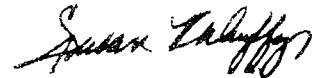


THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

FEB 20 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) Docket No. 08-GIMT-1023-GIT
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)

2009.02.20 11:11:13
Kansas Corporation Commission
/s/ Susan K. Duffy

REDACTED DIRECT TESTIMONY OF
BION C. OSTRANDER

ON BEHALF OF
THE CITIZENS' UTILITY RATEPAYER BOARD

FEBRUARY 20, 2009

1 **Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.**

2 A. My name is Bion C. Ostrander. I am President of Ostrander Consulting. My business
3 address is 1121 S.W. Chetopa Trail, Topeka, KS 66615-1408.

4

5 **Q. WHAT IS YOUR OCCUPATION?**

6 A. I am an independent regulatory consultant specializing in telecommunications issues, and I
7 am a practicing Certified Public Accountant (CPA).

8

9 **Q. WHOM ARE YOU REPRESENTING IN THIS DOCKET?**

10 A. I am testifying on behalf of the Citizens' Utility Ratepayer Board (CURB).

11

12 **Q. WHAT IS YOUR PROFESSIONAL EXPERIENCE AND EDUCATIONAL
13 BACKGROUND?**

14 A. Please see Exhibit BCO-1 for more information regarding my professional experience and
15 educational background. In summary, I am an independent regulatory consultant and a
16 practicing CPA with a specialization in telecommunications financial, costing, and policy
17 issues. I have over twenty-eight years of regulatory and accounting experience. I have
18 addressed regulatory issues in numerous state jurisdictions and on an international basis.

19 I started my regulatory consulting practice, Ostrander Consulting, in 1990 after
20 leaving the Kansas Corporation Commission (KCC or Commission). From 1986 to 1990 I
21 served as the Chief of Telecommunications for the KCC, and from 1982 to 1985 I was the
22 Chief Auditor for the KCC and I addressed telecommunications, gas, electric, water, and
23 transportation cases. In addition, I have worked for international and regional accounting
24 firms, including Deloitte, Haskin and Sells (which is now a member firm of Deloitte &

1 Touche USA LLP). On behalf of the CPA firms, I addressed issues related to regulation,
2 income taxes, banking, manufacturing, real estate, construction, retail, insurance,
3 universities, and not-for-profit.

4 I received a Bachelor of Science degree in Business Administration with a major in
5 Accounting from the University of Kansas in 1978. I am a member of the American Institute
6 of CPAs (AICPA) and the Kansas Society of CPAs (KSCPA).

7
8 **Q. WHAT TYPE OF TELECOMMUNICATION ISSUES HAVE YOU ADDRESSED?**

9 A. I have addressed most telecommunications regulatory issues in my career. My experience
10 includes addressing issues related to access charges, alternative regulation/price cap plans,
11 competition cases (and requests for deregulation or pricing flexibility), rate cases,
12 applications under Section 271 of the Telecommunications Act, audits of universal service
13 funds, and audits of relay centers for the speech and hearing impaired.

14 I have addressed a broad range of telecommunications and regulatory issues related to
15 regulatory accounting, access charge costing/pricing/policy, sales/acquisitions of LECs,
16 affiliate transactions, competition policy, cost models, unbundled network elements (UNEs),
17 Cost Allocation Manual (CAM) for non-regulated services/costs, cross-subsidization, rate
18 design, Yellow Pages, FCC separations, quality of service, universal service, affordable local
19 service, KUSF issues, Lifeline, depreciation, infrastructure development, excess capacity,
20 FCC policy issues, DSL issues, and other matters.

21 I have addressed issues related to all of the Regional Bell Operating Companies
22 (RBOCs), Sprint, Embarq, AT&T, MCI (now owned by Verizon), and rural LECs.

1 I have provided such services in numerous United States and international
2 jurisdictions, including international regulatory agencies in the Ukraine, Armenia, Barbados,
3 St. Lucia, Grenada, St. Vincent, St. Kitts/Nevis, and Dominica.

4
5 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

6 A. The purpose is to address Sprint's Petition¹ in this proceeding and explain why Sprint's
7 Petition should be denied. I will explain why it is not necessary to reduce Embarq's
8 intrastate access charges. In the alternative, I will provide my recommendations in the event
9 the Commission decides to reduce Embarq's intrastate access charges.

10
11 **Q. WHAT APPLICABLE PROVISIONS OF THE KANSAS STATUTES ADDRESS**
12 **INTRASTATE ACCESS RATES OF LOCAL EXCHANGE CARRIERS (LECs)?**

13 A. This is KSA 66-2005(c), which states:

14 (c) Subject to the Commission's approval, all local exchange carriers
15 shall reduce intrastate access charges to interstate levels as provided herein.
16 Rates for intrastate switched access, and the imputed access portion of toll,
17 shall be reduced over a three-year period with the objective of equalizing
18 interstate and intrastate rates in a revenue neutral, specific and predictable
19 manner. The commission is authorized to rebalance local residential and
20 business service rates to offset the intrastate access and toll charge reductions.
21 Any remaining portion of the reduction in access and toll charges not
22 recovered through local residential and business service rates shall be paid out
23 from the KUSF pursuant to K.S.A. 66-2008, and amendments thereto. Each
24 rural telephone company shall adjust its intrastate switched access rates on
25 March 1 of each odd-numbered year to match its interstate switched access
26 rates, subject to the following:

¹ Sprint's Petition, filed with the KCC on May 16, 2008, seeking an investigation and reduction in Embarq's intrastate access rates to be in parity with interstate access charges.

