

DIRECT TESTIMONY

OF

MARK G. FELTON

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Q. Please state your name and business address.

A. My name is Mark G. Felton. My business address is 7301 College Boulevard,
Overland Park, Kansas 66210.

Q. By whom are you employed and in what capacity?

A. I am employed by Sprint United Management Company as Manager- Local
Market Development. I am testifying on behalf of Sprint Communications
Company Limited Partnership ("Sprint").

Q. What is your educational background and work experience?

A. I graduated from the University of North Carolina at Wilmington in 1988 with a
B.S. degree in Economics. In 1992, I received a Masters degree in Business
Administration from East Carolina University. I began my career with Carolina
Telephone and Telegraph Company ("Carolina Telephone"), a Sprint affiliate, in
1988 as a Staff Associate. I have held positions of increasing responsibility and
performed functions such as: develop Part 36 Jurisdictional Cost Studies; develop

1 costs and prices for Carolina Telephone's interexchange facilities lease product;
2 manage Carolina Telephone's optional intraLATA toll product, Saver*Service;
3 manage and maintain the General Subscriber Services Tariff for South Carolina;
4 serve as the primary point of contact for the South Carolina Public Service
5 Commission ("SCPSC") Staff on regulatory issues; and provide analytical support
6 in the development of policy related to such issues as access reform, price caps,
7 and local competition. I assumed my current position in June, 1999.

8
9 **Q. What are your current responsibilities?**

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11 **A.** My current responsibilities include representation of Sprint in interconnection
12 negotiations with BellSouth Telecommunications, Inc. ("BellSouth"). In that
13 capacity I testified on behalf of Sprint before this Commission in the recent
14 arbitration of issues related to Sprint's interconnection agreement with BellSouth.
15 One of the issues that I sponsored in that proceeding is the very same issue that is
16 the subject of this testimony. I also support the coordination of Sprint's entry into
17 the local markets within BellSouth's territory. I interface with BellSouth's
18 account team supporting Sprint by communicating service and operational issues
19 and requirements, including escalation of service and/or support issues as
20 necessary.

21
22 **Q. Have you testified previously before state regulatory commissions?**

23

1 A. Yes, I have testified before state regulatory commissions in Florida, Georgia,
2 Kentucky, Louisiana, North Carolina and South Carolina .
3

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

5

6 A. The purpose of my testimony is to provide input and background information to
7 the Florida Public Service Commission (FPSC) regarding Sprint's Petition for
8 arbitration of certain issues that Sprint and Verizon discussed during the course of
9 negotiating a renewal of their Interconnection Agreement, but were unable to
10 resolve. Specifically, my testimony will deal with Issue 3, Vertical Features.

11

12 **ISSUE #3 – VERTICAL FEATURES**

13

14 **Q. Please describe the issue.**

15

16 A. Sprint proposed to include language in the interconnection agreement that would
17 allow it to purchase Custom Calling Services and other Vertical Features on a
18 "stand-alone" basis for resale without the restriction of having to also purchase
19 the basic local service for resale. Verizon claims that it has no obligation to offer
20 vertical features to Sprint on a stand-alone basis at a wholesale discount.

21

22 **Q. Please describe vertical features such as Verizon's Smart Callsm Services.**

23

1 A. Smart Callsm Services are optional vertical features that an end-user may purchase
2 which enhance the functionality of the local service. For purposes of simplicity, I
3 will use Verizon's product name Smart Callsm Services and the generic term
4 vertical features interchangeably. Vertical features are retail services that are
5 priced and purchased separately from the basic local service and are not necessary
6 for the basic local service to function properly. These services are appropriately
7 characterized as "telecommunications services " under Section 251(c) of the
8 Telecommunications Act of 1996 ("Act").

9
10 **Q. Does Verizon offer Custom Calling Services in Florida to other entities**
11 **without requiring the purchase of local service?**

12
13 A. Yes. In response to Sprint's First Set of Interrogatories, Question 14, Verizon
14 states: "Verizon sells Call Forwarding-Busy-Fixed, Call Forwarding-No Answer
15 Fixed, and Call Forwarding-Busy/No Answer-Fixed to Enhanced Service
16 Providers ("ESPs") without also selling the underlying local dial tone lines."

