

Exhibit No. _____

Issues:

Witness: Mark D. Harper

Type of Exhibit: Surrebuttal Testimony

Party: Sprint Missouri, 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

SURREBUTTAL TESTIMONY

OF

Mark D. Harper

**ON BEHALF OF
SPRINT MISSOURI, INC.**

July 7, 2003

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

2 **A. My name is Mark D. Harper. My business address is 6450 Sprint Parkway,**
3 Overland Park, KS, 66251.

4
5 **Q. Are you the same Mark D. Harper that filed Direct Testimony in this case on**
6 **April 25, 2003?**

7 **A. Yes I am.**

8
9 **Q. What is the purpose of your Surrebuttal Testimony in this Case?**

10 **A. I will address the status of state wide competition for certain services in response**
11 to the rebuttal testimony of Adam McKinnie on behalf of the Missouri Public
12 Service Commission Staff (Staff), Ms. Barbara Meisenheimer on behalf of the
13 Office of Public Counsel (OPC), and Richard Taylor on behalf of Fidelity
14 Communications I (Fidelity).

15
16 **Q. As a preliminary matter, have you made any changes to the list of services**
17 **for which you are requesting statewide competitive status?**

18 **A. Yes, Sprint is not requesting the services contained in Section 7 of its Access**
19 Tariff, generally known as Special Access, be deemed competitive at this time.
20 This change has also been noted in the specific list of services and tariffs
21 contained in the Surrebuttal Testimony of John Idoux. This change does not
22 affect the remainder of the dedicated services in my Direct Testimony.

23

1 **Q. Please summarize the positions of the other parties concerning Sprint's**
2 **request for competitive status of certain statewide services.**

3 **A. Of the parties that took specific positions, there was wide agreement in support of**
4 **Sprint's request with limited exceptions. No parties opposed the finding of**
5 **competitive status for the following categories of services: (a) MTS¹ and WATS;**
6 **(b) dedicated services, with the exception of special access; (c) Line Information**
7 **Data Base (LIDB); and (d) Speed Calling. Parties only objected to Sprint's**
8 **request for a finding of statewide competition for Directory Assistance, Local**
9 **Operator Assistance and Centrex services.²**

10

11 **Q. Beginning with Mr. McKinnie's Rebuttal Testimony, please summarize**
12 **Staff's position, as you understand it, with respect to the competitive status**
13 **for the statewide services that were addressed in your direct testimony.**

14 **A. Mr. McKinnie agrees that the following Sprint services face effective statewide**
15 **competition and should be deemed competitive on a statewide basis in this**
16 **docket:**

- 17 • MTS service;
- 18 • WATS service;
- 19 • Centrex service;
- 20 • Dedicated Services;
- 21 • Common Channel Signaling/SS7 and Line Information Database; and

¹ OPC supported MTS except for unlimited toll plans of which Sprint has none in its MTS tariff today.
² AT&T witness Matt Kohly also took issue with Special Access service but Sprint has altered its request to exclude these services at this time.

- 1 • Speed Call 8/Speed Call 30

2

3 **Q. Of the services you have identified as being competitive in your Direct**

4 **Testimony, did Staff have a different recommendation?**

5 **A. Yes, Staff has indicated that they do not agree that the following Sprint services**

6 **should be deemed competitive for Sprint in Missouri on a statewide basis:**

- 7 • Local Operator Services (with qualification)³
- 8 • Directory Assistance Services
- 9

10 **Local Operator/Directory Assistance**

11 **Q. With respect to the Local Operator and Directory Assistance services, Ms.**

12 **Meisenheimer of OPC,⁴ Mr. McKinnie of the Staff⁵ and Richard Taylor of**

13 **Fidelity for Directory Assistance⁶ conclude that these services do not face**

14 **competition on a statewide basis. Please comment.**

15 **A. For Local Operator Services, while OPC disagrees, the Staff concedes that these**

16 **services should be deemed competitive, but in only those Sprint exchanges where**

17 **the local access line is also found to be competitive which is consistent with the**

18 **Staff recommendation and Commission ruling in the SWBT competition docket.⁷**

19 For Directory Assistance, however, Staff suggests that these services should not

³ Staff offers qualified support for finding Local Operator Services as competitive, but only in those exchanges where the local basic service is also deemed competitive. See McKinnie rebuttal, pg. 11, Ln. 8-10.

