

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Petition by Sprint Communications)
Company Limited Partnership for)
Arbitration with Verizon Florida Inc.)
Pursuant to Section 251/252 of the)
Telecommunications Act of 1996.)

DOCKET NO. 010795-TP

REBUTTAL TESTIMONY OF

SUSAN FOX

ON BEHALF OF

VERIZON FLORIDA INC.

NOVEMBER 20, 2001

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1 **REBUTTAL TESTIMONY OF SUSAN FOX**

2

3 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

4 A. Susan Fox. My business address is 2980 Fairview Park Drive, Falls
5 Church, Virginia.

6

7 **Q. ARE YOU THE SAME SUSAN FOX WHO FILED DIRECT**
8 **TESTIMONY IN THIS DOCKET?**

9 A. Yes.

10

11 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

12 A. My testimony responds to the testimony of Sprint witness James R.
13 Burt regarding unbundled network element (UNE) multiplexing (Issue
14 6A) and commingling, *i.e.*, routing access traffic over UNEs (Issue 6B).

15

16 **Q. DID SPRINT'S POSITION ON THESE ISSUES CHANGE BETWEEN**
17 **THE TIME IT SUBMITTED ITS PETITION AND THE TIME MR. BURT**
18 **FILED HIS TESTIMONY?**

19 A. Yes. In its Petition, Sprint sought commingling of switched access and
20 UNE services on Verizon-provided multiplexing equipment (Petition at
21 30) and also requested that Verizon "terminate new unbundled loops
22 and new EELS used to provide local service, as well as special
23 access, to the multiplexing service" described in its Petition (Petition at
24 31). Mr. Burt's testimony, however, seeks the commingling of special
25 access circuits, which, once converted, consist of unbundled loops and

1 multiplexers. These circuits are really EELs--they are loop-transport
2 combinations (the multiplexer is the transport portion of "loop-
3 transport" combination).

4
5 In addition, Sprint's Petition sought contract language requiring Verizon
6 to provide "OCn multiplexing capabilities" (Petition at 33), but Mr. Burt
7 modifies that request to seek "multiplexing capabilities at all currently
8 available speeds, including OCn, *on a per port basis.*" (Burt Direct
9 Testimony (DT) at 16 (emphasis added).)

10

11 I have testified on these same issues in Sprint arbitrations in three
12 other states, and have observed Sprint's positions change over the
13 course of each of those proceedings, just as it has here.

14

15 **Q. DO SPRINT'S CHANGES IN POSITION ALTER VERIZON'S**
16 **POSITION ON ISSUES 6A AND 6B?**

17 **A.** No. Sprint's constant changes in position, without amending its
18 Petition for Arbitration, make it difficult to respond to Sprint's positions.
19 However, so far, none of the changes has affected Verizon's positions
20 on these issues. The commingling and associated "multiplexing UNE"
21 Sprint seeks are contrary to the Telecommunications Act of 1996 (Act)
22 and would impermissibly circumvent the existing access charge
23 regime. Sprint cannot be permitted to use local facilities (UNEs) to
24 deliver long-distance traffic to avoid access charges.

25

1 Q. YOU STATED THAT SPRINT IS NOT ENTITLED TO THE
2 "MULTIPLEXING UNE" IT SEEKS. PLEASE EXPLAIN YOUR
3 POSITION.

4 A. First, neither this Commission nor the FCC has ever designated as a
5 UNE the multiplexing service Sprint seeks. Accordingly, Verizon is not
6 obligated to provide multiplexing, at any speed or level, to CLECs on
7 an unbundled basis, *i.e.*, at TELRIC rates. Second, multiplexing
8 cannot be made a UNE because Verizon may have to purchase new
9 equipment and build the configuration Sprint seeks. While Verizon
10 voluntarily provides DS1 to DS3 multiplexing and DS3 to DS1
11 multiplexing to CLECs, it does not offer the OCn multiplexing Sprint
12 seeks to allow commingling of access and local facilities. Verizon is
13 not required to implement this new offering; the Act only requires
14 unbundling of an ILEC's existing network, not some superior, unbuilt
15 one. Third, the multiplexing requested by Sprint is not "part of" the
16 loop UNE as Mr. Burt's testimony suggests. Sprint is not entitled to
17 multiplexing by virtue of the fact that it orders a UNE loop.

