Exhibit Number:
Issue(s):
Witness: Gay Smith
Sponsoring Party: MoPSC Staff
Case Number: TW-97-333

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY OPERATIONS DIVISION DIVISION

COMMUNITY OPTIONAL SERVICE INVESTIGATION

CASE NO. TW-97-333

REBUTTAL TESTIMONY

OF

GAY SMITH

JEFFERSON CITY, MISSOURI
MAY, 1997

47

REBUTTAL TESTIMONY
OF
GAY SMITH
MISSOURI PUBLIC SERVICE COMMISSION
CASE NO. TW-97-333

Q. Please state your name and business address.

A. My name is Gay Smith, and my business address is 301 West High Street, Jefferson City, MO 65101.

Q. Are you the same Gay Smith who filed direct testimony in this proceeding?

A. Yes, I am.

Q. Ms. Smith, what is the purpose of your rebuttal testimony?

A. My purpose is to respond to comments made by various parties regarding the relationship of Community Optional Service (COS) and the Primary Toll Carrier (PTC) plan as well as identify a misuse of the existing COS service.

COS/ PTC Plan Relationship

Q. Ms. Smith, what comments about the PTC plan are your referring to?

A. The direct testimony of several parties noted the relationship between future changes to COS and future changes to the PTC plan. For instance, Mr. Bob Schoonmaker on behalf of the Small Telephone Company Group and Ms. Mary Kahnert on behalf of GTE Midwest Incorporated mentioned Case No. TO-97-220, a case intended to address the future of the PTC plan. Ms. Kahnert on page 5, line 24, in her direct testimony in noting pending Case No. TO-97-220, "...[A]ny changes to COS service must be compatible with prospective changes to

the PTC plan.." Mr. Schoonmaker said on page 21, line 11, in his direct testimony that, "...The Commission has already established a preliminary procedural schedule in Case No. TO-97-220 to deal with these issues. As the Commission considers the issues in that case, along with other cases such as the state universal service fund, any changes proposed in those cases that would impact the provision of COS will need to consider the COS impacts in connection with the changes that are proposed."

Q. Do you agree with the assessment that COS changes need to be considered in conjunction with changes to the PTC plan?

A. Yes. COS is presently classified as an intraLATA toll service that is provided through the PTCs. Any changes made to COS can impact the PTC plan and vice versa. For instance, if the Commission wants to keep COS service as presently offered, then the PTC plan at least in some form will have to remain intact.

COS would not exist today if it had not been for the PTC plan. When considering expanded calling scopes back in 1987 not all Local Exchange Companies (LECs) could technically provide COS or any similar service between exchanges and other LECs without building dedicated facilities or devising a specialized data base, network, or billing system. The PTC plan provided the avenue necessary whereby the PTC could handle the traffic between the various exchanges. At that time, PTCs could more easily provide an optional expanded calling plan than other LECs. The PTCs could technically provide COS through slight modifications to their practices used for intraLATA toll

traffic.

At this time, I am unclear as to whether the PTC plan can stay intact. My interpretation of the direct testimony is there are no reasonable alternative methods to retain two-way COS short of keeping the PTC plan intact and not implementing intraLATA presubscription in exchanges involved with COS. In my opinion, preventing exchanges from having intraLATA presubscription is not a viable option as it deprives these customers from being able to have some of the benefits of competition.

On the other hand, changes to the PTC plan can impact COS. If the responsibility of providing intraLATA presubscription shifts from the PTC to the local exchange company serving the petitioning exchange then this possibility brings up other issues such as toll versus local classification and COS pricing. Shifting the responsibility of providing intraLATA presubscription has sometimes been referred to as the Originating Responsibility Plan (ORP) as mentioned in Ms. Kahnert's testimony.

Q. Has Staff ever endorsed the ORP plan?

A. In Staff's Report to the Commission in Case No. TO-97-220, Staff indicated that the incumbent LEC is the most appropriate entity to maintain the responsibility for intraLATA toll traffic. Staff also stated that this responsibility for intraLATA toll traffic by the incumbent LEC is characterized as ORP.

