

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

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BEFORE THE PUBLIC SERVICE COMMISSION

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STATE OF MISSOURI

Missouri Public
Service Commission

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

Exhibit No. 12
Case No(s). IO-2003-0281
Date 7-14-03 Rptr TR

In the Matter of the Investigation)
Of the State of Competition in the) Case No. IO-2003-0281
Exchanges of Sprint Missouri, Inc.)

STATE OF MISSOURI)
)
CITY OF ST. LOUIS) SS

1. My name is Richard L. Taylor. I am presently the principal of Rich Taylor Telecommunications Consultant, representing Fidelity Communication Services I, Inc.
2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.


Richard L. Taylor

Karen S. Hagen
Notary Public



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.

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

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

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

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

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

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

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.