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May 23, 2002

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

RE: *In re Generic Docket to Consider Geographic Deaveraging - Docket No. 01-00339*
Sprint's Comments; Petition to Intervene

Dear Mr. Waddell:

Pursuant to the April 24, 2002 Notice issued in this case, enclosed for filing in the above docket are the original and thirteen copies of the joint Comments of United Telephone-Southeast, Inc. and Sprint Communications Company L.P. As required by the Notice, enclosed is a joint Petition to Intervene for both companies, together with a check in the amount of $50 for the filing fee for both companies

Please contact me if you have any questions regarding this filing.

Sincerely,

James B. Wright

James B. Wright

Enclosures
Cc: Laura Sykora
Kaye Odum

BEFORE THE
TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE: Generic Docket to Consider Geographic Deaveraging
Docket No.01-00339

SPRINT COMMUNICATIONS COMPANY L.P. AND
UNITED TELEPHONE-SOUTHEAST, INC.
JOINT PETITION TO INTERVENE

Sprint Communications Company L.P. ("Sprint"), and United Telephone-Southeast, Inc. ('Sprint-United") pursuant to T.C.A. § 4-5-310 and T.C.A. § 65-2-107, hereby jointly petition the Authority for leave to intervene in the above-captioned proceeding, and in support thereof state as follows:

1. Sprint is a Delaware partnership authorized to conduct business in the state of Tennessee as an interexchange and competitive local exchange company, furnishes telecommunications services in the state of Tennessee and is subject to the jurisdiction of the Authority. Sprint-United is a Virginia Corporation authorized to conduct business in the state of Tennessee as an incumbent local exchange company, furnishes local exchange telephone service and other telecommunications services in the state of Tennessee and is subject to the jurisdiction of the Authority.

2. This Petition is filed more than seven (7) days before any scheduled hearing in this matter.

3. Sprint and Sprint -United respectfully request that they be granted leave to intervene and participate as parties in the above-captioned proceeding in that as telecommunications service providers, the decisions regarding the methodology adopted for geographic rate deaveraging which is the subject of this proceeding may directly affect their legal rights, duties, privileges, immunities or other legal interests.

4. The interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.

WHEREFORE, Sprint and Sprint-United pray:

1. That they be permitted to intervene in this proceeding and participate as parties.

2. That they have such other and further relief to which they may be entitled.

Respectfully submitted,

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

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May 23, 2002

BEFORE THE
TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE:	)	
	)	
GENERIC DOCKET TO CONSIDER GEOGRAPHIC DEAVERAGING	)	DOCKET NO. 01-00359
	)	

COMMENTS OF UNITED TELEPHONE-SOUTHEAST, INC. AND SPRINT COMMUNICATIONS COMPANY, L.P.

On April 24, 2002 the Tennessee Regulatory Authority ("TRA") issued a notice of filing advising that interested parties may submit comments and proposed geographic deaveraging methodologies for network elements. Following are the joint comments of United Telephone-Southeast, Inc. and Sprint Communications Company L.P. ("Sprint").

BACKGROUND

In the context of deaveraging BellSouth Telecommunications Inc.'s proxy rates, the TRA received proposals to deaverage BellSouth local loop network elements on April 14, 2000[1] and received responses on April 19, 2000[2]. At a conference held April 25, 2000, the TRA adopted BellSouth's proposed geographic deaveraging methodology until such time as the TRA adopts permanent network element rates.[3] The TRA accepted comments and made its decision just as the Federal Communications Commission ("FCC") was lifting its stay of 47 C.F.R. §51.507(f) effective May 2, 2000.

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[1] BellSouth Telecommunications, Inc., and AT&T Communications of the South Central States, Inc., filed proposals.

[2] BellSouth, AT&T, MCI WorldCom, Inc., Tennessee Cable Telecommunications Association and the Consumer Advocate Division filed responses.

[3] Second Interim Order Re: Revised Cost Studies and Geographic Deaveraging, Docket No. 97-01262, November 22, 2000. *See also* Third Interim Order Re: BellSouth's Revised Cost Studies, Docket No. 97-01262, January 4, 2001 (The TRA "ordered BellSouth to continue using the interim methodology to deaverage loop rates while the Authority continues to examine a more appropriate methodology to permanently deaverage loop rates.")

COMMENTS

The TRA should not use BellSouth's proposed "retail rate group" geographic deaveraging methodology for BellSouth's permanent rates but should instead deaverage BellSouth's network elements using wire center level forward looking economic costs. The rates for network elements must be based on forward-looking economic costs. The use of forward looking economic cost is required by §252(d)(1) of the Telecom Act of 1996 ("Act"), the FCC rules implementing the Act, and is the economically appropriate basis for the pricing of network elements.

