

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

Ronald MacKenzie,	)	
Complainant,	)	
vs.	)	Case No. IC-2004-0608
	)	
Sprint Missouri, Inc., d/b/a Sprint-ILEC,	)	
(Telephone)	)	
Respondent.	)	

**SPRINT RESPONSE TO COMMISSION ORDER DIRECTING FILING**

COMES NOW Sprint Missouri, Inc. ("Sprint"), and responds to the Commission Order Directing Filing of January 11, 2005 as follows:

**BACKGROUND**

1. On January 11, 2005, the Commission filed an Order Directing Filing that asked Sprint to file a copy of the easement that covers its use of Complainant's property. It should be noted that Sprint has never claimed or relied upon the existence of a written easement in any filing. Rather, the Complainant noted in his filing that Sprint had an easement on the property. Commission Staff noted in its subsequent report that Complainant had conceded the existence of a valid easement. The Complainant and Staff are correct that a long-standing and binding easement exists, but it is not written. Accordingly, Sprint cannot produce a document in response to the Commission Order Directing Filing.

**RESPONSE**

2. Sprint does not currently possess a written easement covering the use of the property located at 411 SW 1025<sup>th</sup> Road, Chilhowee, MO 64733. However, Sprint clearly has a long-established prescriptive easement on that property.

3. Sprint's prescriptive easement has been effective, binding and unchallenged for twenty years. It is well established Missouri law that, "an easement by prescription is established by use that is continuous, uninterrupted, visible, and adverse for a period of ten years." *Schrieber v. Aslinger*, 11 S.W.3d 816, 819 (Mo.App. 2000). The aerial line that crosses the Complainant's property was erected in 1975. Moreover, this aerial line has been in continuous use, is clearly visible for all to see, and has been used in an uninterrupted adverse manner since 1975. Therefore, Sprint has had prescriptive easement rights in the property since 1985.

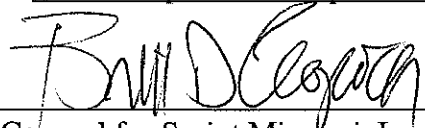
WHEREFORE, Sprint Missouri, Inc. respectfully submits its response to the Commission's Order Directing Filing and requests that the Commission dismiss the Complaint.

Respectfully submitted,

SPRINT

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By:   
Counsel for Sprint Missouri, Inc.


**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 26 day of JANUARY 2005, a copy of the above and foregoing Sprint Response to Commission Order Directing Filing was served via U.S. Mail, postage prepaid to each of the following parties:

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