 15-19, of Mr. Maples' direct testimony, he also states "Sprint cannot implement [the Commission's Order in Docket No. 000075-TP] without knowing *all* of its ramifications ... ."

Q. IS IT CLEAR WHAT MR. MAPLES MEANT BY "ALL RAMIFICATIONS"?

A. No. However, in a following question on page 25, lines 21-23, Mr. Maples indicates that Sprint and AT&T had "no substantial discussions on "implementation issues."

Q. TO MR. MAPLES' POINT, DID SPRINT EVER ASK AT&T TO ENGAGE IN DISCUSSIONS REGARDING ANY "RAMIFICATIONS" OR "IMPLEMENTATION ISSUES" REGARDING IMPLEMENTING THE COMMISSION'S ORDER IN DOCKET NO. 000075-TP?

A. No, and the Parties have been negotiating this interconnection agreement for over a year.

Q. WHAT DO YOU MAKE OF SPRINT'S ARGUMENTS REGARDING LOCAL CALLING AREA AS SET FORTH IN MESSRS. MAPLES' AND FARNAN'S DIRECT TESTIMONY?

A. Sprint is using Issue 5 as just another effort to overturn the Commission's Order in Docket No. 000075-TP. Given the billing systems utilized by both Sprint and AT&T it is hard to imagine that Sprint truly is worried about billing problems with AT&T. Rather, Sprint may be more concerned about other carriers whose billing systems are not as mature as AT&T's. In this respect, Sprint should save its concerns for arbitrations with other carriers which present billing dispute risks. Accordingly, in this arbitration the Commission should continue to enforce its Order from Docket No. 000075-TP relative to establishment of a carrier's Local Calling Area by adopting AT&T's proposed language for the same.

ISSUE 6: DEFINITION OF LOCAL TRAFFIC. How should AT&T and Sprint define Local Traffic for purposes of their interconnection agreement? (Network Interconnection, Part E, Section 4.1).

AT&T's Position: AT&T proposes a definition of Local Traffic that is consistent with the *FCC's ISP Remand Order* dated April 27, 2001, which provides that all telecommunications traffic is subject to reciprocal compensation in accordance with Section 251(b)(5) of the Act, except for exchange access traffic subject to Section 251(g) of the Act and ISP-Bound Traffic.

Sprint's Position: Sprint agrees that Local Traffic is subject to reciprocal compensation, but does not agreed that traffic that originates and terminates outside of the local calling area is "local," as that term is generally understood by most parties.[22]

Q. DID SPRINT FILE DIRECT TESTIMONY REGARDING ISSUE 6?

[22] Sprint Response at Page 15.

A. Yes. Mr. Maples filed direct testimony on behalf of Sprint in this proceeding regarding Issue 6.

Q. WHAT APPEARS TO BE SPRINT'S MAJOR CONCERN WITH AT&T'S PROPOSED LANGUAGE REGARDING ISSUE 6?

A. On Page 32, lines 5-8, Mr. Maples agrees with AT&T that all telecommunications traffic is subject to reciprocal compensation except for traffic " . . . that is interstate or intrastate exchange access, information access, or exchange services for such access. (47 C.F.R. §51.701(b)(1)." AT&T's proposed language provides a definition of Local Traffic, which is consistent with the *FCC's ISP Remand Order* and the DC Circuit's *Remand* regarding such *Order* which provides that all telecommunications traffic is subject to reciprocal compensation in accordance with § 251(b)(5) of the Act, except for traffic subject to the §251(g) "carve out" provisions. The DC Circuit, however, did not vacate the FCC's pricing regime for ISP-bound traffic, and therefore, ISP-bound traffic is subject to the price caps and pricing provisions which the FCC established in its *ISP Remand Order.* Thus, there should be no dispute regarding Issue 6. However, on Page 32, lines 14-16, Mr. Maples states ". . . Sprint but does not agree that traffic that originates and terminates outside of the local calling area is "local" as that term is *generally understood by most parties.*" [emphasis added] Thus, Sprint appears to be more concerned *about*

what others think about the definition of Local Traffic in its interconnection agreement with AT&T, rather than negotiating language that is consistent with both Sprint's and AT&T's obligations under applicable law as to what constitutes Local Traffic for purposes of reciprocal compensation purposes.

Q. WHAT ABOUT MR. MAPLES' DIRECT TESTIMONY AT PAGE 32, LINES 20-25, WHERE HE DISCUSSES THE FACT THAT CMSR TRAFFIC ORIGINATED AND TERMINATED WITHIN THE SAME MTA IS SUBJECT TO RECIPROCAL COMPENSATION EVEN THOUGH SUCH TRAFFIC IS NOT LOCAL TRAFFIC FROM AN ILEC'S RETAIL END-USER'S PERSPECTIVE?"

A. Mr. Maples makes AT&T's point perfectly—that what constitutes Local Traffic for reciprocal compensation purposes is not at all dependent on the ILEC's local calling area. In the interconnection agreement being negotiated between AT&T and Sprint, Local Traffic is subject to reciprocal compensation—thus the Parties must define Local Traffic consistent with applicable law. In this respect, CMRS traffic is a good example of traffic that may be "toll" on a retail basis, yet "local" or subject to reciprocal compensation on an intercarrier basis. Clearly, Sprint's objections to AT&T's proposed language regarding the definition of Local Traffic based on "what others will think" is not acceptable and should be rejected by the Commission. AT&T's

proposed definition of Local Traffic is consistent with applicable law. Sprint does not dispute this fact. Accordingly, the Commission should adopt the definition of Local Traffic proposed by AT&T.

ISSUE 7: VOICE OVER INTERNET PROTOCOL. How should traffic originated and terminated by telephone and exchanged by the parties and transported over internet protocol (in whole or in part, including traffic exchanged between the parties originated and terminated to enhanced service providers) be compensated? (Network Interconnection, Part E, Section 4.1.2)

AT&T's Position: Determining compensation for Voice Over Internet Protocol ("VOIP") traffic is not an appropriate issue in this arbitration. In Docket No. 000075-TP, the Commission previously determined that compensation regarding VOIP traffic was not "ripe" for consideration. Subsequent to the Commission's Order in this Docket, on October 18, 2002 AT&T filed with the FCC its "Petition For Declaratory Ruling That Phone-To-Phone IP Telephony Services Are Exempt From Access Charges." Recognizing the pendency of this AT&T Petition at the FCC, on December 31, 2002 in Docket No. 021061-TP, the Commission declined to address whether phone-to-phone IP telephony services constitute "telecommunications" under Florida law, noting that "the FCC currently is considering a similar matter." In such Order, the Commission specifically found that "it would be administratively inefficient" to make such a determination while this FCC proceeding was underway.

Sprint's Position: Sprint's proposed language addresses phone-to-phone voice over internet protocol services in order to "close a loophole" being used by various carriers to avoid payment of access charges.[23]

Q. DID SPRINT FILE DIRECT TESTIMONY REGARDING ISSUE 7?

A. Yes. Mr. James R. Burt filed direct testimony on behalf of Sprint in this proceeding regarding Issue 7.

[23] Sprint Response at Page 16.

Q. IN MR. BURT'S DIRECT TESTIMONY, DID SPRINT MAKE ANY *NEW* ARGUMENTS REGARDING WHY THE COMMISSION SHOULD ESTABLISH A COMPENSATION REGIME FOR VOIP TRAFFIC WHILE AT&T'S VOIP PETITION IS PENDING AT THE FCC?

A. No. The vast majority of Sprint's arguments center on its allegation that increased VOIP traffic is causing Sprint to lose access revenues. I will address Sprint's "the sky is falling" argument further below, but first I believe it necessary to reiterate AT&T's position that the Commission should not address compensation for VOIP traffic in the context of this arbitration. As the Commission will recall, my direct testimony sets forth in great detail the many reasons why the Commission should not rule on compensation for VOIP traffic in the context of this arbitration. Thus, I will not repeat them here. Accordingly, to the extent I have provided testimony to rebut Sprint's direct testimony, I am doing so solely to "correct the record," and not because AT&T believes it appropriate for the Commission to consider the complex technical and regulatory issues raised by Sprint relative to compensation for VOIP traffic.

