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August 30, 2001

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

RE: ACC Docket No. T-00000A-00-0194

Dear Sir or Madam:

Please find enclosed an original and ten copies of the Initial Brief of Sprint Communications Company L.P. in the above-referenced docket. Please do not hesitate to contact me should you have any questions in this regard.

Sincerely,

Eric S. Heath

Enclosures

cc: File

Arizona Corporation Commission
DOCKETED

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BEFORE THE ARIZONA CORPORATION COMMISSION

**WILLIAM A. MUNDELL
CHAIRMAN
JAMES IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER**

**IN THE MATTER OF THE)
INVESTIGATION INTO QWEST)
CORPORATION'S COMPLIANCE)
WITH CERTAIN WHOLESALE)
PRICING REQUIREMENTS FOR)
UNBUNDLED NETWORK ELEMENTS)
AND RESALE DISCOUNTS.)**

DOCKET NO. T-00000A-00-0194

INITIAL BRIEF OF SPRINT COMMUNICATIONS COMPANY L.P.

Pursuant to the procedural schedules established for the filing of post-hearing briefs, Sprint Communications Company L.P. ("Sprint") submits the following brief in the above-captioned matter.

I. INTRODUCTION

The importance of setting accurate costs in this proceeding cannot be overestimated. Pricing based on costs that are too high will continue to stifle and may completely halt local telecommunications competition in Arizona. Conversely, setting prices based on costs that are too low will result in harm to the incumbent and will not encourage CLECs to build their own facilities to provide local service in Arizona.

Sprint argues herein that Qwest's proposed costs for unbundled network elements ("UNEs"), in particular local loops, loop conditioning, and collocation-related elements are unreasonably high, do not comport with the TELRIC standard established by the Federal

Communications Commission (“FCC”)¹ and therefore constitute an impediment to competition in the Arizona local telecommunications market. As explained in greater detail below, Sprint has concluded that Qwest’s proposed rates are unreasonable based on its own experience in setting prices based on costs determined by using the TELRIC methodology. Comparing Sprint’s own TELRIC costs for the elements discussed here with those of a company much larger in size, and therefore with a greater ability to achieve economies of scale, shows that Qwest’s proposed costs cannot be considered anything other than an undisguised attempt to hinder, if not outright prevent, competition in Arizona. As an overarching example of the exceedingly hostile environment for Qwest’s competitors, one need look no further than Qwest’s pricing “philosophy” of front-loading payments for very expensive necessities of collocation. This practice alone demonstrates that Qwest has no real interest in seeing competition flourish in Arizona, and further puts competitive local exchange carriers (“CLECs”) like Sprint at a distinct disadvantage when it comes to rolling out service to Arizona customers.

Sprint respectfully requests the Arizona Corporation Commission (“Commission”) scrutinize the cost studies and testimony in this matter because Sprint believes that the Commission will find Qwest’s proposed costs are not TELRIC-based and should not be approved. Accordingly, Sprint urges the Commission to find Qwest has failed to demonstrate that its costs as proposed in this docket do not comply with accepted forward-looking principles set forth by the FCC.

¹ TELRIC is the total element long-run incremental cost of a given element in a local telecommunications network set forth in the FCC’s Local Competition Order. *See, infra* at fn. 3.

II. THE TELRIC STANDARD

Pursuant to its authority under the Telecommunications Act of 1996², the FCC established that all incumbent local exchange carriers (“ILECs”) must unbundled their local networks and provide access to the individual network elements (unbundled network elements, commonly referred to as “UNEs”). The FCC also requires ILECs to provide these UNEs at prices based on the ILEC’s total long-run, incremental costs for each network element:

[W]e conclude here that prices for interconnection an unbundled elements pursuant to sections 251(c)(2), 251(c)(3), and 251(d)(1), should be set at forward-looking long-run economic cost. In practice, this will mean that prices are based on the [total service long run incremental cost] of the network element, which we will call Total Element Long Run Incremental Cost (TELRIC)[.]

We conclude that, under a TELRIC methodology, incumbent LEC’s prices for interconnection and unbundled network elements shall recover the forward-looking costs directly attributable to the specified element, as well as a reasonable allocation of forward-looking common costs.

