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August 21, 2000

BY HAND DELIVERY

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 990649-TP


Dear Ms. Bayo:

In accordance with the Prehearing Officer's Order Granting Sprint's Motion to Bifurcate Proceeding, for a Continuance and Leave to Withdraw Cost Studies and Certain Testimony, Order No. PSC-00-1486-PCO-TP, Sprint hereby furnishes its Refiled Direct and Rebuttal Testimony addressing both Phase I and Phase II issues.¹ This Refiled Direct and Rebuttal Testimony replaces testimony previously filed in this proceeding in the following respects:

- John A. Holmes The Direct (5/1/00) and the Supplemental Direct (5/12/00) Testimony are withdrawn in their entirety. Mr. Holmes did not file any Rebuttal Testimony.
- James D. Dunbar, Jr. The Direct (5/1/00) Testimony is withdrawn in its entirety. Mr. Dunbar did not file any Rebuttal Testimony.
- John D. Quackenbush The Direct (5/1/00) and Phase I Rebuttal (6/29/00) Testimony are withdrawn in their entirety.

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¹ In view of the grant of Sprint's Motion, Sprint is participating in Phase II of this docket solely as an ALEC/CLEC.

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Ms. Blanca S. Bayo, Director

August 21, 2000

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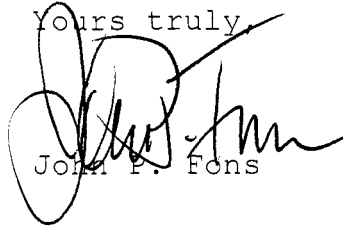
- James W. Sichter The Direct (5/1/00), Supplemental Direct (5/12/00), Additional Supplemental Direct (5/30/00), Phase I Rebuttal (6/29/00), and Phase II Rebuttal (7/31/00) Testimony are withdrawn in their entirety, to be replaced with Refiled Direct and Refiled Rebuttal Testimony, each dated August 21, 2000, which accompany this transmittal. Mr. Sichter is also sponsoring two exhibits, namely, Exhibits JWS-1 and JWS-2.
- Kent W. Dickerson The Direct (5/1/00), Supplemental Direct (5/30/00), and Rebuttal (7/31/00) Testimony are withdrawn in their entirety, to be replaced with Refiled Direct and Refiled Rebuttal Testimony, each dated August 21, 2000, which accompany this transmittal. Mr. Dickerson is also sponsoring one exhibit, namely, KWD-1.
- Steven M. McMahon The Direct (5/1/00), Supplemental Direct (5/12/00), Additional Supplemental Direct (5/30/00), and Rebuttal (7/31/00) Testimony are withdrawn in their entirety, to be replaced with Refiled Direct and Refiled Rebuttal Testimony, each dated August 21, 2000, which accompany this transmittal. Mr. McMahon is also sponsoring four exhibits, namely, Exhibits SMM-1, SMM-2, SMM-3 and SMM-4.
- Talmage O. Cox The Direct (5/1/00) and Rebuttal (7/31/00) Testimony are withdrawn in their entirety, to be replaced with Refiled Direct and Refiled Rebuttal Testimony, each dated August 21, 2000, which accompany this transmittal. Mr. Cox is also sponsoring four exhibits, namely, Exhibits TOC-1, TOC-2, TOC-3 and TOC-4.

Copies of Sprint's Refiled Direct and Refiled Rebuttal Testimony and Exhibits of James W. Sichter, Kent W. Dickerson, Steven M. McMahon and Talmage O. Cox, III are being served on the parties in accordance with the attached certificate of service.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to this writer.

Ms. Blanca S. Bayo, Director
August 21, 2000
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Thank you for your assistance in this matter.

Yours truly

John P. Fons

Enclosures

cc: All parties of record

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by e-mail transmission, U. S. Mail, or hand delivery (*) this 21st day of August, 2000, to the following:

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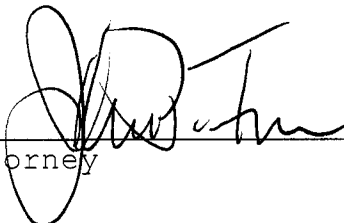
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

REFILED DIRECT TESTIMONY

OF

JAMES W. SICHTER

Q. Please state your name and business address.

A. My name is James W. Sichter. I am Vice President-Regulatory Policy, for Sprint Corporation. My business address is 901 E. 104th Street, Kansas City, Missouri.

