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## Missouri Public Service Commission

POST OFFICE BOX 360  
JEFFERSON CITY, MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
573-526-5695 (TT)  
<http://www.ecodev.state.mo.us/psc/>

August 11, 1997

CECIL I. WRIGHT  
Executive Secretary

SAM GOLDAMMER  
Director, Utility Operations

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Director, Policy & Planning

VACANT  
Director, Utility Services

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Director, Administration

DALE HARDY ROBERTS  
Chief Administrative Law Judge

DANA K. JOYCE  
General Counsel

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-captioned case are an original and fourteen (14) conformed copies of **INITIAL BRIEF OF STAFF**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

*Cherlyn D. McGowan by pgs*

Cherlyn D. McGowan  
Assistant General Counsel  
(573) 751-3966  
(573) 751-9285 (Fax)

CDM/sm

Enclosures

cc: Counsel of Record

FILED  
AUG 11 1997  
MISSOURI  
PUBLIC SERVICE COMMISSION

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

**FILED**  
**AUG 11 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

**INITIAL BRIEF OF STAFF**

**COMES NOW** the Staff of the Public Service Commission ("Staff") and provides this Initial Brief detailing its positions and recommendations to the Commission.

A detailed history of expanded area calling and community optional service (COS) is attached hereto as Appendix A for informational purposes. Much of this information came from a report to the Commission from the Task Force on Calling Scopes in Missouri, dated December 16, 1991.

On March 7, 1997, the Commission issued its Order Establishing this docket to review COS as it is now provided in the State of Missouri in light of intraLATA equal access issues. In the Commission's May 7, 1997 Order all parties were required to specifically frame their testimony to correspond to straw COS proposals and based upon those straw proposals to respond to specified issues and questions. In compliance with Commission Orders, direct, rebuttal and surrebuttal testimony was filed and evidentiary hearings were held June 23-26, 1997.

**I.     CURRENT OPTIONS AND THE PROPOSED ALTERNATIVES**

There are currently four possibilities when discussing interexchange, intraLATA, toll-free calling alternatives. Those include: Extended Area Service ("EAS"), Community Optional Service ("COS"), Metropolitan Calling Area ("MCA") Plan, and Outstate Calling Area ("OCA") Plan. The Commission has requested that the parties examine two straw-proposals which include, Two-Way

COS using 800/888 numbers for return calling and One-Way Reciprocal COS. Additionally, there are two other proposals presented by the parties including, One-Way COS and the Elimination of COS.

**A. EAS**

The provision of EAS was the first attempt to expand toll-free calling outside the calling party's exchange boundary. EAS trunks were installed to enable customers to call nearby exchanges directly without using an operator. Prior to the installation of these trunks, all calling between two exchanges was completed by an operator. This service is a mandatory service provided on a flat rate basis to all customers within an exchange. The Commission's EAS rule was codified in 1973 and continued through 1987 when the Commission determined that it was largely unworkable and no longer in the public interest.<sup>1</sup>

**B. COS**

Community Optional Service was established by the Commission pursuant to an Order dated December 29, 1989.<sup>2</sup> The Commission created another docket to address the intercompany compensation plan and other issues associated with the implementation of COS. These issues were wrestled with throughout 1990 and on December 7, 1990, the Commission created the Task Force on Calling Scopes in Missouri and gave that Task Force the charge of recommending a statewide solution for ongoing calling scope problems in Missouri and to attempt to gain a consensus for

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<sup>1</sup> In the matter of the investigation into all issues concerning the provision of extended area service (EAS) in the State of Missouri under Commission Rule 4 CSR 240-30.030, 29 Mo. P.S.C. (N.S.) 74.

<sup>2</sup> In the matter of the investigation of experimental extended measured service (EMS), 30 Mo. P.S.C. (N.S.) 45.

implementation. The Task Force, on December 16, 1991, submitted its final report recommending a comprehensive plan to address the extraexchange calling scope requirements of Missouri Customers. Additional Proposals were submitted by Southwestern Bell Telephone Company ("SWBT"), the Office of the Public Counsel ("OPC") and the competitive Telecommunications Association of Missouri ("CompTel").

In order to understand how COS is currently provided, consider the Two-Way COS route that exists between the Auxvasse and Fulton exchanges. Telecommunications customers in the Auxvasse exchange petitioned for a COS route to the Fulton exchange, which makes Auxvasse the petitioning exchange and Fulton the target exchange. After the Auxvasse petition was received, the Commission ordered a calling usage study to be performed. The results of the calling usage study were analyzed to determine whether customers in the Auxvasse exchange had the requisite community of interest with the Fulton exchange<sup>3</sup> to implement a COS route as required by its order in Case No. TO-87-131.<sup>4</sup> Auxvasse passed the community of interest calling criteria,<sup>5</sup> and the Commission ordered the Local Exchange Companies ("LECs") in the petitioning and target exchanges, as well as, the Primary Toll Carrier ("PTC")<sup>6</sup> to implement the COS route. It is possible to have two different

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<sup>3</sup> A community of interest is an interest in placing calls which terminate in the target exchange.

<sup>4</sup> Vol. 30 Mo. P.S.C. (N.S.) 45.

<sup>5</sup> A community of interest exists if a calling usage study, for a one-month period, shows that six calls per access line are made on the average from the petitioning exchange to the target exchange, and that two-thirds of the customers in the petitioning exchange make two or more calls to the target exchange.

<sup>6</sup> The Modified Final Judgment ("MFJ"), entered as a result of the United States Department of Justice anti-trust suit against AT&T, prohibited the regional Bell Operating Companies ("BOCs"), including Southwestern Bell Telephone Company ("SWBT"), from providing any  
(continued...)

PTCs involved in one COS route when the petitioning and target exchanges are in different toll centers.

The Two-Way COS plan allows a customer in the petitioning exchange (Auxvasse) to subscribe to the optional plan, pay a flat monthly rate, and place unlimited toll-free calls to any telephone number in the target exchange (Fulton) as well as the EAS exchanges of the target exchange. Any customer in the target exchange (Fulton), without signing up for the plan or paying

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<sup>6</sup>(...continued)  
interLATA services in addition to many other requirements.

Case No. TR-83-253 was initiated by SWBT to reflect the changes in costs resulting from the divestiture of its assets in Missouri to AT&T and the transfer of toll calling between LATA's to AT&T effective on January 1, 1984 pursuant to the MFJ. The Commission, in orders issued in December, 1983, established an intraLATA toll pool and an interLATA access charge pool. All LEC's in the state were required to participate in these pools for an interim period of 18 months. In Case No. TO-84-222, et. al., the Commission issued an order on December 4, 1984 to institute a proceeding to determine the mechanisms that would replace the interim pools. That docket was designated as Case No. TO-85-130.

By its Report and Order in Case No. TO-84-222, et. al., dated June 24, 1986, the Commission eliminated the interLATA access pooling process on January 1, 1987 and replaced with individual LEC access tariffs. The Commission further ordered the LECs to negotiate a "primary toll carrier ("PTC") by toll center" plan which would attempt to incorporate features of the Terminating Compensation Arrangement and the Designated Carrier Plans which had been rejected by the Commission.

Difficult negotiations among numerous parties resulted in a "Conceptual Framework-Missouri Intrastate IntraLATA Primary Carrier by Toll Center Plan" which was presented to the Commission on January 29, 1987 as a proposal to terminate the intraLATA toll pool. On October 23, 1987, the Commission issued its Report and Order in Case No. TO-84-222, et. al., approving the general terms of the Conceptual Framework, with certain modifications. The Commission's Order indicated that the PTC plan would continue until the Commission had approved a replacement of the plan. The PTC plan was implemented on July 1, 1988, ending the intraLATA toll pool.

