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Service Commission

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Issue(s) Lack of Competition in SWB's Switched  
Access Service

Witness/Type of Exhibit: Rippentrop/Rebuttal

Sponsoring Party: Sprint

Case No.: TO-2001-467

## REBUTTAL TESTIMONY

OF

**DAWN RIPPENTROP  
ON BEHALF OF  
SPRINT COMMUNICATIONS COMPANY L.P.**

**AUGUST 16, 2001**

Exhibit No. 25  
Date 9/24/01 Case No. TO-2001-467  
Reporter SRM

**INTRODUCTION**

**Q. Please state your name, occupation, and business address.**

**A. My name is Dawn S. Rippentrop. I am employed by Sprint Communications Company L.P. ("Sprint") as Regulatory Manager - Access Planning. My business address is 7171 W. 95th Street, Overland Park, Kansas 66212.**

**Q. Please summarize your professional and educational background.**

**A. I have been employed by Sprint Corporation since August 1998. In my present position within the Long Distance Division, I advocate Sprint's interests through written and oral testimony before state and federal regulatory commissions regarding access issues and negotiate access pricing and rate structures with local exchange companies (LECs).**

**In my previous position of Manager-Market Planning and Competitive Analysis for Sprint's CLEC Business and Consumer Services, I researched and wrote tactical and strategic market assessments, monitored and assessed industry trends, and wrote competitive briefs and white papers.**

1       Formerly, in my position of Regulatory Policy Analyst, I contributed to  
2       Sprint's access policy development by providing economic rationale,  
3       research support, and quantitative analyses.

4

5       I received a Master of Public Policy degree from The University of  
6       Chicago.

7

8       **Q.**     What is the purpose of your rebuttal testimony?

9       **A.**     The purpose of my rebuttal testimony is to respond to the pre-filed direct  
10       testimony of Southwestern Bell Telephone Company (SWBT) in this case.  
11       Specifically, I will respond to the direct testimonies of witnesses Sandra  
12       Douglas and Thomas Anvin.

13

14       **Q.**     What are Sprint's recommendations?

15       **A.**     Sprint recommends this Commission deny SWBT's request to classify  
16       switched access as competitive, because no effective competition exists  
17       for local switching, common line or local transport.

18

19       **RESPONSE TO THE TESTIMONY OF SANDRA DOUGLAS**

20       **Q.**     Please describe the purpose of the testimony submitted on behalf of  
21       Sandra Douglas of Southwestern Bell Telephone Company (SWBT).

1 A. Ms. Douglas provides testimony to support SWBT in its attempt to move  
2 SWBT's Special Access, Switched Access, SS7 and LIDB to the  
3 competitive classification purportedly in order effectively compete with  
4 existing competition.

5  
6 Q. What products or services will you be addressing in your testimony?

7 A. I will be focusing my testimony on the competitive classification of SWBT's  
8 switched access service.

9  
10 Q. Ms. Douglas, on page 9 of her testimony, attempts to prove the  
11 switched access market is competitive by stating "there are 31  
12 facilities-based CLECs, which have service areas within SWBT's  
13 Missouri service area." Is it your opinion that competition exists in  
14 the switched access market based on the fact that 31 facilities-based  
15 CLECs have service areas in Missouri?

16 A. No. A CLEC could be certificated as a facilities-based carrier in any  
17 number of SWBT's Missouri service areas, but may not actually operate in  
18 any or all of the service areas. CLECs enter and exit the market  
19 frequently; therefore, competition can not be measured in the switched  
20 access market based merely on the number of CLECs that have  
21 authorized service areas within SWBT's Missouri service area. In  
22 addition, Ms. Douglas realizes this as she states "there are 31 facilities-

1 based CLECs, which have service areas within SWBT's Missouri service  
2 area." Ms. Douglas does not state that all 31 facilities-based CLECs are  
3 actually operating in the Missouri service area.  
4

5 **Q. Do you agree with Ms. Douglas when she states that switched**  
6 **access is essentially competitive because of the presence of CLECs**  
7 **or other alternate access providers?**

8 **A. No.** The mere fact there are CLECs or other alternate access providers  
9 present somewhere in the Missouri marketplace does not equate to a  
10 competitive market for the switched access. In reality, the utilization of  
11 alternative providers for switched access is not readily available or  
12 practical for inter-exchange carrier (IXC) use in Missouri.  
13

14 **Q. What do you mean by "readily available" or "practical" for IXC use?**

15 **A. "Readily available" or "practical" usage of an alternate service provider**  
16 **means:**

- 17 • The alternate access provider must have ubiquitous coverage.
- 18 • The alternate access provider's intervals for installation must meet or  
19 beat the ILEC.
- 20 • The alternate access provider's quality of service, such as call  
21 blockage, service outage and maintenance, etc., must equal or exceed  
22 the ILEC.

