

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY**

**April 3, 2001**

**CASE NO: TO-2001-459**

**Office of the Public Counsel**  
P.O. Box 7800  
Jefferson City, MO 65102

**Stephen D. Minnis**  
Sprint  
5454 W. 110<sup>th</sup> Street  
Overland Park, KS 66211

**General Counsel**  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**Paul H. Gardner**  
Goller, Gardner and Feather, P.C.  
131 East High Street  
Jefferson City, MO 65101

**Enclosed find certified copy of an ORDER in the above-numbered case(s).**

**Sincerely,**

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

**Uncertified Copies:**

**OF THE STATE OF MISSOURI**

In the Matter of the Master Network )  
Interconnection and Resale Agreement ) Case No. TO-2001-459  
Between DSLNet Communications, LLC, and )  
Sprint Missouri, Inc. )

## ORDER APPROVING INTERCONNECTION AGREEMENT

On February 22, 2001, Sprint Missouri, Inc. (Sprint) and DSLNet Communications, LLC (DSL) filed a joint application with the Commission for approval of an interconnection agreement (Agreement) under the provisions of the Telecommunications Act of 1996 (the Act).

The Commission issued an order and notice on February 28, 2001, directing any party wishing to request a hearing to do so no later than March 20, 2001. No requests for hearing were filed. The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence. *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. 1989). Since no one has requested a hearing in this case, the Commission may grant the relief requested based on the application.

## Discussion

The Commission, under the provisions of Section 252(e) of the Act, has authority to approve an interconnection agreement negotiated between an incumbent local exchange company (LEC) and a new provider of basic local exchange service. The Commission may reject an

interconnection agreement only if the agreement discriminates against nonparties or is inconsistent with the public interest, convenience and necessity.

On March 21, 2001, the Staff of the Public Service Commission (Staff) filed a Memorandum recommending that the Commission approve the submitted interconnection agreement. Staff stated in its recommendation that the Agreement meets the limited requirements of the Act in that it does not appear to discriminate against nonparties, and does not appear to be against the public interest.

Staff also indicated that the Agreement was similar to agreements approved in Case Nos. TO-2001-189 and TO-2001-321. However, Staff further indicated that this case should not be viewed as presenting an adoption of an existing interconnection agreement because modifications and substitutions had been made to the underlying agreements. Finally, Staff recommends that the Commission order the parties to submit a sequentially numbered copy of the Agreement.

### **Findings of Fact**

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

The Commission has considered the application and the supporting documentation, including Staff's recommendation. Based upon that review, the Commission has concluded that the Agreement meets the requirements of the Act in that it does not unduly discriminate against a nonparty carrier, and that implementation of

the Agreement is not inconsistent with the public interest, convenience and necessity. The Commission finds that approval of the Agreement should be conditioned upon the parties submitting any modifications or amendments to the Commission for approval pursuant to the procedure set out below.

### **Modification Procedure**

The Commission has a duty to review all resale and interconnection agreements, whether arrived at through negotiation or arbitration, as mandated by the Act. 47 U.S.C. § 252. In order for the Commission's review and approval to be effective, the Commission must also review and approve or recognize modifications to these agreements. The Commission has a further duty to make a copy of every resale and interconnection agreement available for public inspection. 47 U.S.C. § 252(h). This duty is in keeping with the Commission's practice under its own rules of requiring telecommunications companies to keep their rate schedules on file with the Commission. 4 CSR 240-30.010.

The parties to each resale or interconnection agreement must maintain a complete and current copy of the agreement, together with all modifications, in the Commission's offices. Any proposed modification must be submitted for Commission approval or recognition, whether the modification arises through negotiation, arbitration, or by means of alternative dispute resolution procedures.

Modifications to an agreement must be submitted to the Staff for review. When approved or recognized, the modified pages will be substituted in the agreement, which should contain the number of the

page being replaced in the lower right-hand corner. Staff will date-stamp the pages when they are inserted into the agreement. The official record of the original agreement and all the modifications made will be maintained by the Telecommunications Staff in the Commission's tariff room.

The Commission does not intend to conduct a full proceeding each time the parties agree to a modification. Where a proposed modification is identical to a provision that has been approved by the Commission in another agreement, the Commission will take notice of the modification once Staff has verified that the provision is an approved provision and prepared a recommendation. Where a proposed modification is not contained in another approved agreement, Staff will review the modification and its effects and prepare a recommendation advising the Commission whether the modification should be approved. The Commission may approve the modification based on the Staff recommendation. If the Commission chooses not to approve the modification, the Commission will establish a case, give notice to interested parties and permit responses. The Commission may conduct a hearing if it is deemed necessary.

### **Conclusions of Law**

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Commission, under the provisions of Section 252(e)(1) of the Act, (47 U.S.C. § 252(e)(1)), is required to review negotiated resale agreements. It may only reject an agreement upon a finding that its implementation would be discriminatory to a nonparty or

inconsistent with the public interest, convenience and necessity under Section 252(e)(2)(A). Based upon its review of the interconnection agreement between Sprint and DSL and its findings of fact, the Commission concludes that the agreement is neither discriminatory nor inconsistent with the public interest and should be approved.

**IT IS THEREFORE ORDERED:**

1. That the interconnection agreement of Sprint Missouri, Inc. and DSLNet Communications, LLC, filed on February 22, 2001, is approved.

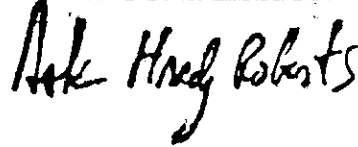
2. That any changes or modifications to this interconnection agreement shall be filed with the Commission pursuant to the procedure outlined in this order.

3. That no later than April 13, 2001, Sprint Missouri, Inc. and DSLNet Communications, LLC, shall submit a copy of the interconnection agreement to the Staff of the Missouri Public Service Commission, with the pages sequentially numbered.

4. That this order shall become effective on April 13, 2001.

5. That this case may be closed on April 14, 2001.

**BY THE COMMISSION**



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

( S E A L )

Keith Thornburg, Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 3rd day of April, 2001.

FYI: To Be Issued By Delegation

ALJ/Secretary:

*Thornburg/Boyer*

Date Circulated

*4-2*

Return by 3-p.m.

*4-5*

*10am*

*10-2001-459*  
CASE NO.

*JS*  
Lumpe, Chair

*DP*  
Draimer, Vice Chair

*CM*  
Murray, Commissioner

*NP*  
Simmons, Commissioner

*KS*  
Gaw, Commissioner

## STATE OF MISSOURI

### OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,

Missouri, this 3<sup>rd</sup> day of April 2001.

*Dale Hardy Roberts*

Dale Hardy Roberts

Secretary/Chief Regulatory Law Judge