[T]he forward-looking pricing methodology for interconnection and unbundled network elements should be based on costs that assume that wire centers will be placed at the incumbent LEC’s current wire center locations, but that the reconstructed local network will employ the most efficient technology for reasonably foreseeable capacity requirements.³

² Telecommunications Act of 1996, Pub. L. No. 104-104, Feb. 8, 1996, 110 Stat. 56, codified at 47 U.S.C. § 151 *et seq.* (the “Act”).

³ *First Report and Order*, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 (CC Docket No. 96-98), FCC 96-325, (adopted Aug. 1, 1996), (“*Local Competition First Report and Order*”), codified in 47 C.F.R. § 51.505.

The prices resulting from a TELRIC cost study will allow the ILEC to cover its costs and earn a modest profit on each element.⁴ While Qwest has asserted in its testimony that its Integrated Cost Model (“ICM”) produces the TELRIC for each element in its network, several intervenors and the Staff of the Arizona Corporation Commission (“Staff”) dispute this claim, particularly with regard to the results of the ICM run with Qwest’s inputs.

Sprint’s witness Randy Farrar used the FCC’s synthesis model⁵ to compare Qwest’s proposed loop costs with the those established for Sprint’s Nevada ILEC affiliate’s (Central Telephone Company of Nevada – dba Sprint of Nevada, hereinafter “Sprint – NV”) in a recent cost case. The results of running the FCC’s synthesis model with both Qwest’s and Sprint – NV’s inputs showed that the companies have very similar costs.⁶ Despite the similarities in cost structure between Sprint – NV and Qwest, Qwest’s proposed costs exceed Sprint – NV’s TELRIC-based prices by a wide margin.⁷ The only explanation for a difference of this magnitude (75% difference in loop cost) is that Qwest has failed to use a forward-looking methodology in determining its costs. Therefore, the Commission cannot approve Qwest’s proposed costs as compliant with TELRIC.

III. SPRINT’S POSITION

Sprint’s involvement in this case is from the perspective of a CLEC. Sprint is certified to provide local exchange services in Arizona by this Commission, and plans to offer its ION (“Integrated On-Demand Network”) service to Arizona customers when permanent TELRIC-based UNE prices are established in this proceeding. Sprint’s viability as a CLEC in Arizona is

⁴ 47 U.S.C. § 252(d)(1). *See also, Local Competition First Report and Order* at ¶ 699.

⁵ The FCC’s Synthesis model is used to calculate costs for universal service fund purposes. Sprint Exhibit 1 at 7.

⁶ Sprint Exhibit 1 at Attachment RGF-2.

dependent on this Commission setting true TELRIC prices for Qwest's UNEs as well as its collocation and other interconnection services. Without economic prices based on TELRIC costs, Sprint's (and other CLECs') ability to serve Arizona residential customers will be severely undermined.

While Sprint has not endorsed a particular cost model in this matter, Sprint relies on the experience of its affiliated ILEC operations for which TELRIC prices are in place (Sprint – NV and Sprint's North Carolina ILEC affiliate, Carolina Telephone and Telegraph Company, hereinafter, "Sprint – NC") to allow it to provide an informed and comparative opinion about Qwest's approach to establishing TELRIC costs in Arizona. Additionally, Sprint clarifies that although it has not critiqued all of Qwest's proposed costs in this docket, its silence on a given UNE or other item should not be construed in any way as an indication of tacit support for Qwest's proposed cost.

As noted above, Sprint's experience with its own affiliated ILEC operations in Nevada and North Carolina allow it to approach this proceeding with a balanced perspective of a company that must achieve its own "middle ground" between its various lines of business – ILEC, CLEC, wireless, broadband, etc. Sprint's ILEC operations give it a basis for establishing reasonable expectations for evaluating ILEC costs, as Sprint's CLEC expects to be able to interconnect and provide service in other regions at terms, conditions and prices no less favorable than those its own ILEC affiliates provide to CLECs.

