

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

In the Matter of )
)
Sprint Communications Company L.P. ) ARC-MOD-20000326-00063
)
Petition for Waiver of the )
International Settlements Policy )
to Change the Accounting Rate )
for Switched Voice Service with )
Chile (Bell South) )

ORDER

Adopted: September 6, 2001

Released: September 10, 2001

By the Deputy Chief, Telecommunications Division:

Introduction

1. In this Order we deny the petition of Sprint Communications Company L.P. ("Sprint") to waive the Commission's International Settlements Policy (ISP)1 to change the accounting rate for switched voice service with Chile. The International Bureau suspended this modification request because the foreign carrier in Chile, Chile (Bell South), offered a different effective date to Sprint than it negotiated with other U.S. carriers.

2. We reiterate that this Commission will protect U.S. consumers from the effects of harmful discrimination through strict enforcement of its ISP.2 We find that the agreement between Chile (Bell

1 The ISP requires uniform accounting rates, settlement rates, and division of tolls for U.S. carriers providing the same service to the same foreign point. The ISP also requires that U.S. carriers accept only their proportionate share of return traffic. See Implementation of Uniform Settlements Policy for Parallel International Communications Routes, 51 Fed. Reg. 4736 (1986) (ISP Order); Reconsideration, 2 FCC Rcd 1118 (1987); Further Reconsideration, 3 FCC Rcd 1614 (1988). In 1991, the Commission reformed the ISP to encourage and facilitate accounting rate reductions by U.S. carriers. See Regulation of International Accounting Rates, 6 FCC Rcd 3553 (1991) (Phase I Report and Order); Reconsideration, 7 FCC Rcd 8049 (1992). See Regulation of International Accounting Rates, 7 FCC Rcd 8040 (1992) (Phase II Second Report & Order and Second Further Notice of Proposed Rulemaking). In 1996, the Commission codified the proportionate return policy. See Fourth Report and Order on Regulation of International Accounting Rates, 11 FCC Rcd 20063 (1997) (Flexibility Order). The Commission's Rules require a U.S. carrier to file with the Commission a modification request if it seeks to change that accounting rate with a foreign carrier. (47 C.F.R. Ch. 1 §43.51(d)(2)). The Commission subsequently amended its ISP so that it does not apply on routes where settlement rates are twenty-five percent or more below the Commission's benchmark rates and to agreements with foreign carriers that lack market power. See 1998 Biennial Regulatory Reform of the International Settlements Policy and Associated Filing Requirements, Report and Order and Order on Reconsideration, 14 FCC Rcd 7963 (eff. July 29, 1999) (ISP Reform Order).

2 See In the Matter of AT&T Corp., MCI Telecommunications Corp., Petition of the International Settlements Policy to Change the Accounting Rate for Switched Service with Bolivia, 11 FCC Rcd 13799 (1996) and In the Matter of AT&T Corp., MCI Telecommunications Corp., Sprint, LDDS WorldCom Petition of the International Settlements Policy to Change the Accounting Rate for Switched

South) and Sprint violates the ISP because it would result in a significant disparity in the accounting rates among U.S. carriers. Therefore, to enforce our ISP, to ensure equitable treatment of U.S. carriers, and to protect U.S. consumers, we deny Sprint's modification request and direct it to negotiate a nondiscriminatory agreement with Chile (Bell South). Until Sprint negotiates a nondiscriminatory rate with Chile (Bell South), we direct Sprint settle with Chile (Bell South) on an interim basis at the lowest rate Chile (Bell South) had negotiated with other U.S. carriers for service on the U.S.-Chile route.