1 (1) Any reduction of a rural telephone company's cost recovery
2 due to reduction of its interstate access revenue shall be recovered from the
3 KUSF;

4 (2) any portion of rural telephone company reductions in intrastate
5 switched access rates which would result in an increase in KUSF recovery in a
6 single year which exceeds .75% of intrastate retail revenues used in
7 determining sums which may be recovered from Kansas telecommunications
8 customers pursuant to subsection (a) of K.S.A. 66-2008, and amendments
9 thereto, shall be deferred until March 1 of the next following odd-numbered
10 year; and

11 (3) no rural company shall be required at any time to reduce its
12 intrastate switched access rates below the level of its interstate switched
13 access rates.
14

15 **Q. WHAT IMPORTANT DISTINCTION DOES K.S.A. 66-2005(c) MAKE BETWEEN**
16 **RURAL LECs AND NON-RURAL LECs, SUCH AS EMBARQ?**

17 A. The statute requires rural LECs to reduce intrastate access rates to interstate access rate levels
18 (requires mirroring of interstate access rates) every odd-numbered year, but mandatory
19 mirroring of interstate access rates is not required for non-rural LECs such as Embarq and
20 AT&T (these entities were formerly the United Telephone Companies (United) and
21 Southwestern Bell Telephone Company of Kansas (SWBT), respectively, when K.S.A. 66-
22 2005(c) was enacted). Upon passage of K.S.A. 66-2005, intrastate access rates were initially
23 required to be reduced to interstate access rate levels over a three-year period for non-rural
24 LECs, but the statute language regarding the three-year period is no longer applicable for
25 non-rural LECs.

26 In Docket No. 01-GIMT-082-GIT, the Commission's Order Approving Stipulation
27 supports this conclusion:

28 While this statutory provision explicitly mandated such parity for non-rural
29 companies (United and SWBT) only over the initial three-year period

1 following enactment of the Kansas Act, the legislature entrusted the
2 Commission with broad discretion to carry-out (sic) its legislative mandates
3 and oversee the emergence of competition in Kansas telecommunications
4 markets (citations omitted).²
5
6

7 **Q. DOES THE COMMISSION HAVE DISCRETION REGARDING REDUCTIONS IN**
8 **INTRASTATE ACCESS RATES OF EMBARQ?**

9 A. Yes. K.S.A. 66-2005(c) specifically states at the outset, “Subject to the commission’s
10 approval.” In addition, the previous language cited in the Commission’s Order Approving
11 Stipulation in Docket No. 01-GIMT-082-GIT, clearly indicates that the Commission has
12 historically used its discretion to establish policy for intrastate access charges in Kansas.
13

14 **Q. GIVEN THAT INTRASTATE ACCESS RATE REDUCTIONS FOR EMBARQ ARE**
15 **NOT MANDATORY UNDER K.S.A 2005(c), WHAT IS YOUR**
16 **RECOMMENDATION?**

17 A. The Commission should maintain the status quo and not require any reduction in intrastate
18 access rates for Embarq. I will explain why Embarq’s intrastate access rates should not be
19 reduced later in this testimony. In addition, later in this testimony I will provide my
20 recommendations in the event the Commission decides reducing Embarq’s intrastate access
21 rates is in the public interest.

² *Order Approving Stipulation and Agreement, September 25, 2001* (Order Approving Stipulation), pp. 2-3, KCC Docket No. 01-GIMT-082-GIT,

1 **Q. CAN YOU SUMMARIZE THE REASONS WHY EMBARQ'S INTRASTATE**
2 **ACCESS RATES SHOULD NOT BE REDUCED?**

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

5 1) Embarq's intrastate access rates are not excessive, contrary to Sprint's claim. In fact,
6 Embarq's intrastate access rates in Kansas are lower than Embarq's intrastate access
7 rates in many other states.

8 2) Embarq's intrastate access rate levels do not harm consumers by inflating retail prices
9 of competitors, contrary to Sprint's claim.

10 3) Sprint has not shown that it is harmed by Embarq's intrastate access rates.

11 4) Sprint's failure to voluntarily reduce Embarq/United's intrastate access rates when
12 Sprint owned Embarq/United effectively negates the validity of Sprint's claims.

13 5) There are concerns that any resulting decrease in intrastate access rates will cause
14 increases in residential basic local rates of Embarq that will not be offset by
15 equivalent reductions in long distance rates of Sprint - - and this inequitable trade-off
16 is not in the public interest.

17 6) There are concerns that Sprint (and other long distance providers) will not properly
18 flow-through reductions in intrastate access costs as decreases to Sprint's retail
19 intrastate long distance rates, that such long distance rate reductions will not be
20 equitable to residential customers, and Sprint will subsequently increase these long
21 distance rates. If this occurs, then all benefits to consumers will be lost and

1 consumers will ultimately be stuck with both higher rates for basic local service and
2 long distance service.

3
4 **Q. ARE EMBARQ'S INTRASTATE ACCESS RATES EXCESSIVE?**

5 A. No, Embarq's intrastate access rates are not excessive, contrary to Sprint's claims. Sprint's
6 Petition claims that Embarq's intrastate access rates "are excessive by any measure" and that
7 "it is impossible to justify rates as high as Embarq's present rates."³ Sprint is especially
8 overzealous in the extremity of its remarks and Sprint significantly overstates its case
9 regarding Embarq's intrastate access rates.

10 CURB issued data request (DR) 1.3 and 1.4 to Sprint, asking for the intrastate access
11 rates and the weighted intrastate access rates that Sprint pays to Embarq in all other state
12 jurisdictions. Sprint's Confidential response to CURB DR 1.3 and 1.4 identifies twenty-one
13 different weighted average intrastate access rates that Sprint pays to Embarq/Centel in
14 eighteen different state jurisdictions (including Kansas).⁴ For these twenty-one different
15 Embarq/Centel intrastate access rates paid by Sprint, Embarq Kansas intrastate access rates
16 are less than eleven of these rates and greater than nine of these rates. In other words,
17 Embarq Kansas intrastate access rates are about in the middle in terms of the number of
18 intrastate access rates that are both greater and less than those of Embarq Kansas. This does
19 not support Sprint's conclusion that Embarq Kansas intrastate access rates are "excessive by
20 any measure" or "impossible to justify." It is clear that there are numerous other states where

³ Sprint Petition, ¶¶ 4 and 5.

