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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 27th day of June, 1997.

In the Matter of Dial & Save of Missouri, Inc. d/b/a Dial & Save Tariff Revisions Designed to Introduce New Rates and Services.	))))	**CASE NO. TT-97-551**

ORDER SUSPENDING TARIFF AND ESTABLISHING PROCEDURAL SCHEDULE

Dial & Save of Missouri, Inc. d/b/a Dial & Save (Dial & Save) submitted tariff revisions to its Missouri P.S.C. Tariff No. 1 with the Missouri Public Service Commission (Commission) on March 4, 1997. Dial & Save indicates that the tariff revisions are designed to introduce new rates and services, and to reflect the change in Dial & Save's zip code. The tariff sheets bear an effective date of April 3, but the effective date was subsequently extended on four occasions to the present effective date of July 1.

On June 20, the Staff of the Commission (Staff) filed a Motion to Suspend, which requests that the Commission suspend Tariff File No. 9700601, and order Dial & Save to demonstrate that the rates and charges contained in its tariff submission are consistent with the public interest. Staff further details its concerns in an attachment to its Motion to Suspend.

Staff first explains that the proposed tariff sheets would implement terms, conditions and rates for seven new service offerings, including Prime Business Select II - Dedicated Service; Prime Business Select Association Program; Prime Business VI; Prime Business VI -

Dedicated Service; FBBA Business Calling Program; Protech Access One Service; and Winners Unlimited Service. Additionally, Staff indicates that Dial & Save proposes to add a new section, Section 5, to its tariff, which establishes the terms, conditions and rates for contract services, which include Carrier Intrastate Domestic Termination Service; Carrier 800 Origination - Dedicated; CIC Association Service II; Switchless 1+ and Toll Free Resale Service; Switchless 1+ Dedicated and Toll Free Resale Service; Global-Tel Long Distance Service; and Master Dealer Program.

Staff states that it has reviewed Dial & Save's proposed tariff filing and believes that the company's proposal should be suspended. Staff states that it has numerous concerns with Dial & Save's proposal, and sets forth three main areas of concern. Staff notes, for example, that the proposed tariff contains a description for "Contract Services" which states: "The terms of each contract shall be mutually agreed upon between the Customer and Company and may include discounts off of rates contained herein, waiver of recurring or nonrecurring charges, charges for specially designed and constructed services not contained in the Company's general service offerings, or other customized features." (Tariff sheet 86). Staff maintains that such wording is an attempt by Dial & Save to charge rates not contained in its tariff, and opposes the practice of charging non-tariffed rates.

In addition, Staff states that in its opinion Dial & Save's proposed contract services attempt to geographically deaverage interexchange toll rates by imposing a $0.02 per minute surcharge on calls terminated to "non-GTE, Southwestern Bell and United Telephone exchanges." (Tariff sheet 88, Section 5.1.3). Staff submits that Dial & Save has not shown that its proposed geographically deaveraged interexchange rates are in the public interest, as required by § 392.200.4(1), RSMo Supp. 1996.

Finally, Staff claims that Dial & Save proposes to establish different rates for services which appear to be identical. By way of example, Staff notes that the FBBA Business Calling Program and Protech Access One Service are both business services which offer direct dial, travel card, and toll-free (e.g. 800 number) calling. Both services offer flat rate pricing, identical term commitment options, identical initial and subsequent billing increments, and identical fractional rounding of billing increments, yet the FBBA direct dial and toll-free rate is $0.09 per minute, while the Protech direct dial and toll-free rate is $0.1290 per minute. Staff submits that such rate differences represent an attempt by Dial & Save to charge a different price for equivalent interexchange services. Staff contends that Dial & Save has not made the requisite showing that such charges are in the public interest, as required by § 392.200.5, RSMo Supp. 1996.

Staff states that it has had numerous conversations with representatives of Dial & Save in an attempt to satisfy Staff's concerns, but to date, the company has not substituted any tariff pages to change or modify the proposed services. Staff recommends that Dial & Save's proposed tariff filing be suspended, and bases its recommendation on the fact that Dial & Save has not demonstrated that the rates and charges in its proposed tariff filing are consistent with the public interest.