17
18 **Q. What is Verizon's objection to Sprint's proposal?**

19
20 A. Verizon seeks to restrict Sprint from purchasing Smart Callsm Services and other
21 vertical features at wholesale rates except where Sprint also purchases the
22 underlying basic local service. Verizon's position is that the Act only requires

1 Verizon to offer at wholesale to CLECs those services which it offers to retail
2 customers on a stand-alone basis.

3

4 **Q. Are there any federal statutes or FCC rules or Orders that require Verizon**
5 **to offer vertical features individually for resale?**

6

7 A. Yes. Under Section 251(c)(4)(A) of the Act, Verizon, as an ILEC, must “offer for
8 resale at wholesale rates *any* telecommunications service that the carrier provides
9 at retail to subscribers who are not telecommunications carriers” (emphasis
10 added). Sprint believes that Smart Callsm Services are optional
11 telecommunication services that simply provide additional functionality to basic
12 telecommunications services. Neither Congress nor the Federal Communications
13 Commission (“FCC”) made a distinction between “basic” and “optional”
14 telecommunications services when promulgating the resale requirement. In fact,
15 the FCC, in ¶ 871 of the First Report and Order in CC Docket 96-98 (issued
16 August 8, 1996) (“Local Competition Order”), noted that it found “no statutory
17 basis for limiting the resale duty to basic telephone services”. Therefore, Verizon
18 is under no less of an obligation to offer for resale “optional” Smart Callsm
19 Services as it is to offer for resale “basic” local telephone service. The restriction
20 on the end-user customer of not being able to order Smart Callsm Services without
21 first having local service in place is a reasonable restriction. But, that is a retail
22 restriction and does not apply to a wholesale service. Sprint will not order Smart
23 Callsm Services for its customers without the customer first having local service in

1 place. However, the restriction for ordering does not make Smart Callsm Services
2 any less of a telecommunications service. The restriction placed on when the
3 service can be ordered should not interfere with the requirements in the Act that
4 all ILECs have the duty to offer Smart Callsm Services for resale at wholesale
5 rates. The Act does not single out certain kinds of telecommunications services
6 for resale at wholesale rates. In fact, the Act makes it clear that the discount
7 should apply to *any* telecommunications service.

8
9 **Q. Has the Florida Commission previously ruled on this issue?**

10
11 A. Yes. In Sprint's recent arbitration regarding its interconnection agreement with
12 BellSouth, Docket No. 000828-TP, this Commission ordered BellSouth to provide
13 vertical features on a stand-alone basis at wholesale rates. The Commission cited
14 the provisions of section 251 (c)(4)(A) as the basis for its decision.

15
16 **Q. Please summarize the Florida decision.**

17
18 A. The facts in the BellSouth-Florida case are nearly identical to the facts presented
19 in this case. BellSouth argued that it does not offer its Custom Calling Services to
20 its end-users on a stand-alone basis and that these services must be purchased in
21 conjunction with basic telephone service. This Commission agreed with Sprint
22 that BellSouth's reasoning for not offering its Custom Calling Services for resale
23 on a stand-alone basis is flawed, because BellSouth's condition for purchase is

1 distinct from the product itself. The Commission said that BellSouth is not being
2 asked to disaggregate a retail service into more discrete retail services since the
3 features themselves are the service at issue. The Commission ordered that,
4 “BellSouth shall be required to make its Custom Calling features available for
5 resale to Sprint on a stand-alone basis”.

6
7 **Q. Should the Verizon tariff restriction that applies to end-users also apply to**
8 **Sprint?**

9
10 **A.** No. The 10th Revised Page 10 of Section 13 of GTE Florida’s General Services
11 Tariff states in part that “Smart Call Services are furnished in connection with
12 individual line service.” Apparently Verizon believes that its tariff allows it to
13 refuse to make vertical features available for resale without also purchasing a
14 local loop, or dial tone.

