

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

In the Matter of

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Implementation of the Local Competition)
Provisions in the Telecommunications Act of 1996)

CC Docket No. 96-98

REPLY COMMENTS

Sprint Corporation hereby respectfully submits its reply to comments on Sprint's petition for reconsideration of the *UNE Remand Order*.¹ As shown briefly below, commenting parties have failed to rebut Sprint's showing that (1) a higher line count is warranted to distinguish the mass market from the medium and large business market; (2) packet switching should be offered as a UNE at end offices serving fewer than 5,000 lines where the ILEC has already deployed packet switched services; and (3) calling name (CNAM) database information is available from third party providers, and thus it is not necessary to require ILECs to offer CNAM information on an unbundled basis.²

1. Local Switching in Zone One Offices

Four ILECs³ oppose proposals from Sprint and other petitioners to raise the dividing line between mass market customers on the one hand, and medium and large business customers on the other hand, for purpose of deciding when ILECs should be

¹ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order* released November 5, 1999 (65 FR 2542, January 18, 1999).

² Sprint also requested reconsideration of the Commission's decision allowing ILECs to recover loop conditioning costs. Because the ILECs opposing this portion of Sprint's petition offer no new arguments or information to rebut Sprint's analysis, we simply reiterate and incorporate by reference the points made in our March 22, 2000 petition.

³ See BellSouth, p. 3; GTE, p. 11; SBC, p. 3; US West, p. 2.

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relieved from the obligation to provide unbundled local switching in zone 1 offices. These ILECs claim that widespread CLEC switch deployment proves that unbundled switching is really not necessary, and that CLECs can easily use their own switches to provide service even to mass market customers. For example, BellSouth asserts (p. 4) -- without reference to specific data -- that “the market facts in the record demonstrate that CLECs are using their own switches to serve a broad range of business customers.”⁴

It is true that CLECs are devoting enormous resources to self-provisioning their own switches. After all, relying upon the facilities of one’s major competitor, the former monopoly local service provider, is hardly an optimal long-term strategy. However, it is obvious that CLECs cannot, as a financial or practical matter, self-provision enough switches to obtain immediate ubiquitous coverage, and even where a CLEC may have deployed its own switch in a MSA, it will likely be uneconomic to use that switch to provide service to some customers (especially mass market customers whose revenue potential is relatively low) because of the costs and delays associated with collocation and hot cuts. The Commission clearly recognized this reality in the *UNE Remand Order*, and the ILECs make no credible attempt here to show that it is more rational financially for a CLEC to attempt to serve mass market customers using its own switch, rather than using unbundled local switching.

Given the economics of providing service to mass market customers, the issue here remains the appropriate line count threshold to distinguish mass market customers from medium and large business customers. In its petition, Sprint cited impartial data

⁴ See also, GTE, p. 11 (CLECs “are not impaired in any location where competitors have deployed their own switches”), and US West, p. 2.

from a Yankee Group report and practical experience based on Sprint ILECs' marketing and sales operations, to support a higher dividing line. Other CLEC petitioners also cited actual operating experience (the number of lines at which coordinated cutovers are no longer necessary) to justify a higher threshold.

None of the commenting ILECs disputes Sprint's analysis or offers a fact-based analysis of its own to counter Sprint's showing that the 4-line threshold adopted in the *UNE Remand Order* does not adequately reflect current marketplace realities. Instead, BellSouth falls back on the argument that the *UNE Remand Order's* unbundled switching requirements is "a regulatory bargain" (p. 3) to justify retention of the 4-line threshold. BellSouth's characterization is something of an overstatement. At most, the 4-line threshold should be viewed as simply a best guess by the Commission, in the absence of more detailed evidence, of how to translate the dividing line between small businesses, on the one hand, and medium and large businesses, on the other, into the number of lines each group uses for local service. That best guess must now be reevaluated on the basis of impartial and fact-based information, such as that provided by Sprint in its petition for reconsideration, not previously available to the Commission. Such a reevaluation clearly dictates in favor of a significant increase in the line count threshold.

2. **Packet Switching**

As was the case above, four ILECs (BellSouth, GTE, SBC and US West) oppose Sprint's petition for reconsideration relating to the unbundling of packet switching in smaller end offices. However, here again, none of these parties disputes Sprint's analysis demonstrating that the very high costs of collocation (a cost which the ILECs do not incur) and of installing DSLAM equipment generally make it uneconomic for a CLEC to

offer advanced services in smaller end offices. Without access to unbundled packet switching in these end offices, it is highly unlikely that competition in the provision of advanced services market will ever develop outside urban America.