⁴ In three states, North Carolina, Texas, and Virginia, Embarq has two different sets of intrastate access rates for Embarq and its related affiliate Centel.

1 Embarq's intrastate access rates are higher than those in Kansas, so these states have found it
2 possible to justify these higher access rates. Also, using this measure of comparison to other
3 states, it is clear that there are other measures which show that Embarq Kansas intrastate
4 access rates are not excessive. Sprint's overzealous claims that Embarq Kansas rates are
5 excessive by any measure and impossible to justify is unfounded and not supported by
6 Sprint's response to CURB discovery.

7 In addition, for the seventeen other states (besides Kansas) where Embarq/Centel
8 intrastate access rates are compared at Sprint's response to CURB DR 1.3 and 1.4, only one
9 other state appears to require that Embarq mirror interstate access rates (Ohio), and only
10 three states require that AT&T mirror interstate rates (Indiana, Ohio, and Texas). Therefore,
11 Kansas would generally be the exception to the rule if it required Embarq to mirror interstate
12 access rates. Because there is only one other state where Embarq is required to mirror
13 interstate access rates, this is also contrary to Sprint's claims that Embarq Kansas intrastate
14 access rates are excessive by any measure and impossible to justify. In fact, Sprint's
15 arguments are just the opposite of the industry norm in all other states where Sprint pays
16 Embarq for intrastate access. In most of these states, it is normal that intrastate access rates
17 are higher than Embarq Kansas intrastate access rates and it is normal that Embarq's
18 intrastate access rates do not mirror interstate access rates.

19 Also, CURB DR 1.5 asked Sprint to provide all documentation to show how Embarq
20 Kansas intrastate access rates are unreasonable and excessive when compared to intrastate
21 access rates paid by Sprint to Embarq in other jurisdictions. Sprint objected to answering this
22 data request and merely referred to the data that it provided in response to CURB DRs 1.3

1 and 1.4 which show the intrastate access rate comparisons that I addressed in the previous
2 paragraphs. Sprint's Petition makes vague and unsupported claims that Embarq's intrastate
3 access rates are excessive by any measure and impossible to justify. Now it appears that
4 Sprint has refused the opportunity to further clarify these statements in CURB DR 1.5,
5 because information provided with CURB DRs 1.3 and 1.4 contradict Sprint's position and
6 shows that Embarq Kansas intrastate rates are lower than most other states and that only one
7 other state requires Embarq's intrastate access rates to mirror interstate rates.

8 It is clear that Embarq Kansas intrastate access rates are not excessive or impossible
9 to justify, and Sprint has not provided any arguments or documentation to explain why
10 information from these other states conflicts with Sprint's position in Kansas. I do not
11 believe that these other jurisdictions (where Embarq's intrastate access rates are higher than
12 those in Kansas) consider Embarq's intrastate access rates to be excessive or impossible to
13 justify - - as evidenced by the fact that such intrastate rates are in place and would be
14 presumed to be reasonable. Sprint's exaggerated language in this case reflects poorly upon
15 its credibility and claims.

16
17 **Q. DO EMBARQ'S INTRASTATE ACCESS RATES HARM CONSUMERS?**

18 A. No, Embarq's intrastate access rates do not harm Kansas consumers or competitors, contrary
19 to Sprint's claims. Sprint's Petition claims that Embarq's intrastate access rates harm
20 consumers (and the competitors that provide these rates) by inflating the retail price of

1 competing telecommunications prices.”⁵ Again, Sprint is overzealous in the extremity of its
2 remarks.

3 CURB DR 1.9 asked Sprint to identify those retail prices in Kansas that have been
4 inflated by Embarq’s intrastate access rates in Kansas. Sprint objected to the data request,
5 merely repeated its same general claim, and then referred to a Hearing Examiner’s Report in
6 a Virginia⁶ complaint case against Embarq. Again, Sprint refused to clarify or provide
7 additional documentation for its vague and overly zealous statements in its Petition. Sprint
8 could not identify one single case in Kansas where Embarq’s intrastate access rates have
9 resulted in higher retail rates charged to consumers by other retail competitors. All that
10 Sprint could cite to was one case in Virginia, and it is clear that this case has no bearing on
11 retail rates charged to consumers in Kansas.

12 In contrast to Sprint’s position, I believe that a reduction in intrastate access rates will
13 more likely result in an increase in retail rates of competitors based on past precedent in
14 Kansas. In the initial intrastate access reductions for both Embarq⁷ and AT&T⁸ in Kansas,
15 the access reduction was rebalanced in part to basic local rates and resulted in increased basic
16 local rates for both Embarq and AT&T. Even if the Commission would require Embarq to
17 mirror interstate access rates and rebalance this entire amount to the KUSF, this would result

⁵ Sprint Petition, paragraph 5.

⁶ This is inconsistent with Sprint’s objections to other CURB data requests, because Sprint refers to information in another state (Virginia), yet Sprint objects to CURB data requests 1.3, 1.4, 1.5, 1.7, 1.10, 1.11, and 1.17 on the grounds that such data requests seek information in states other than Kansas.

⁷ Embarq was formerly the United Telephone Companies in Kansas at the time of this access rate rebalance in Kansas.

⁸ AT&T was formerly Southwestern Bell Telephone Company of Kansas at the time of this access rate rebalance in Kansas.

1 in an increase in charges to customers of residential telecom services via an increased KUSF
2 assessment. It cannot necessarily be assumed that any increases in basic local rates due to
3 rebalancing a reduction in intrastate access rates would be offset by equivalent or equitable
4 long distance rates for these same customers.

