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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 11th day of September, 1997.

In the Matter of EqualNet Corporation's )  
Tariff Filing to Propose New Service Offerings. ) Case No. TT-98-91

**ORDER APPROVING TARIFF SHEETS  
AND DENYING MOTION TO CONSOLIDATE**

EqualNet Corporation. (EqualNet) submitted a tariff filing (File No. 9700864) to the Commission for approval on June 24, 1997, with an effective date of July 14. The effective date was extended to September 15. EqualNet is proposing to make rate changes in current services, rename existing services, offer some new services, modify the terms and conditions of its tariff to accomodate the new services, and implment formatting and textual changes to maintain consistency. Among EqualNet's new service offerings are: 1) 21 switched outbound services; 2) 17 switched inbound services; 3) four dedicated inbound services; 4) four debit car services with multiple pricing options; and 5) one new calling card service with two pricing options.

The Staff of the Commission (Staff) filed a Motion to Suspend on August 28, stating that the tariff filing would violate Section 392.200.2, RSMo 1994, which prohibits rate discrimination, i.e., the charging of differing rates for the same service. Staff argues that the proposed tariff contains four options with associated rates of from \$.25 to \$.33 per minute that have no distinguishing characteristics other than the rates. Staff stated that EqualNet's position is that the plans are differentiated

at the interstate level and that intrastate service is only a portion of a total calling rate package that includes a federally tariffed monthly recurring charge. Staff's position is that, because the plans are indistinguishable at the intrastate level EqualNet's proposal would result in discriminatory pricing.

Staff points out that the Commission has the discretion to waive the application of certain statutory provisions and Commission rules, but asserts that the prohibition against discriminatory pricing is not among those provisions that can be waived. Staff argues that the tariff sheets should be suspended. Staff also filed, on August 28, a Motion to Consolidate this case with numerous other tariff filings to which the Staff has similar objections.

The Commission has reviewed EqualNet's tariff filing and Staff's motions to suspend and consolidate. The Commission finds that the Motion to Consolidate this case with other tariff cases is inappropriate in that, although Staff makes the same objections to all the proposed tariffs, the tariffs have been submitted by various companies and differ in substance. Consolidation of this case with TT-98-88 and TT-98-89, based on similar EqualNet tariff filings, would be appropriate if the Commission intended to suspend the tariff sheets and conduct a contested case proceeding. Since the Commission does not intend to suspend the tariff sheets, each case will be considered on its own merits.

The Commission has considered the provisions of EqualNet's proposed One Rate promotional offering and finds no violation of the prohibition against discriminatory pricing. A telecommunications carrier may not charge differing rates for services that are identical and are offered under identical terms and conditions. See State of Missouri,

ex rel. DePaul Hospital School of Nursing v. Missouri Public Service Commission, 464 S.W.2d 737, 740 (Mo. App. 1970). Although the intrastate portion of the One Rate package may not differ from EqualNet's other intrastate services, the plan must be considered as a whole. Taken as a whole, the terms of the One Rate plan constitute a variation from a simple offering of intrastate services. EqualNet's proposal is a valid promotional discount. Accordingly, the Commission finds that EqualNet's proposed tariff sheets are just, reasonable, and nondiscriminatory and they shall be approved.

**IT IS THEREFORE ORDERED:**

1. That the following tariff sheets submitted by EqualNet Corporation. on August 14, 1997, are approved to become effective on September 15, 1997:

P.S.C. Mo. No. 15  
Original Preface Sheet 41  
Original Preface Sheet 42

2. That this order shall become effective on September 15, 1997.

**BY THE COMMISSION**



**Cecil I. Wright**  
**Executive Secretary**

( S E A L )

Lumpe, Ch., Crumpton,  
Drainer and Murray, CC.,  
concur.

ALJ: Wickliffe