

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

In the Matter of Sprint Missouri, Inc., Application )	
for Competitive Classification under Section )	Case No. TO-2006-0375
392.245.5, RSMo (2005) )	Tariff File No. YI-2006-0761

**STAFF RECOMMENDATION**

COMES NOW the Staff of the Missouri Public Service Commission and for its recommendation states:

1. On March 31, 2006, Sprint Missouri, Inc., filed its Application for Competitive Classification pursuant to Section 392.245.5, RSMo. In its application, Sprint requests that the Commission classify all of its residential and business services, other than exchange access service, as competitive for the Jefferson City exchange. Also, on March 31, Sprint Missouri made a tariff filing related to this Application.

2. Section 392.245.5 RSMo Supp. 2005 reads in part:

5. Each telecommunications service offered to business customers, other than exchange access service, of an incumbent local exchange telecommunications company regulated under this section shall be classified as competitive in any exchange in which at least two non-affiliated entities in addition to the incumbent local exchange company are providing basic local telecommunications service to business customers within the exchange. Each telecommunications service offered to residential customers, other than exchange access service, of an incumbent local exchange telecommunications company regulated under this section shall be classified as competitive in an exchange in which at least two non-affiliated entities in addition to the incumbent local

exchange company are providing basic local telecommunications service to residential customers within the exchange. For purposes of this subsection:

(1) Commercial mobile service providers as identified in 47 U.S.C. Section 332(d)(1) and 47 C.F.R. Parts 22 or 24 shall be considered as entities providing basic local telecommunications service, provided that only one such non-affiliated provider shall be considered as providing basic local telecommunications service within an exchange;

(2) Any entity providing local voice service in whole or in part over telecommunications facilities or other facilities in which it or one of its affiliates have an ownership interest shall be considered as a basic local telecommunications service provider regardless of whether such entity is subject to regulation by the commission. A provider of local voice service that requires the use of a third party, unaffiliated broadband network or dial-up Internet network for the origination of local voice service shall not be considered a basic local telecommunications service provider. For purposes of this subsection only, a broadband network is defined as a connection that delivers services at speeds exceeding two hundred kilobits per second in at least one direction;

(3) Regardless of the technology utilized, local voice service shall mean two-way voice service capable of receiving calls from a provider of basic local telecommunications services as defined by subdivision (4) of section 386.020, RSMo;

(4) Telecommunications companies only offering prepaid telecommunications service or only reselling telecommunications service as defined in subdivision

(46) of section 386.020, RSMo, in the exchange being considered for competitive classification shall not be considered entities providing basic telecommunications service; and

(5) Prepaid telecommunications service shall mean a local service for which payment is made in advance that excludes access to operator assistance and long distance service;

(6) Upon request of an incumbent local exchange telecommunications company seeking competitive classification of business service or residential service, or both, the commission shall, within thirty days of the request, determine whether the requisite number of entities are providing basic local telecommunications service to business or residential customers, or both, in an exchange and if so, shall approve tariffs designating all such business or residential services other than exchange access service, as competitive within such exchange.

3. In the attached Memorandum, labeled Appendix A, the Staff states that the Jefferson City exchange has at least one non-affiliated wireless and one non-affiliated wireline entity providing local voice service to business customers and to residential customers.

WHEREFORE, the Staff recommends that the Commission (1) approve Sprint Missouri's application for a competitive classification for all of its residential and business services, other than exchange access service in the Jefferson City exchange, and (2) approve Sprint Missouri's related tariff filing in Tariff File No. YI-2006-0761.

Respectfully submitted,

/s/ William K. Haas

William K. Haas  
Deputy General Counsel  
Missouri Bar No. 28701

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-7510 (Telephone)  
(573) 751-9285 (Fax)  
[william.haas@psc.mo.gov](mailto:william.haas@psc.mo.gov)

### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 10<sup>th</sup> day of April 2006.

