

CURTIS, OETTING, HEINZ, GARRETT & SOULE, P. C.  
ATTORNEYS AT LAW

130 SOUTH BEMISTON, SUITE 200  
ST. LOUIS, MISSOURI 63105  
(314) 725-8788  
FACSIMILE (314) 725-8789

LELAND B. CURTIS

August 8, 1997

**VIA HAND DELIVERY**

Mr. Cecil Wright  
Executive Secretary  
Missouri Public Service Commission  
301 West High Street, Floor 5A  
Jefferson City, MO 65101

RE: Case No. TW-97-333

Dear Mr. Wright:

Enclosed for filing with the Commission is an original and 14 copies of MCI's initial brief in the above matter.

Please stamp "filed" on the extra copy and return the copy to me in the enclosed stamped, self-addressed envelope.

Thank you for bringing this matter to the attention of the Commission.

Very truly yours,



Leland B. Curtis

LBC:dbf

Enclosures

cc: Parties of Record

**RECEIVED**  
AUG 08 1997

Records  
Public Service Commission

**FILED**

AUG 8 1997

MISSOURI  
PUBLIC SERVICE COMMISSION

RECEIVED  
AUG 08 1997

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED  
AUG 8 1997

Records  
Public Service Commission

In the matter of an Investigation into the  
Provision of Community Optional  
Calling Service in Missouri

)

)

)

Case No. TW-97-333

MISSOURI  
PUBLIC SERVICE COMMISSION

**MCI's INITIAL BRIEF**

Comes now MCI Telecommunications Corporation (MCI), pursuant to Commission order, and for its Initial Brief MCI addresses the issues raised by the Commission and other parties in the order they appear in the Hearing Memorandum.

**I. Contested Issues**

**A.1. Should Two-Way COS Be Modified to Use 800/888 Number Based Service for the Return Calling Portion of the Service?**

MCI does not support Commission-mandated COS in any form. Carriers should be free to develop and market service alternatives. While the 800/888 solution for the return calling portion of COS service may seem feasible in the short run, the Commission should restrain itself from tinkering with an already artificially constructed service offering.

**A.2. Should One-Way Reciprocal COS Service Replace Two-Way COS Service?**

MCI does not support mandatory one-way reciprocal COS service on a long-term basis. Mandatory COS should be phased out as exchanges are converted to 1+ intraLATA dialing parity.

11.

**A.3. Should One-Way COS Service Replace Two-Way COS Service?**

MCI believes that one-way COS from the petitioning to the target exchange may be a viable service offering in a competitive market and there should be no need for the Commission to mandate it.

**A.4. Should COS Be Eliminated Completely?**

MCI believes that in the new competitive telecommunications market COS should be eliminated as a Commission-mandated service. On a transitional basis, maintenance of one-way COS may be necessary until 1+ intraLATA dialing parity is achieved.

**B.1. If Some Form of COS Is Preserved, Should the Current Compensation Mechanism for COS also Be Retained?**

MCI believes that the current compensation mechanism is flawed and renders a highly subsidized service. Any new compensation plan should be cost-based and competitively neutral.

**B.2. If Some Form of COS is Preserved, Should It be Classified as a Local or a Toll Service?**

MCI believes that COS has been a substitute for toll and has thus restricted IXC toll revenues in the past. Any new COS plan should classify COS as toll and be competitive neutral.

**B.3. If Any Form of COS is Preserved, Should Aggregation and/or Resale of COS Service Be Allowed?**

If the Commission preserves some form of COS, MCI believes that resale must be allowed; however, tariff restrictions, including restrictions against aggregation, may be appropriate.

**B.4. What Is (Are) the Potential Impact(s) of Expected Changes in the Primary Toll Carrier Plan on COS?**

MCI agrees that changes in the PTC plan will likely impact the way COS is provided. However, at this time it is not possible to predict what effect those changes may have on COS or similar types of service.

**II. Issues Set by the Commission**

**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.**

One-way COS must be priced at a level which recovers cost, which would include the imputation of the incumbent LEC's inflated price of its intrastate switched

access services. The cost information was not available for MCI to determine whether Staff's proposed pricing mechanism-- fifty percent of the existing two-way COS rate -- would recover these costs, so MCI cannot make a determination as to the propriety of Staff's pricing proposal.

The imputation of the price of intrastate switched access services would promote competition by preventing ILECs from imposing "price squeezes" on dependent competitors. Otherwise, the ILEC, when providing essential inputs, will not include the amount it charges competitors for essential inputs and other service-specific costs in its retail prices. This could result in the ILEC squeezing out the dependent competitors from the market.

The price for one-way COS should be set at or above the excessive rates charged for intrastate switched access, and include service specific costs such as marketing, billing and collection. If these costs are not included, competitors will be at an extreme disadvantage when competing with the ILEC. However, if the price for intrastate switched access was set at economic cost, this imputation would not be necessary to foster competition. (Ex. 16, Klaus Direct, p.2-3).

**B. Shall All Competitive LECs Be Required to Offer this Service?**

The mandatory imposition of COS on CLECs would be a detriment to competition and consumers. In addition, such a requirement would also be costly and cumbersome to administer. Competitors should simply be given the option of offering COS or COS-like services. As Mr. Klaus stated:

Market forces together with appropriate implementation of the changes mandated by the Telecommunications Act of 1996 will provide consumers with more choices, better service and the lowest possible prices. The Commission should take a 'laissez faire' approach to the provisioning of such service offering by competitors, and a proactive approach to ensuring that conditions exist to allow effective competition to evolve. (Ex. 16, Klaus Direct, p.3).

