

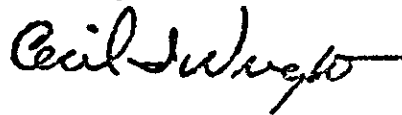
**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY**

July 25, 1997

CASE NO: TW-97-333

Enclosed find certified copy of ORDER in the above-numbered case(s).

Sincerely,

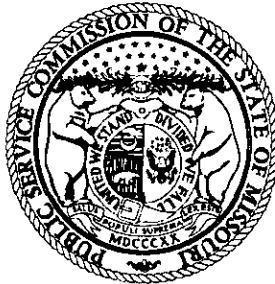


**Cecil I. Wright
Executive Secretary**

Uncertified Copy:

Office of the Public Counsel, P.O. Box 7800, Jefferson City, MO 65102
W.R. England, Sondra B. Morgan, Brydon, Swearengen & England, 312 E. Capitol Ave.,
P.O. Box 456, Jefferson City, MO 65102-0456
James C. Stroo, Associate General Counsel, GTE Telephone Operations, 1000 GTE Dr.,
P.O. Box 307, Wentzville, MO 63385
Craig S. Johnson, Andereck, Evans, Milne, Peace & Baumhoer, 305 E. McCarty St.,
Third Floor-Hawthorn Center, P.O. Box 1438, Jefferson City, MO 65102
Linda K. Gardner, United Telephone Company of Missouri, 5454 W. 110th St.,
Overland Park, KS 66211
Julie Grimaldi, Julie Bowles, Sprint Communications Company, 8140 Ward Parkway,
Kansas City, MO 64114
Paul G. Lane, Diana J. Harter, Leo J. Bub, Anthony K. Conroy, Southwestern Bell Telephone
Company, 100 N. Tucker Blvd., Room 630, St. Louis, MO 63101
Carl J. Lumley, Leland B. Curtis, Curtis, Oetting, Heinz, Garrett & Soule, P.C., 130 S. Bemiston,
Suite 200, St. Louis, MO 63105
Stephen Morris, MCI Telecommunications Corporation, 701 Brazos, Suite 600, Austin, Texas 78701
Paul H. Gardner, Goller, Gardner & Feather, Professional Corporation, 131 E. High St.,
Jefferson City, MO 65101
Mark W. Comley, Newman, Comley & Ruth, 205 E. Capitol Ave., P.O. Box 537,
Jefferson City, MO 65102-0537
Paul S. DeFord, Lathrop & Gage, L.C., 2345 Grand Blvd., Kansas City, MO 64108
Larry R. Lovett, AT&T, 101 W. McCarty, Suite 216, Jefferson City, MO 65101
Mark Harper, United Telephone Company of Missouri, 5454 W. 110th St.,
Overland Park, KS 66211
Doug Trabaris, Madelon Kuchera, Elizabeth Howland, Teleport Communications Group,
233 S. Wacker Dr., Suite 2100, Chicago, IL 60606
Michael J. Ensrud, Competitive Telephone Association of Missouri, 6950 W. 56th St.,
Mission, KS 66202

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



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

)
)
)

CASE NO. TW-97-333

REPORT AND ORDER

Issue Date: October 16, 1997

Effective Date: October 28, 1997

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

In the Matter of an Investigation into)
the Provision of Community Optional) **CASE NO. TW-97-333**
Calling Service in Missouri.)

APPEARANCES

Leo J. Bub and **Paul G. Lane**, Attorney, Southwestern Bell Telephone Company, 100 North Tucker Boulevard, Room 630, St. Louis, Missouri 63101.

Paul S. DeFord, Attorney, Lathrop & Gage L.C., 2345 Grand Boulevard, Kansas City, Missouri 64108, for AT&T Communications of the Southwest, Inc.

Robert K. Angstead, Attorney, Newman, Comley & Ruth, P.C., P.O. Box 537, 205 East Capitol Avenue, Jefferson City, Missouri 65102.

James C. Stroo, Associate General Counsel-Midwest, GTE Midwest Incorporated, 1000 GTE Drive, Wentzville, Missouri 63385, for GTE Midwest Incorporated.

