Sprint.

James B. Wright
Senior Attorney

14111 Capital Boulevard
Wake Forest, North Carolina 27587-5900
Telephone: 919-554-7587
Fax: 919-554-7913

REC'D TN REGULATORY AUTH. '01 JAN 23 PM 2 12 EXECUTIVE SECRETARY

January 19, 2001

Mr. K. David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

RE: Docket No. 00-00544, Generic Docket to establish UNE prices for line sharing per FCC 99-355, and riser cable and terminating wire as ordered in TRA docket 98-00123.
Sprint Post Hearing Brief

Dear Mr. Waddell:

Pursuant to the procedural schedule adopted by the TRA at the December 1, 2000 hearing in this case, enclosed for filing are an original and thirteen copies of the Post-Hearing Brief of of United Telephone-Southeast, Inc. and Sprint Communications Company L.P.

Please contact me if you have any questions.

Sincerely,

James B Wright

James B. Wright

Enclosure

cc: Dennis Wagner
Laura Sykora
Kaye Odum
Tom Sokol
Parties of Record (w/enclosure)

CERTIFICATE OF SERVICE

Line Sharing UNE (Docket No. 00-00544)

The undersigned certifies that on January ~~19~~ 23, ~~2000~~ 2001, the foregoing Post Hearing Brief of Sprint was served upon the following parties of record by hand- delivery, by fax or by placing a copy of the same in the United States Mail postage prepaid and addressed as follows:

Jon E. Hastings
Attorney for MCI
Boult, Cummings, Conners & Berry PLC
414 Union Street, Suite 1600
Nashville, Tennessee 37219

James Lamoureux
AT&T Communications, Suite 8100
1200 Peachtree Street, N. E.
Atlanta, Georgia 30309

Charles B. Welch, Jr.
Attorney for Time Warner
Farris, Mathews, Branan, Bogango & Hellen PLC
618 Church Street, Suite 300
Nashville, Tennessee 37219

R. Dale Grimes
Attorney for TDS
Bass, Berry & Sims PLC
315 Deadrick Street, Suite 2700
Nashville, Tennessee 37238-0002

Jon E. Hastings
Attorney for Rhythm Links, Inc.
Boult, Cummings, Conners & Berry PLC
414 Union Street, Suite 1600
Nashville, Tennessee 37219

Catherine F. Boone
Covad Communications Company
10 Glenlake Parkway,
Suite 650
Atlanta, Georgia 30328-3473

Guy M. Hicks
BellSouth Telecommunications, Inc.
333 Commerce Street, Suite 2101
Nashville, Tennessee 37201-3300

Norton Cutler
BlueStar Networks, Inc.
Five Corporate Centre, Suite 600
801 Crescent Centre Drive
Franklin, Tennessee 37067

Henry Walker
Attorney for NextLink, Covad, Bluestar
Boult,Cummings, Conners & Berry PLC
414 Union Street, Suite 1600
Nashville, Tennessee 37219

Joshua M. Bobeck
Attorney for Broadslate Networks
Swidler, Berlin, Shereff, Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007-5116

Susan Berlin
MCI WorldCom
6 Concourse Parkway
Atlanta, GA 30328

James B Wright

James B. Wright

BEFORE THE
TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE: Generic Docket to establish UNE prices for line sharing per FCC 99-355 and riser cable and terminating wire as ordered in TRA Docket 98-00123

Docket No.00-00544

SPRINT'S POST-HEARING BRIEF

United Telephone-Southeast, Inc. ("United") and Sprint Communications Company L.P. (jointly "Sprint"), pursuant to the procedural schedule approved by the Tennessee Regulatory Authority ("TRA" or "Authority") in this case, hereby respectfully submit this post-hearing brief to address the issues surrounding the offering of line sharing, loop make-up and loop qualification for United and for BellSouth Telecommunications, Inc. ("BellSouth") plus other elements addressed in the FCC's UNE Remand Order[1] for BellSouth..

BACKGROUND

The Authority opened a generic docket on May 9, 2000 regarding UNE prices for line sharing pursuant to the FCC's Line Sharing Order[2] and rates for riser cable and terminating wire pursuant to the TRA Docket No. 98-00123.

---

[1] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98 (Third Report and Order and Fourth Further Notice of Proposed Rulemaking released November 5, 1999), herein the "*UNE Remand Order*".

[2] *Deployment of Wireline Services Offering Advanced Telecommunications Capability,* Third Report and Order in CC Docket 98-147 and Fourth Report and Order in Docket No. 96-98, FCC 99-355, released December 9, 1999, herein the "*FCC's Line Sharing Order.*

The Authority directed the incumbent local exchange companies ("ILECs"), BellSouth and United, to file cost studies regarding these services by June 30, 2000. The studies or responses to the request were filed by United on June 30 and by BellSouth on June 30 and July 21, 2000. On July 11, 2000, Director Lynn Greer was appointed Pre-Hearing Officer in this case and a Protective Order was entered on July 20,2000.

