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**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 16th
day of July, 1997.

In the Matter of the Application of Speer Virtual)
Media Limited Partnership for a Certificate of)
Service Authority to Resell Intrastate Inter-) Case No. TA-97-505
exchange Telecommunications Services Within the)
State of Missouri.)
)

ORDER SUSPENDING TARIFF

Speer Virtual Media Limited Partnership (SVM) applied to the Missouri Public Service Commission on May 19, 1997, for a certificate of service authority to provide intrastate interexchange telecommunications services within the State of Missouri, for classification as a competitive telecommunications company, and for waiver of certain statutes and Commission rules as authorized by statute. The Commission issued its Notice of Applications on May 27, directing parties wishing to intervene in the case to do so by June 11. SVM also filed a proposed tariff with its application, carrying a 45-day effective date, reflecting the rates, rules and regulations under which it proposes to offer services in Missouri. The proposed tariff was filed on May 19, to become effective on July 3; the effective date was later extended to July 17. There were no applications filed for intervention.

SVM is proposing to offer a prepaid calling card on an individual case basis, known as an ICB basis. The calling card is designed as an advertising medium - SVM's customers will purchase the cards and pass them on to end users at no charge. The end user will hear an audio billboard

on each use. The long distance service rate will be a tariffed rate, but the end user will not be charged for the time during which the audio billboard is playing.

The Commission Staff filed a memorandum on July 8 recommending that the Commission approve SVM's application for a certificate of service authority and approve the proposed tariff to become effective on July 17. Staff pointed out that the service being proposed in this case is the first of its kind to be offered in Missouri. Staff's recommendation included a discussion of the payphone surcharge of \$0.35 per call that SVM has proposed. Staff stated that the Federal Communication Commission's (FCC) Order in CC Docket 96-128¹ provides that long distance carriers will be required to compensate payphone service providers (PSPs) at a rate of \$0.35 per call, a rate that will eventually default to the local coin rate. Staff's position is that the FCC intends for IXC's to be able to recover the PSP compensation costs "at the discretion of the individual carriers," citing to Paragraph 75 of the FCC's Order on Reconsideration.² Staff also stated that the United States Court of Appeals for the District of Columbia³ recently decided that \$0.35 is not the proper amount of compensation from IXC's to PSPs, but opined that the FCC's Order stands because the court did not address the amount carriers may pass on to their

¹ Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, FCC 96-388 (Fed. Comm. Comm'n, Sept. 20, 1996).

² Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Order on Reconsideration, FCC 96-439 (Fed. Comm. Comm'n, Nov. 8, 1996).

³ Illinois Public Telecommunications Ass'n v. FCC, No. 96-1394 (D.C. Cir., July 1, 1997).

customers. Staff also stated that the proposed surcharge appears to conflict with a previous Commission order issued in Case No. TA-88-218.⁴

The Commission has reviewed SVM's application and Staff's recommendation, and finds additional time is needed to consider the issues involved in this case. Accordingly, the proposed tariff shall be suspended for a period of one hundred and twenty days beyond the effective date of July 17 to November 14 or until otherwise ordered by this Commission. Although there are no adverse parties at this point, the Commission will require the filing of testimony for the purpose of fully educating the Commission on the issues and satisfying the concerns inspired by the Staff's recommendation. The company, Staff and the Office of the Public Counsel will have the opportunity to file simultaneous direct and rebuttal testimony and the case will be set for a hearing for Commission questions and for cross-examination, if needed.

The testimony shall address the issues raised in the Staff recommendation and any other issues relevant to the appropriateness of SVM's certification and tariff. In preparing its testimony the Telecommunications Staff shall consult with the Policy & Federal Affairs Department Telecommunications Staff of the Commission. In particular, parties should address the following:

- a) whether the payphone surcharge proposed by SVM conflicts with prior Commission orders;
- b) if a conflict exists, whether a policy change is warranted and what are the facts that support such a change;

⁴ In re the Application of American Operator Services, Inc. for a Certificate of Service Authority to Provide Intrastate Operator-Assisted Resold Telecommunications Services, et al., 29 Mo. P.S.C. (N.S.) 566 (1989).

c) whether the proposed surcharge is in compliance with applicable FCC orders and rules;

d) how the proposed surcharge is affected by the United States Court of Appeals decision issued on July 1, 1997; and

e) the current status of federal litigation regarding the FCC's payphone directives.

The Commission will apply the following requirements to the procedural schedule in this case:

i. The Commission will require compliance with 4 CSR 240-2.130, including the filing of testimony on line-numbered pages.

ii. Testimony and schedules shall not be filed under seal and treated as proprietary or highly confidential unless a protective order has first been established. The party that considers information to be proprietary or highly confidential should indicate the material's proper classification at the time of filing. Any testimony or schedule filed without a protective order first being established and its classification clearly indicated shall be considered public information.

iii. Any party wishing to offer a prefiled exhibit into evidence must bring to the hearing three copies of the exhibit for the court reporter. If the exhibit has not been prefiled, the proponent must also bring six copies for the Commissioners and the administrative law judge, and copies for opposing counsel.

iv. The Commission's general policy provides for the filing of the transcript within two weeks after the conclusion of the hearing. Any party seeking to expedite the filing of the transcript shall tender a written request to the administrative law judge at least five days before the hearing.

v. If the Commission orders the filing of briefs in this case, they shall be limited to 30 pages. All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080(7).

IT IS THEREFORE ORDERED:

1. That the following tariff, submitted on May 19, 1997, by Speer Virtual Media Limited Partnership is suspended for a period of one hundred and twenty days to November 14, 1997, or until otherwise ordered by this Commission:

P.S.C. Mo. No. 1

2. That the following procedural schedule shall apply:

Simultaneous Direct
Testimony

August 8, 1997, 3:00 p.m.

Simultaneous Rebuttal
Testimony

September 5, 1997, 3:00 p.m.

Evidentiary Hearing

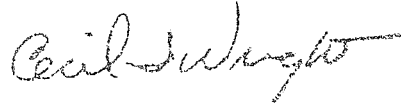
October 1, 1997, 10:00 a.m.

3. The Commission shall conduct an evidentiary hearing beginning at 10:00 a.m. on October 1, 1997, in the Commission's hearing room on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

4. That anyone with special needs as addressed by the Americans With Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days before the prehearing or hearing at one of the following numbers: Consumer Services Hotline - 1-800-392-4211 or TDD Hotline - 1-800-829-7541.

5. That this order shall become effective on July 29, 1997.

BY THE COMMISSION

A handwritten signature in cursive script, appearing to read "Cecil I. Wright", written in dark ink.

**Cecil I. Wright
Executive Secretary**

(S E A L)

Zobrist, Chm., Crumpton,
Drainer, Murray and Lumpe,
CC., concur.

ALJ: Wickliffe