

Exhibit No. _____
Issues: Physical/Virtual Collocation
Witness: Edward Fox
Type of Exhibit: Rebuttal Testimony
Party: Sprint Communications, L.P.
Case No. TO-2005-0336

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

**Southwestern Bell Telephone, L.P., d/b/a)
SBC Missouri's Petition for Compulsory)
Arbitration of Unresolved Issues for a)
Successor Interconnection Agreement to)
the Missouri 271 Agreement ("M2A"))**

Case No. TO-2005-0336

REBUTTAL TESTIMONY

OF

EDWARD FOX

ON BEHALF OF

SPRINT COMMUNICATIONS COMPANY L.P.

MAY 19, 2005

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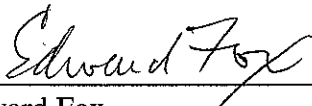
Case No. TO-2005-0336

AFFIDAVIT OF EDWARD FOX

STATE OF KANSAS)
) ss:
COUNTY OF JOHNSON)


I, Edward Fox, being of lawful age and duly sworn, state the following:

1. I am currently Regulatory Affairs Manager for Sprint Communications Company L.P.
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.



Edward Fox

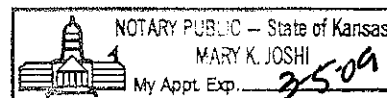
Subscribed and sworn to before me on this 19th day of May, 2005.



Notary Public

My Appointment Expires:

March 31 2009



INTRODUCTION

1 **Q. Please state your name, title and business address.**

2 **A. My name is Edward Fox. I am Sr. Manager – Regulatory Policy, for Sprint**
3 **Corporation. My business address is 6450 Sprint Parkway, Overland Park, KS**
4 **66251.**

5
6 **Q. Are you the same Edward Fox that filed direct testimony in this proceeding**
7 **on May 9, 2005?**

8 **A. Yes.**

9
10 **Q. What is the purpose of your Rebuttal Testimony?**

11 **A. The purpose of my Rebuttal Testimony is to address the following issues raised in**
12 **SBC witness Wesley Pool’s direct testimony:**

13 (1) the definition of “necessary” (Physical Collocation Issue 6A). My rebuttal
14 testimony will point out that SBC appears to agree with Sprint on the definition
15 of “necessary

16 (2) multi-functional equipment is allowable for collocation (Physical Collocation
17 Issue 6B and Virtual Collocation Issue 1). My Rebuttal Testimony points out
18 that current FCC rulings are abundantly clear that this type of equipment is
19 approved for collocation.

20 (3) certain stand alone switching and routing equipment is allowable for
21 collocation (Physical Collocation Issue 7 and Virtual Collocation Issue 2). My

1 Rebuttal Testimony points out that current FCC rules leave no doubt that multi-
2 functional equipment is permissible for collocation.

3

4 **DEFINITION OF “NECESSARY”**

5 **Q. Please state your first unresolved issue.**

6 **A.**The first unresolved issue regards whether the SBC proposed definition of
7 “necessary” is consistent with FCC rules (Physical Collocation Issue 6a). It
8 appears SBC agrees with Sprint’s definition of “necessary”. SBC witness Wesley
9 Pool’s cites the same definition for “necessary” from ¶ 21 of the *Collocation*
10 *Remand Order* as I provided (Pool’s direct testimony p.2, lines 7-11; p.18, lines
11 7-11; Fox direct testimony, p.5 lines 19-21 through p.6 lines 1-2):

12 *“...equipment is “necessary” for interconnection or access to*
13 *unbundled network elements within the meaning of section 251(c)(6)*
14 *if an inability to deploy that equipment would, as a practical,*
15 *economic, or operational matter, preclude the requesting carrier*
16 *from obtaining interconnection or access to unbundled network*
17 *elements.”* Para. 21, Collocation Remand Order, FCC 01-204.
18

19 **Q. What is Sprint’s desired outcome for this issue?**

20 **A.**The desired outcome is to agree that the FCC’s definition of “necessary” from ¶21
21 of the *Collocation Remand Order* is the proper language to use in the
22 interconnection agreement.