Q. Please describe your educational background and work experience.

A. I hold a B.A. in Economics from the University of Kentucky (1968), a Masters in Economics from Wright State University (1972), and a Masters in Public Administration from the University of Missouri-Kansas City (1979). I have worked for Sprint since 1973. Prior to my current position, I have held several positions with Sprint in the areas of costing and regulatory policy, including cost analyst, revenue analyst, corporate strategic planning analyst, staff economist, manager-policy research, director-

1 regulatory and industry planning, director-service
2 costs, director-access planning, and assistant vice
3 president-regulatory and industry planning.

4
5 In my current position I have responsibility for
6 developing state and federal regulatory and
7 legislative policy for Sprint's Local
8 Telecommunications Division. I also serve on the
9 Executive and the Advisory Committees of the Michigan
10 State University Institute of Public Utilities. In
11 addition, I have been a member of the faculty of the
12 Michigan State University - NARUC Annual Studies
13 Program since 1985, where I have taught course
14 segments on a variety of areas, including access
15 charges, jurisdictional separations, competition, the
16 Telecom Act of 1996, and, Universal Service and Access
17 Charge Reform. In the past, I served on a number of
18 United States Telephone Association committees,
19 including chairing the USTA Policy Analysis Committee
20 (1986-1989), Price Cap Team (1987-1989), and Part 69
21 Concepts Committee (1989-1991).

22
23 **Q. Have you previously testified before state Public**
24 **Service Commissions?**

1 A. Yes. I have previously testified before the Florida,
2 Iowa, Kansas, Missouri, and Nevada state commissions.

3

4 **Q. What is the purpose of your testimony?**

5

6 A. The purpose of my testimony is to address on behalf of
7 Sprint Issues 1, 2, 6, 9b, 12, and 13 of the Tentative
8 List of Issues.

9

10 **Issue 1: What factors should the Commission consider in**
11 **establishing rates and charges for UNEs (including**
12 **deaveraged UNEs and UNE combinations)?**

13

14 **Q. What is the appropriate basis for the pricing of**
15 **unbundled network elements?**

16

17 A. Unbundled network element (UNE) rates should be based
18 on forward-looking economic costs. This is not only
19 the economically appropriate basis for the pricing of
20 UNEs, it is required by Section 252 (d)(1) of the
21 Telecom Act of 1996 and the FCC rules implementing
22 that section of the Act. Where economic costs vary
23 significantly, prices should be deaveraged.

24

1 **Q. What are the requirements of Section 252(d) (1) of the**
2 **Telecom Act of 1996?**

3
4 A. Section 252(d) (1) sets forth the pricing standards for
5 Interconnection and Unbundled Network Elements.
6 Specifically, it requires that rates for these
7 elements

8 (A) shall be-

9 (i) based on the cost (determined without
10 reference to a rate-of-return or other rate-based
11 proceeding) of providing the interconnection or
12 network element (whichever is applicable), and

13 (ii) nondiscriminatory, and

14 (B) may include a reasonable profit

15
16 **Q. What rules did the FCC adopt implementing that section**
17 **of the Act?**

18
19 A. In its August 8, 1996 First Report and Order in Docket
20 96-98, the FCC concluded that the Act requires that
21 prices for UNEs be set at forward-looking economic
22 costs. Specifically, the FCC adopted a version of
23 total service long run incremental costs (TSLRIC) as
24 the methodology to be used in determining the costs of
25 UNEs. The FCC refers to its methodology as Total

1 Element Long Run Incremental Costs (TELRIC),
2 nomenclature that reflects that the methodology is
3 applied to the costing of discrete network elements or
4 facilities, rather than the cost of a service or
5 services provided over that facility.

6
7 The FCC's TELRIC methodology is set forth in Part
8 51.505(b) of its Rules:

9
10 "Total element long-run incremental cost. The total
11 element long-run incremental cost of an element is the
12 forward-looking cost over the long run of the total
13 quantity of the facilities and functions that are
14 directly attributable to, or reasonably identifiable
15 as incremental to, such element, calculated taking as
16 given the incumbent LEC's provision of other elements.