18

19 Q. CAN'T THE COMMISSION DESIGNATE OCN MULTIPLEXING TO
20 BE A NEW UNE, AS SPRINT REQUESTS?

21 A. State Commissions are permitted to consider additions to the FCC's
22 list of UNEs if a requested feature satisfies the "necessary" and
23 "impair" standards of the Act's § 251(d)(2). (*See Implementation of the*
24 *Local Competition Provisions of the Telecomm. Act of 1996*, Third
25 Report and Order and Fourth Further Notice of Proposed Rulemaking,

1 15 FCC Rcd 3696 (1999) (*UNE Remand Order*.) In this case, Sprint
2 hasn't even attempted to claim that OCn multiplexing meets the Act's
3 test, so the Commission cannot find that it does. Sprint mistakenly
4 believes that Verizon must provide Sprint any feature Sprint desires to
5 have, rather than those Verizon is required to provide under the Act.
6 Moreover, § 251(c)(3) of the Act "requires unbundled access only to an
7 incumbent LEC's *existing* network—not to a yet unbuilt superior one."
8 (*See Iowa Utils. Bd. v. FCC*, 120 F.3d 735, 812-813 (8th Cir. 1997),
9 *aff'd in part, rev'd in part*, 525 U.S. 366 (1999) (emphasis in original).)
10 Forcing Verizon to offer OCn multiplexing would contravene this
11 principle, as Verizon does not currently offer this service and may have
12 to purchase new equipment and install a new network configuration to
13 do so.

14

15 **Q. MR. BURT CLAIMS THAT MULTIPLEXING IS A "PART OF" THE**
16 **LOOP, SUCH THAT VERIZON SHOULD BE REQUIRED TO**
17 **PROVIDE MULTIPLEXING IN COMBINATION WITH ANY UNE**
18 **LOOP SPRINT ORDERS. DO YOU AGREE?**

19 **A.** No. Mr. Burt's citation to ¶ 175 of the *UNE Remand Order* as support
20 for this claim is misleading. That paragraph states:

21 We conclude that, with the exception of Digital
22 Subscriber Line Access Multiplexers (DSLAMs),
23 the loop includes *attached electronics*, including
24 multiplexing equipment used to derive the loop
25 transmission capacity. The definition of a network

1 element is not limited to facilities, but includes
2 features, functions and capabilities as well. Some
3 loops, such as integrated digital loop carrier
4 (IDLC), are equipped with multiplexing devices,
5 without which they cannot be used to provide
6 service to end users. Because excluding such
7 equipment from the definition of the loop would
8 limit the functionality of the loop, we include the
9 *attached electronics* (with the exception of
10 DSLAMs) within the loop definition.

11 (*UNE Remand Order* at ¶ 175 (emphasis added,
12 footnotes omitted).)

13

14 Sprint's request does not come within these parameters. Rather,
15 Sprint wants Verizon to attach a new DS3-to-DS1 multiplexer to a loop
16 that is capable of providing service to end users, such as a DS1 loop.
17 In other words, Sprint wants Verizon to provide a loop-transport
18 (multiplexer) combination. This is not what the *UNE Remand Order*
19 requires. What paragraph 175 describes is "multiplexing in the
20 middle," which means that there may be multiplexing functionality
21 necessary to provide a DS1 loop with a DS1 signal handoff at each
22 end of the loop. In the case of unbundled dedicated transport, there
23 also may be multiplexing functionality necessary to provide, for
24 example, a DS3 unbundled dedicated transport facility with a DS3
25 signal handoff at each end of the UNE circuit. In order to create a