1

2 **Q. Does the IXC have influence over which provider of local switching it**  
3 **can select?**

4 **A. No. The end user is the decision-maker. When an end user chooses a**  
5 **local service provider, whether it is an ILEC or CLEC, that choice by the**  
6 **end user determines the local switching provider. The IXC must utilize**  
7 **that switch determined by the end user to complete the end user's long**  
8 **distance call. Alternatives to that switching function do not exist;**  
9 **therefore, local switching is not competitive.**

10

11 **Q. Ms. Douglas provides information on the availability of alternate**  
12 **transport providers for the transport piece of switched access**  
13 **service, but does not include any support on alternatives for**  
14 **common line and switching. Is it Sprint's opinion that SWBT's**  
15 **request for competitive classification of switched access should be**  
16 **solely based on the supposed competitive nature of the transport**  
17 **piece of switched access service?**

18 **A. No. As I stated above, the end user is the decision-maker. When the end**  
19 **user chooses a local service provider, whether an ILEC or CLEC, it is that**  
20 **choice that determines the local switching provider. The IXC must use**  
21 **that switch to complete the end user's call. Alternatives to that switching**

1 function do not exist and should therefore be excluded from being  
2 deemed competitive.

3  
4 In addition, the common line or local loop refers to the telephone  
5 connection between an end user's home or business and SWBT's end  
6 office. Again, the end user chooses the local service provider who, in  
7 turn, provides the common line. The IXC cannot choose a common line  
8 provider. Therefore the local loop is not competitive.

9  
10 **Q. Does common line or local loop costs increase by virtue of a long**  
11 **distance call carried by an IXC?**

12 **No.** Common line costs are not traffic-sensitive access charges, but are instead  
13 non-traffic-sensitive. Loop costs are simply not sensitive to usage.  
14 SWBT access charges should be restructured to first move them closer to  
15 forward-looking economic costs and second, to align the method of  
16 recovery more closely with the manner the costs are incurred. In other  
17 words, non-traffic-sensitive costs such as the loop should be recovered  
18 directly from the end user similar to the structure in the federal jurisdiction.  
19 Sprint realizes that the purpose in this case is to determine whether any of  
20 SWBT's services are subject to effective competition and not to reform  
21 access charges. SWBT has not demonstrated that switched access is

1 subject to effective competition in Missouri. The issue of access reform is  
2 more appropriately considered in Case No. TR-2001-65.

3  
4 **Q. Does SWBT provide any rationale as to why the transport piece of**  
5 **switched access should be deemed competitive?**

6 **A. Yes. On page 8 of Ms. Douglas' testimony, she states "the pricing**  
7 **structure in place for SWBT's Switched Access local transport provides an**  
8 **incentive for customers to look to alternative transport providers for the**  
9 **transport piece of Switched Access service (i.e., the transport of calls**  
10 **between the end user's end office and the IXC's serving wire center).**  
11 **Unlike SWBT, competitors can provide transport on a flat-rated basis**  
12 **thereby allowing customers to reduce their average transport minute of**  
13 **use ("MOU") cost by directing the maximum amount of traffic over a single**  
14 **trunk.**

15  
16 **Q. Has the Federal Communications Commission taken any measures**  
17 **to restructure usage sensitive transport?**

18 **A. Yes. The Federal Communications Commission (FCC) restructured**  
19 **transport in 1992 in its Report and Order and Further Notice of Proposed**  
20 **Rulemaking, In the Matter of Transport Rate Structure and Pricing, CC**  
21 **Docket No. 91-213. The new structure is referred to as local transport**  
22 **restructure (LTR). Under this new structure, transport was divided into a**



1 combination of usage sensitive and flat rated charges. In this Order, the  
2 Commission further differentiated between tandem routed and direct  
3 routed traffic. The FCC finished the restructure in the access reform order  
4 released May 16<sup>th</sup>, 1997 in 96-262 First Report and Order.