Craig S. Johnson, Attorney, Andereck, Evans, Milne, Peace & Baumhoer, L.L.C., 305 East McCarty Street, Post Office Box 1438, Jefferson City, Missouri 65102-1438, for: Alma Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, Mid-Missouri Telephone Company, Modern Telecommunications Company, Northeast Missouri Rural Telephone Company, and Peace Valley Telephone Company, Inc. (the "Mid-Missouri Group").

Carl J. Lumley and **Leland B. Curtis**, Curtis, Oetting, Heinz, Garrett & Soule, P.C., 130 South Bemiston, Suite 200, Clayton, Missouri 63105, for MCI Telecommunications Corporation.

Linda K. Gardner, Senior Attorney, United Telephone Company of Missouri d/b/a Sprint, 5454 West 110th Street, Overland Park, Kansas 66211, for United Telephone Company of Missouri d/b/a Sprint.

Dallas M. Forrest, Attorney, Goller, Gardner & Feather, P.C., 131 East High Street, Jefferson City, Missouri 65101.

Michael F. Dandino, Senior Public Counsel, Office of the Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the public.

Cherlyn McGowan, Assistant General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the staff of the Missouri Public Service Commission.

Carol M. Keith, Assistant General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the staff of the Missouri Public Service Commission.

W.R. England, III, Attorney, Brydon, Swearngen & England, P.C., 312 East Capitol Avenue, Post Office Box 456, Jefferson City, Missouri 65102, for: BPS Telephone Company, Bourbeuse Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Fidelity Telephone Company, Goodman Telephone Company, Inc., Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, Iamo Telephone Company, KLM Telephone Company, Kingdom Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company (the "Small Telephone Company Group"); and ALLTEL Missouri, Inc.

REGULATORY

LAW JUDGE: Dale Hardy Roberts, Chief.

Table of Contents

I.	Procedural History	4
A.	Relevance of "W" Case Designation	4
B.	Procedural History of TW-97-333	4
C.	History of Community Optional Services in Missouri	5
II.	Findings of Fact	6
A.	Two-Way COS Modified to Use an 800/888 Number-Based Service	8
B.	One-Way Reciprocal COS to Replace Two-Way COS Service	10
C.	One-Way COS to Replace Two-Way COS	11
D.	Elimination of COS in Missouri	11
III.	Conclusions of Law	16
IV.	Ordered Paragraphs	17

REPORT AND ORDER

I. Procedural History

A. Relevance of "W" Case Designation

In an exercise of its quasi-legislative power to establish working groups and inquire into policy matters, the Commission created a working case ("W") designation in February of this year. Cases opened under this designation are distinguished from contested cases which review the rights of any individual, group or particular company and do not require traditional procedures. The Commission may establish a "W" case to review and develop policy. TW-97-333 was the first case to be opened in this new category.

B. Procedural History of TW-97-333

On March 7, 1997, the Commission issued its Order Establishing Docket. In that order, the Commission noted that in the twelve months since the enactment of the Telecommunications Act of 1996 (the Act) the Commission had monitored the rapid and varied changes which had taken place in the telecommunications industry. The Commission found it appropriate to review the Community Optional Services (COS) provided in the State of Missouri in light of local competition and equal access (dialing parity) issues.

In order to ensure extensive dissemination of the notice the Commission ordered a copy of the Order Establishing Docket to be sent to every certificated local exchange company and every certificated interexchange carrier in the State of Missouri. In addition, the Commission directed its Information Office to send a copy of the order to all members of the Missouri General Assembly and to all newspapers in the

State of Missouri as listed in the newspaper directory of the Official Manual of the State of Missouri.

The Commission's order set out a straw COS proposal along with related questions and directed all participants to respond to those issues in their direct testimony not later than April 11. All participants were given an opportunity to raise other pertinent issues. The schedule provided for the filing of rebuttal testimony not later than May 2. The Commission initially scheduled a hearing for the presentation of positions for May 15. In response to numerous requests for changes in the procedural schedule, the Commission issued an order Changing Procedural Schedule on May 1. Pursuant to the revised schedule, rebuttal testimony was due on May 23 and surrebuttal testimony was due on June 9. An issues memorandum was to be filed on June 10 and the hearing was moved to June 23. Thereafter, initial briefs were to be filed not later than August 8 and reply briefs were to be filed not later than August 22. Staff of the Missouri Public Service Commission (Staff) filed its initial brief on August 11 along with a Motion to File Out of Time and that motion will be granted. On September 16 the Mid-Missouri Group (MMG) filed a Notice of Vacation of FCC Intrastate IntraLATA Toll Dialing Parity Requirements and on August 26 a Reply to Mid-Missouri Group's Notice was filed by SWBT, GTE and MCI.