Q. YOU MENTIONED SPRINT'S "THE SKY IS FALLING" ARGUMENT. WHAT DO YOU MEAN BY THIS REFERENCE?

A. In Mr. Burt's direct testimony at page 3, lines 19-24, he alleges a two-prong "the sky is falling" argument. First, he asserts that Sprint "is

losing significant access revenue from AT&T for Phone-to-Phone VOIP traffic," and second, compensation for VOIP traffic is a "critical issue which if not resolved will potentially result in a *massive change* in how long distance carriers route their traffic."[24] In other words, Mr. Burt uses traditionally scare tactics in an attempt to persuade the Commission to disregard its prior Orders regarding VOIP traffic.

Q. IS SPRINT REALLY "AT RISK" THAT IT WILL LOSE ACCESS REVENUES FOR VOIP TRAFFIC WITH NO REGULATORY OVERSIGHT TAKING PLACE?

A. No. To the contrary, in its "Intercarrier Compensation Notice of Proposed Rulemaking,"[25] the FCC will determine how all telecommunications carriers, including local and long distance carriers, will compensate each other. Thus, irrespective of what Sprint claims, "massive change" appears to be coming, driven by advances in technology (e.g. the economics of packet networking) and regulatory objectives (e.g. a the benefits of a unified compensation regime, elimination of implicit subsidies and competition).

Q. WHAT HAS BEEN THE INDUSTRY'S REACTION TO THE FCC'S *INTERCARRIER COMPENSATION NPRM*?

---

[24] Burt Direct Testimony at Page 3. [emphasis added]

[25] *Development a Unified Intercarrier Compensation Regime*, Notice of Proposed Rule Making, FCC Docket 01-92, April 27, 2001 at ¶170, ("*InterCarrier Compensation NPRM*").

A. In just the past thirteen (13) weeks, there have been over fifty (50) ex partes filed with the FCC, with many of the industry's major players proposing collaborative solutions. Thus, in analyzing the numerous comments made by the industry in the *Intercarrier Compensation NPRM*, the FCC will have many compensation approaches before it, *including those of Sprint.*[26]

Q. IS VOIP TRAFFIC A PART OF INTERCARRIER COMPENSATION REFORM?

A. Yes, but it is just *one part* of intercarrier compensation reform—and that's the point sorely missed by Sprint in its "the sky is falling" argument. In the "big picture" of compensation issues (e.g., access reform, local, and CMRS reciprocal compensation reform and universal service), VOIP is but a small part of intercarrier compensation reform. Thus, in direct contravention of "piece meal" reform which Sprint advocates in this proceeding, the FCC is taking a systematic and comprehensive approach to all compensation issues in its *Intercarrier Compensation NPRM.* Included in this analysis is *AT&T's VOIP Petition* which I also previously discussed in my direct testimony. Accordingly, the Commission should give the FCC the time

---

[26] *Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, See, specifically, Sprint's letters dated June 3, 2003, May 19, 2003 and April 25, 2003, RE: Ex Parte Presentation Unified Intercarrier Compensation Regime, CC Docket No. 01-92, from Norina Moy, Director, Federal Regulatory Policy and Coordination – Sprint to Marlene H. Dortch, Secretary, FCC.

which it needs to do its work regarding compensation reform.

Q. ISN'T SPRINT MERELY ARGUING THAT THERE SHOULD NOT BE A DIFFERENT COMPENSATION SCHEME FOR VOIP TRAFFIC BECAUSE VOIP TRAFFIC USES A DIFFERENT TECHNOLOGY TO TRANSPORT A CALL?

A. Yes, that is absolutely what Sprint is arguing—and that argument should not be addressed in this context. In fact, as discussed below, the FCC has agreed that it may be inappropriate to have different compensation mechanisms apply simply because a portion of the network used to transport a call uses a different technology, but the fact remains that disparate compensation schemes exist today. Take for example wireline and wireless technology. Both of these different technologies are used to originate and terminate local exchange traffic. Yet, the regulators have established two very different compensation regimes. Specifically, in its *Intercarrier Compensation NPRM*, the FCC is questioning whether these different compensation regimes should be perpetuated.[27] In this respect, VOIP traffic is just another example of a differing compensation regime for different types of traffic.

[27] *Intercarrier Compensation NPRM* at ¶ 16 .

Q. IS THERE AN EXAMPLE WHERE THE FCC HAS ADOPTED A DIFFERENT COMPENSATION SCHEME BASED ON DIFFERENCES IN TECHNOLOGY IN ORDER TO PROMOTE THE PUBLIC INTEREST?

A. Yes. To put Sprint's "the sky if falling" argument in perspective, Sprint obviously is not railing against the substantial advantage its CMRS affiliate has over long distance carriers in the avoidance of exchange access charges. If Sprint's true goal were to help the Commission avoid a "massive change in how long distance carriers route their traffic," Sprint should be encouraging the Commission and other regulators first to consider the "massive migration" of long distance traffic to CMRS providers. AT&T is not suggesting that the Commission should do so here. Rather, AT&T is suggesting that Sprint's one-sided assertion that VOIP traffic will lead to "massive change" in how long distance traffic is routed is disingenuous. The migration to VOIP traffic and long distance CMRS traffic are not unrelated. Yet, Sprint asserts that the Commission should act on the VOIP issue and ignore all of the other industry interrelated compensation issues confronting the industry. The complexity of these issues is best left to the FCC for initial guidance at this point.

Q. ON PAGE 7, LINES 4-29, MR. BURT PROVIDES A DESCRIPTION OF VOIP TECHNOLOGY IN SPRINT'S TESTIMONY. DID HE ALSO

APPROPRIATELY DISCUSS THE REGULATORY IMPLICATIONS OF VOIP TECHNOLOGY?

A. No. In fact Mr. Burt completely ignored the regulatory ramifications in his description. Specifically, the FCC has given providers of enhanced and information services ("ESPs") the option of acting as end users and subscribing to flat-rate business lines and other end user services in lieu of switched access.[28] Following passage of the Act, the FCC made this exemption permanent.[29] Furthermore, the FCC has elected to treat VOIP as an information service free from access charges today.[30] Accordingly, Mr. Burt's description of VOIP technology ignores the fact that ESP's lawfully are exempt from access charges.

Q. REGARDING COMPENSATION FOR VOIP CALLS, IN MR. BURT'S TESTIMONY ON PAGE 8, LINES 11-14, HE STATES ". . . IF THE END POINTS OF THE CALL DEFINE THE CALL AS AN INTERSTATE CALL, INTERSTATE ACCESS CHARGES APPLY. . . IF THE END POINTS DEFINE THE CALL AS INTRASTATE, INTRASTATE ACCESS CHARGES APPLY. . . IF THE END POINTS OF THE CALL DEFINE THE CALL AS LOCAL TRAFFIC,

---

[28] See, e.g., MTS and WATS Market Structure, 97 FCC 2d 682, ¶77 (1983)
[29] Access Charge Reform, First Report and Order, 12 FCC Rcd. 15982, ¶ 344 (1997).
[30] In *the Matter of Federal-State Joint Board on Universal Service, Report to Congress*, 13 FCC Rcd. 11501, 11541-51 ¶¶ 90-91.

RECIPROCAL COMPENSATION CHARGES APPLY." DOES AT&T AGREE WITH MR. BURT'S STATEMENT?

A. No. Once again, Mr. Burt tells only half of the story. The appropriate intercarrier compensation is not determined *only* by "end points of a call," but rather by traffic type and end points. For example, CMRS traffic gets different compensation treatment than wireline traffic.[31] Likewise, as discussed above, VOIP traffic is treated as an information service exempt from exchange access charges. The FCC has also found that ISP traffic is interstate and that local interconnection charges should apply.

Q. IN MR. BURT'S TESTIMONY ON PAGE 13, LINES 7-10, HE ALSO SUGGESTS THAT CARRIERS USING VOIP TECHNOLOGY ARE VIOLATING FLORIDA LAW BY USING "LOCAL INTERCONNECTION FACILITIES" TO AVOID ACCESS CHARGES? ARE YOU FAMILIAR WITH THIS STATUTE?