5  
6 **Q. Does SWBT's intrastate access tariff reflect the LTR structure?**

7 **A.** No. SWBT's intrastate access traffic continues to reflect a per MOU  
8 structure. Ms. Douglas notes in her direct testimony that SWBT  
9 attempted to restructure local transport rates in Case No. TR-95-342,  
10 effective March 16, 1996, in which Case the Commission rejected  
11 SWBT's filing because the Interconnection Charge was not cost  
12 supported.

13  
14 **Q. If SWBT was allowed to restructure local transport could the**  
15 **company offer more competitive transport pricing?**

16 **A.** By restructuring transport, SWBT will have the correct rate structure to  
17 compete with CLECs without classifying switched access as competitive.  
18 Additionally, LTR allows SWBT's access customers to reduce their  
19 average transport minute of use ("MOU") cost by directing the maximum  
20 amount of traffic over a single trunk.

1 **Q. The Commission previously denied SWBT's filing for LTR which**  
2 **included an Interconnection Charge rate element. Does this ruling**  
3 **prevent SWBT from filing for LTR?**

4 **A. No. Sufficient competition does not exist for local transport to deem it**  
5 **competitive throughout the State of Missouri. If SWBT finds that its**  
6 **existing rate structure places it at a disadvantage, then SWBT can explore**  
7 **alternatives to prevent competitive losses due to uneconomic prices.**  
8 **Nothing prevents SWBT from lowering its transport rates today.**

9  
10 **Q Are there additional considerations an IXC must consider before**  
11 **choosing an alternative access provider?**

12 **A. Yes. The IXC must also consider quality of service issues. For example,**  
13 **consumers across the State of Missouri have become accustomed to**  
14 **service that is available on demand and without failure. Consumers also**  
15 **want the service immediately. New entrants in the market do not always**  
16 **have systems in place to be able to accept orders, install service and**  
17 **repair outages in a timely manner. Back office systems vary by provider;**  
18 **thus originating and terminating calls with an alternative access provider**  
19 **becomes more difficult.**

20  
21 **Timeliness of service is also an important quality of service issue.**  
22 **Frequently, alternative access providers rely on the ILEC, not only as their**

1 local switch provider, but as their underlying facility provider as well.  
2 Originating and terminating calls with an alternative access provider  
3 introduces an additional time interval. Outages are first reported to the  
4 alternate access provider and the alternate provider, in turn, reports the  
5 outage to the ILEC. Such critical considerations -- not only in terms of the  
6 cost of access services, but also in terms of the timeliness of that service -  
7 - have to be evaluated in order to determine the true viability of an  
8 alternative access provider's services.  
9

10 **Q. Are there any other considerations that are equally important before**  
11 **switched access can be deemed competitive?**

12 **A.** In addition to reliable connectivity, the IXC must manage its costs to  
13 remain competitive in the long distance market and to be able to provide  
14 consumers with innovative offerings. The price of access service is one  
15 such consideration. The Missouri statutes also recognize this as an  
16 important consideration in its definition of effective competition when it  
17 defines effective competition as "substitutable at comparable rates, terms  
18 and conditions."<sup>1</sup>  
19

20 **Q. Do distinctions exist between competition among CLECs and ILECs**  
21 **for end users, and competition among access providers?**

1 A. Yes. ILECs and CLECs predominantly compete for end users, not the  
2 provision of switched access to IXCs. Therefore, ILECs and CLECs have  
3 an incentive to exploit the lack of competition for access through higher,  
4 not lower, access rates. ILECs have no incentive to lower switched  
5 access rates in the face of CLEC competition.

6  
7 Competition is for the end user. Access is a hidden transaction between  
8 the exchange carrier and the inter-exchange carrier. The end user is  
9 unaware that their choice of local exchange providers could affect the  
10 costs their IXC incurs in serving their toll needs. Until competitive  
11 marketplace evidence appears, there is no need to classify SWBT's  
12 switched access as competitive.

13  
14  
15 Q. Does Sprint foresee at this time the emergence of competition for  
16 switched access services?