At the August 3, 2000 pre-hearing conference, the proceeding was expanded to include rates for loop conditioning and loop make-up information for the ILECs; and for BellSouth the docket was expanded to include all elements in the FCC's UNE Remand Order and which were subject to pending BellSouth arbitrations. The ILECs were also directed to file interim rate proposals and supporting documentation on August 18 and to file supplemental cost studies on October 2, 2000. In addition, a procedural schedule was proposed and agreed to by the parties.

United and BellSouth filed revised cost studies and interim rate proposals on August 18, 2000 and other intervening parties filed interim rate proposals on August 18, 2000. By Order dated November 7, 2000, the Authority approved as filed United's interim rate proposals for line sharing, loop conditioning, loop qualification, OSS, cross connects and splitters. The Authority approved interim rates for BellSouth with a direction that BellSouth file supplemental cost studies by October 2, 2000 to reflect TRA ordered modifications and the added elements required by the UNE Remand Order, primarily xDSL services. On November 13, 2000 the ILECs filed direct testimony and revised cost studies, on November 20, 2000 Rebuttal Testimony was filed, and a hearing was held beginning November 27, 2000 through December 1, 2000.

UNITED'S COST STUDIES

United's cost studies provided a reasonable and accurate result that represents the costs that United incurs to provide the line sharing unbundled network element (UNE) to CLECs in Tennessee.

United's costs were developed using actual costs an efficient provider incurs to provide the UNEs to CLECs using total element long run incremental cost (TELRIC) methodology.

While BellSouth's participation in this procedure was expanded to include cost studies for elements in the 319 UNE Remand Order, United's participation was limited to costs for line sharing. As set forth in the FCC's Line Sharing Order, United's cost studies for line sharing included costs for providing loop makeup or qualification information to CLECs, operational support system (OSS) modification costs, setup costs for jumper connections on the main distribution frame (MDF), cross-connects for connecting the MDF with CLEC equipment and with United's equipment, costs for line conditioning, and service ordering costs. United did not include any costs for the local loop pursuant to the FCC's Line Sharing Order since United's interstate xDSL offering included no local loop cost allocations.

United's costs for loop conditioning were based on the rates that United pays contractors for removing load coils, removing bridged taps, and removing repeaters. United researched contract labor rates for the activities associated with conditioning loops and based its costs on those rates since these are the costs that any efficient competitor would incur.

United included in its cost study the unloading (removal of load coils) of 25 pairs of cable at a time on loops shorter than 18,000 feet. This is the current practice followed by Sprint and other ILECs. It is the most appropriate practice because it takes into account that United, like many other ILECs including BellSouth, is preparing its network to provide xDSL services. United then spread the cost of removing the load coils over all digital capable loops shorter than 18,000 feet in length. United also researched its network to determine the location of load coils and the various plant types. United's study reflects the actual frequencies for load coils appearing in aerial, buried, and underground plant in its cost study.

Bridged taps and repeaters were treated as being removed one at a time with the realization that there are significant cost differences between plant types.

As a consequence, United's costs are based on the costs that United or another efficient competitor would incur to provide the elements or to do the services itself. The costs are reasonable and comply with the FCC's orders on forward-looking cost methodology.

At the evidentiary hearing in this case, United placed into evidence its prefiled cost studies and other supporting data regarding its line sharing and other rates through Sprint witness Daniel R. Gordon. Sprint contends that its prefiled testimony and exhibits, together with Sprint's testimony at the hearing, provides substantial and material evidence of the reasonableness of Sprint's rates. In fact, Sprint contends its filing is basically uncontroverted in all respects and on that basis alone its interim rates should be approved and made permanent.

Sprint believes it is noteworthy that although the hearing lasted five days, virtually none of the cross-examination by the other parties or participants or questions from the Directors were for the purpose of bringing into question any aspect of United's cost studies or its proposed rates (Hearing Transcript Volumes IV B and C, pages 67-145).

In addition, although there were numerous intervenors and other participants, consisting of competing local exchange carriers ("CLECs"), competing data local exchange carriers ("Data LECs"), interexchange carriers ("IXCs"), incumbent LECs, and others, none of these groups issued any discovery requests to United or otherwise sought to raise questions regarding United's cost studies, methodology or the reasonableness of its proposed rates (Hearing Transcript IV C, pages 144-145). Stated another way, United's cost studies, methodology, proposed rates and supporting documentation were virtually unrebutted.

This marked absence of questions disputing any aspect of United's cost study from any party is reliable evidence that United's filing and proposed rates are reasonable and should be approved. The appropriateness of United's terms and rates are further demonstrated when compared to similar services proposed by BellSouth as discussed below.