17
18 (1) Efficient network configuration. The total
19 element long-run incremental cost of an element should
20 be measured based on the use of the most efficient
21 telecommunications technology currently available and
22 the lowest cost network configuration, given the
23 existing location of the incumbent LEC's wire centers.

24

1 (2) Forward-looking cost of capital. The forward-
2 looking cost of capital shall be used in calculating
3 the total element long-run incremental cost of an
4 element.

5
6 (3) Depreciation rates. The depreciation rates used in
7 calculating forward-looking economic costs of elements
8 shall be economic depreciation rates.”

9
10 **Q. Are there costs, other than the TELRIC costs described**
11 **above that should be included in the forward-looking**
12 **economic costs of unbundled network elements?**

13
14 A. Yes. The FCC's currently effective Rules (Part 51.505
15 (a)) define the forward-looking economic cost of an
16 unbundled network element to be the sum of TELRIC
17 costs and "...a reasonable allocation of forward-looking
18 common costs...”

19
20 **Q. Why are forward-looking economic costs the**
21 **economically appropriate basis for pricing unbundled**
22 **network elements?**

23
24 A. A fundamental objective of the Telecom Act of 1996 is
25 to open all telecommunications markets to competition.

1 Congress recognized that there are substantial
2 barriers to entry into the local exchange market. In
3 particular, the local exchange network is highly
4 capital intensive. Facility-based entrants are
5 confronted by the formidable hurdle of having to
6 devote substantial capital resources, over an extended
7 period of time, to construct a local network prior to
8 winning any customers or generating any revenues.

9
10 Section 251 of the Act provides new entrants
11 alternative avenues for entering the local exchange
12 market. First, new entrants can simply resell the
13 services of the incumbent. In other words, they can
14 win customers and gain market share without having to
15 construct any of their own network facilities. Second,
16 new entrants can obtain unbundled network elements
17 from the incumbent. This not only provides new
18 entrants more flexibility in creating services (e.g.,
19 the ability to provide expanded local calling areas),
20 but also provides a critical pricing signal for a new
21 entrant's "make or buy" decision in acquiring network
22 facilities. Simply put, new entrants will be incented
23 to build facilities where they can do so at lower
24 costs than they would pay the incumbent for the
25 equivalent network element or elements, and to buy

1 unbundled elements where the incumbent's prices for
2 those elements are lower than the new entrant's cost
3 of constructing those facilities.

4

5 The forward-looking cost standard for unbundled
6 network elements provides a measure of the costs that
7 would be incurred by an efficient supplier to provide
8 a particular network element. Correspondingly, it will
9 provide the appropriate marketplace signals to
10 competitors, creating an incentive for them to
11 construct their own facilities when they can do it
12 more efficiently than the incumbent LEC, and
13 discouraging uneconomic investment where they cannot
14 provide the facilities at a lower cost than the
15 incumbent.

16

17 Conversely, to the extent that unbundled network
18 element prices deviate from economically efficient
19 levels, they will distort infrastructure investment
20 decisions of the new entrants. If network elements are
21 priced above economic costs, it will provide an
22 incentive for competitors to deploy their own
23 facilities, even though in actuality the incumbent can
24 provide those facilities at lower costs. On the other
25 hand, if network elements are priced below economic

1 costs, it will discourage competitors from deploying
2 facilities even though they could do so at a cost that
3 is lower than the incumbent's economic costs.

4

5 **Q. What is the appropriate basis for pricing non-**
6 **recurring charges for unbundled network elements?**

7

8 A. Non-recurring charges should also be based on forward-
9 looking costs. In the first instance, the Act requires
10 unbundled network elements to be based on costs.
11 Logically, the same cost standard that applies to the
12 recurring costs of those elements should also apply to
13 the non-recurring costs associated with provisioning
14 those elements. Moreover, non-recurring costs, as well
15 as recurring costs, enter into competitors' decisions
16 to construct their own facilities or to buy unbundled
17 elements from the incumbent LEC. As discussed above,
18 the incumbent LEC's prices should be based on economic
19 costs in order to provide the appropriate pricing
20 signals for competitors in their "make or buy"
21 decisions. The benefits of setting the recurring
22 charge for unbundled network elements at forward-
23 looking economic costs would be diminished or lost if
24 non-recurring charges associated with those elements

1 were not similarly based on forward-looking economic
2 costs.

