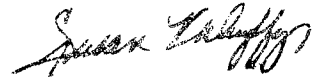


THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

STATE CORPORATION COMMISSION

APR 10 2009



In the Matter of the Petition of Sprint Communications)
Company L.P., Sprint Spectrum L.P., and Nextel West)
Corp., d/b/a Sprint, to Conduct General Investigation)
Into the Intrastate Access Charges of United Telephone)
Company of Kansas, United Telephone Company of)
Eastern Kansas, United Telephone Company of South)
Central Kansas, and United Telephone Company of)
Southeastern Kansas d/b/a Embarq)

Docket No. 08-GIMT-1023-GIT

REBUTTAL TESTIMONY OF

BION C. OSTRANDER

ON BEHALF OF

THE CITIZENS' UTILITY RATEPAYER BOARD

April 10, 2009

1 **Q. DID YOU PREVIOUSLY FILE DIRECT TESTIMONY ON BEHALF OF THE**
2 **CITIZENS' UTILITY RATEPAYER BOARD ("CURB") IN THIS**
3 **PROCEEDING?**

4 A. Yes, this testimony was filed with the Kansas Corporation Commission (KCC or
5 Commission) on February 20, 2009.
6

7 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

8 A. The purpose is to address the direct testimonies of witnesses for Sprint Communications
9 Company, L.P., Sprint Spectrum, L.P. and Nextel West Corp. (collectively, Sprint),
10 Southwestern Bell Telephone Company, AT&T Communications of the Southwest, Inc.,
11 and TCG Kansas City, Inc. (collectively, AT&T), United Telephone Companies of
12 Kansas d/b/a Embarq (Embarq), and KCC Staff (Staff). At this time I will not address
13 the testimony of Embarq witness Mr. Henry Roth as it relates to the company's intrastate
14 switched access cost study (and related model) for Kansas. Generally my testimony
15 explains why it is not reasonable, necessary, or in the public interest to reduce Embarq's
16 intrastate access rates at this time.
17

18 **Q. REGARDING ACCESS CHARGE POLICY ISSUES, DO YOU GENERALLY**
19 **AGREE WITH STAFF AND EMBARQ'S POSITION AND DISAGREE WITH**
20 **SPRINT AND AT&T'S POSITION?**

21 A. Yes. I generally agree with the policy position of Staff and Embarq that the intrastate
22 access rates of Embarq should not be reduced to interstate levels, and I disagree with
23 Sprint and AT&T's position which favors a reduction of Embarq's intrastate access rates

1 to interstate levels.¹ I do not necessarily agree with the results and assumptions related to
2 Embarq's Total Service Long Run Incremental Cost (TSLRIC) study for intrastate
3 switched access services in Kansas, and I will not address details of the cost study in this
4 testimony.

5
6 **Q. BASED ON YOUR DIRECT TESTIMONY, WILL YOU SUMMARIZE THE**
7 **REASONS WHY EMBARQ'S INTRASTATE ACCESS RATES SHOULD NOT**
8 **BE REDUCED?**

9 A. There are many reasons that do not support Sprint's Petition to reduce Embarq's
10 intrastate access rates, and some of these include:

- 11 1) Embarq's intrastate access rates are not excessive, contrary to Sprint's claim.² In
12 fact, Embarq's intrastate access rates in Kansas are lower than Embarq's intrastate
13 access rates in most other states where Sprint operates (and Sprint has not filed
14 any grievance in those states regarding excessive intrastate access rates).
- 15 2) Embarq's intrastate access rate levels do not harm consumers by inflating retail
16 prices of competitors, contrary to Sprint's claim. Sprint cannot provide any
17 specific examples of other carriers or rates in Kansas that have been negatively
18 impacted by Embarq's intrastate access rates (no other carrier has filed a
19 grievance against Embarq regarding access rates or requested a generic
20 investigation regarding intrastate access rates).

¹ There may be various individual statements of Staff and Embarq for which I do not agree, but I agree with the bottom-line position that Embarq's intrastate access rates should not be reduced.

² Sprint claims that Embarq's intrastate access rates "are excessive by any measure" and that it is "impossible to justify rates as high as Embarq's present rates." Sprint Petition, ¶¶ 4 and 5.

1 3) Sprint claims that it and fellow competitors are harmed by Embarq's alleged
2 excessive profits on intrastate access rates, which Embarq claims create a price
3 squeeze advantage for Embarq. Embarq does not enjoy a price squeeze
4 advantage. However, if any alleged price squeeze advantage exists, it existed
5 during all the years that hen Sprint owned Embarq, yet Sprint never volunteered
6 to reduce Embarq's intrastate access rates to eliminate the alleged price squeeze.
7 As a result, Sprint's argument lacks credibility and constitutes regulatory
8 manipulation.

