

June 9, 2003

VIA FEDERAL EXPRESS

Missouri Public Service Commission  
Attn: Secretary of the Commission  
200 Madison Street, Suite 100  
Jefferson City, MO 65102

**FILED**<sup>4</sup>

JUN 10 2003

Missouri Public  
Service Commission

**Re: Case No. IO-2003-0281**

Dear Mr. Roberts,

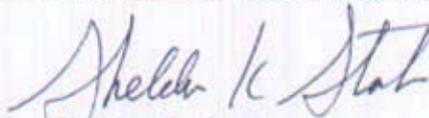
Enclosed is an original and eight (8) copies for filing with the Commission of Fidelity Communication Services I, Inc.'s Rebuttal Testimony and Schedules of Richard L. Taylor.

Thank you for your assistance in this matter.

Yours very truly,

GREENSFELDER, HEMKER & GALE, P.C.

By

  
Sheldon K. Stock

SKS/kka  
Enclosures  
622287.1

cc: Parties of Record  
Mr. John T. Davis  
Mr. Dave Beier  
Mr. Rich Taylor

Exhibit :  
Issue :  
Witness : Richard L. Taylor  
Type of Exhibit : Rebuttal Testimony  
Sponsoring Party : Fidelity Communication Services I, Inc.  
Company : Fidelity Communication Services I, Inc.  
Case No. : IO-2003-0281

**BEFORE THE PUBLIC SERVICE COMMISSION**

**STATE OF MISSOURI**

In the Matter of the Investigation )  
Of the State of Competition in the )  
Exchanges of Sprint Missouri, Inc. )

Case No. IO-2003-0281

**REBUTTAL TESTIMONY**

**OF**

**RICHARD L. TAYLOR**

**ON BEHALF OF  
FIDELITY COMMUNICATION SERVICES I, INC.**

June 10, 2003



1 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

2 A. My name is Richard L. Taylor, and my address is 5244 Roanoke Drive, St. Charles,  
3 Missouri 63304.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am the principal of Rich Taylor Telecommunications Consultant, through which I  
6 provide management and consulting services involving regulatory issues, contract  
7 negotiation and business planning.

8 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS CASE?**

9 A. I am representing Fidelity Communication Services I, Inc. ("Fidelity I").

10 **Q. HAVE YOU PREPARED A SCHEDULE DESCRIBING YOUR EDUCATIONAL**  
11 **BACKGROUND AND EXPERIENCE?**

12 A. Yes, it is attached as Schedule No. 1.

13 **Q. WHAT EXPERIENCE DO YOU HAVE WITH THE MATTERS AT ISSUE IN**  
14 **THIS CASE?**

15 A. I have personally represented Fidelity I in all negotiations for Interconnection  
16 Agreements with Sprint Missouri, Inc. ("Sprint"). I am therefore familiar with Fidelity  
17 I's competition with Sprint. In addition, I have thirty-nine years of experience in the  
18 telecommunication business in the State of Missouri, including the development of  
19 competition and the regulatory issues associated therewith.

20 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

21 A. I will provide background information concerning Fidelity I, its ownership, affiliates and  
22 the status of its operations as it relates to this case. I will provide Fidelity I's response to  
23 the Direct Testimony of Sprint witnesses Mr. John R. Idoux, III and Mr. Mark D. Harper.

24 Specifically, I will explain the following positions/recommendations of Fidelity I:

25 1. Fidelity I disagrees, in part, with Sprint concerning what criteria the  
26 Commission should use in determining if effective competition exists.

27 2. No "exchange-specific" competitive classifications are warranted in the  
28 Rolla exchange, where Sprint faces only one competitor of any consequence.

29 3. No "exchange-specific" competitive classifications are warranted in the  
30 St. Robert exchange, where Sprint, to date, has faced virtually no competition and where  
31 Sprint has experienced dramatic access line growth from 1998 through 2002.

32 4. Fidelity I agrees with Sprint's rationale for most of its "statewide"  
33 competitive classification requests.

34 5. Fidelity I disagrees with Sprint's assessment of competition for Directory  
35 Assistance and Centrex Services. Classification of those services should be addressed on  
36 an "exchange-specific" basis.