1 circuit between a CLEC's collocation arrangements in two Verizon
2 offices, Verizon will generally transport unbundled transport across its
3 SONET interoffice infrastructure at optical signal levels. Therefore,
4 there generally will be multiplexing in the middle of a circuit, which
5 meets the requirements of the *UNE Remand Order* that Verizon
6 provide "technically feasible capacity-related services, including
7 electronics that are necessary components of the functionality of
8 capacity related services." (*UNE Remand Order* at ¶ 323.) Verizon is
9 *not* required to provide new combinations of UNEs, other than UNE-
10 Platform and EELs (and only in limited circumstances) that do not
11 already exist in its network for the end user, much less new
12 combinations of UNEs and non-UNE services, such as multiplexing.
13 Sprint's request for a loop-transport combination is really a request for
14 an EEL and must be obtained as an EEL, in accordance with the local
15 use restrictions as set forth in the FCC's *Supplemental Order*
16 *Clarification. (Implementation of the Local Competition Provisions of*
17 *the Telecomm. Act of 1996, Supplemental Order Clarification, 15 FCC*
18 *Rcd 9587 (2000).)*

19

20 **Q. ARE THERE ANY RESTRICTIONS ON SPRINT'S PROVIDING FOR**
21 **ITSELF THE COMMINGLING IT SEEKS FROM VERIZON?**

22 A. No. As Sprint describes its desired configuration, all of the different
23 facilities and services must be connected to a single multiplexer in
24 order to commingle them onto a single facility on the "other side" of the
25 multiplexer. There is nothing preventing Sprint from purchasing

1 multiplexers itself and placing them into its collocation cages, in order
2 to obtain the new multiplexing capability that will allow Sprint to
3 commingle UNE and access traffic.

4
5 **Q. SPRINT AND VERIZON CONTINUE TO DISAGREE ON THE**
6 **APPLICATION OF THE SUPPLEMENTAL ORDER CLARIFICATION.**
7 **DOES THAT ORDER SUPPORT SPRINT'S POSITION?**

8 A. No. According to Sprint, because the *Supplemental Order Clarification*
9 does not prohibit commingling over UNEs other than EELs converted
10 from special access, the Order permits unrestricted commingling over
11 all UNEs except EELs. Sprint further claims that because the
12 *Supplemental Order Clarification permits* use of UNEs in any way and
13 for the provision of any services, Verizon is *obligated* to provide Sprint
14 the tools for commingling facilities, *i.e.*, UNE multiplexing and
15 commingled transport from the multiplexer to its collocation cage.

16
17 **Q. PLEASE COMMENT ON SPRINT'S FIRST CLAIM.**

18 A. As stated in my Direct Testimony at pages 4-7, Sprint's first claim
19 makes no sense in the context of the access reform the FCC has
20 undertaken. Sprint's proposal would allow it to engage in just the sort
21 of arbitrage that the FCC's local use restrictions were intended to
22 prevent. The *Supplemental Order Clarification* makes clear that
23 commingling is prohibited for loops *and* loop-transport combinations,
24 not just loop-transport combinations, as Sprint claims. (Burt DT at 9.)

25

1 Diagram 1 in the attached Exhibit SF-1 identifies the switched access
2 facilities that could be displaced if Sprint were allowed to connect
3 switched access facilities to a multiplexer and then buy unbundled
4 dedicated transport to connect the facilities to its collocation cage.
5 Diagram 2 shows the UNE facilities that would replace the displaced
6 access facilities in that situation.

7

8 **Q. PLEASE COMMENT ON SPRINT’S SECOND CLAIM.**

9 A. Sprint not only claims that the *Supplemental Order Clarification* permits
10 it to commingle local and access facilities, it argues that Verizon must
11 provide Sprint the arrangement necessary to do it, even if that
12 arrangement does not already exist in Verizon’s network. Plainly, the
13 *Supplemental Order Clarification* requires no such thing; as I have
14 explained, the Act does not require Verizon to build new
15 configurations, and the multiplexing service Sprint seeks is not a UNE,
16 in any event.

