BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of AT&T Communications of the Southwest Inc.'s Proposed Tariff to Establish a Monthly Instate Connection Fee and Surcharge	)))	**Case No. TT-2002-129**
In the Matter of Sprint Communications Company, L.P.'s Proposed Tariff to Introduce an In-State Access Recovery Charge and Make Miscellaneous Text Changes	))))	**Case No. TT-2002-1136**
In the Matter of MCI WorldCom Communications, Inc.'s Proposed Tariff to Add an In-State Access Recovery Charge and Make Miscellaneous Text Changes	)))	**Case No. XT-2003-0047**
In the Matter of MCI WorldCom Communications, Inc.'s Proposed Tariff to Increase its Intrastate Connection Fee to Recover Access Costs Charged by Local Telephone Companies	))))	**Case No. LT-2004-0616**
In Re the Matter of Teleconnect Long Distance Services and Systems Company, a MCI WorldCom Company d/b/a TelecomUSA's Proposed Tariff to Increase its Intrastate Connection Fee to Recover Access Costs Charged by Local Telephone Companies	)))))	**Case No. XT-2004-0617**

SPRINT COMMUNICATIONS COMPANY, L.P.'S
INITIAL BRIEF

COMES NOW Sprint Communications Company L.P. (Sprint) and submits its Initial Brief in the above referenced case.

I. PROCEDURAL HISTORY

The Sprint tariffs that are the subject of this proceeding were approved by the Missouri Public Service Commission on July 23, 2002. After reviewing the pleadings filed by the parties, the Commission issued an Order approving the tariff change to introduce the In-State Access Charge. In its Order, the Commission found:

> The Commission granted Sprint competitive status as a provider of competitive telecommunications services in Case No. TO-88-142. A proposed tariff that increases rates or charges of a competitive telecommunications company is governed by Section 392.500(2). The statute allows the proposed tariff increasing rates or charges to go into effect only after the proposed tariff has been filed with the Commission and the affected customers are given ten days' notice. The Commission finds that Sprint has complied with the technical requirements of Section 392.500(2) * * * The Commission has reviewed all the relevant factors surrounding this proposed charge including Sprint's tariff submission, the motion to suspend, Staff's recommendation, and the various other pleadings. Because Sprint's proposed rates increase of $1.99 applies only to competitive service, consumers are free to obtain service from an alternative provider if they object to the rate. Considering the competitive climate in which the service if offered, the Commission finds that allowing full and fair competition to substitute as regulation will ensure that consumers pay only reasonable rates. Staff stated that it found Sprint's exemption for local service customers to be a concern; however, Staff did not believe Sprint should be treated differently than other carriers similarly situated. Staff noted that monthly recurring charges and surcharges are common in the telecommunications industry. Sprint cites several instances where "the Commission has routinely approved . . .[or allowed to become effective] interexchange tariffs that offer discounts or that waive various charges to customers who purchase local service from the same company.

For more than three years following the Commission's approval, the tariffs have been the subject of continuous litigation, and on August 10, 2004 in Case No. WD63133 (Consolidated with WD 63134 and WD 63135) (the "WD Appeal"), the Missouri Court of Appeals issued a decision concluding that "the Commission, in approving the surcharges sought by the Companies, failed to make sufficient findings of fact and conclusions of law to justify its order". (WD Appeal, p. 15). Accordingly, the case was remanded and returned to the Commission via the Circuit Court of Cole County on January 6, 2005.

The court of appeals did not reject Sprint's tariffs and did not require the Commission to hear any additional evidence on remand. The Commission's only obligation is to make the required findings of fact and conclusions of law to support its

earlier approval of Sprint's tariffs. The appellate court's decision does not require a hearing or the submission of additional evidence though Sprint and the other parties have now submitted pre-filed testimony in support of their positions on the key issues, at the Commission's direction. The Commission has more than enough evidence at this time to issue an Order in this case with sufficient findings of fact and conclusions of law to approve the tariffs.