5 Furthermore, no other retail competitor has filed a petition or complaint in recent
6 history claiming that Embarq's intrastate access rates are excessive or that Embarq's access
7 rates cause that company's retail rates to unjustifiably increase.

8 Finally, and most importantly, there is no evidence which shows Embarq's intrastate
9 access rates have contributed to higher intrastate long distance rates for Sprint in Kansas.
10 CURB DR 1.11 and 1.12 asked Sprint to identify those cases in other states and in Kansas,
11 where Sprint charges a different intrastate long distance rate to customers based on a
12 difference between the intrastate access rates of Embarq and the intrastate access rates of
13 other LECs in that same state (such as AT&T in Kansas). Sprint's Petition points to the
14 lower intrastate access rates of AT&T in Kansas, which mirror interstate access rates, and
15 presumes a benefit and supposedly lower resulting long distance rates due to these lower
16 intrastate access rates. However, Sprint admits in its response to CURB DR 1.11 and 1.12
17 that it does not offer different intrastate long distance rates based on LEC territory. In other
18 words, regardless of the intrastate access rate charged by a particular access provider in a
19 state (such as Embarq or AT&T), Sprint charges the same intrastate long distance rate across
20 the state and does not vary its long distance rates by service territories in the state. For
21 Kansas, this means that even if Sprint pays a lower intrastate access rate to AT&T and a
22 higher intrastate access rate to Embarq, Sprint still offers the same intrastate long distance

1 rates in areas served by both AT&T and Sprint. This would appear to infer that Sprint does
2 not offer, and will not offer, lower intrastate long distance rates in Kansas even if Embarq's
3 intrastate access rates are reduced. This would appear to indicate that Sprint would not pass-
4 through any access reductions in the form of lower retail rates to its customers in Kansas.

5
6 **Q. HAS SPRINT SHOWN THAT IT HAS BEEN HARMED BY EMBARQ'S**
7 **INTRASTATE ACCESS RATES?**

8 A. No. Sprint does not provide any specific financial, operational, or competitive data to show
9 that it has been significantly harmed, or harmed in any specific manner, by Embarq's
10 intrastate access rates. Sprint did not provide any responses to CURB data requests that
11 provided a quantification or detailed explanation of any harm that it has incurred due to
12 Embarq's intrastate access rates. If Embarq's intrastate access rates are reduced to interstate
13 parity, it appears this could result in total annual cost savings (reduction in intrastate access
14 expense) to long distance providers in the range of **BEGIN CONFIDENTIAL***** [REDACTED]

15 [REDACTED]⁹ [REDACTED]¹⁰ [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]¹¹ *****END**

19 **CONFIDENTIAL.**

⁹ Sprint's response to CURB DR 1.2(e).
¹⁰ Embarq's response to CURB DR 1.2(a).
¹¹ Sprint's response to CURB DR 1.18 and 1.19.

1 Although the previously noted reduction in access charge expense would be shared
2 among all long distance carriers (not just Sprint) relative to the traffic volumes they carried, I
3 do not believe that Sprint's portion of these cost savings would have a significant impact on
4 Sprint's financial operations in the big picture. If Sprint's intrastate access expense paid to
5 Embarq would decrease by the same percentage as Embarq's total reduction due to mirroring
6 interstate access, then Sprint's access expense would decrease from BEGIN
7 CONFIDENTIAL*** [REDACTED]
8 [REDACTED] ***END CONFIDENTIAL. Sprint Nextel consolidated operating
9 revenues and expenses for 2007 were \$40.1 billion and \$38.9 billion, respectively. Sprint's
10 reduction in intrastate access expense for Kansas is only about BEGIN
11 CONFIDENTIAL*** [REDACTED] ***END CONFIDENTIAL of the Sprint Nextel
12 consolidated operating revenues or expenses. This impact upon Sprint Nextel operations is
13 insignificant.

14
15 **Q. ARE SPRINT'S ARGUMENTS INCONSISTENT WITH ITS ACTIONS WHEN IT**
16 **OWNED EMBARQ/UNITED?**

17 **A.** Yes. Prior to the creation and spin-off of Embarq around mid-2006, the company was owned
18 by Sprint and operating in Kansas under the name of the "United Telephone Companies."
19 Because Embarq/United had not reduced its intrastate access rates in recent years as late as
20 the spin-off date, this would mean that the Embarq/United intrastate access rates would also
21 be excessive (using Sprint's definition) during the time that Sprint owned the company

1 (using Sprint's rationale in its Petition). However, Sprint never filed a Petition or
2 volunteered to reduce the intrastate access rates of Embarq/United.

3 Therefore, it appears that when Sprint owned Embarq/United, there are several
4 possible reasons for not raising the issue of excessive intrastate access rates: a) Sprint
5 overlooked the negative impact of excessive intrastate access rates for whatever reason; or b)
6 Sprint did not incur any negative impacts from the Embarq/United intrastate access rates
7 when it owned the company, and so there is no negative impact upon Sprint today.

8 Sprint's current arguments are invalidated by its failure to raise these arguments and
9 concerns in the past when it owned Embarq/United. For example, Sprint's Petition claims
10 that Embarq's excessive intrastate access rates causes harm to all consumers by inflating the
11 retail price of competing telecommunications service providers, including providers of local,
12 long distance, and wireless voice calling services.¹² Sprint claims that itself, consumers, and
13 the entire retail industry that competes with Embarq, are harmed by Embarq's excessive
14 intrastate access rates. Therefore, it appears largely inconsistent that Sprint is currently
15 concerned for consumers and its fellow retail competitors, because Sprint did not share this
16 concern back in 2004 and 2005 when it owned Embarq/United and the alleged excessive
17 intrastate access rates were in place. If Sprint had this concern for consumers and its fellow
18 retail competitors back in 2004 and 2005, it could have volunteered to reduce the
19 Embarq/United intrastate access rates to help out consumers and all retail competitors - -
20 including itself. It appears that Sprint now conveniently offers this argument on behalf of
21 consumers and its fellow retail competitors, although it could have solved this alleged

¹² Sprint Petition, paragraph 5.

