

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

Sprint  
Communications  
Company L.P.  
Sprint Holding (UK) Limited

File No. I-T-C-95-155

Application for Authority pursuant to  
Section 214 of the Communications Act  
of 1934, as amended, to Provide Switched  
Services via International Private Lines  
Interconnected to the Public Switched  
Networks in the United States and the  
United Kingdom

**MEMORANDUM OPINION, ORDER  
AND AUTHORIZATION**

Adopted: November 27, 1995; Released: December 1, 1995

By the Chief, Telecommunications Division:

**I. INTRODUCTION**

1. In this order, we grant Sprint Communications Company L.P. (Sprint) Section 214 authority to provide switched services via its U.S. international private line facilities between the United States and the United Kingdom.

**II. BACKGROUND**

2. On January 25, 1995, Sprint and its affiliate, Sprint Holding (UK) Limited (Sprint (UK)), filed the captioned application pursuant to Section 214 of the Communications Act of 1934, as amended,<sup>1</sup> and Section 63.01 of the Commission's Rules.<sup>2</sup> They request authority to provide switched services via international private lines between the United States and the United Kingdom that are interconnected either to the U.S. public switched network ("PSN") or to the U.K. PSN or to both. On February 10, 1995, we placed the application on public notice.<sup>3</sup> AT&T Corp. ("AT&T") filed comments, Sprint replied, and AT&T responded to Sprint's reply.

3. Sprint proposes to use its authorized U.S. private line half-circuits in transatlantic cable systems in which it owns capacity, including TAT-8, TAT-9, TAT-10, TAT-11 and PTAT-1. Sprint also proposes to use satellite circuits between U.S. earth stations and INTELSAT Atlantic Ocean Region ("AOR") satellites, which Sprint will obtain under tariff from COMSAT. Sprint will connect its half-circuits with those of Sprint (UK), which will lease private line half-circuits from British Telecommunications, plc or Mercury Communications Ltd. at such carriers' prevailing tariff rates. The circuits will be interconnected to the PSN in either the United States or the United Kingdom, or in both, for the provision of Sprint's authorized services, including international message telephone services (IMTS) and Sprint (UK)'s outbound services to the United States, which are provided to its U.K. customers.

4. Sprint states that the proposed interconnection arrangement appears to constitute private line resale as defined in the Commission's *International Resale Order*.<sup>4</sup> In accordance with that Order, Sprint notes that the Commission has found the United Kingdom equivalent to the United States in international private line resale opportunities for U.S.-based carriers seeking to provide service between the United States and the United Kingdom. And, Sprint notes that the Commission has approved applications to provide resale of switched services by international private lines between the United States and the United Kingdom.<sup>5</sup> Sprint contends that granting its specific application will serve the public interest: this authorization will provide consumers an additional choice of service providers in the provision of switched services over resold international private lines and enable Sprint and Sprint (UK) to continue to offer switched services at competitive prices.

5. AT&T does not oppose a grant of Sprint's application but requests that the Commission impose on Sprint: (1) a retroactive reporting requirement of switched minutes that Sprint has transported between the United Kingdom or other foreign markets and the United States via international private lines connected to the U.S. PSN since 1993<sup>6</sup> and (2) a quarterly certification process to ensure Sprint's compliance with conditions placed in its Section 214 authorization, including the U.S.-U.K traffic limitation on the use of the private line arrangements.<sup>7</sup> AT&T asserts that Sprint has been providing switched service from the United Kingdom to the United States on a one-way basis over international private lines without the requisite Commission authority for more than one year prior to the Commission's equivalency determination for the United Kingdom. To the extent that Sprint provided one-way completion of U.K.-U.S. switched minutes outside the settlements process, AT&T asserts that U.S. net settlements paid to U.K. carriers increased and U.S. carriers and their cus-

<sup>1</sup> 47 U.S.C. § 214 (1995).

<sup>2</sup> 47 C.F.R. § 63.01 (1994).

<sup>3</sup> See Report No. I-8009.

<sup>4</sup> *Regulation of International Accounting Rates*, CC Docket No. 90-337, Phase II, First Report and Order, 7 FCC Rcd 559 (1991) (*International Resale Order*), modified in part on recon., 7 FCC Rcd 7927 (1992), petition for reconsideration/clarification pending.

ing.

<sup>5</sup> Sprint Application at 4 (citing *ACC Global and Alanna, Inc.*, 9 FCC Rcd 6240, 6272-6274 (1994)).

<sup>6</sup> To the extent that traffic from markets other than the United Kingdom has been transported over private lines, AT&T requests that Sprint report the volumes separately by market. AT&T Comments at 4.

<sup>7</sup> *Id.* at 1-2.

tomers were harmed. AT&T argues that the quarterly certification will protect U.S. customers from the consequence of refiling traffic through the United Kingdom.