⁴ Rebuttal testimony of Barbara Meisenheimer, pg. 25, lines 2-4.

⁵ Rebuttal testimony of Adam McKinnie, pg. 10, lines 10-17; pg. 11, lines 15-21.

⁶ Mr. Taylor does not dispute Sprint's recommendation for services other than DA and Centrex, Rebuttal Testimony of Richard Taylor, pg. 9, lines 199 – 201.

⁷ Case No. TO-2001-467

1 be deemed competitive in any of Sprint's exchanges.⁸ While consistency is not
2 required, in the SBC Competition Docket, the Commission found that although
3 not competitive on a statewide basis, Directory Assistance was competitive in
4 those exchanges for which basic local exchange services had been deemed
5 competitive.

6
7 Nevertheless, this approach dismisses the points made in my Direct Testimony
8 regarding (a) substitutability of services and (b) the availability of multiple
9 providers on a statewide basis for these services. Staff, OPC and Fidelity all fail
10 to recognize that substitutability of service does not require that services be
11 identical, or merely priced the same (or nearly the same). To be comparable,
12 services must meet the same need or demand in the user's mind. Sprint witness
13 Brian Staihr further addresses substitutability in his Surrebuttal Testimony. For
14 example, finding a number through one of the many search engines on the
15 Internet is quite different in form and price than calling a Sprint operator;
16 however, the end result is the same. In both cases, one ends up with the desired
17 telephone number and, in the case of the Internet, an address and driving direction
18 all for free.⁹

19
20 As previously shown in my direct testimony in this case, there are multiple
21 suppliers of Operator and Directory Assistance services available to Sprint's

⁸ Ibid. pg. 28, Ln. 11, Rebuttal Testimony of Richard Taylor, pg. 9, lines 204 – 207.

⁹ "An added benefit of Internet directory assistance (IDA) web sites is that the overwhelming majority of them are free of charge. In addition to this, IDA listings also provide maps, driving directions, and

1 customers and the provisioning of these services by one carrier -- as opposed to
2 provision by another carrier -- is not tied to the provider of the basic access line.
3 These services are functionally equivalent or substitutable for the services offered
4 by Sprint. Further, many of these services are also offered with better rates than
5 those provided by Sprint.
6

7 **Q. Please explain further how customers could learn of and use Local Operator**
8 **Services of providers others than their basic access line provider.**

9 **A.** Clearly, as shown in detail in my Direct Testimony, there are multiple suppliers of
10 Local Operator Services that are available to customers today in Missouri,
11 regardless of the carrier who provides the local access line dial tone. Access to
12 these competitive alternatives and providers is easily communicated to consumers
13 by Sprint's competitors and savvy Missouri consumers learn of these alternatives
14 and utilize them. As I pointed out in my Direct Testimony, Operator Services are
15 being provided by facilities based IXCs such as AT&T and MCI. This is
16 particularly relevant because Sprint's customers must use these IXCs for their
17 interLATA calling and the majority of Sprint's local customers use a carrier other
18 than Sprint for their intraLATA calling and are therefore familiar with these
19 providers. Further, IXCs issue calling cards to their customers for use in traveling
20 and accessing operator services. These services are also provided by resale and
21 switched-based CLECs and specialized Operator Service providers that use their
22 own facilities to directly connect end-user consumers. Pay telephone providers,

sometimes, even a link to the entity being searched." U.S. Directory Assistance Services Industry,

1 wireless carriers¹⁰ and others offer such services. Sprint would point out that not
2 only do the publicly available Missouri tariffs filed by a number of local and toll
3 telecommunications competitors clearly demonstrate that these alternatives do,
4 indeed, exist here in Missouri, but the options I previously outlined in my pre-
5 filed direct testimony are also viable alternatives for consumers.¹¹
6

7 **Q. With respect to Directory Assistance Services, what is your reaction**
8 **regarding OPC's, Staff's and Fidelity's assumption that these services do not**
9 **face effective competition in any of Sprint's exchanges in Missouri?**

10 **A.** Ms. Meisenheimer believes that these services are tied to local service provision
11 as does Mr. Taylor.¹² Mr. McKinnie states in his Rebuttal Testimony that he feels
12 I have not provided sufficient evidence to justify the fact that these services are
13 highly competitive.¹³
14

Frost & Sullivan, 2002, pg. 6.

