

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

In the Matter of a Commission Inquiry into)
the Possibility of Impairment without)
Unbundled Local Circuit Switching When)
Serving the Mass Market)

Case No. TO-2004-0207

**RESPONSE OF SPRINT TO SBC MISSOURI'S AND CENTURYTEL'S
RESPONSE TO ORDER DIRECTING FILING**

COMES NOW Sprint Missouri, Inc. and Sprint Communications, L.P. (collectively "Sprint"), and hereby files its response to the SBC Missouri and Century Telephone filings in this case.

1. On November 5, 2003 the Commission issued an Order creating this case and establishing filing deadlines for certain information. In that Order, the Commission stated that any party or proposed intervenor that plans to challenge the FCC's finding of impairment for mass market switching, loops and transport must file a pleading stating that intent no later than November 12, 2003. That Order further required the pleading to include specific, detailed information supporting the party's case. The Commission also required responses by competitive local exchange carriers to those filings be made no later than November 17, 2003.

2. In response to the Commission's directive, three parties made filings addressing their plans regarding the FCC's national impairment findings in Missouri. Sprint stated in its response filed November 12th that it did not intend to challenge the FCC's findings regarding impairment without mass market local switching, enterprise loops or dedicated transport in any of its ILEC operating areas within the initial nine months. SBC Missouri and CenturyTel also filed responses indicating that it was their

intent to challenge the FCC's findings for mass market local switching, enterprise loops and dedicated transport for geographic market(s) in Missouri. These filings will be addressed below.

3. Geographic Markets: Both SBC Missouri and CenturyTel support the use of Metropolitan Statistical Areas (MSAs) as the appropriate geographic market areas for Missouri in this proceeding. While Sprint does not agree with the reasons given by the SBC Missouri and CenturyTel for selecting MSAs as the appropriate market area in Missouri, Sprint does agree that MSAs may form the appropriate geographic market for the evaluation and findings that the Commission must make in this proceeding.

4. DSO Cutoff: As part of an economic and operational analysis, state commissions are required to determine the appropriate cut-off level for multi-line DSO customers. SBC Missouri and CenturyTel both support the use of the FCC default cutoff level of three or fewer DSOs, at least initially, for the purpose of identifying those customers that are considered part of the mass market. As SBC Missouri correctly identified in its comments, the proper DSO crossover level is one of the factual findings that the Commission must make in this proceeding. Therefore, Sprint does not support the declaration of any initial assumed crossover level at this juncture. Instead, Sprint believes, based on evidence to be presented to the Commission in this proceeding, a DSO crossover can be calculated and applied as described in paragraph 497 of the FCC TRO Order.

5. Geographic Areas/Triggers: The remainder of the statements contained in the filings of SBC Missouri and CenturyTel attempt to satisfy the Commission's requirements to identify the specific geographic areas, specific routes or specific

customer locations where they are challenging impairment. The Commission, in its November 5 Order, had directed parties to supply information supporting their case of mass market local switching, enterprise loops and dedicated transport and, in the case of switching and transport, the competitors that they assert satisfy the triggers. In spite of these requirements, SBC Missouri and CenturyTel fall far short of providing information that would allow a party to respond in any manner other than denying that the FCC's presumption of non-impairment should remain. While the filings have identified the geographic areas and (at least to attorneys and outside consultants)¹ the alleged competitors, they do not begin to demonstrate how much of the mass market is actually being served or how much is capable of being served by these alleged competitors. Further, with respect to the enterprise loops, the filings fail to provide the basic information necessary to ascertain the customer locations subject to the filings.

