

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

In the Matter of the Tariff Filing of	)	
Sprint Missouri, Inc., d/b/a Sprint to	)	Case No. IT-2003-0292
Increase the Rate for the Metropolitan	)	Tariff No. J1-2003-1401
Calling Area Plan.	)	

**SOUTHWESTERN BELL TELEPHONE, L.P.,  
D/B/A SBC MISSOURI'S INITIAL BRIEF**

**EXECUTIVE SUMMARY**

On January 28, 2003, Sprint Missouri, Inc., d/b/a Sprint ("Sprint") filed a tariff sheet to increase optional Metropolitan Calling Area ("MCA") rates for both its residential and business customers ("Sprint's MCA Tariff").<sup>1</sup> The Missouri Public Service Commission ("Commission") must approve Sprint's MCA Tariff because Sprint complied with all of the provisions set forth in Section 392.245, RSMo. 2000.<sup>2</sup> Specifically, Section 392.245(11) requires the Commission to approve, within 30 days, a tariff filed by a large incumbent local exchange company ("ILEC") which changes the rate(s) the large ILEC charges for nonbasic telecommunications services, so long as the large ILEC provides notice to the Commission and files tariffs establishing rates for such services that are not in excess of the maximum allowable price established for such services. Section 392.245(3) provides that the initial "maximum allowable prices" for a price cap regulated company "shall be those in effect on December thirty-first of the year preceding the year in which the company is first subject to regulation under this section."

---

<sup>1</sup> P.S.C. Mo.-No. 22, General Exchange Tariff, Section 48, Second Revised Page 4, issued January 28, 2003, effective February 28, 2003 (currently pending).

<sup>2</sup> All statutory citations are to RSMo. 2000 unless specifically noted otherwise.

On August 21, 1999, Sprint became subject to price cap regulation.<sup>3</sup> Thus, the initial "maximum allowable prices" established for Sprint were those rates in effect on December 31, 1998 (i.e., December thirty-first of the year (1998) preceding the year (1999) in which Sprint first met the threshold criteria to be subject to price cap regulation). Thereafter, pursuant to Section 392.245(11), Sprint may increase the maximum allowable price for nonbasic telecommunications service a maximum of eight percent annually.

Sprint's current rates for optional MCA service are those rates that were in effect on December 31, 1998. Through Sprint's MCA Tariff, Sprint seeks to increase its rates for optional MCA service for its residential and business customers by no more than eight percent (8%). Since Sprint provided notice to the Commission and filed tariffs establishing rates for optional MCA service that are not in excess of the maximum allowable price for nonbasic telecommunications service, the Commission must approve Sprint's MCA Tariff.

## **ARGUMENT**

### **I. Background**

On December 23, 1992, the Commission issued its Report and Order in In the Matter of the Establishment of a Plan for Expanded Calling Scopes in Metropolitan and Outstate Exchanges, Case No. TO-92-306, December 23, 1992. In that Report and Order, the Commission approved a Joint Recommendation, filed by Southwestern Bell Telephone Company (now known as Southwestern Bell Telephone, L.P., d/b/a SBC Missouri "SBC Missouri"), GTE North Incorporated, GTE Missouri, GTE of Eastern Missouri, GTE Systems of Missouri (now sold to Spectra Communications and CenturyTel), and United Telephone Company of Missouri (now known as Sprint), thereby establishing MCA service in certain

---

<sup>3</sup> See Order Approving Price Cap Application, Case No. TO-99-359, August 21, 1999.

exchanges in Kansas City, St. Louis, and Springfield.<sup>4</sup> With regard to optional MCA service in Kansas City, the Commission approved the following MCA rates<sup>5</sup>:

<u>Kansas City</u>	Residential	Business	
MCA-3	\$12.35	\$24.80	Optional Additive
MCA-4	\$21.55	\$46.75	Optional Additive
MCA-5	\$32.50	\$70.70	Optional Additive

On December 3, 1993, Sprint filed its tariff for optional MCA service.<sup>6</sup> As ordered by the Commission, Sprint established optional MCA rates as outlined in the chart above.<sup>7</sup> On August 21, 1999, Sprint became a price cap company pursuant to Section 392.245, Missouri's Price Cap Statute.<sup>8</sup>