For all of the reasons stated above, Sprint asks that the Authority approve United's interim rates as permanent rates.

BELLSOUTH'S COST STUDIES

In general, Sprint's witness found that BellSouth's cost studies suffer one or more of the following problems: (1) failure to factually support key points, relying instead on estimates and assumptions, (2) failure to use forward-looking least cost principles, (3) failure to incorporate efficient methods and procedures and (4) double recovery of costs.

The often times dramatic differences between the United and BellSouth cost studies for the exact same elements creates a problem for local competition and basic fairness (i.e., industry parity). Because incumbent LECs are required to comply with the same efficient, forward-looking costing principles and methods, Sprint submits that the Tennessee Regulatory Authority cannot approve both United and BellSouth's cost studies as filed. As demonstrated below, BellSouth's cost study results are often strikingly higher than United's and the differences between these two incumbent LEC studies cannot be attributed to the product of different networks or [from below] reasonable input variations among the companies. The sometimes multiple fold differences in the cost studies' results stem from fundamental differences in the way the incumbent LECs have approached the studies; this despite the fact that incumbent LECs are required to comply with the same efficient, forward-looking costing principles and methods.

Sprint expressed serious concerns regarding five areas of BellSouth's cost studies. Because of the documentation BellSouth provided, Sprint focused on these five significant issues that are representative of all the problems in the BellSouth cost studies. The issues generally relate to inflated work times, questionable assumptions with no supporting data, and inflated investments.

The first concern encountered in BellSouth's cost studies was the enormous investment that BellSouth states is needed to upgrade its OSS for line sharing. United also provides UNEs to CLECs and is incurring costs to upgrade its OSS for line sharing. The disparity between United's OSS costs (average monthly cost of $0.83 per line) is remarkable when compared to BellSouth's (average monthly cost of $8.45 per line). Sprint believes the BellSouth OSS investment is overstated and questions whether an appropriate amount has been allocated to BellSouth's own xDSL products or if the investment is also for the provisioning of other UNEs.

The second problem is the inflated work times associated with BellSouth's manual loop makeup and its monthly recurring rate for the automated loop makeup. The BellSouth rate of $74.46 when compared to United's cost of $30.49 for performing the same tasks makes BellSouth's labor time estimates appear exaggerated. Sprint questions whether BellSouth is using an efficient process. BellSouth also proposes to charge $0.76 per month for mechanized loop make-up. This amount is more appropriate per "dip," not on a monthly basis (Tr IV B, pp 103-105).

The third problem may be found in the cost for POTS splitters. Although Sprint's policy is that an ILEC is not required to provide CLECs with the POTS splitter, Sprint's ILEC in North Carolina was required to provide a cost study for POTS splitters by the North Carolina Public Utility Commission in Docket No. P-100, Sub 133d. Sprint's monthly recurring rate for POTS splitters in North Carolina is comparable to BellSouth's monthly rate; however, BellSouth's $371.63 nonrecurring charges for POTS splitter provisioning appear exaggerated as the rates include costs already accounted for in the monthly recurring rates. BellSouth assumes that a manual order process will always have to be used and the cost includes a large amount of time to develop a tracking mechanism. Sprint believes BellSouth may be double-recovering some of the labor effort for engineering and installation and questions whether BellSouth is using an efficient process to provision POTS splitters. Sprint believes the only legitimate non-recurring cost incurred by BellSouth is for tracking splitter usage which Sprint estimated to be $6.03.

The fourth problem is found in the loop conditioning cost studies. BellSouth proposed a charge of $61.44 per loop for conditioning while United proposed a charge of $1.30 per loop (Tr IV B, p 111). This tremendous variance is the result of a number of differences found in the cost studies, which Sprint witness Daniel R. Gordon discussed with Director Greer (Tr IV B pp107-123). Mr. Gordon described the cost study modifications BellSouth should make to determine cost in the same manner as Sprint. After accounting for removing 25 load coils at a time, BellSouth must also account for an appropriate plant mix, competitive labor rates, true labor work task times, all the parties and services benefiting from the use of the conditioned loops, usage of the loop facilities and for the actual CLEC customer churn rate.

With respect to the number of pairs unloaded on each field visit when conditioning loops, United has proposed that on loops shorter than 18,000 feet, 25 pairs of cable will be unloaded on each visit. In contrast, BellSouth assumed that only 10 pairs would be unloaded (Tr I D, p 206; IV B, p 112). BellSouth's assumption was not documented in any manner, goes against many of the statements contained in BellSouth press releases found on its web site, and ignores the fact that it is also upgrading its network to provide xDSL services. Again, this difference causes a substantial increase in the cost for line sharing. By merely increasing the number of pairs unloaded at one-time from 10 to 25, United's witness Gordon calculated that BellSouth's cost would be lowered from $61.44 to $24.58. (Tr IV B, p 116). In addition, when compared to the cost studies provided by United, BellSouth has not put forth the effort to research its network to determine the actual plant mix where load coils exist. BellSouth assumes that 90% of its load coils would be found in underground plant (Tr I D, p 212). United performed an investigation of its network and found that only 52.6% percent of its load coils at the first load point were in underground plant (Tr IV B, p 108). This disparity greatly contributes to inflated costs by BellSouth with resulting higher prices charged to CLECs and data LECs for loop conditioning.