15 The FCC, in its Local Competition Order, ¶ 939, found unequivocally that “resale
16 restrictions are presumptively unreasonable” and this includes “conditions and
17 limitations contained in the incumbent LEC’s underlying tariff.” Additionally,
18 the FCC said that “[i]ncumbent LECs can rebut this presumption [only] if the
19 restrictions are narrowly tailored.” The FCC explained that the presumption
20 exists because the ability of ILECs to impose resale restrictions and limitations is
21 likely to be evidence of market power, and may reflect an attempt by ILECs to
22 “preserve their market position.” The burden of proof is on Verizon to
23 demonstrate that it is reasonable and non-discriminatory to apply the restriction

1 found in its Tariff. In this case, Verizon's attempt to tie provision of local dial
2 tone and Custom Calling Services by the same carrier evidences not just its
3 dominant market power in Florida, but also represents a clear attempt by Verizon
4 to preserve its dominant market position in the burgeoning sub-market for Smart
5 Callsm Services.

6
7 **Q. Is there any technical reason why Verizon cannot provision Smart Callsm**
8 **Services on a stand-alone basis?**

9
10 **A.** No, there is no technical reason that would prevent Verizon from offering Smart
11 Callsm Services to Sprint on a stand-alone basis. In response to Sprint's First Set
12 of Interrogatories, Question 14, Verizon states: "Verizon sells Call Forwarding-
13 Busy-Fixed, Call Forwarding-No Answer Fixed, and Call Forwarding-Busy/No
14 Answer-Fixed to Enhanced Service Providers ("ESPs") without also selling the
15 underlying local dial tone lines." Call forwarding features are currently marketed
16 to end-users separately from local dial tone, carry an additional charge, and are
17 subject to a service order charge.

18
19 **Q. Why does Sprint seek to resell Smart Callsm Services to end-users when they**
20 **are not that customer's local provider?**

21
22 **A.** Many products and services have been developed, or are under development,
23 which require a Smart Callsm Service as a component for the product or service to

1 work optimally. An example of just such a product is Unified Communications,
2 which allows messages to be retrieved from various electronic devices, i.e.,
3 retrieve voicemail from a computer or e-mail from a telephone. This requires the
4 use of one mailbox for all of a customer's voice messages. For this to work
5 properly, the customer must have Call Forwarding Busy Line and Call
6 Forwarding Don't Answer. This is just one example of a service that could be
7 deployed using a stand-alone Smart Callsm Service as a component. Many more
8 creative applications will likely be developed in the future if Sprint is given the
9 authority to resell stand-alone Smart Callsm Services in accordance with the Act.

10
11 **Q. Why doesn't Sprint simply instruct the customer to purchase the Smart**
12 **Callsm Services that are necessary for a Sprint product directly from**
13 **Verizon?**

14
15 **A.** The customer could purchase these services directly from Verizon, however, in
16 doing so, Sprint's stature as a local carrier is diminished as compared to Verizon.
17 In addition, one of the major attractions in any product, and especially one as
18 complicated as telecommunications can be, is the ease of obtaining and using the
19 product. Certainly, Sprint would face a significant obstacle in marketing a
20 product for which the customer was required to purchase additional components
21 and assemble them him or herself. This is an obstacle that Verizon does not have
22 to face.

23

1 **Q. Why doesn't Sprint purchase Smart Callsm Services from Verizon at retail**
2 **rates?**

