

network element platform (“UNE-P”) are not impaired by eliminating switching for business customers served by high capacity loops as a UNE. State commissions will have 90 days from the effective date of the order to rebut this presumption. Assuming the Commission receives a petition to consider rebutting this presumption, a proceeding would need to be conducted in very short order.

3. For mass market – residential and small business – customers, the News Release states, “the Commission sets out specific criteria that states shall apply to determine, on a granular basis, whether economic and operational impairment exists in a particular market.” State commissions are required to complete this proceeding in 9 months. If the state commission determines there is no impairment, UNE-P based CLECs will have 3 years to transition off UNE-P. Nine months is a short time period in which to conclude a proceeding of this magnitude. Opening a docket to address these issues at this time will ensure that matters can be addressed expeditiously.

4. The Commission will serve this order on all incumbent local exchange carriers, all competitive local exchange carriers and the Citizens’ Utility Ratepayer Board. Final orders in this docket will be served on those same parties. Parties wishing to actively participate and receive copies of all pleadings and intervening orders shall file an entry of appearance no later than June 20, 2003. The Commission will compile a service list and provide it to all parties that have entered appearances. The Commission reminds parties that Supreme Court rule 116 requires all parties, other than individuals, to be represented by counsel, including local counsel. The rule requires active participation by local counsel.

5. The Commission finds that the expenses reasonably attributable to this investigation will exceed \$100, and assesses these expenses, pursuant to K.S.A. 66-1502,

against Southwestern Bell Telephone L.P. and the Sprint local companies because they provide UNEs to CLECs. The Commission also assesses UNE-P based CLECs. The Commission attaches a list of UNE-P providers to this Order as Attachment 1. If any CLEC set out on that list does not use the switching element, it should file a motion with the Commission requesting exclusion from the assessment and explaining why it believes it should not be assessed. If any provider of telecommunications services, other than those set out above to be assessed, enters an appearance in this docket, such service provider will be assessed because it imposes costs on the docket. If the Commission finds, after having an opportunity to review the Triennial Review Order, that issues affecting a broader segment of the industry need to be addressed, the Commission may issue an additional assessment order to ensure that costs of this docket are fairly assessed. Expenses attributable to this docket shall be assessed beginning three days after notice of this assessment is given by service of this Order by United States mail. Companies assessed for the costs of this docket are hereby notified that they have an opportunity to request a hearing on this assessment in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. This docket is opened for the purpose of addressing issues delegated to state commissions in the FCC's Triennial Review Order.

B. Expenses of this investigation are assessed as set out above.

C. Any party may file a petition for reconsideration of this Order within fifteen days of the date this Order is served. If service is by mail, service is complete upon mailing and three days may be added to the above time frame.

D. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Moline, Chair; Wine, Com.; Krehbiel, Com.

Dated: JUN 16 2003

ORDER MAILED

JUN 16 2003

 Executive Director

Susan K. Duffy
Executive Director

EP

2002 UNE-P Carriers per 2002 Annual Report

American Fiber Network
AT&T Communications of the Southwest
Birch Telecom of Kansas Inc.
Ionex Communications, Inc. (Feist in 1999)
McLeodUSA Telecommunications Services, Inc.
MCIMetro Access Transmission Services, Inc.
Navigator Telecommunications, LLC
Prairie Stream Communications Inc.
Sage Telecom
South Central Wireless, Inc.
Talk America
VarTec Telecom
Xspedius Management Co. Switched Services
Z-Tel Communications, Inc.