9 4) Sprint has not shown with any specificity how it is harmed by Embarq's intrastate
10 access rates. The potential cost savings to Sprint are immaterial, while total
11 assessment costs of Sprint's filing will likely eat up most or all savings in the
12 short-term.³

13 5) There are legitimate concerns that any resulting decrease in intrastate access rates
14 will cause significant increases in residential basic local rates of Embarq
15 customers, and these same customers will not receive offsetting reductions in
16 intrastate long distance rates - - and this inequitable trade-off is not reasonable or
17 in the public interest.⁴

18 6) There are legitimate concerns that Sprint (and other long distance providers) will
19 not properly flow-through reductions in intrastate access costs as decreases to
20 intrastate long distance rates, such long distance rate reductions cannot be

³ In addition to costs assessed to Sprint and carriers in this proceeding, if an access reduction is ordered it could likely require additional significant and time consuming investigations into affordable rates, evaluation of Embarq's cost of providing local service, and costs related to enforcing/monitoring any asserted Sprint long distance rate reductions.

⁴ Because almost all long distance rates are deregulated, the KCC can only enforce reductions to basic toll rates, and few Embarq customers use Sprint basic toll rates.

1 enforced or verified by the KCC, and that Sprint will subsequently increase these
2 long distance rates. If this occurs, then any perceived benefits to consumers will
3 be lost, consumers will ultimately be left with higher rates for both basic local
4 service and long distance service, and Sprint will have successfully manipulated a
5 profit windfall from intrastate access cost reductions.

6
7 **Q. DOES SPRINT WITNESS MR. APPLEBY OFFER SPECIFIC MEANINGFUL**
8 **TESTIMONY TO REBUT YOUR PREVIOUSLY STATED CONCERNS?**

9 A. No. Mr. Appleby's arguments are mostly vague, theoretical, inconsistent, and self-
10 serving to Sprint. Throughout my rebuttal testimony I will specifically address the
11 substantive shortcomings of Mr. Appleby's direct testimony.

12 Mr. Appleby's arguments regarding excessive intrastate access rates are
13 essentially arguments that might have been valid to some degree ten to fifteen years ago.
14 However, these arguments are no longer legitimate today because of significant changes
15 in Kansas and the national telecom arena. The issues that have negated Mr. Appleby's
16 arguments include: increased competition for virtually all services; substantive
17 deregulation of local and other services in Kansas; significant reductions in intrastate
18 access rates that have already been rebalanced to basic local rates of Embarq customers
19 (and SWBT customers); and most obviously - - the fact that Sprint passed on the
20 opportunity to reduce intrastate access rates of Embarq/United for all the years that it
21 owned Embarq/United. The KCC should reject the arguments of Sprint and AT&T, and
22 Embarq's intrastate access rates should not be changed.

23

1 **Q. DOES SPRINT ASSERT THAT EMBARQ'S INTRASTATE ACCESS RATES**
2 **IMPOSE A PRICE SQUEEZE ON ITS COMPETITORS?**

3 A. Yes. Mr. Appleby asserts that Embarq's high intrastate access rates provide the company
4 a source of excess uneconomic profits (and such profits are paid by Sprint and other
5 companies via excessive access charges) that it can use to subsidize and reduce prices for
6 its retail services, and this gives Embarq a competitive price advantage over Sprint and
7 other competitors. He asserts that these excessive access profits ultimately inflate the
8 price of retail services to consumers because it hinders the competitors' ability to
9 compete.⁵ Mr. Appleby does not use this terminology, but this condition is sometimes
10 called a "price squeeze." Sprint appears to allege that Embarq uses its excessive
11 intrastate access rates to artificially reduce (or squeeze) prices of services offered by
12 Embarq, and this can also "squeeze" the profitability of competitors trying to reduce their
13 retail prices to match Embarq's prices.

14 I do not agree that Embarq benefits from any alleged price squeeze related to its
15 intrastate access rates. However, it is important to first provide some history to set the
16 stage for refuting Sprint's arguments.

17
18 **Q. CAN YOU PROVIDE A HISTORY OF EMBARQ'S INTRASTATE ACCESS**
19 **REDUCTIONS IN KANSAS, PRIOR TO ADDRESSING SPRINT'S**
20 **ALLEGATIONS OF A PRICE SQUEEZE?**

⁵ Appleby direct, pp. 15-16.

1 A. Staff⁶ and Embarq⁷ testimony explains the history of intrastate access reductions in
2 Kansas for both United/Embarq and SWBT/AT&T. As required by statute,
3 United/Embarq's intrastate access rates were initially reduced to interstate parity, and this
4 was accomplished in two phases implemented March 1, 1997 and June 1, 1998, with a
5 total \$14.9 million intrastate access reduction in Docket No. 190,492-U (94-GIMT-478-
6 GIT). United/Embarq recovered this \$14.9 million revenue reduction through increases
7 in coin and directory assistance rates, and from the KUSF.⁸

8 A second intrastate access reduction of \$1.7 million for United/Embarq was
9 implemented Docket No. 00-UTDT-455-GIT (Docket 455), and these revenues were
10 recovered via increases in local rates from October 2000 to March 2002.⁹

11 Finally, the last (most recent) intrastate access reduction of \$8.5 million for
12 United/Embarq took place via Docket No. 01-GIMT-082-GIT (Docket 082), and
13 United/Embarq was allowed to recover its revenue loss from local rate increases that
14 were phased-in between June 2002 and October 2004.¹⁰ Although local rate increases
15 were phased in through 2004, it appears that the last access reduction took place in 2002
16 based on the last tariff filing that is listed in Docket 082 at the KCC's website.¹¹ This last
17 intrastate access reduction for United/Embarq in Docket 082 did not reduce intrastate
18 access rates to interstate levels because this was not required by Kansas statute and the

⁶ Reams direct, pp. 8-9, which explains the history of United/Embarq intrastate access reductions.