On January 28, 2003, Sprint filed a tariff sheet to increase optional MCA rates for both its residential and business customers ("Sprint's MCA Tariff").<sup>9</sup> Specifically, Sprint seeks to increase optional MCA rates for its residential and business customers as follows:<sup>10</sup>

<u>Kansas City</u>	Residential	Business	
MCA-3	From \$12.35 to \$13.00 (a 5.3% increase)	From \$24.80 to \$26.78 (an 8% increase)	Optional MCA Additive Rate
MCA-4	From \$21.55 to \$23.00 (approximately a 6.7% increase)	From \$46.75 to \$50.49 (an 8% increase)	Optional MCA Additive Rate
MCA-5	From \$32.50 to \$35.00 (a 7.7% increase)	From \$70.70 to \$76.35 (approximately an 8% increase)	Optional MCA Additive Rate

<sup>4</sup> Report and Order, In the Matter of the Establishment of a Plan for Expanded Calling Scopes in Metropolitan and Outstate Exchanges, Case No. TO-92-306, December 23, 1992, page 54; Stipulated Facts, paragraph 2.

<sup>5</sup> Report and Order, In the Matter of the Establishment of a Plan for Expanded Calling Scopes in Metropolitan and Outstate Exchanges, Case No. TO-92-306, December 23, 1992, Attachment 6, page 63; Stipulated Facts, paragraph 2. Id. at Attachment 6, page 63.

<sup>6</sup> P.S.C. Mo.-No. 22, General Exchange Tariff, Section 48, Original Page 4, issued December 3, 1993, effective January 8, 1994; Stipulated Facts, paragraph 3.

<sup>7</sup> Id.

<sup>8</sup> See Order Approving Price Cap Application, Case No. TO-99-359, August 21, 1999; Stipulated Facts, paragraph 5.

<sup>9</sup> P.S.C. Mo.-No. 22, General Exchange Tariff, Section 48, Second Revised Page 4, issued January 28, 2003, effective February 28, 2003; Stipulated Facts, paragraph 6.

<sup>10</sup> Id.

On February 20, 2003, the Commission entered its Order Regarding Tariffs, suspending Sprint's proposed tariff until November 28, 2003, in order to further investigate whether the proposed tariff is lawful and reasonable.<sup>11</sup>

On February 25, 2003, SBC Missouri filed its Application to Intervene.

On February 27, 2003, the Commission entered its Order Setting Prehearing Conference, setting a Prehearing Conference for March 13, 2003. At the Prehearing Conference, all of the participants agreed that this case should be submitted on briefs. Subsequently, on March 19, 2003, Sprint filed its Proposed Procedural Schedule.

On April 1, 2003, the Commission issued its Order Establishing Procedural Schedule. Specifically, the Commission ordered: (1) Initial Briefs and Stipulated Facts be filed by April 11, 2003; (2) Reply Briefs by Opponents of Tariff be filed by May 2, 2003; and (3) Response Briefs by Supporters of the Tariff be filed by May 16, 2003.

On April 4, 2003, the Commission entered its Order Granting Intervention, granting SBC Missouri's Application to Intervene.

II. The Commission Must Approve Sprint's MCA Tariff Since Sprint Complied With All Of The Provisions Set Forth in 392.245(11). Specifically, Sprint Provided Notice To The Commission, Filed Its Tariffs Establishing Rates For Optional MCA Service, And Did So In A Manner Such That The Rates It Established For Optional MCA Service Do Not Exceed The Maximum Allowable Prices Pursuant to Section 392.245(11).

The Commission must approve Sprint's MCA Tariff since Sprint complied with all of the provisions contained in Section 392.245(11). Section 392.245(11) provides in pertinent part:

The maximum allowable prices for nonbasic telecommunications services of a large, incumbent local exchange telecommunications company regulated under this section shall not be changed until January 1, 1999, or on an exchange-by-exchange basis, until an alternative local exchange telecommunications company is certified and providing basic local telecommunications service in such exchange, whichever is earlier. Thereafter, the maximum allowable prices for nonbasic telecommunications services of an incumbent local exchange

---

<sup>11</sup> Stipulated Facts, paragraph 6.

telecommunications company may be annually increased by up to eight percent for each of the following twelve-month periods upon providing notice to the commission and filing tariffs establishing the rates for such services in such exchanges at such maximum allowable prices. This subsection shall not preclude an incumbent local exchange telecommunications company from proposing new telecommunications services and establishing prices for such new services. An incumbent local exchange telecommunications company may change the rates for its services, consistent with the provisions of section 392.200, but not to exceed the maximum allowable prices, by filing tariffs which shall be approved by the commission within thirty days, provided that any such rate is not in excess of the maximum allowable price established for such service under this section. (Emphasis added).

