

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

<b>In the matter of the tariff filing of Sprint</b>	)	
<b>Missouri, Inc. d/b/a Sprint to increase the</b>	)	<b>Case No. TT-2002-447</b>
<b>Residential and business monthly rate for</b>	)	<b>Tariff No. 200200766</b>
<b>The Metropolitan Calling Area (MCA) Plan.</b>	)	

**MOTION FOR RECONSIDERATION OF COMMISSION ORDER SUSPENDING  
TARIFF AND SCHEDULING A PREHEARING**

COMES NOW Sprint Missouri, Inc. d/b/a Sprint ("Sprint") pursuant to 4 CSR-240.160 and requests reconsideration of the Commission April 11, 2002 Order. In support of this request, Sprint states as follows:

1. On March 13, 2002, Sprint filed revised tariff pages to increase the residential and business monthly rate for the Metropolitan Calling Area Plan to an amount at or below the maximum allowable price previously approved by this Commission. On March 19, 2002, OPC filed a motion to reject the tariffs or in the alternative, to suspend the tariffs and request an evidentiary hearing. In its motion, OPC provides two paragraphs and argues that the proposed increase is in excess of the maximum allowable rates. No other argument was raised by OPC. On March 29, 2002, Sprint filed a response to OPC's motion to suspend arguing that its tariff was lawful and within the maximum allowable rate. On April 1, 2002, Staff filed its recommendation to approve the tariff and concurred with Sprint's response to OPC's motion to suspend. On April 11, 2002, the Commission issued its Order suspending the tariff and setting a pre-hearing conference.

2. The Commission's Order should be reconsidered and modified, as the law requires approval of Sprint's tariff. In its tariff revisions, Sprint is merely moving its MCA rates to a

level **at or below** the maximum allowable prices previously approved by the Commission on December 6, 2001.

3. Section 392.245 RSMo contains the specific provisions of Missouri law under which incumbent local exchange companies can elect to enter price cap regulation if certain conditions are met. Section 392.245.1 provides that by employing the price cap regulations, the Commission satisfies its obligation to ensure that rates for telecommunications services are just, reasonable and lawful. Section 392.245.5 RSMo specifically addresses how a price cap company can change its rates for non-basic telecommunications services.

4. Section 392.245.5 RSMo provides:

"An incumbent local exchange company may change the rates for its services, consistent with the provisions of 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 prices established for such services under this section." (Emphasis added).<sup>1</sup>

Under this provision, if the rates contained within Sprint's tariff filing are not in excess of the maximum allowable prices, Commission approval of the tariff is required within 30 days.

5. In August, 1999, Sprint entered price cap regulations. Since entering price cap regulation, Sprint has filed twice to increase its maximum allowable prices. In December 2000, the Commission approved revisions to Sprint's P.S.C. MO. No.22 that related to its MCA offering. The tariff revisions set the following maximum allowable prices:

50. Metropolitan Calling Area (MCA)

Service Classification	Tariff Reference	Maximum Allowable Rate
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<sup>1</sup> Section 392.200 RSMo addresses notice and non-discrimination. OPC did not raise any allegation that Sprint has not complied with Section 392.200 RSMo. Further, given that the price cap statute specifically satisfies any inquiry into "just and reasonable rates" if the price cap provisions are followed, there should be no issues under Section 392.200 that are relevant to this case.

50.1	Kansas City MCA-3			
50.1.1	Residence	Non-Basic	48.V.1	\$13.33
50.1.2	Business	Non-Basic	48.V.1	\$26.78
50.2	Kansas City MCA-4			
50.2.1	Residence	Non-Basic	48.V.2	\$23.27
50.2.2	Business	Non-Basic	48.V.2	\$50.49
50.3	Kansas City MCA-4			
50.3.1	Residence	Non-Basic	48.V.3	\$35.10
50.3.2	Business	Non-Basic	48.V.3	\$76.35

The tariff filing did not alter the monthly rates for MCA service found in Section 48 of Sprint's tariff. The Commission found Sprint's maximum allowable prices to be in compliance with the Missouri statutes and allowed a maximum allowable price separate and apart from the monthly rate for MCA service.