### Background

3. Sprint filed a petition for modification of the Commission's ISP for service with Chile (Bell South) that would reduce its accounting rate from \$1.00 to 90¢ per minute on January 1, 1997.<sup>3</sup> The International Bureau suspended Sprint's modification request<sup>4</sup> because Chile (Bell South) previously entered into agreements with AT&T and MCI WorldCom to implement an accounting rate of 90¢ per minute with an effective date of July 1, 1996.<sup>5</sup>

### Discussion

4. When Sprint filed its modification request, the ISP prohibited discrimination among U.S. carriers in all accounting rate agreements. The Commission applied its ISP to all accounting rate agreements at that time because it was concerned that foreign carriers had the ability to "whipsaw" U.S. carriers in the course of accounting rate negotiations, to the detriment of U.S. consumers.<sup>6</sup> Subsequently, the Commission determined that market conditions on many routes had changed sufficiently to allow a more limited application of the ISP.<sup>7</sup> We evaluate Sprint's modification request under the rules that were in effect at the time the request was filed. We believe this is appropriate, as the Commission had determined that market conditions at that time warranted strict application of the ISP on all routes in order to protect U.S. consumers from the harmful effects of discrimination.

5. The Commission's rules in effect at the time the agreement between Sprint and Chile (Bell South) was filed required accounting rate changes to be made available to all U.S. carriers with the same

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*Service with Peru*, 11 FCC Rcd 12107 (1996).

<sup>3</sup> Sprint Accounting Rate Change for International Switched Voice Service with Chile (Bell South), ARC-MOD-19980724-00521 (filed July 24, 1998).

<sup>4</sup> See Letter from Troy F. Tanner, FCC, to Marybeth Banks, Sprint, August 13, 1998.

<sup>5</sup> See AT&T's International Settlements Policy Modification for Change in Accounting Rate for International Message Telephone Service with Bell South Chile S.A., ISP-96-W-451 (filed November 25, 1996), and MCI WorldCom's International Settlements Policy Modification for Change in Accounting Rate for International Message Telephone Service with Chile ARC-MOD-19990216-00033 (filed February 1, 1999). MCI WorldCom's filing superseded a filing by MCI International, ARC-MOD-19980324-00286 (filed March 24, 1998) which was suspended by the International Bureau because the effective date negotiated by MCI International and Bell South was different than the effective date negotiated by AT&T and Bell South.

<sup>6</sup> See e.g. *Petitions of MCI International Corp. and AT&T for Waiver of the International Settlements Policy to Change the Accounting Rate for Switched Voice Service with Ecuador, Order and Authorization*, DA 97-1281 (rel. June 23, 1997).

<sup>7</sup> See *ISP Reform Order*.

effective date. We find that the refusal of Chile (Bell South) to negotiate comparable terms and conditions with all U.S. carriers for service on the U.S.-Chile route violates the ISP as it was applied at the time the agreement between Sprint and Chile (Bell South) was filed. To eliminate this violation, we deny Sprint's modification request and direct it to negotiate a nondiscriminatory agreement with Chile (Bell South). Pending conclusion of negotiations with Chile (Bell South) to establish a nondiscriminatory rate for all carriers, we direct Sprint to settle on an interim basis at the lowest rate Chile (Bell South) has negotiated with a U.S. carrier on the U.S.-Chile route from July 1, 1996, when an accounting rate of 90¢ between Chile (Bell South) and AT&T and MCI WorldCom went into effect, until July 29, 1999, when the Commission's order amending its ISP took effect.

#### **Ordering Clauses**

6. Accordingly, IT IS ORDERED that Sprint's modification request is DENIED.
7. IT IS FURTHER ORDERED that Sprint negotiate a nondiscriminatory accounting rate arrangement with Chile (Bell South) for service on the U.S.-Chile route.
8. IT IS FURTHER ORDERED that pending the conclusion of negotiations with Chile (Bell South) to establish a nondiscriminatory rate for all U.S. carriers, Sprint shall settle on an interim basis at the lowest rate Chile (Bell South) has negotiated with a U.S. carrier for service on the U.S.-Chile route from July 1, 1996 to July 29, 1999.
9. This order issued under Section 0.261 of the Commission's Rules and is effective upon adoption. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Commission's Rules may be filed within 30 days of the date of public notice of this Order (see C.F.R. Section 1.4(b)(2)).

FEDERAL COMMUNICATIONS COMMISSION

Kathryn O'Brien  
Deputy Chief