⁷ Idoux direct, pp. 11-13.

⁸ Reams direct, pp. 8-9.

⁹ *Id.*

¹⁰ In the Matter of a General Investigation into the Reformation of Intrastate Access Charges, Docket No. 01-GIMT-082-GIT, Order Approving Stipulation and Agreement, issued September 25, 2001.

¹¹ In addition, despite CURB's objections, the timing of tariff changes (and other issues) were required to be maintained as "confidential" in Attachment 5 of the Stipulation.

1 stipulating parties agreed that a rebalance to interstate levels would have a significant
2 impact on United/Embarq customers and could jeopardize the affordability of Embarq's
3 local service.¹² The next relevant event was Sprint's spin-off of its local exchange
4 business in mid-2006; the former United Telephone Companies of Kansas (along with
5 other exchange company operations in other states that were owned by Sprint) were
6 spun-off as a newly created company called Embarq.

7
8 **Q. CAN YOU EXPLAIN SPRINT'S POSITION THAT ALLEGES EXCESSIVE**
9 **INTRASTATE ACCESS RATES TODAY, BUT FAILS TO RECOGNIZE THESE**
10 **ALLEGED EXCESSIVE ACCESS RATES WHEN SPRINT OWNED EMBARQ?**

11 A. Based on the previously described events, United/Embarq's last intrastate access
12 reduction took place around 2002. This means that from about 2002 through Sprint's
13 spin-off of Embarq in mid-2006 (a period of about four years), United/Embarq has
14 essentially maintained the same intrastate access rates (and United/Embarq still maintains
15 these same intrastate access rates today). Because Sprint alleges that Embarq's current
16 intrastate access rates are excessive and imposing a price squeeze on competitors, these
17 same intrastate access rates would have been excessive and imposing a price squeeze on
18 competitors under Sprint ownership (at least for the four year period from 2002 when the
19 last access reduction took place through mid-2006 when Embarq was spun-off).

20 Because any excessive profit margins from Embarq's intrastate access rates would
21 have flowed to the corporate pockets of Sprint, Sprint would have directly benefitted
22 from these alleged excessive intrastate access rates (to the detriment of competition

¹² Idoux direct, pp. 12-13.

1 according to Sprint's arguments). First, even if a price squeeze does exist, Sprint fails to
2 explain or justify the hypocrisy of its position and the price squeeze that it enjoyed when
3 it owned United/Embarq. Sprint's allegations are tantamount to the pot calling the kettle
4 black. Sprint's position appears to be that it was justifiable and appropriate for Sprint to
5 charge excessive intrastate access rates, impose a price squeeze on competitors, and
6 negatively impact competition and consumers via inflated retail prices while it owned the
7 United companies, - - but this same behavior is no longer justifiable and appropriate now
8 that United/Embarq is a separate entity. Sprint could have volunteered to reduce United's
9 alleged excessive intrastate access rates between the periods 2002 through the spin-off of
10 Embarq in 2006, but Sprint did not take these actions.

11 I do not believe that Embarq's intrastate access rates imposed a price squeeze on
12 competitors during the period that Sprint owned United or after the spin-off of Embarq,
13 during which time similar intrastate access rates were in place. I believe that Sprint's
14 current allegation of a price squeeze are self-serving and inconsistent with the actual
15 historical facts.

16 Even Mr. Idoux expressed surprise regarding Sprint's strong statements in its
17 Petition that Embarq's intrastate access rates are "excessive by any measure", since
18 Sprint played a significant role in establishing the existing levels of Embarq's intrastate
19 access rates as part of the 082 Stipulation.¹³ Sprint was complicit in establishing and
20 maintaining Embarq's intrastate access rates during the period when Sprint owned
21 Embarq, so Sprint's current allegation that Embarq's access rates are "excessive by any

¹³ Idoux direct, p. 14.

1 measure” appears contrived, self-serving, and contrary to the evidence that other carriers
2 in Kansas¹⁴ and neighboring states¹⁵ have higher intrastate access rates that Embarq.

3 Mr. Appleby’s testimony fails to provide a single specific example to show that
4 Embarq’s intrastate access rates; a) imposed a price squeeze on a competitor; b) hindered
5 a competitor’s ability to compete with Embarq for any service; c) inflated the price of any
6 specific retail service in Kansas; or d) caused harm to competition in Kansas. Mr.
7 Appleby’s arguments are vague, theoretical, and without justification.

