

**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) )

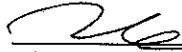
Case No. TR-2002-251

**SPRINT'S PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW**

Sprint Missouri, Inc ("Sprint") hereby files the attached Proposed Finding of Facts and Conclusions of Law in compliance with the order of the Missouri Court of Appeals, Western District on October 28, 2003 in Case No. WD62016 (Appeal Case). In the Appeal Case, the Court of Appeals held that no contested hearing is contemplated by the governing statute, Section 392.245.9 RSMo and that the Commission did not abuse its discretion in denying Public Counsel's hearing request. However, the Court remanded the case because the Commission's Order approving Sprint's tariff filing made on October 26, 2001 failed to provide sufficiently detailed findings to permit the Court to conduct a meaningful review. The attached detailed findings Proposed Findings are entirely from the verified record that Commission created in 2001 in this case. The attached proposed findings are more than sufficient to meet the requirements of the Appeals Case.

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 9th day of February, 2004:

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Lisa Creighton Hendricks

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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 up to 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 up to 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,

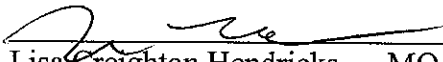
much less substantial errors in Sprint's cost studies. Sprint's cost studies are correct and fully comply with the statutory requirement to reflect long run incremental cost.

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

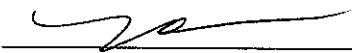
  
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#### **CERTIFICATE OF SERVICE**

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 9th day of February, 2004:

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