37 **Q. PLEASE PROVIDE RELEVANT BACKGROUND INFORMATION**  
38 **CONCERNING FIDELITY I, ITS OWNERSHIP, AFFILIATES AND**  
39 **OPERATIONS.**

40 A. Fidelity I was granted a certificate to provide basic local telecommunications service in  
41 the areas served by Sprint in Case No. TA-2000-191 on December 2, 1999. Fidelity I is  
42 one of three Competitive Local Exchange Companies ("CLECs") which are wholly-  
43 owned subsidiaries of Fidelity Communications Co. Fidelity Communication Services II,  
44 Inc. is certified to operate in CenturyTel exchanges and Fidelity Communication Services  
45 III, Inc. is certified to operate in Southwestern Bell exchanges. Fidelity Communications  
46 Co. also owns Fidelity Telephone Company, an ILEC headquartered in Sullivan,  
47 Missouri, and Fidelity Long Distance, Inc., an interexchange carrier. Other holdings  
48 include Fidelity Networks, Inc., an internet access service and long distance provider, and

49 Fidelity Systems Plus, an equipment retailer. Fidelity Communications Co. also holds a  
50 cellular partnership interest in RSAs 11 and 12 with Cingular. Fidelity Communications  
51 Co. also owns Fidelity Cablevision, Inc., which provides cable TV service in Rolla,  
52 Missouri.

53 Fidelity I began offering local telephone service in the Rolla exchange in July,  
54 2000, and in the St. Robert exchange in February, 2003. Contrary to the Direct  
55 Testimony of Sprint witness Mr. Idoux, Fidelity I is not a 100 percent facilities-based  
56 competitor. We provided data request responses to Sprint which disclosed a few services  
57 provided by resale and UNE. Admittedly, Fidelity I is very close to 100% facility based,  
58 but after nearly three years, we are not quite there, and may never be 100% facility based.

59 **Q. DO YOU AGREE WITH MR. IDOUX'S STATEMENTS CONCERNING WHAT**  
60 **CRITERIA THE COMMISSION SHOULD USE IN DETERMINING IF**  
61 **EFFECTIVE COMPETITION EXISTS?**

62 A. For the most part, yes. I agree with Mr. Idoux's assessment of the Commission's  
63 determinations in the SWBT Competition Case (Case No. TO-2001-467) and the "all  
64 relevant factors" analysis. I disagree, however, with his opinion expressed on page 6 of  
65 his Direct Testimony, wherein he says the Commission must consider companies that  
66 "have the capability to provide customers with an alternate choice." (p.6, ll 30-31)

67 **Q. WHY DO YOU DISAGREE WITH THIS STATEMENT?**

68 A. That a "capability" exists is not a relevant factor in determining if effective competition  
69 exists. If the question at issue was "Is there potential for effective competition?", then  
70 "capability" might be relevant. But, that is not the issue. The issue is, does effective  
71 competition exist, and unutilized capabilities have no bearing on that determination.

72 **Q. PLEASE EXPLAIN YOUR EARLIER ASSERTION THAT SPRINT**  
73 **FACES ONLY ONE COMPETITOR OF ANY CONSEQUENCE IN**  
74 **ROLLA.**

75 A. Eight of the nine companies identified by Mr. Idoux as competitive carriers  
76 providing local exchange service in Rolla function only as prepaid service  
77 resellers (Fidelity I is the lone exception). Two of the eight prepaid service  
78 resellers, Buy-Tel Communications and 877-RingAgain, offer service only to  
79 residential customers. As mentioned earlier, Fidelity I, the only facility-based  
80 CLEC in Rolla, is not 100 percent facility based as claimed by Mr. Idoux.

81 **Q. WHAT IS THE SIGNIFICANCE OF THIS INFORMATION?**

82 A. While the number of competitors is not dispositive of the question of effective  
83 competition, it is one very important factor. That Sprint has only one  
84 consequential competitor in Rolla lends significant doubt as to the existence of  
85 effective competition.