¹⁰ "In today's increasingly mobile world, wireless phones are cemented in our society. People use them in transit, at work, at supermarkets, at malls, and unfortunately, at movie theaters. With wireless phones being so omnipresent, it makes sense that people would feel comfortable using them for directory assistance searches." U.S. Directory Assistance Services Industry – 2002, Frost & Sullivan, 2002, pg. 7.

¹¹ At pg. 15, lines 4-8 in his rebuttal testimony, Mr. McKinnie states that Sprint has not provided any evidence that IXCs or others offer comparable directory assistance or operator services in Missouri. Although I provided this information in my direct testimony beginning at pg. 20, and in detail in Schedule 5 in my direct testimony, Mr. McKinnie remains skeptical. Therefore, I am attaching hereto, as Schedule MDH-1, copies of some of the current tariffs of Sprint's competitors in Missouri that will provide further evidence that comparable services are, indeed, being provided in Missouri by competitors.

¹² Rebuttal testimony of Barbara Meisenheimer, pg. 25, lines 2-4. Rebuttal testimony of Richard Taylor, pg 9, ln. 204 – 207.

¹³ Rebuttal testimony of Adam McKinnie pg. 11, Ln. 15-16

1 The position of the parties is contrary to that of other regulatory bodies, including
2 the FCC.¹⁴ Competition does, indeed, exist for Directory Assistance. These
3 services have already been found to be competitive in a number of states,
4 including states like Kansas, Iowa, and Pennsylvania.¹⁵

5
6 **Q. In his Rebuttal Testimony at page 12, Mr. McKinnie says that the dramatic**
7 **decrease in Directory Assistance call volumes Sprint has experienced in**
8 **Missouri are not indicative of the pressures of competition. Can you**
9 **respond?**

10 **A.** Absent a showing otherwise, the significant drop in call volumes¹⁶ since 1998 that
11 totals 36 percent clearly demonstrates that consumers are aware of the many
12 alternatives that exist, they are exercising those options, and competitors are
13 therefore having an impact on these services for Sprint. Mr. McKinnie admits that
14 he does not know why Sprint's Directory Assistance volumes are decreasing, but
15 then he postulates that it cannot be due to competitive loss¹⁷ despite the
16 concurrent rise in competitive alternatives. However, Staff remains unconvinced
17 and unsure as to what exactly may be causing this drop in Sprint's Directory
18 Assistance call volumes. They choose instead to attribute it to something other
19 than competition.¹⁸

¹⁴ In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order, FCC 99-238, ¶¶ 438-464, November 5, 1999.

¹⁵ For Kansas Directory Services were found to be competitive in Docket No. 01-SWBT-932-MIS, Order dated June 12, 2001; in Iowa Docket Nos. INU-00-3, WRU-99-8-272, and WRU-00-88-272 dated February 23, 2001; and in Pennsylvania in Docket P-00001850 dated April 3, 2001.

¹⁶ Sprint also provided Staff full details regarding this significant drop in call volumes in a data request response deemed Highly Confidential. Staff DR No 2625, dated May 27, 2003.

¹⁷ Ibid. pg. 12, Ln. 15-18

¹⁸ Ibid. pg. 12, Ln. 15-18

1
2 In order to satisfy Staff's need for additional proof of customers' use of
3 alternative services and providers; it would require monitoring of customers'
4 actual use of these alternative sources and/or obtaining information directly from
5 the competitive providers themselves. Sprint cannot be expected to obtain or
6 provide such information. Customers' usage of the services provided over the
7 internet, wireless providers or other alternatives outside of the Sprint network
8 simply cannot be identified. Further, even if Sprint sought such information in
9 Missouri from its competitors, it is highly doubtful that they would provide such
10 sensitive marketing data to Sprint. This is particularly true as many of the
11 alternative providers are outside the jurisdiction of the Commission.
12

13 **Q. On page 15 of his Rebuttal Testimony Mr. McKinnie states that he does not**
14 **feel that the use of the many alternative directory listing services shown in**
15 **your direct testimony that are available via the Internet are valid competitive**
16 **factors for the Commission to consider. What is your comment?**