The Commission is currently looking at alternatives to the current PTC plan in Case No. TO-97-217, et al., In the Matter of an Investigation Concerning Continuation or Modification of Primary Toll Carrier Plan. This case is currently scheduled for hearings in October, 1997.

toll charges, may make unlimited 1+ calls to Two-Way COS subscribers in the petitioning exchange (Auxvasse). However, toll charges apply to calls from a customer in the target exchange (Fulton) to a customer in the petitioning exchange (Auxvasse) where the petitioning exchange customer does not subscribe to COS. This results in a regular toll call and is charged a usage sensitive rate pursuant to a Commission approved tariff.

Only customers of the petitioning exchange (Auxvasse) can subscribe to COS. Customers in a target exchange (Fulton) would have to file an independent petition for a COS route between the exchanges at issue and meet the calling criteria before a COS route could be implemented from that exchange. Thus, in the Auxvasse to Fulton example, customers in the Fulton exchange would have to file a petition for a COS route to the Auxvasse exchange and pass a separate community of interest test before a COS route could be implemented.

Under Two-Way COS, the calling scope of a COS exchange is greatly expanded where EAS is available in the target exchange. This is true because customers would also receive COS privileges to and from the additional exchange or exchanges by way of EAS to all EAS exchanges available to the target exchange. However, if the target exchange customers pay a fee for the EAS, the petitioning exchange customer subscribing to COS service must also pay that additional EAS rate.

### **C. MCA**

By an Order dated June 12, 1992, the Commission presented its proposed Metropolitan Calling Plan. After allowing interested parties an opportunity to address the MCA plan, the Commission issued its Order adopting an MCA Plan on December 23, 1992.<sup>7</sup> Service under the

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<sup>7</sup> In the matter of the establishment of a plan for expanded calling scopes in metropolitan and outstate exchanges, Vol. 2 Mo.P.S.C. 3d 1.

MCA Plan is a one-way reciprocal calling service to allow a subscriber to call all other customers throughout the MCA areas without a toll charge. Because the service is a one-way reciprocal service, the subscriber is only able to receive toll-free calls from customers in the subscriber's local exchange (plus any EAS exchanges) or from other MCA subscribers. Calls from non-subscribing customers in the MCA but outside of the subscriber's local exchange (plus EAS exchanges) are toll calls, as are all calls from outside of the MCA.

MCAs were established for St. Louis, Kansas City, and Springfield. Each of the MCAs includes a central exchange (the center zone), and certain contiguous exchanges or tier exchanges. MCA in the center zone and tier one exchanges for the Springfield MCA, tier one and two exchanges for the Kansas City and St. Louis MCAs is mandatory. These customers are charged a mandatory flat rate as part of their local telephone service, and for that fee, receive toll-free calling to and from anywhere within those exchanges.

Customers in the additional tiers are offered MCA on an optional basis. Thus, a customer within the optional MCA area has a choice to pay a flat rate in order to receive toll-free calling to all the exchanges in the MCA.

#### **D. OCA**

The Outstate Calling Area Plan was established for those exchanges which are not included in an MCA. The service is an optional service offered for expanded calling beyond a customer's local exchange. The one-way reciprocal service allows calling from an exchange to all other exchanges within a 23 mile radius. Customers are permitted to subscribe to two-hour or five-hour blocks of time under this service at a flat rate for each block of time. Customers outside a subscriber's local

exchange (plus EAS exchanges) pay toll charges for calls to the subscriber unless the caller is also a subscriber to the OCA service. The service is tarified as a toll service by the PTCs.

**E. Two-Way COS using 800/888 numbers**

If the Commission adopted Two-Way COS using 800 or 888 numbers, existing Two-Way COS customers would experience no change in their COS service but would be assigned a second telephone number with an 800 or 888 prefix on which to receive toll-free calls from the target exchange. The COS customers would use standard dialing to make toll-free calls to the target exchange, and their current local numbers would remain unchanged.

The 800 or 888 number could be called toll-free by all customers in the COS target exchange. Under this proposal, the 800/888 calls would be routed through an 800 data base for toll classification. Such a data base would need to be developed.

**F. One-Way Reciprocal COS**

Using the Auxvasse to Fulton COS example again, a customer in the Auxvasse exchange (petitioning exchange) could subscribe to the COS route to Fulton exchange (target exchange) and make unlimited local calls to anyone in the Fulton exchange for a flat monthly fee. However, all calls received by the Auxvasse exchange COS customer from the Fulton exchange would be toll calls charged to the Fulton exchange caller's phone. Unlike Two-Way COS, the service would be reciprocal in that customers in the Fulton exchange could also subscribe to COS and make unlimited toll-free calls to the Auxvasse exchange for a flat monthly fee.<sup>8</sup>

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<sup>8</sup> Note: With an established One-Way Reciprocal COS route neither a calling usage study nor a community of interest are required before a customer from a target exchange can subscribe to that route.



### **G. One-Way COS**

One-Way Only COS operates like One-Way Reciprocal COS for the petitioning exchange, but the service is not available to customers in the target exchange. In the Auxvasse to Fulton exchange example, toll-free COS calling from the Fulton exchange (target exchange) to the Auxvasse exchange (petitioning exchange) would not be available unless the Fulton exchange customers petitioned for COS and met the criteria and community of interest standards necessary for approval of a new COS route.

### **H. Elimination of COS**

With the elimination of COS, Missouri telecommunications companies would not be required to provide any forms of COS. The companies would have the option of continuing to provide this service, a similar service, or no service at all. This decision should be made giving consideration to existing and expected competition in the telecommunications industry.

## **II. Straw Proposals, Compensation Mechanism and Proposed Alternatives:**

The Commission must determine what form of COS, if any, should be available in today's dynamic and increasingly competitive telecommunications market.<sup>9</sup> All parties concede that the COS market base will eventually be eroded by alternative services offered by competitive LECs. The disagreement centers around when this will occur.

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<sup>9</sup> The Telecommunications Act of 1996 was enacted to provide for a pro-competitive, de-regulated national policy framework designed to accelerate rapid deployment of advanced telecommunications and information technologies and services to all Americans. This was to be accomplished by opening all telecommunications markets to competition. The Federal Communications Commission ("FCC") was ordered to adopt rules to accomplish these goals. Toward that end, the FCC has issued orders dealing with Universal Service, Interconnection, and Access Charges, to name just a few.

As discussed below, the Staff believes that due to changing conditions in the telecommunications market, Two-Way COS is no longer in the public interest because it represents a barrier to competition. Accordingly, Two-Way COS should be eliminated. The question then becomes whether COS should be eliminated all at once, or if a transitional form of COS should be implemented.

The Staff believes that all forms of mandated COS should be eliminated. The Staff's position on this issue is based in part on the fact that COS could not have been created but for the existing ("PTC") plan. Changes to the PTC are currently being considered in Case No. TO-97-217, et al. The Staff anticipates that as competitive services become available, the need for COS will be eliminated by the migration of customers from the COS plan to other competitive services. Accordingly, the Staff believes there will be a decline in the COS customer base which prompts one to ask whether it is reasonable or necessary to go through all of the complexities involved in modifying the service for such a short-term benefit.

Since any change to the existing COS plan will be aggravating and confusing to existing COS customers, the Staff believes it is preferable to simply eliminate COS in one step rather than first modifying and then eliminating COS. The Staff suggests that the Commission not consider additional COS applications due to the current uncertainties associated with COS and the extreme difficulty obtaining the data necessary to conduct the requisite calling usage studies from multiple local service providers.

As set out in detail below, the Staff does not believe Two-Way COS using 800 or 888 numbers for return calling represents a viable transitional form of COS for several reasons. Similarly, although preferable to the Two-Way 800 COS option, the Staff believes One-Way Reciprocal COS

would be an inappropriate transitional form of COS in that it could increase the calling scope of subscribers in the target exchange by picking up additional EAS exchanges. For instance, under existing COS, only the target exchange callers are allowed to call the petitioning exchange customers on a toll-free basis. If one-Way Reciprocal COS is adopted, the toll-free COS calling available to target exchange callers would be expanded to include the EAS exchanges of the petitioning exchange.

