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PLEASE REPLY TO THE MISSOURI OFFICE
FILE NO. 3332800-2

July 7, 1988

Mr. Harvey G. Hubbs
Secretary
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Re: Case No. TA-88-218

Dear Mr. Hubbs:

Please find enclosed for filing the original and 14 copies of the Suggestions in Opposition to Public Counsel's Motion to Consolidate.

By copy of this letter, I have mailed copies of the enclosed to all parties of record. /x

Yours very truly,



MPJ/wsh
Enclosures
cc: All Parties of Record

FILED

JUL 11 1988

PUBLIC SERVICE COMMISSION

FILED

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

JUL 11 1988

PUBLIC SERVICE COMMISSION

In the matter of the application)
of American Operator Services, Inc.)
for a certificate of service) Case No. TA-88-218
authority to provide Intrastate)
Operator-Assisted Resold)
Telecommunications Services.)

SUGGESTIONS IN OPPOSITION TO PUBLIC COUNSEL'S
MOTION TO CONSOLIDATE

Comes now comes now American Operator Services, Inc. (AOS), and states its opposition to the Motion to Consolidate filed by Public Counsel on June 29, 1988. This response is filed in a timely manner, pursuant to 4 C.S.R. 240-2.080(9).

The basis of Public Counsel's Motion is that the certification application of AOS and the tariff filings of four other telecommunications companies present related issues of law and fact, the test for consolidation under 4 C.S.R. 240-2.110(18). AOS respectfully suggests that Public Counsel is in error, and that the issues presented by the initial certification application of AOS are both legally and factually distinct from the issues presented by the tariff filings of companies already certificated to provide telecommunications services in Missouri.

International Telecharge, Inc., Teleconnect, Dial U.S., and Dial U.S.A. have received certificates of service authority to provide telecommunications services. The Commission has already determined that these companies have sufficiently

demonstrated their financial ability to provide service in an efficient manner. The Commission has made no such finding with respect to AOS, and much of the evidence to be presented by AOS will concern that issue.

In all probability, consolidation of the tariff cases with the AOS certification case would greatly lengthen the hearing and the record. If Public Counsel's sharp accusations about problems with operator services companies are true, the hearing could evolve into a comprehensive proceeding on all aspects of operator services. The proceeding could become unnecessarily complex, with differing burdens of proof on differing issues. In fact, the best solution would appear to be initiation of a true generic proceeding to allow a thorough examination of issues raised by competitive operator services, while allowing AOS to provide service under interim certification. Naturally, all certificated providers of operator services, presumably including AOS, would be bound to observe the rulings of the Commission resulting from a generic proceeding.

Public Counsel's Motion implies that AOS and other operator service providers would present a monolithic industry for the Commission to examine. In fact, the operator service industry is populated by companies with differing philosophies, market strategies, and network technologies. AOS believes that Public Counsel's misperception of the industry could mislead the Commission into consolidating these cases with the

understanding that the engineering, technical and marketing issues will be identical for all companies. Such is not and will not be the case.

In summary, AOS believes that consolidation is inappropriate here, in that the legal and factual issues presented will not be related. Consolidation would not avoid duplication, but would greatly complicate this proceeding, whose purpose is to consider the ability of AOS to provide operator services in Missouri.

In its Motion, Public Counsel also makes numerous gratuitous representations concerning operator services. In all cases, these statements are made without reference to any evidence or to the occurrence of such events in Missouri. For example, in paragraph 7 of its Motion, Public Counsel states that "[n]either the subscriber nor the [operator services] provider has any incentive to keep the applicable rates low or service adequate." That is clearly ridiculous. Competition will require operator service providers to maintain low rates and good service. Public Counsel's statements are directly contrary to the spirit of House Bill 360, which recognizes that competition forces companies to respond to the marketplace. An operator service company will not be in business long if it ignores the market by charging excessive rates and refusing to provide adequate service.


In paragraph 8 of its Motion, Public Counsel refers to "horror stories" concerning the operator service industry. There is no reference to complaints in Missouri, only complaints "throughout other jurisdictions." Public Counsel makes reference to "high and excessive rates." At least with respect to AOS, that clearly cannot be the case, as the rates in its proposed tariff mirror those of AT&T. Public Counsel also refers to surcharges imposed by hotels or motels. The Commission can do nothing about such surcharges, as the Legislature has exempted from regulation the transient resale of local exchange service by such entities as hotels and motels. Ch. 386.020(40)(d), RSMo. 1987. Operator service companies cannot bear the blame for that fact.

Public Counsel also alleges that operator service companies do not provide notice to callers concerning the company's identification or rates. According to Public Counsel, the end user is a "captive" of the operator service companies. Such an apocalyptic view of a helpless consumer does not help the Public Counsel's case. As AOS will demonstrate, adequate notice is given to users concerning presubscription to AOS and AOS' rates. Public Counsel's charges concerning lack of access to other interexchange companies, billing and collection abuses, and failure to handle emergency calls are also without substance. Responsible operator service providers have already dealt with these matters. The Commission will come to the conclusion that AOS is such a responsible provider.

WHEREFORE, AOS respectfully requests that the Commission deny Public Counsel's motion to consolidate.

Respectfully submitted,

SPENCER, FANE, BRITT & BROWNE



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, United States mail, postage prepaid, to All Parties of Record, this 8th day of July, 1988.