

**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 INITIAL BRIEF

COMES NOW Sprint Communications Company, L.P. and for its Brief in Response to the May 3, 2002 Notice in this case states as follows:

1. **What is the appropriate scope of this case? Should the scope be limited to a review of the unbundled network elements that were at issue in Case No. TO-2002-222, or should it also include all pricing issues that are not part of Case Nos. TO-2002-438, TO-2002-439, and TO-2002-440? Are there any additional issues that should be included?**

Sprint does not believe that a generic case is warranted at this time. The Commission has recently completed a lengthy proceeding wherein it examined Southwestern Bell Telephone Company's (SWBT's) UNE rates in Case No. TO-99-227.¹ The Commission found that the rates set in the case complied with the Federal Telecommunications Act² and the Federal Communications Commission's (FCC's) pricing rules. At this stage, there is no reason for CLECs to undertake yet another extensive and costly regulatory proceeding to maintain the rates recently set. Alternatively, the Commission should rule that the rates set in Case No. TO-99-227 are the rates that SWBT is required to make available to all CLECs, regardless if they opt into the M2A or not. If the Commission issued such a ruling, then it would not be forced into lengthy

¹ *In the Matter of the Application of Southwestern Bell Telephone Company to provide Notice of Intent to File an Application for Authorization to provide In-region InterLATA Services Originating in Missouri Pursuant to Section 271 of the Telecommunications Act, Case No TO-99-227.*

and complicated arbitrations when a CLEC who needs terms different than the M2A wants rates offered in the M2A. This would accomplish the goal the Commission seeks in this case by setting a generic standard.

In the event the Commission goes forward with this case, Sprint maintains that the scope should be limited to the unbundled network elements at issue in the MCI arbitration unless additional UNEs are specifically identified by a CLEC party in this case.³ Without such a limitation on the scope in this case, SWBT will be able to use this docket to set rates for UNEs that will not be contested by the participants. As has been shown in Case No. TO-2001-439, SWBT's proposed rates far exceeded the FCC's as well as any other reasonable standards. If SWBT's is allowed to set uncontested UNE rates, undoubtedly, future competition in Missouri, either from new competitors or from different business models, will be stifled. Clearly, the Commission is not seeking to accomplish this goal.

2. Should a working group be established? If so, give guidance on the group's purpose.

Sprint does not believe that a working group is necessary at this time.

3. How should the results of this case be used? Should the case be used only as a benchmark for future proceedings?

If the Commission chooses to go forward with this case, the decisions in this case should set generic UNE rates that SWBT will be required to make available to CLECs when negotiating interconnection agreements. To the extent that a particular CLEC believes that the rates are not compliant with the FCC's standards, a CLEC should still have the ability to challenge the rates in a subsequent arbitration. However, if the challenged rate was contested in this case, then there

² 47 U.S.C. 151 et al.

should be a presumption in favor of the rates set in this case. The CLEC challenging the rate would then have the burden to demonstrate that the rate does not comply with the Federal Telecommunications Act and/or the FCC's standards. This is similar to the manner in which Generic UNE rates are handled in Kansas. See *Order on Motion for Expedited Commission Review Filed by Dieca Communications, Inc.*, Kansas Corporation Commission, Docket No 00-DCIT-389-ARB, January 27, 2000 at Paragraphs 18-28.

Respectfully submitted,

Sprint

Lisa Creighton Hendricks by David Bergmeyer
Lisa Creighton Hendricks - MO Bar #42194

6450 Sprint Pkwy

Mail Stop: KSOPHN0212-2A253

Overland Park, KS 66251

Voice: 913-315-9363 • Fax: 913-523-9769

Lisa.c.creightonhendricks@mail.sprint.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing was served by electronic and regular mail, postage prepaid, to the parties listed below, this 23rd day of May, 2002.

Lisa Creighton Hendricks
Lisa Creighton Hendricks *gob*

³ With respect to loops, the MCI arbitration only included a 2-wire analog loop.

Michael F. Dandino
Office of the Public Counsel
P. O. Box 7800
Jefferson City, MO 65102
Mdandino@ded.state.mo.us

MO TO-2002-397

Leo J. Bub
SWBT
One SBC Center, Room 3520
St. Louis, MO 63101-1976
Leo.bub@sbcs.com

Carol Keith
Nuvox Communications of Missouri, Inc.
16090 Swingley Ridge Road, Ste. 500
Chesterfield, MO 63017
Ckeith@nuvox.com

Mark P. Johnson/Trina R. Leriche
Sonnenschein Nath & Rosenthal
4520 Main Street, Ste. 1100
Kansas City, MO 64111
Mpjohnson@sonnenschein.com

Paul Gardner
Goller, Gardner & Feather, PC
131 E High Street
Jefferson City, MO 65101
LKGardner@hotmail.com

Mary Ann (Garr) Young
William D. Steinmeier, PC
P.O. Box 104595
Jefferson City, MO 65110
Myoung0654@aol.com

McLeodUSA Telecommunications Services, Inc.
Box 3177
Cedar Rapids, IA 52406

Bill Haas
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
Whaas01@mail.state.mo.us

Carl J. Lumley
Curtis, Oetting, Heinz, Garrett & Soule, P.C.
130 South Bemiston, Ste. 200
Clayton, MO 63105
Clumley@cohgs.com

J. Steve Weber
AT&T Communications of the Southwest
101 West McCarty, Ste. 216
Jefferson City, MO 65101
Jsweber@att.com

Rebecca B. DeCook
AT&T Communications of the Southwest
1875 Lawrence St., Ste. 1575
Denver, CO 80202
Rdecook@att.com

Sondra B. Morgan/William R. EnglandIII
Brydon, Swearingen & England
Box 456
Jefferson City, MO 65102
Smorgan@brydonlaw.com

Bradley R. Kruse/Christopher Malish
Foster & Malish, LLP
1403 W. Sixth Street
Austin, TX 78703
Bkruse@mcleodusa.com

Paul H. Gardner
131 E. High Street
Jefferson City, MO 65101-2959
LKGardner@hotmail.com