3

4 **Q. How should the forward-looking economic costs for non-**
5 **recurring charges be determined?**

6

7 A. The forward-looking costs for non-recurring charges
8 should reflect the costs that would be incurred in
9 performing those functions in relation to the forward-
10 looking network that is the basis for calculating the
11 recurring costs and rates for the unbundled network
12 element. Just like the recurring costs for an
13 efficiently designed network based on current
14 technology can differ from the embedded costs of the
15 existing network, so can the non-recurring costs
16 associated with provisioning elements in that forward-
17 looking network differ from the non-recurring costs
18 associated with provisioning elements in the existing
19 network.

20

21 **Q. What is the relationship between the pricing**
22 **requirements of the Telecom Act and rate deaveraging**
23 **for unbundled network elements?**

24

1 A. As discussed above, the Telecom Act requires that the
2 prices for unbundled network elements be cost-based,
3 and the FCC Rules define cost-based to mean forward-
4 looking economic costs (TELRIC plus a reasonable share
5 of forward-looking common costs). However, the
6 forward-looking costs of providing an element are not
7 necessarily uniform throughout an incumbent LEC's
8 service territory. For example, Sprint's unbundled
9 loop costs, including an allocation of common costs,
10 range from a low of \$8.59 a month to a high of \$149.06
11 a month, while the average in Sprint-Florida's serving
12 area is \$25.38. Although that average cost does,
13 indeed, reflect TELRIC costs, it does not follow that
14 pricing all unbundled loops in Sprint-Florida's
15 serving area at the company-wide average forward-
16 looking cost therefore meets the requirements of the
17 Act. To do so would result in unbundled loops in the
18 lowest cost areas being priced almost three times
19 their actual forward-looking costs, while unbundled
20 loops in the highest cost areas would be priced at
21 one-sixth of their forward-looking costs. Clearly,
22 prices that deviate from costs by that magnitude do
23 not meet the Act's requirement for cost-based rates
24 nor do they provide the correct marketplace signals to
25 competitors in their decision to build their own

1 facilities or buy unbundled network elements from the
2 incumbent. Thus, deaveraging of unbundled network
3 elements is necessary to avoid the pricing distortions
4 inherent in rate averaging.

5

6 **Q. What do the FCC's rules require in terms of rate**
7 **deaveraging?**

8

9 A. In Section 51.507(f) of its Rules, the FCC requires
10 that unbundled network elements be geographically
11 deaveraged into at least three cost-related zones.
12 These can be either the zones established for the
13 deaveraging of interstate transport rates, or zones
14 determined by the state commission.

15

16 **Q. What factors should the Commission consider in**
17 **establishing rates for UNE combinations?**

18

19 A. As discussed above, the governing FCC rules require
20 UNE rates to be based on forward-looking economic
21 costs. That same criteria is applicable to
22 combinations of unbundled network elements. As a
23 general principle, the rate for a UNE combination
24 should be the sum of the rates for those UNE elements
25 that comprise that combination. However, there are

1 occasions where simply summing those individual UNE
2 costs is inappropriate. For example, the local
3 switching UNE includes the cost of a line card. In the
4 case of unbundled loops provided using a Digital Loop
5 Concentrator (DLC), two line cards are included in the
6 cost of the unbundled loop—one at the DLC and one at
7 the central office terminal. When loop and switching
8 are provided in combination, only one line card is
9 required. If the UNE combination of loop and switching
10 were priced at the sum of the individual UNEs, CLECs
11 would be effectively paying for three line cards,
12 although only one line card would be used in
13 provisioning that combination. Therefore, the
14 appropriate price for that UNE combination would be
15 the sum of the loop and switching UNE rates, less the
16 costs of two line cards. The purpose of this
17 adjustment, and any deviations from the general
18 principle that UNE combinations be priced at the sum
19 of the individual UNEs included in that combination,
20 is to accurately reflect the actual forward-looking
21 costs of that UNE combination.

22
23 **Q. Are there other factors the Commission should take**
24 **into consideration in establishing rates for UNEs**
25 **(including deaveraged UNEs and UNE combinations)? For**

1 example, incumbent LECs' retail rates are not
2 typically cost-based, nor are they deaveraged to any
3 great degree. Should that be factored into a
4 determination of the rates for unbundled network
5 elements, including deaveraged rates and rates for UNE
6 combinations?