A. Yes. Section 364.16(3)(b), Florida Statutes, states that "No local exchange telecommunications company or alternative local exchange telecommunications company shall knowingly deliver traffic, *for which terminating access service charges would otherwise apply,* through a local interconnection arrangement without paying the appropriate charges for such terminating access service." [emphasis added] The

[31] See, 47 C.F.R. § 51.701(b)(2)

problem with Sprint's interpretation of this statute is that it "puts the cart before the horse." Obviously, an underlying requirement for the statute to apply *is a prior finding by the Commission that access charges apply to VOIP traffic.* Such finding clearly has not occurred.

Q. IN YOUR DIRECT TESTIMONY, YOU PROVIDED GREAT DETAIL REGARDING AT&T'S VOIP PETITION WHICH IS PENDING AT THE FCC TO WHICH MR. BURT SIMPLY STATES ON PAGE 15, LINES 22-23, ". . . IT IS IMPOSSIBLE TO SAY WHEN THERE WILL BE A FINAL ENFORCEABLE ORDER FROM THE FCC." WHAT IS YOUR REACTION?

A. The question is not whether there is certainty in a forthcoming order from the FCC, but whether this Commission should insert itself into an extremely complicated set of interrelated questions which the FCC already has undertaken to address. The Commission previously answered this question "no" in the context of its December 31, 2002 *CNM Networks, Inc. Order.*[32] Sprint has provided no basis on which the Commission should overrule its prior determination.

Q. IN MR. BURT'S TESTIMONY ON PAGE 16, LINES 3-5, HE ALSO

---

[32] *In Re: Petition Of CNM Networks, Inc. For Declaratory Statement That CNM's Phone-To-Phone Internet Protocol (IP) Telephony Is Not "Telecommunications" And That CNM Is Not A Telecommunications Company Subject to Florida Public Service Commission Jurisdiction,* FL PSC Docket No. 021061-TP, Florida PSC Order –02-1858-FOF-TP, December 31, 2002 ("*CNM Networks, Inc. Order*")

STATES ". . . IT IS POSSIBLE THAT THE FCC MAY ISSUE AN ORDER IN THE DOCKET OPENED FOR THE AT&T PETITION THAT WOULD HAVE NO EFFECT ON FLORIDA INTRASTATE TRAFFIC. . . IT IS MY LAYMAN'S UNDERSTANDING THAT AN FCC ORDER MAY ONLY ADDRESS JURISDICTIONALLY INTERSTATE TRAFFIC AND THAT FLORIDA MAY BE REQUIRED TO ADDRESS THE ISSUE FOR SERVICES THAT ARE JURISDICTIONALLY INTRASTATE." DO YOU AGREE WITH SPRINT'S SUGGESTION THAT THE FCC MAY NOT DEAL WITH INTRASTATE VOIP TRAFFIC IN DEALING WITH AT&T'S VOIP PETITION?

A. No. Once again, Mr. Burt's testimony completely ignores my earlier point that the FCC is well positioned to provide guidance regarding this complex intercarrier compensation issue in the context of its *Intercarrier Compensation NPRM,* as well as responding to *AT&T's VOIP Petition.* Moreover, under the Act, it is well know that the FCC has been given responsibility for implementing various provisions of the Act which impact both interstate and intrastate traffic.[33] Additionally, when the Commission previously issued its *CMN Networks, Inc. Order* (declining to rule on VOIP traffic while AT&T's VOIP Petition was pending at the FCC), the Commission was not concerned with Sprint's antiquated jurisdictional argument. Nothing has changed in the last six months which should change the

[33] See, §251(d) of the Act.

Commission's perspective regarding future guidance from the FCC regarding compensation for VOIP traffic. Even assuming, *arguendo*, the FCC does not address intrastate VOIP traffic, nothing would preclude the Commission from establishing a proceeding to address that traffic after receiving guidance from the FCC regarding compensation for interstate VOIP traffic.

Q. IN MR. BURT'S TESTIMONY ON PAGE 16, LINES 15-19, HE ALSO STATES THAT ". . . DEPENDING ON THE BASIS FOR THE [THIS COMMISSION'S] DECISION REGARDING THE APPLICATION OF ACCESS CHARGES TO PHONE-TO-PHONE VOIP, OTHER SERVICES BESIDES INTRASTATE TOLL COULD ALSO BE IMPACTED. . . IF, FOR EXAMPLE, A DECISION IS MADE THAT ACCESS CHARGES SHOULDN'T APPLY, THEN SERVICE PROVIDERS MIGHT USE THAT DECISION TO SUGGEST OTHER IP-BASED SERVICES SHOULDN'T BE SUBJECT TO REGULATION, INCLUDING PERHAPS LOCAL SERVICE." WHAT IS YOU REACTION TO THIS SPRINT TESTIMONY?

A. Again, this is mere "suggestion" on Sprint's part and completely speculative.

Q. ON PAGE 17, LINES 7-21, MR. BURT ALSO DISCUSSES A DECISION BY THE NEW YORK PUBLIC SERVICE COMMISSION IN

A COMPLAINT BROUGHT BY FRONTIER TELEPHONE OF ROCHESTER, INC. AGAINST US DATANET CORPORATION ("DATANET") REGARDING DATANET'S FAILURE TO PAY INTRASTATE ACCESS CHARGES. WHAT WAS INVOLVED IN THIS PROCEEDING?

A. In the DataNet proceeding, the New York Commission reviewed a report which the FCC had provided Congress regarding universal service in considering DataNet's liability for access charges.[34] The New York Commission relied on a statement by the FCC in the report that it "*may* find it reasonable" that IP telephony providers pay access charges in future FCC proceedings. The New York Commission, ignoring the FCC's use of the qualifiers "may," "in the future," and "difficult and contested proceedings," imposed access charges on DataNet. Given the New York's Commission's apparent confusion regarding the FCC's statements applying access charges to VOIP traffic, the DataNet decision cannot be viewed as compelling in this proceeding.

Q. IN MR. BURT'S TESTIMONY AT PAGE 18, LINES 4-10, HE ALSO MENTIONS TWO DECISIONS OF THE COLORADO COMMISSION REGARDING VOIP TRAFFIC? WHAT IS THE PREVAILING LAW IN

[34] See, *In the Matter of Federal-State Joint Board on Universal Service, Report to Congress*, 13 FCC Rcd. 11501, 11541-51 ¶¶ 83-84 (discussing IP Telephony).

COLORADO REGARDING VOIP TRAFFIC?

A. In a very straightforward decision, the Colorado Commission has held that ILEC's may apply access charges for the use of their networks to terminate Phone-To-Phone IP telephony services.[35]

Q. WHAT AGAIN IS AT&T'S POSITION REGARDING ISSUE 7?

A. For all the reasons set forth in my direct testimony and above, the Commission should not view Sprint's the "sky is falling" argument as justification to rule on the complex issue of compensation for VOIP traffic in the context of this arbitration proceeding. Instead, as the Commission previously has ruled, the Commission should await further guidance from the FCC regarding compensation for VOIP traffic before making a decision which will impact the entire telecommunications industry in Florida.

ISSUE 8: ISP Bound Traffic. Should ISP-Bound Traffic be limited to calls to an information service provider or internet service provider which are dialed by using a local call dialing pattern? (Network Interconnection, Part E, Section 4.2.1)

AT&T's Position: No. ISP-Bound Traffic are calls delivered to an information service provider or internet service provider and may or may not originate and terminate within a Local Calling Area.

Sprint's Position: AT&T has proposed language that provides that any ISP-bound traffic should be compensated according to rates set forth in the *FCC's ISP Remand Order*, regardless of whether the call otherwise would be a local call or a toll call. AT&T appears to base its position on the FCC's

[35] *Petition by ICG Telecom Group, Inc., for Arbitration of an Interconnection Agreement with U.S. West Communications, Inc.* No. C00-858; Colo. Pub. Util. Comm'n Aug. 1, 2000).

determination in the *ISP Remand Order* that all ISP-bound traffic is jurisdictionally interstate, whether or not the call technically terminates within a local calling area. Sprint believes that the FCC's *ISP Remand Order* logically cannot be interpreted to support AT&T's position.[36]

Q DID SPRINT FILE DIRECT TESTIMONY REGARDING ISSUE 8?

A. Yes. Mr. Maples filed direct testimony on behalf of Sprint in this proceeding regarding Issue 8.

Q. WHAT SUPPORT DOES SPRINT PROVIDE FOR ITS POSITION THAT THE *FCC'S ISP ORDER ON REMAND* ALLOWS SPRINT TO LIMIT COMPENSATION FOR ISP-BOUND TRAFFIC *ONLY TO ISP-BOUND TRAFFIC DIALED WITH A LOCAL DIALING PATTERN*?