Federal Law and Policy. Section 252(d)(1) of the Act sets forth the pricing standards for network elements. Specifically, it requires that rates for the network elements shall be based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the network elements, shall be nondiscriminatory and may include a reasonable profit. In its August 8, 1996 *First Report and Order* in Docket 96-98, the FCC concluded that the Act requires that prices for network elements be set at forward-looking economic costs. Specifically, the FCC adopted a version of total service long run incremental costs (TSLRIC) as the methodology to be used in determining the costs of network elements. The FCC refers to its methodology as Total Element Long Run Incremental Costs (TELRIC) – a nomenclature that reflects that the methodology is applied to the costing of discrete network elements or facilities rather than the cost of a service or services provided over that facility.

A fundamental objective of the Act is to open all telecommunications markets to competition. Congress recognized that there are substantial barriers to entry into the local exchange market. In particular, the local exchange network is highly capital intensive.

Facility-based new entrants are confronted by the formidable hurdle of having to devote substantial capital resources, over an extended period of time, to construct a local network prior to winning any customers or generating any revenues.

The Act thus provides new entrants with alternative avenues for entering the local exchange market. First, new entrants can simply resell the services of the incumbent. Second, new entrants can obtain network elements from the incumbent. The latter not only provides new entrants more flexibility in creating services (e.g., the ability to provide expanded local calling areas) but also provides a critical pricing signal for a new entrant's "make or buy" decision in acquiring network facilities. Simply put, new entrants will have the incentive to build facilities where they can do so at lower costs than they would pay the incumbent for the equivalent network element or elements and to buy network elements where the incumbent's prices for those elements are lower than the new entrant's cost of constructing those facilities.

The forward-looking cost standard for network elements provides a measure of the costs that would be incurred by an efficient supplier to provide a particular network element. It provides the appropriate marketplace signals to new entrants, creating an incentive for them to construct their own facilities when they can do it more efficiently than the incumbent and discouraging uneconomic investment where they cannot provide the facilities at a lower cost than the incumbent. Conversely, to the extent that network element prices deviate from economically efficient levels, such prices will distort infrastructure investment decisions of the new entrants. If network elements are priced above economic costs, it will provide an incentive for new entrants to deploy their own facilities, even though in actuality the incumbent can provide those facilities at lower prices. On the other hand, if network elements are priced below economic costs, it will

discourage new entrants from deploying facilities even though they could do so at a cost that is lower than the incumbent's economic costs.

While the Act requires that the prices for network elements be cost-based and the FCC rules define cost-based to mean forward-looking economic costs, the costs of providing network elements are not necessarily uniform throughout the service territory of most incumbent local carriers. Using data included in AT&T's April 14, 2000 deaveraging proposal to the TRA to briefly demonstrate[4], BellSouth has a statewide average loop cost of $21.38 per month. But this average covers a range of $10.86 per month on the low end to $66.68 per month on the high end. Although the statewide average cost does reflect forward-looking economic costs, it does not follow that pricing BellSouth loops at $21.38 per month meets the requirements of the Act. This results in BellSouth loops in the lowest cost areas being priced twice their actual forward-looking economic costs while loops in the highest cost areas are priced at less than a third of their forward-looking economic cost. Prices that deviate from costs by this magnitude do not meet the Act's requirement for cost-based rates, nor do they provide the correct marketplace signals to new entrants in their decision to build their own facilities or buy network elements from the incumbent.

The FCC recognized the problem in its August 8, 1996 *First Report and Order* in CC Docket No. 96-98 (*see* ¶¶ 758-766) when it promulgated 47 C.F.R. §51.507(f). The rule requires state commissions to establish prices for network elements in at least three

[4] BellSouth's presently filed cost model cannot calculate wire center level local loop costs. In the April 14, 2000 proxy rate deaveraging proposals the parties resorted to cost models that could determine wire center level local loop costs. BellSouth's proposal used the FCC's Hybrid Cost Proxy Model while AT&T's proposal utilized the Hatfield Model. Sprint does not prefer the use of one model over another and references AT&T's data only because BellSouth's proposal did not disclose this information. Sprint notes that its own cost model can calculate local loop costs to the wire center level.

defined geographic areas within the state to reflect geographic cost differences. The areas can be either the zones established for the deaveraging of interstate transport rates or areas determined by the state commission, so long as at least three cost-related zones are established.

Sprint's Proposed Methodology. As a general proposition, Sprint believes the FCC rule requires that a network element's rate be geographically deaveraged when the actual, forward-looking economic cost of providing an element anywhere within a defined geographic area deviates significantly from the averaged price for the element across the defined area. While it is impossible to quantify with absolute precision what a "significant" deviation of actual cost from averaged price is, Sprint believes that differences in excess of 20% are of sufficient magnitude to potentially distort competitors' investment decisions. Using this criteria, the actual cost of providing a network element anywhere within the state or a geographically defined area should be no greater than 20% (plus or minus) of the network element's averaged price.

