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DEC 13 2004

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Public
Service Commission

Ronald MacKenzie
Complainant,

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Case IC-2004-0608

v.

Sprint Missouri, Inc., d/b/a Sprint
Respondent

COMPLAINANT'S RESPONSE TO COMMISSION'S ORDER TO SHOW CAUSE

Comes now Ronald MacKenzie, ("Complainant"), respectfully states the following response to the Public Service Commission's Order to show Cause.

From the onset of the Complainant's dealings with the Missouri Public Service Commission, a common sense approach to the proper line height was undertaken. In doing so the Complainant has sited the proper National Electrical Safety Code (NESC) and provided details accounts of the entire history of the Complaint. The Commission Staff reviewed the case and provided its "opinion" on how the Commission should proceed. The Complainant reviewed the Commission Staff's findings and has concerns with the following items.

1. Paragraph 12 of the Staff Investigation and Report, states "By review of the record and its investigation, Staff has determined that the Complainant has relied upon the appropriate NESC rule; however, it would be inappropriate to apply the rule in a vacuum, without further review of the application of the NESC and the Sprint General Exchange Tariff." The Complainant does not understand how the rule is being applied in a vacuum. Sprint itself operates in a "vacuum" since it operates as a natural monopoly, regulated by the Commission itself. The Complainant did not see any detailed review of the Sprint General Exchange Tariff besides the reference to Section 8, IV, Special Construction of Sprint's General Exchange Tariff. The Complainant will address Section 8, IV, Special Construction of Sprint's General Exchange Tariff in a later section.
2. Paragraph 13 references the "NESC, Rule 013, Application, Paragraph B, 2, which states "Existing installations, including maintenance replacements, that currently comply with prior editions of the code, need not be modified to comply with these rules except as may be required for safety reasons..." The Staff goes on to state "There is nothing in the record or discovered during this investigation indicating that Sprint was not in previous compliance..." How is previous

compliance relevant in this matter? In summary, the NESC clearly states the administrative body can require the line be raised for safety reasons. Again as previously stated by the Complainant, the owner of the line should be responsible for safe passage under the line according to the NESC.

3. Paragraph 14 refers to Sprint's General Exchange Tariff, P.S.C. No.22, Section 8, IV, Special Construction. The Staff states "Because of the Complainant's construction activities which changed the applicable NESC standard, the request for modification is a special type of construction, and therefore the Company can charge the Complainant for those costs." The Special Construction Tariff states "When a special type of construction is desired by a customer, such as when underground service connections are desired in places where aerial drop wires are regularly used to reach a customer's premises...." The Complainant does not see any reference to maintenance or for cases where the line does meet safety requirements as stated in the NESC. If the Staff is making the assumption that it does apply to NESC then what data does the Staff have to validate this assumption? The tariff also clearly refers to construction or modification requests that 1. Is not normally used in the area and 2. Service connections that reach a customer's premises. The Complainant is not asking, as previously stated in documentation sent to the Commission, to change what is commonly used in the area (overhead cables). Also this matter does not involve any line reaching the customer's premises. This matter deals with communication lines that service an area and are not directly tied to the Complainant's premises. The wording in the tariff itself is extremely Vague. It almost appears that the staff is tying the word construction to its decision. The Tariff also does not appear to deal with safety issues.
4. Paragraph 15 generally states that the line does not meet NESC and since the landowners decided to live on their land, the landowner should bear the responsibility of raising the line. The Complainant's issue with this again, goes back to the common sense approach. In life, owners of property are typically responsible for that property. An example would be the land owner liability. In general terms, landowners are typically responsible for injuries occurring on their property if reasonable action was not taken to prevent them. With this in mind, it appears unreasonable to conclude that the landowner is responsible for the line since he does not own it.

The Complainant would also like to point out to the commission that no access to the property, based on the NESC proscribed line height is provided. The Complainant could not have chosen an alternative location which would suit the NESC. All line surrounding the property is 9.5 feet or below. Staff should have noted this when visiting the property.

The Complainant would also like the Commission to examine what Sprint charges consumers for telephone service. The Complainant understands that a subscriber line charge exists so that telephone companies can be compensated for some of the costs associated with the installation and maintenance of telephone lines and poles that link customers to the network. It is reasonable to assume that maintenance fees are included in consumer rates; however, based on the Staff's decision, the Complainant feels the Staff should be compelled to review Sprint's rates to ensure consumers are not being charged more than what is reasonable.

The Complainant would again like to remind the Commission that he is not asking for any special changes to the existing overhead cables but rather the owner, the responsible party, meet safety standards per the NESC. Based on the information provided in this response, the complainant again asks the Commission to require the Respondent to raise the telecommunication line to the safely prescribed height as stated in the NESC at the company's cost.

Respectfully submitted on December 10, 2004



Ronald MacKenzie

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