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December 10, 1999

Mr. Dale Hardy Roberts
Secretary
Missouri Public Service Commission
301 W. High Street, Room 530
Jefferson City, MO 65102

FILED

DEC 10 1999

Missouri Public
Service Commission

RE: Case No TT-99-428, et al.

Dear Mr. Roberts:

Enclosed for filing with the Commission is an original and 14 copies of :

OFFICE OF THE PUBLIC COUNSEL'S INITIAL BRIEF

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

Very truly yours,

Michael F. Dandino
Senior Public Counsel

cc: Attorneys of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

DEC 10 1999

Missouri Public
Service Commission

In the Matter of mid-Missouri Group's)
Filing to Revise its Access Service Tariff,) Case No. TT-99-428, et al.
PSC Mo. No. 2)

**OFFICE OF THE PUBLIC COUNSEL'S
INITIAL BRIEF**

The Office of the Public Counsel does not oppose the tariffs proposed by the small incumbent local exchange companies since it appears that these tariffs close a gap in the coverage of compensation for use of the local network by wireless carriers. Public Counsel's interest in this matter on behalf of the consumers is indirect; any "free use" of the local network or any use that does not contribute to the joint and common costs shifts the burden of supporting the local network to the ultimate consumer. It is always the consumer that pays the price for any "free lunches" served to others. Public Counsel believes that switched access rates should apply to traffic terminated on local networks absent approved agreements or other arrangements for compensation required by the Federal Communications Commission or the Missouri Public Service Commission.

Section 251 of the Federal Telecommunications Act of 1996 requires incumbent local exchange companies to interconnect directly or indirectly with other carriers and further requires them to coordinate with other carriers to complete calls. These ILECs have an obligation to their local ratepayers and shareholders to secure appropriate


compensation for the use of that local network. The Act contemplates that compensation for the use of the ILECs network will be made in some form.

Until a request for negotiation of an interconnection agreement is made to a ILEC, the ILEC is not subject to the requirements of Section 251 (b) (5) or Section 251 (c) (1). The FCC does not prohibit an ILEC which has not been requested to negotiate interconnection to adopt access rates for any traffic terminated to it. It is contrary to public policy to mandate that the ILECs must stand idle and allow carriers to terminate traffic for free. Without access rates, the issue of compensation is left unresolved. The adoption of the proposed rates will bring the compensation issue to the forefront and will require the wireless carriers to accept the access rates or request negotiation for interconnection and thereby come under the terms of the Act.

Public Counsel urges the Commission to allow these ILECs to adopt the proposed tariffs to resolve this compensation issue. Public Counsel suggests a modification of the tariff to exclude traffic exchanged under the arrangements approved by the FCC or the Commission. This should address concerns that the access rates apply in lieu of approved interconnection agreements. (See, Exhibit 4, Meisenheimer Surrebuttal, p.3)

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed this 10 day of
December, 1999 to the attached service list in this case.