86 In Case No. TO-2001-467, which investigated the state of competition in  
87 Southwestern Bell Telephone Company exchanges, the Commission granted  
88 exchanges specific competitive classification for residential access line services in  
89 only two exchanges, St. Charles and Harvester. The Commission noted in its  
90 Report and Order in that case that 31 CLECs were providing service in the St.  
91 Charles exchange and 27 CLECs were providing service in the Harvester  
92 exchange. Further, the Commission noted that customers in these exchanges had  
93 a choice of CLEC-owned, facility based providers. Rolla customers have no such  
94 choice as only one facility based CLEC operates in Rolla.

95           The Commission also noted that Southwestern Bell had lost substantial  
96 market share.

97 **Q. DID THE COMMISSION MAKE SIMILAR FINDINGS REGARDING**  
98 **BUSINESS SERVICES IN THAT CASE?**

99 A. Yes. The Commission granted exchange-specific competitive classification for  
100 Southwestern Bell's core business switched services in only the Kansas City and  
101 St. Louis exchanges, where it noted 51 and 59 CLECs providing service,  
102 respectively. Again, the Commission noted substantial market share loss. The  
103 Commission also noted that 36 CLECs were providing service in the Springfield  
104 exchange, yet no exchange-specific competitive classifications were granted in  
105 Springfield. Sprint's competition in Rolla pales in comparison.

106 **Q. HAS SPRINT EXPERIENCED SUBSTANTIAL MARKET SHARE LOSS**  
107 **IN THE ROLLA EXCHANGE?**

108 A. Mr. Idoux, at page 40 of his Proprietary Testimony presents Sprint's access line  
109 count at the end of 2002 compared to 1998, and expresses a percent decrease in  
110 access lines. I believe he has a math error in the calculation. I calculate a percent  
111 decrease in access lines that is 2% (200 basis points) smaller than the percentages  
112 offered by Mr. Idoux.

113           Whether either percentage constitutes a "substantial" loss or not is, of  
114 course, a subjective question. One would expect those who lost it to claim it is  
115 substantial and those who gained it to claim otherwise. Given that no quantitative  
116 standard has been prescribed, the Commission has to make a judgment call on this  
117 issue when taken into account with other relevant factors.

118 **Q. WHAT IS YOUR RECOMMENDATION?**

- 119 A. I encourage the Commission to recognize the following:
- 120 1. Sprint has only one true competitor in Rolla.
  - 121 2. That one competitor has operated for less than three years.
  - 122 3. Only one competitor can offer any service not offered by Sprint.
  - 123 4. Only one competitor can differentiate its services from Sprint.
  - 124 5. Only one competitor price competes with Sprint.
  - 125 6. Sprint has provided no evidence of any market place actions it has
  - 126 taken to meet competition in Rolla.

127 Taken in context, I believe the Commission should conclude that effective  
128 competition, warranting Sprint's requested exchange-specific competitive  
129 classifications does not exist in Rolla.

130 **Q. DO YOU BELIEVE EFFECTIVE COMPETITION EXISTS IN THE ST.**  
131 **ROBERT EXCHANGE?**

132 A. No. The facts reveal that there is hardly any competition in the St. Robert  
133 exchange.

134 **Q. WHAT ARE THOSE FACTS?**

135 A. First, eight of the nine CLECs Mr. Idoux identified as providers of service in St.  
136 Robert function only as prepaid service resellers. Two of those eight only offer  
137 service to residential customers.

138 Second, Fidelity I, the only other CLEC operating in St. Robert, just  
139 started doing so in February, 2003 (four months ago) according to Mr. Idoux's  
140 testimony.

141 Third, Mr. Idoux acknowledges that Sprint is not experiencing significant  
142 access line losses in St. Robert. Although, he speculates that Sprint will

143 experience such losses and that there is no reason to believe otherwise. However,  
144 a review of the access line growth chart presented at page 42 of Mr. Idoux's  
145 Proprietary Testimony reveals a dramatic increase in Sprint's St. Robert access  
146 lines from 1998 through 2002. In fact, the percent increase is double that of the  
147 next highest exchange displayed.