7
8 A. No. Although Sprint fully appreciates the differences
9 between existing retail rate structures and levels and
10 the rate levels and structures for unbundled network
11 elements, how these differences should be resolved is
12 equally clear to Sprint. Consistent with the mandate
13 of the Telecom Act of 1996, unbundled network elements
14 should be priced at forward-looking economic costs. To
15 the extent that retail rate levels or rate structures
16 are inconsistent with unbundled network element
17 prices, those retail rates should be restructured to
18 bring them into consistency with unbundled network
19 prices. Alternatively stated, the answer lies in
20 moving retail rates toward economic cost levels, and
21 not in introducing distortions in the pricing of
22 unbundled network elements to bring them into
23 conformance with the uneconomic pricing of incumbent
24 LEC retail services.

25

1 **Issue 2(a): What is the appropriate methodology to**
2 **deaverage UNEs and what is the appropriate rate**
3 **structure for deaveraged UNEs?**

4
5 **Q. What general principles should the Commission apply in**
6 **determining the degree to which rates for unbundled**
7 **elements are deaveraged?**

8
9 A. As a general principle, rates should be deaveraged to
10 the degree necessary to achieve a result wherein the
11 averaged rate does not deviate significantly from the
12 actual forward-looking cost of providing that element
13 anywhere within the defined zone. While it is
14 impossible to quantify with absolute precision what
15 "significant" deviations of rates from costs are,
16 Sprint believes that differences between rates and
17 costs in excess of 20% would be of sufficient
18 magnitude to potentially distort competitors'
19 investment decisions. Using that criteria, each
20 incumbent LEC should be required to construct a
21 deaveraged rate schedule such that the average rate in
22 each zone is no more than 20% higher or 20% less than
23 the forward-looking cost of providing that element.

24

1 **Q. What specific criteria should underlay this**
2 **Commission's requirements for incumbent LECs to**
3 **deaverage their unbundled network elements?**

4
5 A. Sprint would advocate the following criteria:

6
7 First, as discussed above, prices for unbundled
8 network elements should be deaveraged to the degree
9 necessary to avoid significant deviations between the
10 rate that is charged for an unbundled network element
11 and the actual forward-looking costs of providing that
12 element in a specific geographic area. This means that
13 the degree of deaveraging can vary both across
14 elements and among incumbent LECs. For example, the
15 costs of providing some unbundled network elements in
16 different geographic areas simply do not vary
17 significantly. There is little or no economic benefit,
18 therefore, in deaveraging the rates for those
19 elements. On the other hand, the forward-looking
20 economic costs of other elements can vary
21 significantly, as evidenced by the example for
22 unbundled loops cited above. Clearly, those rates
23 should be deaveraged into a sufficient number of zones
24 such that the rate for each zone does not
25 significantly deviate from the actual forward-looking

1 costs of providing that element for any area included
2 in that zone. As such, the number of zones appropriate
3 for the deaveraging of one element is not necessarily
4 the appropriate number of zones for some other
5 element, where the disparity in costs across
6 geographic areas might be substantially more or less.

7
8 Moreover, the number of zones appropriate for an
9 unbundled element of one incumbent LEC is not
10 necessarily the appropriate number of zones for that
11 same element provided by another incumbent LEC, where,
12 again, the disparity in costs of providing that
13 element could be substantially more or less.

14
15 Second, the degree of rate deaveraging should be based
16 on both administrative considerations and a realistic
17 assessment of the extent to which limited rate
18 averaging would not materially adversely impact
19 competition and investment decisions. At the extreme,
20 for example, unbundled loop costs differ almost on a
21 customer by customer basis. Customer, or location,
22 specific unbundled loop rates may meet the theoretical
23 ideal of cost-based rates, but they would equally be
24 an administrative nightmare, for both the incumbent
25 LEC as well as competitors ordering unbundled loops.

1 Nor is that degree of deaveraging necessary to provide
2 economically correct pricing signals to new entrants.
3 Typically, a competitor enters the local market with
4 the intention of serving all or a substantial segment
5 of that market, and not just one or two customers.

6
7 Some degree of averaging of unbundled element rates
8 does not necessarily distort competitors' investment
9 decisions for several reasons. First, the deviations,
10 both positive and negative, between the averaged rate
11 and the actual forward-looking costs will to some
12 extent be offsetting. Second, and most important, if
13 rates are deaveraged such that there are not
14 significant differences between the average rate and
15 the actual forward-looking costs, the impact of that
16 rate averaging will by definition be minimal and is
17 unlikely to have a material impact on a competitor's
18 investment decisions.