While SBC Missouri and CenturyTel have chosen to rely solely upon the FCC's competitive triggers, the Commission's role in this case is not limited to merely counting competitors and facilities and then speculating as to the markets served. This type of counting exercise runs contrary to the responsibilities delegated to the Commission in the TRO. Clearly, if the granular analysis required of this Commission was simply concerned with counting self-provisioned switches or competitors along dedicated transport routes or enterprise loops, the FCC could have accomplished this simple task in the TRO. The granular analysis required of the Commission must entail more. As

¹ The names of the carriers being relied upon have been withheld as Highly Confidential; therefore Sprint is limited in its ability to initially evaluate the reasonability of the claims by comparing the information with internal data it may have. Sprint strongly questions whether the identity of a switch owner in the MSAs that purportedly serves mass market customers is properly designated as highly confidential. This information has already been filed in other states by other ILECs including affiliates of SBC and is available to the internal experts upon whom Sprint is relying to evaluate and present its case. If all parties label such basic information as highly confidential, only those parties employing outside consultants will be able to meaningfully participate.

required by the TRO, a trigger analysis for mass market switching must, at a minimum, demonstrate the feasibility of serving "the mass market" – as opposed to serving a *de minimus* portion of the mass market, or serving a *niche* of the mass market (e.g., non residential customer).

As to mass market switching, the granular analysis required of this Commission must include how much of the mass market is *actively* being served by a competitor and how much of the mass market is *capable* of being served by the competitor. As the TRO explicitly states, the area *capable* of being served by competitors is a key component of this granular analysis. TRO at ¶ 499, fn 1552. Furthermore, the TRO requires that they must be *actively* pursuing customers (TRO at ¶ 499) and "likely to continue to do so." (TRO at ¶ 500). The Commission must determine whether such claimed self-provisioning providers are using their own switches to provide service to a non-*de minimus* percentage of the mass market, including the residential market.

Similarly, enterprise loops and dedicated transport are critical network components necessary for competition. The FCC made national findings that CLECs are impaired without unbundled access to these key network elements. The FCC provided specific guidance for the state commissions to follow in order to overcome the national finding of impairment for these elements. However, the bottom line remains that a state commission must be absolutely certain that a CLEC has a real, practical, economic alternative to the ILEC before any loop to a customer location or a route between ILEC wire centers is removed from the TRO's national list. For example, the Commission must look at specific conditions that exist at each customer location or on each route. Factors


include a competitor's ability to obtain economic collocation, rights-of-way, building access, and necessary equipment. Clearly, the granular inquiry required of the Commission must extend beyond taking a snapshot of competitive facilities.

6. Hot Cuts: In its Order, the Commission required SBC Missouri to file its batch hot cut proposal. At this time, Sprint takes no position on hot cut procedures and has no comment regarding SBC's proposed procedures.

WHEREFORE, Sprint respectfully files its responses in accordance with the Commission's directive in this Order.

Respectfully submitted,

SPRINT



Lisa Creighton Hendricks, Mo. Bar 42194
6450 Sprint Pkwy.
KSOPHN0212-2A253
Overland Park, Kansas 66251
Voice: 913-315-9363
Fax: 913-523-9829
lisa.c.creightonhendricks@mail.sprint.com

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 17th day of November, 2003:

Michael Dandino
Office of Public Counsel
200 Madison Street, Suite 650
Jefferson City, MO 65101

General Counsel
Missouri Public Service Commission
301 West High Street
Jefferson City, MO 65101

Paul G. Lane, Leo J. Bub
Robert J. Gryzmala
Mimi B. MacDonald
Southwestern Bell Telephone, L.P.
d/b/a SBC Missouri
One SBC Center, Room 3520
St. Louis, MO 63101

Dana K. Joyce
P.O. Box 360
200 Madison St., Suite 800
Jefferson City, MO 65102

Legal Department
Adelphia Business
Solutions Operations
712 N. Main Street
Coudersport, PA 16915

Legal Department
Birch Telecom of Missouri
2020 Baltimore Ave.
Kansas City, MO 64108

John B. Coffman
P.O. Box 7800
200 Madison St., Suite 640
Jefferson City, MO 65102

Legal Department
Advanced Integrated Tech
9855 W. 78th Street, Suite 300
Eden Prairie, MN 55344