If the Commission adopts One-Way Reciprocal COS, the Staff believes COS reciprocal calling should be limited to the calls from the targeted exchange to the petitioning exchange and not include any of the petitioning exchanges EAS points to reduce the risk of inappropriately increasing calling scopes. If the Commission determines that some transitional form of COS is necessary, the Staff recommends One-Way COS be implemented.

**A. Should Two-Way COS be modified to use 800/888 Number Based Service for the return calling portion of the service?**

The Staff does not believe the use of an 800 or 888 number-based service for the return calling portion of Two-Way COS is reasonable. The Staff's position is based upon several problems associated with the use of a second 800 or 888 number to receive COS return calls. These concerns include the availability of numbers, problems with telephone directory listings, directory assistance, billing concerns, and customer confusion.

Staff is gravely concerned with the lack of available numbers to support this alternative. The necessary 800 and 888 numbers are rapidly being depleted. (Ex. 32, Smith Direct, pp. 7-10). The utilization of 800/888 numbers pursuant to this proposal would contribute to the depletion of those numbers at a much faster pace than currently projected and would prevent the general use of 800 numbers by all carriers to provide toll-free calling services. (Id.)

The Staff opposes the use of an 800 or 888 number to receive COS return calls. Such use would lead to customer confusion from the use of multiple numbers, multiple directory listings, and may require a customer to pay for multiple directory listings. (Ex. 32, Smith Direct, pp. 10-11). End-users of telecommunications service often place a great deal of emphasis on their telephone directory listings and these concerns must be addressed if an 800 or 888 number were used to receive return calls under COS. For example, which telephone number would appear in the local telephone directory? Would it be the 800 number, the customer's local telephone number, or both telephone numbers? If both numbers are listed in the directory, will customers recognize that the 800 number is only toll-free when called from the target exchange? If both numbers are listed in the directory, who will pay for the additional line listing? Will it be the end-user, the petitioning exchange LEC, the PTC or some other entity?

In addition to telephone directory listings, the Staff has several concerns with directory assistance under the 800/888 proposal. Today, in order to reach 800 directory assistance, one simply dials 1+800+555+1212. Local directory assistance is obtained by dialing a different number. Which directory assistance, local or 800, would the customer have to dial to obtain the COS customers 800 return call number? Also, whether local or 800 directory assistance provides the 800 telephone number, would the inquiring customer be advised that the number is toll-free only when called from the target exchange? Is this the responsibility of the directory assistance operator? (Ex. 32, Smith Direct, p. 11).

The 800/888 return call proposal would require billing systems to be modified. Currently, under Two-Way COS, these return calls go through the individual LECs billing system where a call from a COS customer to a target exchange customer would be classified as toll-free. Data base query

calls from the target exchange to COS customers in the petitioning exchange under the 800/888 return call proposal would be routed through an 800 data base for possible toll classification.

Finally, the Staff is concerned that the use of a second number to receive return calls from a target exchange would lead to customer confusion and dissatisfaction. In its early states, Two-Way COS was provided utilizing Remote Call Forwarding (RCF) with the assignment of a second number in order for return calling to be toll-free back to a COS subscriber. Customers were confused with the second number assignment, which generated a number of calls to the LECs and the Commission. (Ex. 32, Smith Direct, pp. 11-12). Answering those inquiries required explaining why the service was provided in this manner and directing customers which number to dial. (*Id.*). The Staff believes providing Two-Way COS utilizing an 800/888 number for return calls would be even more confusing than the RCF. In addition, because most customers believe that all 800/888 telephone numbers are toll-free, numerous customer complaints and billing disputes could result.

**B. Should One-Way Reciprocal COS Service replace Two-Way COS Service?**

The Staff does not believe One-Way Reciprocal COS is a viable solution to the current problems with COS given the increasingly competitive nature of the telecommunications market. (Ex. 32, Smith Direct, pp. 12-13). For example, adoption of One-Way Reciprocal COS could increase the calling scope of subscribers in the target exchange, especially if the target exchange has EAS routes or are part of a MCA plan. Since COS customers from the petitioning exchange would have toll-free calling to the target exchange as well as the EAS exchanges of the target exchange, subscribers to COS in the target exchange would also be able to call customers in each EAS exchange of the petitioning exchange. (*Id.*). Expanding the toll-free area offered to target exchange customers

raises additional problems regarding revenue impacts to involved companies as well as competitive issues of reducing the size and scope of the intraLATA toll market.

Although the Staff does not believe One-Way Reciprocal COS would be an appropriate transitional form of COS, the Staff prefers One-Way reciprocal COS to Two-Way COS using an 800/888 return call. It avoids the problems associated with the use of a second 800/888 number. If the Commission adopts One-Way Reciprocal COS as a transition, the Staff believes the toll-free calling area should be limited to the petitioning and target exchanges. Such a limitation avoids unreasonable expansion of the associated calling scope in areas where EAS is in effect.

Another Staff concern with One-Way Reciprocal COS centers around the calling usage studies. Local competition and intraLATA presubscription will complicate this process because additional carriers may be involved in handling the traffic. For a usage study to be completed, all carriers would need to track their respective traffic, for the same time frame, for all respective customers. It is likely that this will also create additional administrative costs to all carriers involved in completing a usage study.

**C. Should One-Way COS Service replace Two-Way COS Service?**

Although Staff believes it is most appropriate to completely eliminate COS at this time, if the Commission desires a transitional service the Staff believes One-Way COS would be the best transitional service. One-Way COS could be used as customers migrate from the traditional monopoly environment to the new competitive environment. (Ex. 32, Smith Direct, pp. 12-15). Most of the problems associated with Two-Way COS, Two-Way COS using an 800/888 number based service for return calling, and One-Way Reciprocal COS do not arise with One-Way COS. Not only could One-Way COS continue to be provided by the PTC as an optional long distance toll

service with intercompany compensation based on access charges, but One-Way COS would not require any additional telephone number, directory listing, or directory assistance change. (*Id.*). Further, the Staff notes that due to increasing intraLATA presubscription<sup>10</sup>, the incumbent LECs will no longer be able to measure and report all toll calls from a petitioning exchange to a target exchange. Accordingly, it will be increasingly difficult, if not impossible, for the LEC to obtain the data necessary to perform the calling usage studies required to evaluate whether a prospective COS route meets the community of interest criteria. (Ex. 23, Bourneuf Direct, p. 27).

If the Commission decides to modify the current Two-Way COS to One-Way COS, the Staff recommends that all existing Two-Way COS routes be modified at one time to provide One-Way service. (Ex. 32, Smith Direct, p. 13). Any changes to COS will create a great deal of consumer complaints and inquiries. The Staff believes the Commission and companies will be best able to address these complaints and inquiries if COS is changed for all customers, at the same time, in the same manner. (*Id.*). A simultaneous transition will also eliminate customers "looking over the fence" and seeing a neighboring exchange with COS in its present form while they were switched to One-Way COS. (*Id.*). It is possible that COS rates may need to be adjusted based on this change.

**D. Should COS be eliminated completely.**

Mandated COS should be eliminated completely. The Staff bases this position, in part, upon its belief that mandated services should be minimized if a more competitive telecommunications environment is to develop as required by the Telecommunications Act of 1996. (Ex. 32, Smith

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<sup>10</sup> The Commission is currently in the process of implementing intraLATA presubscription mandated by the FCC. IntraLATA presubscription would allow local exchange customers to designate a presubscribed interexchange carrier ("PIC") for intraLATA toll calls dialed as "1+" from the presubscribed location.

Direct, pp. 13-15). Expanded toll-free calling has been an issue in Missouri since the late 1960's and early 1970's when the Commission began to hear from customers who wanted expanded toll-free calling. (Id. at p. 14). Over the years, LECs have implemented a number of Commission-approved expanded calling plans aimed at meeting customers' needs and desires. Despite these efforts, customer discontent has continued. (Id.). Further, the Staff has identified that we are generally addressing an out-cry from a very small percentage of the total number of telecommunications consumers in Missouri. (Id.). The Commission should eliminate COS with no transition, finding that its effectiveness has been outlived.