148 If there was any competition in St. Robert before Fidelity I got there four  
149 months ago, it certainly was not very effective.

150 **Q. WHAT WEIGHT SHOULD THE COMMISSION GIVE TO MR. IDOUX'S**  
151 **SPECULATION IN ITS DETERMINATION OF WHETHER EFFECTIVE**  
152 **COMPETITION EXISTS IN ST. ROBERT?**

153 A. None, because he has acknowledged that effective competition does not now  
154 exist. That is the question the Commission must decide, not if such competition  
155 might develop in the future. Nothing in the relative statutes or the Commission's  
156 stated purpose for opening this case calls for or allows the Commission to make  
157 competitive classifications based on projections of the future.

158 The question is "whether effective competition exists." The answer for  
159 the St. Robert exchange, based on Sprint's own testimony is: No!

160 **Q. IF THE COMMISSION DISAGREES WITH YOU ON THIS POINT AND**  
161 **WANTS TO CONSIDER FUTURE DEVELOPMENT OF EFFECTIVE**  
162 **COMPETITION, ARE THERE OTHER FACTS IT SHOULD CONSIDER?**

163 A. Yes.

164 **Q. WHAT ADDITIONAL FACTS SHOULD THE COMMISSION CONSIDER**  
165 **REGARDING ST. ROBERT?**

166 A. Fidelity I strongly disagrees with Mr. Idoux's conjecture that since Fidelity has  
167 recently started to provide service in St. Robert that there is "no reason to believe  
168 Sprint will not experience a similar situation" (as in Rolla). (Idoux Direct p. 46)  
169 In fact, we believe the opposite is true, that is, there is no reason to believe  
170 Fidelity I will match its Rolla results in St. Robert.

171 Objectively, Fidelity I would like to have even more success in St. Robert  
172 than in Rolla. However, the fact situation is materially different between the two  
173 exchanges for Fidelity I and such expectations while desirable are unrealistic.

174 **Q. WHAT ARE THE PRIMARY DIFFERENCES BETWEEN THE**  
175 **EXCHANGES FOR FIDELITY I?**

176 A. Fidelity I had significant advantages for its entry into the Rolla exchange  
177 compared to its entry into the St. Robert exchange. The fact that its affiliate,  
178 Fidelity Cablevision, Inc., had been providing cable TV service in Rolla for  
179 approximately eight years was the biggest advantage. It provided Fidelity I with  
180 name recognition and a positive quality of service reputation in the community.  
181 The existence of a local business office and the synergies available by developing  
182 a unique, multi-purpose network were significant factors in Rolla.

183 These factors will not exist for Fidelity I in St. Robert where Fidelity is  
184 more of a start from scratch operation, relatively speaking.

185 **Q. CAN YOU PROVIDE ANY QUANTITATIVE DATA REFLECTING THE**  
186 **SYNERGIES YOU MENTIONED?**

187 A. Yes. As an example, well over half of Fidelity I's local telephone service  
188 customers in Rolla also subscribe to the cable TV service of Fidelity I's affiliate.

189 That affiliate's customer base and customer relationships have been very  
190 instrumental in Rolla. Fidelity I has no cable TV affiliate in St. Robert.

191 **Q. IS IT REASONABLE FOR THE COMMISSION TO ASSUME THAT**  
192 **FIDELITY I WILL HAVE RESULTS IN ST. ROBERT COMPARABLE**  
193 **TO THOSE IN ROLLA?**

194 A. No.

195 **Q. REGARDING THE SERVICES FOR WHICH SPRINT IS SEEKING**  
196 **STATEWIDE COMPETITIVE CLASSIFICATION, DOES FIDELITY I**  
197 **AGREE WITH SPRINT WITNESS MR. HARPER'S ASSESSMENT OF**  
198 **COMPETITION FOR THOSE SERVICES?**

199 A. Generally, yes. With the exceptions of Directory Assistance and Centrex  
200 services, Fidelity I does not dispute Mr. Harper's assessment and  
201 recommendations.

