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May 9, 2003

FILED

MAY 09 2003

**Missouri Public
Service Commission**

Secretary of PSC
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P. O. Box 360
Jefferson City, MO 65102

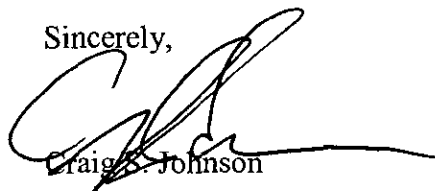
**Re: Northeast Missouri Rural Telephone Company, Case No. IT-2003-0374,
Tariff No. JI-2003-1660
Chariton Valley Telephone Corporation, Case No. IT-2003-0375,
Tariff No. JI-2003-1661
Mid-Missouri Telephone Company, Case No. IT-2003-0376,
Tariff No. JI-2003-1667**

Dear Secretary:

Enclosed for filing please find an original and five (5) copies of Northeast's, Chariton Valley's and Mid-Missouri Telephone Company's Notice of Withdrawal of Tariffs and for Dismissal.

Thank you for seeing these filed.

Sincerely,



Craig S. Johnson

CSJ:sw

Enc.

cc: Denise Day
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MAY 09 2003

Missouri Public
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

In the Matter of Northeast Missouri Rural Telephone Company's Wireless Termination Tariff.)	Case No. IT-2003-0374 Tariff No. JI-2003-1660
In the Matter of Chariton Valley Telephone Corporation's Wireless Termination Tariff.)	Case No. IT-2003-0375 Tariff No. JI-2003-1661
In the Matter of Mid-Missouri Telephone Company's Wireless Termination Tariff.)	Case No. IT-2003-0376 Tariff No. JI-2003-1667

NOTICE OF WITHDRAWAL OF TARIFFS, AND FOR DISMISSAL

Comes now Counsel for Northeast Missouri Rural Telephone Company, Chariton Valley Telephone Corporation, and Mid-Missouri Telephone Company, and hereby withdraw the proposed wireless termination tariffs which are the subject matter of these consolidated tariff filings and cases. In support hereof, Northeast, Chariton Valley, and Mid-Missouri state as follows:

1. The Commission's May 6 Order Consolidating Cases, Granting Intervention, and Setting Expedited Hearing leaves the parties and the Commission with a procedural schedule which is not optimal for presentation and development of an adequate record upon which a decision should be based.
2. The May 7 Order Directing Filing can be read to support the conclusion that, based upon the April 29, 2003 Slip Opinion of the Missouri Court of Appeals, Western District, in *State ex rel. Sprint Spectrum L.P., et al v. Missouri Public Service Commission*, the tariffs are subject to rejection for inclusion of a "\$0.02 adder".

3. Applicants disagree with this conclusion. The proposed tariff rates of Northeast, Chariton Valley, and Mid-Missouri, are constituted by all or part of their currently tariffed and lawful access rate components. The proposed rate consists of the entire tariffed access switching rate element, plus the entire tariffed access transport rate element, plus only a portion of the companies' carrier common line access rate element, with that portion being \$ 0.02.

4. In TT-2001-139 this \$ 0.02 for the sake of convenient reference was called an "addier". It is apparent from reading the Opinion that the Court of Appeals misunderstood the effect of the "addier". The result of the addier was not a wireless termination rate that was \$ 0.02 *higher* than tariffed and lawful access rates. In fact "adding" only \$ 0.02 of the carrier common line access rate element resulted in a wireless terminating tariff rate less than access rates.

As the wireless termination tariff rate elements were equal to, or, in the case of carrier common line, less than the existing approved and lawful access rate elements, the language in the April 29 Opinion regarding the evidentiary support for the "addier" is not an accurate reflection of the undisputed record in TT-2001-139. The language of the April 29 Opinion characterizing the \$ 0.02 as an "addier" or "surcharge" to approved lawful tariffed access rate elements was in error. Once this is understood by the Court of Appeals, it will also understand there is indeed evidence in the record to support the \$0.02. It is expected that the small ILECs involved will ask the Court of Appeals to rehear and/or correct its Opinion in this regard.

5. In the meantime, even though the Opinion is not final, it can presently be read to prohibit the \$0.02 addier.

6. The Circuit Court of Cole County on April 18, 2003 took under submission the Alma tariff case, TT-99-428. This is the Circuit Court review of the Commission's decision on remand, as the Western District referenced at footnote 4 of the April 29 Opinion in State ex rel Sprint Spectrum. It is possible the Cole County Circuit Court may reiterate portions of its prior Judgment of November, 2000 holding that access tariffs can be applied to intraMTA traffic prior to implementation of an approved interconnection agreement.

7. Given this state of affairs there continue to be legal developments impacting Applicants' desire to have a wireless termination tariff in effect. At the time of filing Applicants believed it was advisable to be consistent with the other small companies. Now it appears the other small company tariffs may be the subject of future legal proceedings on remand. Applicants believed that the only new matter introduced by their proposed tariffs was the default interMTA factor, but now the issues have become more complex.

8. Going to hearing on May 17 in an expedited hearing fashion, given this current landscape, would not be a prudent use of the resources of Applicants, Intervenor, or the Commission. Applicants have been engaged in legal proceedings regarding the wireless traffic issues for over 5 years. For the most part Applicants have not been compensated for this wireless traffic for over 5 years. There is no need now to rush to hearing on a week's notice. There will be opportunities in the future, should Applicants so decide, to refile the proposed tariffs when the landscape is more certain.

9. Applicants Chariton Valley, Mid-Missouri, and Northeast hereby withdraw their proposed wireless termination tariffs.

Applicants hereby request that the proposed tariffs be shown as withdrawn, that these cases be dismissed, and that the May 17 hearing be canceled.

**ANDERECK, EVANS, MILNE,
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By 

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ATTORNEYS FOR THE APPLICANTS

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and accurate copy of the foregoing was mailed, U.S. Mail, postage pre-paid, this 9th day of May, 2003, to:

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