8
9 **Q. DO SPRINT’S RESPONSES TO DATA REQUESTS FAIL TO SUPPORT ITS**
10 **ARGUMENTS OF A PRICE SQUEEZE AND HARM TO COMPETITORS?**

11 A. Yes. CURB data request 1.10 referred to Sprint’s Petition alleging that high switched
12 access rates harm consumers by inflating retail prices of competing services, and CURB
13 asked Sprint to provide comparisons of Sprint residential and business long distance rates
14 in Kansas to other states where Sprint incurs (higher or lower) access charges. Sprint
15 objected to the data request for various reasons, including the premise that it requested
16 information for states other than Kansas.¹⁶ Sprint referred to its tariffs at its website
17 without providing a response. Sprint could not support the allegation in its Petition and
18 the testimony of Mr. Appleby that Embarq’s “excessive” access rates cause Sprint (and
19 other competitor’s) retail service prices to be inflated.

¹⁴ Idoux direct, p. 14; Exhibit JRI-1, Attachment L.

¹⁵ *Id.*, pp. 14-15.

¹⁶ Although Sprint objected to providing information from other states, Mr. Appleby refers to selective information from other states such as Virginia and Ohio in an attempt to support an argument that Embarq’s intrastate access rates are excessive. These issues are addressed in this rebuttal testimony.

1 Also, Sprint's responses to CURB data requests 1.11 and 1.12 address these same
2 allegations that Embarq's intrastate access rates will cause Sprint's retail prices to be
3 unduly inflated.¹⁷ In all cases, Sprint's response indicates that its retail prices for
4 intrastate long distance service are offered on a statewide basis, and the prices do not vary
5 by LEC service territory or by the level of intrastate access rates charged by the various
6 LECs to Sprint. This means that Sprint's intrastate long distance rates offered in Kansas
7 are the same in AT&T territories (where intrastate access is less and mirrors interstate
8 access) and Embarq territories (where intrastate access is greater). Thus, Sprint's
9 intrastate long distance rates in Kansas, and all other states, are based on uniform
10 statewide pricing which does not result in inflated retail prices to consumers - - contrary
11 to Sprint's arguments. Sprint cannot provide one single example of a service in Kansas
12 where it faces a price squeeze and where it is forced to inflate its retail prices due to the
13 intrastate access rates of Embarq. Again, Mr. Appleby's theoretical arguments are
14 without support and merit.

15
16 **Q. DO YOU AGREE WITH SPRINT'S ASSERTION THAT HIGH ACCESS RATES**
17 **ARE INFLATING RATES FOR ALL ALTERNATIVE SERVICES AND**
18 **LIMITING COMPETITIVE ENTRY?**

19 **A.** No. Mr. Appleby claims that high intrastate access rates result in: a) consumers not
20 receiving the best price offers that could be made available in the market; b) inflated rates
21 for all alternative services; and c) limiting or dampening the entrance of competitors in

¹⁷ Ostrander direct, pp. 12-13.

1 these markets.¹⁸ I do not agree, and Mr. Appleby cannot provide one specific real-world
2 example in Kansas where Embarq's intrastate access rates are causing the problems that
3 he alleges.

4 Embarq issued data requests to Sprint regarding these assertions of Mr. Appleby.
5 An example of Sprint's inability to provide real-world examples of its allegations is
6 Sprint's response to Embarq data request EQ-SP DR 3-5. This data request asked Sprint
7 to provide evidence that high intrastate access charges are causing customers to not
8 receive the best price offers available in the market. Sprint's response to EQ-SP DR 3-5
9 included numerous objections, and the best response that Sprint could offer was that it's
10 assertions were based on "basic economic theory", related to the "market in general", and
11 not related to "one specific product or service." Sprint provided similar evasive, vague,
12 and theoretical answers to other Embarq data requests asking for evidence to support Mr.
13 Appleby's allegations.

14 Furthermore, I do not agree that Embarq's "retail" intrastate access prices are
15 limiting or dampening the entrance of competitors in these markets. I do agree there are
16 problems regarding "competition" in Kansas, but it is not due to Embarq's intrastate
17 access rates. Contrary to Mr. Appleby's position about dampening competition in
18 Kansas, AT&T's Ms. Cyndi Gallagher recently stated in testimony that competition in
19 Kansas is thriving and growing:

20 Competition is thriving in many of AT&T's exchanges and customers
21 have taken advantage of that competition by choosing to purchase their
22 telecommunications services from other providers, such as cable
23 companies, Competitive Local Exchange Carriers ("CLECs"), and
24 intermodal providers, such as wireless and VOIP providers. As these

¹⁸ Appleby direct, p. 6.

1 customers have moved to other providers, AT&T's intrastate regulated
2 revenues subject to price caps have declined. AT&T anticipates
3 competition in the Kansas market will continue to develop and grow such
4 that both of the trends will continue in the future.¹⁹
5

6 **Q. MR. APPLEBY REFERS TO A VIRGINIA CASE TO SUPPORT HIS POSITION**
7 **THAT HIGH ACCESS RATES IMPEDE COMPETITION. DO YOU BELIEVE**
8 **THIS CASE IS RELEVANT TO THIS PROCEEDING?**

9 A. No. Mr. Appleby cites a decision by a Hearing Examiner in Sprint's complaint against
10 Embarq regarding intrastate access rates before the Virginia Corporation Commission.
11 He indicates that the hearing examiner found that Embarq collected subsidies through its
12 intrastate access rates which had a detrimental impact on competition in Virginia.²⁰

13 There are several problems with this case that make it irrelevant to Embarq's
14 intrastate access rates in Kansas. The first difference is that the primary focus of the
15 Virginia case was Embarq's excessive Common Carrier Line (CCL) rate which was
16 designed to recover a fixed amount, and Embarq's decline in Minutes of Use (MOU) in
17 Virginia contributed to an increasing intrastate access rate.²¹ Therefore, the primary
18 problem in Virginia is a CCL rate that is increasing over time, causing an overall increase
19 in Embarq's intrastate access rates.