17

18 **Q. PLEASE COMMENT ON SPRINT’S PROPOSED COMPENSATION**
19 **SCHEME FOR THE COMMINGLING IT SEEKS FROM VERIZON.**

20 A. Sprint proposes to pay for the multiplexer based on the ratio of UNE
21 and switched access ports to total ports utilized. This practice is
22 referred to as “ratcheting.” Under the current regime, Verizon either
23 provides a wholesale customer with a UNE or an access service, but
24 not both. If commingling were permitted, and it should not be, and
25 ratcheting of the multiplexer were required, Verizon could not rely on

1 either its access or its UNE billing programs, and would have to make
2 modifications to its existing billing programs. In addition, Verizon
3 would have to modify its systems and practices for ordering,
4 provisioning and maintenance of multiplexers as both access and
5 UNE.

6
7 Consistent with the differences in the products, Verizon has separate
8 organizations and responsibilities for servicing and maintaining access
9 services and UNEs. A UNE purchaser has testing and other virtual
10 network responsibilities. In contrast, Verizon has those responsibilities
11 for its access services. Commingling UNE and access traffic on a
12 single circuit would disrupt this clear division of responsibilities. Even
13 within Verizon, service on such a commingled circuit would require
14 coordination between separate service organizations, imposing the
15 possibility for additional confusion and/or delay. In short, what Sprint
16 has proposed for billing of the multiplexer ensures that it will be able to
17 bypass switched access transport charges.

18
19 In that regard, Sprint's proposal here is inconsistent with its testimony
20 in Pennsylvania, where it did not recommend ratcheting, but was
21 instead willing to pay the access rate for all commingled traffic.
22 (Testimony of Sprint witness Nelson, in *Petition of Sprint*
23 *Communications Company L.P. for an Arbitration Award of*
24 *Interconnection Rates, Terms and Conditions pursuant to 47 U.S.C. §*
25 *252(b) and Related Arrangements with Verizon Pennsylvania, Inc., Pa.*

1 P.U.C. Docket No. A-310183F0002, Hearing Transcript., at 109 (“I
2 don’t want to have to allocate some of it to access and some of it to
3 UNE, we would very strongly entertain paying 100 percent access on
4 that multiplexing”).)

5
6 **Q. THERE ARE THREE DIAGRAMS ATTACHED TO MR. BURT’S**
7 **TESTIMONY THAT HE CLAIMS DEMONSTRATE THE**
8 **“ENGINEERING EFFICIENCIES” SPRINT SEEKS FROM**
9 **COMMINGLING. PLEASE COMMENT ON THOSE CLAIMED,**
10 **POTENTIAL EFFICIENCIES.**

11 **A.** Before turning to the diagrams themselves, it’s important to emphasize
12 that Verizon is not required to provide a feature or capability to a CLEC
13 simply because it would allegedly enhance the CLEC’s efficiencies or
14 otherwise make its operations easier. The Act does not require
15 Verizon to provide new features that are merely “nice to have,” but only
16 those that meet the necessary and impair standard—and the
17 configuration Sprint requests here does not.

18
19 As for the diagrams themselves, they show that one type of traffic
20 Sprint seeks to commingle is switched access. Switched access refers
21 to facilities ordered by Sprint *the IXC* to facilitate the delivery of long
22 distance traffic to Sprint’s long distance switch; the UNEs in the
23 diagrams would be purchased by Sprint *the CLEC*. By seeking to
24 commingle facilities and services, Sprint *the CLEC* and Sprint *the IXC*
25 are seeking to create cross-company “efficiencies” that permit its IXC

1 business unit to obtain the benefits (financial and otherwise) of UNEs
2 that are to be used for the provision of local telecommunications
3 service. Specifically, the IXC will avoid applicable access charges.