**E. Additional issues if some form of COS is preserved**

If the Commission decides that some form of COS should be preserved, the Commission must make four additional determinations, 1) whether the current compensation mechanism for COS should also be retained, 2) whether COS should be classified as a local or toll service, 3) whether aggregation and/or resale of COS should be allowed, and 4) how expected changes to the PTC plan could affect COS.

**1. If some form of COS is preserved, should the current compensation mechanism for COS also be retained?**

Although the Staff didn't address this issue directly, the Staff agrees with Sprint on this issue. If the Commission determines that One-Way COS provided by the PTCs should be the alternative for existing COS arrangements, then the service should be considered an optional long distance toll service with intercompany compensation based on access charges. (Ex. 29, Harper Direct, p. 2, Ex. 30, Harper Rebuttal, p. 4, and Ex. 32, Smith Direct, p. 13). However, if the Commission alters the PTC plan so that the COS provider will change for a given exchange, then cost-based pricing as well as classifying COS as a local service may be a reasonable alternative to address the compensation



issue. (Ex. 30, Harper Surrebuttal, p. 3, and Ex. 33, Smith Rebuttal, pp. 4-5). These issues are more appropriately addressed in Case Nos. TO-97-217, et al., where the future of the PTC Plan is currently before the Commission.

**2. If some form of COS is preserved, should it be classified as a local or a toll service?**

If the Commission ultimately wants to modify the PTC Plan and make a different party responsible for providing COS to a particular exchange, the Commission will need to analyze the financial impact on the involved companies at that time. The financial aspects of such a transition have not been analyzed in detail in this docket. (Ex. 30, Harper Rebuttal, p. 4, and Ex. 33, Smith Rebuttal, pp. 3-5). However, absent any modification to the PTC Plan, the Staff believes the Commission should continue to classify COS as a toll service. (Id.).

**3. If any form of COS is preserved, should aggregation and/or resale of COS service be allowed?**

The Staff took no position on this issue. If the Commission determines that some form of COS should be preserved, and that aggregation and resale of COS should be allowed, current tariff language will need to be modified to allow all LECs to aggregate or resell the service. The Staff notes that the tariffs of most of the telecommunications companies offering COS, specifically state the "COS is not to be shared or resold." (Ex. 33, Smith Rebuttal, p. 7).

**4. What is(are) the potential impact(s) of expected changes in the Primary Toll Carrier Plan on COS?**

COS would not exist today if it had not been for the PTC plan. When considering expanded calling scopes in 1987, not all LECs were technically able to 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 necessary avenue whereby the PTC

handles 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.

The Commission must consider any current changes in COS in conjunction with changes to the PTC plan.<sup>11</sup> COS is presently classified as an intraLATA toll service that is provided through the PTCs. Any changes made to COS will 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, must remain in place. Similarly, changes to the PTC plan can affect COS. For example, assume the PTC plan is revised so that responsibility for providing intraLATA presubscription shifts from the PTC to the LEC serving the petitioning exchange. This arrangement raises other issues such as toll versus local classification, financial impacts on the involved companies and COS pricing. Further, due to increasing intraLATA presubscription, the incumbent LECs will no longer be able to measure and report all toll calls from a petitioning exchange to a target exchange. Thus, it will be increasingly difficult, if not impossible, to obtain the data necessary to perform the calling usage studies required prior to implementation of a COS route. (Ex. 32, Smith Direct, pp. 5-6).

At this time, it is unclear whether the PTC plan can stay intact. The only reasonable method proposed to retain two-way COS involves keeping the PTC plan as is and precludes intraLATA presubscription in exchanges involved with COS. The Staff does not believe preventing exchanges from having intraLATA presubscription is an option available to the Commission as it clearly conflicts

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<sup>11</sup> Hearings are currently scheduled in Case No. TO-97-217, et al. in October, 1997.

with the Telecommunications Act of 1996, and deprives these customers of the ability to have the benefits of competition.<sup>12</sup>

### **III. Commission Issues:**

- A. Is the appropriate pricing mechanism for one-way COS with reciprocal service the same as set out by the Staff in Case No. TT-96-398? If not, so indicate and substantiate an alternative proposal.**

If the Commission orders the implementation of One-Way COS or One-Way Reciprocal COS, the current COS rate must be modified because customers will be purchasing only half the current COS service. The Staff continues to support its position in Commission Cases No. TT-96-398 and No. TO-97-253 that a fifty percent (50%) reduction of the existing two-way COS rate is the appropriate rate for one-way COS service. Not only is it simple to determine, it would be easy to explain to customers. The customers are receiving half the service at half the charge.

If the Commission were to alter the PTC Plan so that the COS provider will change for a given exchange, cost-based pricing may be the alternative that addresses the compensation issue. If the PTC Plan is altered, the Commission will need to have some mechanism in place to allow the new COS providers to be completely compensated. In establishing cost-based rates, the Commission must address a number of issues pertaining to the calculation of those rates including, what type of cost study to use, what costs should be included, and whether reduced revenues should be included in the calculation. Cost-based rates would eliminate the statewide COS rate structure, causing differing rates. These rates could even differ between exchanges served by the same company.

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<sup>12</sup> See § 271, Telecommunications Act of 1996.

**B. Shall all competitive LECs be required to offer this service?**

No LECs, whether competitive or incumbent, should be required to offer any type of COS service. However, the Staff believes that all LECs should be allowed to offer COS type services. As competition progresses, telecommunications companies will propose services comparable to or better than COS, and they should have the opportunity to offer such plans.

**C. What, if any, change must be made in the PTC plan to accommodate or accomplish the proposed COS changes herein?**

While the Staff does not believe any specific changes to the PTC plan are necessary to implement the Staff's recommendations (addressed above in Argument Section I.B.2.), the Staff notes that changes to the PTC plan can impact COS. Therefore, it may be necessary to expand the scope of Case No. TO-92-217, et. al. to include information necessary for the Commission to make changes to COS if necessary.

**D. Shall the Commission stay all pending and future COS applications?**

The Staff recommends that the Commission dismiss all pending COS dockets as of the effective date of the order in this case where calling study results have not yet been submitted as well as those that fail to meet the criteria. The Staff further recommends that no future COS petitions be accepted.

**E. What is the participants' proposal for educating the public?**

The Staff makes the following recommendations and additional suggestions:

**RECOMMENDATIONS**

- 1) The Commission's Information Officer should issue a press release indicating the change in service, the rationale for the change, the effective date of the new service, the date by which customers must call their telephone company

to change their account before the effective date of the new service, and the Commission's Hotline and/or Voice-Mail telephone number. This press release should be directed to all media listed in the current Missouri State Official Manual as well as to all members of the Missouri General Assembly;

- 2) A brief information brochure should be developed by all involved parties and approved by the Commission. This brochure should be included in the customer's bill for each affected exchange. This brochure should include why the service is being changed, the effective date of the new service, a deadline date for customers who may want to change their account prior to the effective date to avoid fractional billing, the telephone contact numbers for the LEC and the Commission, and a positive statement informing customers of other future telecommunications changes (i.e., local competition and Internet access); and
- 3) The Commission's Internet home page should have detailed information explaining the changes and why the changes are necessary as well as the information from the informational brochure.

#### ADDITIONAL SUGGESTIONS<sup>13</sup>

- 1) The Commissioners and the Staff should conduct an open forum meeting by invitation from the Commission to the members of the Missouri General Assembly, to discuss why changes were made to COS. This recommendation

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<sup>13</sup> Note: the Staff is not suggesting the Commission order the additional suggestions. They are provided simply as additional ideas for the Commission and the parties to consider.

is based upon the success of a previous meeting which dealt with the expanded calling services which were established by Case No. TO-92-306;

- 2) Telecommunications companies' public relations managers should conduct similar information forums with community and business leaders; and
- 3) The telecommunications companies and the Commission should each establish a toll-free number with a Voice Mail menu with options for information regarding the changes which would not only provide education for the consumer but would also provide an option to leave the mailbox to speak directly to a consumer representative if questions were not answered.