20 However, this situation is different from Embarq's intrastate access rates in
21 Kansas. Embarq does not have a CCL rate in Kansas, and so the CCL access rate cannot
22 be growing significantly and contributing to increasing access rates such as it is in
23 Virginia. As Ms. Reams points out, Kansas and nine other Embarq states do not have a

¹⁹ Testimony of Ms. Gallagher, Docket No. 07-GIMT-782-MIS regarding price caps, January 31, 2008, p. 7.

²⁰ Appleby direct, p. 6.

²¹ Senior Hearing Examiner's Report, Public Version, Case No. PUC-2007-00108, January 28, 2009, p. 21.

1 CCL access rate in place.²² Therefore, there are a significant number of Embarq states
2 that do not have a CCL rate in place, and so there may have been some justifiable
3 concern in Virginia to eliminate the CCL component from Embarq's intrastate access
4 rates. The Virginia Hearing Examiner recommended phasing out Embarq's CCL rate
5 over a three-year period, but such CCL rate has already been eliminated in Kansas.²³

6 The second primary difference between the Virginia and Kansas case is that
7 Embarq/Centel's composite intrastate access rates in Virginia are at least twice as great as
8 the Embarq Kansas composite intrastate access rate. In Virginia, Embarq's composite
9 intrastate access rates for its two companies are \$.0501 (for Centel - Virginia) and \$.0395
10 (for Embarq Southeast - Virginia). Both of Embarq's composite intrastate access rates in
11 Virginia significantly exceed the Embarq Kansas composite intrastate access rate of
12 \$.0178. Therefore, this makes it more clear why Virginia regulators had a concern with
13 Embarq's intrastate access rates in Virginia.

14 The third primary difference between the Virginia and Kansas cases is that
15 Kansas regulators have already reduced Embarq's intrastate access rates by \$14.6
16 million, with \$8.5 million reflected in rebalanced increases in local rates.²⁴ In Kansas,
17 this has caused Embarq's residential basic local rates to increase from about \$8.55 to
18 about \$17.73 (and more than doubled some rates according to Mr. Idoux). It is not clear
19 that Virginia has previously implemented any access rate rebalancing or increases in

²² Reams direct, p. 4.

²³ In addition, the Examiner's decision to extend removal of the CCL over three years does not appear to be a strong indication that Embarq's access rates impose a significant burden on competitors.

²⁴ Idoux direct, p. 12.

1 residential basic local rates for the Embarq companies, at least this is not addressed in
2 documents provided.

3 Again, the issues in Kansas differ from those in Virginia, so Mr. Appleby has not
4 presented an apples-to-apples comparison to support his arguments and he has avoided
5 discussing these important distinctions between Virginia and Kansas.

6
7 **Q. WHY ISN'T SPRINT ACTIVELY OPPOSING ACCESS RATES IN MISSOURI**
8 **WHICH EXCEED EMBARQ'S INTRASTATE ACCESS RATES IN KANSAS?**

9 A. This is not completely clear to me. However, the primary reason may be due to the fact
10 that Sprint's access rates in Missouri are higher than Embarq's access rates in Kansas. If
11 Sprint makes similar allegations against Embarq and other carriers in Missouri, then this
12 will raise a red flag to Missouri regulators that Sprint's access rates in Missouri may be
13 deemed to be excessive based on Sprint's arguments in Kansas (because Sprint Missouri
14 access rates are greater than Embarq Kansas access rates). I will address this issue in
15 more detail.

16 Mr. Appleby's testimony only cites two cases where Sprint has actively pursued
17 complaints against carriers regarding excessive intrastate access rates, and these two
18 cases involve Embarq in Virginia²⁵ and an incumbent named Doylestown in Ohio.²⁶ In
19 addition, Sprint's response to Staff data request No. 7 indicates that Sprint has only filed
20 petitions for investigation of intrastate access charges in two states, Virginia and New
21 York.

²⁵ Appleby direct, pp. 6-7.

²⁶ Appleby direct, p. 13.

1 However, the composite access rates in Missouri range from 16 cents/minute
2 (\$.1657)²⁷ for Embarq Missouri, 6 cents/minute (\$.0587)²⁸ for AT&T Missouri (AT&T
3 Missouri raised this access rate to \$.0587 in 2008), 5 cents/minute (\$.0466)²⁹ for Missouri
4 ILECs, and \$.02 cents/minute (\$.023336)³⁰ for Sprint Missouri. In comparison, the
5 Embarq Kansas intrastate access rate is 2 cents/minute (\$.017768) based on the Sprint
6 Petition.³¹ This comparison shows that the intrastate access rates for Embarq Kansas are
7 exceeded by the access rates in Missouri for Embarq, AT&T, ILECs, and Sprint.