17 **A.** Services that I presented in my Direct Testimony are available to consumers via
18 the Internet upon demand and, for the most part, primarily provided without
19 charge, are well known to consumers and it is common knowledge that these
20 services exist. Use of the Internet is growing and is being utilized for these
21 alternative services such as Directory Assistance.¹⁹ As demonstrated in a number

¹⁹ "An increasing number of business and residential end-users are utilizing the Internet for a variety of purposes. Internet usage has expanded manifold over the last three years due mainly to the increasing customer demand for information services and a continuous decline in Internet subscription rates." U. S. Directory Assistance Services Marketing, Frost & Sullivan, 1999, pg. 4-5.

1 of public documents, this fact is well established and its growth can be supported,
2 even in rural areas such as those which Sprint serves in Missouri.²⁰ In Missouri,
3 for example, as of 2001, more than 50 percent of the population uses the Internet
4 in some manner, and this usage is growing.²¹ As ruled in the SBC Competition
5 Case (Case No. TO-2001-467), this Commission must include a review of all
6 relevant factors, including the fact that many services traditionally offered by
7 ILECs are now being offered by alternative providers not regulated by the
8 Commission. As the facts support, use of the Internet is growing, and along with
9 that growth will be the availability and use of numerous alternative directory
10 listing and phone number locating tools available on the Web. Recent studies
11 indicate that in Missouri between 54 percent and 60 percent of the population
12 utilize the Internet in some fashion²² and this number of users continues to grow.
13 Sprint suggests that the Commission recognize this powerful competitive tool and
14 grant its request for statewide competitive status for Local Operator and Directory
15 Assistance services.

16
17 **Q. In his Rebuttal Testimony, Mr. McKinnie uses an example to demonstrate**
18 **how a customer would access directory assistance for Sprint. Do you have a**
19 **comment?**

²⁰ "Over the 1998 to 2001 period, growth in Internet use among people living in rural households has been at an average annual rate of 24 percent, and the percentage of Internet users in rural areas (53 percent) is now almost even with the national average (54 percent)." A Nation Online: How Americans Are Expanding Their Use of the Internet, National Telecommunications and Information Administration/Economics and Statistics Administration, 2002, pg. 4.

²¹ Ibid. pages 6 and 10.

²² Ibid. Table 1-1, pg. 10.

1 **A.** Yes. In his examples, beginning on line 11 on page 13, Mr. McKinnie attempts to
2 demonstrate that a Sprint local end-user is somehow tied to Sprint's local
3 directory and operator services. The primary problem underlying his argument is
4 that he has predicated his entire analysis on the assumption that the Sprint local
5 customer has no knowledge of their options for Directory Assistance alternatives.
6 As I stated earlier, Sprint's Missouri customers have many alternatives and either
7 have or can easily obtain knowledge of competitive alternatives.

8

9 **Centrex Services**

10 **Q.** **Mr. Taylor, on the behalf of Fidelity, on Page 10 of his Direct Testimony**
11 **takes exception to the competitive classification of Centrex services. How do**
12 **you respond?**

13 **A.** It appears that Mr. Taylor bases his exception on two points. First, that Centrex
14 service includes dial tone and second, that Sprint does not lose all service to a
15 customer that purchases a PBX. It is undeniable that business customers gain dial
16 tone through the purchase of Centrex services and that when replaced with a PBX
17 they will still need dial tone from a carrier. Neither point, however, addresses
18 whether Sprint's Centrex services face competition on statewide basis. The
19 inclusion of dial tone does not make the determining factors under statute any
20 different. PBX and Centrex services are alternative ways of accomplishing the
21 calling needs of business customers and as such Centrex service pricing must be
22 competitive. A PBX replicates the features and on premises switching
23 functionality, at a minimum, including in Centrex Service via the LEC switching

1 center. Further, in the instances where a CLEC is not chosen by the customer to
2 provision dial tone the fact that Sprint would retain some service does not make
3 Centrex Service less competitive. Clearly, the necessity of some type of
4 connection to the network for a PBX did not discourage the Legislature from
5 granting statewide ICB pricing freedom for Centrex. PBX trunks remain
6 regulated under price caps in all exchanges except those deemed as competitive.
7

8 **Q. Does this conclude your Surrebuttal Testimony?**

9 **A. Yes.**