

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

In the Matter of Sprint Missouri, Inc.	)	
Application for Competitive Classification Under	)	<b><u>Case No. TO-2006-0375</u></b>
Section 392.245.5 RSMo. (2005)	)	

**CONCURRING OPINION OF COMMISSIONERS ROBERT M. CLAYTON III AND**  
**STEVE GAW**

The Commission approved Sprint's request for competitive classification in the Jefferson City exchange pursuant to §392.245(5) RSMo. Cum. Supp. 2005, in its Report and Order. These Commissioners voted to support the Report and Order but are compelled to write a separate concurrence because the Order fails to reference evidence which established the existence of toll-free, local service with local telephone numbers for wireless carriers in the Jefferson City exchange. Such evidence is required by the statute and should be included in the Commission's Order.

In five previous competitive classification cases<sup>1</sup>, these Commissioners have relied, in part, on evidence establishing that consumers in an exchange have the ability to make and receive local, toll-free calls with customers of other providers competing with the ILEC. In the present case, the parties have submitted ample evidence demonstrating that customers in the Jefferson City exchange are able to make and receive local, toll- free calls to competing carriers' customers including wireless customers. When a wireless provider acquires telephone numbers with an N-X-X from the exchange in question, wireline callers are able reach the wireless customer without paying a toll.

---

<sup>1</sup> See, *In Re Sprint*, Case No. IO-2006-0092, Opinion of Commissioner Clayton, Concurring, in part, and Dissenting, in part, Dissenting Opinion of Commissioner Gaw; *In Re SBC*, Case No. TO-2006-0093; Dissenting Opinion of Commissioner Gaw, Opinion of Commissioner Clayton, Dissenting, in part, and Concurring in part; *In Re Centurytel*, Case No. IO-2006-0109, Report and Order, Opinion of Commissioner Clayton, Concurring, in part and Dissenting, in part; Concurring Opinion of Commissioner Gaw; *In Re CenturyTel*, Case No. IO-2006-0316, Opinion of Commissioners

Such ability is what allows the wireless carrier to effectively compete with the ILEC.

Regulation may be replaced by a vibrant, competitive market. It is our duty to follow the provisions of §392.245(5) to ensure customers of an exchange truly have a choice in a telephone service provider. The ability to make and receive local, toll-free calls was clearly contemplated by the legislature and it should be a critical piece of the Commission's analysis in competitive classification cases and our orders should demonstrate that we have considered this evidence. Although evidence was received establishing these elements, the majority opinion fails to reflect this crucial information in its decision.

Based on the foregoing reasons, these Commissioners concur.

Respectfully submitted,



---

Robert M. Clayton III  
Commissioner



---

Steve Gaw  
Commissioner

Dated at Jefferson City, Missouri,  
on this 20th day of April, 2006.

---

Clayton, Dissenting, in part, and Concurring, in part; *In Re Spectra*, Case No. IO-2006-0317, Opinion of Commissioners Clayton and Gaw, Dissenting, in part, and Concurring, in part.