6. Sprint replies that the Commission should dismiss AT&T's requests.<sup>8</sup> Sprint explains that AT&T refers to service arrangements that Sprint (UK) has provided for two years pursuant to a limited international authority granted by the United Kingdom's licensing authority. Sprint explains that, under these arrangements, Sprint (UK) hands off U.K.-U.S. traffic from its British customers to its U.S. correspondent at mid-ocean and pays settlements on such traffic. Thus, Sprint asserts that it is not providing switched services outside the settlements process.<sup>9</sup> Moreover, states Sprint, the Commission has been aware of this arrangement, and it has not informed Sprint that the arrangement violates Commission policy. Sprint further contends that AT&T has been aware of the arrangement and has not previously challenged its lawfulness. According to Sprint, AT&T seeks to punish it by having the Commission impose a retroactive reporting requirement without determining that Sprint has committed an illegal activity and without even providing reliable evidence that Sprint is refiling traffic through the United Kingdom.<sup>10</sup> Sprint contends that AT&T has not justified its position on the refiling of traffic or cited a Commission policy or decision prohibiting refiling.<sup>11</sup> Moreover, Sprint states that it does not refile traffic through the United Kingdom.

7. AT&T interprets Sprint's response as an admission that it has provided switched services from the United Kingdom on a one-way basis into the United States over international private lines prior to the Commission's finding the United Kingdom equivalent.<sup>12</sup> AT&T disputes that Sprint's service agreement with Sprint (UK) establishes that their jointly-provided switched services were subject to an accounting rate. AT&T states that Sprint's service agreement, which Sprint filed with the Commission under seal, does not specify an accounting rate, and that Sprint made no International Settlement Policy (ISP) notification or waiver filing with respect to an accounting rate.<sup>13</sup> Last, AT&T states that Sprint has not indicated how its proposed service, for which it seeks Section 214 authority, differs from the service it has provided since 1993.

### III. DISCUSSION

8. Resale is "an activity wherein one entity subscribes to the communications services and facilities of another entity and then reoffers communications services and facilities to the public (with or without 'adding value') for profit."<sup>14</sup> Because Sprint will use its own U.S. international private

lines to provide switched services between the United States and the United Kingdom, by definition, Sprint will not be reselling private line service.

9. Sprint's application, however, falls within the scope of the *International Resale Order*. We interpret this Order to require that, whenever a carrier seeks to reroute switched traffic over private lines interconnected to the PSN at either end, that carrier must obtain separate Section 214 authorization.<sup>15</sup> To obtain this authorization, an applicant must demonstrate that the destination country affords resale opportunities equivalent to those available under U.S. law. This equivalency requirement is designed to protect the U.S. public interest against the detrimental effects of the one-way diversion of switched traffic on U.S. net settlement payments.<sup>16</sup> Here, Sprint proposes to reroute switched traffic over an international private line connected at one or both ends to the PSN in the United States and/or the United Kingdom. Therefore, Sprint must obtain separate Section 214 authorization to provide the proposed service.

10. The Commission has concluded previously that the United Kingdom provides equivalent resale opportunities.<sup>17</sup> And, the Commission has granted the authority Sprint requests to similarly situated applicants.<sup>18</sup> Moreover, AT&T neither requests us to deny Sprint's application nor asserts that grant of Sprint's application would be contrary to the public interest.

11. We find that grant of the application will allow Sprint to become a more effective competitor in the provision of switched services. Use of its U.S. international private lines to provide switched services should foster lower prices, innovative services and increased responsiveness to consumer needs on the U.S.-U.K. route. Therefore, the remaining issue to decide is whether to impose AT&T's proposed reporting and certification conditions on Sprint's Section 214 authorization.

12. We see no reason in the record before us to impose AT&T's special conditions on Sprint's Section 214 authorization. These proposed conditions are based on AT&T's assumption that Sprint has violated the Commission's *International Resale Order* by providing switched services over international private lines without proper Section 214 authorization. The issue whether Sprint has violated our *International Resale Order* is properly resolved as an enforcement matter rather than in a Section 214 proceeding. Moreover, the Commission is considering in the *Foreign Carrier Entry* proceeding whether to codify the requirement that carriers seeking to connect a U.S. private line half-circuit with a leased foreign private line half-circuit to provide a switched, basic service, must obtain specific Section 214 authority to do so.<sup>19</sup> We expect that the

<sup>8</sup> Sprint Reply at 2.

<sup>9</sup> *Id.* at 3.

<sup>10</sup> *Id.* at 4.

<sup>11</sup> *Id.* at 5.

<sup>12</sup> AT&T Reply at 2.

<sup>13</sup> AT&T states that it received a copy of the service agreement from Sprint's counsel after AT&T filed its Comments. *Id.* at 3.