17 A. No. Switched access is a bottleneck byproduct a LEC gains when it sells  
18 switched local service to the end user. Once a sale is made, any IXC who  
19 wishes to carry long-distance calls to or from the end user must deal with  
20 the end user's chosen LEC. Competition among LECs is focused on end  
21 users. Access revenues are a benefit of gaining the end user as a local

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<sup>1</sup> Section 386.020.13(b) of the Missouri Statute.

1 customer. End users do not select local providers on the basis of their  
2 access charges and local providers do not use access charges as a  
3 marketing appeal to end users. Consequently, Sprint does not believe  
4 appropriate competition triggers exist for switched access.

5  
6 **Q. Is there an alternative available to the Missouri Public Service**  
7 **Commission to assist in its determination of when switched access**  
8 **competition truly exists?**

9 **A. Yes. Missouri Statute 392.245.5 states the Commission shall investigate**  
10 **and shall determine whether effective competition exists in the exchange**  
11 **for various services of the ILEC. The FCC has put forth a framework that**  
12 **can be the minimum standard with which to begin. These rules are set**  
13 **forth in the FCC's Fifth Report and Order on Pricing Flexibility.<sup>2</sup>**

14  
15 **Q. What are the Pricing Flexibility standards?**

16 **A. The Pricing Flexibility standards for Common Line and Traffic Sensitive**  
17 **Services as stated by the FCC are as follows:**

18 "... [A]n incumbent price cap LEC should be allowed Phase I pricing  
19 flexibility for common line and traffic-sensitive services, and the traffic-  
20 sensitive components of tandem-switched transport service, when it

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<sup>2</sup> Fifth Report and Order and Further Notice of Proposed Rulemaking, adopted August 5, 1999 (FCC99-206).

1 demonstrates that competitors, in aggregate, offer service over their own  
2 facilities to at least 15 percent of incumbent LEC customer locations in the  
3 MSA."<sup>3</sup>

4  
5 **Q. Does the FCC distinguish between competitors merely being**  
6 **certified and actually operating in service areas?**

7 **A. Yes. The FCC emphasizes that "...incumbent LECs must demonstrate**  
8 **that competitors *actually offer*, not merely are capable of offering,**  
9 **common line and traffic-sensitive services to 15 percent of an incumbent**  
10 **LEC's customer locations within an MSA to qualify for Phase I relief."**<sup>4</sup>  
11 **(emphasis added)**

12  
13 **Q. Does a competitive provider using ILEC UNE services automatically**  
14 **mean it qualifies as a trigger for Phase I relief?**

15 **A. No. The FCC has stated a competitor is not offering service over it's own**  
16 **facilities when it is a provider who offers service exclusively over UNEs.**<sup>5</sup>  
17 **As Ms. Douglas states on pages 7 and 9 of her testimony, UNE-P is a**  
18 **subset of UNEs. UNE-P used solely for the competing switched access**  
19 **service is not a qualifier for Phase I relief.**<sup>6</sup>

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<sup>3</sup> Ibid. Paragraph 108.

<sup>4</sup> Ibid. Paragraph 120.

<sup>5</sup> Ibid. Paragraph 113.

1 Q. Did the FCC permit a showing of wireless carriers to satisfy the  
2 Phase I triggers?

3 A. No. In fact the FCC declined to permit ILECs to satisfy the Phase I  
4 requirements with a wireless showing.<sup>7</sup>

5  
6 Q. Do the Pricing Flexibility standards measure true competition in the  
7 marketplace?

8 A. No. However it is a basis for a minimum standard of measurement.

9  
10 Q. What does Phase I relief permit the ILEC to do?

11 A. The FCC permits " ...price caps LECs to file, on one days notice, tariffs  
12 offering volume and term discounts for those services."<sup>8</sup>

13  
14 Q Upon receiving Phase I relief, did the FCC provide certain constraints  
15 to prevent ILECs from engaging in anti-competitive behavior?

16 A. Yes. The FCC provided the following constraints:

17 "Price cap LECs are required to maintain generally available tariffs subject  
18 to price cap regulation for all access services, however, so that access  
19 customers can choose between obtaining services pursuant to contract  
20 tariff or generally available tariff. This ensures that no access customer

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<sup>6</sup> Ibid. Paragraph 111.

<sup>7</sup> Ibid. Paragraph 114.