19
20 Third, Sprint proposes that each incumbent develop
21 forward-looking costs, for each UNE to be deaveraged,
22 on a wire center basis. Using the wire center as the
23 unit of cost analysis is reasonable for a number of
24 reasons. The wire center generally conforms to the
25 market definitions and plans of new entrants, and

1 therefore, as previously discussed, averaging costs at
2 this level is not likely to distort their entry or
3 marketing decisions. Moreover, deaveraging costs below
4 the wire center entails not only more complex cost
5 modeling, but would impose significant additional
6 costs on both incumbent LECs and competitors in
7 administering that rate structure.

8
9 Fourth, incumbent LECs should be required to group
10 wire centers into zones, and develop rates based on
11 the weighted average cost of the UNE for all wire
12 centers within each zone, subject to the constraint
13 that the average rate for a UNE zone should not
14 deviate by more than 20% from the wire center forward-
15 looking cost of that UNE for any wire center included
16 in that zone. However, it would not be unreasonable to
17 permit a wider range of deviation in the highest cost
18 zone, recognizing the larger cost variances in the
19 highest cost areas and the undesirability of creating
20 an excessive number of zones.

21
22 Sprint's proposed deaveraging methodology is intended
23 to provide a balance between cost-based rates and
24 administrative ease - both for incumbent LECs and new
25 entrants

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Issue 2(b): For which of the following UNEs should the Commission set deaveraged rates?

- (1) loops (all)
- (2) local switching
- (3) Interoffice transport (dedicated and shared)
- (4) other (including combinations)

Q. What unbundled network elements should be deaveraged?

A. The forward-looking economic costs for unbundled loops, subloops, local switch ports and local switching usage, common and dedicated transport, and dark fiber all vary significantly by geographic area. Therefore, Sprint believes that the rates for these elements should be deaveraged.

Moreover, Sprint does not believe there are such cost differences in the nonrecurring elements. Therefore, Sprint does not recommend that non-recurring charges be deaveraged.

Q. What unbundled network element combinations should be deaveraged?

1 A. The "UNE platform" (UNE-P) and enhanced extended link
2 (EEL) combinations include unbundled elements, such as
3 loops and transport, that exhibit significant
4 geographic cost variances and, therefore, should be
5 geographically deaveraged. Correspondingly, those UNE
6 combinations should also be deaveraged.

7

8 **Issue 6: Under what circumstances, if any, is it**
9 **appropriate to recover non-recurring costs through**
10 **recurring rates?**

11

12 **Q. Do the FCC rules allow for the recovery of non-**
13 **recurring costs through recurring rates?**

14

15 A. Yes. Although the general principle is that recurring
16 costs should be recovered by recurring rates, Section
17 51.507(e) of the FCC Rules permits deviations from
18 that general principle:

19 "(e) State commissions may, where reasonable, require
20 incumbent LECs to recover nonrecurring costs through
21 recurring charges over a reasonable period of time.
22 Nonrecurring charges shall be allocated efficiently
23 among requesting telecommunications carriers, and
24 shall not permit an incumbent LEC to recover more than

1 the total forward-looking economic cost of providing
2 the applicable element."
3
4

5 **Q. Under what circumstances would it be appropriate to**
6 **recover non-recurring costs through recurring rates?**
7

8 A. To the extent that high non-recurring charges are a
9 significant barrier to competitive entry, it may be
10 appropriate to require at least a portion of those
11 non-recurring charges through recurring rates.
12

13 Absent compelling circumstances, Sprint believes that
14 non-recurring costs should be recovered through non-
15 recurring rates. Requiring non-recurring costs to be
16 recovered through recurring charges raises a number of
17 difficult policy and administrative issues. On the one
18 hand, the incumbent LEC is financially exposed if the
19 CLEC discontinues service before the non-recurring
20 costs are fully recovered. On the other hand, the
21 incumbent LEC could over-recover its non-recurring
22 costs unless it tracked each service installation and
23 reduced its recurring rate at the point where the non-
24 recurring costs built into that recurring rate were
25 fully recovered.

