

<b>Exhibit No.:</b>	
<b>Issues:</b>	<b>Access Rates</b>
<b>Witness:</b>	<b>Mark D. Harper</b>
<b>Sponsoring Party:</b>	<b>Sprint</b>
<b>Type of Exhibit:</b>	<b>Direct Testimony</b>
<b>Case No.:</b>	<b>TR-2001-65</b>
<b>Date Prepared:</b>	<b>August 1, 2002</b>

**BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION**

In the Matter of the Access Rates Charged	)	
by Competitive Local Exchange	)	Case No. TR-2001-65
Telecommunications Companies in the	)	
State of Missouri	)	

**REBUTTAL TESTIMONY  
OF  
MARK D. HARPER  
ON BEHALF OF  
SPRINT MISSOURI, INC.**

**FILED<sup>4</sup>**  
AUG 01 2002  
Missouri Public  
Service Commission

**AUGUST 1, 2002**

1                                    **REBUTTAL TESTIMONY OF MARK HARPER**

2  
3    **I.        INTRODUCTION**

4    **Q.        Please state your name and business address.**

5    A.        My name is Mark D. Harper. My business address is 6450 Sprint  
6                Parkway, Overland Park, KS, 66251.

7  
8    **Q.        By whom are you employed and what are your duties?**

9    A.        I am employed by Sprint/United Management Company as Director-State  
10              Regulatory. In this position I am responsible for the development and  
11              implementation of state regulatory policy and strategy as it pertains to  
12              Sprint's operations in fourteen Midwest states including Missouri.

13  
14   **Q.        Have you previously testified?**

15   A.        Yes, I testified in Case Nos. TW-97-333, TO-97-217, TR-93-181, TO-95-  
16              289, et al., TC-96-112, TT-96-398, TO-97-253 and T0-98-329 before this  
17              Commission and have testified in regulatory proceedings in Kansas and  
18              Texas.

19  
20   **Q.        Please summarize your educational background and relevant work**  
21              **experience?**

22   A.        I received a Bachelor of Science degree from Washington State University  
23              in Pullman, Washington in 1983. My major was in Business  
24              Administration with an emphasis in Finance.

1 From 1983 to 1987, I was employed by the accounting firm of Ernst &  
2 Whinney in the Tacoma Telecommunications Group. In this job I provided  
3 consulting services to telephone companies in the United States and  
4 Puerto Rico. My clients ranged from independent telephone companies  
5 with fewer than 1,000 access lines to regional bell operating companies.  
6 Services provided included the development of separations and access  
7 charge studies, negotiation of pool settlements, review of accounting  
8 systems for compliance with state and federal regulations, and the filing  
9 and support of rate cases.

10  
11 In 1987, I joined United Telecommunications, Inc. (the predecessor to  
12 Sprint/United Management Company) as Manager-Cost Allocations. In  
13 this job I was responsible for the conformance of costing and access  
14 charge systems with Federal Communications Commission (FCC) rules  
15 and the preparation and support of the tariff review plan filed with the  
16 annual interstate access charge filing for all United LECs.

17  
18 In 1988, I was promoted to the position of Director-Pricing and Tariffs. In  
19 this job, I was responsible for the development of pricing strategies for  
20 existing services and the introduction of new services for the United LECs.  
21 I was also responsible the development and communication of policy on  
22 intrastate issues.

1 In 1992, I joined United Telephone-Midwest as Director-Revenue for its  
2 Missouri operations. In this position, I was responsible for the regulatory  
3 relations, exchange carrier relations, pricing, costing and tariffs in the  
4 State of Missouri. In 1996, my duties were expanded to include Kansas.  
5 In January 1999 I began my current position.  
6

7 **Q. On whose behalf are you testifying?**

8 A. I am representing Sprint Missouri, Inc. and Sprint Communications  
9 Company L.P. (Sprint). Both companies are providers of intrastate  
10 exchange access, Sprint Missouri, Inc. as an ILEC and Sprint  
11 Communications Company, L.P. as a CLEC, as well purchasers of  
12 intrastate exchange access service as an intraLATA toll provider and an  
13 interexchange carrier, respectively.  
14

15 **II. PURPOSE OF TESTIMONY**

16 **Q. What is the purpose of your rebuttal testimony?**

17 A. My purpose is to present Sprint's overall position in this proceeding. I will  
18 primarily respond to the Direct Testimony of Dr. Ben Johnson, testifying on  
19 the behalf of staff and specific issues from the Direct Testimony of other  
20 witnesses in this docket.