Sprint has offered some of its own TELRIC-based prices as a benchmark for this Commission to use in evaluating Qwest's proposals. Even a cursory comparison of these prices for loops, loop conditioning and collocation-related elements and services show that Qwest's proposed costs far exceed Sprint's forward-looking cost for those same services. Considering

⁷ Sprint Exhibit 1 at 8.

the difference in scale between Qwest (over 2.5 million access lines in Zones 1 – 3 in Arizona)⁸ and Sprint – NV, (911,000 access lines), and Sprint – NC (1,544,000 access lines), Qwest's size as an RBOC should allow it to produce significantly lower costs from its studies. Accordingly, most of Qwest's proposed costs (in particular those that exceed the Sprint ILEC comparison benchmarks included in Exhibit RGF-1R to Mr. Farrar's testimony⁹) should be presumed unreasonable on their faces and viewed with a high degree of skepticism.

IV. LOOP COSTS

Most of Qwest's competitors will use accepted, reliable technology to interconnect and provide service in Arizona and the local loop is therefore the most fundamental and crucial of all costs to be determined in this case. Loop costs will drive the prices competitors will be able to charge, and will directly impact the level of competition the Commission can expect to see develop in the future.

As currently proposed, Qwest's loop costs will prevent competition; they are simply too high, do not comport with TELRIC principles and should not be approved by this Commission. Qwest proposes to charge \$15.50 for loops in Zone 1 (which comprises 5.6% of Qwest's access lines) and \$21.18 for loops in Zone 2 (which comprises 63.12% of Qwest's access lines). The average of Zones 1 and 2 is \$18.34, excluding the NID. In contrast, the Nevada Commission approved loop costs of \$9.98 and \$11.57 for Sprint – NV's Zones 1 and 2 respectively, with an average rate of \$10.77, excluding the NID. Sprint points out that the Nevada Commission-approved rates are within \$1 of Sprint's original request (\$9.57 for Zone 1, \$12.59 for Zone 2,

⁸ Qwest Exhibit 18 at 59.

⁹ Sprint Exhibit 1 and Sprint Exhibit 4.

with an average of \$11.61).¹⁰ The disparity between Sprint – NV’s and Qwest’s costs can be explained by looking at several problems with the assumptions underlying Qwest’s cost studies.

A. Qwest’s Three Pair/Household Assumption Is Not Forward-Looking.

Qwest’s cost studies assume that a forward-looking distribution network built from its existing wire centers should provide three loops to each household in Zones 3 and 4.¹¹ This assumption alone undermines the integrity of Qwest’s loop cost study because it is unreasonable and lacks all relation to TELRIC principles. An assumption that each household in Zones 3 and 4 requires three loops is not representative of a forward-looking network where customers will have either DSL-capable loops, cable modems, or an alternative broadband service to provide the internet access that so many second lines were purchased to facilitate. Sprint suggests that even two loops per household represents an overestimation of a forward-looking plant investment in Zones 3 and 4.

Interestingly, Qwest has made no showing that three loops per household is reasonable or necessary in Arizona or that it comports with TELRIC’s forward-looking network requirement. Qwest asserts that the intention behind the three loop per household assumption is to avoid costly overbuilds once distribution plant is in place.¹² Qwest further justifies this assumption by noting that many households require more than one copper pair to accommodate multiple services.¹³ Yet, as previously noted, Qwest’s reasoning ignores that customers generally order second lines to allow them a spare line for internet access – a need which is rapidly decreasing with the every-increasing availability of digital subscriber line (“DSL”) technology in Qwest’s serving territory. Further, and perhaps more interestingly, Qwest admits that the number of customers taking

¹⁰ Tr. 1744.

¹¹ Qwest Exhibit 2 at 9; Tr. 93-7.

¹² Tr. 93-7.

second lines in Qwest's network today is only *****, which equates to approximately *** lines per household.¹⁴ This level of second line take barely justifies allocating two loops to each customer, let alone three, as Qwest suggests.

Therefore, the Commission should disallow the assumption of three lines per household as unnecessary, unreasonable, not representative of an efficient, forward-looking network design, unnecessarily inflationary to the CLEC's costs, and detrimental to local competition in Arizona.