4
5 The Act's goal is to promote competition among incumbents and new
6 entrants in the local exchange market--not to provide an arbitrage
7 opportunity to existing long-distance carriers which also operate as
8 CLECs. As the FCC affirmed in its 2001 *Order on Remand*, the
9 switched access, or long-distance world, and the UNE, or local service
10 world, have been and still remain two separate worlds with separate
11 rules, regulations and compensation. (*See Implementation of the*
12 *Local Competition Provisions in the Telecomm. Act of 1996;*
13 *Inter-carrier Compensation for ISP-Bound Traffic, Order on Remand*
14 *and Report and Order, 16 FCC Rcd 9151, at ¶ 36 (2001).)*

15
16 Mr. Burt's discussion of his diagrams also implies that Verizon should
17 be required to facilitate CLECs' commingling of traffic because Verizon
18 engages in such commingling. This implication is unwarranted.
19 Verizon does not combine UNEs and access services; rather, Verizon
20 may use the same interoffice facilities to carry both local and access
21 traffic. Any other carrier is free to do the same. There is no prohibition
22 on Sprint placing both local and access traffic on UNEs when it uses
23 them to provide local exchange service to its end user customers.
24 (*See e.g., Implementation of the Local Competition Provisions in the*
25 *Telecomm. Act of 1996; Interconnection Between Local Exchange*

1 *Carriers and Commercial Mobile Radio Service Providers*, Order on
2 Reconsideration, 11 FCC Rcd 13042, at ¶ 13 (1996) (“A requesting
3 carrier that purchases an unbundled local switching element for an end
4 user may not use that switching element to provide interexchange
5 service to end users for whom that requesting carrier does not also
6 provide local exchange service”).) Sprint may not engage in arbitrage
7 of access charges by paying UNE, rather than access, rates for access
8 facilities it purchases.

9
10 **Q. SINCE YOU FILED YOUR DIRECT TESTIMONY, HAS ANY STATE**
11 **COMMISSION RULED ON THE COMMINGLING/UNE**
12 **MULTIPLEXING ISSUES?**

13 **A.** Yes. Both the Pennsylvania and Maryland Commissions have ruled on
14 these issues. In Pennsylvania, the Commission permitted
15 “commingling,” but with two important caveats: (1) Verizon is only
16 required to permit access to its existing network and need not
17 purchase the new equipment and facilities that would be necessary to
18 provide Sprint the multiplexing it seeks; Verizon is only required to
19 continue to provide the multiplexing that it already offers; and, (2)
20 Sprint must pay access charges on all traffic routed through Verizon
21 multiplexers, whether UNE or access, in order to avoid “disrupting the
22 existing access regime.” (*Petition of Sprint Communications Company*
23 *L.P. for an Arbitration Award of Interconnection Rates, Terms and*
24 *Conditions pursuant to 47 U.S.C. § 252(b) and Related Arrangements*
25 *With Verizon Pennsylvania, Inc., Pa. P.U.C. Docket No. A-*

1 310183F0002, Opinion and Order at 78-85 (Oct. 12, 2001).)

2

3 The Maryland Commission flatly denied Sprint's requests, stating:

4 A review of the record clearly shows that the
5 Sprint proposal is an attempt to bypass the access
6 regimes contemplated between the parties,
7 whereas the revision of access schemes has
8 commenced in the CALLS plan, and there are
9 clear consequences if alternative measures, such
10 as the Sprint proposal, would be utilized to evade
11 the access charges contemplated by the FCC. As
12 noted by the FCC, alternative schemes could have
13 consequences such as undercutting universal
14 service, and as such we have serious reservations
15 regarding the legality and the propriety of the
16 Sprint proposal at this time....we will accept the
17 Verizon position prohibiting such commingling.