21 Sprint witness Randy Farrar will demonstrate that the costs, particularly  
22 the results that Dr. Johnson labels TSLRIC, are significantly understated  
23 for Sprint Missouri, Inc. and are not consistent with either the standards

1 identified in state statutes or the methodology supported by the FCC. Dr.  
2 Brian Staihr, also testifying on behalf of Sprint, challenges the relevancy of  
3 stand-alone costs, even if determined correctly, as well as Dr. Johnson's  
4 overall approach to costing.

5  
6 **Q. Has Sprint developed an overall position regarding this docket?**

7 A. It is difficult to crystallize to a single clear statement of position in this  
8 docket because the Commission's purpose and the goals of staff's costing  
9 approach are unclear. Further, what, if anything, should, or can be done  
10 with the results of this docket is unclear.

11  
12 In its Order Establishing Case, the Commission directed the Staff to  
13 gather, compile and analyze information and to present its results in order  
14 to develop a record on the actual cost of exchange access services.<sup>1</sup> The  
15 Order Establishing Case indicates that the purpose for gathering the  
16 information was to allow the Commission to adopt a permanent solution to  
17 address the cap on CLEC's access rates that the Commission determined  
18 to be a barrier to market entry and anti-competitive.<sup>2</sup> In subsequent orders  
19 granting clarification, the Commission indicated that information should be  
20 gathered for all carriers certified to provide basic local service in Missouri,  
21 including both ILECs and CLECs.

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<sup>1</sup> Order Establishing Case, Case No, TR-2001-65, issued August 8, 2000.

<sup>2</sup> *Id.*; See also Order Establishing Procedural Schedule, Clarifying Scope of This Case and Concerning Motion to Waive Service Requirement and Motion to Compel, March, 14, 2002. (An

1

2       It appears that the initial intent of the Commission was to address any  
3       remaining issues surrounding the cap on CLEC access rates. In  
4       particular, it wanted to examine costs in order to determine whether the  
5       CLEC access rate cap acted as a barrier to entry and/or was anti-  
6       competitive. However, in the preparation for this docket it appears that the  
7       preponderance of Staff's time was spent attempting to determine the cost  
8       of access for ILECs and in particular, the larger ILECs in Missouri. To  
9       further confuse the issue, staff did not produce a single estimate of  
10      exchange access costs but instead four different measures of cost.

11

12   **Q.    Can you summarize Sprint's position on the key issues in this**  
13   **docket?**

14   **A.**   Returning to the original purpose of the case as captured in its title, "the  
15   Actual Costs Incurred in Providing Exchange Access and the Access  
16   Rates to be charged by Competitive Local Exchange Telecommunications  
17   Providers". Sprint does not believe that the Commission's current policy  
18   of capping CLEC access rates at the level of the incumbent in whose  
19   territory the CLEC is competing is either a barrier to entry or anti-  
20   competitive. However, critical to this conclusion is that the CLEC have the  
21   ability to file its own cost studies to justify a rate above the cap.

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express purpose of this case is to gather the information necessary to replace the interim rate cap with a permanent solution).

1 Sprint agrees with staff witness Dr. Johnson that "potential rate changes  
2 would more appropriately analyzed in the context of a different  
3 proceeding"(p.136). For multiple reasons Sprint's rates cannot be  
4 impacted in this proceeding.

5  
6 As a price cap company, there are only limited ways that Sprint Missouri  
7 Inc.'s exchange access rates can be changed. As explained below, none  
8 of these options are applicable to this investigation.

9  
10 **III. The CLEC Access Charge CAP is not a Barrier to Entry or Anti-**  
11 **Competitive.**

12  
13 **Q. SWBT witness Unruh states that SWBT "could support the current**  
14 **environment where a CLEC's access rates are capped at the rates of**  
15 **the ILEC in whose territory the CLEC is competing (page 7)." Does**  
16 **Sprint also support the current process?**

17 **A.** Yes, Sprint's support goes beyond SWBT's "could" to a positive  
18 endorsement. While providing lukewarm support for the current  
19 environment, SWBT witness Unruh also states that "SWBT would prefer  
20 that CLECs' switched access rates be capped at SWBT's switched access  
21 rates".