**F. Please "explore and discuss the potential of LATAwide or statewide flat-rate COS."**

The Staff believes no LATAwide or statewide COS plan should be mandated by the Commission for the same reasons the Staff opposes mandated COS in general. However, if such a plan is offered by an incumbent LEC, it should be available for resale by competitive local exchange telecommunications companies. (Ex. 32, Smith Direct, pp. 18-19).

**III. Additional Issues Raised During Hearing**

**A. COS is Inconsistent with the Current Competitive Environment.**

COS is a service that PTCs have been ordered by the Commission to provide. The Telecommunications Act of 1996 ("1996 Act") provides that, "[n]o State or local statute or regulation, or other State or local legal requirement may prohibit or have the effect of prohibiting the ability of any entity to provide . . . intrastate telecommunications service."<sup>14</sup> This provision does not

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<sup>14</sup> 47 U.S.C. 253 (1996).

merely prohibit a state commission from imposing a direct legal barrier to entry (i.e., a rule that completely disallows competition in local markets), it also prohibits a state commission from imposing legal requirements that have the effect of prohibiting market entry.

The Staff believes that when the Commission issues an order requiring a carrier to provide COS, it is imposing a legal requirement that has the effect of prohibiting the ability of a competitor to provide intrastate telecommunications service. COS is a Commission-mandated service which allows customers to make toll calls at rates that arguably do not cover the cost of providing the service. The access charges paid by PTCs to provide the service far exceed the revenues collected by the PTCs to provide the service (Tr. 362). New competitors entering local markets cannot compete with a service provided below cost and subsidized by other customers, therefore, such a hindrance has the effect of prohibiting market entry. This prohibition could be mitigated if COS were provided at cost and competitive companies were permitted the opportunity to obtain the service for resale.

Additionally, COS effectively prohibits competitors from entering the intrastate telecommunications market because it creates technical barriers to entry. For example, competitors currently cannot identify the COS traffic for a route and their billing systems cannot accommodate COS. Due to such technical limitations, "[u]nique billing processes for such a limited set of customers could be viewed as a barrier to entry," prohibited by the 1996 Act (Ex.29, Harper Direct, p.4). The Staff believes that the technical problems competitors would encounter in providing this Commission-mandated service could effectively prohibit an entity from providing intrastate telecommunications service.

As set out above, the Staff does not believe the Commission should require that COS be provided. Such a mandate is a market entry barrier for new competitors. New entrants would find it economically impossible to compete with a service that is potentially priced far below the costs of providing that service and one that may be subsidized by other customers. Additionally, new entrants would have to initiate a unique billing system to accommodate the few customers subscribing to COS in Missouri. In sum, Commission-mandated COS creates both technical and economic market entry barriers and should therefore be eliminated in order to comply with the 1996 Act.

**B. Should the Commission Order a True-Up of T/O<sup>15</sup> Ratios or a Move to Actual Minutes of Use in this Docket?**

Commission authority to alter rates is found under §392.240.1 RSMo (1994) which reads, in pertinent part,

[w]henver the commission shall be of the opinion, after a hearing had upon its own motion or upon a complaint, that the rates, charges, tolls or rentals demanded . . . by any telecommunications company for the transmission of messages or communications, or for the rental or use of any telecommunications facilities . . . are unjust, unreasonable, unjustly discriminatory or unduly preferential . . . or that the maximum rates, charges, or rentals chargeable by any such telecommunications company are insufficient to yield reasonable compensation for the service rendered, the commission shall with due regard, among other things, to a reasonable average return upon the value of the property actually used in the public service and of the necessity of making reservation out of income for surplus and contingencies, determine the just and reasonable rates, charges and rentals to be thereafter observed and in force as the maximum to be charged . . .

This provision authorizes the Commission to alter rates only after a hearing for that purpose. Among the many issues that the Commission must determine in such a proceeding are the establishment of

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<sup>15</sup> The acronym T/O ratio refers to the ratio of terminating to originating minutes used by the LECs to calculate access usage.



reasonable rates of return and reservations for surplus and contingencies for the company. However, the present docket was designed to investigate the provision of COS in Missouri as a whole. One of the issues that arose during questioning was whether the Commission should order the parties to true-up T/O ratios or switch to actual usage minutes to determine access payments. The Staff believes that this issue was not addressed fully in this proceeding and that the Commission should initiate a docket to address the issue. The parties did not present evidence relating to the effect an access rate change could have on each company's revenues because the parties were not aware that access revenues were at issue. A decision on access rates will affect the rates of every telecommunications company in the state. A determination with ramifications this great for the State of Missouri should be addressed in a separate docket where due process can permit a full examination of the issue with all interested parties having an opportunity to present relevant positions and evidence.

**C. What, if any, jurisdiction does the Commission have over Internet service?**

The Staff believes it is unclear whether the Commission can regulate Internet Service Providers (ISPs). Pursuant to §386.250 RSMo (1994), the Commission's jurisdiction extends,

**To all telecommunications facilities, telecommunications services and to all telecommunications companies so far as such telecommunications facilities are operated or utilized by a telecommunications company to offer or provide telecommunications services between one point and another within this state or so far as such telecommunications services are offered or provided by a telecommunications company between one point and another within this state . . . (emphasis added)**

Pursuant to this statute, one must first determine whether the entity or item at issue is a telecommunications facility, service or company. Second, one must determine, if the item or things being offered is a facility or service, and whether the offering is between points, both within the state.

First, is Internet service a telecommunications service or facility? Is it provided by a telecommunications company? Telecommunications service is defined in §386.020(53) RSMo, (Supp. 1996) as "the transmission of information by wire, radio, optical cable, electronic impulses, or other similar means." Information and data conveyed via the Internet is information transmitted by wire. However, the service is certainly more analogous to the services that are excepted from the definition of a "telecommunications service" which include answering and paging services, cellular services, electronic publishing, etc. The Staff believes that there is no clear answer as to whether Internet service is a telecommunications service.

Further, telecommunications facilities, "includes lines, conduits, ducts, poles, wires, cables, cross arms, receivers, transmitters, instruments, machines, appliances, and all devices, real estate, easements, apparatus, property and routes used, operated, controlled or owned by any telecommunications company to facilitate the provision of telecommunications service."<sup>16</sup> Although the equipment used to provide Internet service certainly fits within the list of equipment that could be considered facilities, once again, this definition requires that a telecommunications company must own that equipment and such equipment must be used in the provision of telecommunications services. As stated above, Internet service does not clearly fit within the definition of a telecommunications service. Additionally, as stated below, it is questionable whether an ISP is a telecommunications company.

An ISP must also be a telecommunications company for the Commission to exercise jurisdiction. A telecommunications company is very generally defined as, "telephone corporations

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<sup>16</sup> §386.020(52) RSMo (Supp. 1996).

as that term is used in the statutes of this State . . . ”<sup>17</sup> The requirement that the provider be a telecommunications company is contained in all sections of the above statute. Although a company can be a telecommunications company and be subject to Commission jurisdiction under the first section of the section, the statute also requires that for facilities or services to be regulated, they must be furnished by a telecommunications company. The Staff believes that it is not clear whether an ISP is a telecommunications company. An ISP does not provide a service similar to traditional telecommunications companies such as toll services and basic local telecommunications to end users.

The second requirement contained in the Commission’s jurisdictional statute is that the service or facility must be offered between one point and another within the state. Internet access could be conceived as a service between an end-user within the state and a point outside the state, but one could also conceptualize it as service between end user and the ISP’s facilities. The Staff believes that this portion of the Commission’s jurisdictional statute is also unclear as to whether Internet service is subject to Commission regulation.

In conclusion, the statutory sections which could provide an answer to whether the Commission has jurisdiction over ISPs are ambiguous.

