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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 25th  
day of July, 1997.

In re: the Master Resale Agreement of United       )  
Telephone Company of Missouri d/b/a Sprint and    )  
Communications Cable-Laying Company, Inc.       )  
d/b/a Dial U.S.   )  
**CASE NO. TO-97-477**

**ORDER CONDITIONALLY APPROVING MASTER RESALE AGREEMENT  
AND REJECTING AMENDMENT TO RESALE AGREEMENT**

United Telephone Company of Missouri d/b/a Sprint (Sprint-United)  
and Communications Cable-Laying Company, Inc. d/b/a Dial U.S. (Dial U.S.)  
filed a joint application on April 28, 1997, for approval of a resale  
agreement (the Agreement) between Sprint-United and Dial U.S. An amended  
joint application, which contained verification documents, was filed on  
May 9. The Agreement was filed pursuant to Section 252(e)(1) of the  
Telecommunications Act of 1996 (the Act). See 47 U.S.C. § 251, *et seq.*

The Commission previously approved an interconnection agreement  
between Dial U.S. and Southwestern Bell Telephone Company (SWBT) on  
September 6, 1996 in Case No. TO-96-440. On September 20 in Case No. TA-  
96-345, Dial U.S. became certificated to provide basic local  
telecommunications service and local exchange telecommunications service  
in the service territories of SWBT, GTE Midwest Incorporated (GTE), and  
Sprint-United. The tariff of Dial U.S. was approved on December 31. The  
Commission subsequently approved an interconnection and resale agreement  
between Dial U.S. and GTE on April 15, 1997 in Case No. TO-97-297. Dial

U.S. wants to resell basic local and local exchange service to residential and business end users.

The Commission issued an Order and Notice on May 7, which established a deadline for applications to participate without intervention. No applications for participation without intervention were filed with the Commission. In addition, no comments or requests for hearing were filed. The Commission Staff (Staff) filed a memorandum containing its recommendations on July 9. The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989). Since no one has asked permission to participate or requested a hearing in this case, the Commission may grant the relief requested based on the verified application.

### **Discussion**

The Commission, under the provisions of Section 252(e) of the Act, has authority to approve a resale agreement negotiated between an incumbent local exchange company (ILEC) and a new provider of basic local exchange service. The Commission may reject a resale agreement only if the agreement is discriminatory or is inconsistent with the public interest, convenience and necessity.

In its recommendation Staff summarizes the major provisions of the Agreement, which is to become effective upon Commission approval. The initial term of the contract is until May 1998; thereafter, the Agreement remains in effect until one of the parties gives a 90-day written notice of termination. Each party agrees to treat the other no less favorably than it treats other similarly situated parties with approved and

operational interconnection or resale agreements. The Agreement contemplates that Dial U.S. will provide service to its customers as a reseller of Sprint-United's services, and therefore the Agreement contains no provisions regarding interconnection of the parties' facilities.

Sprint-United agrees to make available to Dial U.S.'s customers access to 911 and E911 (enhanced 911) service where that service is available to Sprint end users in the area served by Dial U.S. Where Sprint is the owner or operator of the 911/E911 data base, Sprint will maintain daily updating of the database related to Dial U.S.'s end users. Sprint will also provide Dial U.S. a default arrangement or disaster recovery plan, including an emergency back-up number, in case of massive trunk failures.

In addition, Sprint-United will provide Dial U.S. customers with directory listings, directory assistance, and the distribution of a white pages directory which includes an informational page with customer contact information for Dial U.S. Sprint-United will provide to Dial U.S. branded directory assistance service comparable to the service it provides its own end users on a resale basis at a 41.44 percent discount. Dial U.S. will provide its listings to Sprint-United via data and processed directory assistance feeds in accordance with an agreed-upon industry format. Branded operator services comparable to the service Sprint-United provides its own end users is also offered to Dial U.S. on a resale basis at a 41.44 percent discount.

Further, Staff states that Sprint-United has agreed to provide Dial U.S. with all tariffed services, including expanded area calling services. The Agreement itself does not appear to state specifically that expanded area calling services will be available, but instead provides:

"Sprint retail Telecommunications Services shall be available for resale at wholesale prices pursuant to 47 U.S.C. § 251(c)(4)." (Master Resale Agreement at 6). However, "Extended Area Service" is listed on the exhibit containing Sprint-United's resale discounts. The Agreement goes on to list services that are not considered to be retail telecommunications services available for resale at wholesale prices, including Voice Mail/MessageLine, Paging, Inside Wire Installers and Maintenance, CMRS Services, and government programs such as Life Line Services.

