

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Sprint Missouri, Inc.,)
for Competitive Classification Under Section 392.245.5,) **Case No. IO-2006-0092**
RSMo (2005).)

ORDER GRANTING MOTION TO AMEND APPLICATION,
GRANTING MOTION FOR EXPEDITED TREATMENT,
GRANTING IN PART AND DENYING IN PART REQUEST FOR NOTICE,
AND AMENDING PROCEDURAL SCHEDULE

Issue Date: September 13, 2005

Effective Date: September 13, 2005

Syllabus: This order grants the motion of Sprint Missouri, Inc., to amend its application by deleting the Ft. Leonard Wood exchange. The order also grants the Office of the Public Counsel's request for expedited treatment. In addition, the order grants in part and denies in part the Office of the Public Counsel's request for a notice and comment period. Finally, the order amends the remaining procedural schedule.

On August 30, 2005, Sprint Missouri, Inc., filed its application with the Missouri Public Service Commission for competitive classification of certain services in several exchanges within its service territory. The application was filed pursuant to Subsection 392.245.5, RSMo, modifications to which became effective on August 28, 2005. Because it must make a determination within thirty days, the Commission set an expedited procedural schedule in this matter.

On September 9, 2005, Public Counsel asked the Commission to send notice of the proceeding "to specific news media that is distributed or broadcast with the exchanges

for which Sprint seeks reclassification.” In addition, Public Counsel requested that the Commission establish a time for public comments to be sent to the Office of the Public Counsel. Sprint Missouri, Inc., filed a response on September 9, 2005.

In its response, Sprint argued that:

Allowing public comment, as suggested by Office of the Public Counsel, will have no bearing on whether two qualifying entities are providing local voice service. Thus, there is no rational basis for a public comment period. The OPC’s Request and Motion should be denied.

The Commission has reviewed the requests of Public Counsel and the response of Sprint. The Commission finds that while public comment is generally an aid to the Commission in its proceedings, the Commission in making its determination in this case cannot consider public favor or opposition to the current application. The Commission must determine “whether the requisite number of entities are providing basic local telecommunications service to business or residential customers, or both, in an exchange”¹ Thus, regrettably, the Commission finds that public comment in favor or opposition to the application would serve no purpose in the current proceeding because the Commission may only determine if the requisite numbers of competitors are providing service and, if so, the tariffs “shall [be] approve[d].” Therefore, the Commission will deny Public Counsel’s request for a formal public comment period. The Commission does find, however, that every attempt should be made to inform the public of the matter. Therefore, the Commission will direct its Public Information Office to send a second notice of this application specifically to the local news media serving these exchanges. In addition, the Commission grants Public Counsel’s request for expedited treatment.

¹ Subsection 392.245.5, RSMo (2005).

On September 9, 2005, Sprint filed a Motion to Amend Application. Sprint moves to amend its application by removing its request to have the Ft. Leonard Wood exchange classified as competitive. By removing this exchange, Sprint is limiting the number of exchanges that must be reviewed, and thus, no harm is caused by this request. Therefore, the Commission finds that Sprint's request to amend its application shall be granted.

On that same date the Staff of the Missouri Public Service Commission filed its recommendation² that the Commission approve Sprint's application, as amended. Fidelity Communication Services I, Inc., filed objections to the application as originally submitted. Fidelity stated, however, that it did not object to the application as amended. No other objections were received.

Because this matter is a case of first impression before the Commission, and due to the expedited nature of the proceeding, the Commission has determined that it will proceed with the hearing scheduled for September 15, 2005. However, the parties are excused from filing written testimony, pretrial briefs, and the rest of the procedural schedule. Each party shall appear at the hearing prepared to put on the evidence necessary to make its case. The parties may file proposed findings of fact and conclusions of law if desired.

IT IS THEREFORE ORDERED:

1. That the motion for expedited treatment filed by the Office of the Public Counsel is granted.

² On September 13, 2005, Staff filed a verification of its Memorandum.

2. That the request for additional notice to the affected exchanges and to establish a formal public comment period is granted in part and denied in part as described in the body of this order.

3. That the Commission's Public Information Office shall send further notice of this application to the news media serving the exchanges that are the subject of this application.

4. That Sprint Missouri, Inc.'s Motion to Amend Application is granted.

5. That the remaining procedural schedule, with the exception of the hearing date, is canceled.

6. That the parties shall appear at a hearing on September 15, 2005, beginning at 8:30 a.m., in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. The Governor Office Building meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in the hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 prior to the hearing.

7. That if the parties wish to file proposed findings of fact and conclusions of law they must do so no later than September 20, 2005.

8. That this order shall become effective on September 13, 2005.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Nancy Dippell, Senior Regulatory Law
Judge, by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 13th day of September, 2005.