Legal Department BTI
4300 Six Forks Rd., Suite 400
Raleigh, NC 27609

Legal Department
SBC Missouri
One Bell Center, Room 3520
St. Louis, MO 63101

Legal Department
Affordable Phone Company
808 S. Baker Street
Mountain Home, AR 72653

Legal Department
Budget Phone, Inc.
6901 W. 70th Street
P.O. Box 19360
Shreveport, LA 71129

Legal Department
Allegiance Telecom of Missouri
9201 N. Central Expressway
Dallas, TX 75231

Legal Department
BullsEye Telecom, Inc.
25900 Greensfield Road
Oak Park, MI 48237

Legal Department
Buy-Tele Communications, Inc.
6409 Colleyville Blvd.
P.O. Box 1170
Colleyville, TX 76034

Legal Department
Spectra Communications Group, LLC
d/b/a CenturyTel
220 Madison Street
Jefferson City, MO 65101

Legal Department
Alltel Communications, Inc.
1705 S. Lillian Ave.
P.O. Box 180
Bolivar, MO 65613

Legal Department
CenturyTel of Missouri
220 Madison Street
Jefferson City, MO 65101

Legal Department
AT&T Communications of
the Southwest
101 W. McCarty St., Suite 216
Jefferson City, MO 65101

Legal Department
Accutel of Texas, Inc.
7900 W. John Carpenter Freeway
Dallas, TX 75237

Legal Department
CAN Communications Services
32991 Hamilton Court
Farmington Hills, MI 48333

Legal Department
BBC Telephone, Inc.
154 N. Emporia
Wichita, KS 67202

Legal Department
e.sprie Communications
22685 Holiday Park Dr.,
Suite 80
Sterling, VA 20166

Legal Department
Ernest Communications
5275 Triangle Parkway, Suite 150
Norcross, GA 30092

Legal Department
Everest Midwest Licensee LLC
9647 Lackman Road
Lenexa, KS 66219

Legal Department
Excel Telecommunications
1600 Viceroy Dr.
Dallas, TX 75235

Legal Department
CD Telecommunications
608 St. Hwy, 165, Suite #5
Branson, MO 65616

Legal Department
BarTel Communications
333 Leffingwell, Suite 101
St. Louis, MO 63122

Legal Department
Basicphone, Inc.
P.O. Box 220
Orange, TX 77631

Legal Department
Cinergy Communications
1419 West Lloyd Expressway
Evansville, IN 47710

Legal Department
Connect!
P.O. Box 619
Bryant, AR 72089

Legal Department
Fidelity Communications
Services III
64 N. Clark
Sullivan, MO 63080

Legal Department
Global Crossing
Local Services, Inc.
1080 Pittsford Victor Rd.
Pittsford, NY 14534

Legal Department
Global Crossing
Telemanagement
1080 Pittsford Victor Rd.
Pittsford, NY 14534

Legal Department
877-Ring Again
P.O. Box 720429
Dallas, TX 75372

Legal Department
Chariton Valley Telecom Corporation
109 Butler
Macon, MO 63552

Legal Department
C12, Inc.
200 Galleria Pkwy.,
Suite 1200
Atlanta, GA 30339

Legal Department
Concert Communications Sales
2355 Dulles Corner Blvd., #LBBY
Herndon, VA 20171

Legal Department
Fidelity Communications Services, II
64 N. Clark
Sullivan, MO 63080

Legal Department
Convergent Communications
P.O. Box 746237
Arvada, CO 80006

Legal Department
Cox Missouri Telecom
5428 Florida Blvd.
Baton Rouge, LA 70806

Legal Department
Davidson Telecom, LLC
19003 Hodestone Mews Crt.
Davidson, NC 28036

Legal Department
ExOp of Missouri
303 N. Jefferson
P.O. Box 891
Kearney, MO 64060

Legal Department
DIECA Communications
3420 Central Expressway
Santa Clara, CA 95051

Legal Department
FamilyTel of Missouri, LLC
2900 Louisville Ave.
Monroe, LA 71201