In opposing Sprint's petition, BellSouth (p. 5), GTE (p. 16), SBC (p. 15) and US West (p. 11) continue to argue that ILECs' incentive to invest in packet switching technology will be diminished if they are required to offer unbundled access to that technology at TELRIC rates to their competitors. However, the ILECs offer no empirical data to support this theory; to the contrary, ILECs have deployed or announced the deployment of billions of dollars in xDSL facilities and technology, despite existing unbundling requirements. Moreover, it is disingenuous to imply that an unbundling requirement is the dispositive factor in the ILEC network investment process. In deciding whether to invest in xDSL technology, the ILEC must also consider end user demand for this technology (and the revenue streams associated with such demand), the deployment of cable modem technology by other service providers, general network upgrade requirements, and infrastructure investment obligations imposed by regulators. It is just not credible to insist that ILECs will refuse to deploy xDSL technology because of a UNE requirement. Therefore, in balancing the certain benefits of fostering local competition against the putative fear that ILECs will be reluctant to invest in advanced services technology because of an unbundling requirement, the Commission can reasonably accord less weight to the latter and on reconsideration, should require the unbundling of packet switching as proposed by Sprint.

In its petition, Sprint also requested that Section 51.319(c)(5)(ii) be revised to eliminate the "spare copper" condition, since this exception could be manipulated by

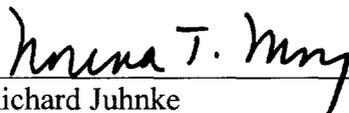
ILECs to avoid offering packet switching as a UNE. SBC (p. 22) opposes Sprint's petition, stating that CLECs are not impaired, and have no need for access to packet switching, if spare copper loops capable of supporting xDSL services are available. However, SBC does not deny that it makes no economic sense for a CLEC to go to the considerable expense of collocating at a central office that has only a very few available copper loops. Nor does SBC deny that ILECs have a real incentive to try to force CLECs to collocate (or, alternatively, to forego providing service to customers served by that office), by making sure that at least one copper loop is available in that office. To avoid such anti-competitive consequences and conduct, the Commission should eliminate the spare copper exception in Section 51.319(c) (5)(ii).

3. **CNAM Database**

Two parties, MCI WorldCom (p. 12) and MediaOne (p. 6), oppose Sprint's petition that ILECs not be required to offer the CNAM database as an unbundled network element. These two parties assert that CNAM data available from third party providers is less accurate than that provided by ILECs. However, neither party supports this assertion, or even indicates whether it has evaluated the quality of the product offered by Targus Information Services, the vendor cited by Sprint, or other alternative third party providers. Given the Commission's finding that "the cost incurred by a requesting carrier to self-provision or use alternative databases does not appear to materially diminish the carrier's ability to provide the services it seeks to offer" (*UNE Remand Order*, paragraph 415), Sprint urges that the Commission grant its petition and remove the CNAM database from the list of required UNEs.

Respectfully submitted,

SPRINT CORPORATION

A handwritten signature in black ink that reads "Norina T. Moy". The signature is written in a cursive style and is positioned above a horizontal line.

Richard Juhnke

Norina T. Moy

401 9th St., N.W., Suite 400

Washington, D.C. 20004

(202) 585-1900

April 5, 2000

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document of Sprint Corporation in CC Docket No. 96-98 was hand delivered or sent by United States First-Class Mail, postage prepaid, on this 5th day of April, 2000 to the parties listed below.



Sharon Kirby

Magalie Roman Salas
Secretary
Federal Communications
Commission
445 Twelfth Street, SW, TW-B204
Washington, DC 20554

Lawrence E. Strickling
Chief, Common Carrier Bureau
Federal Communications
Commission
445 12th Street, SW
Washington, DC 20554

Janice Myles
Common Carrier Bureau
Federal Communications
Commission
445 12th Street, SW
Washington, DC 20554

Michelle Carey
Federal Communications
Commission
445 12th Street, SW
Washington, DC 20554

Margaret Egler
Federal Communications
Commission
445 12th Street, SW
Washington, DC 20554

Chairman William E. Kennard
Federal Communications
Commission
445 12th Street, SW
Washington, DC 20554

Dorothy Attwood
Chief, Enforcement Division
Federal Communications
Commission
445 12th Street, SW
Washington, DC 20554

Kyle Dixon, Office of Commissioner
Powell
Federal Communications
Commission
445 12th Street, SW
Washington, DC 20554

Sarah Whitesell
Office of Commissioner Tristani
Federal Communications
Commission
445 12th Street, SW
Washington, DC 20554

Linda Kinney
Office of Commissioner Ness
Federal Communications
Commission
445 12th Street, SW
Washington, DC 20554

William Bailey
Office of Commissioner Furchtgott-
Roth
Federal Communications
Commission
445 12th Street, SW
Washington, DC 20554

Robert Atkinson
Common Carrier Bureau
Federal Communications
Commission
445 12th Street, SW
Washington, DC 20554