Further, BellSouth has not used contract labor rates that an efficient provider would incur when conditioning its outside plant. United, on the other hand, has done this. When BellSouth's costs are compared to United's, BellSouth's costs appear to be greatly exaggerated. Simply put, the labor rates for two companies operating in the same state doing the same work should not differ substantially. By using unit contract labor rates, United did not have to assume labor times. BellSouth used labor rates based on estimated work times that BellSouth technicians are paid to condition loops. BellSouth's labor times are exaggerated when compared to the prices United pays contractors to do the same work. As discussed in written testimony, BellSouth's labor times are 3.7 higher than United's. If BellSouth intends to use its technician labor rates rather than a units worked approach, Sprint recommends that the labor times must be re-evaluated to reflect the realistic costs that an efficient provider would experience. The best alternative is to use contract labor rates as

United did in its cost study. Alternatively, using labor task times would further reduce the cost of line conditioning.

United also accounts for plant utilization in its loop conditioning cost studies. In the loop conditioning cost study, United applied the fill factor used in its UNE loop cost studies. BellSouth's fill factor for copper, as ordered by the TRA in Docket No. 97-01262, is 65.1%. By including the fill factor in the study, the cost appropriately accounts for plant utilization.

Also discussed by Sprint witness Gordon, is the need for BellSouth to spread the cost of load coil removal over all digital capable loops in Tennessee and account for CLEC churn. By accounting for these factors, the cost of conditioning the loop is equally distributed among all parties using the digital capable or xDSL capable loops: BellSouth would experience the same cost as a CLEC and vice versa.

Thus, by unloading 25 pairs at a time, by more accurately reflecting where load coils are found by plant type, and by spreading the cost over all digital capable loops, BellSouth's costs would become much more reasonable, would be much closer to the amount United proposes, and would be more reflective of the TELRIC methodology.

The final problem found in BellSouth's cost studies is its deaveraging methodology for UNE rates. The FCC rule states that: "The state commission shall establish different rates for elements in at least three defined geographic areas within the state to reflect geographic cost differences." The method of deaveraging employed by Sprint is to base the deaveraging on cost and not end user retail tariff rate groupings. Sprint sorts its wire center specific costs from low to high and then makes categories based on the differences between the wire center's cost and the weighted average for that category. This method alleviates the problem of a great amount of variation of costs within rate groupings. This method also complies with the FCC's guidance regarding deaveraging and that the prices be based on cost. In contrast to Sprint, BellSouth begins by sorting its five rate groups into three zones. UNE rate groups were created based on retail tariff groups and not based on costs. BellSouth witness Ruscilli further acknowledged that the method used to place the rate groups into different zones was not based on any objective criteria (Tr Vol III C, p 226). Thus, BellSouth's deaveraging methodology is shown to be contrary to FCC requirements and Sprint urges the Authority to adopt the deaveraging methodology proposed by Sprint. Through adopting Sprint's deaveraging method, cost is more accurately reflected in the deaveraged rate.

In summary, Sprint recommends that the TRA carefully scrutinize BellSouth's proposed prices for UNEs in this proceeding. Using United's cost study filed in this proceeding as a comparison, BellSouth's costs for the same elements appear greatly exaggerated. United has structured its costs using actual network data including the fact that it also provides xDSL services to its customers. [Identical to what is on page 6]

Sprint has submitted and demonstrated that the TRA cannot approve both the United study and the BellSouth study as filed without violating industry parity. Accordingly, Sprint requests that the TRA order BellSouth to resubmit certain of its studies, making sure that they comply with efficient, forward-looking principles and methods comparable to those used by United. Otherwise, Sprint believes that it should be allowed to resubmit, and that the Authority should approve, United cost studies that incorporate the methods and assumptions found in BellSouth's cost study.

CONCLUSION

United asks that the Authority make permanent the rates for line sharing that United has filed in this case and that BellSouth be directed to file cost studies and prices conforming to Sprint's above stated comments.

Respectfully submitted,
UNITED TELEPHONE-SOUTHEAST, INC. AND
SPRINT COMMUNICATIONS COMPANY L.P.

James B Wright

James B. Wright
Senior Attorney
14111 Capital Boulevard
Wake Forest, NC 27587-5900
Telephone: 919-554-7587

January 19, 2001