Geographic price deaveraging should be based on both administrative ease and a realistic assessment of the extent to which limited rate averaging does not materially impact competition and investment decisions. At the extreme, network element costs differ almost on a customer by customer basis. Customer or location specific rates may meet the theoretical ideal of cost-based pricing, but they would be impossible to administer for both incumbents and new entrants. Also, this degree of deaveraging is not necessary to provide economically correct pricing signals to competitive local carriers. A new entrant typically enters the local market with the intention of serving all or a substantial segment of that market and not just one or two customers.

Some degree of network element price averaging does not necessarily distort new entrants' investment decisions for several reasons. The deviations, both positive and negative, between the average prices and actual forward-looking costs will to some extent be offsetting. In addition, if rates are deaveraged such that there are not significant differences between the average price and the actual forward-looking costs, the impact of that rate averaging will be minimal and will be unlikely to have a material impact on a new entrant's investment decisions.

Despite evidence demonstrating that the recurring costs for loops, subloops, local ports and local switching usage, common and dedicated transport and dark fiber network elements all vary significantly (that is by more than 20%) by geographic area, it has become increasingly evident to Sprint that the industry as a whole and new entrants in particular do not desire deaveraged switching and transport network elements. Therefore, Sprint only proposes that the recurring costs/prices of all varieties of loops below DS3, sub-loops, and combinations containing such loops be deaveraged. Sprint does not believe there are significant cost differences in any nonrecurring rate elements.

Sprint's proposal is to group wire centers into zones and to develop local loop zone rates based on the weighted average price of each of the wire centers within the zone. The proposal is subject to the constraint that the forward-looking price of a single wire center will not deviate by more than 20% from the weighted average price of the zone in which it is a member. However, Sprint believes it is reasonable to permit a wider range of deviation in the highest pricing zone, recognizing the larger variances in the highest priced areas and the undesirability of creating an excessive number of zones.

Wire Center Versus Retail Rate Group Methodologies. Sprint stresses the importance of deaveraging local loops at the wire center level. Using the wire center as

the unit of cost analysis for these elements is reasonable for several reasons. First, the wire center generally conforms to the market definitions and plans of new entrants; therefore, averaging prices at this level is not likely to distort their entry or marketing decisions. Second, deaveraging local loop prices below the wire center level (for example by Census Block Group or loop length) entails not only more complex cost modeling but would also impose significant additional costs on both incumbents and new entrants in administering that rate structure. Third, deaveraging loop prices above the wire center and at the exchange level results in excessive averaging. The average cost of loops within exchanges can deviate significantly from the costs of loops in individual wire centers within an exchange.

The FCC specifically requires incumbents to deaverage network elements into at least three cost-related zones, and this requirement precludes BellSouth's deaveraging proposal based on retail service rate groups where the price of the service bears no relationship to cost. Any proposal for deaveraging that is based upon retail rate groups is contrary to the Act and the FCC's rules and should not be allowed. To demonstrate, BellSouth's geographic deaveraging methodology has placed its Maynardville (MYVLTNMA), Sango (SANGTNMT) and Pulaski (PLSKTNMA) wire centers into its zones one, two and three respectively. However, the data supplied in AT&T's April 14, 2000 deaveraging proposal shows that these same wire centers have cost differences of less than a dollar – $36.14, $36.71 and $35.89 per month respectively.

Sprint fully appreciates the differences between existing retail rate structures and levels and the rate levels and structures for network elements, but how these differences should be resolved is equally clear to Sprint. Consistent with the mandate of the Telecom Act of 1996 network elements should be priced at forward-looking economic costs. To

the extent that retail rate levels or rate structures are inconsistent with network element prices, those retail rates should be restructured to bring them into consistency with network prices. Alternatively stated, the answer lies in moving retail rates toward economic cost levels and not in introducing distortions in the pricing of network elements to bring them into conformance with the uneconomic pricing of incumbent retail services.

Sprint's research shows that other states considering BellSouth's retail rate grouping deaveraging proposal have soundly rejected it. The Florida Public Service Commission rejected BellSouth's methodology, concluding that "[b]y assigning wire centers to existing retail rate groups, BellSouth's proposal commingles and averages together the costs of both low-cost and high-cost wire centers; the result cannot be meaningfully considered 'cost-based.'"[5] The North Carolina Utilities Commission also specifically rejected BellSouth's proposal, finding "that basing [network element] geographic deaveraging zones on rate groups is not appropriate since rate groups were formed to include exchanges with similar calling scopes, and not costs, in the same rate group."[6] The Kentucky Public Service Commission found BellSouth's methodology to be "unreasonable" and instead ordered "that there should be three geographic zones established based upon the ascending ranking of individual wirecenter costs".[7] The Louisiana Public Service Commission flatly stated that "[w]e reject BellSouth's proposed deaveraging methodology as a fundamentally flawed approach which violates both the requirement of Rule 507(f) to use 'cost-related' zones and the underlying pricing

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[5] "Final Order On Rates For Unbundled Network Elements Provided By BellSouth", Order No. PSC-01-1181-FOF-TP, section IV at pages 36-42, May 25, 2001

[6] *In the Matter of General Proceeding to Determine Permanent Pricing for Unbundled Network Element,* "Recommended Order Concerning Geographic Deaveraging", Docket No. P-100, Sub 133d, March 15, 2001.