A. Absolutely none. Sprint simply provides no support for this assertion which flies in the face of the plain wording of the *FCC's ISP Order on Remand.* As I stated in my direct testimony, the *FCC's ISP Remand Order* is broad in scope and has none of the limiting terms that Sprint seeks to impose in this proceeding.

Q. WHAT ABOUT MR. MAPLES' STATEMENTS AT PAGE 43, LINES 18-21, THAT AT&T CREATES A DISPARATE SITUATION "WHERE VOICE TOLL TRAFFIC *WOULD BE* SUBJECT TO ACCESS CHARGES WHILE TOLL-DIALED ISP-BOUND TRAFFIC *WOULD BE* SUBJECT TO THE COMPENSATION DEFINED IN THE FCC'S ISP

[36] Sprint Response at Page 19.

REMAND ORDER"?

A. There is no "would be" under the *FCC's ISP Remand Order.* One must only read the *Order* to appreciate the absurdity of Sprint's position regarding Issue 8. It is plain on its face that the *FCC's ISP Remand Order* applies to *all* ISP-bound traffic. AT&T did not make this up. The FCC understood what it was writing. Moreover, it makes perfect sense that the *FCC's ISP Remand Order* applies to all ISP-bound traffic when you consider that the FCC preempted the states for all ISP-bound traffic, *and not just locally dialed ISP-bound traffic.* The FCC's preemption was based on the FCC's view that ISP-bound traffic travels beyond the originating and terminating points of the telephony portion of the communication to a distance internet server (typically interstate).[37] Why would the FCC only preempt the states for only locally dialed ISP calls (that travel interstate) and not for non-locally dialed calls (that travel interstate)? It would not, and it did not.

Q. WHAT DOES AT&T SEEK FROM THE COMMISSION REGARDING ISSUE 8?

A. AT&T only seeks to have the interconnection agreement between Sprint and AT&T implement the *FCC's ISP Remand Order* and the DC Circuit's *Remand* of this *Order* as written and not assume that each means something other than what is plainly stated in those decisions.

[37] *ISP Remand Order* at ¶ 14.

Specifically, the *FCC's ISP Remand Order* did not specifically address situations where a party reaches its ISP via a toll dialing pattern, largely because it was generally accepted in the industry that such calls were long distance calls, subject to applicable toll and access charges.

Q. HOW DO YOU RESPOND TO MR. MAPLES' DIRECT TESTIMONY AT PAGE 35, LINES 4-17, REGARDING VARIOUS OPERATIONAL ISSUES RESULTING FROM CALLS MADE TO ISP'S USING A TOLL DIALING PATTERN?

A. First, the interconnection agreement being negotiated is not between Sprint and AT&T, as an interexchange carrier, but between Sprint and AT&T, as a CLEC. Second, Sprint statement that ". . . the service being provided is a tariffed access service for which there if no local service substitute. . . " is in direct conflict with 47 C.F.R. §51.701 which states that all traffic is subject to reciprocal compensation unless it is exchange access or information access "carved-out" by §251(g) of the Act. The DC Circuit Court has determined that ISP-bound traffic is not "carved-out" by § 251(g) of the Act. Therefore, reciprocal compensation must apply to this traffic. Moreover, the FCC has preempted the state commissions on this matter. As a result, as I discussed in my direct testimony, this Commission is powerless to even order what Sprint is requesting in this proceeding. Third,

relative to traffic on trunks not meeting the 3:1 ratio for determining ISP-bound traffic, under the *FCC's ISP Remand Order*, all traffic above the 3:1 ratio is rebuttably presumed to be ISP bound traffic. Either party is free to rebut the presumption. Sprint's stated concern is premature, as at this time AT&T is not seeking to rebut this presumption. However, the Commission cannot arbitrarily limit AT&T's ability to rebut the presumption at a later date. This would be the practical affect of the Commission finding in Sprint's favor regarding Issue 8. And finally, fourth, regarding Sprint's repeated concerns that it would need to modify it billing systems to comply with applicable law, *the law is the law and Sprint has an undisputed obligation to comply with the FCC's ISP Remand Order.* All carriers must update their billing systems from time to time to comply with the law. Sprint certainly cannot be asserting that it is s exempt from the law because it would incur costs to update its billing systems. If that is the case, Sprint should take its complaint to the FCC or the courts, and not to this Commission in the context of a §252 arbitration. Moreover, as I discussed in my direct testimony, this Commission has no authority to modify the *FCC's ISP Remand Order* and declare that it only applies to locally dialed calls to ISP. It has been preempted from doing so.

ISSUE 9: TRANSPORT OF ISP-BOUND TRAFFIC. (a) Should AT&T be required to compensate Sprint for the transport of ISP-Bound Traffic between Sprint's originating local calling area and a POI outside Sprint's

local calling area? (b) Do the compensation obligations change when a virtual NXX is used? (Network Interconnection, Part E, Section 4.2.5)

AT&T's Position: (a) No. Each originating carrier has the obligation to deliver its traffic to the POI to the terminating Party's network and, in accordance with 47 CFR 51.703(b), a LEC may not assess charges on any other carrier for local telecommunications traffic that originates on the LEC's network. (b) No.

Sprint's Position: Resolution of intercarrier compensation is not based solely on the selection of a Section 251(c)(2) POI, but also is impacted by the type and jurisdiction of the traffic transported to and exchanged at the POI. Because ISP-bound traffic is not traffic subject to reciprocal compensation, 47 C.F.R. 51.703(b) does not apply to ISP-bound traffic. However, Sprint will "absorb" the cost of transport for ISP-bound traffic when it is within Sprint's local calling area and only seeks payment when it transports ISP-bound traffic outside of Sprint's local calling area, and then at total element long run incremental rates ("TELRIC").[38]

Q. DID SPRINT FILE DIRECT TESTIMONY REGARDING ISSUE 9?

A. Yes. Mr. Maples filed direct testimony on behalf of Sprint in this proceeding regarding Issue 9.

Q. WHAT IS SPRINT'S "GENERAL APPROACH" TO ISSUE 9?

A. As I discussed in Issue 2 (where Sprint objects to the transport of ISP-bound traffic over a mid-span fiber meet arrangement), Sprint proposes to keep fixing the "ISP problem" which essentially has been resolved by the *FCC's ISP Remand Order*. In Issue 9, Sprint proposes to further resolve the "ISP problem" by requiring that AT&T compensate Sprint for the transport of ISP-bound traffic from Sprint's local calling area to the POI.

In its *ISP Remand Order*, the FCC put into effect a specific compensation regime applicable to ISP-bound traffic, believing that it has taken the proper and necessary action to deal with any "market distortions" that Sprint asserts exists with respect to this traffic. As I discussed in my direct testimony, Sprint is undertaking for itself additional actions beyond what the FCC prescribed to correct market distortions resulting from ISP-bound traffic. As the Parties have agreed to implement the compensation terms of the *FCC's ISP Remand Order*, this addresses Sprint's concerns regarding the transport of ISP-bound traffic over mid span fiber arrangements.

If the FCC believed that additional measures were required to effectively address the market distortions arising from ISP-bound traffic, the FCC would have included those measures in its *ISP Remand Order*. This point should be quite clear, from the detailed findings made by the FCC in its *ISP Remand Order* and the rationale which the FCC provided for each of its findings.[39] Moreover, in its *ISP Remand Order*, the FCC did not prescribe any change to the interconnection requirements for ISP-bound traffic. Specifically, the

[38] Sprint Response at Page 20.

[39] The *FCC's ISP Remand Order* establishes (1) rate caps for ISP-bound traffic, (2) growth caps, beyond which there is no compensation for transport and termination and (3) new market limitations for which no compensation applies for transport and termination. See, *FCC ISP Remand Order* at ¶¶ 78-81.

FCC did not alter the prohibition under 47 C.F.R. § 51.703(b), which forbids a carrier from assessing charges to another for traffic that originates on the first carrier's network. Irrespective of what Sprint claims, this Federal Rule continues to apply to ISP-bound traffic.