### **CONCLUSION**

For the reasons set out herein, the Staff believes the Commission should eliminate COS in its entirety. As an alternative, the Commission might authorize, but not require the provision of One-Way COS as a transitional service. If the Commission retains One-Way COS, and does not modify the existing PTC plan, the Staff believes One-Way COS should continue to be classified as an optional toll service provided by the PTC and that compensation for such service should be based

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<sup>17</sup> §386.020(51) RSMo (Supp. 1996).

upon access rates. Further, if the Commission authorizes the provision of One-Way COS, the Staff continues to support its position in Commission Cases No. TT-96-398 and No. TO-97-253 that a fifty percent (50%) reduction of the existing two-way COS rate is the appropriate rate for one-way COS. Finally, the Staff restates its position that the Commission should not accept any new applications for any type of COS service, due to the difficulty obtaining the necessary data to conduct calling usage studies when multiple local service providers are involved.

Respectfully submitted,

*Cherlyn D. McGowan*  
Cherlyn D. McGowan  
Assistant General Counsel  
Missouri Bar #42044  
*by Penny G Baker*

Carol Keith  
Assistant General Counsel  
Missouri Bar #45065

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
573-751-3966  
573-751-9285 (Fax)

#### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been faxed or hand-delivered to all counsel of record as shown on the attached service list this 11th day of August, 1997.

*Penny G Baker*

## **Detailed History of Expanded Area Calling and Community Optional Service**

Telephone serving areas are defined by geographic boundaries called exchanges, in which a specified LEC provides local service. In Missouri, exchanges first appeared in the early 1900's in urban areas where the population density was much higher and the prospects of potential telephone subscribers would be greater than in rural areas. The exchange boundaries were established to encompass as much urban area as possible. While constrained by technical limitations of telephone equipment, e.g., loop length limitations, and natural boundaries such as rivers and rough terrain, telephone switching equipment was generally located near the geographic center of an exchange so that all subscribers within the exchange could be served in the most economical manner. The switching equipment acted as the "hub" of a wheel and subscriber lines radiated from the hub like spokes of a wheel.

In some rural areas where telephone service was not available, a group of subscribers would build their own lines connecting their locations and then build a "switcher line" connection to a nearby telephone company. Nearly all of these switcher lines have now been replaced, but the technical way to configure lines to most economically serve a geographic exchange area remains essentially the same.

Historically, calling within a customer's exchange was completed by switching equipment in the exchange, while calling between two exchanges, whether in close proximity or many miles apart, was completed by an operator. Intraexchange service was

provided at a flat rate while interexchange calling was billed on a usage-sensitive toll rate basis. As technology improved it became more economical to eliminate the operator function and usage-sensitive billing for short distance calls between certain exchanges where there were high calling volumes. This was due to the high costs of operator completion, manual ticketing, and billing of toll messages and because customer billing inquiries required manual searching of paper records containing call detail information. For this reason telephone companies installed telephone facilities to enable customers to call nearby exchanges directly without using an operator. Today these facilities are called Extended Area Service (EAS) trunks. EAS service is provided on a flat rate basis. With the advent of Direct Distance Dialing (DDD) technologies in the late 1960's, the significant expense savings once credited to EAS plans no longer existed. As a result, telephone companies discontinued the practice of providing new flat rate EAS routes.

It is probably not coincidental that during the late 1960's and early 1970's the Commission began to hear from subscribers who wanted expanded flat rate local calling beyond their home exchange. Telephone companies no longer could economically justify such service based on cost savings and customers desiring the service were reluctant to pay higher rates to receive the service. At the same time there were customers who were upset because the established exchange boundaries did not necessarily conform to lines of demarcation for cities, school districts, counties, fire districts or subdivision areas. Further, customers became more mobile, and the area where people live, work, purchase goods and services, attend school and church, and receive medical care expanded.

During the last twenty years the Commission has conducted a number of generic investigations concerning expanded local calling. On August 27, 1973 in Case No. 17,898 the Commission ordered its staff and all certificated telephone companies to:

Undertake an investigation of all factors relative to the calling scope and related matters of all telephone exchanges in Missouri and to develop and make recommendations to the Commission concerning same.

Similar directives were the focus of more recent investigations. A generic EAS investigation was conducted by the Commission in Case No. TO-86-6 and a Report and Order was effective on April 21, 1987. The most recent generic investigation occurred in Case No. TO-87-131.

Over the years, LECs have implemented a number of Commission-approved expanded calling plans aimed at meeting customers' needs and desires for expanded calling scopes. The result has been an alphabet soup of plans, some available statewide and others limited to particular locales. Despite these efforts, widespread customer discontent with expanded calling plans has continued. In the view of the Task Force, much of this dissatisfaction has arisen from customers "looking over the fence" and wanting the same discount services a neighboring exchange has.

The following sections briefly describe some of the expanded calling plans which have been adopted in Missouri in the past.

**A. EAS and EMS**

As already mentioned, LECs installed a number of EAS routes on their own initiative through the late 1960's. In 1973, the Commission created EAS standards,

including a qualification process, in General Order No. 61 which was one result of its generic investigation in Case No. 17,898. There were subsequent revisions to General Order No. 61 and an EAS rule was later codified in Commission Rule 4 CSR 240-30.030.

Under the terms of the Commission's rules, the EAS qualification process was typically initiated by a petition from customers. The LEC then conducted a calling study. The first calling study criteria were that (a) there must be an average of at least three calls per main station per month from the petitioning exchange to the target exchange and (b) at least 40 percent of the customers in the petitioning exchange must make at least one toll call per month to the target exchange. These criteria were later changed to (a) there must be an average of at least six calls per main station per month from the petitioning exchange to the target exchange and (b) at least two-thirds of the customers in the petitioning exchange must make two or more toll calls per month to the target exchange. If the calling study showed that the petitioning exchange met the established criteria, the LEC would then conduct a cost study to identify the estimated costs of providing EAS. These costs would be translated into proposed EAS rate increments which, if EAS was implemented, would be applied to all access lines in both the petitioning and target exchanges. (The EAS increments were different between the petitioning exchange and the target exchange and the business line EAS rate increment was usually set at twice the residential EAS increment, consistent with common relationships between business and residential local exchange rates.) A post card vote would then be conducted among all customers within the petitioning and target exchanges. The voting criteria changed over



the years. The last voting standards were that at least one-third of the customers in each exchange must vote and that at least sixty percent of those voting in each exchange must favor EAS, if EAS was to be implemented. EAS can also be "voted out" by customers, in accordance with tariffed procedures. A number of two-way flat rate EAS routes have been voted out in accordance with such tariff provisions.

There is concern that flat rate EAS calling sends an incorrect price signal to customers that the cost of additional calls is zero. EAS cost studies submitted to the Commission have estimated that calling volumes may be stimulated by a factor of three to six times when EAS is implemented. These stimulated calling volumes require additional capital investments for facilities and equipment as well as increases in associated ongoing expenses.

A flat rate averaged price for EAS, by its very nature, creates a situation in which low-use customers pay more and high-use customers pay less than they would under a usage-sensitive toll rate structure. Thus, while much of the demand for EAS has come from a minority of high-use customers, many moderate- or low-usage customers would be economically better served by paying toll charges rather than EAS additives.

The establishment of EAS between specified communities is not a complete cure-all for calling concerns since customer calling habits are constantly changing. Also, there may not be uniform calling patterns within a particular exchange. For example, the Southwestern Bell Telephone Company (SWB) exchange of Richwoods is situated between two larger exchanges: SWB's DeSoto exchange to the northwest and GTE's

Potosi exchange to the south. Subscribers are united in their desire for EAS, but divided regarding the exchange into which they should have EAS. Those wanting to call DeSoto have little or no desire for EAS to Potosi and vice versa. Thus, no consensus is available and the petitioning process has not been successful.

As a result of these problems with flat rate EAS, this alternative to interexchange toll calling has been largely unsuccessful in recent years. Between 1974 and 1986, 82 petitions for EAS were filed with the Commission. Of the petitions which proceeded to the calling study stage, only 18 passed the calling criteria showing a sufficient community of interest to qualify for further consideration. However, only one non-optional EAS route was actually established. In each of the other routes, the post card vote showed that customers were unwilling to pay the EAS increment required for the service.

