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Missouri Public
Service Commission

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

In the Matter of the Tariff Filing of)
Sprint Missouri, Inc. d/b/a Sprint)
to Increase the Rate for the)
Metropolitan Calling Area Plan)

Case No. IT-2003-0292
Tariff No. JI-2003-1401

SPRINT MISSOURI, INC. BRIEF

COMES NOW Sprint Missouri, Inc. d/b/a Sprint ("Sprint") and for its Brief in this case states as follows:

INTRODUCTION

This case focuses on Sprint's intention to raise its actual prices for its Optional Metropolitan Calling Area ("MCA") Plans by an amount not to exceed eight percent (8%) over a twelve (12) month period. In accordance with the Missouri Price Cap Statute¹, when Sprint became a price cap company, the maximum allowable price for existing services, such as Sprint's Optional MCA Plans, was set based on the tariff rate in effect on December 31, 1998. Thereafter, the Price Cap Statute allows Sprint to increase the maximum allowable price for its MCA Plans eight percent (8%) annually. The Sprint tariff under review contains increased rates that are within the eight percent (8%) annual allowance. Therefore, the Price Cap Statute requires that the Commission approve Sprint's tariff revisions containing the proposed rate increases.

¹ Section 392.245 RSMo.

BACKGROUND

Sprint is a large local exchange company that has offered a MCA Plan in tiers, optional 3, 4 and 5, in the Kansas City area since January 8, 1994. The rates for the services set on January 8, 1994 were as follows:

Kansas City MCA-3

Residence	\$12.35
Business	\$24.80

Kansas City MCA-4

Residence	\$21.55
Business	\$46.75

Kansas City MCA-5

Residence	\$32.50
Business	\$70.70

The above rates remain the rates for Sprint's Optional MCA Plans. On August 21, 1999, the Commission determined that Sprint had satisfied the requirements to become subject to the Price Cap Regulation pursuant to Section 392.245.RSMo in its Order Approving Price Cap Application in Case No. TO-99-359. On January 28, 2003, Sprint filed revised tariff pages to increase the residential and business monthly rate for its Optional MCA Plans to an amount *at or below eight percent (8%)*. The tariff revisions contained a proposed effective date of February 28, 2003. The specific rate increases requested for Sprint MCA Plans are as follows:

Kansas City MCA-3

Residence	\$13.00
Business	\$26.78

Kansas City MCA-4

Residence	\$23.00
Business	\$50.49

Kansas City MCA-5

Residence	\$35.00
Business	\$76.35

On February 20, 2003, the Commission suspended Sprint's tariff revisions until November 28, 2003. On April 4, 2003, the Commission granted intervention to Southwestern Bell Telephone Company d/b/a SBC Missouri. On March 21, 2003, a Pre-Hearing Conference was held in this case. At the Pre-Hearing, Conference, the parties agreed that a hearing would not be necessary in this case as the case presented solely legal issues. The parties further agreed to a Procedural Schedule under which the parties would jointly submit stipulated facts. Finally, the parties agreed to a Procedural Schedule for briefing the case. The schedule was accepted by the Commission

ARGUMENT

**THE COMMISSIN SHOULD APPROVE SPRINT'S TARRIF AS IT IS
CONSISTENT WITH THE MISSOURI PRICE CAP STATUTE**

Sprint is a price cap company regulated under the Missouri Price Cap Statute. Section 1 of the Missouri Price Cap Statute provides that the Commission shall have the authority to ensure that rates are just and reasonable by employing the Price Cap Regulation. Consistent with this direction, the statute provides strict parameters in which a price cap company can or can not adjust rates. The Commission's jurisdiction is also limited as long as the price cap company operates within the parameters provided by the statute. The limitation on the Commission's

authority is evidenced by the fact that several subsections of the Price Cap Statute state that the Commission “**shall**” approve tariffs that are in compliance with the maximum allowable price set by the statute.² The use of the word shall is imperative when entities are granted rights dependent on the Commission’s action. *State ex rel Springfield Warehouse and Transfer Company and Sur-way Lines, Inc. v. PSC* 225 SW 2d 792 (Mo. App. 1949). Further, the Price Cap Statute explicitly removes price cap companies from Commission reviews of their rates to determine if they are unjust or unreasonable. Section 392.245.7 RSMo. As the Commission has no authority to issue an order that would nullify the expressed will of the Legislature,³ the Commission’s review in this case, as it relates to rates, is limited to determining if Sprint’s tariff is within the maximum allowable price.

In this case, the Commission is reviewing a rate increase to Sprint’s Optional MCA Plans. The MCA Plan is a non-basic service as that term is defined in Section 386.020 (34). Therefore, the applicable provision of the Price Cap Statute is Section 392.245.11. This section provides in relevant part:

The maximum allowable price for non-basic telecommunications services of a large incumbent local exchange telecommunications company regulated under this section shall not be changed until January 1, 1999, or on an exchange by exchange basis, until an alternative local exchange company is certified and providing basic local exchange telecommunications services, whichever is earlier. Thereafter, the maximum allowable prices for non-basic telecommunications services of an incumbent local exchange company may be annually increased by up to eight percent (8%) for each of the following periods upon providing notice to the commission and filing tariffs establishing the rates for such services in such exchanges at such maximum allowable prices.... **An incumbent local exchange company may change the rates for its services, consistent with the provisions of Section 392.200, but not to exceed the maximum allowable prices by filing tariffs which shall be approved by the commission within thirty (30) days,**

² See Section 392.245.5 (The Commission **shall** approve tariff); Section 392.245.11 (same).

³ See *State ex rel Springfield Warehouse and Transfer Company and Sur-way Lines, Inc. v. PSC* 225 SW 2d 792 (Mo. App. 1949).

provided that any such rate is not in excess of the maximum allowable price established for such services under this section.

(emphasis added)

Under the above statute, the legislature placed the word shall to reflect a requirement for the Commission to approve Sprint's tariff revisions if the tariff revisions are within the maximum allowable price.⁴ The maximum allowable price is an annual increase of up to eight percent (8%). Sprint's tariff revisions are within the maximum allowable rates. Specifically, the requested increases are within eight percent (8%) of the current rates that were set in 1994:

1994 Kansas City MCA-3	Tariff Kansas City MCA-3	Percent Increase
Residence \$12.25	Residence \$13.00	5.3%
Business \$24.80	Business \$26.78	8.0%

1994 Kansas City MCA-4	Tariff Kansas City MCA-4	Percent Increase
Residence \$21.55	Residence \$23.00	6.7%
Business \$46.75	Business \$50.49	8.0%

1994 Kansas City MCA-5	Tariff Kansas City MCA-5	Percent Increase
Residence \$32.50	Residence \$35.00	7.7%
Business \$70.70	Business \$76.35	8.0%

Based on the above, Sprint has complied with the Missouri Price Cap Statute. Therefore, the Missouri Price Cap Statute requires the Commission to approve the tariff.

⁴ Sprint recognizes that the applicable statute also makes reference to Section 392.200 RSMo. However, the sections of 392.200 that would be relevant deal with discrimination among customers. To Sprint's knowledge, no one is making any allegations in this case that deal with discrimination.

CONCLUSION

For the reasons stated above, Sprint requests the Commission to approve Sprint's tariff changes raising the actual rates for its MCA Plans to a level at or below eight percent (8%) of the effective rate for Sprint's MCA Plan.

Respectfully submitted,

Sprint

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing was mailed, postage prepaid, to the parties listed below, this 11th day of April, 2003.

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