C. History of Community Optional Services in Missouri

Staff attached to its initial brief a document captioned "Detailed History of Expanded Area Calling and Community Optional Service." This history of COS is thorough and detailed and may prove helpful in understanding the way in which these services have evolved in Missouri.

Therefore, the Commission will attach Staff's detailed history as Appendix A.

The Commission has attempted to address expanded calling area needs over the years with several different plans. Originally, the Commission adopted Extended Area Service (EAS) for calling beyond a local exchange. EAS allowed calling beyond an exchange's boundaries at a flat rate. When EAS proved unsuccessful in addressing the calling expectations of customers, the Commission created a discounted toll plan called Extended Measured Service (EMS). EMS did not meet the calling expectations of customers and the Commission mandated Community Optional Service in 1990. COS was established at a flat rate for unlimited calling where a petitioning exchange met certain criteria which might demonstrate a community of interest with a target exchange. In 1992 the Commission adopted a metropolitan calling area (MCA) plan, and an outstate calling area (OCA) plan and a modified COS plan. COS is optional and is offered as a two-way service.

II. Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact. The positions and arguments of all of the participants have been considered by the Commission in making this decision. Failure to specifically address a piece of evidence, position or argument of any participant does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

COS is an optional toll plan ordered by the Commission to be provided by primary toll carriers (PTCs). COS is designed to provide a flat-rate option to toll charges for calls between exchanges which meet a community of interest standard. For a flat-rate a COS customer in a petitioning exchange may place unlimited calls to a number in the target exchange and any target exchange subscriber may place toll-free calls to that COS subscriber. Absent COS, the calls between the target exchange and the petitioning exchange, would be toll calls. For toll calls, the PTC receives toll revenue from the customer placing the call and pays a secondary carrier (SC) access for use of the SC's facilities in processing that toll call.

To apply for COS, 25 customers in the petitioning exchange are required to file a petition with the Commission to request expanded calling to the targeted exchange. Thereafter, the Commission directs the petitioning exchange company to conduct a calling study of the toll traffic to the target exchange to determine if the community of interest criteria exists. The community of interest criteria consists of an average of six calls or more per customer per month and two-thirds of the customers making two or more calls to the target exchange. The calling study does not consider the length of call. Therefore, two one-minute calls satisfy the criteria as well as two sixty-minute calls.

Meeting the community of interest criteria neither ensures nor correlates to a high percentage take rate. The take rate, or percentage of eligible customers who actually subscribe to the service, varies and overall less than thirteen percent of eligible customers avail themselves of this service. Such a small take rate brings into question the actual extent of the community of interest.

COS must be closely reevaluated in light of the Telecommunications Act and Missouri's Senate Bill 507. The purpose of the Act was to provide for a pro-competitive national framework to accelerate deployment of advanced telecommunications and information technologies and services to all Americans. Staff correctly states in its brief that the Commission must determine what form of COS, if any, should be available in today's dynamic and increasingly competitive telecommunications market. All participants concede that the COS market will be eroded by alternative services offered by competitive local exchange companies (CLECs).

The Order Establishing Docket directed the participants to address certain proposals. The subsequent testimony was framed around those proposals as was the issues memorandum. This order will address those proposals, in order, as they apply to disposition of the issues in this case.

A. Two-Way COS Modified to Use an 800/888 Number-Based Service

This proposal would require each COS customer to have a separate toll-free number for use as a substitute for the current COS. A two-way COS using toll-free numbers for the return calling portion of two-way COS is not reasonable according to Staff. Its position is based upon evidence of the lack of availability of toll-free numbers, problems with telephone directory listings required by this service, directory assistance, billing concerns and customer confusion. The Commission may take official notice of facts widely known and accepted in the industry. One such fact is that toll-free numbers and all other numbers generally available are rapidly being depleted.