<sup>14</sup> *International Resale Order*, 7 FCC Rcd at 565 n.7 (citing *Regulatory Policies Concerning Resale and Shared Use of Common Carrier Services and Facilities*, 60 FCC 2d 261, 271 (1976), *recon.*, 62 FCC 2d 588 (1977), *aff'd sub nom. American Telephone and Telegraph Company v. FCC*, 572 F.2d 17 (2d Cir.), *cert. denied*, 439 U.S. 875 (1978)).

<sup>15</sup> See *American Telephone and Telegraph Company, Memorandum Opinion, Order and Authorization*, 10 FCC Rcd 3201

(1995), *app. for review pending (AT&T Resale Order)*. See also *MCI Telecommunications Corporation, Memorandum Opinion, Order and Authorization*, 10 FCC Rcd 3187 (1995) (*MCI Resale Order*).

<sup>16</sup> *International Resale Order*, 7 FCC Rcd at 560-61.

<sup>17</sup> See *ACC Global Corp. and Alanna Inc.*, 9 FCC Rcd 6240 (1994).

<sup>18</sup> See *AT&T Resale Order* and *MCI Resale Order*, *supra* note 15.

<sup>19</sup> See *Market Entry and Regulation of Foreign-affiliated Entities, Notice of Proposed Rulemaking*, IB Docket No. 95-22, 10 FCC Rcd 4844 (1995) (*Foreign Carrier Entry Notice*).

Commission's action in that proceeding will resolve the issue AT&T raises here on a prospective basis. At the conclusion of that proceeding, we will have ample opportunity to determine whether further action with respect to Sprint's activities is warranted. Additionally, as a result of the Commission's findings in the *Foreign Carrier Entry* proceeding, it may be appropriate to require Sprint to submit the information that AT&T requests, pursuant to our general authority under Section 218.<sup>20</sup> For these reasons, we deny AT&T's request to impose the special reporting and certification requirements on Sprint.

13. Thus, we grant Sprint's Section 214 application authorizing Sprint to provide switched services between the United States and United Kingdom via its international private lines that are interconnected either to the U.S. PSN or the U.K. PSN or to both. We dismiss as unnecessary the Section 214 application filed by Sprint (UK).

#### IV. ORDERING CLAUSES

14. Upon consideration of the above-captioned application, IT IS HEREBY CERTIFIED that the present and future public convenience and necessity require the provision by Sprint of switched services between the United States and the United Kingdom via international private lines interconnected to the public switched networks at either or both ends.

15. Accordingly, IT IS ORDERED that application File No. I-T-C-95-155 filed by Sprint Communications Company L.P. IS GRANTED.

16. IT IS FURTHER ORDERED that the application File No. I-T-C-95-155 filed by Sprint Holding (UK) Limited IS DISMISSED.

17. IT IS FURTHER ORDERED that the authority granted herein for the provision of switched services via international private lines between the United States and the United Kingdom is limited to the provision of such services between the United States and the United Kingdom only -- that is, traffic that originates in the United States and terminates in the United Kingdom or traffic that originates in the United Kingdom and terminates in the United States.

18. IT IS FURTHER ORDERED that neither Sprint nor any persons or companies directly or indirectly controlling it or controlled by it, or under direct or indirect common control with it, shall acquire or enjoy any right, for the purposes of handling or interchanging traffic to or from the United States, its territories or possessions which is denied to any other U.S. carrier by reason of any concession, contract, understanding, or working arrangement to which Sprint or any such persons or companies controlling or controlled by Sprint are parties.

19. IT IS FURTHER ORDERED that Sprint shall comply with Section 203 of the Communications Act, 47 U.S.C. § 203, Part 61, and Sections 43.51 and 43.61 of the Commission's Rules, 47 C.F.R. Part 61, and §§ 43.51 and 43.61.

20. IT IS FURTHER ORDERED that Sprint shall comply with any current and future Commission policies and requirements concerning international accounting and settlement rates and shall file copies with the Commission of

any operating agreements which it enters into with its foreign correspondents within thirty days of their execution.

21. IT IS FURTHER ORDERED that grant of these authorizations is conditioned upon the United Kingdom's continuing to afford resale opportunities equivalent to those afforded under U.S. law.

22. This Order is issued under Section 0.261 of the Commission's Rules, 47 C.F.R. § 0.261 (1994), and is effective upon adoption. Petitions for reconsideration under Section 1.106, 47 C.F.R. § 1.106 (1994), or applications for review under Section 1.115, 47 C.F.R. § 1.115 (1994), may be filed within thirty days of the public notice of this Order (*see* Section 1.4(b)(2), 47 C.F.R. § 1.4(b)(2) (1994)).

#### FEDERAL COMMUNICATIONS COMMISSION

Diane J. Cornell  
Chief, Telecommunications Division  
International Bureau

<sup>20</sup> 47 U.S.C. § 218 (1995).