B. Qwest Allocation of Common Costs to Its Loops Discriminates Against CLECs.

Qwest's proposed loop costs cost studies allocate common costs in a fashion that adversely impacts CLECs purchasing loops in Qwest's densely populated Zones 1 and 2. Specifically, Qwest allocates its common costs to all loops regardless of length. Specifically, Qwest's proposed allocation of **** of common costs to all loops effectively creates a subsidy on the longer loops and disproportionately impacts CLECs, who generally serve customers located in high-density areas where Qwest's costs should be lowest. For example, **** represents **** of the cost of Qwest's least expensive (and shortest) loop of \$16.62 whereas this same **** represents only **** of Qwest's most costly (and longest) loop of \$94.18.¹⁵ This demonstrates that Qwest's allocation of a flat **** of common costs to all loops discriminates against CLECs that purchase the shorter loops in Qwest's densely populated areas. Further, this allocation does not reflect a forward-looking costs or an efficient cost recovery mechanism because the amount of common costs recovered from each loop should be directly proportional to its length – not inversely proportional, as is the case here. A more reasonable recovery of common costs would be to recover the same percentage of costs uniformly from all loops.

¹³ Tr. 939.

¹⁴ AT&T/XO Confidential Exhibit 5; Tr. 101.

¹⁵ See, "Modelout.xls" workbook and "Wire Center Summary 2W" worksheet of original cost filing.

C. *Qwest's Allocation of Pole and Conduit Costs to Its Loops Discriminates Against CLECs*

Qwest improperly recovers pole and conduit costs as a percentage of investment, which fails to recognize the distance-sensitive nature of loop costs. Qwest's cost study shows conduit investment ranges from *****/foot for a 25-pair cable to *****/foot for a 4200-pair cable.¹⁶ The equivalent range for poles is *****/foot for a 50-pair cable to *****/foot for a 900-pair cable, which is the largest size used in Qwest's study. Clearly, the conduit used for the 4200-pair cable does not cost Qwest ** times as much to build as conduit for a 25-pair cable. In fact, the cost of conduit for the 4200-pair cable is similar to that of the 25-pair cable. Therefore, the effect of this percentage allocation of loop cost is to inflate the costs in those wire centers that use more of the large size cables, like Zones 1 and 2.

A more reasonable approach to pole and conduit costs would require Qwest to allocate the costs according to the length of the loop. Qwest's cost allocation fails in this regard: neither its common costs nor its conduit and pole costs are directly attributable to the cost of the element as required by TELRIC – in fact, in this instance, the opposite is true. The Commission must therefore reject these cost allocations as not forward-looking and therefore improper.

V. SHARED AND COMMON COSTS

Qwest's cost factors for Direct and Common Costs are excessive. "Direct cost" categories (Directly-Assigned and Directly-Attributable) are made up of costs directly attributable to the product or service provided, such as product management costs, network operations, etc. Comparing Sprint – NC's approved TELRIC direct costs with Qwest's proposed TELRIC direct costs indicates that Qwest's are out of line. Specifically, Qwest's directly

¹⁶ See, "LoopMod2AZ.xls" of original cost filing.

attributed costs are ***** of the element's total costs whereas Sprint – NC's direct costs comprise only ****.¹⁷

Sprint's common costs comprise ***** of its total TELRIC cost where Qwest's comprise *****. While the difference between Qwest's ***** common cost factor and Sprint – NC's ***** may seem inconsequential, Sprint points out that a company with the scale of Qwest should be able to drive these common costs down further due to its economies of scale. The bottom line is that Qwest's direct and common costs make up *** of its total TELRIC cost for loop conditioning whereas Sprint – NC's common costs only make up **** of its loop conditioning charges, a structure which hardly meets the TELRIC standard.

VI. LOOP CONDITIONING

A. *Qwest's Loop Conditioning Charges Ignore Important Cost Differences Related to Plant Mix.*

Qwest's proposed rates for loop conditioning fail to account for important distinctions and cost differences due to plant mix. Particularly, Qwest does not recognize the lower costs of conditioning aerial and buried distribution plant compared to costlier underground feeder.¹⁸ As noted by Mr. Farrar, this assumption ignores reality.¹⁹

In particular, with regard to loops greater than 18,000 feet in length, the distribution portion of these loops will be much more likely to contain load coils and bridge tap. These longer loops are also more likely to have aerial and buried distribution loop, rather than underground. Qwest's cost studies should recognize these potential cost differences in order to comply with TELRIC. Without modifying Qwest's cost study to take the lower costs of

¹⁷ Sprint Exhibit 4 at Attachment RGF-3R.

