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March 21, 2001

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FILED³

MAR 21 2001

Missouri Public
Service Commission

RE: Case No. TO-2001-459

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **STAFF RECOMMENDATION**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

David A. Meyer
Assistant General Counsel
(573) 751-8706
(573) 751-9285 (Fax)
dmeyer@mail.state.mo.us

DM:ccl
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

MAR 21 2001

Missouri Public
Service Commission

In the Matter of the Master Network)
Interconnection and Resale Agreement)
Between DLSNet Communications, LLC,)
and Sprint Missouri, Inc.)
)

Case No. TO-2001-459

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its recommendation in this matter respectfully states:

In the attached Memorandum, which is labeled Appendix A, Staff states that the proposed resale and facilities-based interconnection Agreement appears to meet the standards set forth in Section 252(e) of the Federal Telecommunications Act of 1996 (the Act) in that the proposed Agreement does not appear to discriminate against telecommunications carriers not party to the Agreement, and it does not appear to be against the public interest, convenience, or necessity.

Staff recommends that the Commission should formally approve the filing rather than merely acknowledging the Agreement's adoption, because three sections have been modified from the underlying, previously approved agreement (the Master Network Interconnection and Resale Agreement between Sprint Missouri, Inc. and New Edge Network, Inc., approved in Case No. TO-2001-189). The sections modified and not previously reviewed by the Commission are the "Master Network Interconnection and Resale Agreement" dated January 1st, 2001, identified as Exhibit 1; the "Network Elements" section identified as Exhibit B or Attachment III to Exhibit 1; and the "Price Sheets – Missouri" section identified as Exhibit C to Exhibit 1. These

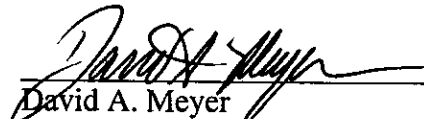
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substantive changes render the arrangement more substantial than an adoption. However, Staff recommends that the Commission approve the submission as a whole.

WHEREFORE, Staff recommends that the Missouri Public Service Commission grant approval of the resale and facilities-based interconnection Agreement pursuant to the Act, and additionally direct the companies to submit to the Staff a copy of the executed Agreement with the pages numbered seriatum, and direct the companies to submit any further modifications or amendments to the Commission for approval.

Respectfully submitted,

DANA K. JOYCE
General Counsel



David A. Meyer
Assistant General Counsel
Missouri Bar No. 46620

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 21st day of March 2001.

A handwritten signature in cursive script, appearing to read "David A. Meyer", is written over a horizontal line.

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. TO-2001-459
Parties: DSLNet Communications, LLC, and Sprint Missouri, Inc.

From: Tom Solt, Telecommunications Department

tas 3/20/01 William F. Haas 3/20/01
Utility Operations Division/Date General Counsel Office/Date

Subject: Staff Recommendation for Approval of Interconnection Agreement

Date: March 20, 2001

Date Filed: 2/22/01

Staff Deadline: 3/30/01

The Telecommunications Department Staff (Staff) recommends the Parties be granted approval of the submitted (may check more than one)

- ☒ Resale Agreement
- ☒ Facilities-based Interconnection Agreement
- ☐ Wireless Interconnection Agreement

The Parties submitted the proposed Agreement to the Missouri Public Service Commission (Commission) pursuant to the terms of the Telecommunications Act of 1996 (Act). Staff has reviewed the proposed Agreement and believes it meets the limited requirements of the Act. Specifically, the Agreement: 1) does not appear to discriminate against telecommunications carriers not party to the Agreement and 2) does not appear to be against the public interest, convenience or necessity.

Is there an attachment to this recommendation indicating any recommendations or special considerations? ☒ Yes ☐ No

From	Initials	Date	Revised
Tom Solt	tas	3/20/01	
Mr. VanEschen			
Legal			

Interconnection Agreement Review Items

- ☒ No applications to intervene filed
- ☒ Terms and rates in Agreement similar to those contained in approved Interconnection Agreement, i.e., TO-2001-189 New Edge Network, Inc., and Sprint Missouri, Inc., d/b/a Sprint; TO-2001-321, Sprint Missouri, Inc., d/b/a Sprint, and USA Digital Inc., d/b/a USA Digital of Nevada, Inc.
- ☒ Agreement signed by both Parties

Staff recommends the Commission direct the Parties to submit any modifications or amendments. Staff does not possess a sequentially numbered copy of the agreement (i.e., Exhibits 1, B, and C are not numbered seriatim).

Missouri Public Service Commission Official Case File, Case No. TO-2001-459
Attachment 1

DSLNet and Sprint Missouri filed a joint application for approval of the adoption of an interconnection agreement that had already been approved by the Commission. However, three sections of the previously adopted interconnection agreement were modified, with two sections completely substituted, namely, the Network Elements section and the Price Sheets, submitted as Exhibits B and C, respectively. With such wholesale substitutions, Staff strongly disagrees with the characterization of this filing as an adoption. Therefore, Staff believes that this submission should not be recognized as an adoption under Section 252 (i) of the Federal Telecommunications Act (the Act).

Staff believes the instant interconnection agreement could be viewed in two ways. The first would be to look at the submission as a whole. Looking at the submission in this way would render an interconnection agreement that is similar but not identical to previously submitted and approved interconnection agreements (namely, those interconnection agreements submitted and approved in Case Numbers TO-2001-189 and TO-2001-321). In Staff's opinion, such an interconnection agreement would require the approval of the Commission under Section 252(e) of the Act.

The second way of viewing the submission would be to look at it as two parts: the submission for notice of the adoption of the previously approved interconnection agreement between Sprint Missouri, Inc., d/b/a Sprint, and USA Digital, Inc., d/b/a USA Digital of Nevada, Inc.; and, the submission for concurrent approval of a modification of an interconnection agreement, consisting of the modifications listed in Exhibits 1, B, and C. Those exact modifications have not been submitted to and approved by this Commission previously.

Staff believes the characterization of the filing as a new interconnection agreement under Section 252(e) of the Act is more fitting. Therefore, Staff recommends that the Commission approve the submission as a whole rather than take notice, in whole or part, of the requested adoption of the previously approved interconnection agreement.

Service List for
Case No. TO-2001-459
Revised: March 21, 2001 (ccl)

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