8 It is not clear to me why Sprint is spending its time and resources addressing
9 intrastate access rates for Embarq Kansas, when it appears that Sprint should be
10 addressing higher access rates in Missouri for Embarq, AT&T, and the ILECs. In
11 addition, it would appear that Sprint should be focusing on trying to reduce its own
12 access rate in Missouri, which exceeds the Embarq Kansas intrastate access rate, before it
13 complains about the Embarq Kansas intrastate access rates. Perhaps Sprint has not filed a
14 complaint with Missouri regulators because its access rates in Missouri (2 cents/minute)
15 might become subject to review since they exceed Embarq's intrastate access rates in
16 Kansas (which Sprint alleges are excessive).

17 Again, it is ironic that Sprint claims Embarq's intrastate access rates in Kansas are
18 "excessive by any measure," when Sprint's access rates in Missouri exceed those of
19 Embarq Kansas. To be consistent with Mr. Appleby's argument, if Embarq's intrastate

²⁷ Idoux direct, p. 23.

²⁸ Idoux direct, p. 23.

²⁹ Idoux direct, p. 15.

³⁰ Idoux direct, p. 15.

³¹ Idoux direct, p. 15.

1 access rates in Kansas are deemed to be excessive, and are inflating retail prices and
2 impairing competition - - then Sprint's higher access rates in Missouri would be having
3 even a greater negative impact in regards to inflating prices and impairing competition.
4 This information shows the inconsistent and invalid nature of Sprint's arguments in this
5 proceeding. Sprint's arguments in Kansas are contrary to the reality of the higher access
6 rates in Missouri for numerous carriers, including Sprint. I am unaware of any
7 reasonable explanation for Sprint's arbitrary approach in seeking access reductions in
8 Kansas, when higher access rates exist for numerous carriers across the border in
9 Missouri (including Sprint).

10
11 **Q. DO YOU AGREE WITH MR. APPLEBY'S ASSERTION THAT EMBARQ'S**
12 **ACCESS RATES ARE EXCESSIVE?**

13 A. No. Mr. Appleby's arguments are consistent with Sprint's original Petition which states
14 that Embarq's intrastate access rates "are excessive by any measure" and that "it is
15 impossible to justify rates as high as Embarq's present rates."³² However, there is much
16 evidence which shows that Embarq's intrastate access rates are not excessive, and it is
17 not possible to reach a conclusion that Embarq's intrastate access rates are excessive by
18 any measure or impossible to justify.

19 Sprint's response to CURB data requests 1.3 and 1.4 shows that Embarq Kansas
20 intrastate access rates are less than eleven of Embarq's intrastate access rates in other
21 jurisdictions where Sprint operates, and only greater than nine other rates.³³ Ms. Reams

³² Sprint Petition, ¶¶ 4 and 5.

³³ Ostrander direct, page 8.

1 did a similar analysis but relied on Embarq's data request responses. This information
2 shows similar results to my analysis, and indicates that Embarq Kansas intrastate access
3 rates are less than nine other states plus Embarq's Texas-United, and greater than seven
4 states and Embarq's Texas-Centel.³⁴ This information does not indicate that Embarq
5 Kansas intrastate access rates are unusually high, and certainly not "excessive by any
6 measure."

7
8 **Q. DOES MR. APPLEBY ADDRESS AFFORDABLE RATES AND THE**
9 **POTENTIAL IMPACT ON RESIDENTIAL BASIC LOCAL RATES FROM ANY**
10 **REBALANCE OF INTRASTATE ACCESS RATE REDUCTIONS?**

11 A. No, and this is a significant omission of a very important issue regarding potential
12 reductions in intrastate access rates for any carrier. Mr. Appleby merely continues to
13 imply that existing local service rates are low and that any rate rebalancing can be
14 achieved via increases in basic local service in competitive exchanges, other non-basic
15 residential business local service rates, other non-regulated services not constrained by
16 price caps, and the KUSF.³⁵ Mr. Appleby addresses the expanded number of services
17 that Embarq offers to customers, an increase in average revenue per customer, and
18 increased revenues from broadband service.³⁶ It's not completely clear why Mr. Appleby
19 addresses these increases in services and revenues, unless it is to imply that any
20 rebalancing can be achieved through these various other services. However, Mr.

³⁴ Reams direct, p. 6.

³⁵ Appleby direct, pp. 16-17.

³⁶ Appleby direct, pp. 17-20.