1 **MULTIFUNCTIONAL EQUIPMENT**

2 **Q. Please state your second unresolved issue.**

3 **A.** My second unresolved issue regards whether SBC should disallow collocation of
4 multi-functional equipment that Congress and the FCC believes to be necessary
5 for competition (Physical Collocation Issue 6b and Virtual Collocation Issue 1).
6

7 **Q. What is Sprint's desired outcome for this issue?**

8 **A.** Sprint desires that the Commission accept Sprint's language that is based upon the
9 plain language of FCC rules. Sprint's proposed language has been cited by SBC
10 in the DPL as a legitimate guideline for collocation of multi-functional
11 equipment. The desired outcome is to include language in the contract that is
12 consistent with the FCC's ruling allowing collocation of multi-functional
13 equipment:

14 SBC-13STATE will¹ allow collocation of other Multifunctional
15 Equipment, and² SBC-13STATE will voluntarily allow
16 collocation of Remote Switch Module (RSM) solely under the
17 following conditions:
18

19 **Q. Does Mr. Pool's direct testimony accurately state the issue?**

20 **A.** No. Mr. Pool states in his direct testimony that Sprint is suggesting language that
21 will allow Sprint to collocate "any or all multifunctional equipment" (page 25
22 lines 4-6). Sprint submits that the law does not contemplate such a broad and
23 unreasonable standard for collocation of multi-functional equipment as SBC
24 states, and as such, is not proposing that language. SBC states that this is only an

¹ SBC seeks to use "does not" for the underlined phrase

1 issue with Virtual Collocation, Issue 1; however, this same issue is also part of
2 Physical Collocation Issue 6b.

3

4 **Q. Is there a FCC rule that applies to the collocation of multi-functional**
5 **equipment?**

6 **A.** Yes. The collocation rules applicable to the Telecom Act of 1996 are found in 47
7 CFR Subpart D – Additional Obligations of Incumbent Local Exchange Carriers.
8 The specific rule dealing with multi-functional equipment is §51.323 (b)(3) (see
9 Exhibit EBF2).³

10

11 **Q. Has the FCC further clarified its intent for collocation of multi-functional**
12 **equipment in any other orders?**

13 **A.** Yes. The FCC also states in the Triennial Review Order (TRO) its intent to allow
14 the collocation of multi-functional equipment:

15 “Allowing the use of UNEs in this manner is similar to the
16 approach the Commission adopted in its *Collocation Remand*
17 *Order* for multi-functional equipment. In that Order, the
18 Commission required incumbent LECs to allow the collocation of
19 competitive LEC equipment that contained functions that would
20 not meet the standard as stand-alone functions, recognizing that
21 “allowing the collocation of multi-functional equipment is critical

² SBC seeks to use “except that” for the underlined phrase.

³ 47 CFR 51.323(b)(3) Multi-functional equipment shall be deemed necessary for interconnection or access to an unbundled network element if and only if the primary purpose and function of the equipment, as the requesting carrier seeks to deploy it, meets either or both of the standards set forth in paragraphs (b)(1) and (b)(2) of this section. For a piece of equipment to be utilized primarily to obtain equal in quality interconnection or nondiscriminatory access to one or more unbundled network elements, there also must be a logical nexus between the additional functions the equipment would perform and the telecommunication services the requesting carrier seeks to provide to its customers by means of the interconnection or unbundled network element. The collocation of those functions of the equipment that, as stand-alone functions, do not meet either of the standards set forth in paragraphs (b)(1) and (b)(2) of this section must not cause the equipment to significantly increase the burden on the incumbent’s property.