Toll vs. Local Classification

Q. If the Commission ultimately wants to change the PTC plan

to an ORP plan, what impact could such a change have on the classification of COS as a toll or local service?

A. If the Commission eventually adopts ORP in place of the PTC plan, then the PTC may no longer have the responsibility of providing 1+ toll, COS, or any other toll service to a particular exchange. Presumably, if some form of COS is to be maintained, ORP may require the LEC serving a particular exchange to be the responsible party for providing COS. If the provider of COS changes, then the Commission may want to analyze the financial impact on the involved companies. I anticipate the issue of classifying COS as a toll or local service will have different impacts on the involved companies. Absent any direction from the Commission on how the PTC plan should change, if at all, I recommend the Commission continue to classify COS as a toll service. The Commission may simply want to leave the door open for a local classification or a different application of access charges if the affected companies can demonstrate that a local classification or a different application of access charges will minimize the financial impact to all involved companies as well as consumers.

Q. If the Commission eventually changes the responsibility of providing COS to a different company, do you anticipate compensation to be an issue?

A. Certainly. At the time COS was initially implemented, the courts ruled the companies were entitled to revenue neutrality. I would anticipate similar arguments if the Commission replaces the responsibility of providing COS with a different company. In fact,

some of the parties are already suggesting the Commission establish cost-based pricing for COS.

COS Pricing

Q. Do you believe COS should be cost based?

A. Perhaps but only if the Commission changes COS providers. In my direct testimony I recommended COS be reduced to a one-way service and the COS rate be 50% of the existing COS rate. Absent further guidance on how or if the PTC plan will change, I continue to maintain my proposal. However, should the Commission alter the PTC plan so that the COS provider will change for a given exchange, then cost-based pricing may be a reasonable method to address the compensation issue. Just like the time when the Commission initially directed the companies to implement COS, the Commission will need to have some mechanism in place to allow the new COS providers to be adequately compensated. Cost based COS rates may be appropriate under such circumstances.

Q. Do you foresee difficulties in establishing cost based COS rates?

A. Yes. The Commission will need to address a variety of issues pertaining to the calculation of cost based COS rates such as what type of cost study to use, what costs should be included, and whether reduced revenues should be included in the calculation. From a consumer standpoint, cost based COS rates will eliminate the statewide COS rate structure. In fact, COS rates might even differ between exchanges served by the same company. I would anticipate

negative consumer reaction.

Potential Misuse of COS

Q. Ms. Smith in your review of the testimony and various data requests regarding existing two-way COS routes, have you seen any data that appeared out of the ordinary compared to past reviews of data associated with two-way COS?

A. Yes. The minutes-of-use (MOUs) reflected in Mr. Schoonmaker's Schedule RCS-2 of his direct testimony indicated more MOUs from the target exchange to the petitioning exchange on several COS routes. This traffic pattern is not typical of what I have seen in past reviews of COS traffic studies. Generally speaking, in past reviews I have seen a greater number of MOU in the petitioning exchange to the target exchange. Therefore having reviewed RCS-2, I submitted a number of data requests in an attempt to determine the underlying cause for the shift of traffic from the petitioning exchange to the target exchange.

Q. Ms. Smith what were the results of your discovery?

A. Various petitioning exchange LECs are subscribing to COS on approximately 23 COS routes totaling 134 COS access lines. I recently discovered these LECs are using the COS lines to market their Internet access services to consumers in the target exchange. The COS number which is subscribed to by the petitioning exchange LEC serves as a pilot number for a trunk hunting group that is tied to a bank of modems which allows an end user Internet access. This arrangement allows a target exchange customer to call the petitioning exchange

number toll free to subscribe to an Internet access service. The Internet access service is not free to the end user but allows an end-user to access an Internet service provider toll-free whereas if two-way COS was not available the end-user would be required to pay toll for the call.

