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June 10, 1997

FILED
JUN 10 1997
MISSOURI
PUBLIC SERVICE COMMISSION

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

Re: Case No. TW-97-333

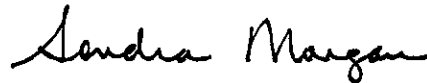
Dear Mr. Wright:

Enclosed for filing on behalf of the Small Telephone Company Group in the above-referenced matter, please find an original and fourteen copies of their Objection to Notice of Deposition of MCI Telecommunications Corporation Witness Klaus. Please see that this is brought to the attention of the appropriate Commission personnel. If there are any questions regarding the attached, please feel free to give me a call. I thank you in advance for your cooperation in this matter.

Sincerely yours,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:



Sondra B. Morgan

/nh
Enc.

cc: All Parties of Record

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

FILED
JUN 10 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

OBJECTION TO NOTICE OF DEPOSITION
OF MCI TELECOMMUNICATIONS CORPORATION WITNESS KLAUS

Comes now the Small Telephone Company Group ("STCG") and for its Objection to Notice of Deposition of MCI Telecommunications Corporation Witness Klaus states to the Missouri Public Service Commission ("Commission") as follows:

1. On March 7, 1997, the Commission issued its Order Establishing Docket in this case for the purpose of reviewing community optional service ("COS") as it is provided in the State of Missouri in light of local competition and equal access issues.

2. On May 1, 1997, the Commission issued its Order Changing Procedural Schedule in which it set dates for the filing of testimony and tentatively set the date of hearing for June 23 and 24, 1997. On May 23, 1997, the Commission issued its Order Granting Motion to Compel and Order Scheduling Hearing in which it set the date of hearing as June 23, 1997.

3. On April 11, 1997, Randy R. Klaus filed Direct Testimony on behalf of MCI Telecommunications Corporation ("MCI") in this case. On June 3, 1997, MCI mailed a Certificate of Service and Notice of Deposition for witness Klaus to all parties of record scheduling a deposition for June 13, 1997, "in order to preserve his testimony for use at the hearing of this case." Parties were "invited to attend to conduct their cross-examination." Counsel for the STCG received this Notice of Deposition on June 2, 1997.

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4. The STCG objects to this Notice of Deposition and to the limitation of cross-examination of the witness to this deposition on the grounds that this is an improper use of deposition testimony. The Commission rule of Practice and Procedure found at 4 CSR 240-2.090(1) states that a party may obtain discovery through the use of depositions "under the same conditions as in civil actions in the circuit court." MCI does not seek to take the deposition of its own witness for discovery purposes, however. The deposition is scheduled to provide an opportunity for the other parties to cross-examine the witness regarding his pre-filed testimony because it appears that he will not be available for the hearing. Supreme Court Rule 57.07 governs the use of depositions in court proceedings. Rule 57.07(a)(3) sets out the situation where a deposition may be used by any party for any purpose. Pursuant to this rule, the court may exercise its discretion to allow the use of deposition testimony if the requirements of the rule are met.

The situation before the Commission is different from the preservation of testimony in circuit court, however, as the witness has pre-filed testimony, and the deposition testimony would only consist of cross-examination on that testimony. The deposition would not preserve testimony, only the cross-examination of that testimony. MCI has been aware of the tentative date of the hearing since the Commission's Order issued on May 1, 1997. MCI could have requested that the date of the hearing be changed to accommodate its witness before the final Order setting the hearing was issued on May 23, 1997. MCI could also request that it be allowed to substitute another witness who could adopt the pre-filed testimony and be subject to cross-examination at the hearing. Either of these alternatives would be preferable to having all of the parties convene at the deposition in order to be able to cross-examine the witness.

Wherefore, the STCG respectfully requests that the Commission exercise its discretion to prevent MCI from using the deposition testimony of its witness at hearing and to prevent MCI from limiting cross-examination of its witness to the deposition.

Respectfully submitted,



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Attorneys for The Small Telephone
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was mailed, United States Mail, postage prepaid, this 10th day of June, 1997, to:

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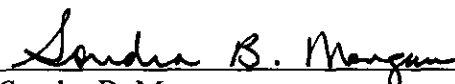
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