[7] Order in Administrative Case No. 382, *In the Matter of an Inquiry into the Development of Deaveraged Rates for Unbundled Network Elements*, December 18, 2001.

principles of the Telecommunications Act, which require that all [network element] rates be based upon cost."[8]

Only the South Carolina Public Service Commission has sided with BellSouth, citing the disparity between retail and network element costs.[9] The Georgia and Alabama commissions have orders pending while network element deaveraging in Mississippi is currently governed by a party stipulation.

Deaveraging Network Element Combinations. Prices for network element combinations, such as the UNE-Platform and enhanced extended loops ("EELs"), should reflect the sum of the prices of the network elements that comprise the combination. If a network element combination includes within it one or more network elements that have been deaveraged, then the combination should also be deaveraged. Conversely, if a network element combination does not include at least one element that has been deaveraged, then deaveraging is not required with respect to the combination.

Factors Causing Geographic Cost Differences in the Local Loop. The cost of local loops varies more on a geographic basis than any other network element. Numerous factors affect the cost of providing local loops to a specific customer location. These factors are:

1. *Customer Density* - Customer density is the single largest factor impacting the cost of local loops. Customer density is commonly expressed in terms of customers or access lines per square mile. Customer density impacts local loop cost in an inverse

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[8] *In Re Final Deaveraging of BellSouth Telecommunications, Inc., UNE Rates Pursuant to FCC CC-96-45 9th Report and Order on 18th Order on Reconsideration,* Order No. U-2471 (Subdocket A), September 21, 2001.

[9] *Generic Proceeding to Establish Prices for BellSouth Telecommunications, Inc.'s, Interconnection Service, Unbundled Network Elements and Other Related Services,* Docket No. 2001-65-C – Order No 2001-1089, November 30, 2001.

manner: the higher the customer density, the lower the cost of the local loop. This relationship is linked to a few fundamental factors. The first being that a trench, conduit or aerial pole route is required regardless of whether a 25 pair or 2400 pair cable is placed. From this it is obvious that the greater the customer density, the more customers that can be served along a feeder or distribution cable route. Therefore, customer density ultimately determines the number of customers or loops over which to spread the cost of placing the outside plant.

Customer density also drives the unit cost of other equipment components associated with loops. Loop components such as Serving Area Interfaces (SAI) (the point of interconnection between feeder and distribution cables), Digital Loop Carrier (DLC) devices and Drop Terminals are all similarly impacted by customer density and exhibit lower per unit costs as customer density increases.

2. *Distance* - The distance of a given customer location from the central office directly increases loop costs as the distance increases. This relationship results from the obvious need to place more cable, trenches, conduit and/or aerial pole lines as the distance or length of the loop increases. Additionally, as distance increases, generally the need for and overall cost of maintenance increases. Assuming constant customer density, longer cables have more splice points and resulting exposure to risk. A greater number of splice points increases the potential for line trouble due to lightning, water, rodents, vandalism and accidents.

3. *Terrain* - The type of terrain in which cable is placed impacts both the cost of the initial cable placement and the maintenance of the cable. The cost of cable construction increases as the presence and hardness of rock increases and whether water is present at or above the placement depth of the cable. Other terrain factors such as the

presence of trees and significant ground slope also affect both the initial construction cost of loops and subsequent maintenance expense.

4. *Weather* - The extremes of weather affect the cost of maintaining cable and therefore figure significantly into the type of cable placed (buried, aerial or underground). The cost of maintaining aerial plant in geographic areas which frequently experience ice storms, high winds or tropical hurricanes is certainly greater than those areas that seldom encounter these conditions.

5. *Local Market Conditions* - Issues such as local zoning laws requiring below ground plant, screening and landscaping around SAI and DLC sites, construction permits and restrictions, heavy presence of concrete and asphalt, traffic flows, and local labor costs, all impact the construction and maintenance costs of loop plant and will vary between locations.

CONCLUSION

In conclusion, Sprint urges the TRA to deaverage BellSouth's network elements at the wire center level based on TELRIC costs.

Respectfully Submitted,
UNITED TELEPHONE – SOUTHEAST, INC. AND
SPRINT COMMUNICATIONS COMPANY, L.P.

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