1 problem back in 2004 or 2005 (or earlier years) by reducing the intrastate access rates of
2 Embarq/United intrastate access rates when it owned the company.

3 Furthermore, not only did Sprint not share concern for consumers and its fellow
4 competitors when it owned Embarq/United, it may have taken advantage of its competitors
5 via price squeeze opportunities. For example, if Sprint charged excessive access rates to
6 other competitors via its affiliate Embarq/United operations, and failed to record or impute
7 these same costs to itself for access to the local exchange facilities of Embarq/United that
8 other competitors have to pay for, then Sprint would have directly imposed higher access
9 costs on its competitors than it incurred. This gives Sprint a significant advantage over its
10 competitors in pricing its retail services. Under these conditions, Sprint's competitor's would
11 have paid the higher access charges of Embarq/United and so they would have to charge
12 higher rates for the retail services they offer to customers in competition with Sprint.
13 However, because Sprint owned Embarq/United, it would have either not imputed or not paid
14 access charges to Embarq/United, so Sprint incurred lesser costs than its competitors and
15 could offer a lower retail rate than its competitors for the same service. I do not believe that
16 Sprint's primary underlying goal in this procedure is to implement policy to benefit
17 consumers or its fellow competitors based on prior circumstances when it owned
18 Embarq/United.

1 **Q. ARE THERE ANY ASSURANCES THAT SPRINT WILL FLOW-THROUGH ANY**
2 **DECREASES IN INTRASTATE ACCESS RATES AS A REDUCTION IN LONG**
3 **DISTANCE RATES?**

4 A. No, there are no assurances that Sprint and other long distance providers will automatically
5 flow-through any decreases in intrastate access rates as a reduction in intrastate long distance
6 rates. And there are no assurances that any intrastate access reductions will be equitably and
7 ratably flowed-through to residential long distance service customers, because Sprint could
8 flow-through all access rate reductions to large business customers or specialized calling
9 plans not available to most customers. Finally, Sprint and other long distance providers
10 could temporarily reduce long distance rates to appease the Commission, and then
11 subsequently increase these intrastate long distance rates - - maybe to a level that is over and
12 above the previous intrastate long distance rate levels.

13 Under these conditions, Sprint and other long distance carriers would receive a
14 significant windfall to the detriment of residential consumers. Sprint would receive a double
15 windfall profit in the form of: a) keeping cost savings due to reductions in intrastate access
16 rates; and b) increasing intrastate long distance rates for certain customers (or not reducing
17 intrastate long distance rates). Also, a triple windfall profit would result for the industry
18 under the previous conditions if LECs were allowed to rebalance the decreased access rates
19 as increases in rates for basic local service and other services. Under these conditions, it
20 would be possible that Sprint would not reduce intrastate long distance rates and the LECs
21 would receive excessive increases in local rates (and other services) as part of a rebalance of
22 intrastate access rates.

1 It will be extremely difficult for the Commission to require, monitor, and enforce
2 reductions in intrastate long distance rates for Sprint because long distance rates are not
3 regulated. It would be even more difficult for the Commission to require that Sprint maintain
4 these long distance rate reductions for a certain period of time, so that customers receive the
5 proper benefits. Because intrastate long distance rates are not regulated, it is not clear how
6 the Commission would require or enforce a reduction in long distance rates, especially for
7 any reasonable period of time that would allow customers to receive any equitable benefits.
8

9 **Q. IF THE COMMISSION ELECTS TO REDUCE EMBARQ'S INTRASTATE ACCESS**
10 **RATES, WHAT DO YOU RECOMMEND?**

11 A. First, I do not believe it is necessary to reduce Embarq's intrastate access rates to parity with
12 interstate access levels because I believe that intrastate access rates can be considered
13 "reasonable" even if they exceed interstate access rates. However, if the Commission's
14 decides to reduce Embarq's intrastate access rates to interstate levels, I would propose the
15 following:

- 16 1) Access rate reductions should be phased in over at least a 3-year period and access
17 volumes should be trued-up for each of these periods, such that declining access
18 volumes are reflected in any amounts rebalanced to the KUSF or rates of other
19 services.
- 20 2) Any rebalancing resulting from reductions in intrastate access rates should be
21 carefully evaluated with respect to the impact on Embarq's residential local service
22 rates, discretionary services, and the KUSF. Also, it does not appear that current

1 access volumes segregate between residential and business access, so only that part of
2 access volumes related to residential customers should be subject to any rebalance to
3 residential services of Embarq.

4 3) Sprint should be required to file a detailed plan that passes through 100% of the
5 access reductions in the form of rate reductions via Kansas-specific intrastate long
6 distance rates and calling plans. Sprint's long distance rate reductions should be
7 allocated between residential and business long distance calling rates in proportion to
8 the dollar amounts rebalanced to the KUSF or other retail rates. For example, if all
9 of the intrastate access reduction is rebalanced through the KUSF and the resulting
10 increased assessment only impacts residential Kansas customers, then Sprint would
11 have to use 100% of its intrastate access reductions to reduce Kansas-specific
12 intrastate long distance rates for residential customers.

13 4) Sprint's reduction in residential long distance rates should be apportioned among
14 residential message toll services, specific residential calling plans, and other types of
15 long distance services in proportion to the amount of revenues that are now generated
16 by each of these services. In other words, if 100% of the reduction in intrastate
17 access rates is rebalanced to the KUSF or residential basic service rates for Kansas
18 residential customers, then Sprint should be required to pass-through all long distance
19 rate reductions to its Kansas residential customers (and no long distance rate
20 reductions for business customers).

