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March 28, 2003

Missouri Public Service Commission
Attn: Secretary of the Commission
200 Madison Street, Suite 100
P. O. Box 360
Jefferson City, MO 65102-0360

FILED³

MAR 28 2003

Missouri Public
Service Commission

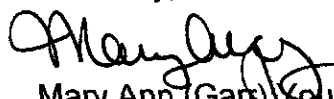
RE: Case No. IO-2003-0281
The Investigation of the State of Competition in the Exchanges
of Sprint Missouri, Inc.

Dear Secretary:

Enclosed please find an original and five copies of NALA/PCA's Response to Sprint's Motion for Joinder of Parties for filing with the Commission in the above-referenced case.

Thank you for your assistance in processing this filing. Copies are being served on all parties of record, including the Commission's General Counsel, and the Office of Public Counsel. Please contact me at 634-8109 if there are any questions.

Sincerely,


Mary Ann (Gann) Young

Enclosure

cc: General Counsel
Office of Public Counsel
Parties of Record
Glenn Richards/Susan Hafeli

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MAR 28 2003

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

Missouri Public
Service Commission

In the Matter of the Investigation of the)
State of Competition in the Exchanges) Case No. IO-2003-0281
of Sprint Missouri, Inc.)

**NALA/PCA'S RESPONSE TO SPRINT'S MOTION
FOR JOINDER OF PARTIES**

Comes Now National ALEC Association/Prepaid Communications Association ("NALA/PCA") by and through counsel and pursuant to 4 CSR 240-2.080 (15), and files its Response to Sprint's Motion for Joinder of Parties of March 17, 2003 in this case. NALA/PCA strongly opposes Sprint's Motion for Joinder of Parties and in support of its position states as follows:

1. Sprint cites no authority as a basis for its "Motion for Joinder of Parties." 4 CSR 240-2.080 (3) requires that, "Each pleading shall include a clear and concise statement of the relief requested and specific reference to the statutory provision or other authority under which relief is requested." No such statement or reference to supporting authority appears in Sprint's Motion for Joinder of Parties.
2. The Missouri Public Service Commission has not adopted a rule governing joinder. In the absence of a Missouri Public Service Commission rule on the subject, the Commission should look to the Missouri Supreme Court Rules as authority. Application of those rules would compel the Commission to deny Sprint's Motion here.

3. Missouri Supreme Court Rule 52.04, provides as follows:

RULE 52.04 JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION

(a) Persons to Be Joined if Feasible. A person shall be joined in the action if: (1) in the person's absence complete relief cannot be accorded among those already parties, or (2) the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person's absence may: (i) as a practical matter impair or impede the person's ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the claimed interest.

4. Sprint does not allege, nor could it, that the absence of the Missouri-certificated members of NALA/PCA as individual parties to the case would prevent "complete relief" from being accorded among those already parties. If it would, then every certificated CLEC carrier in Missouri (or at least every one authorized in Sprint exchanges) would have to be joined as necessary parties, an opportunity the Commission has already declined. Nor does or could Sprint allege, alternatively, that the absence of the individual NALA/PCA members may "impair [Sprint's] ability to protect [their] interest" or leave existing parties subject to a "substantial risk" of incurring multiple "inconsistent obligations." Thus, Sprint is not entitled to joinder under the Missouri Supreme Court Rules. No legal

authority exists for Sprint's effort to conscript additional, individual CLECs into this case.

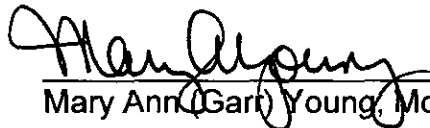
5. Sprint's Motion provides no explanation as to why Sprint believes the participation of the seven, Missouri-members of NALA/PCA as individual parties to this case is necessary, or what purpose joinder is intended to serve. Nor does Sprint offer any reason it "anticipates discovery will be required for all seven of the above CLECs," as it stated in the Motion.
6. The Commission has not previously joined all carriers holding basic local exchange certificates authorizing service in Sprint exchanges into this case. In its *Order Establishing Case, Directing Notice, and Joining Parties, But Declining to Establish a Procedural Schedule*, issued in this case on February 14, 2003, the Commission ordered that notice of the case be sent to 75 carriers identified by Sprint as having "certificates of service authority, interconnection agreements, and/or tariffs allowing them to offer local services in Sprint exchanges." (*Sprint Missouri, Inc.'s Motion for Joinder of Parties*, February 11, 2003, page 1, paragraph 3). All seven of the carriers which Sprint now seeks to join as individual parties to this proceeding were on the list to which the Commission ordered notice to be sent. In response to Sprint's request, the Commission added only three CLECs as parties to the case: Fidelity Communications Services, Inc., Green Hills Telecommunications Services, and ExOp Inc. Having declined to request joinder of these seven CLECs in its first Motion for

Joinder of Parties, Sprint should not now have a second "bite at the apple" in seeking the forced joinder of these carriers as individual parties.

7. NALA/PCA is concerned that Sprint seeks joinder only in retribution for NALA/PCA's intervention in this case. If the individual NALA/PCA members are joined, Sprint may conduct "fishing expeditions" and inundate these competitive carriers with costly discovery, effectively punishing them for their membership in NALA/PCA and its intervention in this case. Significantly, these carriers previously declined the opportunity to intervene in this docket in their individual capacities. NALA/PCA should have the opportunity to raise legitimate concerns in this docket without the prospect of forcing its individual members to expend substantial resources in response to Sprint's litigation efforts. Such an involuntary diversion of these carriers' resources undermines these carriers' ability to serve Missouri consumers and is therefore neither in the public interest nor pro-competitive.
8. In conclusion, absolutely no justification or authority has been provided by Sprint in support of its request to forcibly join additional CLECs as individual parties to this case merely by virtue of their membership in an association which has intervened as an association, namely NALA/PCA.

WHEREFORE, NALA/PCA respectfully requests that the Commission deny Sprint's Motion for Joinder of Parties in this case.

Respectfully submitted,



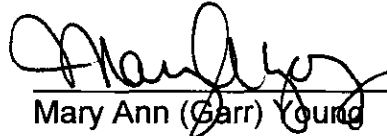
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Counsel for National ALEC
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this document has been hand delivered or mailed, postage prepaid, this 28th day of March 2003, to each party shown in the Service List attached hereto.



Mary Ann (Garr) Young

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CASE NO. IO-2003-0281

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