The Commission has reviewed Staff's Motion to Suspend, Dial & Save's tariff submission, and the applicable statutory provisions, and finds that suspension of the tariff sheets is warranted. Staff has raised several grave concerns regarding Dial & Save's proposed service offerings. The concerns raised include such serious matters as whether Dial & Save's service offerings constitute *de facto* geographic deaveraging of rates or constitute dissimilar rates for the same, substitutable, or equivalent interexchange service, and if so, whether such offerings are consistent with the public interest. The Commission determines that it would be appropriate to suspend the tariff sheets filed by Dial and Save for a period of 120 days in order to allow time for a more thorough review of the issues. The Commission will therefore suspend the tariff sheets filed by Dial & Save for a period of 120 days from the current effective date of July 1 to October 29.

The Commission will also establish a procedural schedule and set a hearing date, in order to facilitate an expeditious resolution of the issues. The Commission reminds Dial & Save that to the extent its service offerings result in a geographic deaveraging of rates, the burden is on Dial & Save to show by clear and convincing evidence that the "definition of such service based on the geographic area or other market within which such service is offered is reasonably necessary to promote the public interest and the purposes and policies of [Chapter 392]." § 392.200.4(1). Likewise, to the extent Dial & Save's service offerings result in charges of a different price per minute or other unit of measure for the same, substitutable, or equivalent interexchange service, the burden is on Dial & Save to show that "such charges are in the public interest and consistent with the provisions and purposes of [Chapter 392]." § 392.200.5.

In addition, the Commission finds that the following conditions should be applied to the procedural schedule:

(1) The Commission will require the prefiling of testimony as defined in 4 CSR 240-2.130. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing.

(2) Testimony and schedules shall not be filed under seal and

treated as proprietary or highly confidential unless a protective order has first been established by the Commission. The party that considers information to be proprietary or highly confidential should request a protective order. Any testimony or schedule filed without a protective order first being established shall be considered public information.

(3) The Commission will schedule a prehearing conference in this case to allow the parties the opportunity to resolve procedural and substantive issues.

(4) The hearing memorandum will set forth the issues that are to be heard and decided by the Commission. Any issue not contained in the hearing memorandum will be viewed as uncontested and not requiring resolution by the Commission. The briefs to be submitted by the parties shall follow the same format established in the hearing memorandum. The briefs must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.

(5) The Commission emphasizes the importance of the deadline for filing the hearing memorandum. The Commission Staff will be responsible for preparing and filing the hearing memorandum and, unless the Commission orders otherwise, the hearing memorandum shall be filed on the date set. Each party is expected to provide Staff with its position on each unresolved issue at least two business days prior to the established filing deadline.

(6) The Commission's general policy provides for the filing of the transcript within two weeks after the hearing. If any party seeks to expedite the filing of the transcript, such a request shall be tendered, in writing, to the administrative law judge at least five days prior to the date of hearing. The administrative law judge will determine whether the request should be granted.

(7) The Commission believes it is appropriate to limit the length of the briefs to 30 pages. All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080(7).

(8) All parties are required to bring an adequate number of copies of exhibits which they intend to offer into evidence at the hearing. If an exhibit has been prefiled, only three copies of the exhibit are necessary for the court reporter. If an exhibit has not been prefiled, the party offering it should bring, in addition to the three copies for the court reporter, copies for the five Commissioners, the administrative law judge, and opposing counsel.

IT IS THEREFORE ORDERED:

1. That the tariff sheets filed by Dial & Save of Missouri, Inc. d/b/a Dial & Save are hereby suspended for a period of 120 days from July 1, 1997 to October 29, 1997.

2. That the following procedural schedule is adopted for this case:

Prehearing Conference	-	**July 10, 1997**
Dial & Save files direct testimony	-	**July 17, 1997 3:00 p.m.**
Staff and OPC file rebuttal testimony	-	**August 14, 1997 3:00 p.m.**
Dial & Save files surrebuttal/ Staff and OPC file cross-surrebuttal testimony	-	**August 28, 1997 3:00 p.m.**
Hearing memorandum	-	**September 4, 1997**
Hearing	-	**September 11, 1997 10:00 a.m.**
Simultaneous briefs	-	**October 2, 1997**

The hearing will be held in the Commission's hearing room on the fifth floor of the Harry S. Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

3. Anyone wishing to attend who has special needs as addressed by the Americans With Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days before the arbitration hearing at: Consumer Services Hotline – 1-800-392-4211 or TDD Hotline – 1-800-829-7541.

4. That this order shall become effective on July 1, 1997.

BY THE COMMISSION

Cecil I. Wright

Cecil I. Wright
Executive Secretary

(S E A L)

Crumpton, Murray, Lumpe and
Drainer, CC., Concur.
Zobrist, Chm., Absent

ALJ: Bensavage