1 5) The Sprint long distance rate reductions should be closely monitored via reports
2 provided to the KCC and CURB every six months, and Sprint should not be allowed
3 to subsequently increase these long distance rates for at least a five year period.
4

5 **Q. WILL YOU EXPLAIN IN MORE DETAIL WHY ACCESS VOLUMES SHOULD BE**
6 **PERIODICALLY TRUED-UP IF INTRASTATE ACCESS REDUCTIONS ARE**
7 **ADOPTED?**

8 A. Yes. If the Commission orders a reduction in intrastate access charges, the dollar impact of
9 such reduction will be determined by multiplying intrastate access rates by the related access
10 volumes. The greater the access volumes, then the greater is the dollar impact of the
11 intrastate access reduction. If access volumes are declining over time, it is especially
12 appropriate to periodically re-calculate the impact of the access reduction on a periodic basis
13 - - such as once or twice a year. This procedure should be performed so that the dollar
14 impact of the access reduction is not overstated.

15 This periodic update of access volumes would be especially important if any access
16 reductions were rebalanced to basic local rates or the KUSF, because this would cause the
17 impact of any rebalanced rate to be minimized (if access volumes are declining). If access
18 volumes are declining and the amount of the access reduction and the amount used to
19 rebalance LEC rates is calculated only once at the outset of the transaction, then this could
20 result in significant inequities to customers and a windfall to the companies. If access
21 volumes are declining and calculated only once, then access reductions and any rebalancing
22 of rates are maximized to the benefit of the long distance providers and the LECs and to the

1 detriment of ratepayers. However, if access volumes are declining and the amount of the
2 access reduction and rebalancing of rates are calculated on a periodic basis, then the amount
3 of the access reduction and rebalance to rates will decline over time and be fairly determined
4 for all parties.

5

6 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

7 A. Yes.

8

BION C. OSTRANDER – C.P.A.

General

Mr. Ostrander is an independent regulatory consultant, a practicing CPA, and has over twenty-eight years of regulatory and accounting experience with a specialization in telecommunication issues. Mr. Ostrander's firm, Ostrander Consulting, has been providing consulting services since 1990. Previously, Mr. Ostrander served as the Chief of Telecommunications for the Kansas Corporation Commission ("KCC") from 1986 to 1990, and served as Chief Auditor for the KCC on gas, electric, transportation, and telecom cases from 1982 to 1985. Mr. Ostrander also worked for two CPA firms, and directed audits of utility companies and other entities for Deloitte, Haskins and Sells (now Deloitte & Touché). Mr. Ostrander has addressed issues related to all of the current and former Regional Bell Operating Companies ("RBOCs"), Sprint, Embarq, AT&T (the former long distance company now merged with what was formerly SBC), MCI (now owned by Verizon), rural LECs, and others.

Mr. Ostrander has conducted revenue requirement reviews (rate cases), alternative regulation/price cap plans, management audits, and reviews of speech and hearing impaired relay providers. Mr. Ostrander has addressed a broad range of regulatory issues including: access charge costing/pricing/policy, price cap/incentive regulation policy and plans, revenue requirement accounting issues, competition policy, cost allocation between regulated/nonregulated operations, compensation/benefits review, affiliate interest issues, review of cost allocation manuals ("CAM"), FCC separations issues, cross-subsidization, UNE cost studies, universal service cost studies, rate design, depreciation, slamming policy, audits of universal service funds, affordable local service, quality of service, infrastructure development, purchase and sell of exchanges/companies, and other matters.

Recent Experience – Examples of Major Cases

2009 - 2008 – Verizon Price Caps: On behalf of the Maryland Office of Peoples Counsel, Mr. Ostrander is addressing a new price cap plan/incentive regulation and related issues.

2009 - 2008 – Maryland Expanded Local Calling Issues: On behalf of the Maryland Office of Peoples Counsel, Mr. Ostrander is addressing expanded local calling and related issues.

2009 – ECTEL Price Caps Plan: On behalf of Eastern Caribbean Telecommunications Authority ("ECTEL"), Mr. Ostrander is addressing a new price cap plan/incentive regulation and related issues.

2009 – Armenia Regulation Issues: On behalf of the Telecommunications Department of the Public Services Regulatory Commission of Armenia, Mr. Ostrander is addressing various regulatory issues.

2008 - 2007 – Kansas Price Caps for AT&T and Embarq: On behalf of the Citizens' Utility Ratepayers' Board (CURB) of Kansas, Mr. Ostrander addressed price cap issues and policy.

2007-2008 – Verizon Michigan Cost Studies: On behalf of the Michigan Attorney General, Mr. Ostrander is addressing retail TSLRIC and wholesale TELRIC cost studies.

