



State of Missouri

John Ashcroft, Governor

**Office of the Public Counsel**  
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September 6, 1988

**FILED**

SEP - 6 1988

PUBLIC SERVICE COMMISSION

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

Re: Case No. TA-88-218, et al.

Dear Mr. Hubbs:

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

Thank you for your attention to this matter.

Very truly yours,

Mark D. Wheatley  
Assistant Public Counsel

MDW:kl  
Enclosures

cc: Counsel of record

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED  
SEP - 6 1988

PUBLIC SERVICE COMMISSION

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

In the matter of Teleconnect Company )  
for authority to file tariff sheets )  
designed to establish Operator Services ) Case No. TR-88-282  
within its certificated service area )  
in the State of Missouri. )

In the matter of Dial U.S. for )  
authority to file tariff sheets )  
designed to establish Operator Services ) Case No. TR-88-283  
within its certificated service area )  
in the State of Missouri. )

In the matter of Dial U.S.A. for )  
authority to file tariff sheets )  
designed to establish Operator Services ) Case No. TR-88-284  
within its certificated service area )  
in the State of Missouri. )

In the matter of International )  
Telecharge, Inc. for authority to file )  
tariff sheets designed to establish ) Case No. TR-89-6  
Operator Services within its )  
certificated service area in the State )  
of Missouri. )

MOTION TO STRIKE

Comes now the Office of the Public Counsel (Public Counsel) and respectfully moves the Commission to enter its Order striking in its entirety the testimony of Dennis Thomas filed on behalf of International Telecharge, Inc. (ITI) in the above-entitled cause. In support thereof, Public Counsel states as follows:

1. That on or about August 30, 1988, Dennis Thomas, a consultant and member of the Board of Directors of ITI, filed testimony in

the above-entitled case, which testimony is referred to by him and purports to be "rebuttal" testimony.

2. That Dennis Thomas did not file direct testimony in this case; but that Paul Freels, executive vice president of ITI, filed both direct and rebuttal testimony on behalf of ITI in this case.

3. That, although the testimony of Dennis Thomas is referred to by him as "rebuttal" testimony, the character, subject matter and nature of the testimony is clearly direct testimony setting forth a broad discussion of the history of telecommunications since divestiture and his opinions regarding the future of the alternative operator services (AOS) industry, as evidenced, in part, by the following questions taken from the testimony:

Q: How have you seen the telecommunications world change in the four years since divestiture?

Q: What was your experience as a telephone industry regulator over that time period?

Q: What other changes did you see from divestiture?

Q: Where does the operator service industry fit in this progression?

Q: Why didn't the first waive of IXCs move immediately to fill this market niche?

Q: Where is the operator service industry headed?

Q: What are these upcoming changes?

Q: How can a company like ITI compete with AT&T on cost?

Q: In what cost components would you like to see the forces of competition more active?

4. That pursuant to the Commission's Orders setting forth the procedural schedule in this case, all direct testimony of ITI was to be filed on or before August 5, 1988.

5. That Public Counsel and other parties to this action will be severely prejudiced if the Commission fails to strike the testimony of Dennis Thomas in view of the fact that none of the parties in this case will be allowed to file surrebuttal testimony; and that, as a result, Public Counsel and other interested parties will have no opportunity to respond to the testimony of Dennis Thomas.

6. That Public Counsel submits that the purpose of rebuttal testimony is to respond to the statements made and the issues raised in the direct testimony filed by other parties in the case; and that a failure to strike testimony, such as the testimony of Dennis Thomas, which blatantly violates the parameters of proper rebuttal testimony, will only serve to encourage other parties in other cases to withhold direct testimony until the filing of rebuttal or surrebuttal testimony thereby circumventing the purpose of prefiling direct and rebuttal testimony.

WHEREFORE, Public Counsel respectfully moves the Commission to enter its Order striking in its entirety the testimony filed by Dennis Thomas on behalf of ITI and further prays for such other and further relief as shall seem proper under the circumstances.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By Mark D. Wheatley  
Mark D. Wheatley  
Assistant Public Counsel

Joni K. Ott  
First Assistant Public Counsel

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314/751-4857

I hereby certify that a copy of the  
foregoing has been mailed or hand-  
delivered to all counsel of record  
on this 6<sup>th</sup> day of September, 1988.

Mark D. Wheatley