22 The Commission's current capping mechanism is very consistent with the  
23 "safe harbor" rules for CLEC access rates that exist at the FCC and in  
24 other states. Such safe harbor rules make entry easier for CLECs by

1 providing certainty on rate level and simplifying tariff filings thereby  
2 reducing barriers to entry.

3 The Commission's current mechanism avoids anti-competitive impacts by  
4 allowing the access rates level of the CLEC to be set at the level of each  
5 ILEC against which the CLEC competes. Rate structures for all services  
6 of each ILEC particularly exchange access and local exchange service  
7 can vary greatly. Retail rates such as local exchange service are the rates  
8 where the competitive battle is fought. However, a CLEC competitor  
9 would be competitively hindered if it were restricted to lower access rates  
10 than its ILEC competitor. The identical customer would yield lower  
11 revenue for the CLEC even if it priced all of its retail services at the  
12 identical level as the ILEC. SWBT's preferred position of capping CLEC  
13 access rates at the level of SWBT statewide fails to avoid this pitfall and  
14 produces an anti-competitive result.

15 An equally important component of the mechanism is the opportunity for a  
16 CLEC to file for higher rates based on its costs. Although no CLEC has  
17 availed itself of this pathway the Commission should reiterate that the cap  
18 is not absolute.

19  
20 **IV. Sprint Missouri, Inc.'s Exchange Access Rates Cannot be Impacted**  
21 **in This Proceeding.**

22  
23 **Q. On page 136 of his direct testimony Staff Witness Dr. Johnson states**  
24 **that "potential rate changes would more appropriately be analyzed in**  
25 **the context of a different proceeding." Do you agree?**

1 A. Yes, I agree only to the extent that Dr. Johnson suggests that rates cannot  
2 be impacted in this proceeding. In fact, there is universal agreement  
3 among all witnesses filing direct testimony that the rates cannot be  
4 impacted in this proceeding. However, I must disagree to the extent that  
5 Dr. Johnson suggests that changes to Sprint Missouri, Inc.'s switched  
6 access rates could be examined in any docket outside of the limited  
7 options under the price cap statute Section 392.245 under which Sprint is  
8 regulated.

9 **Q. How can the switched access rates of a price cap company such as**  
10 **Sprint Missouri, Inc. be changed?**

11 A. Section 392.245.1 establishes that under price cap regulation the  
12 maximum allowable rates of a subject company are just, reasonable and  
13 affordable. Section 392.245.3 provides that a company enters price caps  
14 with its existing rates as of a date certain. Those rates are then deemed  
15 the maximum allowable prices. Thereafter, there are only limited ways that  
16 the maximum allowable exchange access rates can be changed.

17

18 First, pursuant to 392.245.4 the maximum allowable prices are changed  
19 annually by the application of one of two index formulas chosen by the  
20 company.

21 Next, pursuant to 392.245.8-10 a company can, pursuant to Commission  
22 approval, lower its intrastate access rates with an offsetting increase to  
23 basic local service rates within the parameters of the statute.

1 Finally, the rates may be impacted by Commission action pursuant to  
2 392.248 and the Commission's rules thereto.

3

4 **Q. Dr. Johnson's testimony and schedules contain a number of**  
5 **comparisons of his various estimated costs and access rates. Are**  
6 **these comparisons valid?**

7 A. Even assuming he used the correct cost levels as presented by Sprint the  
8 comparisons are misleading and of only dubious value. In a docket that is  
9 specifically about costs it is misleading to compare rates. It unnecessarily  
10 introduces ratemaking issues into a docket that even Dr. Johnson admits  
11 is not about rates. Dr. Johnson has not established whether current  
12 Missouri access rates were set based on costs at some time in the past or  
13 are primarily the result of public policy. Further, comparing current  
14 Missouri access rates to the rates of other jurisdictions provides no useful  
15 evidence in itself concerning the cost of access in Missouri. If the  
16 comparison were of Missouri access **cost** to **cost** in the federal jurisdiction  
17 or in another state it would be a useful indicator of differences in costs.  
18 However, differences in rates may be due to cost/rate making differences  
19 or public policy differences regarding the proper place to recover those  
20 costs or more likely a blend of both.