The financial terms of the resale services are found in Exhibit 1 to the Agreement. Discounts will be provided for both recurring and nonrecurring rate elements. Residential local service and simple business local service will be provided at a 13.85 percent discount. The Agreement also provides that Sprint-United shall allow Dial U.S. customers to retain their current telephone numbers when technically feasible within the same Sprint-United wire center, and shall install Dial U.S. customers at parity. In addition, Sprint-United will handle service calls for Dial U.S. customers in a nondiscriminatory manner, and will work towards having service centers dedicated to Dial U.S. and other competitive local exchange carriers (CLECs) available 7 days a week, 24 hours a day. The Agreement also provides a procedure for dispute resolution. If the dispute does not relate to billing and the parties cannot resolve the dispute among themselves, the parties agree to submit the dispute to the Commission for resolution, and agree to request that the resolution occur no later than 60 days from the date of submission of such dispute. However, the parties are not precluded from seeking relief in any other available forum. In the event of a billing dispute, if the parties are unable to resolve the matter after certain procedures have been followed, either party may file a

complaint with the Commission to resolve the dispute, and the Commission may direct payment of any funds plus applicable late charges to be paid to either party. In addition, either party may proceed with any other remedy available pursuant to law or equity.

Interim standards for access to systems are found in Exhibit 2 to the Agreement. For ordering services, Sprint-United will follow industry standards defined by the Ordering and Billing Forum (OBF) for the ordering of local service using an Electronic Data Interchange (EDI) for the Local Service Request form (LSR). Sprint-United will use its best efforts to implement the components of the LSR by July 1, 1997. Any other ordering issues will be handled on an individual case basis. Upon deployment of the electronic interfaces, Sprint-United will provide Dial U.S. with the same level of service at the same intervals provided by Sprint-United to its end users or other resellers. In addition, Sprint-United will follow industry standards defined by the OBF for pre-ordering validation requested by Dial U.S., as those standards are defined. Sprint-United is actively working towards implementing changes to its operational support systems, which includes the consolidation and standardization of telephone number assignment systems, the consolidation and standardization of addresses, and the mechanization of services and features availability. In the interim, both companies will work together to transfer pre-ordering information as quickly as possible. Further, Sprint-United agrees to provide Dial U.S. with maintenance and repair services in a manner consistent with service provided to its own end users.

Staff indicates in its recommendation that it requested that the parties include conversion charges and disconnection procedures in their agreement. Based upon information provided to it by the parties, Staff

states that Sprint-United will charge Dial U.S. the amounts set forth in Section 1.02 of the Amendment to the Master Resale Agreement to convert an existing Sprint customer to Dial U.S. Other charges may apply depending upon the situation of the customer. Staff also states that Dial U.S. will have 30 days after the billing date to fully compensate Sprint for its services. If the charges are not paid by the due date, Dial U.S. will be liable for late payment charges equal to the lesser of one and one-half percent per month of the balance due or the maximum amount allowable by law. Sprint-United will send Dial U.S. a notice on day 31 that it will not accept orders for primary local carrier record changes or other orders for telecommunication services or additional services under the agreement. If Dial U.S. does not make full payment by day 61, a second notice will be sent to notify Dial U.S. that new order processing has been suspended and that after day 90, service will be suspended. Sprint-United will also notify the Commission of the situation and the collection efforts being utilized. After day 91, Sprint-United will suspend service to Dial U.S. Staff adds that the parties are developing specific procedures to handle service to customers who would be affected by the suspension of service to Dial U.S.

On July 23, 1997, the parties filed a document entitled "Amendment to Master Resale Agreement." The amendment contains the conversion charges and disconnection procedures described by Staff in its recommendation. In addition, the amendment describes procedures for the handling of service to end users in the event service to Dial U.S. is disconnected. On day 85 Dial U.S. is required to notify its end users that Sprint-United will assume the end users' account at the end of five days unless the end user affirmatively selects a new local service provider within that five day

period. These end users will receive the same services that were being provided by Sprint-United through Dial U.S. at the time of the transfer, and will be assessed Sprint-United's then current rates for the services. Applicable service establishment charges for switching end users from Dial U.S. to Sprint-United shall be assessed to Dial U.S.

Within five days of the transfer, Sprint-United will notify all affected users that it is now providing their service. Sprint-United will also notify these end users that they have 30 days to select a local service provider. If an end user fails to select a local service provider within 30 days of the change of providers, Sprint-United may terminate the end user's service, and will notify the Commission of the names of all end users whose service is transferred or terminated. The amendment further states that nothing in the Agreement shall be interpreted to obligate Sprint to continue to provide service to an end user past the initial 30-day period. However, it appears that some of these provisions may be in conflict with the suspension of service provisions of Sprint-United's tariff.

Finally, Staff states that it believes the Agreement between Sprint-United and Dial U.S. meets the limited requirements of the Telecommunications Act of 1996. Specifically, Staff states that the Agreement does not appear to discriminate against telecommunications carriers not party to the Agreement and does not appear to be against the public interest. Staff recommends approval and requests that the Commission direct Sprint-United and Dial U.S. to submit any modifications or amendments to the Commission for approval.