Q. ON PAGE 36, LINE 25, AND PAGE 37, LINES 1-7, MR. MAPLES STATES THAT FCC RULE 47 C.F.R. § 51.703(B) DOES NOT APPLY TO ISP-BOUND TRAFFIC BECAUSE ISP-BOUND TRAFFIC IS NOT SUBJECT TO RECIPROCAL COMPENSATION? DO YOU AGREE?

A. No. On appeal, the DC Circuit found that ISP-bound traffic was not "carved-out" under § 251(g) of the Act from the reciprocal compensation requirements as the FCC attempted to do in its *ISP Remand Order.* However, even though the DC Circuit ruled that ISP-bound traffic is subject to reciprocal compensation, it allowed the FCC's rate compensation regime for ISP-bound traffic to apply until the FCC reconsiders the matter. Accordingly Sprint is dead wrong in this assertion. Pursuant to the DC Circuit, indeed 47 C.F.R. § 51.703(b) applies to this traffic.

Q. ON PAGE 37, LINES 2-7, MR. MAPLES ALSO ASSERTS THAT AT&T'S PROPOSED DEFINITION OF LOCAL TRAFFIC IN ISSUE 6 CONFIRMS THAT AT&T BELIEVES THAT ISP-BOUND TRAFFIC IS

NOT SUBJECT TO RECIPROCAL COMPENSATION. IS MR. MAPLES CORRECT?

A. No. Sprint is wrong again. The definition of Local Traffic in the interconnection agreement was developed to permit proper compensation of different traffic types between the Parties, not alter or nullify the law that applies to certain classes of traffic. As I pointed out above, the DC Circuit ruled that ISP-bound traffic is subject to reciprocal compensation, however it allowed the FCC's compensation regime for ISP-bound traffic to apply until the FCC reconsiders the matter. *Accordingly, AT&T and Sprint agreed that the terms and condition of the interconnection agreement should reflect the rate caps established by FCC.* In so doing, AT&T never agreed that the rate caps somehow "undid" the DC Circuit's decision that ISP-bound traffic is subject to reciprocal compensation.

Q. ON PAGE 37, LINES 4-7, MR. MAPLES ALSO STATES THAT AT&T DEFINES LOCAL TRAFFIC AS ". . .ALL TELECOMMUNICATIONS TRAFFIC IS SUBJECT TO RECIPROCAL COMPENSATION IN ACCORDANCE WITH SECTION 251(B)(5) OF THE ACT, EXCEPT FOR EXCHANGE ACCESS TRAFFIC SUBJECT TO SECTION 251(G) OF THE ACT AND ISP-BOUND TRAFFIC." DOES THIS DEFINITION COMPLY WITH THE DC CIRCUIT'S DECISION?

A. Yes it does. Although the DC Circuit ruled that ISP-bound traffic is not subject to the 251(g) "carve-out" provisions (and thus *is* subject to reciprocal compensation) it nevertheless allowed the FCC's compensation regime for ISP-bound traffic to stand. As I discussed above, AT&T proposed the definition of Local Traffic in the interconnection agreement merely to implement the FCC's rate regime and nothing more.

Q. WHAT ABOUT MR. MAPLES' STATEMENT ON PAGE 37, LINES 16-18, THAT "SPRINT DOES NOT BELIEVE THAT THE RATES ESTABLISHED BY THE FCC FOR ISP-BOUND TRAFFIC COVER THE COST OF THE TRANSPORT AT ISSUE HERE."

A. This is irrelevant. As discussed above, 47 C.F.R. § 51.703(b) clearly applies to ISP bound traffic and Sprint is obligated to comply with the law.

Q. ON PAGE 37, LINE 25, DID NOT MR. MAPLES ALSO STATE THAT ". . . THE [*FCC'S ISP REMAND ORDER*] DID NOT SPECIFICALLY ADDRESS COMPENSATION FOR ORIGINATING TRANSPORT. . ."?

A. Yes, and that is exactly AT&T's point. Sprint agrees that the FCC only set rate caps for ISP-bound traffic and did not alter other reciprocal compensation obligations in its *ISP Remand Order*.

Q. WHAT ABOUT MR. MAPLES' STATEMENT ON PAGE 38, LINES 2-4, THAT "SPRINT FIRMLY BELIEVES THAT THE REASONS USED BY THE FCC TO ORDER A BILL-AND-KEEP REGIME FOR ISP-BOUND TRAFFIC FOR NEW ENTRANTS AND REDUCE THE RATES FOR EXISTING PROVIDERS ARE EQUALLY APPLICABLE TO THE TRANSPORT IN QUESTION."?

A. Sprint is putting itself in the place of the FCC, trying to "add to" the *FCC's ISP Remand Order.* This clearly is not proper given that 47 C.F.R. § 51.703(b) (which also applies to ISP-bound traffic), precludes Sprint from charging AT&T for delivering Sprint originated traffic to the POI.

Q. RELATIVE TO WHETHER THE PARTIES' COMPENSATION OBLIGATIONS CHANGE WHEN VIRTUAL NXX IS USED, DID MR. MAPLES MAKE ANY STATEMENTS IN HIS DIRECT TESTIMONY WHICH YOU PREVIOUSLY HAD NOT ADDRESSED IN YOUR DIRECT TESTIMONY.

A. No. Mr. Maples merely continues to take out of context this Commission's *Florida Reciprocal Compensation Order* in which the Commission determined that an originating carrier cannot charge a terminating carrier for transporting the originating carrier's traffic to the POI.[40] Without citing any support, Sprint alleges that the

[40] *Florida Reciprocal Compensation Order* at Page 27.

Commission's *Florida Reciprocal Compensation Order* did not address the transport costs for ISP-bound traffic. This is not the case.

ISSUE 10: DIRECT END OFFICE TRUNKING. When should either AT&T or Sprint be required to install and retain direct end office trunking between an AT&T switching center and a Sprint end office? (Network Interconnection, Part E, Section 6.1.4.2)

AT&T's Position: AT&T proposes that installation and retention of direct end office trunking between an AT&T switching center and a Sprint end office not be required until traffic exceeds or is forecast to exceed a single DS1 of Local Traffic during the time consistent busy hour (as measured utilizing the day-to-day variation and peakedness) per month over a period of three (3) consecutive months.

Sprint's Position: Sprint is not certain that there is actually a dispute between the parties on this issue. Sprint's proposed language in Section 6.1.4.2, to which AT&T apparently objects, applies where AT&T is interconnected at a Sprint tandem and the traffic exceeds or is forecast to exceed 220,000 minutes of local traffic per month.

Q. IS ISSUE 10 STILL AN ISSUE IN THIS PROCEEDING?

A. No. Since the filing of AT&T's arbitration petition, the Parties have continued to negotiate various "Open" and "Disputed" issues. As the Parties recently agreed on language for Issue 10, it is no longer an issue in this proceeding. Accordingly, the Parties have agreed not to provide direct or rebuttal testimony regarding Issue 10.

ISSUE 11: INDIRECT INTERCONNECTION. When should each Party be required to establish a direct interconnection for (a) Indirect Traffic, (b) Transit Traffic[41]? (Network Interconnection, Part E, Sections 15.2 and 15.4.2.3 and Sections 13.2.3 and 13.3)

AT&T's Position: Because AT&T and Sprint have agreed to use one-way directionalized trunks, each Party may determine, in its sole discretion, where and when it will replace indirect interconnection with direct interconnection for both Indirect Traffic and Transit Traffic. As the volume of traffic which each Party terminates to the other Party may differ, one Party's choice to directly interconnect should not prejudice the other Party's ability to choose the most efficient method of interconnection for its traffic.