1 Appleby has ignored the potential impact on residential basic local rates and affordability
2 issues.

3
4 **Q. HAS ACCESS RATE REBALANCING IN KANSAS SIGNIFICANTLY**
5 **INCREASED EMBARQ'S BASIC LOCAL RATES IN KANSAS?**

6 A. Yes. Ms. Reams and Mr. Idoux address the historical impacts of access rate rebalancing
7 upon residential basic local rates of Embarq customers, and concerns regarding
8 affordability related to any other potential increases in these basic local rates. Ms. Reams
9 indicates that between 2000 and 2004, Embarq's residential basic local rates increased
10 from a low of \$8.55 to over \$17.00 (\$17.73 to be exact), and business basic local rates
11 increased from a low of \$11.99 to \$28.66 per month.³⁷

12 Mr. Idoux indicates that some residential customers incurred an increase of \$6.75
13 per month over this timeframe, and some business customers incurred an increase of
14 \$7.35 per month over this timeframe. For many Embarq customers, local rates have
15 more than doubled and all customers experienced local rate increases of at least 50%.
16 The residential basic local rates of \$17.73 now exceed the KCC's affordability rate for
17 rural areas of \$15.75.³⁸ Ms. Reams reports that Embarq's residential basic local rates are
18 now the highest of all LECs in Kansas, with a rate of \$17.73, compared to AT&T's
19 highest residential rate of \$15.70.³⁹

20 Because the KCC adopted the equal credit approach for Lifeline discounts, any
21 additional increases in residential local rates will result in a corresponding increase in a

³⁷ Reams direct, p. 12.

³⁸ Idoux direct, p. 13 and 15.

³⁹ Reams direct, p. 16.

1 Lifeline subscriber's bill.⁴⁰ Although CURB opposed adoption of the equal credits
2 approach for precisely this same concern with future residential basic local rate increases,
3 this approach was promoted by both Staff and AT&T. Now this change in Lifeline
4 policy could negatively impact Lifeline customers in a significant manner for any future
5 rate rebalancing, and Lifeline customers can least afford any increases in residential basic
6 local rates.

7
8 **Q. WOULD ADDITIONAL INCREASES IN BASIC LOCAL RATES HAVE**
9 **NEGATIVE IMPACTS ON CUSTOMER AFFORDABILITY AND UNIVERSAL**
10 **SERVICE?**

11 A. Yes. Any additional increases in Embarq's residential basic local rates would have
12 significant negative impacts on residential customers because:

- 13 1) Embarq's residential basic local rates are already the highest in Kansas;
- 14 2) Embarq's residential basic local rates already exceed the KCC's affordability
15 threshold, and further rate increases would be intolerable;
- 16 3) Additional rate increases would be spread to only those residential customers that
17 are still technically considered "monopoly" customers, and these customers do
18 not have adequate competitive options for switching to alternative carriers with
19 lower rates (the service areas of these customers have not been deemed
20 "competitive", so the rates of these customers are still regulated);⁴¹

⁴⁰ Reams direct, p. 18.

⁴¹ Some of Embarq's residential basic local service customer's rates are deregulated because the service areas are deemed competitive.

1 4) Embarq's residential basic local rates of \$17.73 already exceed the nationwide
2 average rate by \$2.55, or close to 20% (the nationwide average rate is \$15.18),⁴²
3 and a potential rate increase of \$10.55/month would increase Embarq's rates by
4 86% over the national average; and

5 5) Embarq's Lifeline customers would incur dollar for dollar increases and would
6 not be insulated from these rate increases.⁴³ As a result, in the worst economic
7 environment in arguably 35 years, these customers residing in poverty could be
8 hit with the largest local rate increase ever administered by the KCC.

9
10 Mr. Idoux shows the impact of several rate rebalancing scenarios upon residential
11 basic local rates, using \$3.85 million as the estimate of bringing Embarq's intrastate
12 access rates in parity with interstate access rates.⁴⁴ He indicates that if 100% of the
13 estimated access rate reduction of \$3.85 million is rebalanced to residential and business
14 basic local rates, the residential and business rates would both increase by \$10.55 per
15 month,⁴⁵ increasing rates from \$17.73 to \$28.28 for residential customers (a 60%
16 increase), and increasing rates from \$28.66 to \$39.21 for business customers (a 37%
17 increase).⁴⁶ Mr. Idoux's calculations assume that both residential and business customers
18 receive the same rate increase of \$10.55, but if the entire rate increase was placed on
19 residential consumers the impact would be even greater. Mr. Idoux's calculations assume

⁴² Federal Communications Commission report - *Trends in Telephone Service*, released August 2008, Table 13.1, as of October 15, 2007.

⁴³ The KCC adopted an equal credits approach to Lifeline that does not insulate Lifeline customers from any rate increases, versus the prior Lifeline policy that would have insulated Lifeline customers from rate increases.

⁴⁴ Idoux direct, pp. 14 and 29.

⁴⁵ CURB data request 1.9 to Embarq.

⁴⁶ Idoux direct, p. 29.

1 that these rate increases are incurred only by those residential and business customers that
2 are still subject to price cap regulation and whose rates have not been deemed
3 competitive (and thus considered to be deregulated). Embarq has not spread any of the
4 rate increase to those residential and business customers deemed to reside in competitive
5 markets and whose rates are considered to be deregulated. Some parties may argue that
6 the Commission cannot require Embarq to spread these rate increases to Embarq's
7 "deregulated" residential customers that have alternative competitive options. If the
8 Commission upholds this position, any rate increase would have the additional negative
9 result of only impacting those "regulated" residential customers with no viable
10 competitive options available to them.

