

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of requirements arising) DOCKET NO. 030851-TP
from Federal Communications Commission's)
Triennial UNE review: Local Circuit Switching) FILED: February 20, 2004
for Mass Market Customers.)
_____)

**SPRINT'S MOTION FOR LEAVE TO FILE THE
SUPPLEMENTAL TESTIMONY AND EXHIBITS
OF KENT W. DICKERSON AND CHRISTY V. LONDERHOLM**

Sprint-Florida, Incorporated and Sprint Communications Company Limited Partnership (collectively, "Sprint"), pursuant to Rule 28-160.204, Florida Administrative Code, files this Motion for Leave to File the Supplemental Testimony and Exhibits of Kent W. Dickerson and Christy V. Londerholm. Good cause exists for Sprint to file this Supplemental Testimony. Because the prehearing officer granted Sprint's Motion to Compel¹, in part, and gave Sprint the chance to analyze in the short amount of time allotted vital and heretofore hidden portions of the BellSouth potential deployment model, it is important for the Commission to receive evidence summarizing Sprint's analysis. See *Order Granting in Part and Denying in Part Motion to Compel and Protective Order Governing Handling of Information* ("February 16th Order").²

While Sprint had requested and desired that the Model with the executable source code be made available to Sprint for access at Sprint's offices in Kansas City, upon issuance of the February 16th

¹ Sprint filed its Motion to Compel with the Commission on January 13, 2004.

² In the February 16th Order, *Order Granting in Part and Denying in Part Motion to Compel and Protective Order Governing Handling of Information* ("February 16th Order") the Pre-Hearing Officer held that "... neither Sprint nor our own staff has been able to audit or otherwise verify the integrity of the BACE model." As the Pre-Hearing Officer found, the lack of access to an executable version of the source code has prevented Sprint from being able to audit or verify the results of the BACE Model, which is further compounded by the fact that Sprint has been unable to file testimony as a result of this bar to access. Now, that time sensitive access has been granted, fairness requires that Sprint be able to file additional testimony setting forth before the Commission a discussion of the limited findings Sprint has made regarding the integrity of the BACE Model during its four (4) day review.

DOCUMENT NUMBER DATE

02550 FEB 20 04

FPSC-COMMISSION CLERK

Order, three Sprint subject matter experts (SMEs), including Christy Londerholm, diligently availed themselves of the access afforded by the Order, beginning on the morning of February 17, 2004 through the remainder of the week. Although the available time remaining before the hearing has not been sufficient for Sprint to review the model as fully as Sprint believes is necessary, as a result of its limited review of the Model with the executable source code Sprint has reached certain conclusions regarding the underlying assumptions, inputs and results of the BACE Model and submits this Motion and presents the attached Supplemental Testimony and Exhibits of Kent W. Dickerson and Christy V. Londerholm setting forth Sprint's analysis to date. Sprint's Supplemental Testimony is crucial to the development of a full and complete record. As grounds for granting this Motion, Sprint states:

1. On December 4, 2003, BellSouth Telecommunications, Inc. ("BellSouth") filed the Direct Testimony and exhibits of James W. Stegeman with Exhibits, including a CD-Rom containing its BellSouth Analysis of Competitive Entry (BACE) Model. On January 22, 2004, BellSouth filed the revised Direct Testimony of Mr. Stegeman and a revised Exhibit JWS-2 containing a revised version of the BACE Model. On January 23, 2004, BellSouth provided additional information relating to the BellSouth model as a supplemental response to a previous discovery requests from Sprint. On January 28, 2004, BellSouth filed the Surrebuttal Testimony of James W. Stegeman and made further revisions to the BACE Model.
2. Subsequent to BellSouth's December 4, 2003, filing, Sprint engaged in several informal discussions with the model experts designated by BellSouth in an attempt to understand the workings of the model and Sprint's ability to manipulate and view the model for the purposes of analyzing and validating the results asserted by BellSouth in its pre-filed testimony. Sprint identified several inputs and input tables that were not visible in the Model as filed and through these informal discussions attempted to gain access to the inputs, as well as to the executable

source code which would provide an open visible version of the Model, its inputs and the associated calculations.