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Issue 9(b): Subject to the standards of the FCC's Third Report and Order, should the Commission require ILECs to unbundle any other elements or combinations of elements? If so, what are they and how should they be priced?

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Q. Will this proceeding result in the establishment of rates for all UNEs identified in the FCC's rules?

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A. No. In its Third Report and Order in CC Docket 98-147 and Fourth Report and Order in CC Docket 96-98, released December 9, 1999, the FCC added to its list of UNEs the requirement for incumbent LECs to unbundle the high frequency portion of the loop spectrum, an arrangement commonly referred to as "line sharing". This UNE was not included in the stipulated list of UNEs for which rates would be determined in this proceeding. It is Sprint's understanding that the Commission will initiate a separate proceeding to determine rates for this UNE.

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Also, the FCC has defined Operational Support Systems (OSS) as an unbundled network element. The rates for OSS are being addressed in a separate proceeding, and are not included in this filing.

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Q. Are there any other UNEs or UNE combinations that the Commission should require ILECs to unbundle in this proceeding?

A. No.

Q. What are the current FCC rules pertaining to an incumbent LECs obligation to combine elements?

A. Section 51.315(b) of the FCC's Rules states that "Except upon request, an incumbent LEC shall not separate requested network elements that the incumbent LEC currently combines."

Q. How does the FCC define "currently combined"?

A. There is no question that under Section 51.315(b) an incumbent LEC is required to provide, on a combined basis, elements that are in fact already combined. Because the issue was pending before the Eighth Circuit, the FCC declined to address arguments relating to the definition of "currently combined".

1 However, the FCC, in its Third Report and Order,
2 Docket 96-98, released November 5, 1999, para. 481,
3 left no doubt as to its belief that the obligation of
4 the incumbent LECs to recombine elements is not
5 limited to the narrow instance of when those elements
6 are already actually combined:

7 "As a general matter, however, we believe that
8 the reasoning of the Supreme Court's decision to
9 reinstate rule 51.315(b) based on the
10 nondiscrimination language of section 251(c)(3)
11 applies equally to rules 51.315(c)-(f)".

12
13 **Q. How would Sprint recommend this Commission define**
14 **currently combined?**

15
16 A. Sprint's position is that "currently combined" should
17 be defined as "ordinarily combined". That is, a
18 requesting carrier should be able to obtain any UNE
19 combination if the incumbent LEC offers, through its
20 wholesale or retail tariffs, any service that includes
21 that UNE combination. The fact that the incumbent LEC
22 combines those elements in providing services to its
23 customers is certainly evidence that the LEC is
24 currently combining those elements.

25

1 To limit the combinations available to a requesting
2 carrier to something less than the combinations that
3 the incumbent LEC routinely offers to its own end
4 users is patently anti-competitive. To do so would
5 arbitrarily deny customers the ability to purchase
6 from a competitive local exchange carrier a service
7 depending on a particular combination of elements,
8 even though the incumbent LEC offers to provide that
9 same customer that same service using those same
10 elements.

11

12 Moreover, it should be recognized that a CLEC can
13 obtain, albeit through a tortuous route, combinations
14 of elements that are not actually currently combined.
15 What the CLEC would have to do is first have the
16 customer order the service directly from the incumbent
17 LEC. The incumbent would then "combine" the elements
18 to provide the retail service. At that point, the
19 elements would be actually currently combined, and the
20 CLEC could obtain the UNE combination from the
21 incumbent LEC in order to serve that customer.

22

23 Restricting the availability of UNE combinations to
24 those combinations actually currently combined, then,
25 does not preclude a CLEC from obtaining UNE

1 combinations ordinarily combined by an incumbent LEC
2 to provide tariffed services. All that it accomplishes
3 is to increase the incumbent LEC's competitors' costs
4 and impose unnecessary delays and inconvenience on
5 both their competitors and their competitor's
6 customers.

7

8 **Issue 13: When should the recurring and non-recurring rates**
9 **and charges take effect?**

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11 **Q. When should the UNE rates that will be determined in**
12 **this proceeding take effect?**

13

14 A. Sprint recommends that BellSouth be required to file
15 UNE rates that conform to the Commission's Order in
16 this proceeding 60 days after the release of that
17 Order. Those rates would become effective on the date
18 they are filed.

19

20 **Q. Does that conclude your testimony?**

21

22 A. Yes.