Thus, pursuant to Section 392.245(11), the Commission must approve, within 30 days, a tariff filed by a large ILEC which changes the rate(s) a price cap regulated ILEC charges for nonbasic telecommunications services, so long as the price cap regulated ILEC: (1) provides notice to the Commission; and (2) files tariffs establishing rates for such services that are not in excess of the maximum allowable price established for such service.

Section 392.245(3) provides that the initial "maximum allowable price" for a price cap regulated company "shall be those in effect on December thirty-first of the year preceding the year in which the company is first subject to price cap regulation." On August 21, 1999, Sprint became subject to price cap regulation. Thus, Sprint's initial maximum allowable prices were those in effect on December 31, 1998, the year preceding the year in which it was first subject to price cap regulation.

Sprint's current rates for optional MCA service for both its residential and business customers are the same rates that were in effect on December 31, 1998. Section 392.245(11) provides that after January 1, 1999, the maximum allowable prices for nonbasic telecommunications service of an ILEC "may be annually increased by up to eight percent for each of the following twelve-month periods upon providing notice to the commission and filing tariffs establishing the rates for such service in such exchange at such maximum allowable

prices." Thus, after January 1, 1999, it is the price cap regulated company, and not the Commission, which is given the authority to increase its rates up to 8% per year and to charge any price not in excess of the maximum allowable rate. It is undisputed that Sprint is a price cap regulated company. It is also undisputed that Sprint provided notice to the Commission and filed tariffs to increase its rates for optional MCA service by amounts that do not exceed the eight percent (8%) per year cap. Sprint, quite simply, proposes to charge rates that are permissible for a non-basic service such as optional MCA service. Thus, since Sprint complied with all of the provisions set forth in Section 392.245(11), the Commission must approve Sprint's MCA Tariff.

### **CONCLUSION**

The Commission must approve Sprint's MCA Tariff since Sprint, as a price cap regulated company, complied with all of the provisions set forth in Section 392.245(11). Specifically, since Sprint provided notice to the Commission, filed tariffs increasing rates by an amount not in excess of eight percent (8%) per year, and did so in a manner such that the rates it established for optional MCA service do not exceed the maximum allowable prices pursuant to Section 392.245(11), the Commission must approve Sprint's MCA tariff.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.

By: 

PAUL G. LANE #27011

LEO J. BUB #34326

ANTHONY K. CONROY #35199

MIMI B. MACDONALD #37606

Attorneys for Southwestern Bell Telephone, L.P., d/b/a  
SBC Missouri

One SBC Center, Room 3510

St. Louis, Missouri 63101

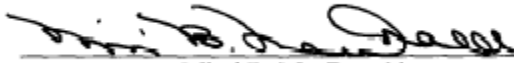
314-235-4094 (Telephone)

314-247-0014 (Facsimile)

[mimi.macdonald@sbccom](mailto:mimi.macdonald@sbccom)

**CERTIFICATE OF SERVICE**

Copies of this document were served on the following parties by e-mail on April 11,  
2003.

  
Mimi B. MacDonald

MARC POSTON  
MISSOURI PUBLIC SERVICE COMMISSION  
P.O. BOX 360  
JEFFERSON CITY, MO 65102

MICHAEL F. DANDINO  
OFFICE OF THE PUBLIC COUNSEL  
PO BOX 7800  
JEFFERSON CITY, MO 65102

LISA CREIGHTON-HENDRICKS  
SPRINT MISSOURI, INC.  
6450 SPRINT PARKWAY  
MS:KSOPHN0212-2A253  
OVERLAND PARK, KANSAS 66251