As this order was being prepared the Federal Communications Commission (FCC) distributed a letter in which it noted that the date

planned for implementation of the new (877) toll-free number is April 4, 1998. However, the FCC stated that unless a conservation plan is imposed, the existing 800/888 toll-free numbers will exhaust prior to April 4. As a result, the pool of available toll-free numbers which may be reserved has been reduced. For example, Southwestern Bell Telephone (SWBT) may now reserve only 250 numbers per week for its five-state area. This restriction allows SWBT to reserve only an average of ten toll-free numbers per day for the State of Missouri. Mandatory use of 800/888 numbers to provide COS would contribute to the depletion of toll-free numbers at a faster pace than currently projected and could inhibit the general use of 800/888 numbers by all carriers to provide toll-free calling services.

Staff notes that the use of an 800/888 toll-free number would require multiple directory listings as the customer would not only have a traditional local listing but also have an 800/888 number which would be used to receive return calls from the target exchange. This raises questions as to whether both numbers would appear in a local telephone directory and whether the customer would be required to pay for the additional listing. Further complications would arise because 800/888 directory assistance is accessed by dialing 1+800+555+1212 whereas local directory assistance is accessed by dialing a different number.

The Staff's experience with the early provision of two-way COS suggests additional problems with the 800/888 number proposal. Two-way COS was originally provided using remote call forwarding (RCF) with the assignment of a second number in order for return calling to be toll free back to a COS customer. Customer confusion with the second number assignment generated a number of calls to the Local Exchange Companies

(LECs) and to the Commission. Provision of two-way COS using the 800/888 number for return calls could be even more confusing than RCF.

The toll-free number proposal could also require modification of billing systems. Under the current two-way COS, return calls go through the individual LEC billing system where a call from a COS customer to a target exchange customer is classified as a toll-free call. Testimony adduced at the hearing indicated additional complications with, for example, any customer who subscribes to Common Line 800 service. Since both the COS toll-free number and the Common Line 800 number would be associated with the same access line, it would be impossible to distinguish the usage for calls to one of the 800/888 numbers versus the other for billing purposes.

B. One-Way Reciprocal COS to Replace Two-Way COS Service

If the target exchange has EAS routes or is part of an MCA plan, adoption of one-way reciprocal COS would increase the calling scope of subscribers in the target exchange. Because COS customers in 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. Such expansion of the toll-free area available to target exchange customers raises questions regarding the revenue impact on the involved companies and the effect on competition of reduction of the size and scope of the intraLATA toll market.

The major flaw of one-way reciprocal COS, as pointed out by the Small Telephone Company Group (STCG), is that it lacks the "automatic" two-way calling feature of COS. It does not allow a COS subscriber in the petitioning exchange to pay for the return service (the return call) to

encourage calling from the target exchange to the petitioning exchange. A one-way reciprocal service would eliminate much of the original purpose of two-way COS.

C. One-Way COS to Replace Two-Way COS

One-way COS warrants little consideration as it falls far short of the original intent of COS. One-way COS allows only for calls from petitioning exchanges to target exchanges to be placed toll-free. As such it duplicates present OCA and MCA services. One-way COS brings with it barriers to competition for new entrants into local telecommunications services. Issues such as the compensation mechanisms, classification of COS as a local or toll service, whether to allow aggregation or resale of COS, and how to integrate COS with future changes to the PTC plan present significant obstacles to any consideration of a one-way COS proposal.

D. Elimination of COS in Missouri

With increasing implementation of intraLATA dialing parity, the incumbent local exchange companies (ILECs) will no longer be able to measure and report all toll calls from a petitioning exchange to a target exchange. It will, therefore, be increasingly difficult if not impossible for the ILEC 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. Retaining a mandated service that is not a necessary function of basic local service is inconsistent with the goal of a more competitive telecommunications environment.

As a result of the changes which pervade the telecommunications industry, retention of mandatory COS is no longer a reasonable option. Significant technological and accounting changes would be necessary to accurately record calling traffic. Even if the calls could be successfully

tracked, the entrance of numerous companies into the marketplace would create an ever increasingly complex and burdensome bill processing system. An entirely new form of inter-company compensation would be necessary in order to ensure revenue neutrality. Anything less would maintain pre-existing barriers to competition.