/s/ William K. Haas

# MEMORANDUM

To: Missouri Public Service Commission Official Case File  
Tariff File No. YI-2006-0761 Case No. TO-2006-0375

From: Adam McKinnie  
Telecommunications Department

John Van Eschen / 4-10-06      /s/ William K Haas / 4-10-06  
Utility Operations Division/Date      General Counsel's Office/Date

Subject: Recommendation to approve Sprint Missouri, Inc. (Sprint)'s 30-day competitive classification filing

Date: 4-10-06

## **Summary:**

The Telecommunications Department Staff (Staff) recommends the Commission grant competitive status for residential services other than exchange access service and business services other than exchange access service to Sprint Missouri, Inc. (Sprint) in the Jefferson City exchange. In Staff's opinion, evidence exists supporting the criteria described in Section 392.245.5 RSMo. (Supp. 2005) that at least two qualifying non-affiliated carriers are providing basic local telecommunications services within each of these exchanges. The proposed instant tariff filing should be allowed to go into effect on May 1, 2006.

## **Background:**

On March 31, 2006, Sprint, an incumbent local exchange carrier (ILEC), filed a petition requesting competitive classification for residential services other than exchange access service and business services other than exchange access service in the Jefferson City exchange.

Along with the petition, Sprint made an instant tariff filing to classify residential services other than exchange access service and business services other than exchange access service in the Jefferson City exchange as competitive. The relevant instant tariff filing has an effective date of May 1, 2006.

Sprint requested that competitive classification be granted pursuant to the thirty day section of Section 392.245.5, RSMo (Supp. 2005). The relevant portion of the statute reads as follows:

5. Each telecommunications service offered to business customers, other than exchange access service, of an incumbent local exchange telecommunications company regulated under this section shall be classified as competitive in any exchange in which at least two nonaffiliated entities in addition to the incumbent local exchange company are providing basic local telecommunications service to business customers within the exchange. Each telecommunications service

offered to residential customers, other than exchange access service, of an incumbent local exchange telecommunications company regulated under this section shall be classified as competitive in an exchange in which at least two nonaffiliated entities in addition to the incumbent local exchange company are providing basic local telecommunications service to residential customers within the exchange. For purposes of this subsection:

(1) Commercial mobile service providers as identified in 47 U.S.C. Section 332(d)(1) and 47 C.F.R. Parts 22 or 24 shall be considered as entities providing basic local telecommunications service, provided that only one such nonaffiliated provider shall be considered as providing basic local telecommunications service within an exchange;

(2) Any entity providing local voice service in whole or in part over telecommunications facilities or other facilities in which it or one of its affiliates have an ownership interest shall be considered as a basic local telecommunications service provider regardless of whether such entity is subject to regulation by the commission. A provider of local voice service that requires the use of a third party, unaffiliated broadband network or dial-up Internet network for the origination of local voice service shall not be considered a basic local telecommunications service provider. For purposes of this subsection only, a "broadband network" is defined as a connection that delivers services at speeds exceeding two hundred kilobits per second in at least one direction;

(3) Regardless of the technology utilized, local voice service shall mean two-way voice service capable of receiving calls from a provider of basic local telecommunications services as defined by subdivision (4) of section 386.020, RSMo;

(4) Telecommunications companies only offering prepaid telecommunications service or only reselling telecommunications service as defined in subdivision (46) of section 386.020, RSMo, in the exchange being considered for competitive classification shall not be considered entities providing basic telecommunications service; and

(5) "Prepaid telecommunications service" shall mean a local service for which payment is made in advance that excludes access to operator assistance and long distance service;

(6) Upon request of an incumbent local exchange telecommunications company seeking competitive classification of business service or residential service, or both, the commission shall, within thirty days of the request, determine whether the requisite number of entities are providing basic local telecommunications service to business or residential customers, or both, in an exchange and if so shall approve tariffs designating all such business or residential services other than exchange access service, as competitive within such exchange.

...