Sprint's Position: Sprint maintains that when traffic levels reaches a DS-1 equivalent of traffic, AT&T should be required to establish a direct interconnection arrangement with Sprint.[42]

Q. DID SPRINT FILE DIRECT TESTIMONY REGARDING ISSUE 11?

A. Yes. Mr. Maples filed direct testimony on behalf of Sprint in this proceeding regarding Issue 11.

ISSUE 11(a): INDIRECT INTERCONNECTION

Q. ON PAGE 42, LINES 5-8, MR. MAPLES STATES "AT&T'S POSITION IS BASED ON ITS POI PROPOSAL WHERE AT&T BELIEVES THAT SPRINT HAS AN OBLIGATION TO SELECT A SEPARATE POI ON AT&T'S NETWORK IN ORDER TO ESTABLISH A DIRECT

[41] Transit traffic was not included as Issue 11(b) in AT&T's Attachment B to AT&T's arbitration petition (or included as "Disputed" language in AT&T's Attachment C to AT&T's arbitration petition) filed on March 24, 2003 in this proceeding. Transit Traffic became "Disputed" Issue 11(b) only after AT&T filed it arbitration petition in this proceeding. The language proposed by AT&T to resolve this Issue 11(b) is as follows: Part E, Section 13.3.3 "Sprint agrees to transit traffic originating on AT&T's network that is destined to third-party carriers that have an end office switch that subtends Sprint's tandem switch. Sprint will notify AT&T when the transit traffic volume to a certain third party end office reaches a DS1 equivalent of traffic. AT&T may at its discretion enter into discussions and an agreement with the third party to directly interconnect for the exchange of such traffic."

[42] Sprint Response at Page 23.

CONNECTION FOR SPRINT-ORIGINATED TRAFFIC (ISSUE 1) INSTEAD OF USING THE SINGLE POI ESTABLISHED BY AT&T." IS THIS CORRECT?

A. No. AT&T's position is not based on AT&T's POI proposal discussed in Issue 1, but on the fact that the Parties will use one-way trunks. Not to repeat discussion from my direct testimony, but in summary, one-way trunks provide each Party the opportunity to determine an interconnection arrangement that is most efficient for its traffic independent of the other Party's choices. This fact is particularly salient regarding this Issue 11.

Q. ON PAGE 42, LINES 8-17, MR. MAPLES ALSO DISCUSSES THE OBLIGATIONS OF AN ILEC TO PROVIDE INTERCONNECTION WITH AN CLEC PURSUANT TO §251(C)(2) OF THE ACT. WHAT IMPACT DO MR. MAPLES' STATEMENTS HAVE ON ISSUE 11?

A. None of Mr. Maples' statements change the fact that Sprint will have traffic that it must deliver to AT&T and one method (direct versus indirect interconnection) will provide Sprint a lower cost. AT&T has no objection to Sprint directly interconnecting to AT&T at the point in time that Sprint believes it is efficient to do so. However, AT&T objects to having its choice "hijacked" when Sprint believes that direct interconnection is efficient for Sprint. AT&T is not blind to the

economic signals of increasing traffic volumes and AT&T should be trusted to act on those economic signals.

Q. ON PAGE 42, LINES 17-19, MR. MAPLES ALSO STATES "FURTHERMORE, THE FACT THAT ONE-WAY DIRECTIONALIZED TRUNKS ARE USED DOES NOT MEAN THAT IN SOME WAY THE CARRIERS ARE NOT MUTUALLY EXCHANGING TRAFFIC NOR DOES IT MEAN THAT THEY CANNOT USE THE SINGLE POI SELECTED BY THE CLEC." WHAT IS THE RELEVANCE OF THIS STATEMENT TO ISSUE 11?

A. There is none. Mr. Maples clearly misses the point. Issue 11 involves whether Sprint can dictate to AT&T when direct interconnection will be required between the Parties. Sprint should not be allowed to require direct interconnection just because such interconnection is "technically feasible."

Q. ADDITIONALLY, AT PAGE 42, LINES 19-23, MR. MAPLES STATES "THE INTERCONNECTION AGREEMENT ALSO INCLUDES TERMS FOR TRANSITIONING AWAY FROM ONE-WAY DIRECTIONALIZED TRUNKS TO TWO-WAY TRUNKS. . . " IS MR. MAPLES CORRECT?

A. No. Again, Mr. Maples tells only half of the story. The interconnection agreement provides for transitioning away from one-way directionalized trunks, but based on the *mutual agreement* of the

Parties and at this point in time, AT&T has no plans or intentions to move away from a one-way trunking architecture.

Q. ON PAGE 43, LINES 3-24, MR. MAPLES PROVIDES AN ECONOMIC ANALYSIS AS TO WHY SPRINT SELECT A DS-1 LEVEL OF TRAFFIC AS THE THRESHOLD FOR REQUIRING DIRECT INTERCONNECTION? WHAT IS THE RELEVANCE OF THIS SPRINT TESTIMONY?

A. There is none, again because Sprint fails to appreciate that AT&T's traffic engineers will determine (in much the same way that Sprint lays out its economic analysis supporting its DS-1 threshold argument) when direct interconnection is in AT&T's interest. In fact, AT&T even will agree to Sprint's proposal, if Sprint will agree that the economic analysis will be done independently for each Party's traffic and it would actually lower AT&T's costs based on the then current rates. However, Sprint has refused to agree to this reasonable compromise and instead continues to demand that the economic analysis be done on the *collective* volume of traffic between *both* Parties. This could result in AT&T spending as much as $1,014.87 per month for direct interconnect, when AT&T may have only a few

thousand minutes of traffic to send to Sprint.[43] Because the Parties will interconnect using one-way trunks, it may be extremely inefficient for one Party to base the analysis on both Parties' traffic.

ISSUE 11(b): TRANSIT TRAFFIC

Q. WHAT IS THE BASIS FOR SPRINT'S POSITION THAT IT CAN REQUIRE AT&T TO DIRECTLY INTERCONNECT WITH SPRINT ONCE TRAFFIC LEVELS REACH A CERTAIN POINT?

A. In Mr. Maples' direct testimony at Page 40, line 25, and Page 41, lines 1-2, he states "Sprint does not believe that there are specific rules supporting AT&T's contention and that Sprint has the right to establish criteria for its transit service offering." This is wrong. In the FCC's *Local Competition Order*, the FCC provides the only circumstance under which an ILEC may refuse interconnection. Specifically, at ¶ 203, the FCC states: *"Thus, with regard to network reliability and security, to justify a refusal to provide interconnection or access at a point requested by another carrier, incumbent LECs must prove to the state commission, with clear and convincing evidence, that specific and significant adverse impacts would result from the requested interconnection or access."* Sprint has not suggested that

[43] Under Sprint's costs analysis, if AT&T originated 10,000 minutes of use per month to Sprint and Sprint originated the balance of the traffic, using the rates provided in Sprint's testimony, AT&T's transport costs would be in excess of ten cents a minute! AT&T cannot possibly complete under such costs.

transiting traffic above the thresholds it proposes would create a significant adverse impact to Sprint's network. If Sprint were to try to make such a claim, it would have to submit evidence specific to the utilization of each tandem switch and the Commission would set limits on transit service only to those tandem switches that have a risk of a specific and significant adverse impact. Sprint has made no such showing in this case. Sprint simply provides general policy arguments against the provision of transit service. Accordingly Sprint has not met the standard set forth by the FCC to refuse interconnection and for this reason alone the Commission should reject Sprint's proposal.

Q. ON PAGE 44, LINES 23-24, MR. MAPLES STATES ". . . SPRINT DOES NOT AGREE THAT THE CARRIERS REQUESTING TRANSIT SERVICE HAVE THE UNILATERAL RIGHT TO DICTATE THE TERMS UNDER WHICH SPRINT PROVIDES THE SERVICE." IS THIS CONSISTENT WITH SPRINT'S POSITION(S) IN OTHER REGULATORY PROCEEDINGS?

A. No. In fact, Sprint, on behalf of its wireless affiliate, has taken just the opposite position in a petition which it filed at the FCC regarding "numbering resources."[44] In this Sprint petition, Sprint stated "The

[44] *In the Matter of Sprint Petition for Declaratory Ruling – Obligation of Incumbent LECs to Load Numbering Resources Lawfully Acquired and to Honor Routing and Rating Points Designated by Interconnecting Carriers.* FCC Docket Number 01-92, filed May 9, 2002.

[Federal Communications] Commission has further held that it is the interconnecting carrier, not the ILEC, that can choose the type of interconnection 'based upon their most efficient technical and economic choices,' expressly ruling that 'a LEC is obligated to provide a CMRS provider with the interconnection of its choice upon its request.' . . .it necessarily follows that an RBOC cannot force a CMRS carrier to interconnect directly with another carrier."[45]

Sprint cannot have it both ways. Sprint has made its public position clear in its FCC petition – incumbent LECs may not force interconnecting carriers to directly interconnect with another carrier. This Commission should disregard this testimony on Issue 11 as a disingenuous attempt to play regulatory bodies off each other.