Telecommunications customers throughout Missouri now have a variety of choices including OCA and MCA plans for reducing the costs of extended area calling. Various competitive entities as well as schools and libraries provide low-cost or no-cost internet or electronic mail service as an alternative communication network which was unanticipated and unthinkable when COS was initiated. Discounted calling cards are now widely available making it possible, for example, for students at school to call to their parents' home or work place in a more convenient and affordable manner. Cellular service now offers toll-free calling which not only crosses community boundaries but county and local access transport area (LATA) boundaries as well. Increasingly competitive pricing in the cellular market offers a new choice for many telecommunications customers.

In addition to these recent innovations, entities such as MCI have acknowledged that competition will provide those services which are sought after. In fact, in response to the Commission's inquiry into the feasibility of LATA-wide services SWBT has indicated its desire to offer a LATA-wide service. The Commission will encourage SWBT and all interested telecommunication companies to pursue such tariffed services. The Commission will, upon receipt of those proposed tariffs, consider whether those tariffs should be provided as optional cost-based LATA-wide extended calling services.

In Public Counsel's opening statement, references were made to "a covenant with the consumers" to lower prices, and provide better service and more choices. Public Counsel went on to assert that the Commission has a duty to keep this promise, to fulfill this covenant and "above all, do no evil." The Commission finds no covenant to simply maintain the status quo. Furthermore, COS is scarcely used and the number of routes which qualify for COS service has steadily declined. Eighty-two new routes qualified for implementation in 1992 and only eight new qualified in 1996. As previously noted, only 13 percent of eligible customers in all approved COS routes have chosen to subscribe to COS. As a result, only one-half of one percent of all telecommunications customers in Missouri avail themselves of COS.

The Commission's obligation is to encourage improved, safer, and more affordable services. As expanded and enhanced telecommunications choices become available, consumers are in an increasingly better position to select the telecommunications services they need. MCI has stated that: "...carriers should be free to develop and market service alternatives." The Commission will continue to encourage the introduction of new services to all citizens of Missouri. Although the proposals considered in this case were not suitable for mandatory implementation, this does not mean they would be prohibited. Telecommunications companies may offer additional choices including, but not limited to, LATA-wide extended calling plans or the selective use of 800/888 toll-free numbers where appropriate.

MMG has argued that instead of being priced to recover its cost and contribute to the cost of residential local service, COS has been priced below its cost. MMG goes on to argue that this not only violates the

precepts of the present competitive movement, but also the precepts of residual pricing in that COS does not contribute to the costs of providing local service. Witnesses testified that SWBT has received COS revenues of \$1.6 million while incurring costs of \$6.9 million to provide COS. The prices were set in an environment where there was little intraLATA toll competition. MMG points out that this occurred in a rate-of-return environment and before mandated implementation of intraLATA dialing parity.

The uncontroverted evidence reflects that COS is a below-cost service. The effects of mandating this service at a below-cost rate are that: (1) the PTC must make up this subsidy from its other customers; and, (2) telecommunications competitors may be unable to obtain similar subsidies to compete for this traffic. Finally, there is no means test to establish the financial need of those customers who petition for COS.

The elimination of COS as a mandatory service offering in Missouri is supported by Staff, GTE, SWBT, CompTel-MO, MCI, United and AT&T. The Commission finds that COS is not necessary for the provision of local telecommunications service and that mandatory COS is inconsistent with the current competitive environment and acts as a barrier to entry for new CLECs. The entry of multiple competitive companies in the intraLATA market as a result of dialing parity will further complicate and undermine the effectiveness of COS. As summarized by Sprint-United: "The PTC must make up the losses elsewhere, which harms its customers and its ability to compete and competitors will be unable to compete for this traffic...There is little dispute that when the PTC loses money in offering this service, its other customers must make up the difference."

Any ongoing review and implementation of COS would be impractical with the involvement of multiple intraLATA competitive companies.

Therefore, no new application for any type of COS will be accepted by the Commission and all COS studies which have been stayed by order of the Commission will be denied.