Legal Department
Fast Connections, Inc.
P.O. Box 40
Hubbard, OR 97032

Legal Department
Fidelity Cablevision, Inc.
64 N. Clark
Sullivan, MO 63080

Legal Department
Fidelity Communications Services I
64 N. Clark
Sullivan, MO 63080

Legal Department
NuVox Communications
16090 Swingley Ridge Rd.,
Suite 500
Chesterfield, MO 63017

Legal Department
Omniplex
1250 Wood Branch Park Dr.,
Suite 600
Houston, TX 77079

Legal Department
GlobalCom, iNc.
2100 Sanders Rd., Suite 150
Northbrook, IL 60062

Legal Department
GoBeam Services, Inc.
5050 Hopyard Rd., Suite 350
Pleasanton, CA 94588

Legal Department
Green Hills Telecommunications
7926 NE State Route M
P.O. Box 227
Breckenridge, MO 64625

Legal Department
Group Long Distance, Inc.
1 Cavalier Court
P.O. Box 534
Ringoes, NJ 08551

Legal Department
Ionex Communications, Inc.
2020 Baltimore
Kansas City, MO 64108

Legal Department
IP voice Communications I
14860 Montford Dr., Suite 210
Dallas, TX 75254

Legal Department
KMC Data, LLC
1545 Route 206
Bedminster, NJ 07921

Legal Department
KMC Telecom III
1545 Route 206
Bedminster, NJ 07921

Legal Department
Delta Phones, Inc.
245 Illinois Street
Delhi, LA 71232

Legal Department
EZ Talk Communications, LLC
4727 S. Main
Stafford, Texas 77477

Legal Department
DMJ Communications, Inc.
P.O. Box 12690
Odessa, TX 79768

Legal Department
dPi-Tele.-Connect, LLC
1720 Windward Concourse, #250
Alpharetta, GA 3000

Legal Department
DSLnet Communications, LLC
545 Long Wharf Dr., 5th Floor
New Haven, CN 06511

Legal Department
McLeodUSA
Telecommunications Services, Inc
6400 C Street, SW
P.O. Box 3177
Cedar Rapids, IA 52406

Legal Department
Metro Communications Co.
P.O. Box 555
Sullivan, IL 61951

Legal Department
Metro Teleconnect Company
2150 Herr Street
Harrisburg, PA 17103

Legal Department
Phone-Link, Inc.
1700 Eastpoint Parkway, #270
Louisville, KY 40223

Legal Department
PNG Telecommunications
100 Commercial Dr.
Fairfield, OH 45014

Legal Department
Popp Telecom Inc.
620 Mendelssohn Ave., North
Golden Valley, MN 55427

Legal Department
Premiere Paging & Cellular
1114 Blue Bird Lane
Liberty, MO 64068

Legal Department
QCC, Inc.
8829 Bond Street
Overland Park, KS 66214

Legal Department
QuantumShift Communications
88 Rowland Way
Novato, CA 94945

Legal Department
North County Communications
3802 Rosecrans Street
San Diego, CA 92110

Legal Department
Qwest Communications Corp.
1801 California St.,
47th Floor
Denver, CO 80202

Legal Department
Teligent Services, Inc
460 Herndon Pkwy, Suite 100
Herndon, VA 20170

Legal Department
Level 3 Communications, I
1025 Eldorado Blvd.
Broomfield, CO 80021

Legal Department
Local Line America, Inc.
P.O. Box 4551
Akron, OH 44310

Legal Department
Magnus Communications, Inc.
340 S. Broadview
Cape Girardeau, MO 63703

Legal Department
Mark Twain Communications
P.O. Box 128
Hurdland, MO 63547

Legal Department
Maxcess, Inc.
P.O. Box 951419
Lake Mary, FL 32795

Legal Department
Maxcom, Inc.
1250 Wood Branch Dr., Suite 600
Houston, TX 77079

Legal Department
Max-Tel Communications
1720 Windward Concourse
Alpharetta, GA 30005