3. In addition, Sprint has served numerous discovery requests on BellSouth requesting information that would assist Sprint in analyzing and auditing the BACE Model, including access to the input tables that were hidden in the filed version of the Model. Sprint filed these request so that Sprint could attempt to analyze BellSouth's BACE Model which purports to demonstrate that an efficient CLEC could potentially deploy its own switches to serve mass market customers in identified market areas. Sprint's discovery and efforts to analyze the BACE model are aimed at providing the Commission with a clear analysis in Sprint's testimony of an extremely complicated model that is being used to support BellSouth's claims of no impairment. BellSouth responded at least in part to some of these requests while objecting to others, including objecting to Sprint's request of an executable version of the source code of the BellSouth Model, which Sprint needs in order to fully conduct the its analysis of the Model. On January 13, 2004, Sprint filed its Motion to Compel.
4. Sprint's Motion to Compel sought access to an executable version of the source code for BellSouth's BACE Model. Sprint's Motion to Compel was granted in part by the Pre-Hearing Officer on February 16, 2004. As a result of the February 16th Order, Sprint was permitted access to an executable version of the source code for the BACE Model beginning on February 17, 2004.
5. Pursuant to the Orders on Procedure in this docket, Sprint's last opportunity to pre-file testimony addressing its analysis of the BACE Model was on January 28, 2004. However, due to the timing of BellSouth's revised and supplemental filings, including its supplemental responses to Sprint's discovery requests and lack of access to an executable version of the source code, ~~Sprint was not able to fully complete its analysis and evaluation of the Model. The late revised~~

and supplemental filings of BellSouth and the lack of access to the executable code has caused Sprint harm in that it has not been able to fully prepare testimony settings forth its findings and positions concerning the BACE Model by the January 28, 2004 deadline. As a result, Sprint files this Motion for Leave to File Supplemental Testimony in order to present evidence regarding Sprint's findings and conclusions based on its analysis of the BACE Model and its time-limited review of an executable version of the source code.

6. Review of the executable version of the source code granted in the February 16th Order has enabled Sprint to conduct a limited review and analysis of the BACE Model. Sprint, however, does not concede its position that a full, fair and necessary review of the BACE Model and executable source code cannot be completed within the amount of time allocated. Nevertheless, Sprint has been able to reach some conclusions based upon its limited review of the BACE Model since the February 16th Order.

7. Sprint's Supplemental Testimony presents these conclusions so that the Commission can obtain a more complete view of the potential deployment assumptions, inputs and results included in the BACE Model. Mr. Dickerson and Ms. Londerholm present information on the following topics: The understatement of BACE Model switch investment; the understatement of BACE Model DLC (Digital Loop Carrier) investment; the understatement of BACE Model OSS (Operating Support Systems) Costs; and the understatement of BACE Model Network and General Support Assets capital costs.

8. Sprint asserts that neither BellSouth nor any other party will be prejudiced by Sprint's filing of its Supplemental Testimony. Given the late access to important elements of BellSouth's potential deployment model granted in the February 16th Order, it is necessary for Sprint to have the chance to present its views based on this access. BellSouth will not be prejudiced since it has had control of the source code of BACE Model for months. Moreover, at Mr. Dickerson's

deposition conducted on February 17, 2004, BellSouth reserved its right to depose Mr. Dickerson concerning his supplemental testimony.

9. During the Staff's deposition of Mr. Dickerson conducted on February 17, 2004, Sprint notified the parties that Sprint intended to file supplemental testimony in this docket as a result of its review of the Model in Tallahassee.

WHEREFORE, to allow the Commission to receive a more thorough analysis of BellSouth's potential deployment model and its claims of non-impairment, Sprint requests that the Commission grant Sprint's Motion to file the attached Supplemental Testimony and Exhibits of Kent W. Dickerson and Christy V. Londerholm.

RESPECTFULLY SUBMITTED this 20th day of February 2004.

Susan S. Masterton
P.O. Box 2214
Tallahassee, FL 32316-2214
(850) 599-1560 (phone)
(850) 878-0777 (fax)
susan.masterton@mail.sprint.com

H. Edward Phillips, III
14111 Capital Blvd.
Mail Stop: NCWKFR 0313-3161
Wake Forest, NC 27587-5900

ATTORNEYS FOR SPRINT