6. On December 11, 2001, the Commission approved revisions to Sprint's Tariff P.S.C. MO. No.22 that related to its MCA. The tariff revisions found in Section 50 of Sprint's tariff set the following maximum allowable rates:

50.	Metropolitan Calling Area (MCA)			
		Service Classification	Tariff Reference	Maximum Allowable Rate
50.1	Kansas City MCA-3			
50.1.1	Residence	Non-Basic	48.V.1	\$14.39
50.1.2	Business	Non-Basic	48.V.1	\$28.92
50.2	Kansas City MCA-4			
50.2.1	Residence	Non-Basic	48.V.2	\$25.13
50.2.2	Business	Non-Basic	48.V.2	\$54.52
50.3	Kansas City MCA-4			
50.3.1	Residence	Non-Basic	48.V.3	\$37.90
50.3.2	Business	Non-Basic	48.V.3	\$82.45

The tariff filing did not alter the monthly rates for MCA service found in Section 48 of Sprint's tariff. As it did in December of 2000, the Commission found Sprint's maximum allowable rates to be in compliance with the Missouri statutes and approved maximum allowable prices separate and apart from the monthly rate for MCA service.

7. Section 392.245.11 RSMo defines the maximum allowable prices and provides that it is equal to an increase of up to 8 percent per year. The increase approved in December 2000 was within the 8 percent allowable increase over Sprint's MCA maximum rates effective in December of 1999. The same was true for the 2001 filing – the increases were within the 8 percent allowed by statute.

8. In the current tariff filing, Sprint is raising its MCA rates to the following:

50. Metropolitan Calling Area (MCA)

		Service Classification	Tariff Reference	Rate
50.1	Kansas City	MCA-3		
50.1.1	Residence	Non-Basic	48.V.1	\$14.00
50.1.2	Business	Non-Basic	48.V.1	\$28.92
50.2	Kansas City	MCA-4		
50.2.1	Residence	Non-Basic	48.V.2	\$25.00
50.2.2	Business	Non-Basic	48.V.2	\$54.52
50.3	Kansas City	MCA-4		
50.3.1	Residence	Non-Basic	48.V.3	\$35.00
50.3.2	Business	Non-Basic	48.V.3	\$72.70

As a comparison between the previously approved and lawful rates and the proposed tariff revisions reveal, Sprint is only raising the actual rate to a level that is **either at or below** these **2001 approved and lawful maximum allowable prices**. Therefore, Sprint's proposed tariff revisions fall within the required approval of Section 392.245.5 RSMo. Furthermore, *this Commission has already found these rates to be in compliance with the applicable statutes.*

9. The Missouri statutes clearly allow price cap companies to increase rates up to the maximum allowable prices. Sprint maximum allowable price has been approved by this Commission and Section 392.245.5 RSMo gives Sprint the legal right to raise rates up to that level upon a thirty-day filing with the Commission.

10. Sprint is explicitly arguing that there is a difference between (1) the actual rate and (2) the maximum allowable rate. These two rates do not have to be equal and the only statutory requirement is that the actual rate be no more than the maximum allowable rate. See Section 392.245.2 RSMo. Sprint was not obligated by statute to raise its actual rates for MCA service at the time it increased its maximum allowable rates in December 2000 and 2001. Further, Sprint did not forfeit its statutory rights to eventually increase its rates up to the maximum allowable rate by choosing not to raise the actual rates in 2000 and 2001. Had Sprint chosen to raise MCA rates in December, 2000 and December, 2001 the customer would be paying the same rate today as Sprint's proposed tariff filing. Therefore, in fact, the customer has benefited from Sprint's timing for its MCA increases and Sprint has forgone additional revenues that could have been generated in 2000 and 2001.

11. Further, Sprint will be irreparably harmed by the Commission's failure to comply with the statutory mandate of Section 392.245.5 RSMo. The Commission has deprived Sprint of its legal right to charge previously approved maximum allowable rates for MCA service. This period of harm begins on May 1, 2002 (the effective date of the tariff) and will result in a substantial revenue loss for every month the Commission fails to honor the mandates in Section 392.245.5. Indeed, if this Commission fails to act by May 1, 2002, and subsequently determines that Sprint's rates are within the maximum allowable rates (as they are), Sprint has no other options to be made whole.

WHEREFORE, Sprint requests that this Commission approve its tariff revision and withdraw its motion to suspend.

Respectfully submitted,

**Sprint**

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*Don's Bergmeyer*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the above and foregoing was mailed, postage prepaid, to the parties listed below, this 16<sup>th</sup> day of April, 2002.

*Lisa Creighton Hendricks*

Lisa Creighton Hendricks

*gxb*

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