21 **Q. Are there additional reasons the comparisons are invalid for Sprint**  
22 **Missouri, Inc.?**

1     A.     Yes. First, Sprint Missouri, Inc. has only implemented the first two steps of  
2           the access reduction/rebalancing provisions pursuant to 392.245.8-10 and  
3           has two additional reductions remaining. Second, Sprint has committed to  
4           reducing switched access charges to offset the proposed Missouri  
5           Universal Service Fund support that is pending before the Commission in  
6           Case No. TO-98-329. These two events can and should serve to further  
7           reduce Sprint Missouri, Inc.'s intrastate switched access charges toward  
8           economic costs. An estimated impact of these future events would result  
9           in an intrastate CCL rate of between \$.02 and \$.03 per minute for Sprint,  
10          Missouri, Inc.

11    **Q.     If comparisons were necessary what would be a more appropriate**  
12          **way to produce a more useful comparison?**

13    A.     In a perfect world the best comparison in this case would be made  
14           between the cost of access of one company, state or jurisdiction and  
15           another company, state or jurisdiction since determining the actual cost of  
16           access is the goal of the current investigation. That clearly is not feasible.

17  
18          However, a meaningful comparison could be made by comparing both the  
19          level of intrastate access and basic local exchange rates by company and  
20          state. By doing so the comparison recognizes the historic interplay  
21          between access rate levels and basic local exchange rates and more  
22          recently universal service funds. In the states where I have personal  
23          knowledge and experience, in every instance where significant access

1 reductions have happened in the past five years through regulatory  
2 proceedings there have been either offsetting increases primarily in basic  
3 local rates, increases in state universal service fund receipts, or both. The  
4 chart below demonstrates the strong correlation between intrastate access  
5 charges, local rates and a state universal service fund. While Sprint's  
6 access rates in Missouri are clearly highest for these Sprint companies, its  
7 local rates are also the lowest.

8  
9 **Comparison of Local Support and Access Rates**  
10 **Sprint-Midwest ILECs**  
11

State	Residential Access Lines	Local Support(a)	Intrastate Switched Access
Missouri	153,444	\$11.89	\$.092941
Minnesota	111,732	\$18.51	\$.045287
Nebraska	18,162	\$21.50	\$.044800
Texas	262,785	\$24.12	\$.021789
Kansas	94,228	\$24.87	\$.044264
Wyoming	5,023	\$38.85	\$.014346

- 12  
13 (a) Weighted average flat rate residential charges plus  
14 per line state USF support if applicable.  
15 (b) Second quarter 2002 average switched access  
16 revenue per minute or latest available information.  
17

18 **V. Conclusion**

19 **Q. Could you please summarize your testimony?**

20 A. Sprint believes that the Commission's current policy of capping CLEC  
21 access rates at the level of the incumbent in whose territory the CLEC is  
22 competing is neither a barrier to entry or anti-competitive. However, critical  
23 to this conclusion is that the CLEC have the ability to file its own cost  
24 studies to justify a rate above the cap.

1 Sprint agrees with staff witness Dr. Johnson that potential rate changes  
2 would more appropriately analyzed in the context of a different  
3 proceeding.

4

5 As a price cap company, there are only limited ways that Sprint Missouri  
6 Inc.'s exchange access rates can be changed, none of which are  
7 applicable to this investigation.

8

9 **Q. Does this conclude your testimony?**

10 **A. Yes.**

In the Matter of an Investigation of the )  
Actual Costs Incurred in Providing Exchange )  
Access Service and the Access Rates to be ) Case No. TR-2001-65  
Charged by Competitive Local Exchange )  
Telecommunications Companies in the )  
State of Missouri. )

[illegible]

1. I am presently Director-State Regulatory, for Sprint Corporation.
2. I have participated in the preparation of the attached Rebuttal Testimony in question and answer form to be presented in the above entitled case;
3. The answers in the attached Rebuttal Testimony were given by me; and,
4. I have knowledge of the matters set forth in such answers and that such matters are true and correct to the best of my knowledge and belief.

Mark D. Harper

Subscribed and sworn to before me on this 29<sup>th</sup> day of June, 2002.

Abbie K. Draper  
NOTARY PUBLIC

June 4, 2005