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- 2007-2008 – Cable & Wireless (C&W) Barbados Price Caps: On behalf of the Fair Trading Commission (FTC) of Barbados, Mr. Ostrander addressed a new price cap plan, cost study issues, and financial status.
- 2008 – AT&T – Kansas: On behalf of CURB, Mr. Ostrander addressed the current year calculation of Kansas Universal Service Fund (KUSF) assessments, this is the thirteenth year that these issues have been addressed.
- 2007 – UNE Costing Embarq Nevada: On behalf of the Nevada Bureau of Consumer Protection-Attorney General, Mr. Ostrander addressed unbundled network elements.
- 2007 – Legislation/Deregulation Embarq Nevada: On behalf of the Nevada Bureau of Consumer Protection-Attorney General, Mr. Ostrander addressed Legislative issues regarding competition, deregulation and pricing flexibility related to Embarq.
- 2007 – Affordable Local Rates – Michigan: On behalf of the Michigan Attorney General, Mr. Ostrander addressed issues related to compliance with Michigan law of Verizon tariffs for affordable rates of basic local telephone service.
- 2007 – RTB – Alaska: On behalf of GCI, Mr. Ostrander addressed the issue of the proper treatment of funds received by telephone companies related to the dissolution of the Rural Telephone Bank (RTB).
- 2007 – Verizon Deregulation – Virginia: On behalf of the CWA, Mr. Ostrander addressed Verizon's request for deregulation and detariffing in Virginia.
- 2007 - 2005 – Verizon Maine: On behalf of AARP, Mr. Ostrander addressed the revenue requirements/AFOR issues related to Verizon Maine, including issues such as Yellow Pages, affiliate transactions and DSL-related issues.
- 2008-2007 - Legislative Kansas: Assisted CURB in Kansas with 2007 legislative issues related to telecom.
- 2006/2005 – Embarq/LTD & Sprint/Nextel Change of Control – Kansas: On behalf of CURB of Kansas, Mr. Ostrander evaluated the separation and creation of a new local service holding company and the potential impact on customers, rates, competition, service quality, etc.
- 2006 – Embarq Sale of Exchanges to Rural Telephone – Kansas: On behalf of CURB of Kansas, Mr. Ostrander evaluated Embarq's sale of local exchanges to Rural Telephone Company.
- 2006/2005 – Verizon & AT&T Local Rate Rebalance – Michigan: On behalf of the Michigan Attorney General, Mr. Ostrander reviewed the requests of Verizon and AT&T to rebalance and increase local rates.
- 2006/2005 – ETC Policy in Kansas – Kansas: Mr. Ostrander assisted CURB with comments regarding the establishment of state policy and filing requirements for Eligible Telecommunication Carriers (ETCs).
- 2006 – United Telephone (now Embarq) Sale of Exchanges to Twin Valley – Kansas: On behalf of CURB, Mr. Ostrander reviewed United Telephone's sale of local exchanges to Twin Valley Telephone Company.
- 2005 – United Telephone (now Embarq) Sale of Exchanges to Blue Valley – Kansas: On behalf of CURB, Mr. Ostrander reviewed United Telephone's sale of local exchanges to Blue Valley Telephone Company.

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2005 – Saudi Arabia Communications and Information Technology Commission (CTIC): Assessed Saudi Telecom’s proposed accounting separation and allocations manual on behalf of the CITC.

2005 – Embarq/LTD & Sprint/Nextel Change of Control – Nevada: On behalf of the Nevada Board of Consumer Protection, Mr. Ostrander evaluated the separation and creation of a new local service holding company and the potential impact on customers, rates, and other matters.

2005/2004 – Verizon Vermont: On behalf of the Vermont Department of Public Service, Mr. Ostrander evaluated Verizon Vermont’s revenue requirements, Yellow Pages, affiliate transactions, work force reductions, depreciation issues, infrastructure/modernization, and policy issues as part of a new alternative regulation plan (“ARP”) to go in place in 2005, after the expiration of the current plan.

2005 – Southwestern Bell Kansas: On behalf of CURB, Mr. Ostrander assisted with the review of SWBT’s request for deregulation of local and other services in certain metro exchanges.

2005 – Kansas Universal Service Fund (KUSF) Assessment – Kansas: On behalf of CURB, Mr. Ostrander evaluated the Kansas Universal Service Charge annual calculation and assessment. This is the 9th year (since the inception of the KUSF) that Mr. Ostrander has evaluated this issue for calculation and policy issues.

2005 - 2003 – Cable & Wireless Barbados (“C&W”): On behalf of the Fair Trading Commission (“FTC”), the regulatory agency in Barbados), Mr. Ostrander evaluated a proposal by C&W in 2003/2004 to move away from flat-rate local service to introduce “measured or usage-based” local service at increased rates, as well as policy issues to expand cellular competition and other competition issues. Mr. Ostrander addressed the revenue requirements of C&W, proposed significant revisions to these revenue requirements, and reviewed the C&W cost model and the costs of local, cellular, and other services. The FTC’s final decision in July 2004 rejected the C&W proposal, and maintained local rates at existing levels without a switch to measured service.

2004/2003 – Cable & Wireless Eastern Caribbean States: On behalf of the Eastern Caribbean Telecommunications Authority (“ECTEL”), the regulatory agency for certain Caribbean nations), and the nations of St. Lucia, Grenada, St. Vincent, St. Kitts/Nevis, Mr. Ostrander evaluated policy to introduce and expand cellular and other competition in these Caribbean nations, and reviewed C&W cost models, evaluated the cost of fixed local and cellular service, price caps, and other issues. This project resulted in substantial regulatory concessions to customers and significant reductions in retail cellular calling rates.

Work History

Ostrander Consulting - Principal

Ostrander Consulting principally addresses regulatory issues on behalf of public advocates, Attorney Generals, state public service commissions and other state regulatory agencies. Services include those related to rate cases, competition assessment, alternative regulation/price cap plans, cost studies/cost allocation, management audits, infrastructure studies, relay audits and special investigations.

Kansas Corporation Commission –
Chief of Telecommunications

Supervised staff and directed all telecommunications-related matters including assessment of rate cases of SWBT, United/Sprint and rural LECs. Also, directed actions regarding alternative regulation plans, establishing access charge policy, transition to intrastate competition, depreciation filings, establishment of the Kansas Relay Center, filings with the FCC, billing standards, quality of service, consumer complaints, staff training and over one hundred docketed regulatory matters per year. Mr. Ostrander was the lead witness on all major telecommunications matters.

Kansas Corporation Commission –
Chief Auditor

Directed rate cases of gas, electric and telecom companies prior to promotion to Chief of Telecommunications.

Mize, Houser, Mehlinger and Kimes (now Mize Houser & Company Professional Association) -
Auditor – CPA firm

Performed auditing, tax and special projects for various industries.