Q. WHY WOULD AT&T AGREE TO A DS-1 THRESHOLD FOR TRAFFIC DESTINED TO A SPRINT END OFFICE (BASED ON THE SETTLEMENT OF ISSUE 10) AND NOT AGREE TO A DS-1 THRESHOLD FOR TRAFFIC DESTINED TO A THIRD PARTY'S END OFFICE?

A. The primary difference is the additional administrative costs to negotiate an interconnection agreement with the third party (which can require a substantial investment, as seen in this proceeding) and

[45] Id. page 15.

the costs to manage the engineering, billing and administrative interfaces between the parties. With respect to Sprint, those costs will have already been sunk when this interconnection agreement is executed.

Sprint's proposal takes away AT&T's opportunity to determine at what time it is technically and *administratively* efficient to enter into a direct connect relationship with another LEC.

Q. ON PAGE 45, LINE 4-5, MR. MAPLES ASSERTS THAT THE FCC HAS NOT INSTITUTED SPECIFIC RULES ESTABLISHING CARRIERS' OBLIGATIONS FOR TRANSIT TRAFFIC? DO YOU AGREE?

A. Yes. AT&T does not dispute that in the *Virginia Arbitration Order* the FCC indicated that it had not adopted specific rules for transit traffic. That being said, this Commission is in a position to require transit service. As the Commission is aware, transit service plays a significant role in the way that telecommunications are provided in the state of Florida, allowing both small and large providers of telecommunications services to interconnect efficiently in order to meet the needs of their customers. Thus, the Commission should reject Sprint's proposed language which eliminates transit service once Sprint's arbitrary threshold of traffic is reached.

ISSUE 13: What are the Parties' rights and obligations following a Legally Binding Action (as defined by agreement of the Parties in Section 1, Part B of the agreement) if such action is not stayed but still subject to review by the Commission, FCC or courts? (Change-In-Law, Terms and Conditions, Part B, Section 1.6)

AT&T's Position: AT&T's position is that, even if the appropriate authority has declined to issue a stay of an otherwise effective decision, either Party to the interconnection agreement may request that the Commission make a determination that the decision should not be "re-negotiated" in the interconnection agreement (effectively staying the issue as to AT&T and Sprint) until any pending appeals are concluded.

Sprint's Position: Sprint's position is that either party may initiate negotiations of an amendment to the agreement to implement an effective legislative, regulatory, or judicial decision, unless the decision has been stayed by the appropriate authority.[46]

Q. IS ISSUE 13 STILL AN ISSUE IN THIS PROCEEDING?

A. No. Since the filing of AT&T's arbitration petition and my direct testimony, the Parties have continued to negotiate various "Open" and "Disputed" issues. As the Parties recently agreed on language for Issue 13, it is no longer an issue in this proceeding. Accordingly, the Parties have agreed not to provide rebuttal testimony regarding Issue 13.

ISSUE 14: Should the terms and conditions of the performance measures approved by the Commission be incorporated by reference into the interconnection agreement, or should separate terms and conditions be set forth in the interconnection agreement? (Performance Measures, Part H)

AT&T's Position: Performance measures approved by the Commission should be incorporated into the interconnection agreement between AT&T and Sprint.

[46] Sprint Response at Page 26.

Sprint's Position: The interconnection agreement between AT&T and Sprint should not incorporate performance measures approved by the Commission. Sprint is bound to comply with such performance measures without having them made a part of the interconnection agreement by reference or otherwise.[47]

Q. IS ISSUE 14 STILL AN ISSUE IN THIS PROCEEDING?

A. No. Since the filing of AT&T's arbitration petition and my direct testimony, the Parties have continued to negotiate various "Open" and "Disputed" issues. As the Parties recently agreed on language for Issue 14, it is no longer an issue in this proceeding. Accordingly, the Parties have agreed not to provide rebuttal testimony regarding Issue 14.

Q. DOES THIS COMPLETE YOUR REBUTTAL TESTIMONY IN THIS PROCEEDING?

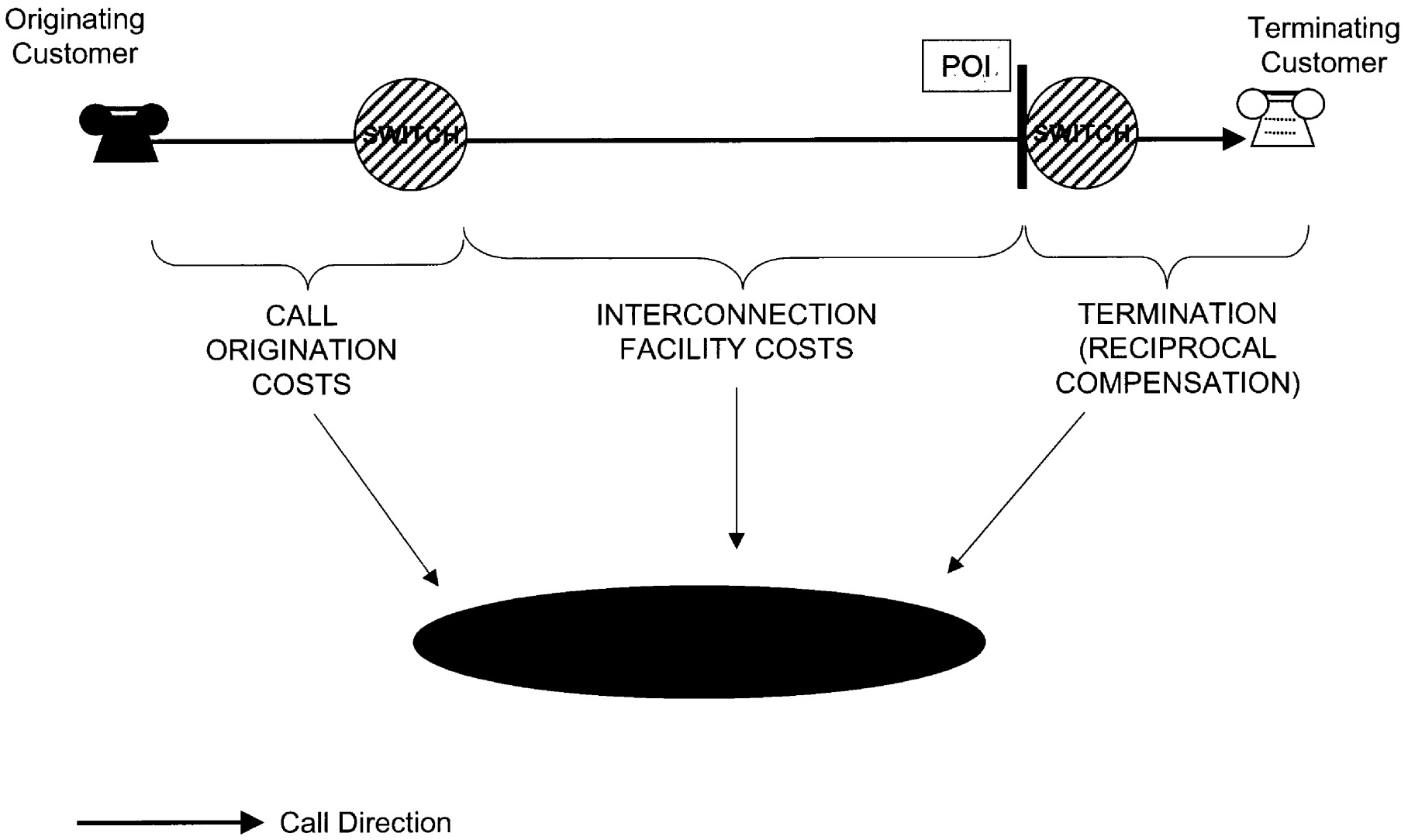
A. Yes it does.

[47] Sprint Response at Page 28.