Legal Department
Reliant Communications
801 International Parkway
Lake Mary, FL 32746

Legal Department
Ren-Tel Communications
33 Black Forest Run
Douglasville, GA 30134

Legal Department
Midwestern Tel
2751 N. Ashland Ave.
Chicago, IL 60614

Legal Department
Missouri Comm South, Inc.
2909 N. Buckner Blvd., Suite 800
Dallas, TX 75228

Legal Department
Missouri State Discount
804 Elkins Lake
Huntsville, TX 77340

Legal Department
Missouri Telecom, Inc
515 Cleveland, Suite C
Monett, MO 64708

Legal Department
Navigator Telecommunications
8525 Riverwood Park Dr.
P.O. Box 13860
North Little Rock, AR 72113

Legal Department
Quick-Tel, Inc.
P.O. Box 1220
Bridgeport, TX 76426

Legal Department
Now Acquisition Corporation
180 N. Wacker Dr., Suite 3
Chicago, IL 60606

Legal Department
Southern Telecom Network
P.O. Box 1161
Mountain Home, AR 72653

Legal Department
Spectra Communications
1151 CenturyTel Drive
Wentzville, MO 63885

Legal Department
The Cube
7941 Katy Freeway, Suite 304
Houston, TX 77024

Legal Department
Sage Telecom, Inc.
805 Central Expressway
Allen, TX 75013

Legal Department
SBA Broadband Services, Inc.
5900 Broken Sound Pkwy, NW
Boca Raton, FL 33487

Legal Department
ServiSense.com, Inc.
115 Shawmut Road
Canton, MA 02021

Legal Department
Simply Local Services, Inc.
2225 Apollo Dr.
Fenton, MO 63026

Legal Department
Smoke Signal Communications
8700 5. Gessner
Houston, TX 77074

Legal Department
Snappy Phone
6901 W. 70th Street
Shreveport, LA 71129

Legal Department
Socket Telecom, LLC
811 Cherry St., Suite 210
Columbia, MO 65201

Legal Department
Rocky Mountain Broadband
999 18th St., Suite 1835
Denver, CO 80202

Legal Department
Supra Telecommunications
and Legal Department
Information Systems, Inc.
2620 SW. 27th Ave.
Miami, FL 33133

Legal Department
Suretel, Inc.
5 N. McCormick
Oklahoma City, OK 73127

Legal Department
Talk America, Inc.
6805 Route 202
New Hope, PA 18938

Legal Department
Tel Com Plus
2277 19th Ave., SW
Largo, FL 33774

Legal Department
Telepacific Communications
515 5. Flower St., 47th Floor
Los Angeles, CA 90071

Legal Department
Telera Communications
910 E. Hamilton Ave., Suite 200
Campbell, CA 95008

Legal Department
Tele-Reconnect, Inc.
16925 Manchester Rd.
Wildwood, MO 63040

Legal Department
Transamerican Telephone
209 E. University
Denton, TX 76201

Legal Department
TruComm Corporation
1608 Barclay Blvd.
Buffalo Grove, IL 60089

Legal Department
Unite
303 N. Jefferson
P.O. Box 891
Kearney, MO 64060

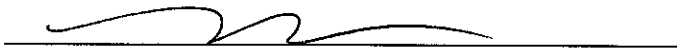
Legal Department
Valor Communications
CLEC of Missouri
201 E. John Carpenter
Freeway, #200
Irving, TX 75062

Legal Department
VarTec Telecom, Inc.
1600 Viceroy Dr.
Dallas, TX 75235

Legal Department
Verizon Select Services, Inc.
6665 N. MacArthur Blvd.
Irving, TX 75039

Legal Department
Xspedius Communications
(Switched Services)
7125 Columbia Gateway Dr.,
Suite 200
Columbia, MD 21046

Legal Department
Z-Te Communications
601 S. Harbour Island Blvd., Suite 220
Tampa, FL 33602



Lisa Creighton Hendricks