Deloitte, Haskins and Sells (now Deloitte & Touche) -
Auditor – CPA firm

Performed auditing, tax and special projects in industries such as utilities, savings and loan, manufacturing, retail, construction, real estate, insurance, banking and not-for-profit.

Education

University of Kansas - B.S. Business Administration with a Major in Accounting, 1978.

Professional License and Affiliations

- Maintains a permit to practice as a CPA in Kansas.
- Member of the American Institute of CPAs (AICPA).
- Member of the Kansas Society of CPAs (KSCPA).

International

- Mr. Ostrander is assisting price caps/incentive regulation, cost studies, and other issues on behalf of the Eastern Caribbean Telecommunications Authority (“ECTEL”), representing the nations of St. Lucia, St. Vincent, Grenada, St. Kitts/Nevis, and Dominica.
- Mr. Ostrander assisted the Fair Trading Commission of Barbados in design of the second round of price

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caps for Cable & Wireless, and is addressing issues related to earnings, productivity, and cost studies.

- Mr. Ostrander addressed issues regarding revenue requirements, rate design, and competition on behalf of the Fair Trading Commission in Barbados and ECTEL.
- Mr. Ostrander addressed competition, utility and regulatory issues for Russian and Ukrainian regulatory and utility entities in association with a Ukrainian entity.
- Mr. Ostrander evaluated Saudi Telecom's proposed accounting separations and allocation manual on behalf of the Saudi Arabia Communications and Information Technology Commission (CTIC).

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VERIFICATION

STATE OF KANSAS)

COUNTY OF SHAWNEE) ss:

I, Bion 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 Testimony, and, upon information and belief, states that the matters therein appearing are true and correct.

Bion Ostrander

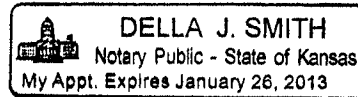
Bion Ostrander

SUBSCRIBED AND SWORN to before me this 20th day of February, 2009.

Della J. Smith

Notary Public

My Commission expires: 01-26-2013.



CERTIFICATE OF SERVICE

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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 20th day of February, 2009, to the following:

* DAVID BREVITZ
BREVITZ CONSULTING SERVICES
3623 SW WOODVALLEY TERRACE
TOPEKA, KS 66614
Fax: 232-9162
dbrevitz@cox.net

ANDREW FISHER
COMCAST PHONE OF KANSAS LLC
D/B/A COMCAST DIGITAL PHONE
ONE COMCAST CENTER
50TH FLOOR
PHILADELPHIA, PA 19103
Fax: 215-286-5039
andrew_fisher@comcast.com

KEVIN ZARLING, ATTORNEY/KSOPKJ04-4013
EMBARQ COMMUNICATIONS, INC.
5454 W 110TH STREET
OVERLAND PARK, KS 66211-1204
Fax: 913-345-7955
kevin.k.zarling@embarq.com

GREG GIERCZAK, EXEC DIR EXTERNAL RELATIONS
EVEREST MIDWEST LICENSEE LLC
D/B/A SUREWEST
200 VERNON STREET
P O BOX 969 (95661)
ROSEVILLE, CA 95678
Fax: 916-786-1877
g.gierczak@surewest.com

* MELISSA HUNSICKER WALBURN, LITIGATION
COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027
Fax: 785-271-3167
m.walburn@kcc.ks.gov
**** Hand Deliver ****

* ROBERT LEHR, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD ROAD
TOPEKA, KS 66604-4027
Fax: 785-271-3354
b.lehr@kcc.ks.gov
**** Hand Deliver ****

RACHEL LIPMAN REIBER, ATTORNEY
MARTIN PRINGLE OLIVER WALLACE & BAUER LLP
6900 COLLEGE BLVD STE 700
OVERLAND PARK, KS 66062
Fax: 913-491-3341
rlreiber@martinpringle-kc.com

* MARK P. JOHNSON, ATTORNEY
SONNENSCHN NATH & ROSENTHAL LLP
4520 MAIN STREET
SUITE 1100
KANSAS CITY, MO 64111
Fax: 816-531-7545
mjohnson@sonnenschnein.com

* BRUCE A NEY, ATTORNEY, ROOM 515
SOUTHWESTERN BELL TELEPHONE CO.
220 EAST SIXTH STREET
TOPEKA, KS 66603
Fax: 785-276-1948
bruce.ney@att.com

* DIANE C. BROWNING, ATTORNEY/KSOPHN0212-
2A411
SPRINT COMMUNICATIONS COMPANY L.P.
6450 SPRINT PKWY
OVERLAND PARK, KS 66251
Fax: 913-523-0571
diane.c.browning@sprint.com

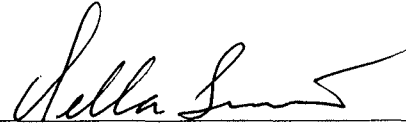
KENNETH A. SCHIFMAN, ATTORNEY/MS: KSOPHN0212-
2A303
SPRINT COMMUNICATIONS COMPANY L.P.
6450 SPRINT PKWY
OVERLAND PARK, KS 66251
Fax: 913-523-9827
kenneth.schifman@sprint.com

ZSUZSANNA BENEDEK, ATTORNEY
UNITED TELEPHONE CO. OF KANSAS
D/B/A EMBARQ
240 N 3RD STREET, STE 201
HARRISBURG, PA 17101-1521
sue.e.benedek@embarq.com

CERTIFICATE OF SERVICE

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TORRY SOMERS, ATTORNEY AT LAW
UNITED TELEPHONE CO. OF KANSAS
D/B/A EMBARQ
330 S VALLEY VIEW BLVD
NVLSVBO207
LAS VEGAS, NV 89107
torry.r.somers@embarq.com



Della Smith

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