**C. What, If Any, Change Must Be Made in the Primary Toll Carrier (PTC) Plan to Accommodate or Accomplish the Proposed COS Changes Herein?**

The PTC plan must be eliminated to implement intraLATA equal access throughout the state. However, for the purposes of modifying COS, such changes are not necessary. Other cases are pending in which the Commission can deal with the PTC plan. (Ex. 16, Klaus Direct, p.4).

**D. Shall the Commission Stay All Pending and Future COS Applications?**

The Commission should stay all pending and future COS applications, because such a stay would reduce consumer confusion while the Commission considers modifying COS. (Ex. 16, Klaus Direct, p. 4).

**E. What is the Participants' Proposal for Educating the Public?**

If the Commission adopts one-way COS, notice by separate mailers by the ILECs, directory information, and Commission press releases should adequately apprise consumers of the changes. Competitors not offering COS need not participate in advising customers of changes to the COS services by ILECs. (Exh. 16, Klaus Direct, p. 4-5).

**F. Please "Explore and Discuss the Potential of LATAwide or Statewide Flat-Rate COS."**

Implementation of such plans would not be justified, given the competitive forces that can exist in the marketplace. Development and advancements in optional toll calling will occur automatically due to consumer demands and market incentives for competitors. As Mr. Klaus stated, "With the introduction of 1+ intraLATA equal access and appropriate implementation of the Telecommunications Act of 1996, the invisible hands commonly referred to as 'market forces' will see that consumers get what they want when they want it, and how they want it." (Ex. 16, Klaus Direct, p. 5).

**Conclusion**

COS, in its present state as a subsidized service by ILECs to a few consumers in Missouri, is anticompetitive and is antithetical to the policy of competition as implemented by the Telecommunications Act of 1996. The price for COS service should be set at the cost for that service, including the imputed the inflated price of ILEC intrastate switched access service, and including costs for marketing, billing, and collection, to put the ILECs and its competitors on a somewhat equal footing in the marketplace. The Commission should not mandate that all LECs provide COS service or a LATAwide or statewide flat-rate COS, because this will only harm consumers by not allowing competitors to compete for toll traffic through developing new and better services.

MCI urges the Commission to resolve this case as promptly as possible. In the Commission's Orders in Case Nos. TT-96-398 and TO-97-253, the Commission delayed implementation of

intraLATA dialing parity in GTE's and United's COS target exchanges and associated EAS exchanges. The FCC's rules do not allow such a delay. See 47 CFR Sec. 51.211(c). The dialing parity deadline of August 8, 1997 has come and gone. The Commission should resolve this case as quickly as it can, and thereupon order immediate implementation of dialing parity in GTE's and United's COS target exchanges and associated EAS exchanges.

Respectfully Submitted,

CURTIS, OETTING, HEINZ,  
GARRETT & SOULE, P.C.



Carl J. Lumley, #32869  
Leland B. Curtis, #20550  
Elaine M. Walsh, #44879  
130 S. Bemiston, Suite 200  
Clayton, Missouri 63105  
(314) 725-8788  
(314) 725-8789 (FAX)

MCI Telecommunications Corporation



Stephen F. Morris, Texas Bar #14501600  
701 Brazos, Suite 600  
Austin, Texas 78701  
(512) 495-6727  
(512) 477-3845 (FAX)

**CERTIFICATE OF SERVICE**

A true and correct copy of the foregoing document was mailed this 8th day of August, 1997, to the persons on the attached list.



Michael Dandino  
Office of Public Counsel  
P.O. Box 7800  
Jefferson City, Missouri 65102

Leo Bub/Paul Lane/Diana Harter/  
Anthony Conroy  
Southwestern Bell Telephone Company  
100 N. Tucker, Room 630  
St. Louis, Missouri 63101

Sondra B. Morgan, W. R. England, III  
Brydon, Swearingen & England, PC  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102

Julie E. Grimaldi  
Sprint Communications Company  
8140 Ward Parkway  
Kansas City, MO 64114

Craig S. Johnson, Philip E. Prewitt  
Andereck, Evans, Milne, et al  
305 East McCarty Street  
P.O. Box 1438  
Jefferson City, MO 65102

Larry Lovett  
AT&T Communications of the S.W., Inc.  
101 West McCarty Street, Suite 216  
Jefferson City, MO 64108

Mark Harper  
United Telephone Company of MO  
5454 West 110th Street  
Overland Park, KS 66211

Michael Ensrud  
Competitive Telephone Association of MO  
6950 West 56th Street  
Mission, KS 66202

Paul DeFord  
Lathrop & Gage  
2345 Grand Boulevard  
Kansas City, Missouri 64108

James C. Stroo  
GTE Midwest Incorporated  
1000 GTE Drive  
Wentzville, MO 63385

Linda K. Gardner  
United Telephone Company of Missouri  
5454 West 110th Street  
Overland Park, KS 66211

Cheryl McGowan  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

Mark Comley  
Newman, Comley & Ruth  
205 East Capitol Avenue, Box 537  
Jefferson City, MO 65102-0537

Paul Gardner  
Goller, Gardner & Feather, PC  
131 East High Street  
Jefferson City, MO 65101

Doug Trabaris/Madelon Kuchera/Elizabeth  
Howland  
Teleport Communications Group  
233 S. Wacker Drive, Suite 2100  
Chicago, IL 60606