

**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 OFFICE OF PUBLIC COUNSEL'S  
MOTION FOR REHEARING**

COMES NOW Sprint Missouri, Inc. ("Sprint") and hereby files its Response to the Office of Public Counsel's ("OPC") Motion for Rehearing of December 29, 2004 in the above mentioned case. Sprint submits that (a) the OPC presents no new arguments or evidence that the Commission has not previously thoroughly considered; (b) an evidentiary hearing is not warranted in this case and the Court of Appeals ruled that no hearing is required by statute; and (c) the Commission Order on Remand comports with the guidance from the Western District Court of Appeals in this proceeding. Based on these points, Sprint urges the Commission to deny OPC's request for a rehearing. In support of its Response, Sprint states as follows:

1. OPC claims that the Order on Remand does not have sufficient factual specificity to meet the standards of the Court of Appeals. Sprint disagrees. The Order on Remand fully describes the "basic facts" and will allow the courts to evaluate how the controlling issues were decided as required by the Court of Appeals. The accuracy and

credibility of the Sprint cost study are discussed in some detail throughout the Order on Remand as directed by the Court of Appeals.<sup>1</sup>

2. OPC claims that the Commission did not consider all the evidence in the record. The Commission explicitly states that it has reviewed and considered all arguments and evidence that bear on its decision in the Order on Remand. The Court of Appeals does not require the Commission to consider any additional evidence or hold any additional hearings. The Order on Remand notes that its findings are based on the evidence before the Commission in 2001. There is no need for the Commission to consider OPC's alleged "evidence" submitted in 2004. The Court of Appeals held that no hearing on remand is necessary, and the Commission's investigation provides sufficient basis for its decision. Thus, the Commission need not consider OPC's submissions in 2004. The Commission need only issue facts and conclusions of law that comport with the standards described by the Court, and it has done that.

3. The OPC's arguments that the Order on Remand is erroneous, unlawful, unreasonable and not supported by competent and substantial evidence are largely supported by attacking Sprint's cost study with the same arguments that it has raised repeatedly. Those arguments should be rejected again as per the Order on Remand. Repeated allegations and attacks on the correctness or veracity of the Commission's findings regarding the Sprint cost study are not grounds for rehearing.

4. OPC makes a variety of largely redundant arguments claiming that the Commission did not complete a proper "investigation" pursuant to § 392.245.9 RSMo. The nature of the "investigation" required is not explicitly set out in the statute, but we

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<sup>1</sup> The OPC also claims to renew all argument from the first motion on rehearing. Sprint renews its opposition to that motion on the same grounds previously raised.

know from the Court of Appeals ruling that a hearing is not required to complete the “investigation.” The Commission appropriately completed a 392.245.9 investigation in this proceeding by collecting substantial evidence from interested parties and issuing findings pursuant to that investigation. Again, many of the OPC arguments regarding the inadequacy of the investigation focus on its substantive disagreements with the Sprint evidence and, particularly, the cost study. These substantive disagreements have been previously heard, considered and ruled upon. Just because OPC does not agree with the results of the Commission investigation does not change the fact that a proper “investigation” was conducted and reported upon.

5. Though the arguments extend over numerous pages and many numbered paragraphs, all the OPC arguments can be succinctly summarized as restatements of four intertwined objections that this Commission has seen before: 1) the Commission did not consider all the evidence, 2) the Commission did not conduct a proper statutory “investigation,” 3) the Sprint cost study is substantively invalid, and 4) the Commission’s findings of fact in the Order on Remand do not pass legal muster. First, the Order on Remand and the record in this case are clear that the parties have been heard from in detail and that the Order on Remand is based upon the competent and relevant evidence in the record, which is substantial. Second, the processes used by the Commission to evaluate the Sprint tariff comply with the statutory and judicial guidance on conducting a 392.245.9 investigation. The Commission has some discretion to tailor its investigation to the particular proceeding, and OPC’s arguments that this “investigation” did not track with precision the steps in some other proceeding are not grounds for rehearing. The Commission has gathered and evaluated data and evidence and issued rulings that

comport with the law. Third, as suggested by the Court of Appeals, the Commission has discussed in more detail its evaluation and reasons for approving and relying upon the Sprint cost study. There is detailed discussion of the proper allocation of loop costs. Though OPC continues to disagree with Sprint's cost study and the Commission's related rulings, the Order on Remand meets the legal standards, and the OPC arguments have been raised and rejected before. Fourth, the Commission's findings of fact are sufficiently detailed to meet the requirements set forth by the Court of Appeals. OPC's substantive disagreements with those findings do not merit rehearing.

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

Respectfully submitted,

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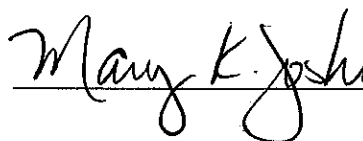
By:   
Counsel for Sprint Missouri, Inc.

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 10<sup>th</sup> day of January, 2005, a copy of Sprint's Response to the OPC's Motion for Rehearing was served via U.S. Mail, Electronic Mail or Facsimile to each of the following parties,

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