11 These potential significant increases in basic local rates would negatively impact
12 residential subscribers and Lifeline subscribers, and would further compound the existing
13 problem where residential rates already exceed the affordable rate threshold. These rate
14 increases would have the effect of increasing residential local rates by at least 50% for
15 customers under prior access rate rebalancing, plus an additional 60% increase⁴⁷ under
16 this current rebalancing, for a total increase of at least 110% under all access rate
17 rebalancing. The magnitude of these potential rate increases is clearly unprecedented in
18 Kansas, and probably unprecedented for most states.

19 Mr. Appleby's Exhibit JAA-2b shows that on a national basis, basic local rates
20 have only increased about 3.6% per year on average for the ten-year period 1997 through
21 2007, and this includes all rate increases due to rate rebalancing for access charge

⁴⁷ The 60% increase represents an increase of \$10.55, raising residential rates from \$17.73 to \$28.28.

1 reductions in other states.⁴⁸ In contrast, Embarq's residential basic local rates increased
2 by an average of 25% per year from 2000 to 2004, and a further increase of \$10.55 to
3 residential local rates for rate rebalancing in this docket would add an additional 60%
4 increase in rates if the entire increase was allowed in one year (or another 15% per year if
5 phased-in over four years like the prior rate increases). The magnitude of such potential
6 residential rate increases is unconscionable, and it would be virtually impossible for
7 customers to receive equivalent offsetting reductions in long distance rates.

8 Ms. Reams indicates that if intrastate access rates are reduced to interstate levels,
9 each \$1.00 increase in local rates would require a customer to make at least 33 minutes in
10 long distance calls to breakeven.⁴⁹ If residential local rates were increased by \$10.55 per
11 month as previously indicated, this means that customers would need to make 348
12 minutes of long distance calls to breakeven, or nearly 6 hours of long distance calls.
13 Federal Communications Commission (FCC) reports indicate that the average residential
14 consumer only makes 42 minutes of long distance wireline calls a month (this includes all
15 long distance calls, intrastate, interstate and international).⁵⁰ This means that Embarq
16 customers would need to make 306 more minutes of long distance calls (or over 5 hours)
17 than the average consumer, just in order to break even under access rate rate rebalancing.
18 Embarq's residential customers will not increase their long distance calling by over 5
19 hours to offset a rate increase of \$10.55, thus Embarq's customers will fail to even come
20 close to breaking even on this rate rebalancing scheme. In addition, residential

⁴⁸ This information is shown in the column titled "Local Telephone CPI" at Exhibit JAA-2b.

⁴⁹ Reams direct, p. 14.

⁵⁰ Federal Communications Commission report - *Trends in Telephone Service*, released August 2008, Table 14.2, as of October 15, 2007.

1 consumers are using more wireless minutes, so residential customers are even less
2 inclined to use their wireline phone in order to break even on this access rate rebalancing
3 scheme.

4 Even under a much more conservative rebalance plan where residential customers
5 face a local rate increase of \$5.27/month (one-half of the \$10.55 amount), customers
6 would have to make 174 minutes of long distance calls to break even. Even this scenario
7 assumes that the average Embarq customer would have to increase their long distance
8 calling from 42 minutes a month to 174 minutes a month just to break even. This is just
9 not going to happen in my opinion, and customers will realize a substantial net increase
10 in rates, and more out-of-pocket expenses for telephone service, from Sprint's access rate
11 reduction scheme.

12
13 **Q. WHAT DO YOU CONCLUDE FROM YOUR ANALYSIS?**

14 A. It is sufficiently clear that Sprint's proposed access rate reduction scheme will be a
15 windfall for Sprint profits and it would be very difficult to see how any residential service
16 customer (under virtually any rate rebalancing scenario), would gain a benefit from
17 Sprint's proposed access rate reduction scheme. And if previous Commission precedent
18 is followed in assigning significant amounts of the rate rebalance to basic local
19 customers, then Lifeline customers could face unprecedented local rate increases and
20 virtually no Embarq residential local service or long distance customer will benefit from
21 Sprint's proposed reduction in intrastate access rates.
22

23 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

24 A. Yes.

VERIFICATION

STATE OF KANSAS)

COUNTY OF SHAWNEE) ss:

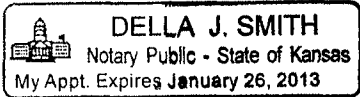
I, Bion C. Ostrander, of lawful age, being first duly sworn upon his oath states:

That he is a consultant for the Citizens' Utility Ratepayer Board, that he has read the above and foregoing document, and, upon information and belief, states that the matters therein appearing are true and correct.



Bion C. Ostrander

SUBSCRIBED AND SWORN to before me this 10th day of April, 2009.


Notary Public

My Commission expires: 01-26-2013.

CERTIFICATE OF SERVICE

08-GIMT-1023-GIT

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document was placed in the United States mail, postage prepaid, e-mailed, or hand-delivered this 10th day of April, 2009, to the following:

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