



Martha S. Hogerty
Public Counsel

State of Missouri

McI Carnahan
Governor

Office of the Public Counsel
Harry S Truman Building - Ste. 250
P.O. Box 7800
Jefferson City, Missouri 65102

August 22, 1997

Telephone: 573-751-4857
Facsimile: 573-751-5562
Relay Missouri
1-800-735-2966 TDD
1-800-735-2466 Voice

Mr. Cecil I. Wright
Executive Secretary
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. TW-97-333

Dear Mr. Wright:

Enclosed for filing, in the above-referenced case, please find the original and fourteen copies of the **Office of the Public Counsel's Reply Brief**. Please "file" stamp the extra enclosed copy and return it to this office. I have also on this date mailed and/or hand-delivered the appropriate number of copies to all counsel of record.

Thank you for your attention to this matter.

Very truly yours,

Michael F. Dandino
Senior Public Counsel

MFD:rjr

cc: Counsel of Record

Enclosure

FILED
AUG 22 1997
MISSOURI
PUBLIC SERVICE COMMISSION

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

FILED

AUG 22 1997

MISSOURI
PUBLIC SERVICE COMMISSION

In the Matter of an Investigation into)
the Provision of Community Optional)
Calling Service in Missouri.)

Case No. TW-97-333

**REPLY BRIEF OF THE
OFFICE OF THE PUBLIC COUNSEL**

The Office of the Public Counsel respectfully suggests to the Commission that two-way COS should be preserved at this time. The outlook for competition in the rural areas looks bleak not only for local basic service, but also for any reasonable substitute service for COS. Many parties in this docket complain that COS is an "artificially constructed service offering" (MCI at p. 1) and has outlived its effectiveness. (Staff at p.15). COS is criticized as anti-competitive (MCI at p. 6), insignificant, little used (Staff at p. 15), no longer viable (Comptel at p. 1), and harmful to customers and the Prime Toll Carrier's ability to compete. (Sprint/United at p. 7). GTE urges the Commission to cut the "Gordian knot" despite the interwoven problems and concerns and just be done with the issue. (GTE at p.2).

These companies and the Staff have taken a narrow view of the issue. They look only to the technical and financial impact to the companies and not the financial and service parity impact to customers or potential customers of this service. So long as the knot does not unravel to harm the companies, they are willing to make that cut. The Commission should consider if the subscribers to COS and the thousands of customers who regularly call those subscribers consider COS to have outlived its usefulness, is

ineffective, insignificant or harmful. Only the Small Telephone Group and the Mid-Missouri Group recognize the viewpoint of COS customers and those served by COS. Public Counsel and these two groups recognize the need for COS as a means for rural customers to obtain an equivalent calling scope at a price comparable to the urban and suburban areas.

The Small Telephone Group and Mid Missouri Group properly trace the history of COS as a means the Commission engineered to compensate for the deficiencies in the telephone exchange network designed long ago. Nothing has changed to eliminate these deficiencies. If anything, the structure of modern society has compounded the deficiencies so the callings scopes of many exchanges now and in the near future may be even more inadequate. The Commission devised a solution which now serves 17,000 COS customers and tens of thousands of parties who call those subscribers. If abolished, the needs of these customers and the deficiencies of the network will remain without a comparable solution. The only alternative solution offered is to dilute the current COS prescription or dump it and let the customers fend for themselves. Many parties suggest competition will provide a suitable substitute. That competition is not here and appears to be even farther in the distant future for these areas served by COS.

In the hearings and in the briefs, the companies and Staff state that it is unfair for such a small number of customers to benefit from this service. Although 17,000 customers subscribe, thousands more benefit from it by being able to call the subscribers without incurring toll charges. However, the usefulness, effectiveness or benefit is not

strictly measured by subscriber numbers. A review of the highly confidential reports of COS messages filed as late exhibits in this docket are quite revealing of the importance of COS to the rural communities. Subscribers to whom area residents can call toll free and without undue cost include: County hospitals, medical centers, medical clinics, doctor offices, ambulance services, emergency services, community health agencies, nursing homes, fire departments, law enforcement officials, county government offices, county sheltered workshops, elementary and secondary schools, universities, county libraries, churches, ministers, local telephone companies, local banks, auto dealers and repairs, and other businesses which are part of the community. In urban areas, these type of services are usually in the customer's normal calling scope.