1 will be required to pay dramatically higher access rates as a result of  
2 Phase I Pricing Flexibility.<sup>89</sup>  
3

4 **Q. Does the FCC believe switched access is fully competitive and**  
5 **warrants removal from regulation as SWBT is requesting in**  
6 **Missouri?**

7 **A. No. The FCC declined to grant the maximum deregulation to switched**  
8 **access. It is premature to conclude that switched access is truly**  
9 **competitive.**  
10

11 **RESPONSE TO THE TESTIMONY OF THOMAS ANVIN**

12 **Q. Please describe the purpose of the testimony submitted on behalf of**  
13 **Thomas Anvin of Southwestern Bell Telephone Company (SWBT).**

14 **A. Mr. Anvin provides testimony regarding the general competitive**  
15 **environment of the local telecommunications industry.**  
16

17 **Q. What will you be addressing in Mr. Anvin's testimony?**

18 **A. I will be addressing CLEC access prices.**  
19

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<sup>88</sup> Ibid. Paragraph 122.

<sup>89</sup> Ibid.



1 Q. Mr. Anvin states on page 9 of his testimony that the Commission  
2 typically does not regulate CLEC's prices. Does the FCC regulate  
3 CLEC's prices?

4 A. Yes. On April 26, 2001, the FCC adopted the Seventh Report and Order  
5 and Further Notice of Proposed Rulemaking, In the Matter of Access  
6 Charge Reform, Reform of Access Charges Imposes by Competitive  
7 Local Exchange Carriers, Docket No. 96-262. In this order, the FCC  
8 seeks to ensure CLECs do not impose excessive access charges on IXC's  
9 and their customers. In doing so, the FCC mandated a CLEC benchmark  
10 access rate and this access rate will eventually be in parity with the  
11 switched access rate of the incumbent provider operating in the CLEC's  
12 service area.<sup>10</sup>

13  
14 Q. Does the FCC believe that access services are competitive?

15 A. No. In fact, the FCC acknowledges "... that the market for access  
16 services does not appear to be structured in a manner that allows  
17 competition to discipline rates."<sup>11</sup>

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<sup>10</sup> Seventh Report and Order and Further Notice of Proposed Rulemaking, adopted April 26, 2001 (FCC96-262).

<sup>11</sup> Ibid. Paragraph 32.

1 **SPRINT'S RECOMMENDATION TO THE MISSOURI COMMISSION**

2 **Q. What is Sprint's recommendation to this Commission regarding the**  
3 **competitive classification of switched access?**

4 **A. Sprint recommends this Commission deny SWBT's request to classify**  
5 **switched access as competitive based on the arguments presented in this**  
6 **testimony. Specifically, no competition exists for local switching and**  
7 **common line. In fact, the FCC acknowledges the mere structure of**  
8 **switched access may not allow for competition. Further, what competition**  
9 **may exist for local transport cannot be deemed to be effective.**

10  
11 Finally, given that switched access is not competitive, this Commission  
12 should encourage SWBT to explore restructuring transport in accordance  
13 with the access cost based LTR structure that would provide SWBT with a  
14 more competitive rate structure.

15  
16 **CONCLUSION**

17 **Q. Please summarize your testimony.**

18 **A. My testimony presents Sprint's position with regard to how the Missouri**  
19 **Commission should resolve the investigation of the state of competition in**  
20 **the exchanges of SWBT.**

1 First, a distinction exists between certificated CLECs and actual operating  
2 CLECs. In addition, a distinction exists between competition among  
3 CLECs and ILECs for end users and competition among access  
4 providers.

5  
6 Second, SWBT's request for competitive classification of switched access  
7 should not be solely based on the competitive nature of the transport  
8 piece of Switched Access service. IXC's have no alternatives for local  
9 switching and common line. Further, IXC's must consider all access costs  
10 as well as quality of service issues when choosing an alternative access  
11 provider.

12  
13 Third, Sprint does not believe switched access is competitive at this time.  
14 Sprint offers the FCC Pricing Flexibility standards as a minimum basis  
15 with which this Commission can utilize in determining whether switched  
16 access competition exists.

17  
18 Finally, Sprint recommends this Commission deny SWBT's request to  
19 classify switched access as competitive.

20  
21 **Q. Does this conclude your testimony?**

22 **A. Yes.**

## CERTIFICATE OF SERVICE

I HEREBY certify that a copy of the above document was delivered to each of the following via U. S. Mail, postage prepaid on this 16th day of August, 2001 to:

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