The commission shall maintain records of regulated providers of local voice service, including those regulated providers who provide local voice service over their own facilities, or through the use of facilities of another provider of local voice service. In reviewing an incumbent local exchange telephone company's request for competitive status in an exchange, the commission shall consider their own records concerning ownership of facilities and shall make all inquiries as are necessary and appropriate from regulated providers of local voice service to determine the extent and presence of regulated local voice providers in an exchange.

In its petition for competitive status on the thirty-day track, Sprint named MCC Telephony of Missouri, Inc. (Mediacom) as an entity “now providing residential phone service in the exchange using facilities it owns in part or whole” in the Jefferson City exchange. In support of this claim, Sprint states that it “has experienced competitive losses to Mediacom in Jefferson City”.

Additionally, in its petition for competitive status on the thirty-day track, Sprint named Socket Telecom LLC (Socket) as an entity that “offers local phone service to business customers in direct competition with Sprint in the Jefferson City exchange.” Sprint also states that “Socket is not a reseller of Sprint’s services but uses a combination of its own facilities and facilities of other providers.” Sprint states that Socket is “aggressively marketing its services to Jefferson City customers” and “Sprint has experienced competitive losses to Socket in Jefferson City”.

In further support of its petition, Sprint affirmed that it “has numerous non-affiliated wireless providers operating in its Jefferson City exchange providing local service”. In Exhibit A of its petition, the Sprint listed the following wireless carriers “providing local service to business and consumer customers in Sprint’s Jefferson City exchange: Cingular, Verizon, Alltel, T-Mobile, and US Cellular.”

Exhibit A from the petition includes coverage maps from each of the wireless carriers’ websites and rates offered from several wireless carriers as evidence of the wireless carriers providing service in the listed exchanges.

Exhibit B of the petition contains the instant tariff filing changing the competitive classification of the Jefferson City exchange for residential and business services other than exchange access service. The instant filing has no rate changes for any service offered in the Jefferson City exchange.

In its *Order Directing Notice, Establishing Procedural Schedule, and Reserving Hearing Date*, the Commission wrote:

Accordingly, the Commission will direct its Staff to investigate this matter and to file a verified pleading stating whether the wireless and the facilities-based carrier has at least two residential customers whose addresses are located within the Jefferson City exchange.

As Sprint’s petition was for both business and residential services, Staff performed its investigation for both business and residential customers.

### **Staff Investigation:**

The Telecommunications Department Staff (Staff) contacted each of the carriers cited by Sprint as qualifying the Jefferson City exchange for competitive status for residential and business services other than exchange access service. Each carrier was asked to provide an affidavit stating whether the carrier has at least two residential and / or business customers with addresses located within the Jefferson City exchange.

Mediacom submitted to Staff an affidavit on Friday, April 7, 2006 stating its residential customer line counts as of April 5, 2006 for the Jefferson City exchange. The affidavit submitted by MCC Telephony of Missouri's President, Calvin Craib, affirms that "the figures provided in Attachment A for number of customers and number of lines for each exchange identified in Attachment A are complete and accurate to the best of my knowledge and belief". Mediacom has requested the line counts be classified as highly confidential. Thus, the affidavit has been redacted to eliminate information submitted confidentially under Section 386.480 RSMo. (2000). Mediacom's submitted affidavit is attached to this memorandum and is identified as Schedule No. 1.

In addition, based on Staff discussions with Mediacom officials in previous cases, Mediacom provides basic local telecommunications service over the same facilities also utilized to provide cable television service to residential customers. In this regard Mediacom provides basic local telephone service to residential customers in these exchanges through its own outside plant facilities or those of an affiliate. Mediacom provides service through an arrangement with another CLEC for switching and other services. In this regard the CLEC technically provides local interconnection with the ILEC and also provides local telephone numbers to Mediacom in these exchanges.