II. STATEMENT OF ISSUES

As provided in the procedural schedule, the parties to this proceeding submitted a joint issue statement. The issue was jointly phrased as follows:

> **A. Based on the following sub-issues, should the Commission reject the AT&T, Sprint and MCI tariffs at issue in this case?**
>
> **B. Should the Commission apply the provisions of subsection 392.200.1 to the AT&T, Sprint and MCI surcharges at issue, and if so, are the surcharges just and reasonable under subsection 392.200.1?**
>
> **C. Do the AT&T, Sprint and MCI surcharges at issue comply with subsections 392.200.2 and 392.200.3 RSMo. (2000)?**

Sprint will fully address each issue in this brief. But, in short response, (1) the Commission should not reject the Sprint's In-State Access Recovery ("ISAR") surcharge tariff; (2) the "just and reasonable" standard should not be applied to a competitive service, such as long distance; (3) Sprint's ISAR complies with all applicable Missouri statutes and rule, including the new line-item billing rule.

III. ARGUMENTS

A. Should the Commission Reject Sprint's Tariffs?

The Sprint tariff should not be rejected. As the Commission noted in its original decision in 2002, the ISAR is only applied to a competitive service in a market with

abundant and aggressive competitors. The long-distance market is an environment where competition, rather than regulation, provides ample protection for Missouri consumers. Section 392.185.6 RSMo provides that one of the purposes of the state telecommunications act is to allow full and fair competition to function as a substitute for regulation when consistent with the protection of the ratepayers and public interest. Consistent with this clear legislative intent, competition has effectively replaced the regulator as a method of regulating price and service during the more than fifteen years that intrastate long-distance has been classified as a competitive service. In this market, every Sprint long distance customer has the ability to choose another long distance provider at anytime, for any reason. (Direct Testimony of James A Appleby, pp. 2-3.) Therefore, the consumer and the public interest are protected. Sprint's ISAR tariff should not be rejected because it is based upon a valid access cost recovery rate design methodology for a competitive service in Missouri, pursuant to 392.500 RSMo.

B. Should the Commission Apply 392.200.1 to Sprint's Tariffs?

The Commission should not apply the "just and reasonable" standard of 392.200.1 to a competitive service such as long distance services in Missouri. The competitive climate is a viable substitute for regulation in this market and will ensure that consumers pay reasonable rates. Numerous alternative service providers are available to Sprint customers that want to leave Sprint to avoid the ISAR or for any other reason. (Direct Testimony of James Appleby, pp. 2-3)

C. Does the Sprint surcharge comply with 392.200.2 and 392.200.3?

The Sprint tariffs comply with all applicable Missouri statutes and rules, including 392.200.2, 392.200.3 and 4 CSR 240-33.045.

As explained in the testimony of James Appleby (pp.7-14), it is a common feature of today's telecommunications marketplace for a customer to earn discounts and get better deals if they he or she purchases more than one service. This is at the heart of all bundled offerings. Like in most areas of commerce, if you buy more, you have the opportunity to garner more favorable pricing for our purchases. In line with this practice, purchasers of Sprint local service are not charged the ISAR that is levied on those customers that do not purchase Sprint locals service. There is nothing in statute or rule to forbid Sprint from rewarding its best customers.

Similarly, there is nothing to prohibit Sprint from acknowledging the market distinctions between residential and business customers. (Appleby, pp. 11-13). As Mr. Appleby points out, the telecommunications service needs of residential consumers tend to be more homogenous and can be marketed to with a smaller set of targeted offerings. Business customers have various and sophisticated needs and different packages and pricing must often be developed for them. Sprint has chosen in its rate design not to place the ISAR in the business offerings, but such "discrimination" between business and residential is permissible under Missouri law. It is common practice for ILECs to charge businesses more for local service than is charged to residential customers.

Regarding the new line-item billing rules, Sprint's ISAR charge is clearly labeled, and the purpose of the charge is described in its name – In-State Access Recovery charge. There is no intent to mislead or confuse the customer.

WHEREFORE, the Sprint tariffs should continue to be effective. The Commission should issue findings of fact and conclusions of law that approve the Sprint tariffs, and the contrary arguments of OPC should be rejected.

Respectfully submitted this 7th day of October 2005,

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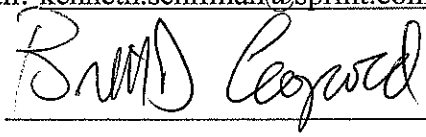
By: 

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 7th day of October, 2005, a copy of the above and foregoing was served via electronic mail to each of the following parties:

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