



**Legal and External Affairs**  
6450 Sprint Parkway  
Building 14  
Overland Park, KS 66251

August 5, 2002

**FILED**  
AUG 05 2002  
Missouri Public  
Service Commission

The Honorable Judge Hardy Roberts  
Secretary  
Missouri Public Service Commission  
200 Madison Street, Suite 650  
P. O. Box 360  
Jefferson City, MO 65102

RE: In the Matter of Sprint Communications Company, L.P.'s Proposed Tariff to  
Introduce an In-State Recovery Charge and Make Miscellaneous Text Changes  
Case No. TT-2002-1136/Tariff No. 20021020

Dear Judge:

Enclosed are an original and eight (8) copies of Sprint. Communications  
Company, L.P.'s Response to the Office of Public Counsel's Motion for Rehearing. in the  
above-captioned matter.

If you have any questions or comments, please do not hesitate to call me at 913-  
315-9363.

Very truly yours,

*Lisa Creighton Hendricks*

Lisa Creighton Hendricks *by David Bergmeyer*

LCH:mkj

cc: Parties of Record

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

**FILED<sup>2</sup>**  
AUG 05 2002  
Missouri Public  
Service Commission

In the Matter of Sprint Communications Company, )		
L.P.'s Proposed Tariff to Introduce an In-State )		Case No. TT-2002-1136
Recovery Charge and Make Miscellaneous Text )		Tariff No. 20021020
Changes )		

**SPRINT COMMUNICATIONS COMPANY, L.P.'S  
RESPONSE TO OFFICE OF PUBLIC COUNSEL'S  
MOTION FOR REHEARING**

Comes now Sprint Communications Company, L.P. (Sprint) in response to the Office of Public Counsel's Motion for Rehearing and states:

**INTRODUCTION**

In this case, Sprint sought the approval of a tariff change under which Sprint introduces an In-State Access Recovery Charge that is identical to AT&T's In-state Access Recovery Charge approved by this Commission on December 13, 2001 in Case No. TT-2002-129.<sup>1</sup> As with the AT&T Tariff change, OPC has filed a motion to suspend the tariff. In both Case No. TT-2002-129 and this case, the Commission denied OPC's motions and approved the tariff revisions. Just as in the AT&T case, OPC has filed a motion requesting the Commission rehear Sprint's now approved tariff revision. The Commission denied OPC's request for rehearing in Case No. TT-2002-120, and should do the same in this case.

**BACKGROUND**

On May 1, 31, 2002, Sprint submitted a tariff revision with a proposed effective date of July 1, 2002. The tariff revision is identified as Tariff No. 200201-200. The

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<sup>1</sup> In the Matter of AT&T Communications of the Southwest, Inc's Propose tariff to Establish a Monthly In-state Connection Fee and Surcharge.

proposed tariff revision introduces a monthly charge called the In-state Access Recovery Charge of \$1.99 and makes various text changes. On June 13, 2002, the Office of Public Counsel (OPC) filed a motion requesting the Commission suspend the tariff. OPC suggests in its Motion that the new charge, the "In-state Access Recovery Charge", is "a discriminatory rate increase for certain Missouri customers who subscribe to Sprint long distance services." On June 18, 2001, the Commission issued an Order Setting Time for Responses, shortening the response time to June 21, 2002. After suspending the tariff filing with an Order dated June 27, 2002, the Commission issued an Order directing the filing of pleadings addressing the Commission's questions and responses to those pleading on July 3, 2002. After reviewing the pleadings filed by the parties, Commission issued an Order approving the tariff change to introduce the In-state Access Recovery Charge. On July 26, 2002, the Office of Public Counsel filed its Motion for Rehearing.

### **ARGUMENTS**

OPC claims that the Commission overlooked relevant and material issues of law and fact failing to consider and determine that the tariff violates Section 254(g) of the Federal Telecommunications Act of 1996 and FCC Report and Order, Policy and Rules Concerning the Interstate, Interexchange Marketplace Implementation of Section 354(g) of the Communications Act of 1934, as amended. OPC argues that the approved Interstate Access Recovery Charge discriminates against Missouri customers as compared to customers for other states. OPC made this same argument in its Motion to Suspend Tariff and for Evidentiary and Public Hearings.

OPC also claims on various aspects that the Commission overlooked relevant and material matters of fact and law regarding the assessment of the In-state Access Recovery

Charges as “just and reasonable”, all of which OPC presented in its Motion to Suspend Tariff and for Evidentiary and Public Hearings. It is very clear that the Commission’s determination in this case is governed by Section 392.500(2) RS Mo. The Commission has already decided that Sprint’s proposed tariff revision is in compliance with that statute and is lawful. The Commission made this decision consistent with its decision in Case No. TT-2002-129. The Commission found that “(b)ecause AT&T’s proposed rate increase of \$1.95 applies only to a competitive service, consumers are free to obtain service from an alternative provider if they object to the rate” and that AT&T’s notice complied with Section 392.500 (2) RS Mo. Further, the Commission concluded as a matter of law, AT&T’s In-state Access Recovery Charge should be approved as there were no exceptions under Section 392.200.<sup>2</sup> The same conclusions were reached in this case. The Commission ruled in its Order approving Sprint’s tariff revision that:

It is unusual for the Commission to scrutinize the rate structure of competitive long distance service providers other than to determine compliance with Section 392.500. The statutes clearly set out that competition should act as a substitute for regulation. Customers are free to switch providers if they find the access charge unreasonable. Even Public Counsel states, “[t]he competitive marketplace determines to what extent the carrier will seek to recover all or any part...[access charges] in its rates.”

None of the arguments presented by OPC are new and they are still irrelevant.

Section 386.500, RSMo. (2000), provides that the Commission shall grant an application for rehearing if “in its judgment sufficient reason therefore be made to appear”. The arguments raised by OPC in its Motion for Rehearing simply restate the arguments that it previously presented to the Commission in its Motion to Suspend Tariff

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<sup>2</sup> *In the Matter of AT&T Communications of the Southwest, Inc.'s Proposed tariff to Establish a Monthly In-state Connection Fee and Surcharge, Case No. TT-2002-129, Order Approving Tariff, December 13, 2001.*

and for Evidentiary and Public Hearings. These arguments have already been rejected by the Commission in the Order approving the tariff. OPC fails to establish sufficient reason for rehearing.

### CONCLUSION

WHEREFORE, Sprint respectfully requests the Commission deny the Office of Public Counsel's Motion for Rehearing.

Respectfully submitted,  
SPRINT

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*Dan's Bergman*

### CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the above and foregoing was mailed, postage prepaid, to the parties listed below, this 8<sup>th</sup> day of August, 2002.

Office of the Public Counsel  
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MO Public Service Commission  
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*Lisa Creighton Hendricks*

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*lydb*