



Lewis R. Mills, Jr.
Public Counsel

State of Missouri

Matt Blunt
Governor

Office of the Public Counsel
Governor Office Building
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, Missouri 65102

Telephone: 573-751-4857
Facsimile: 573-751-5562
Web: <http://www.mo-opc.org>
Relay Missouri
1-800-735-2966 TDD
1-800-735-2466 Voice

August 9, 2006

Ms. Cully Dale
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
Governor Office Building
200 Madison Street
Jefferson City, MO 65102

Re: Case No. AX-2003-0404
Adoption of Rule 4 CSR 240-2.135 Confidential Information that prescribes the procedures for handling confidential information in cases before the commission.

Dear Ms. Dale:

The Office of the Public Counsel submitted its comments to the proposed rule on August 2, 2006 and attended the Commission's public hearing on August 7, 2006.

At that hearing, Commission Gaw asked Public Counsel if section (16) of the present protective order and now section (16) of the proposed rule was ever used to prevent Public Counsel from using HC material from one proceeding as evidence in another proceeding. At the time Public Counsel could not recall such an objection, but now recalls that it occurred in the Sprint rebalancing case after the Court of Appeals' remand.

In Case No. TR-2002-25, *In the matter of the tariffs filed by Sprint Missouri, Inc., d/b/a Sprint, to reduce the basic rates by the change in the CPI-TS as required by Section 392.245(4), updating its maximum allowable prices for non-basic services and adjusting certain rates as allowed by Section 392.245(11), and reducing certain switched access rates and rebalancing to local rates, as allowed by Section 392.245(9)*, Sprint accused Public Counsel of violating the protective order in *An Investigation in to the Matter of the Costing of Access Service by CLECs* (TR-2001-65) by unilaterally transferring Highly Confidential information from that proceeding into the rebalancing tariff case. Public Counsel filed Suggestions In Opposition To Sprint's Motion To Strike Public Counsel's Reply, strongly denying Sprint's unfounded allegations.

Public Counsel noted that the HC information in Public Counsel's expert witness testimony and comments was evidence to rebut Sprint's and the Staff's case. Its direct source was from either the existing record in the case (TR-2001-152) or from Public Counsel's data requests to the Staff in TR-2001-152 relating to Staff sponsored cost studies in TR-2001-65. The Commission did not rule on Sprint's motion, because it relied on the PSC record as on the date of the original order before the remand.

Public Counsel's proposed rule amendment sections (16a) would have left no doubt about Public Counsel's (and Staff's) clear right to use HC data from one case to another.

Please bring this to the attention of the Commission. Thank you in advance for your assistance.

Respectfully submitted,

/s/ Michael Dandino

Mike Dandino
Deputy Public Counsel

MFD:ks

Cc: William Haas; General Counsel; Judge Woodruff; Rick Zucker; Larry Dority, Robert Gryzmala; Dean Cooper; Carl Lumley; Stephen Morris; Tom Byrne; James Lowery