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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 14th day of July, 1998.

In the Matter of the Resale Agreement of Sprint Missouri, Inc. d/b/a Sprint and Sterling International Funding, Inc.	))))	**Case No. TO-98-476**

ORDER APPROVING RESALE AGREEMENT

Sprint Missouri, Inc. (Sprint) and Sterling International Funding, Inc. (Sterling) filed an application on April 20, 1998, for approval of a resale agreement (the Agreement) between them. The Agreement was filed pursuant to Section 252(e)(1) of the Telecommunications Act of 1996 (the Act). *See* 47 U.S.C. § 251, *et seq*. The Agreement would permit Sterling to resell basic local exchange service to residential and business end users. On May 13 Sprint filed a notarized copy of the application.

The Commission issued an Order and Notice on April 28 setting deadlines for parties wishing to participate without intervention to file applications to do so, or to file comments. However, no applications to participate or comments were filed. The Staff of the Commission (Staff) filed a Memorandum on June 19 recommending that the Agreement be approved. 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 asked permission to participate or requested a hearing in this case, the Commission may grant the relief requested based on the verified 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 and a new provider of basic local exchange service. The Commission may reject an interconnection agreement only if the agreement is discriminatory or is inconsistent with the public interest, convenience and necessity.

Sterling was granted a certificate of service authority to provide basic local exchange services on October 7, 1997, in Case No. TA-97-451. The Master Resale Agreement between Sprint and Sterling, executed on December 22, 1997, is to become effective upon Commission approval and the initial term of the contract is from the date of approval until December 22, 1998. The Agreement will remain in effect thereafter until terminated as provided in the Agreement. In February of 1998, the parties executed an amendment to the original agreement. The amendment reflects that United Telephone Company of Missouri d/b/a Sprint is now known as Sprint Missouri, Inc. and provides for a longer negotiation period before Sprint disconnects service to Sterling and its end users. The revised disconnect procedures are similar to procedures approved in prior interconnection and resale agreements which require the incumbent carrier to provide service to disconnected end users and to give them a 30-day notice period in which to choose another provider. The Agreement is similar to the agreement between U.S. Telco, Inc. and Sprint approved by the Commission in Case No. TO-98-405.

The Agreement provides for a discount of 13.85 percent for Sprint telecommunications services, with certain exceptions. Operator assistance and directory assistance will be available to Sterling at a discount of 41.44 percent. In addition, Sprint will follow industry standards defined by the Ordering and Billing Forum for the ordering of local service using an Electronic Data Interchange electronic interface for the Local Service Request Form.

On June 19 the Staff of the Commission (Staff) filed a Memorandum recommending the Agreement be approved. Staff stated in its recommendation that the Agreement meets the limited requirements of the Act in that it does not appear to be discriminatory toward nonparties, and does not appear to be against the public interest. Staff recommended approval of the Agreement provided that all modifications to the Agreement are submitted to the Commission for approval.

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, the supporting documentation, and Staff's recommendation. Based upon that review the Commission has reached the conclusion that the Master Resale Agreement meets the requirements of the Act in that it does not unduly discriminate against a nonparty carrier, and implementation of the Agreement is not inconsistent with the public interest, convenience and necessity. Approval is conditioned upon the parties submitting any further modifications or amendments to the Commission for approval pursuant to the procedure set out below.

Modification Procedure

This Commission's first duty is 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 role of review and approval to be effective, the Commission must also review and approve 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, whether the modification arises through negotiation, arbitration, or by means of alternative dispute resolution procedures.

The parties shall provide the Telecommunications Staff with a copy of the resale or interconnection agreement with the pages numbered consecutively in the lower right-hand corner. Modifications to an agreement must be submitted to the Staff for review. When approved 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 modification will be approved once Staff has verified that the provision is an approved provision, and prepared a recommendation advising approval. 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 federal Telecommunications Act of 1996, 47 U.S.C. 252(e)(1), is required to review negotiated resale agreements. It may only reject a negotiated 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 resale Agreement between Sprint and Sterling 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 Master Resale Agreement between Sprint Missouri, Inc. and Sterling International Funding, Inc., filed on April 20, 1998, is approved.

2. That the parties shall file a compliant copy of the agreement with the Staff of the Missouri Public Service Commission, with the pages numbered seriatim in the lower right-hand corner no later than July 24, 1998.

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

4. That this order shall become effective on July 24, 1998.

BY THE COMMISSION

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Drainer,
Murray and Schemenauer, CC.,
concur.

Dippell, Regulatory Law Judge