In 1986, the Commission opened generic Case No. TO-86-8 to investigate all issues concerning EAS in Missouri. This docket had widespread industry participation, as well as input from the Commission Staff and OPC. In a Report and Order effective on April 21, 1987, the Commission stated that the present EAS rule was largely unworkable and no longer in the public interest. Therefore, the moratorium on new EAS routes instituted during the hearings was extended and the EAS rule was rescinded.

In the Order, the Commission recognized a continued need for discounted calling from one exchange to another where a demonstrable community of interest exists. However, it concluded that this need could be accomplished best by a modification of

EAS flat rate pricing and making the service usage-sensitive. Therefore, the Commission ordered a trial of a new service offering called Extended Measured Service (EMS).

The EMS experiment was initiated on selected routes between exchanges where recently EAS had been studied but not implemented. There were approximately 24 exchange routes studied. The experimental EMS was a prospective service offering, and existing EAS routes and rates were retained. Thus, any disruptive effects on current EAS subscribers were avoided.

There were two different services associated with EMS. One, Extended Community Calling (ECC), was available to all customers on a selected route. This service provided for a 50 percent reduction from existing toll rates for calls placed to the other involved exchange. With the ECC option, there was no monthly flat-rate charge; therefore, customers who had little or no interest in extended calling did not pay for the service.

The second offering in the EMS experiment was Optional Message Rate Service (OMR). This option was available only to residence customers in the petitioning exchange. OMR had a \$5.00 per month flat rate charge and each message placed to the other exchange was billed at 25 cents regardless of the length of the call or the time of day. Thus, the monthly charge helped defray costs of establishing the service and the charge per call helped defray the setup and per minute costs of each call.

The Commission viewed EMS as preferable to EAS for several reasons. First, customers paid based on usage. High-volume users paid more than low-volume users.

EMS sent the appropriate pricing signal that each additional call had an incremental cost. Accordingly, each customer could evaluate whether the next call was worth its price.

Also, the ECC service of EMS was subject to the same discounts for off-peak calling as afforded regular long-distance calls, thereby encouraging off-peak usage and allowing companies to accommodate some of the stimulated traffic with less investment in additional network facilities.

As discussed below, EMS was terminated and the EAS petitioning process was replaced with Community Optional Service (COS) in 1990.

**B. Company-Specific Plans**

Over time, individual companies also implemented several expanded calling plans separately.

In 1980, Contel (now GTE) implemented the Metropolitan Optional Service Plan (MOSP) on some of its routes where customers had been asking for expanded calling plans but could not meet the criteria for EAS. MOSP is an optional interexchange service that allows customers to select a plan based on their volume of calling, similar to a block-of-time concept.

In 1987, Contel implemented the St. Charles County Discount Plan. This plan was an optional discounted toll plan which gave customers a 50 percent discount on toll between exchanges in St. Charles County. There was a monthly service charge of \$2.00 per access line.

In 1989, in response to continued pressures in the St. Charles County area, Contel instituted the Metro I rate group which eliminated all 1+ toll calling and discount plans such as the St. Charles County Discount Plan, MOSP and EAS between its exchanges within the county. The Metro I rate group provides local exchange service between the eight exchanges within the group which can now call each other toll-free using seven-digit dialing. The new metro rate group's basic rate is higher than Contel's previous local service rate in those exchanges. However, the increased revenues do not recover all of the lost revenue streams such as toll, MOSP and the EAS plans.

SWB also introduced plans to provide expanded local calling for its customers. In the 1960's, the Wide Area Service Plan (WASP) created an expanded local calling area for St. Louis and Kansas City. The WASP consists of a principal zone, Tier I, and Tier II. The principal zone is the core geographic area of the WASP consisting of a number of wire centers. Tier I is a group of zones contiguous to the principal zone. Tier II is a group of zones contiguous to Tier I but further from the principal zone. This plan was expanded with an Optional Calling Plan in Tier III and a Special Optional Calling Plan in Tier IV, which are groups of zones beyond Tier II. WASP provides unlimited calling at a flat rate between all customers in the principal zone, Tier I, and Tier II plus the customers subscribing to the Optional Tier III and Special Optional Tier IV plans. Customers in Tier III and Tier IV zones who choose not to subscribe to the optional plans receive regular basic local service within their home zone calling area.

SWB also provides an optional plan called Optional Measured Metropolitan Exchange Service (OMMES) in certain selected exchanges in the suburban Kansas City and St. Louis metropolitan areas where the Optional Tier III and Special Optional Tier IV services are not available. OMMES gives customers the ability to purchase a block of time for a set amount of calling to WASP, Optional Tier III, and Special Optional Tier IV customers, and to pay a per-minute charge for minutes in excess of the block of time purchased.

United Telephone Company (United) provides a metropolitan service near Kansas City in its Lake Lotawana exchange. This optional two-way flat rate service enables subscribers to access SWB's Kansas City WASP principal zone, Tier I, Tier II, and Optional Tier III customers.

### C. COS

In January 1989, the Commission issued an Order in Case No. TO-87-131 establishing a procedural schedule to consider data from the EMS experiments. At about the same time, the Missouri Telephone Association (MTA) independently convened an Extended Area Calling Ad Hoc Committee for the purpose of investigating and proposing a permanent industry plan, which was ultimately filed and considered in Case No. TO-87-131.

On July 31, 1989, a majority of LECs submitted a Joint Recommendation to the Commission detailing their proposal to implement future requests for expanded calling scopes. This document addressed the calling criteria to be used, service and rate options

to be made available to customers on the routes that qualify, recovery of revenue losses experienced by LECs, and compensation plans to be used by the LECs. OPC submitted its own version of how expanded calling services should be implemented and administered.

On December 29, 1989, the Commission issued a Report and Order in Case No. TO-87-131 which established a new plan called Community Optional Service (COS). The Commission did not fully adopt the Joint Recommendation or OPC's proposal, but fashioned a plan that incorporated ideas from both. Highlights of the Commission's Order are as follow:

**\*\* To qualify for COS, routes must pass the existing calling study criteria for EAS and the EMS experiment: (a) there must be an average of at least six calls per access line per month from the petitioning exchange to the target exchange, and (b) at least two-thirds of the customers in the petitioning exchange must make two or more calls to the target exchange each month.**

**\*\* Customers on routes which qualify for COS would be offered three options: (a) one-way flat rate COS service; (b) two-way flat rate COS service; and (c) a \$4.00 flat rate plus a 50 percent discount on toll in exchanges designated as metropolitan in the Kansas City and St. Louis areas. Because COS service is optional for each customer, voting procedures such as used for EAS and EMS were not needed.**

**\*\* The Commission rejected the intercompany compensation plans proposed by OPC and the industry, and ordered the industry to submit a new plan.**

**\*\* The Commission rejected the industry recommendation concerning revenue neutrality. Upon appeal, the Circuit Court reversed and remanded the Commission's Order regarding the revenue neutrality issue. The Commission eventually allowed companies to implement surcharges and/or other revenue increases in order to maintain revenue neutrality. The associated revenues were to be collected subject to refund with interest.**

**\*\* The Order was effective January 9, 1990 and was to be implemented within 120 days of that date.**

Various filings, including applications for rehearing, motions for clarification, and a motion for stay, were made in response to the Order. On January 23, 1990, the Commission issued a Report and Order on the clarification issues and rejected the motions for stay and rehearing. A summary of the clarification Order follows:

**\*\* Reciprocal Service:** The Commission did not require one-way reciprocal service as part of the one-way option. Where facilities are lacking to provide two-way service, companies may offer one-way reciprocal service as a substitute. In these instances, the target exchange would not be required to meet the calling criteria.

**\*\* Good Cause Extension:** The Commission would permit extensions of the 120-day deadline for implementing COS for good cause shown.

**\*\* Expanded Calling Scope:** The petitioning exchange would obtain access to any expanded calling scope afforded the target exchange if the target exchange is already part of a metropolitan service plan or has EAS. This expanded access would apply with no



requirement that the petitioning exchange pass the qualifying criteria to the exchanges comprising the expanded calling scope. However, COS subscribers would also pay the EAS additive, if one exists for the target exchange.