Mid-Missouri Group correctly sets out how COS poses one of the first problems for this Commission to integrate traditional universal service principles with competition. Both federal law and state law makes universal service and competition coequal public policy goals. Both concepts must be served. The Commission must not give the competitive considerations more weight than the universal service considerations and abolish or diminish COS. In addition, advanced technology at affordable prices in the rural communities advances the value of the entire telecommunications network and encourages demand which encourages competition. Public Counsel's suggestion to make COS part of local basic service and make it eligible for universal service support would go far to balancing these public policy considerations.


Public Counsel must digress briefly to strongly disagree with a statement in Mid-Missouri Group's brief at p. 5, that local service is priced residually so this means that

local service is priced beneath its cost. There is no evidence or cost study produced in this state which supports that bald assertion. This is stated often, but without proof and without a rational basis. There is no evidence that pricing local service residually results in prices below cost; in fact, the local loop and many of the elements by which local service is provided also provides all other services. The entire cost of the local loop and facilities should not be allocated solely to local service, but should be considered joint and common costs of all telecommunications services. Public Counsel believes that the Commission should not blindly buy into the myth that local service is priced below cost and is subsidized.

In conclusion, Public Counsel urges the Commission to maintain two way COS until competition brings to the consumer a suitable substitute at a comparable price.

Respectfully submitted,
OFFICE OF THE PUBLIC COUNSEL

BY:



Michael F. Dandino (Bar No. 24590)

Senior Public Counsel

P. O. Box 7800

Jefferson City, MO 65102

Telephone: (573) 751-4857

Facsimile: (573) 751-5562

Certificate of Service

I hereby certify that a copy of the foregoing was mailed or hand delivered this 22nd day of August, 1997 to the following counsel of record:

Cherlyn D. McGowan
Assistant General Counsel
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

W. R. England, III
Brydon, Swearengen & England
312 East Capitol Avenue, Box 456
Jefferson City, MO 65102-0456

James C. Stroo
Associate General Counsel
GTE Telephone Operations
1000 GTE Drive, Box 307
Wentzville, MO 63385

Craig J. Johnson
Andereck, Evans, Milne, Peace &
Baumhoer
305 East McCarty Street, 3rd Floor
P. O. Box 1438
Jefferson City, MO 65102

Linda K. Gardner
Senior Attorney
United Telephone Company of Missouri
5454 West 110th Street
Overland Park, KS 64114

Julie Grimaldi
Julie Bowles
Sprint Communications Company
8140 Ward Parkway
Kansas City, MO 64114

Paul G. Lane/ Diana J. Harter
Leo J. Bub/ Anthony K. Conroy
Southwestern Bell Telephone Company
100 North Tucker Blvd., Room 630
St. Louis, MO 63101-1976

Carl J. Lumley
Leland B. Curtis
Curtis, Oetting, Heinz, et al.
130 S. Bemiston, Suite 200
St. Louis, MO 63105

Stephen F. Morris
MCI Telecommunications Corporation
701 Brazos, Suite 600
Austin, TX 78701

Paul H. Gardner
Goller, Gardner & Feather, P.C.
131 East High Street
Jefferson City, MO 65101

Mark W. Comley
Newman, Comley & Ruth
205 East Capitol Avenue, Box 537
Jefferson City, MO 65102-0537

Paul S. DeFord
Lathop & Gage, L.C.
2345 Grand Boulevard
Kansas City, MO 64108

Larry R. Lovett
AT&T Communications of the S.W., Inc.
101 West McCarty Street, Suite 216
Jefferson City, MO 64108

Mark Harper
United Telephone Company of MO
5454 West 110th Street
Overland Park, KS 66211

Doug Trabaris/ Madelon Kuchera
Elizabeth Howland
Teleport Communications Group
233 S. Wacker Drive, Suite 2100
Chicago, IL 60606

Michael J. Ensrud
Competitive Telephone Assn. of MO
6950 West 56th Street
Mission, KS 66202

A handwritten signature in black ink, appearing to read "Michael J. Ensrud", is written over a horizontal line.