

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Spectra Communications Group,)
LLC, d/b/a CenturyTel's Request for Competitive)
Classification Pursuant to Section 392.245.5,)
RSMo (2005).)

Case No. IO-2006-0108

Dissenting Opinion of Commissioner Steve Gaw

Through its Report and Order issued in the above-captioned docket, the majority has granted competitive classification for residential services provided by Spectra Communications Group ("Spectra") in the Ewing, LaBelle, Lewistown, Macon and Savannah exchanges as well as business services in the Ewing, LaBelle, Lewistown and Macon exchanges. In making its decision, the majority has found the existence of a sufficient presence of both a wireline competitor as well as a wireless competitor in each of the named exchanges for each of the identified services. By this dissenting opinion, I express my disagreement with the majority's finding that wireless competitors are providing basic local telecommunications services at the level required by the new telecommunications law in any of the named exchanges except for Macon. As such, I would disagree with the majority's decision to grant Spectra competitive classification for residential or business services in the Ewing, LaBelle, Lewistown or Savannah exchanges.

As I stated in a previous opinion¹, I assert that Section 392.245.5 requires that the named wireless competitors actually provide basic local telecommunications service within the exchange in question. Section 386.020(4) defines basic local telecommunications service as a "two-way switched voice service within a local

¹ See, *In the Matter of the Application of Sprint Missouri, Inc. for Competitive Classification Under Section 392.245.5 RSMo (2005)*, Case No. IO-2006-0092, Dissenting Opinion of Commissioner Steve Gaw filed October 6, 2005.

calling scope” and specifically excludes those services offered either for an additional monthly fee or with a toll charge. As such, if a wireline customer in the exchange is not able to complete a call to a customer of the wireless carrier with a billing address in that exchange without incurring a toll charge, then the wireless provider should not be considered to be providing basic local telecommunications service within the exchange.

In its Report and Order, the majority specifically recognizes that the record provides no basis for finding wireless competition in any of the exchanges except for Macon.

In only one case – U.S. Cellular in the Macon Exchange – was Staff able to verify that any of the wireless providers implicated in this case has a block of local numbers. Other arrangements can also result in a wireline-to-wireless call being a non-toll call, such as where the wireless number is a local number that has been ported to the wireless provider or where the wireless provider has a Type 1 interconnection with the incumbent in that exchange. Still another method would be the existence of an EAS route between the subject exchange and another exchange where there may be a wireless number that would permit local toll-free calling to that wireless number. However, there is no evidence that Spectra has any such methods in place in any of the five exchanges herein at issue. Based upon the record before it, the Commission finds that a call by a Spectra basic local subscriber to a wireless subscriber residing in the same exchange would only be a non-toll call with respect to the block of numbers held by U.S. Cellular in the Macon Exchange.²

Given Spectra’s inability to show the existence of two competitors in the Ewing, LaBelle, Lewistown and Savannah exchanges, one of which may be a wireless provider, I am unable to find that Spectra has met the requirements of Section 392.245.5. As such, I must dissent from the majority’s Report and Order.

² See, *In the Matter of Spectra Communications Group, LLC, d/b/a CenturyTel’s Request for Competitive Classification Pursuant to Section 392.245.5, RSMo (2005)*, Report and Order, issued October 4, 2005, at page 15.

Respectfully submitted,



Steve Gaw
Commissioner

Dated at Jefferson City, Missouri,
on this 19th day of October, 2005.