

1/29 BB

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Commercial Mobile Radio)
Services (CMRS) Interconnection Agreement of) Case No. TO-99-198
Sprint Missouri, Inc. d/b/a Sprint and Sprint)
Spectrum L.P., d/b/a Sprint PCS.)

ORDER APPROVING INTERCONNECTION AGREEMENT

On November 3, 1998, Sprint Missouri, Inc. d/b/a Sprint (Sprint) and Sprint Spectrum L.P., d/b/a Sprint PCS (Sprint PCS) (together referred to as Joint Applicants) filed a Joint Application for Approval of Commercial Mobile Radio Services (CMRS) with the Commission for approval of an interconnection agreement (Agreement) under the provisions of the federal Telecommunications Act of 1996 (the Act). See 47 U.S.C. § 251, et seq.

The Commission issued an Order and Notice on December 1 setting deadlines for parties wishing to participate without intervention to file applications to do so, or to file comments. No applications to participate or comments were filed.

The Staff of the Commission (Staff) filed a Memorandum on January 11, 1999, 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, 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.

The parties executed the negotiated Agreement on September 15, 1998. The parties agreed to provide service to each other on the terms defined in the Agreement for a period ending September 14, 1999 (End Date), and thereafter the Agreement shall continue in force and effect unless and until terminated as provided in the Agreement. Either party may terminate the Agreement at the end of the term by providing written notice of termination to the other party, either prior or subsequent to the End Date, and such written notice must be provided at least 90 days in advance of the date of termination.

The Staff Memorandum recommends that the Agreement be approved. Staff indicates that the Agreement meets the limited requirements of the Act and that it does not appear to be discriminatory toward nonparties, and does not appear to be against the public interest. Staff recommended that the Commission direct the parties to submit a copy of the executed

Agreement with the pages numbered seriatim, and to submit any further modifications or amendments to the Commission for approval.

The Staff Memorandum indicates that Attachment 1 of the Agreement contains a price schedule detailing state-specific rates for transport elements, multi-hunt service and 911 tandem port. Attachment 1 also contains rates for reciprocal compensation. The CMRS Agreement between Sprint and Sprint PCS contains no resale provisions. Attachment 2 of the Agreement details the technical manner in which the parties will use to interconnect. According to Attachment 2, the types of traffic to be interchanged under the Agreement include: local traffic, inter-MTA (Major Trading Area) traffic, indirect traffic and transit traffic. Attachment 2 also states that each party acknowledges that it is the originating party's responsibility to enter into arrangements with each third-party LEC or CMRS provider for the exchange of transit traffic with that third party. Attachment 2 of the Agreement also provides for interconnection for ancillary traffic types, including directory assistance traffic, 911/E911 traffic, operator call termination traffic, and information services requiring special billing. Attachment 3 of the Agreement contains provisions for network maintenance and management, including quality of service provisions. Attachment 4 of the Agreement contains provisions for access to telephone numbers.

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 interconnection 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. 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

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 Agreement between Sprint and Sprint PCS 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 Joint Application for Approval of Commercial Mobile Radio Services (CMRS) filed on November 3, 1998, by Sprint Missouri, Inc. d/b/a Sprint and Sprint Spectrum L.P., d/b/a Sprint PCS, is approved.

2. That Sprint Missouri, Inc. d/b/a Sprint and Sprint Spectrum L.P., d/b/a Sprint PCS, shall file a complete copy of this Agreement with the Staff of the Missouri Public Service Commission, with

the pages numbered seriatim in the lower right-hand corner, no later than February 8, 1999.

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 February 1, 1999.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Vicky Ruth, Regulatory Law Judge,
by delegation of authority pursuant
to 4 CSR 240-2.120(1) (November 30,
1995) and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
On this 29th day of January, 1999.

RECEIVED

FEB 01 1999

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION