

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

In the Matter of the Tariffs Filed by Sprint)
Missouri, Inc., d/b/a Sprint, to Reduce the)
Basic Rates by the Change in the CPI-TS as)
Required by Section 392.245(4), Updating)
Its Maximum Allowable Prices for Non-)
basic Services and Adjusting Certain Rates)
as Allowed by Section 392.245(11), and)
Reducing Certain Switched Access Rates and)
Rebalancing to Local Rates, as Allowed By)
Section 392.245(9))

Case No. TR-2002-251

**SPRINT'S RESPONSE TO TESTIMONY FILED BY
BARBARA A. MEISENHEIMER**

COMES NOW Sprint Missouri, Inc. ("Sprint"), and hereby provides its response to the Testimony of Barbara Meisenheimer in these written arguments contained in this pleading and the sworn affidavit attached hereto.

Consistent with Sprint's position to date, Sprint requests that the Commission issue an order based on the existing record that would satisfy the direction from the Court of Appeals. The proposed findings submitted by Sprint and to which Staff concur more than adequately respond to the Court's direction to explain the basis of the Commission's earlier decision. While Sprint appreciates the Commission's desire to understand what issues the Office of Public Counsel ("OPC") would raise if the Commission were to decide to reopen the record and hold a hearing, the OPC has not raised any issues that were not raised in its original motion to suspend and which were determined not to be sufficient to justify a hearing in December of 2001. The Court of Appeals upheld the Commission's decision not to grant that hearing in the face of these same arguments. Therefore, the Commission should not abandon its earlier ruling.

Ms. Meisenheimer's testimony addresses three points that allegedly support reopening the record: (1) lack of a meaningful process to investigate; (2) inadequate scrutiny of the cost studies; and (3) alleged inconsistency in Staff's position in an unrelated case that presented testimony relating to multiple cost methodologies that could be used to measure cost of access. None of these points are factually correct nor merit reopening the record for a hearing.

First, with respect to the process, the OPC contends that despite the fact that it waited 45 days after being notified of Sprint's intent to file its second rate rebalancing, and 36 days after Sprint filed before it objected, the process failed to allow sufficient scrutiny of the methodology employed and whether proper cost components were used. This criticism rang hollow in 2001 and rings hollow today. First, even by OPC's admission, "it could have been more vigilant or aggressive in bringing legal and factual concerns to the Commission at an earlier date."¹ The current record demonstrates that Sprint offered to provide OPC with all relevant information prior to the October 21, 2001 filing. Furthermore, OPC could have issued data requests at any time. Therefore, it is hard to accept OPC's complaint that the process was too compressed when OPC itself failed to bring its concerns to the Commission in time to allow for a longer process. Second, the record contains substantial evidence supporting the accuracy and reliability of the cost studies. The cost studies were verified by Sprint's Director of Costing, and were reviewed extensively by the Staff of the Commission and found to be in compliance with Section 392.245 RSMo by both a Regulatory Economist and a Regulatory Accountant. The Commission routinely issues findings based on verified records.² Finally, and very telling after possessing

¹ OPC's Motion to Suspend Tariff and for Hearing on Rebalancing and Investigation into Cost Justification for Such Rebalancing at Para. 6

² See e.g., recent orders approving interconnection agreement, Case Nos. TK-2004-0255; TK-2004-0179, TK-2004-0230 and TK-2004-0180.; Order Approving Tariffs, Case Nos. IT-2004-0225-0229 (January 15, 2004); *In the Matter of Tariff Filing of AT&T Communications of the Southwest, Inc To Extend the Enrollment Date of One Rate 5 Cent Plan*, Order Approving Tariffs, Case No XT-2004-0288 (January 15, 2004).

Sprint's cost study for **over two years**, and being ordered by this Commission to state in its April 9, 2004 filing "in what respect the cost study is inaccurate, incomplete, based on inappropriate or erroneous assumptions, or was made on an improper methodology," OPC has failed to cite to **any specific input or cost components that are incorrect.**³ OPC's only complaint was, and remains, that the cost of the local loop should not be allocated 100% to local service.

The issue of loop allocation does not merit reopening the record as it can be resolved by reference to the applicable statutes. Section 392.245.9 RSMo requires that the Commission use long run incremental costs. Section 386.020(32) RSMo defines long run incremental costs. Section 386.020(32) RSMo reads as follows:

(32) **"Long run incremental cost,"** the change in total costs of the company of producing an increment of output in the long run when the company uses least cost technology, and excluding any costs that, in the long run, are not brought into existence as a direct result of the increment of output. The relevant increment of output shall be the level of output necessary to satisfy total current demand levels for the service in question, or, for the new services, demand levels that can be demonstrably anticipated.

Section 386.020(32) specifically excludes from the Commission's consideration any cost that, in the long run, is not brought into existence as a direct result of the increment of output subject to the cost studies. The Missouri statutes further provide definitions for the services subject to the Commission review in this case – basic local telecommunications service and exchange access service.⁴ Under those definitions, the basic local telecommunications service requires the offering of "two-way switched local service within a local calling scope." Under this definition, the local loop is a cost that is brought into existence as a direct result of offering basic local

³ Ms. Meisenheimer merely suggest that if two parties were to disagree about major assumptions, such as cost of capital or depreciation, the two parties may calculate substantially different estimates of cost. However, OPC fails to suggest any different cost of capital or depreciation. Furthermore, as reflected in the record and in the attached affidavit of Kent Dickerson, any change in cost of capital or depreciation will not affect Sprint's compliance with the applicable statutory standard.

⁴ Section 386.020(4) RSMo and Section 386.020(17) RSMo. respectively.

service as each unit of basic local services sold requires a loop. Alternatively, under the definition of exchange access, the local exchange network is assumed to already exist and the service merely allows a customer "to enter and exit" an existing network. This is consistent with the realities of how these services are offered. If a customer requests basic local service, Sprint is required to place a loop to that customer's home and offer two-way switched local service within a local calling scope. Only after that customer establishes basic local service will interexchange carriers want to receive exchange access to that customer. Indeed, if an IXC came to Sprint and requested exchange access at a certain location without basic local service, Sprint would be incapable of providing that service if the customer did not first purchase basic local service.

Further, the position taken by Ms. Meisenheimer renders Section 392.245.9 RSMo meaningless. Section 392.245.9 RSMo explicitly allows for four rate rebalancing increments of \$1.50 each. The first rate rebalancing is automatic whereas the remaining rate rebalances occur after the Commission makes an investigation into the long run incremental cost of basic local telecommunications and exchange access services. The investigation should demonstrate that any rate rebalancing would not bring the price of local service above LRIC cost. If the legislature intended that the LRIC cost of basic local telecommunications services entirely exclude the loop as suggested by Ms. Meisenheimer, then Sprint's basic local cost become \$3.73.⁵ Under this interpretation, neither Sprint, nor any company in Missouri for that matter, would ever qualify for the remaining three rate rebalances as the loop will always be the overwhelming cost caused as a result of offering local services. Therefore, any reference to multiple rate rebalances becomes meaningless as the legislature would have set an unattainable

⁵ According to Ms. Meisenheimer, the loop costs consist of both the loop and the NID. (See p. 10)

standard. Further, the legislation would be internally inconsistent inasmuch as it allows for one automatic rate rebalancing of \$1.50, even though that rebalancing in and of itself accounts for over 50% of OPC's alleged LRIC cost. This rebalancing in all cases would place the price of local service above the OPC alleged LRIC of basic local telecommunications service. Such an allowance is not consistent with establishing a standard that would keep the price of basic local telecommunications service below the LRIC cost of the service.

As Ms. Meisenheimer's interpretation would render the words of Section 392.245.9 RSMo meaningless, it is contrary to the applicable canons of statutory construction. The applicable canons of statutory construction require the Commission to presume that the legislature intended that every word, clause, sentence and provision have meaning and that the legislature did not insert idle verbiage or superfluous language in a statute. Hyde Park Housing Partnership v. Dir. of Revenue, 850 S.W.2d 82, 84 (Mo. banc 1993). Further, the Commission cannot adopt a rule, or follow a practice, which results in nullifying the expressed will of the Legislature. State ex rel. Intern. Telecharge, Inc. v. Missouri Public Service Com'n, 806 S.W.2d 680 (Mo. App. W.D. 1991). Therefore, for this additional reason, Ms. Meisenheimer's interpretation cannot be accepted by this Commission.

The Commission earlier decided, based on Sprint's cost studies that were verified by Sprint's Director of Network Costing and that were supported under oath by Staff, that Section 392.245.9 RSMo allowed Sprint to place the jurisdictional cost of the loop in the long run incremental cost of basic local telecommunications service. This earlier decision is consistent with the applicable statutes and the applicable canons of statutory construction and is overwhelmingly supported by the evidence already in the record. The statutory definitions of long run incremental cost and basic local telecommunications service provide that the loop be a

cost of basic local service when identifying "long run incremental cost" of basic local service as required by Section 392.245.9 RSMO pursuant to the definition provided in Section 386.032 RSMo. Similarly, the statutory definitions of long run incremental cost and exchange access require that the Commission exclude the jurisdictionalized loop cost as cost of access service when identifying the long run incremental cost of access services that offers entry and departure for the local telecommunications network. As the allocation of the loop is governed by the applicable statutory definitions, there is no need to reopen the record to develop the findings necessary to satisfy the Court's direction to issue sufficient findings.

Ms. Meisenheimer's second issue was the alleged lack of reasonable scrutiny given by the Staff to the cost study methodologies and results relied on in approving its recommendation. At the base of this issue is the argument that without a proceeding similar to a hearing, the cost studies should not be used to support the Commission's Order. This argument was specifically rejected by the Court of Appeals. The Appeals Court in this case, relying on established law, explicitly held: (1) there is no statutory requirement for a hearing in Section 392.245.9 RSMo; (2) there is no property interest at stake that requires due process right to a hearing; (3) no contested hearing is contemplated by the statute; and (4) the Commission did not abuse its discretion in denying Public Counsel's request for a hearing. (Opinion at p. 11). Further, while Ms. Meisenheimer spends a lot of time discussing the scrutiny applied by the staff in the GTE/ATT arbitration (Case No. TO-97-63), Ms. Meisenheimer failed to note that the cost study produced by that scrutiny assigned all the cost of loop to basic local service. Indeed, this was one of OPC's points of appeal in Case No. TR-2002-250, Verizon's rate rebalancing. OPC subsequently abandoned its appeal of the Verizon rate rebalancing even though 100% of the loop

was assigned to local service under the cost methodology approved by the Commission in Case No TO-97-63.

Therefore, OPC's second issue does not merit re-opening as the Courts have confirmed that the Commission does not have to grant a hearing and as OPC has not identified any new issues that would be heard.

Finally, Ms. Meisenheimer alleges that the record should be re-opened to address the Staff's position in an unrelated case. While the Staff is better positioned to respond to these allegations, Sprint points out that the case cited by Ms. Meisenheimer had nothing to do with the main issue raised by Ms. Meisenheimer, the cost of basic local telecommunications services. The case cited by Ms. Meisenheimer, Case No TR-2001-065, addressed only the cost of exchange access services. In her testimony, Ms. Meisenheimer has not raised any issues at all pertaining to how Sprint performed its exchange access cost study. Therefore, Sprint is at a loss to understand how Staff's position on a cost study that is not even at issue in this case would merit reopening the record in this case.

While Sprint strongly feels that the Commission can comply with the Court's direction to "articulate the basic facts from which [the Commission] reached its ultimate conclusion" regarding its ruling in the case based on the current record, Sprint has attached an additional affidavit for the Commission's review if it feels it is necessary to supplement the record before issuing a decision. The attached affidavit of Mr. Kenton Dickerson reiterates the accuracy of the cost studies already in the record.⁶ Further, the affidavit addresses the reasons that from a cost causation perspective the loop should be assigned to basic local telecommunications service in the Total Service LRIC cost study performed by Sprint. Finally, Sprint also resubmits it

⁶ The Affidavit is at Attachment A.

proposed Findings of Facts and Conclusions of Law that are wholly supported by the current record.⁷

WHEREFORE for the reasons stated above, Sprint respectfully requests the Commission once again deny OPC's Motion for hearing.

Respectfully submitted,

SPRINT




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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above and foregoing was served on each of the following parties by first-class/electronic/facsimile mail this 10th day of May, 2004:

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Lisa Creighton Hendricks

⁷ The Proposed Findings are at Attachment B.

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Missouri, Inc., d/b/a Sprint, to Reduce the Basic)	
Rates by the Change in the CPI-TS as Required)	
by Section 392.245(4), Updating Its Maximum)	
Allowable Prices for Non-basic Services and)	Case No. TR-2002-251
Adjusting Certain Rates as Allowed by Section)	
392.245(11), and Reducing Certain Switched)	
Access Rates and Rebalancing to Local Rates,)	
as Allowed By Section 392.245(9))	

AFFIDAVIT OF KENT W. DICKERSON

STATE OF KANSAS)	
) ss.	
COUNTY OF JOHNSON)	

Comes the Affiant, and after being duly sworn, does hereby depose as follows:

1. KENT DICKERSON, of lawful age, on his oath states that: (1) he is the Director of Cost Support for Sprint; (2) he has participated in and supervised the preparation of the Sprint-Missouri, Inc. Access Cost Study Pursuant to Statute 386.020 RSMo dated September 1, 2001 filed in the above case; (3) he has knowledge of the matters set forth in such Cost Study, and that (4) such matters are true to the best of his knowledge and belief. I am the same Kent Dickerson that verified the Cost Studies in this case in 2001.

2. In my role as Director of Cost Support I have prepared or supervised the preparation of numerous cost studies in support of Sprint's operations across the country including studies designed to produce the cost of access and basic local service. Since December 1994, I have set-up and directed a work group which performs cost of service studies for retail services, wholesale unbundled network elements cost studies, and state and federal Universal

Service Fund cost studies. Over the last seven years, I have been charged with developing and implementing cost study methods which conform with Total Service Long Run Incremental Cost ("TSLRIC") and Total Element Long Run Incremental Cost ("TELRIC") methodologies. I am responsible for written and oral testimony, serving on industry work groups, and participating in technical conferences related to TSLRIC/TELRIC costing methodology, filing of studies within 18 individual states that comprise Sprint's Local Telephone Division (LTD) and providing cost expertise to Sprint's participation in regulatory cost dockets outside of the LTD territories. I have testified before the Florida, Nevada, North Carolina, Texas, Kansas, Missouri, Georgia, and Wyoming regulatory commissions regarding cost matters.

3. Sprint's cost studies were performed pursuant to a Total Service Long Run Incremental Cost (TSLRIC) methodology as specified by 392.245.9. TSLRIC studies capture forward-looking, long run incremental costs created by the total demand for a given service. Sprint's TSLRIC utilize least cost, most efficient technology and forward-looking engineering practices. Sprint's TSLRIC studies utilized in this case specifically produce the cost of residential basic local service, business basic local service and providing intrastate switched access service and properly demonstrated that Sprint basic residential and business local rates would remain below TSLRIC after the full rebalancing allowed under statute and that its intrastate switched access rates would remain above TSLRIC.

4. Ms. Barbara Meisenheimer in her direct testimony, on behalf of the Office of Public Counsel, expressed concern about the process utilized to review Sprint's cost studies. The timeline provided in her testimony filed April 9, 2004 in this case, however, omits key dates in the process. On September 11, 2001, the summary pages of the cost studies prepared under my direction were sent to Staff in preparation for a September 13, 2001 meeting. On September 13,

2001, I led a half day meeting with the Staff where a detailed explanation of Sprint's cost models, their underlying methodologies, and their compliance with the cost standard specified in the Missouri statute. The complete studies and documentation were given to staff at that time. Thus, contrary to her statement, the Staff's review was not limited to a "single day." Further, I am aware that Sprint offered, during the week of October 18, 2001, to meet with the Office of Public Counsel to discuss its filing to no avail.

5. Based on my experience in reviewing cost studies from other parties the time available to Staff allowed for a thorough review of the compliance of Sprint's cost studies to the statutory standard, their accuracy, and whether, in fact, they supported the additional rebalancing.

6. Ms. Meisenheimer presents no specific criticism of Sprint's cost models or inputs utilized. She only mentions switch discounts, cost of money and depreciation rates as being areas of concern in another case involving GTE. First, Sprint's inputs including these specific factors were available to Staff (and offered to the OPC) for their review in the detailed cost studies given to Staff on September 13, 2001 and did not present concerns to their economic and costing experts. Further, given the magnitude of difference between Sprint's rates and the TSLRIC costs, no reasonable adjustment to these inputs could conceivably place the meeting of the statutory test in jeopardy.

7. It appears, unsurprisingly, that Ms. Meisenheimer's only specific criticism is not an input or model algorithm but instead a rehashing of the issue of the proper treatment of loop costs when producing the cost of basic local service. This erroneous view of the cost of basic local service arises from two primary mistakes: 1) the confusion of the use of the loop with the

cause of the loop cost, and 2) the unnecessary blending of cost recovery issues (ratemaking) with the identification of costs.

8. By definition under Missouri statute (Section 386.020, RSMo) Sprint's cost study is to identify:

"Long-run incremental costs", the change in total costs of the company of producing an increment of output in the long run when the company uses least cost technology, and excluding any costs that, in the long run, are not brought into existence as a direct result of the increment of output. The relevant increment of output shall be the level of output necessary to satisfy total current demand levels for the service in question, or, for new services, demand levels that can be demonstrably anticipated;

In simple terms, Sprint is required to only identify as the cost of a specific service that cost which is caused by bringing that service into production recognizing the current level of demand. Thus, LRIC, or in this case TSLRIC, focused on cost causation. It is the need to provision basic local service to a customer upon demand that causes Sprint to incur the cost of a loop. Whether that customer uses that loop in the future for interexchange services or custom calling features does not in any way change the cost of the loop. While those who do not agree with this approach, including Ms. Meisenheimer, point to other services that use the loop as justification for various allocation schemes, it does not change the fact that loop costs are a "direct result" of the need to provide basic local service. Sprint cannot and will not provision switched access or Caller ID, for example, to a customer unless the customer has first ordered and obtained basic local service via a local loop. Further, Sprint does not offer any basic local service that does not require a physical loop connecting its central office and the customer's premises. It is the provisioning of basic local service that causes Sprint to incur these loop costs; thus, claims that they are joint and common costs due to use are not consistent with the Missouri statutory requirements and the development of TSLRIC studies.

9. By validating that the relationship of Sprint's rates after the completion of the three additional steps of rebalancing meet the statutory test in relationship to Sprint's TSLRIC costs, the Commission is fulfilling its statutory duty under 392.245. It need not be concerned about implications related to its other duly authorized ratemaking duties that may exist under other sections of the statute. Further, Sprint's basic local rates remain, after the full rebalancing, far below the level of its TSLRIC costs and Sprint's access rates are far above the TSLRIC of access.

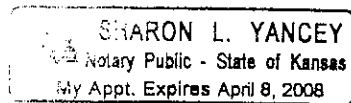
Further affiant sayeth not.

Kent W. Dickerson
KENT W. DICKERSON

Subscribed and sworn to me this 10th day of May, 2004.

Sharon L. Yancey
NOTARY PUBLIC

My commission expires



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PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW

COMES NOW Sprint Missouri, Inc. ("Sprint") and files these proposed findings of facts and conclusion of law in response to the Opinion issued by the Missouri Court of Appeals, Western District on October 28, 2003 in Case No. WD62016 (Appeal Case). In the Appeal Case, the Court remanded the case for further proceeding to provide sufficient detailed findings to permit the court to conduct a meaningful review. The following proposed findings of facts and conclusions of law comply with this directive:

FINDINGS OF FACTS

I. Procedural Background

1. On August 16, 2001, Sprint met with members of the Missouri Public Service Commission Staff ("Staff") to outline Sprint's intention to seek the second of four rate rebalances allowed under Section 392.245.11 RSMo. (Appendix C, Staff's Verified Recommendation).

2. On September 7, 2001, Sprint sent Staff a detailed, narrative description of Sprint's rebalancing plan and summary pages of cost studies that would be used to support Sprint's anticipated request for the second of four rate rebalances allowed under Section 392.245.11 RSMo. (Appendix C, Staff's Verified Recommendation). Sprint also sent to Staff the

calculations necessary to determine a Weighted Local Service rate, Weighted Average Composite Access Rate, a summary and detailed analysis of the rate rebalancing rate and revenue impact for both local and access service, and information on Sprint's Local Intra Office Usage. (Appendix C, Staff's Verified Recommendation). The information on the average rates reflected that the statewide rate for basic local residential service was \$9.84 and the state-wide rate for basic local business services was \$17.20. (Appendix C, Staff's Verified Recommendation). The state-wide two-way access rate was \$0.195. (Appendix C, Staff's Verified Recommendation). The summaries of the cost for local and business service reflected that the cost for local residential and business services were substantially above the statewide average rates and cost for access substantially below the current rate. (Appendix C, Staff's Verified Recommendation).

3. On September 13, 2001, Sprint met with the Staff and provided an explanation of the cost models used to develop Sprint's cost to provide basic local service and access service in Missouri. (Staff's Verified Recommendation at Paragraph 5 and 6 and Appendix B). These cost studies included summaries of the methodology used in Sprint's cost studies and its compliance with long run incremental costing methodology. (Appendix B, Staff Verified Recommendation). The cost studies contain approximately 260 pages of information regarding the method and inputs used. (Appendix to Staff Verified Recommendation and Verified Cost Studies filed on December 6, 2001 and Sprint's verified cost studies).

4. During the week of October 18, 2001, Sprint contacted the Office of Public Counsel regarding a potential meeting to discuss Sprint's plans for rate rebalancing. (Exhibit 1 to Sprint's Response to the office of Public Counsel's Motion to Suspend Sprint's Annual Price Cap Regulation Tariff Change Requests and OPC's Reply to Sprint and Staff's Filing at Para. 6.)

5. On October 26, 2001, Sprint filed with the Commission revised pages for the following Sprint tariffs: (a) General Exchange; (b) Message Telecommunications Service; (c) Private Line Service; (d) WATS; and (e) Access Service. The revisions submitted by Sprint on October 26, 2001 had a proposed effective date of December 11, 2001. Sprint stated that the tariff revisions sought to modify rates in accordance with Sprint's Price Cap regulation, pursuant to 392.245, RSMo. Within the filing, Sprint proposed to reduce its basic rates by the change in the CPI-TS as required by 392.245(4); update its maximum allowable prices for non-basic services and adjusting certain rates as allowed by 392.245(11); and reduce certain switched access rates and rebalanced to local rates, as fully allowed by 392.245(9). (Appendix B to Staff Verified Recommendation).

6. On December 3, 2001, 39 days after Sprint filed its tariff, and after the tariff was placed on the Commission's agenda for discussion, OPC filed a motion to intervene and suspend Sprint's tariff change. In its motion, OPC admitted that "it could have been more vigilant or aggressive in bringing legal and factual concerns to the Commission at an earlier date." (OPC's Motion to Suspend tariff and for Hearing on Rebalancing and Investigation into Cost Justification for Such Rebalancing at Para. 6). OPC also argued: (1) The Commission can not consider the tariff until an investigation and a hearing is conducted; (2) The Commission can not approve the tariff until a written report of the investigation is issued and (3) the Commission is required to consider all relevant factors and make specific determinations concerning long run incremental cost.

7. On December 4, 2001, Sprint responded to OPC's motion, summarizing the results of Sprint's cost studies and explaining how the results satisfied the requirements of Section 392.245.9 RSMo. Further, Sprint summarized the extent of communication between

Sprint and Staff during which the support for the rate rebalance had been fully explained and investigated.

8. On December 4, 2001, the Commission issued an Order requiring that Sprint file its cost studies verified by an affidavit of a knowledgeable person stating that the cost studies are true according to his or her best knowledge. The order also directed Staff to file its analysis, recommendation and any associated work papers that demonstrate compliance with Section 392.245.9 and to verify the accuracy on the documents filed.

9. On December 5, 2001, Sprint complied with the Commission Order and filed cost studies verified by Mr. Kent Dickerson, the Director of Cost Support for Sprint, who performed the study and attested to its accuracy.

10. Also on December 5, 2001, Sprint filed its, recommendation, analysis and work papers supporting its analysis and recommendation in compliance with the Commission's December 4 Order. These documents and pleadings were verified by Natelle Dietrich, a Regulatory Economist whose duties include analysis of cost telecommunications cost studies and by Thomas A. Solt, a Regulatory Auditor whose duties include analysis of telecommunications companies' rate filings.

II. Factual Findings

11. The average statewide price for Sprint's basic local residential service is \$9.84 and the average statewide rate for basic local business service is \$17.20. (Appendix C, Staff's Verified Recommendation). The state-wide two-way access rate was \$0.195. (Appendix C, Staff's Verified Recommendation).

12. Sprint submitted a verified cost study that was analyzed by members of the Staff of the Missouri Public Service Commission including a Regulatory Economist with responsibility for reviewing telecommunications cost studies.

13. Sprint's verified cost studies were performed pursuant to a Total Service Long Run Incremental Cost methodology (TSLRIC). (Appendix B, Staff's Verified Recommendation and Verified Cost Studies). TSLRIC captures forward-looking, long run incremental cost created by total demand for a given service. (Appendix B, Staff's Verified Recommendation and Verified Cost Studies). Sprint's TSLRIC utilize least cost, most economical efficient technology and forward-looking engineering practices. (Appendix B, Staff's Verified Recommendation and Verified Cost Studies).

COST OF PROVIDING BASIC LOCAL TELECOMMUNICATIONS SERVICE

14. Sprint's TSLRIC cost study for local service contains four major components: Loop, Network Interface Device (NID), Port and Usage Cost. (P. 1 of 8, Cost of Local Service, Sprint's Verified Cost Study). The TSLRIC loop costs capture the costs of the customer line from the Central Office to the NID. (P. 3 of 8, Cost of Local Service, Loop Cost Study methods, Sprint's Verified Cost Study) Sprint assigned 75% of the loop cost to intrastate jurisdiction. (P. 1 of 8, Cost of Local Service, Sprint's Verified Cost Study). The NID cost represents the cost for the interconnection to the customer premise wiring. (P. 3 of 6, Cost of local Service, NID Methodology, Sprint's Verified Cost Study). The port costs reflect the non-sensitive traffic cost for local switching associated with basic local exchange service. (P. 3 of 16, Switch Cost Study Methods, Sprint's Verified Cost Study). In developing the switching TSLRIC cost for local service, Sprint utilized the Switch Cost Information System/Model Office (SCIS/MO), developed by Telecordia that is widely used to capture switch investment in the telecommunications industry. (P. 4 of 16, Switch Cost Study Methods, Sprint's Verified Cost Study). The usage cost category represents the investment associated with usage sensitive line-side switching. (P.12 of 16, Switch Cost Study Methods, Sprint's Verified Cost Study). Finally, Sprint developed a common cost factor that was applied to the cost components before

identifying a TSLRIC cost. (P. 1 of 8, Cost of Local Service, Sprint's Verified Cost Study). The costs that are produced by Sprint's cost study, while highly confidential, clearly demonstrate that Sprint's cost of basic local residential and business service are more than sufficiently above the price of basic local residential and business service to allow for three more rate rebalances of \$1.50 each to be placed on basic local service and maintain a price that is equal or less than the long run incremental cost of Sprint's basic local residential and business service.

15. Further, while OPC has raised an issue of whether the studies correctly allocate the loop cost, the Commission finds that the TSLRIC cost produced by Sprint's studies would allow removal of over 50% of the loop cost assigned by Sprint to basic residential local service that appear on Row 20 of the Summary Sheet contained in Sprint's Cost of Local Service and still allow three more rate rebalancing of \$1.50 each to be placed on basic local service and maintain a price that is equal to less than the long run incremental cost of Sprint's basic local residential service. (See P. 1 of 8. Summary Sheet, Cost of Local Service, Residential Cost Summary, Sprint's Verified Cost Studies).

16. Additionally, we find that the TSLRIC cost produced by Sprint's studies would allow removal of over 33% of the loop cost assigned by Sprint to basic business intrastate jurisdictional local service that appear on Row 20 of Sprint Summary Sheet for business cost and still allow three more rate rebalancing of \$1.50 each to be placed on basic local service and maintain a price that is equal to less than the long run incremental cost of Sprint's basic local business service. (See P. 3 of 8. Summary Sheet, Cost of Local Service, Business Cost Summary, Sprint's Verified Cost Studies).

COST OF PROVIDING INTRASTATE SWITCHED ACCESS SERVICE

17. With respect to Sprint intrastate switched access long run incremental cost, Sprint also performed and verified a TSLRIC cost study. Sprint's cost studies capture forward-looking

least cost digital switch technology. (P. 6 of 16, Host Cost Switching Inputs, Sprint's Verified Cost Studies). There are three components of the switching study: Tandem switching, call termination and common transport. (Page 1 of 1, Cost Summary, Cost of Access, Sprint Verified Cost Study). There is also a common factor applied to each component of the switching cost. (Page 1 of 1, Cost Summary, Cost of Access, Sprint Verified Cost Study).

18. The costs that are produced by Sprint's intrastate access cost study, while confidential, clearly demonstrate that Sprint's cost of intrastate access are more than sufficiently below the price of intrastate access service to allow for three more rate rebalances of \$1.50 each to be placed on basic local service and maintain a price for access that is equal or more than the long run incremental cost of Sprint's intrastate service.

19. The revenue analysis that was submitted by Sprint and appear in Staff's Verified Analysis and Recommendation demonstrate that the proposed balance is revenue neutral: (1) Sprint proposes to reduce its access charges in such a way as to decrease its annual revenue by \$2,968,000 and (2) Sprint proposes to make up this revenue loss by raising its basic local service rates by \$1.50 per month per access line, with an estimated revenue impact of \$2,967,000 annually. (Staff's Verified Recommendation and Analysis).

20. Further, while OPC has raised an issue of whether the studies correctly allocate the loop cost, we find that the TSLRIC cost produced by Sprint's studies would allow us to allocate almost 100% of the intrastate loop cost to intrastate access that appear on Row 20 of the Summary Sheet contained in Sprint's Cost of Local Service and still allow three more rate rebalancing of \$1.50 each to be placed on basic local service, with a resulting decrease in the access price, and maintain a price for access that is equal or above the long run incremental cost of Sprint's access service. To arrive at this conclusion based on the record in front of the Commission, the total minutes of access (Attachment: Rates #4, p. 1 of 3 in Appendix C of

Staff's verified filing) were divided by the number of lines (Page 1 and 2 of summary sheet, Cost of local service in Sprint's and Staff's verified filings) to get the total number of minutes per line. Then 100% of the cost of loop was divided by the total number of minutes per line.

CONCLUSIONS OF LAW

21. Sprint is a large incumbent local exchange carrier subject to price cap regulation under Section 392.245 RSMO.

22. Section 386.020(4) defines Basic local telecommunications service as follows:

(4) **"Basic Local telecommunication service,"** two-way switched voice service within a local calling scope as determined by the commission comprised of any of the following services and their recurring and nonrecurring charges:

(a) Multiparty, single line, including installation, touchtone dialing, and any applicable mileage or zone charges;

(b) Assistance programs for installation of, or access to, basic local telecommunications services for qualifying economically disadvantaged or disabled customers or both, including, but not limited to, lifeline services and link-up Missouri services for low-income customers or dual party relay service for the hearing impaired and speech impaired;

(c) Access to local emergency services including, but not limited to, 911 service established by local authorities;

(d) Access to basic local operator services;

(e) Access to basic local directory assistance;

(f) Standard intercept service;

(g) Equal access to interexchange carriers consistent with rules and regulations of the Federal Communications Commission;

(h) One standard white pages directory listing. Basic local telecommunications service does not include optional toll free calling outside a local calling scope but within a community of interest, available for an additional monthly fee or the offering or provision of basic local telecommunications service at private shared-tenant service locations.

23. Section 386.020(17) defines exchange access service as follows:

(17) **"Exchange access service,"** a service provided by a local exchange telecommunications company which enables a telecommunications company or other customer to enter and exit the local exchange telecommunications network in order to originate or terminate interexchange telecommunications services.

24. Section 392.245 governs the Commission's determination in this case.

Section 392.245.9 RSMo provides, in part:

No later than one year after the date the incumbent local exchange telecommunications company becomes subject to regulation under this section, the commission shall complete an investigation of the cost justification for the reduction of intrastate access rates and the increase of maximum allowable prices for basic local telecommunications service. If the commission determines that the company's monthly maximum allowable average statewide prices for basic local telecommunications service after adjustment pursuant to this subsection will be equal to or less than the long run incremental cost, as defined in section 386.020, RSMo, of providing basic local telecommunications service and that the company's intrastate access rates after adjustment pursuant to this subsection will exceed the long run incremental cost, as defined in section 386.020, RSMo, of providing intrastate access services, the commission shall allow the company to offset the revenue loss resulting from the remaining three-quarters of the total needed to bring that company's intrastate access rates to one hundred fifty percent of the interstate level by increasing the company's monthly maximum allowable prices applicable to basic local telecommunications service by an amount not to exceed one dollar fifty cents on each of the next three anniversary dates thereafter; otherwise, the commission shall order the reduction of intrastate access rates and the increase of monthly maximum allowable prices for basic local telecommunications services to be terminated at the levels the commission determines to be cost-justified.

25. Section 386.020(32) defines long run incremental cost as:

(32) **"Long run incremental cost,"** the change in total costs of the company of producing an increment of output in the long run when the company uses least cost technology, and excluding any costs that, in the long run, are not brought into existence as a direct result of the increment of output. The relevant increment of output shall be the level of output necessary to satisfy total current demand levels for the service in question, or, for the new services, demand levels that can be demonstrably anticipated.

26. Section 386.020(32) specifically excludes from the Commission's consideration any cost not brought into existence as a direct result of the increment of output subject to the cost studies. Therefore, in considering whether the long run incremental cost of basic local service, that requires switched voice services within a local calling scope, we find that it does not violate

the statutory definition of long run incremental cost to include a substantial portion, and perhaps the entire portion, of the jurisdictionalized loop cost as cost of basic local service. Further, in considering whether the long run incremental cost of access services, that offers entry and departure for the local telecommunications network, we find that it does not violate the statutory definition of long run incremental cost to exclude a substantial portion, and perhaps the entire portion, of the jurisdictionalized loop cost as cost of access service. If Sprint did not offer access service, the cost of the loop would not go away. Finally, given the large margins of error with respect to allocating loop costs discussed in Paragraphs 15, 16 and 20, we find that the Commission does not have to make a definitive finding in this case on what exact percentage of the loop, if any, needs to be allocated away from basic local telecommunications service to intrastate switched access services. Based on the above, we find that Sprint's cost studies are not inconsistent with the statutory directive to identify cost based on long run incremental cost as defined in Section 386.020(32).

27. Finally, the issue of loop allocation as it relates to the OPC 254(k) argument has been dealt with by the FCC. In its CALLs Order, the FCC reduced, and in most instances, eliminated implicit subsidies for the local loop among end-users by permitting loop costs to be recovered through a flat rate charge assessed on the local basic service customer rather than through the traffic sensitive per minute charge assessed on the long distance customer. Further, opponents of this cost recovery structure argued that the CALLs proposal violated Section 254(k) for similar reasons as OPC and the FCC rejected those arguments. The FCC stated:

We find that section 254(k) is not implicated by our action today. Section 254(k) is directed at the allocation of costs between competitive and non-competitive services, both regulated and non-regulated, and prohibits subsidization of competitive services by non-competitive services. The SLC is a method of recovering loop costs; not an allocation of those costs between supported and unsupported services.

Neither basic local service or switched access service are competitive services for Sprint. Further, the cost studies were consistent with the statutory requirement.

28. The mathematical questions before the Commission are apparent:

- (a) Are Sprint's costs to provide basic local residence service higher than \$11.24 for this year (and higher than \$14.24 for future years)?
- (b) Are Sprint's costs to provide basic local business service higher than \$18.54 for this year (and higher than \$21.54 for future years)? and
- (c) Are Sprint's costs to provide access services lower than \$0.185 for this year (and lower than \$0.165 for future years)?

Based on the record in front of the Commission, the answer to each one of these questions is yes.

29. Therefore, from a mathematical perspective, Sprint clearly meets the statutory requirements in that its cost to provide basic local service is higher than the price and the opposite is true for switched access services. That leaves only one question remaining before the Commission: have Sprint's cost studies that provided the input for the mathematical equation produced accurate and reasonable results? Once again, the answer is yes. First, as an independent and knowledgeable party, Staff spent a substantial amount of time and effort in their evaluation of Sprint's cost models. This information formed a part of Staff's recommendation to approve Sprint's requested tariff changes. Second, Sprint's costs for basic local service are significantly above Sprint's rates that even if an error was made, that error would have to produce results near 50% below what was produced by Sprint's cost study to make a difference in the Commission's calculation. With reference to Sprint's access study, the error would have to be even greater than 50% to have any effect on the Commission's mathematical determination. Thus, the margin of error is substantial. Furthermore, there are no indications of any errors,

much less substantial errors in Sprint's cost studies. Sprint's cost studies are correct and fully comply with the statutory requirement to reflect long run incremental cost.

30. Further, the Commission reaffirms that no contested hearing is required under Section 392.245.9 RSMo.

31. Based on the above, the Commission has found that the proposed tariff sheets filed by Sprint Missouri Inc. doing business as Sprint, on October 25, 2001, designated as tariff File No. 200200318 are approved.

Respectfully submitted,

SPRINT



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above and foregoing was served on each of the following parties by first-class/electronic/facsimile mail this 10th day of May, 2004:

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