3
4 A. If Sprint purchased Smart Callsm Services from Verizon at retail, this would be
5 less than optimal for three reasons. First, Sprint would be forced to pay retail,
6 rather than wholesale, rates. Sprint, as a telecommunications carrier, is entitled to
7 purchase from Verizon at wholesale prices those telecommunications services that
8 Verizon sells at retail to end-users. Second, Sprint would be forced to deal with
9 Verizon as an end-user customer rather than the way Congress and the FCC
10 intended, as an interconnecting carrier. This might entail submitting orders over
11 the phone or via fax rather than electronically as an interconnecting carrier would.
12 This could also result in delayed orders, needless expense and would inhibit
13 Sprint from acting as a peer and competitor to Verizon. Third, if Sprint is treated
14 as an end-user when ordering Smart Callsm Services from Verizon, Sprint could
15 expect to receive and manage thousands of paper bills in much the same format
16 Verizon utilizes for its own end-users, rather than a mechanized billing system it
17 utilizes when billing carriers with whom it has a wholesale relationship. This
18 clearly is discriminatory, and would prevent Sprint from acting as a true
19 competitor to Verizon.

20
21 **Q. What happens in the case of a different CLEC requesting to resell the line**
22 **(provide actual local service dial tone) of the Verizon customer to whom**
23 **Sprint is reselling the stand-alone vertical services?**

1

2 A. As I have stated previously, basic local service and vertical features are two
3 distinct retail services that Verizon offers today. The fact that another CLEC
4 provides a customer's basic service should not preclude Sprint (or any other
5 CLEC) from providing optional services to that same customer. By way of
6 example, assume Sprint resells a vertical feature to an end-user for whom Verizon
7 is the basic local service provider. If that customer then chose a CLEC other than
8 Sprint as their basic local service provider but did not wish to purchase the
9 vertical feature in question from the CLEC, then no problem arises since basic
10 local service and the vertical feature are two distinct retail services. Dial tone is
11 still being provided, so there is no question that the feature would function
12 properly. If the customer in this example, however, chose to purchase the vertical
13 feature in question from the CLEC, then Sprint would be obligated to relinquish
14 that vertical feature to the CLEC. The hallmark of competition is for the
15 customer to have the ultimate choice from which they purchase services.

16

17 **Q. If the Commission requires Verizon to provide vertical services to Sprint on**
18 **a stand-alone basis, would that in any way compromise Verizon's ability to**
19 **provide non-discriminatory resale to another CLEC?**

20

21 A. No. Verizon's compliance with the applicable federal statute and associated FCC
22 rules creates no conflict with other federal statutes or FCC rules and certainly
23 does not prevent Verizon from fulfilling its obligations under the Act to offer

1 services for resale to other CLEC providers. As explained earlier, since dial tone
2 and vertical features are separate retail services, more than one provider can
3 provide these services to the end-user. In other words, in a resale environment,
4 Verizon is still providing the underlying services to the end-user. However, rather
5 than billing the end-user Verizon would bill the reseller who would, in turn, bill
6 the end-user. Sprint proposes simply for this Commission to affirm the federal
7 statutes and FCC rules that already exist.

8

9 **Q. Have any other state Commissions ordered an ILEC to provide stand-alone**
10 **vertical features at wholesale rates?**

11

12 A. Yes. The California Public Utility Commission has ordered Pacific Bell to
13 provide stand-alone vertical features to Sprint at wholesale rates. The Texas
14 Public Utility Commission ordered Southwestern Bell Telephone Company
15 (“SWBT”) to provide vertical features on a stand-alone basis at wholesale rates.
16 The North Carolina Commission has issued an arbitration order that requires
17 BellSouth to provide stand-alone vertical features to Sprint at wholesale rates.

18

19 **Q. What action does Sprint request this Commission to take on this issue?**

20

21 A. Sprint requests that this Commission affirm its previous decision on this issue in
22 the Sprint / BellSouth arbitration and direct Verizon to make Custom Calling
23 Services and other vertical features available to Sprint on a stand-alone basis at

1 wholesale rates. In addition, Sprint requests that the Commission adopt Sprint's
2 best and final contract language as follows:

3

4 "Resale of Smart Callsm Services and other vertical features. Except as expressly
5 ordered in a resale context by the relevant state Commission in the jurisdiction in
6 which the services are ordered, Smart Callsm Services and other vertical features
7 shall be available for resale on a stand-alone basis subject to the wholesale
8 discount."

9

10 **Q. Does this conclude your testimony?**

11

12 A. Yes, it does.

13