

**BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI**

In the Matter of the Determination of Prices of)
Certain Unbundled Network Elements.) Case No. TO-2002-397

SPRINT'S RESPONSE TO ORDER DIRECTING FILING

COMES NOW Sprint Communications Company, L.P. ("Sprint") and hereby responds to the Commission's Order Directing Filing issued September 18, 2003:

1. The Commission established the above referenced case on March 14, 2002 for the purpose of "reviewing the unbundled network elements that were at issue in Case No. TO-2002-222; the scope of the case may also include all pricing issues that are not a part of Case Nos. TO-2001-438, TO-2001-439, and TO-2001-440, and any other issue the Commission determines to be appropriate." In its Initial Briefs filed May, 23, 2002, Sprint stated that it did not believe a generic case was warranted at this time. Sprint reiterates its initial position at this time and notes that the FCC is currently reviewing TELRIC pricing as will be discussed below.

2. On September 18, 2003, the Commission issued its Order Directing Filing instructing the parties to this case to file pleadings "clarifying the impact of that Triennial Review Order on this case." While the Commission opened this case to review certain UNE's, the Commission has yet to define the scope of such review. As such, Sprint's comments will be somewhat generic as a specific list of UNE's to review is not available.

3. The main focus of the TRO was not pricing although the TRO did address two aspects of TELRIC. The FCC concluded that it was necessary to "clarify the application of two components of TELRIC that have a major impact on UNE prices –

cost of capital and depreciation"¹. There two components were (1) cost of capital and (2) depreciation. The FCC specifically found that "issues related to modification of [its] TELRIC pricing framework are best addressed in a future proceeding dedicated to that topic. Accordingly, we will leave the general TELRIC framework intact at this time and consider the need for changes on a more complete record in a future review proceeding."² The FCC has since followed-through and on September 10, 2003, initiated a review of its TELRIC pricing guidelines by issuing a Notice of Proposed Rulemaking (FCC 03-224).

4. Regarding the cost of capital, the FCC made two clarifications in the TRO. Specifically, the FCC clarified two types of risks that should be reflected in the cost of capital. First, the FCC concluded that a TELRIC-based cost of capital should reflect the risks of a competitive market. Second, the FCC concluded that a TELRIC-bases cost of capital should reflect any unique risks associated with new services that might be provided over certain types of facilities. Specifically, the Commission found that different UNEs may have a different cost of capital, especially with new technologies and new services.

5. For depreciation, the FCC rejected the idea that it mandate the use of financial lives in establishing depreciation expense under TELRIC. Rather, the FCC found that state commissions will continue to have discretion with respect to the asset lives they use in calculating depreciation expense. The FCC also clarified that a carrier may accelerate recovery of the initial capital outlay for an asset over its life to reflect any anticipated decline in its value.

¹ ¶ 675

² ¶ 676

6. Specific to this case, once the Commission defines the scope of the proceeding and identifies which UNEs are under review, SBC-MO will present its direct testimony which will presumably include cost studies. Per the FCC's TRO, SBC-MO may or may not, at its discretion, present evidence in an attempt to demonstrate that its cost of capital associated with the various UNEs under review are different than other UNEs. Furthermore, SBC-MO may present an accelerated depreciation plan. Any party not in agreement with any aspect of SBC-MO's cost studies, including the cost of capital and depreciation factors, may challenge SBC-MO's assumptions. Both of these issues will need to be considered and addressed by this Commission.

WHEREFORE Sprint respectfully submits its Comments.

Respectfully submitted,

Sprint



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above and foregoing was served on each of the following parties by first-class/electronic/facsimile mail, this 9th day of October, 2003.

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