1 to the realization of Congress's goal of promoting competition
2 and technical innovation." The Commission acknowledged that
3 competitive LECs must be able to realize the same productivity
4 increases that developments in new technologies offer. For these
5 reasons, the Commission found that as long as the primary
6 function satisfies the requisite collocation test, the other functions
7 are also permitted. Carriers would be able to collocate multi-
8 functional equipment, as allowed by the *Collocation Remand*
9 *Order*, but, under a rule restricting the use of UNEs, would be
10 unable to use of all of the equipment's permitted functions."⁴
11

12 **Q. Does SBC agree with Sprint that the same FCC rule allows collocation of**
13 **multi-functional equipment?**

14 **A.** Yes. SBC emphasizes that multi-functional equipment is allowable for collocation
15 in DPL#2, Physical Collocation Issue 1 as it makes the point that multi-functional
16 equipment is clearly allowable. Although this DPL issue was never contested by
17 Sprint, the record shows that SBC agrees with Sprint on this language that
18 collocating multi-functional equipment is indeed permissible.
19

20 **Q. Mr. Pool cites some rules on page 25 of his direct testimony that claim to be**
21 **guidelines on allowable equipment for collocation. Are these rules applicable**
22 **to this proceeding?**

23 **A.** No. SBC's cited rules are totally irrelevant to any Interconnection Agreement
24 negotiated under Section 251 and 252 of the Telecommunications Act of 1996.
25 As stated above in this testimony, the applicable rules for implementing the

⁴ ¶147. See *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978 (2003) (*Triennial Review Order*), corrected by Errata, 18 FCC Rcd 19020 (2003) (*Triennial Review*

1 Telecom Act of 1996 are found in section 51 of 47 CFR. The rules quoted in Mr.
2 Pool's testimony are applicable only to Expanded Interconnection. The 1996
3 rule, §64.1402 of 47 CFR quoted by Mr. Pool is completely superfluous because
4 it has nothing to do with collocated equipment.

5

6 **Q. Has Mr. Pool cited in his direct testimony SBC any rule that prohibits**
7 **collocation of multi-functional equipment?**

8 **A.** No.

9

10 **EXCLUSION OF CERTAIN EQUIPMENT**

11 **Q. Please state your third unresolved issue.**

12 **A.** My third unresolved issue regards SBC's proposed exclusion of certain switching
13 equipment that the FCC has already approved for collocation (Physical
14 Collocation issue #7 and Virtual Collocation issue #2). Sprint is proposing
15 language that allows collocation of certain stand alone switching equipment that
16 is allowable through the FCC rules.

17

18 **Q. Has Mr. Pool's testimony accurately characterized the issue?**

19 **A.** No. SBC has quoted language over which Sprint and SBC have no disagreement.
20 The issue of collocating stand alone equipment is not addressed in Mr. Pool's
21 testimony.

Order Errata), *aff'd in part, remanded in part, vacated in part*, *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) (*USTA II*).

1 **Q. Does SBC address collocation of stand-alone switching anywhere in this**
2 **proceeding?**

3 **A.**Yes. In the DPLs, SBC stated that it “does not seek to exclude stand-alone
4 switching and under the FCC requirements the standard is not as clear as Sprint
5 wants to imply. SBC-13STATE has new language to offer which is more in line
6 with the FCC ruling.” DPL#2 Physical Collocation Issue 7, and DP#3 Virtual,
7 Issue 2. SBC’s proposed language only addresses multi-functional equipment and
8 was unable to provide an argument against collocation of stand alone switching
9 equipment.

10
11 **Q. What FCC ruling addresses collocation of stand alone switching equipment?**

12 **A.**The *Collocation Remand Order* provides an extensive record the permissibility of
13 collocating stand alone switching equipment. The essence of the ruling from the
14 *Order* may be found in my direct testimony on pages 9 – 11. Mr. Pool states
15 collocation of switching equipment as an issue in his direct testimony, p. 25
16 lines24-26, but never addresses it or even attempts to explain how their position is
17 “in line with the FCC ruling.”

18
19 **Q. Does this conclude your testimony?**

20 **A.**Yes.