

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TARIFF FILING OF US SPRINT COMM- )  
UNICATIONS COMPANY TO REVISE ITS ) CASE NO. 90-103  
CURRENT TARIFF )

O R D E R

Introduction

On March 30, 1990, US Sprint Communications Company Limited Partnership ("US Sprint") filed revisions to its intrastate tariff. In part, the tariff filing introduced VPN network services, which are virtual private network services. On April 30, 1990, the tariff filing was suspended to allow sufficient time for investigation. On May 17, 1990, US Sprint filed a motion for interim approval of VPN network services and unconditional approval of other tariff revisions. On June 5, 1990, South Central Bell Telephone Company filed a motion for limited intervention and consistent treatment of measuring and reporting intraLATA<sup>1</sup> calls. On June 15, 1990, the motion for limited intervention was granted. On July 9, 1990, US Sprint's motion for interim approval of VPN network services was granted and US Sprint was required to measure and report VPN network usage. Also, non-VPN related tariff revisions were unconditionally approved.

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<sup>1</sup> Local Access and Transport Area

No public hearing was requested and the Commission finds that no public hearing is necessary to conclude this investigation.

### Discussion and Orders

The Commission's concern in this case is limited to the references in US Sprint's proposed tariff to its interstate tariffs or, more generally, references to any tariffs not filed with this Commission on a Kentucky jurisdictional basis. US Sprint addressed this concern in its motion of May 17, 1990, stating in relevant part:

US Sprint does not believe that the tariffs in question present any conflict with Kentucky law which should be of concern to the Commission. The proposed VPN network services are interstate services which may, at the customer's option, also be used for intrastate calling. Such intrastate service is thus considered an "add-on" service. As a primarily interstate service, the customer is charged the rates in US Sprint's interstate tariff, as determined by the FCC;<sup>2</sup> except for the intrastate usage charges for intrastate traffic. Those intrastate usage charges, as contained in the tariffs in question, are fully subject to the Kentucky Commission's review and procedural requirements. Thus, the rates and charges for interstate and intrastate VPN service are properly subject to their respective jurisdiction's regulatory requirements. There is simply no conflict between the referenced interstate tariffs and Kentucky law.<sup>3</sup>

As already indicated, the Commission is concerned about references to interstate tariffs contained in intrastate tariffs.

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<sup>2</sup> Federal Communications Commission.

<sup>3</sup> Motion of US Sprint, filed on May 17, 1990, page 2, footnote omitted. In the footnote, US Sprint states that references to interstate tariff rates are included for the sake of completeness and in the interest of providing customers with full information about the service. US Sprint offers to remove these references as a means of resolving this matter. The Commission does not view removal as a satisfactory resolution.

Moreover, whether viewed as an add-on to a primarily interstate service or as a solely intrastate service, the facts of the matter are that VPN network services are being tariffed on an intrastate basis and any intrastate offering or use of VPN network services is clearly jurisdictional. Including interstate references to rates and conditions for service in the intrastate tariff places such rates and conditions beyond the knowledge of the Commission and any meaningful review.

US Sprint's intrastate VPN network services tariff includes references to interstate tariffs in specifying minimum service periods,<sup>4</sup> charges applicable upon the cancellation of a service application,<sup>5</sup> charges applicable upon the change of a service application,<sup>6</sup> and the jurisdictional applicability of rates.<sup>7</sup> In addition, other tariff revisions filed in conjunction with the VPN network services tariff include references to interstate tariffs in specifying charges applicable to US Sprint WATS<sup>8</sup> and charges applicable to US Sprint Foncard Service.<sup>9</sup>

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<sup>4</sup> US Sprint Commonwealth of Kentucky Tariff P.S.C. No. 2, Intercity Telecommunications Services, 1st revised page 13 at section 3.5.3.1.

<sup>5</sup> Ibid., 1st revised page 24 at section 3.16.2.3.

<sup>6</sup> Ibid., 1st revised page 25 at section 3.18.1.

<sup>7</sup> Ibid., 1st revised page 30 at section 4.5.

<sup>8</sup> Ibid., 1st revised page 27.1 at section 4.2. WATS is an acronym for Wide Area Telecommunications Service.

<sup>9</sup> Ibid., 2nd revised page 32 at section 4.6.3.1 and 1st revised page 47 at section 5.6.3.1.

In Case NO. 8838,<sup>10</sup> the Commission advised local exchange carriers that all intrastate access services tariffs rates, rules, and regulations should be stated or otherwise made a part of the Commission's records.<sup>11</sup> Interexchange carriers have not been relieved of the same obligation. Moreover, they cannot be relieved of it. In relevant part, KRS 278.160(1) states:

Under rules prescribed by the commission, each utility shall file with the commission, within such time and in such form as the commission designates, schedules showing all rates and conditions for service established by it and collected or enforced. (Emphasis added)

References to interstate or other tariffs do not "show all rates and conditions for service." Therefore, references to interstate tariffs should be deleted and replaced with the appropriate text.

IT IS THEREFORE ORDERED that:

1. US Sprint's VPN network services tariff filing be and it hereby is approved on a permanent basis as filed, except as discussed herein.

2. Within 30 days from the date of this Order, US Sprint shall file revised tariff pages consistent with the terms of this Order.

3. In future tariff filings, US Sprint shall omit references to interstate or other tariffs and replace such references with appropriate rates and conditions for service.

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<sup>10</sup> Case NO. 8838, An Investigation of Toll and Access Charge Pricing and Toll Settlement Agreements for Telephone Utilities Pursuant to Changes to be Effective January 1, 1984.

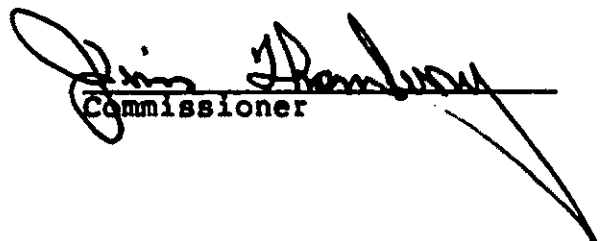
<sup>11</sup> Ibid., Order dated November 20, 1984, pages 62-63.

Done at Frankfort, Kentucky, this 1st day of October, 1990.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Executive Director