Inasmuch as the Commission is ordering the termination of COS, it is not necessary to specifically address issues regarding pricing mechanisms, mandated provision of COS by competitive LECs, and such other matters as may become moot by the issuance of this order. Where the parties were directed to discuss the inter-relationship between COS and the PTC plan, the parties have, for the most part, noted that those issues are being adequately addressed in Case No. TO-97-217, in re: The Continuation Or Modification of the Primary Toll Carrier Plan.

The current COS routes all have OCA as a viable alternative except for the routes in late-filed exhibit 43. The Commission encourages SWBT and the target exchanges for each of these routes to provide an optional cost-based extended calling plan. Because alternatives are readily available, or may soon become available, each COS route should be eliminated as ordered herein.

Late-filed exhibit 34HC, containing a listing of the top COS customers from both target and petitioning exchanges for United Telephone Company of Missouri d/b/a Sprint, SWBT and General Telephone Company (GTE), strongly suggests that a significant number of the COS minutes-of-use are used in accessing the internet. The Commission is concerned with the use of COS for internet access as shown by the evidence in this case. At the time COS was designed the internet was virtually unheard of and COS was not designed as a means of access to the internet. In order to address these concerns the Commission will open Case No. TW-98-155 to review other possible solutions for internet access.

The Commission Staff, assisted by all participants in this case, shall prepare a brief information brochure regarding the termination of COS in Missouri. This brochure shall be submitted for approval by the Commission and shall be included in the customer's bill for each affected exchange.

III. Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Commission has jurisdiction of telecommunications companies and services pursuant to Chapters 386 and 392.

Section 392.470 provides in pertinent part:

The Commission may impose any condition or conditions that it deems reasonable and necessary upon any company providing telecommunications service if such conditions are in the public interest and consistent with the provisions and purposes of this chapter...

The Commission concludes that mandatory COS has fulfilled and outlived its intended purpose. The Commission's principal interest is to serve and protect ratepayers, State ex rel. Crown Coach Co. v. Pub. Serv. Comm'n, 238 Mo.App. 287, 179 S.W.2d 123, 126 (1944), and as a result, the Commission cannot commit itself to a position that, because of varying conditions and occurrences over time, may require adjustment to protect the ratepayers. State ex rel. Chicago, Rock Island & Pacific Railroad Co. v. Pub. Serv. Comm'n, 312 S.W.2d 791, 796 (Mo. banc 1958). The Commission requires flexibility in exercising its [powers] to deal with changing and unforeseen circumstances. Id.

Senate Bill 507 as enacted at Section 392.185 provides that the provisions of this chapter shall be construed to, *inter alia*, "allow full

and fair competition to function as a substitute for regulation when consistent with the protection of rate payers and otherwise consistent with the public interest." The Commission concludes that eliminating mandatory COS is consistent with the public interest and the goal of competitive telecommunications.

IT IS THEREFORE ORDERED:

1. That community optional service in the State of Missouri shall be eliminated not later than March 31, 1998.

2. That all telecommunications companies currently offering community optional service shall notify all their customers that community optional service shall be eliminated in their exchanges.

3. That the participants to this case shall meet with the Commission staff to create one uniform notice to be sent to community optional service customers. Such proposed notice shall be submitted to the Commission for approval on or before November 17, 1997.

4. That Staff's motion to file its initial brief out of time is granted.

5. That all motions which have not previously been addressed are denied and all objections not previously ruled upon are overruled.

6. That the Commission in a subsequent order shall create Case No. TW-98-155 to review other possible solutions for internet access.

7. That all COS cases now pending before the Commission and stayed by previous order shall be denied and dismissed.

8. This order shall be effective on October 28, 1997.

BY THE COMMISSION



Cecil I. Wright
Executive Secretary

(S E A L)

Lumpe, Ch., Crumpton,
Murray, and Drainer,
CC., Concur.

Roberts, Chief Regulatory Law Judge

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.¹

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.

¹ 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.

ALJ/Sec'y: Roberts/Pridgin

10-16-97
Date Circulated

TW-97-333
CASE NO.

Zobrist, Chairman

Crumpton, Commissioner

Murray, Commissioner

Lumpe, Commissioner

Drainer, Vice-Chair

10-16-97
Agenda Date

Action taken: 4-0 AA

Must Vote Not Later Than _____

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

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,

Missouri, this 17th day of October, 1997.

Cecil I. Wright
Cecil I. Wright
Executive Secretary