18

19 *(In the Matter of the Arbitration of Sprint Communications Company*
20 *L.P. vs. Verizon Maryland Inc. Pursuant to Section 252(b) of the*
21 *Telecommunications Act of 1996, Md. P.S.C. Case No. 8887, Order*
22 *No. 77320 at 36-37 (Oct. 24, 2001).)*

23

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

25 **A. Yes.**

Diagram 1
Switched Access Charges that could be at risk if Sprint
were allowed to commingle Switched Access facilities
and Multiplexing/UNE Transport

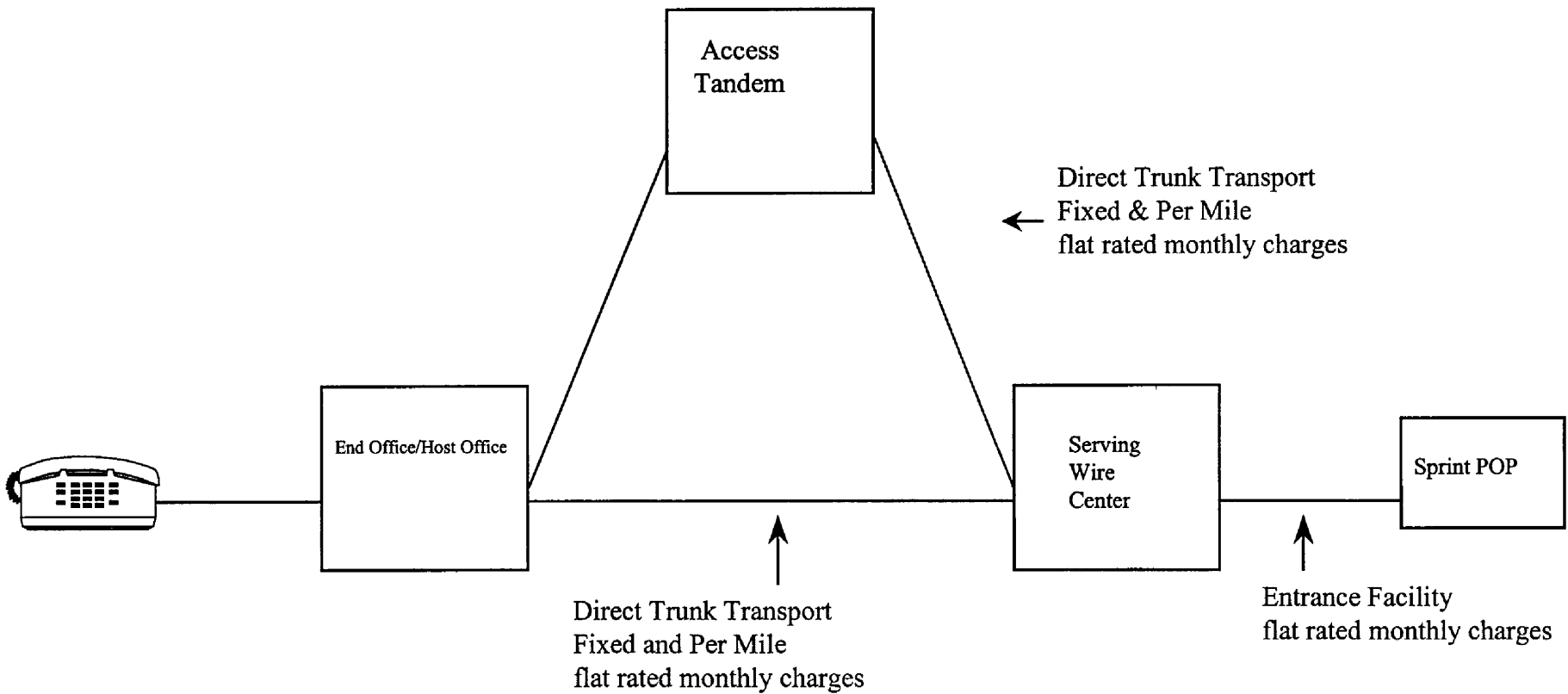


Diagram 2 Substitution of Multiplexing and UNE Transport for Switched Access Charges