**\*\* Tariffing of COS and Ownership of Its Revenues:** The Commission ruled that these issues were to be addressed by the intercompany compensation plan to be filed by the LECs.

A separate docket, Case No. TO-90-232, was established to address the intercompany compensation plan and other issues associated with the implementation of COS. The companies were ordered to file a plan on or before March 12, 1990; however, they were unable to agree upon a single plan and as a result filed three plans which resulted from their negotiations. In April 1990 the Commission issued a Report and Order adopting the proposed Revenue Sharing Plan, with modifications, and ordered the companies to file tariffs based upon this plan.

The approved Revenue Sharing Plan provides for the following:

**\*\* COS Tariffing:** The LEC serving a petitioning exchange would tariff COS and would decide whether to tariff it as local service or in a separate COS tariff.

**\*\* Effect on Access Charges:** Minutes of COS usage would be removed from calculations to establish compensation under the PTC plan.

**\*\* Revenue Sharing and Supplemental Compensation:** Each LEC whose facilities are used to provide COS on a route would share equally in the COS revenue generated by that route. Each LEC experiencing a net cash gain due to implementation of a specific

COS route would pay supplemental compensation to other LECs on the route to the extent that those other LECs experience a net loss.

**\*\* Cost Sharing:** Nonrecurring charges associated with installing Remote Call Forwarding to provision two-way COS would be shared equally among the companies participating in the COS route. The cost of providing a white pages directory of the target exchange to subscribers of two-way COS in the petitioning exchange would be shared.

**\*\* Adjustment of T/O Factor and NTS Cap:** Each Secondary Carrier (SC) using a terminating/originating (T/O) factor in calculating its intercompany compensation in the PTC plan and participating in a COS route would adjust the T/O factor so that the SC does not experience a loss in access revenues from unadjusted terminating minutes associated with traffic switched from toll to COS use. The COS minutes of use would be assumed to be the last incremental minutes which are rated at the discounted nontraffic sensitive (NTS) price cap level when calculating the COS minutes to be removed from intraLATA toll compensation.

**\*\* Remote Call Forwarding:** The Commission recognized that there were problems associated with Remote Call Forwarding for provisioning of two-way COS and determined that a Billing System Adjustment method should be further studied.

**\*\* High Loss Fund:** A High Loss Fund would not be established since there appeared to be no firm evidence of a need for a High Loss Fund.

United, GTE, and Contel (now GTE) filed tariffs to implement COS and to recover the projected revenue deficiencies caused by implementation. A separate Interim Local

Charge was established for each of these companies for revenue recovery, subject to refund with interest. SWB filed tariffs to implement COS and to recover its projected revenue deficiencies through directory listing and nonpublished number services.

On August 17, 1990, several LECs filed a Notice of Nonunanimous Stipulation and Agreement regarding a conceptual framework for the provisioning of two-way COS. The LECs, OPC, and the Staff agreed that it would be more cost-effective over the long term to provision two-way COS by means of a Billing System Adjustment rather than Remote Call Forwarding. The Commission issued an Order on September 11, 1990 to delay the implementation of 39 COS routes pending the outcome of its investigation into this matter.

On October 12, 1990, the LECs filed another Nonunanimous Stipulation and Agreement regarding modification of the COS Revenue Sharing Plan. The proposed Revised Revenue Sharing Plan would base the final benefit/loss compensation calculation and the terminating/originating adjustment on the change in actual toll traffic from pre-COS to post-COS periods.

The Commission issued a Report and Order on October 31, 1990 approving the Billing System Adjustment method for provisioning of two-way COS. The Commission concluded that the Billing System Adjustment was more economical and technically feasible than Remote Call Forwarding, that the high volume of response to the COS service made the cost of Remote Call Forwarding prohibitive and led to customer confusion, and that Remote Call Forwarding could cause premature exhaust of NNXs.

In addition, the Commission recognized in its October 31, 1990 Order in Case No. TO-90-232, that the demand for COS had been significantly underestimated. The increased demand has placed additional burdens on implementation so that it was not feasible to maintain the current pace of implementation. The Commission placed all future COS routes on hold until it had an opportunity to review the actual costs associated with COS.

The Commission also issued a Report and Order on November 30, 1990 which adopted the proposed Revised Revenue Sharing Plan for COS.

On December 7, 1990 the Commission created the Task Force on Calling Scopes in Missouri (Task Force) to accomplish this investigation. The Task Force consisted of representatives of the local exchange companies (LECs), inter-exchange carriers (IXCs), the General Assembly, the Office of Public Counsel (OPC), members of the commission Staff, and Commissioner David Rauch. The charge given the Task Force was to recommend a statewide solution for ongoing calling scope problems in Missouri and to attempt to gain a consensus for implementation.

The Task Force, on December 16, 1991, submitted its final report from a coalition of its members which recommended a comprehensive plan to address the extraexchange calling scope requirements of Missouri customers. Southwestern Bell Telephone Company (SWB), OPC and the competitive Telecommunications Association of Missouri (CompTel) filed separate proposals.

To allow for comments concerning the four proposals, as well as statements concerning expanded calling needs and wishes from telephone customers, the Commission held eleven local meetings throughout the state in January and February 1992. Meetings were held in Macon, Ozark, Buckner, APHELIAN, West Plains, Jefferson City, Manchester, Kansas City, Poplar Bluff, St. Joseph and Gallatin. Over 2,000 people attended the meetings and over 400 people made statements or concurred in statements made by others. In addition, the Commission has received numerous written comments concerning the four proposals and the failure of current service to meet the needs for expanded calling in many exchanges throughout Missouri.

The Commission in its Order dated June 12, 1992 in Case No. TO-92-306 attempted to address the calling requirements of outstate Missouri by building on COS. The existing plans were modified and new provisions were designed to meet requirements not met by the existing plans. These newly created plans included the Metropolitan Calling Area ("MCA") Plan which modified and replaced the WASP plan. This plan was to be provided in St. Louis, Kansas City and Springfield, and the Outstate Calling Area ("OCA") Plan for those exchanges not included in an MCA.

The June 12, 1992 order provided LECs, OPC, IXC and other interest parties an opportunity to address the MCA and OCA plans and indicated its intention to issue a report and order in December of 1992.

By order dated December 23, 1992, the Commission adopted an MCA plan, an OCA plan and a modified COS plan to meet customer desires for interexchange calling.

Further, the Commission established a technical committee to address revenue neutrality for companies affected by the implementation of MCA, OCA and modified COS.<sup>1</sup>

Although several Clarification Orders were issued in Case No. TO-92-306, the plans remained essentially as detailed in the Commission's December 23, 1992 Order. There have been no further substantial modifications since that time.

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<sup>1</sup> For complete details of the MCA, OCA and modified COS, See, In the Matter of the Establishment of a Plan for Expanded Calling Scopes in Metropolitan and Outside Exchanges, Vol 2 MPSC 3d 1.

Service List

Case No. TW-97-333

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

Craig S. Johnson  
301 East McCarty  
P. O. Box 1438  
Jefferson City, MO 65102

W. R. England  
Sondra B. Morgan  
312 East Capitol Avenue  
Jefferson City, MO 65102

James C. Stroo  
GTE Telephone Operations  
1000 GTE Drive, P. O. Box 307  
Wentzville, MO 63385

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

Linda K. Gardner  
United Telephone Company  
5454 W. 110th Street, 10th Floor  
Overland Park, KS 66211

Paul S. DeFord  
Lathrop & Gage  
2345 Grand Blvd., Ste. 2500  
Kansas City, MO 64108

Carl J. Lumley  
Leland B. Curtis  
130 S. Bemiston, Ste. 200  
Clayton, MO 63105

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

Julie Grimaldi  
Julie Thomas Bowles  
Sprint Communications Company  
8140 Ward Parkway, 5E  
Kansas City, MO 64114

Paul H. Gardner  
131 East High Street  
Jefferson City, MO 65101

The Office of the Public Counsel  
P. O. Box 7800  
Jefferson City, MO 65102