

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In re: The Master Resale Agreement Between)
Sprint Missouri, Inc., d/b/a Sprint, and) Case No. BK-2002-1038
DSLnet Communications, LLC d/b/a DSL.net)

ORDER DIRECTING NOTICE AND ORDER MAKING DSLNET COMMUNICATIONS, LLC D/B/A DSL.NET A PARTY

Syllabus: This order requires the Data Center to send notice, makes DSL.net a party, sets an intervention date, and requires the Staff to file a memorandum.

On April 22, 2002, Sprint Missouri, Inc., d/b/a Sprint, filed an application with the Missouri Public Service Commission for approval of an interconnection agreement (i.e., a master resale agreement) with DSLnet Communications, LLC d/b/a DSL.net under the provisions of the federal Telecommunications Act of 1996. Sprint states that there are no unresolved issues and that the agreement complies with Section 252(e) of the Act in that it is not discriminatory to nonparty carriers and is consistent with the public interest.

Although DSL.net is a party to the agreement, it did not join in the application. Because DSL.net is a necessary party to a full and fair adjudication of this matter, the Commission will add DSL.net as a party to this case.

The Act provides that an interconnection or resale agreement must be approved unless the state commission finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement is not consistent with the public interest, convenience, and necessity.¹

¹ 47 U.S.C. 252(e).

The Commission finds that proper persons should be allowed 20 days from the issuance of this order to file a motion for hearing. The *Deffenderfer* case held that the requirement of a hearing is met when an opportunity to be heard has been provided and no proper party has requested the opportunity to present evidence.²

Section 252(e)(4) of the Act provides that if the Commission has not approved an agreement within 90 days after submission, the agreement will be deemed approved. Therefore, the Commission will proceed with this case expeditiously and, if there are no requests for a hearing, relief may be granted based on the petition. The Commission finds that notice of this application should be sent to all interexchange and local exchange telecommunications companies.

IT IS THEREFORE ORDERED:

1. That the Data Center of the Missouri Public Service Commission must send notice to all interexchange and local exchange telecommunications companies.
2. That DSLnet Communications, LLC d/b/a DSL.net is made a party to this case.
3. That any party wishing to request a hearing must do so by filing a pleading no later than May 23, 2002, with:

Dale Hardy Roberts, Secretary
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102-0360

and send copies to:

Lisa Creighton Hendricks, Esq.
6450 Sprint Parkway
Mail Stop: KSOPHN0212-2A253
Overland Park, KS 66251

² *State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission*, 776 S.W.2d 494, 496 (Mo. App. 1989).

Legal Department
DSLnet Communications, LLC d/b/a DSL.net
545 Long Warf Drive, 5th Floor
New Haven, Connecticut 06511

and:

Office of the Public Counsel
Post Office Box 7800
Jefferson City, Missouri 65102-7800

4. That the Staff of the Missouri Public Service Commission must file a memorandum advising either approval or rejection of this agreement and giving the reasons therefor no later than June 3, 2002.

5. That all pleadings must be filed in paper form. After the paper copies of the pleadings are properly filed, however, all parties are also encouraged to file copies of their pleadings electronically. Electronically-submitted documents may be provided on computer disk or submitted by e-mail to the law judge at bhopkins@mail.state.mo.us in a file saved in Word, WordPerfect, or ASCII format with an extension of *.doc, *.wpd, or *.txt. (Copies of exhibits, attachments, schedules, etc., need not be sent electronically; only pleadings should be sent electronically.)

6. That this order will become effective on May 13, 2002.

BY THE COMMISSION

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 Law Judge**

(S E A L)

Bill Hopkins, Senior Law Judge,
by delegation of authority under
Section 386.240, RSMo 2000,
as currently supplemented.

Dated at Jefferson City, Missouri,
on this 3rd day of May, 2002.