FCC INTERCONNECTION MODEL

(POI at terminating switch)

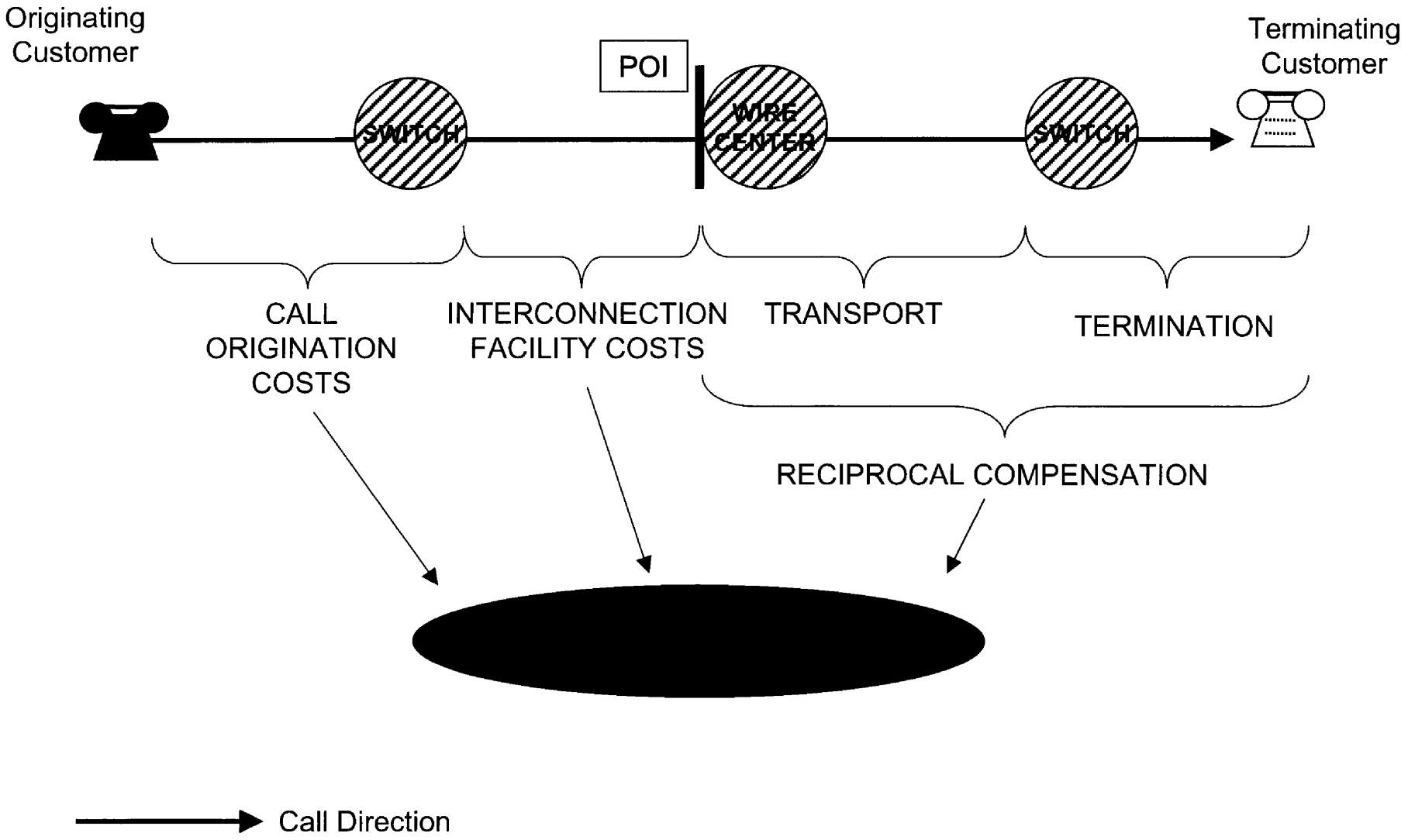
Docket No.: 030296-TP
D. L. Talbott Rebuttal Exhibit No. _____
(DLT-1)
POI AT TERMINATING SWITCH LOCATION



FCC INTERCONNECTION MODEL

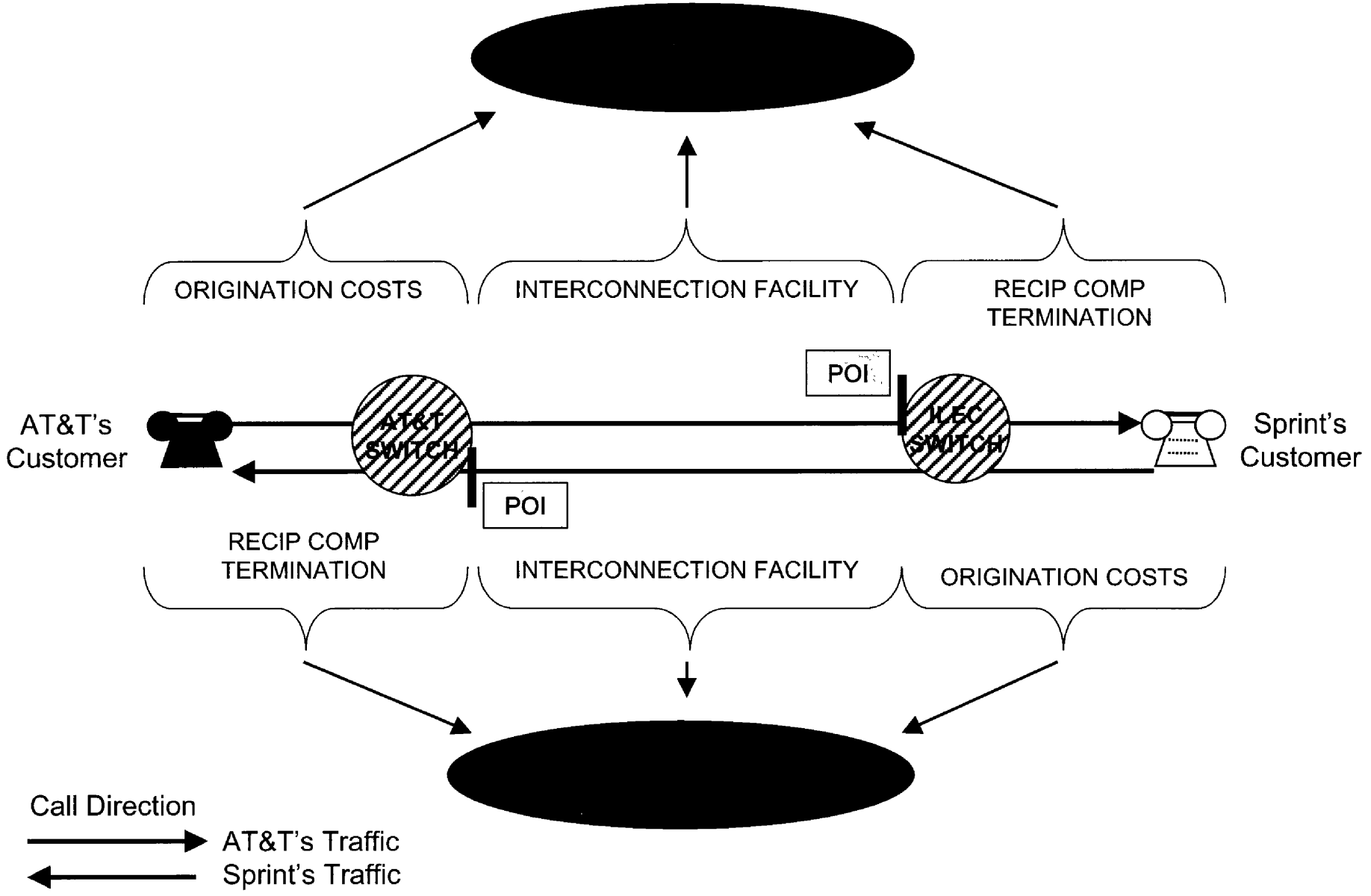
(POI distant to terminating switch)

Docket No.: 030296-TP
D. L. Talbott Rebuttal Exhibit No. _____
(DLT-2)
POI NOT LOCATED AT TERMINATING SWITCH LOCATION



AT&T'S PROPOSAL
(POI at each party's terminating switch)

Docket No.: 030296-TP
D. L. Talbott Rebuttal Exhibit No. _____
(DLT-3)
AT&T POI AT TERM SWITCH LOCATION



AT&T'S PROPOSAL

(POI in between each party's terminating switch)

Docket No.: 030296-TP
D. L. Talbott Rebuttal Exhibit No. ____
(DLT-4)
AT&T POI NOT AT TERM SWITCH LOCATION