IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

State of Missouri ex rel Acting Public Counsel John Coffman, Relator, vs. Public Service Commission of the State of Missouri, a state agency, and its members Kelvin Simmons, Connie Murray, Sheila Lumpe, Steve Gaw, in their official capacity, Respondents Sprint Missouri, Inc. Intervenor.	)	**Case Nos. 04CV323045** **Division II**

JUDGMENT AND ORDER

The Court, having reviewed the Writ of Review, the Record before the Public Service Commission, the briefs of the parties and the oral arguments of counsel, enters Judgment in the case, reversing the Public Service Commission's Order Approving Tariffs in Case No. IT-2004-0134 entitled *In the Matter of the Tariff Filings of Sprint Missouri, Inc d/b/a Sprint to Modify Rates in Accordance with Sprint's Price Cap Regulation Pursuant to Section 392.245 RSMo 2000* and remanding the case to the Public Service Commission for making findings and fact and conclusions of law consistent with this Judgment.

The Public Service Commission in its Order Approving Tariffs (PSC Case No. IT-2004-0134) approved Sprint's rebalancing tariffs for 2003 and linked its approval to its prior decision in Case No. TR-2002-251. In *State ex rel. Coffman v. PSC*, 121 S.W.3d

534, 540-542 (Mo. App. 2003), the Court of Appeals reversed and remanded Case No. TR-2002-251 for further proceedings because "the Commission's order fails to provide sufficiently detailed findings to permit this Court to conduct a meaningful review." The Court of Appeals did not rule on the merits of OPC's claims in *State ex rel. Coffman v. PSC.*

The Commission is required to include in its decisions and orders findings of fact that are not "completely conclusory." *AT&T Communications of the Southwest, Inc. v. Public Service Commission*, 62 SW3d 545, 546-7 (Mo App. 2001). The findings must articulate the "basic facts from which [the Commission] reached its ultimate conclusions" to decide the case. *State ex rel. Noranda Aluminum, Inc. v. Public Service Commission,* 24 SW3d 243, 244 (Mo App 2000). The findings must be sufficient so that a reviewing court can determine how the PSC decided the controlling issues in the case. *State ex rel. Laclede Gas Co. v. Public Service Commission*, 103 SW3d 813, 817 (Mo App. 2003). Based upon the decision in *State ex rel. Coffman v. PSC*, supra, at 540-542 (Mo. App. 2003), in light of the references to the Order in TR-2001-251, now reversed and remanded, the Court finds that the Commission's Order in Case No. IT-2004-0134 rebalancing rates lacks sufficiently detailed findings to permit a meaningful review under Section 386.510, RSMo. Therefore, the Court makes no determination on the merits of the allegations set forth in Public Counsel's Petition for Writ of Review. The Court reverses the Order and remands the case to the Commission to make findings of fact and conclusions of law consistent with the requirements of findings and fact and conclusions of law to be made in the remand of the In *State ex rel. Coffman v. PSC* matter.

On remand, the Commission is not required to hold a hearing and accept additional evidence, but, if a majority of the Commission desires to do so, it may reopen the case and hear additional evidence. The Commission may make the required findings of fact and conclusions of law based upon the present record.

SO ORDERED:

Richard Callahan, Judge
Division II, Cole County Circuit Court

Date: October 20, 2004