202 **Q. WHY DO YOU DISAGREE WITH MR. HARPER CONCERNING**  
203 **DIRECTORY ASSISTANCE?**

204 A. Fidelity I agrees with the Commission's ruling on this service in the SWBT Case  
205 No. TO-2001-467 where it found, "directory assistance is so closely related to  
206 basic local service that it cannot be subject to effective competition where basic  
207 local is not subject to effective competition."

208 Mr. Harper establishes that there are alternative providers for some  
209 substitutable services but offers no evidence demonstrating the comparability of  
210 rates, terms and conditions of those alternatives. Such a demonstration is required  
211 to determine effective competition, according to the testimony of Sprint witness  
212 Mr. Idoux.

213 **Q. WHY DO YOU DISAGREE WITH MR. HARPER CONCERNING**  
214 **CENTREX SERVICE?**

215 A. Centrex service embodies basic local service, that is, it includes dial tone service.  
216 As such it cannot be distinguished from local exchange service and should be  
217 assessed for determination of effective competition only on an exchange-specific  
218 basis.

219 Beyond that, it should be noted that if Sprint loses a Centrex system to a  
220 premise PBX, as discussed by Mr. Harper, it does not lose all service to that  
221 customer. The customer must still purchase local trunks. A CPE vendor who is  
222 not a CLEC cannot provide those local trunks. The premise PBX system is not  
223 functionally equivalent to Centrex. To be functionally equivalent, it must be  
224 packaged with basic local service.

225 Centrex service does not meet the tests for effective competition.

226 **Q. DOES SPRINT ALREADY HAVE SUFFICIENT FLEXIBILITY TO**  
227 **RESPOND TO COMPETITION FOR CENTREX SERVICE?**

228 A. Yes. Mr. Harper admits as much at page 23 of his Direct Testimony. In his  
229 discussion of customer specific pricing for Centrex, available since 1996, he  
230 makes the following statement:

231 "The introduction of this flexibility was designed to allow carriers  
232 to more effectively respond to competition and was consistent with  
233 the competitive market that existed for Centrex services then and  
234 now." (emphasis added)

235 **Q. DOES THAT CONCLUDE YOUR REBUTTAL TESTIMONY?**

236 A. Yes.

## **SUMMARY OF EDUCATION, WORK EXPERIENCE AND QUALIFICATIONS**

### **Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?**

A. I graduated from Drury College in Springfield, Missouri in 1973 with a Bachelor of Science degree in Business Administration.

In addition, I have completed The Program On Negotiations For Senior Executives, an inter-university consortium, Harvard, MIT and Tufts University, and the MIT-Harvard Disputes Program, Dealing With An Angry Public.

I also completed numerous Bell system training programs, including Network Management, Economics of Telecommunications, Risk Analysis, Cost Study Concepts, and Rate and Tariff Administration.

### **Q. PLEASE DESCRIBE YOUR WORK EXPERIENCE.**

A. Since early 1999 I have been the principal of Rich Taylor Telecommunications Consultant. In that capacity I provide management and consulting services involving regulatory issues, contract negotiations and business planning.

Previously I was employed by Southwestern Bell Telephone Company in Missouri from 1964 until my retirement in 1998. During that time I held a number of management positions, including Business Office Manager, District Manager – Installation and Maintenance, District Manager – Rate Administration, District Manager – Industry Relations and Director – Regulatory and Industry Relations.

From 1985 through 1998 I was involved in all matters relating to intercompany compensation and the joint provisioning of services to customers by SWBT and the independent local exchange telephone companies in Missouri.

**Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE COMMISSION?**

A. Yes. I testified on behalf of SWBT in Case No. TO-87-131, Case No. To-90-232, Case No. TO-92-306, Case No. TW-97-333, Case No. TO-97-217, Case No. TA-98-157, and Case No. TR-97-567. I also filed testimony on behalf of Fidelity Communication Services III, Inc. in Case No. TO-2001-416.

**Q. WHAT OTHER RELATED POSITIONS HAVE YOU HELD?**

A. From 1994 to 1996 I served as Commissioner on the Missouri Commission On Information Technology, a gubernatorial appointment.

In 1997 I was elected by the membership to the position of Chairman of the Board/CEO of the Missouri Telecommunications Industry Association.