International Transcription Service
445 12th Street, SW, CY-B400
Washington, DC 20554

Edward Shakin
Michael E. Glover
Bell Atlantic
1320 North Courthouse Road
Eighth Floor
Arlington, VA 22201

James G. Pachulski
TechNet Law Group, P.C.
1100 New York Ave., N.W.
Suite 365
Washington, DC 20005
Counsel for Bell Atlantic

Mark C. Rosenblum
Roy E. Hoffinger/Richard H. Rubin
AT&T Corp.
Room 1127M1
295 North Maple Avenue
Basking Ridge, NJ 07920

M. Robert Sutherland
Jonathan B. Banks
BellSouth Corporation
Suite 1800
1155 Peachtree Street, N.E.
Atlanta, GA 30309-3610
Counsel for BellSouth Corporation
and BellSouth Telecommunications,
Inc.

Mark D. Schneider
Jenner & Block
601 13th Street, NW
Washington, DC 20005
Counsel for MCI WorldCom

Anthony C. Epstein
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
Counsel for MCI WorldCom, Inc.

Chuck Goldfarb
Richard S. Whitt
Cristin Flynn
MCI WorldCom, Inc.
1801 Pennsylvania Ave., NW
Washington, DC 20006

Jason Oxman
Covad Communications Company
600 14th Street, N.W., #750
Washington, DC 20005

Christy Kunin
Elise P.W. Kiely
Blumenfeld & Cohen – Technology
Law Group
1625 Massachusetts Ave., NW, #700
Washington, DC 20036
Counsel for Rhythms
Netconnections Inc.

Kent F. Heyman, Sr. Vice President
& General Counsel
Francis D.R. Coleman
Mpower Communications Corp.
161 Sully's Trail, #202
Pittsford, NY 14534

Andrew Lipman
Donna M. Coles Roberts
Paul Hudson
Swidler Berlin Shereff Friedman
LLP
3000 K Street, NW, #300
Washington, DC 20007
Counsel for MGC Communications

Wendy Bluemling
Director of Regulatory Affairs
DSL.net, Inc.
545 Long Wharf Drive, 5th Fl.
New Haven, CT 06511

Constance L. Kirkendall
Regulatory Manager
@link Networks, Inc.
2220 Campbell Creek Blvd., #100
Richardson, TX 75082

Eric J. Branfman
James N. Moskowitz
Swidler Berlin Shereff Friedman,
LLP
3000 K Street, NW, #300
Washington, DC 20007
Counsel for Mpower
Communications, Inc.

Albert H. Kramer
Jacob S. Farber
Dickstein Shapiro Morin & Oshinsky
LLP
2101 L Street, NW
Washington, DC 20037-1526
Counsel for Birch Telecom, Inc.

Robert J. Aamoth
Steven A. Augustino
Todd D. Daubert
Kelley Drye & Warren LLP
1200 19th Street, NW, #500
Washington, DC 20036
Counsel for CompTel

Carol Ann Bischoff
Executive V.P. and General Counsel
Competitive Telecommunications
Association
1900 M Street, NW, #800
Washington, DC 20036

David R. Conn
Associate General Counsel and Vice
President, Product and Policy
McLeodUSA Telecommunications
Services, Inc.
6400 C Street SW
Cedar Rapids, IA 52406-3177

Patrick J. Donovan
Morton J. Posner
Swidler Berlin Shereff Friedman,
LLP
3000 K Street, NW, #300
Washington, DC 20007
Counsel for RCN Telecom Services,
Inc.

Jonathan E. Canis
Ross A. Buntrock
Kelley Drye & Warren LLP
1200 Nineteenth Street, NW, Fifth
Floor
Washington, DC 20036
Counsel for Intermedia
Communications

James M. Tennant, President
Low Tech Designs, Inc.
1204 Saville St.
Georgetown, SC 29440

Charles Hunter
Catherine Hannan
Hunter Communications Law Group
1620 I Street, NW, #701
Washington, DC 20006
Counsel for TRA

Donny Adams
todd Daubert
Kelley Drye & Warren
1200 19th Street, NW, #500
Washington, DC 20036
Counsel for Cable & Wireless

John Harwood
David Sohn
Wilmer, Cutler & Pickering
2445 M Street, NW
Washington, DC 20037
Counsel for US West

Jeffrey S. Linder
Suzanne Yelen
Wiley, Rein & Fielding
1776 K Street, NW
Washington, DC 20006
Counsel for GTE

Michael Kellog
Austin Schlick
Rachel Barkow
Kellogg, Huber, Hansen, Todd &
Evans
1301 K Street, NW, Ste. 1000 West
Washington, DC 20005
Counsel for SBC

Susan Eid
MediaOne Group
1919 Pennsylvania Ave., NW, #610
Washington, DC 20006