¹⁸ Qwest Exhibit 18 at 11. Sprint Exhibit 4 at 7.

¹⁹ Sprint Exhibit 4 at 7.

conditioning aerial and buried loops into account, the Commission cannot consider Qwest's proposed costs TELRIC-based.

B. Qwest's Proposed Rates for Loop Conditioning are Excessive, Unreasonable, Discriminatory and Not TELRIC-Based.

Qwest proposed loop conditioning charge of \$652.83 discriminates in favor of Qwest by requiring a CLEC that requests conditioning to pay for up to 25 loops, even if the CLEC only orders one.²⁰ This \$652.83 charge also only applies to loops in a single binder group (25 loops) or up to 25 loops ordered out of the same central office.²¹ Therefore, even if a CLEC managed to aggregate 25 loops for a single order to Qwest, the CLEC would end up paying more than one (and possibly 25) separate \$652.83 fees for loop conditioning, unless all the loops were served out of the same central office.

In contrast, Sprint's witness Mr. Farrar testified that the cost for loop conditioning for Sprint – NC is only \$38.51 per loop under 18,000 feet.²² In comparison, Qwest's \$652.83 applies regardless of the loop's length.

CLECs generally order a few loops at a time. In the case where a CLEC orders only one loop that requires conditioning, Qwest has testified that it will condition as many loops as it can within the same binder group where the CLEC-requested loop is located.²³ Thus, Qwest gets the benefit of the CLEC's single loop conditioning request, as the \$652.83 fee clearly covers the conditioning of up to 25 loops.

Sprint therefore urges the Commission to reject Qwest's proposed loop conditioning charge as unreasonable and not TELRIC-based because it requires CLECs to pay for more than it

²⁰ Staff Exhibit 25.

²¹ Tr. 953-4.

²² Sprint Exhibit 1 at 19.

²³ Staff Exhibit 25.

needs for any given loop conditioning order and imposes a discriminatory fee against CLECs that order small numbers of loops that require conditioning. Sprint also requests the Commission order Qwest to allow CLECs to pay for conditioned loops on a per-loop basis reflecting cost differences due to plant mix, rather than a take-it-or-leave-it \$652.83 fee for up to 25 loops.

VII. QWEST'S PROPOSAL TO RECOVER COSTS RELATED TO THE HIGH FREQUENCY PORTION OF THE LOOP ("HFPL") IS UNFOUNDED AND CONTRARY TO LAW

Qwest already receives the total revenues that this Commission has determined to be just and reasonable compensation for the total cost of providing the loop. Accordingly, a \$0 price for the HFPL is both cost-based and non-discriminatory. Under sound economic principles, the use of the HFPL must be set at zero. The principles of cost causation dictate that there is no incremental cost associated with the CLEC's access to the high-bandwidth portion of the loop. A price greater than \$0 has no economic basis, would create economic inefficiencies and would promote bad policy. In fact, a zero price for the HFPL is necessary to avoid economic discrimination.

As a threshold matter, it is important to recognize that regardless of the HFPL rate, CLECs pay substantial recurring and non-recurring charges to Qwest for interconnection and line sharing. What is at issue is an *additional* charge for access to the high frequency portion of the loop over and above the recurring and non-recurring charges. In this context, there is no economic or public policy rationale justifying an additional non-zero charge for access to the HFPL despite Dr. Fitzsimmons' assertions that the HFPL is a joint cost.²⁴ To the contrary, economic and public policy rationale strongly supports a zero charge.

²⁴ Fitzsimmons Rebuttal at 68-70; Tr. 852-855.

Qwest recovers its loop costs today through both the Arizona-tariffed monthly exchange access line price, the Subscriber Line Charge ("SLC"), features, switched access and contributions from intraLATA toll. Thus, unless Qwest adopts an offsetting decrease in the monthly recurring charge for voice-grade services, a positive price for the HFPL will provide windfall profits to the incumbents, with no corresponding benefit to their voice-service customers.