## **Findings of Fact**

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

The Commission has considered the joint application, the resale agreement and the amendment thereto, and Staff's recommendation. Based upon that review the Commission finds that the Master Resale Agreement filed on April 28, 1997 meets the requirements of the Act in that it does not unduly discriminate against a nonparty carrier, and implementation of the Agreement is not inconsistent with the public interest, convenience and necessity. However, Section 1.01 of the Amendment to Master Resale Agreement contains some provisions on the termination of end-user service which may conflict with provisions on suspension of service contained in Sprint-United's tariff, and which may be inconsistent with the public interest. Those provisions may be found in subsections 9, 11, and 12 of Section 1.01. Because of the Commission's concerns, the Commission will not approve the Amendment to Master Resale Agreement. Instead the parties should use the modification procedure described below to submit a new amendment to the Master Resale Agreement which addresses the Commission's concerns.

The Commission further finds that mandatory metropolitan calling area (MCA) service and extended area service (EAS) are essential parts of basic local telecommunication service. Because the Agreement does not specifically mention the provision of MCA or EAS service, the Commission will order that resale of mandatory MCA and mandatory EAS service be permitted as a condition of the Commission's approval of the Agreement. Further, the Commission finds that approval of the Agreement should be

conditioned upon the parties submitting any modifications or amendments to the Commission for approval pursuant to the procedures set out below.

### **Modification Procedure**

First, all agreements, with any changes or modifications, should be accessible to the public at the Commission's offices. Second, the Act mandates that the Commission approve any changes or modifications to the resale agreement. To fulfill these objectives, the companies must have a complete and current resale agreement in the Commission's offices at all times, and all changes and modifications must be timely filed with the Commission for approval. This includes any changes or modifications which are arrived at through the procedures provided for in the agreement.

To enable the Commission to maintain a complete record of any changes and modifications, the Commission will request Sprint-United and Dial U.S. to provide Staff with a copy of the resale Agreement with the pages numbered consecutively in the lower right-hand corner. The Commission will then keep this case open for the filing by Sprint-United and Dial U.S. of any modifications or changes to the Agreement. These changes or modifications will be substituted in the Agreement, which should contain in the lower right corner the number of the page being replaced. Commission Staff will then date-stamp the pages when they are inserted into the Agreement. The official record of what changes or modifications have occurred will be in the Commission's case file.

The Commission does not intend that a full proceeding will occur every time a change or modification is agreed to by the parties. Where the change or modification has been previously approved by the Commission in another agreement, Staff need only verify that the changes are contained in another agreement and file a memorandum to that effect. Such changes

will then be approved. Where the changes or modifications are not contained in another agreement, Staff will file a memorandum concerning the change or modification and present its recommendation. The Commission, if necessary, will permit responses and then will rule on the pleadings unless it determines a hearing is necessary.

The above-described procedures should accomplish the two goals of the Commission and still allow for expeditious handling of changes or modifications to the agreements.

### **Conclusions of Law**

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Commission, under the provisions of Section 252(e)(1) of the federal Telecommunications Act of 1996, 47 U.S.C. § 252(e)(1), is required to review negotiated resale agreements. It may only reject a negotiated agreement upon a finding that its implementation would be discriminatory to a nonparty or inconsistent with the public interest, convenience and necessity under Section 252(e)(2)(A). Based upon its review of the resale Agreement between Sprint-United and Dial U.S., the amendment thereto, and its findings of fact, the Commission concludes that the Master Resale Agreement filed on April 28, 1997 is neither discriminatory nor inconsistent with the public interest and should be approved. However, the Amendment to Master Resale Agreement filed on July 23, 1997 may be inconsistent with the public interest and should not be approved.

**IT IS THEREFORE ORDERED:**

1. That the Master Resale Agreement between United Telephone Company of Missouri d/b/a Sprint and Communications Cable-Laying Company, Inc. d/b/a Dial U.S. filed on April 28, 1997 is conditionally approved.

2. That the Amendment to Master Resale Agreement between United Telephone Company of Missouri d/b/a Sprint and Communications Cable-Laying Company, Inc. d/b/a Dial U.S. filed on July 23, 1997 is rejected.

3. That to the extent not explicitly provided for in the Master Resale Agreement, resale of mandatory metropolitan calling area (MCA) service and mandatory extended area service (EAS) is hereby mandated as a condition of the Commission's approval in Ordered Paragraph 1.

4. That United Telephone Company of Missouri d/b/a Sprint and Communications Cable-Laying Company, Inc. d/b/a Dial U.S. shall file a copy of the Master Resale Agreement with the Staff of the Missouri Public Service Commission, with the pages numbered seriatim in the lower right-hand corner.

5. That United Telephone Company of Missouri d/b/a Sprint and Communications Cable-Laying Company, Inc. d/b/a Dial U.S. shall file within 30 days a new amendment to the Master Resale Agreement which contains the subject matter of the Amendment to Master Resale Agreement rejected in Ordered Paragraph 2 and which addresses the Commission's concerns.

6. That any further changes or modifications to this agreement shall be filed with the Commission for approval pursuant to the procedure outlined in this order.

7. That this order shall become effective on July 27, 1997.

**BY THE COMMISSION**

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

**Cecil I. Wright  
Executive Secretary**

( S E A L )

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

ALJ: Bensavage