

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Petition of Cincinnati Bell Telephone	)	
Company for Pricing Flexibility	)	WCB/Pricing No. 07-20
For Special Access Services, Dedicated	)	
Transport Services, and Channel	)	
Termination Services	)	

**COMMENTS OF SPRINT NEXTEL CORPORATION**

Sprint Nextel Corporation (“Sprint Nextel”), pursuant to the Public Notice released on December 18, 2007 (DA 07-5032), hereby respectfully submits its comments on the Cincinnati Bell Telephone Company LLC’s (“Cincinnati Bell”) petition for Phase I and II pricing flexibility for certain special access, dedicated transport and channel termination services in the Cincinnati, Ohio-Kentucky-Indiana and the Hamilton-Middleton, Ohio Metropolitan Statistical Areas (MSAs). The record in the special access proceeding is clear that the triggers by which the Commission reviews petitions for pricing flexibility fail to measure accurately the true state of competition in the special access and dedicated transport markets.<sup>1</sup> Any further grant of pricing flexibility petitions would be inappropriate, as they would cause further pricing anomalies in these markets. Therefore, Cincinnati Bell’s petition for pricing flexibility should be denied pending adoption by the Commission of new pricing flexibility triggers that better reflect

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<sup>1</sup> See Comments of Sprint Nextel Corporation, WC Docket No. 05-25, filed August 8, 2007.

competitive conditions actually existing in the special access and dedicated transport markets.<sup>2</sup>

When the Commission adopted the current pricing flexibility triggers in 1999, it anticipated that the presence of alternative providers (as measured by independent competitors collocated in a certain percentage of the incumbent local exchange carrier's ("ILEC's") wire centers in a MSA) would "ensure that rates [for the special access and dedicated transport services at issue] are just and reasonable."<sup>3</sup> Unfortunately, the triggers measure potential, not actual, competition, and the Commission's expected competition has failed to develop. As a result, Sprint Nextel is forced to purchase over 98 percent of its special access facilities from ILECs, which have leveraged their dominance by charging supracompetitive rates along with anticompetitive contract terms and conditions.<sup>4</sup>

The Commission cannot continue to ignore the ILECs' abuse of their dominance over bottleneck special access facilities. High special access rates harm consumers and competition and deter the introduction of new and innovative services. To ensure that rates for such services are truly just and reasonable, the Commission must defer on deciding Cincinnati Bell's request for pricing flexibility until such time as the

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<sup>2</sup> This issue is squarely before the Commission in WC Docket No. 05-25, *Special Access Rates for Price Cap Local Exchange Carriers*. The pleading cycle in this proceeding was completed in July 2005, and the Commission sought and received additional comments to refresh the record in August 2007.

<sup>3</sup> *Access Charge Reform*, 14 FCC Rcd 14221, 14258 (para. 69) (1999) (*Pricing Flexibility Order*).

<sup>4</sup> See Comments of Sprint Nextel Corporation, WC Docket No. 05-25, filed August 8, 2007.

Commission has adopted triggers that more accurately reflect the state of competition in the special access market.

Respectfully submitted,

SPRINT NEXTEL CORPORATION

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