

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Sprint Local Telephone Companies) Sprint LTC Transmittal No. 252
Tariff No. 3)
)

PETITION OF SBC COMMUNICATIONS INC.

Pursuant to 47 C.F.R. § 1.773, SBC Communications Inc. (“SBC”) hereby petitions the Commission to reject, or alternatively to suspend and investigate, Tariff Transmittal No. 252 submitted by the Sprint Local Telephone Companies (“Sprint”) on February 14, 2005.¹ Sprint’s proposed tariff revisions seek to significantly revise the rates, terms, and conditions applicable to the purchase of electrical cross-connects and the use of collocation space in Sprint’s central offices. Specifically, Sprint seeks to amend its tariffs to effectuate its recent unlawful practice of charging channel termination rates for electrical cross-connects. Sprint’s proposed tariff revisions are contrary to Commission decisions and rules and are unjust and unreasonable in violation of Section 201(b) of the Act. Accordingly, they should be rejected.

DISCUSSION

In order to provide telephone exchange and exchange access service, carriers purchase both UNE loops and special access circuits from Sprint. In order to access Sprint’s UNE loops and special access circuits, carriers also establish physical collocation arrangements in Sprint’s

¹ A tariff is subject to rejection when it is *prima facie* unlawful because it conflicts with the Act or a Commission rule, regulation, or order. *See, e.g., American Broadcasting Cos., Inc. v. AT&T*, 663 F.2d 133, 138 (D.C. Cir. 1980). Suspension and investigation are warranted when a tariff transmittal raises significant questions of lawfulness. *See AT&T Transmittal No. 148, Memorandum Opinion and Order*, FCC 84-421, 56 Rad. Reg.2d 1503 (Sept. 19, 1984).

central offices. Finally, in order to connect their own equipment to Sprint's UNE loops and special access circuits, carriers purchase electrical cross-connects from Sprint. The rates for electrical cross-connects for UNE loops are set forth in Sprint's interconnection agreements, and the rates for electrical cross-connects for special access circuits are set forth in the "Expanded Interconnection Services" section of Sprint's Tariff F.C.C. No. 3.

Beginning in 2003, Sprint began charging radically higher prices for the provision of electrical cross-connects to Sprint's special access circuits. Specifically, Sprint began assessing special access channel termination rates in place of the monthly recurring electrical cross-connect rates for cross-connects ordered to connect to Sprint's special access services. In Nevada, for example, Sprint's tariffed rate for DS1 electrical cross-connects was \$2.99, but Sprint began billing—and continues to bill—\$103.00 (an increase of more than 3000%) for DS1 electrical cross-connects purchased to connect to Sprint's special access services. Sprint also submitted invoices to recover retroactively the difference between Sprint's electrical cross-connect rates and its special access channel termination rates.

As justification for its abrupt change in billing practices, Sprint asserted that a single collocation space cannot be classified simultaneously as collocation ordered under both Section 251(c)(6) of the Act and Sprint's expanded interconnection tariff. Therefore, according to Sprint, if a carrier orders collocation space pursuant to an interconnection agreement, but that carrier wishes to use that collocation space not only to access UNE loops purchased from Sprint but also special access services purchased from Sprint, Sprint may charge channel termination rates for all the electrical cross-connects ordered by that carrier to connect to Sprint's special access circuits. Although it tellingly fails to say so in its cover letter, and although its intent lies buried in the several hundreds of pages that comprise its tariff transmittal, Sprint's proposed

tariff revisions appear to be designed to effectuate Sprint's intent to reclassify and re-price electrical cross-connects as channel terminations in those situations in which carriers use a single collocation space to access both UNE loops and special access circuits.

There is no legal basis for Sprint's arbitrary reclassification and re-pricing of electrical cross-connects. Although Sprint has alleged that the application of channel termination charges is consistent with the Commission decisions, Sprint has never identified the substantive provisions of any such Commission decision. To the contrary, Sprint's actions contravene the Act as well as Commission policy.

Beginning with the Act itself, section 251(c)(6) requires Sprint to provide collocation to requesting telecommunications carriers not only for access to UNEs but also for interconnection. Under the Act, interconnection of requesting carriers and local exchange carriers is required "for the transmission and routing of telephone exchange service and exchange access."² The Act does not distinguish between the services or facilities that are purchased by requesting telecommunications carriers in order to interconnect with Sprint. Accordingly, § 251(c)(6) allows requesting telecommunications carriers to use collocation in conjunction with special access circuits, provided that such carriers use those circuits for the transmission and routing of telephone exchange service and exchange access. As long as that is the case, there is no basis for Sprint to claim that collocation established pursuant to § 251(c)(6) may not be used to gain access to, and obtain the appropriate pricing provisions associated with, both UNEs and special access services.

Moreover, Sprint's position is contrary to Commission direction on this issue. In finding that the Act did not supersede its expanded interconnection rules, the Commission in its *Local*

² 47 U.S.C. § 251(c)(2)(A).

Competition Order specifically determined that “a requesting carrier would have the *choice* of negotiating an interconnection agreement pursuant to sections 251 and 252 or of taking tariffed interstate service under our *Expanded Interconnection* rules.” The Commission’s provision of such a choice would be meaningless if a carrier could not use its collocation space to access both UNEs and special access services: it is no choice at all to require a carrier to purchase separate collocation arrangements in order to be able to purchase both UNEs and special access and obtain the pricing applicable to each.

CONCLUSION

For the foregoing reasons, the Commission should reject Sprint’s Transmittal No. 252.

Respectfully Submitted,

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February 22, 2005

CERTIFICATE OF SERVICE

I, Otis T. Robinson, do hereby certify that copies of the foregoing Petition of SBC

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