Socket submitted to Staff an affidavit on Friday, April 7<sup>th</sup> stating its current customer line counts as of that date. The affidavit submitted by Socket's Matt Kohly affirms that the company "has two or more business customers with telephone numbers that are rated local to the Jefferson City telephone exchange who have addresses within the Jefferson City telephone exchanges to the best of his knowledge and belief". The affidavit further states, "Socket Telecom LLC is provisioning service to at least two business customers in the Jefferson City exchange in whole or in part over Socket Telecom LLC's facilities." Mr. Kohly's affidavit also provides the number of lines served by Socket in the Jefferson City exchange. Socket has requested the line counts be classified as highly confidential. Thus, the affidavit has been redacted to eliminate information submitted confidentially under Section 386.480 RSMo. (2000). Socket's submitted affidavit is attached to this memorandum and is identified as Schedule No. 2.

Staff also contacted the five wireless carriers cited by Sprint in its application. Staff asked each wireless carrier to provide an affidavit stating whether the carrier has at least two residential customers and two business customers with addresses located within the Jefferson City exchange.

US Cellular provided an affidavit to Staff on Wednesday, April 5<sup>th</sup>. US Cellular representative Jeff Sorensen affirmed that US Cellular "has two or more residential customers with telephone numbers that are rated local to the Jefferson City telephone exchange who have addresses within the Jefferson City telephone exchanges to the best of his knowledge and belief" and that US Cellular "has two or



more business customers with telephone numbers that are rated local to the Jefferson City telephone exchange who have addresses within the Jefferson City telephone exchanges to the best of his knowledge and belief". Mr. Sorensen's affidavit is attached as Schedule 3.

Staff also requested information from the Local Exchange Routing Guide, or LERG, from Sprint for the Jefferson City exchange, which Sprint provided. The LERG describes telephone numbers that are rated as local to a specific exchange. The LERG information supplied to Staff by Sprint demonstrates that US Cellular and Socket each have telephone numbers available to them that are rated local for the exchange. As discussed above, Mediacom utilizes another CLEC to utilize local telephone numbers for its customers. That CLEC is shown as having telephone numbers rated local to the Jefferson City exchange.

### **Conclusion:**

As a result of Staff's investigation, Staff concludes there is a wireline carrier other than the ILEC serving at least two residential customers (Mediacom) and two business customers (Socket) whose addresses are located in the Jefferson City exchanges with telephone numbers rated as local to the Jefferson City exchange. Staff also concludes there is a wireless carrier (US Cellular) with at least two residential customers and two business customers whose addresses are located in the Jefferson City exchange with telephone numbers rated as local to the Jefferson City exchange..

Staff has no objection to the petitions. Staff recommends the instant tariff filings corresponding to the petitions be allowed to go into effect.

- ☒ The Companies are not delinquent in filing an annual report and paying the PSC assessment.  
☐ The Company is delinquent. Staff recommends the Commission grant the requested relief/action on the condition the applicant corrects the delinquency. The applicant should be instructed to make the appropriate filing in this case after it has corrected the delinquency.  
(☐ No annual report ☐ Unpaid PSC assessment. Amount owed:     )

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

In The Matter of Sprint Missouri, Inc.                     )  
Application for Competitive Classification                )  
Under Section 392.245.5 RSMo. (2005)                    )

Case No.   **TO-2006-0375**

**AFFIDAVIT OF   Adam McKinnie**

STATE OF MISSOURI                     )  
  )   ss:  
COUNTY OF COLE                     )

Adam McKinnie, employee of the Staff of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that he has participated in the preparation of the accompanying memorandum, and that the facts therein are true and correct to the best of his knowledge and belief.



Adam McKinnie

Subscribed and affirmed before me this 10<sup>th</sup> day of April

I am commissioned as a notary public within the County of Cole, State of Missouri  
and my commission expires on \_\_\_\_\_



DAWN L. HAKE  
My Commission Expires  
March 16, 2009  
Cole County  
Commission #05407643

  
NOTARY PUBLIC