This arrangement has been or is financially beneficial to the petitioning exchange LEC who subscribes to COS for a flat rate, markets its Internet access service to customers outside their market area, in market areas where other competitive Internet service providers may exist. The LEC collects from the end user a fee for the Internet service based on a usage sensitive rate design. For example, 10 hours of Internet access for $7.95, 60 hours for $19.95 and for every hour following either one of the options $1.20 per hour. This expansion of their market area is available based on the elimination of toll charges that a customer would normally have to incur in order to reach the LEC's Internet service. Therefore, the petitioning exchange LEC benefits financially by offering a competitive service in an exchange by means of a regulated service at little cost to the LEC.

Possible Inappropriate Use of Existing Two-Way COS

Q. Ms. Smith why is the access to an Internet service provider on two-way COS a problem?

A. In the tariffs under the terms and conditions for COS, it specifically states that "COS is not to be shared or resold". In my opinion the provisioning of Internet access by way of COS is the

sharing or reselling of COS.

Q. How is it sharing or reselling COS?

A. In my initial review of the provisioning of Internet access through the use of COS, the petitioning exchange LEC's COS telephone number served as a pilot number for a trunk hunting group that is tied to a bank of modems to allow an end user to gain access to the Internet. The result allows a target exchange customer to call the petitioning exchange number toll free for Internet access service. Moreover, the existing COS tariffs state that, "COS is not to be offered in conjunction with services such as Cellular, Public, Semi-Public, Coin Box, Customer-Owned Pay Telephone Services or comparable services offered by other local exchange companies in their exchanges listed in this tariff."

I also found that the COS rate application for this arrangement was inappropriately applied. The COS tariffs read that COS must be applied on a per line basis or must be purchased on all access lines for an account which is combined billed. The rate application being applied however was for one COS line although there were as many as 24 modems tied through trunk hunting on one COS number. However, it is my understanding that LECs have either retroactively resolved the inequity in the COS rate application or they are in the process of correcting the inequity.

Q. What would your recommendation be to resolve the misuse of COS?

A. I would recommend that the LECs cease using COS for

Internet access. It has been my understanding that other Internet providers who have requested COS service for providing Internet access have been told that the service is not available to them due to the resale restriction in the tariff. I view this restriction for one company but not another company as anti-competitive and discriminatory and therefore, LECs should cease using COS for Internet access.

Q. Ms. Smith do you have any additional comments you would like to make regarding the testimony filed in this case?

A. Yes. I have proposed that the Commission eliminate two-way COS and replace it with one-way only COS, priced at 50% of the two-way rate. However, after further review of all the issues and the close relationship of COS and the PTC plan, I would like to make an additional recommendation.

Q. What would be your recommendation?

A. In my opinion the Commission should consider eliminating COS in its entirety. I base this recommendation on the fact that if it had not been for the existing PTC plan, COS would not have been created. I anticipate that the need for COS will be eliminated with the migration of customers from the COS plan to other competitive services that better meet the customers needs or desires. Therefore, I believe there will be a decline in the COS customer base which causes one to consider whether there is a need to go through all of the complexities involved in modifying the service. As stated in my direct testimony, any change to the existing COS plan is going to be painful with very little benefit, if any, gained though that process.

Q. Ms. Smith, can you summarize your rebuttal testimony?

A. Yes. I agree with many witnesses that there is a strong relationship between the decisions reached in this case regarding COS and any subsequent decisions to change the PTC plan. The Commission should try to keep in mind these relationships as they make decisions in this case. If the Commission anticipates changing the PTC plan so that it shifts the responsibility of providing COS, then the Commission may want to carefully consider how COS should be classified and priced. My testimony also identified a misuse of COS as discovered through the review of direct testimony and made a recommendation for resolving this situation.

Q. Ms. Smith, does this conclude your testimony?

A. Yes.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

Case No. TW-97-333

AFFIDAVIAT OF GAY SMITH

STATE OF MISSOURI)
) SS.
COUNTY OF COLE)

Gay Smith of lawful age on her oath states: that she has participated in the preparation of the foregoing Rebuttal Testimony in question and answer form, consisting of 10 pages be presented in the above-referenced case; that the answers in the foregoing Rebuttal Testimony were given by her; that she has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of her knowledge and belief.

Gay Smith

Subscribed and sworn to before me this 23rd day of May, 1997.

Notary Public

My Commission Expires: June 1, 1997