VIII. COLLOCATION CHARGES

A. *Qwest's Assumption of a 1000 Amp Power Supply Per Central Office Is Inefficient and Imposes Unreasonable Costs on CLECs.*

Qwest's proposed rates for DC power plant per DC amp do not reflect the long-run cost of supplying power to CLECs. In fact, Qwest's assumption underlying its power plant cost is that the central offices where CLECs will be collocating are served by 1000 DC amp power. As Sprint testified in its Direct Testimony, this assumption as applied to a serving area like Phoenix is unfounded and should be modified. Most competitive entry has occurred in densely populated areas, and the central offices serving these locations will have DC power plant that averages 3000 amps or more. Larger power plants are more efficient, resulting in lower per-amp costs. Therefore, Qwest's assumption of a 1000 amp power plant understates what an efficiently-designed central office would have available for power needs, and therefore overstates the DC power plant costs to interconnecting CLECs. Qwest should assume a 3000 amp power plant in its cost studies, which will reduce its power costs by 40%.

Other, related aspects of Qwest's collocation costs that contradicts forward-looking network design are found in Qwest's costs for power cabling, which exceed Sprint's rates for the same product by 11 times, and its cost for security cards, which potentially cost many times what

Sprint pays for the same product because Qwest attempts to recover its costs with monthly recurring charges rather than a NRC, even though the security systems and card readers are already in place and cards are generally a one-time cost. These higher costs upset the logical assumptions behind natural economies of scale, which indicate that large firms should be able to negotiate (or even demand) lower unit prices for products used throughout its operation. Accordingly, the Commission should be very skeptical of Qwest's alleged higher costs for power cabling and security cards and systems, since it is a much larger purchaser of these supplies than Sprint's ILEC affiliates are. Therefore, Sprint urges the Commission to reject these costs as inflated and uneconomical.

B. Qwest's Charges for Space Construction Reflect Its Unwillingness to Support a Competitive Environment.

Qwest compounds the anticompetitive effect of its already unreasonably priced collocation charges by structuring the charges such that CLECs must pay large up-front nonrecurring charges ("NRCs") in order to begin to install equipment in Qwest's central offices. For example, Qwest charges a \$ 51,901.16 NRC for up to a 100 square foot collocation cage and one 60-amp power feed, with a monthly recurring charge of \$75.84.²⁵ In sharp contrast, Sprint – NV's comparable NRC is \$3,504, which magnifies the exceedingly high hurdles CLECs in Qwest's territory must clear before they can effectively enter the market.²⁶ Requiring the up-front payment of \$ 51,901.16 up front as discussed above is unreasonable and not forward-looking (or even at parity with how Qwest has built space for itself to serve its customers) since it effectively precludes market entry for many CLECs. Accordingly, this policy cannot be

²⁵ WorldCom Exhibit 1, Attachment to Rebuttal Testimony of Maureen Arnold, MA-1R2, at 4.

²⁶ Sprint Exhibit 4 at Attachment RFG-1R.

considered compliant with TELRIC absent the requirement that Qwest allow CLECs to pay the NRCs over a reasonable term.

This policy reflects Qwest's unwillingness to provide competition a chance to flourish in Arizona in deference to protecting its monopoly interests and revenue streams and at the expense of choice for its customers. This unwillingness flies in the fact of the requirements under the Act and ignores other, positive aspects of charging CLECs for collocation over a longer period of time. Further, Qwest's policy apparently values excluding competition over the benefit of having regular payments from CLECs as wholesale customers.

IX. CONCLUSION

Sprint asserts that Qwest's proposed costs for UNEs, loop conditioning, and collocation-related elements are unreasonable, unjustified and not compliant with TELRIC for the reasons set forth herein. As the incumbent local exchange carrier in Arizona, Qwest bears the burden of demonstrating to the Commission's satisfaction that its costs are forward looking and related the elements to which they are allocated. Qwest has not met that burden. Accordingly, Sprint urges the Commission to reject Qwest's proposed costs as they do not comply with TELRIC, and therefore would severely damage the future of competition in Arizona.

Dated this 30th day of August 2001 at San Francisco, California.

Respectfully submitted,

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By: 

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CERTIFICATE OF SERVICE

I, KATHERINE M. McMAHON, hereby certify that I have this day served a true and correct copy of the "Initial Brief of Sprint Communications Company L.P." in Docket No. T-00000A-00-0194 via overnight delivery to the following addressees:

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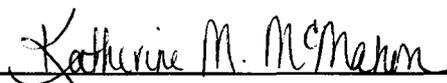
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