R+O Binder

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service Commission held at its office in Jefferson City on the 20th day of June, 1989.

In the matter of the proposed operator services tariffs of MCI Telecommunications Corporation, Inc. )
) CASE NO. TR-89-193
)

ORDER AND NOTICE FURTHER SUSPENDING
TARIFFS AND SETTING EARLY PREHEARING CONFERENCE

On March 3, 1989, MCI Telecommunications Corporation, Inc. (MCI), submitted tariffs to this Commission proposing to establish operator services. By order issued April 5, 1989, the Commission suspended these tariffs for 120 days beyond their requested effective date of April 6, 1989, to August 4, 1989, pending the outcome of the issues concerning operator services then being addressed in Case No. TA-88-218, et al.

By order issued April 17, 1989, the Commission denied an application for a certificate of service authority to provide alternative operator services (AOS) and rejected tariffs proposing to offer AOS. The Commission defined AOS as the provision of operator services primarily to traffic aggregators. The Commission determined that the provision of AOS is not in the public interest. In the same Report and Order the Commission authorized the provision of operator services primarily as an adjunct to toll service rendered directly to end users. The Commission authorized the provision of such ancillary operator services to traffic aggregators provided such services were offered under the same rates, terms and conditions as offered directly to end users and provided the services were rendered consistently with additional conditions imposed by the Commission to protect the public interest.

On May 19, 1989, the Commission's Staff (Staff) filed a memorandum herein recommending that the suspension of MCI's tariffs not be lifted until MCI revises these tariffs to conform to the conditions for providing operator services set forth in Case No. TA-88-218, et al. Staff points out that MCI's tariffs are inconsistent

with the policy set forth in the AOS docket in the following specifics: (1) Users of pay phones or non-MCI calling cards would be billed at a higher rate than other end users; (2) separate tariffs governing the provision of operator services to traffic aggregators are not included in this filing; (3) these tariffs do not provide for no billing of incomplete calls, identification to the end user of the operator service provider, rate quotes on demand, no billing of location surcharges by local exchange companies (LECs), identification of the provider on the LEC bill, access to other carriers, the employment of approved calling card verification and standards for processing emergency calls.

On May 30, 1989, MCI filed a motion requesting that the Commission either immediately approve MCI's tariff filing or set an early prehearing conference herein for the purpose of developing an expedited procedural schedule to address the propriety of MCI's proposed tariffs pursuant to Section 392.230.3, RSMo Supp. 1988. In addition, MCI requests that, if a procedural schedule is established herein, AT&T Communications of the Southwest, Inc. (AT&T), and US Sprint Communications Company Limited Partnership (Sprint) be joined as necessary parties to this proceeding to ensure that equivalent regulation is applied to similarly situated providers.

By pleading filed June 14, 1989, MCI requested that the Commission immediately approve its operator services tariffs contending that continued suspension of these tariffs would jeopardize MCI's ability to compete effectively for the award of a contract from the State of Missouri to provide operator services to correctional inmates. MCI states that its bid for this contract offered the state higher commissions than its competitors, Sprint and AT&T. MCI is concerned that questions surrounding approval of its operator services tariffs might jeopardize the award to it of this contract subjecting MCI to a potential loss of millions of dollars. MCI asserts that failure to immediately approve these tariffs would constitute unlawful discrimination against it since the operator services tariffs of AT&T and Sprint have already been approved giving those bidders for the prison contract a competitive advantage.

By pleading filed June 6, 1989, Sprint requests that the Commission deny MCI's motion for joinder of Sprint to these proceedings. Sprint states that it is not a necessary party to a proceeding addressing MCI's tariffs.

By pleading filed June 8, 1989, AT&T opposes joinder of AT&T as a necessary party to any proceedings addressing the propriety of MCI's operator services tariffs. AT&T states that application of a different degree of regulation to new providers of operator services, for a period of time, does not as a matter of law constitute an unreasonably discriminatory application of regulation. AT&T points out that its operator services are offered pursuant to approved tariffs which are presumptively valid and since MCI has not complained concerning the terms and conditions of AT&T's tariffs joinder of AT&T as a party to this proceeding is inappropriate.

By pleading filed June 19, 1989, the Office of the Public Counsel (Public Counsel) requests that the Commission deny MCI's motion for approval of those tariffs and set a hearing in this case. Public Counsel opposes approval of MCI's tariffs because they violate the policy enunciated by the Commission in Case No. TA-88-218, et al. Public Counsel notes that to apply prospectively to MCI the requirements set forth in Case No. TA-88-218, et al., does not constitute discriminatory regulation provided the Commission takes steps to apply these requirements to all companies now seeking approval of such operator services tariffs.

The Commission is of the opinion that MCI's proposed operator services tariffs are inconsistent with the policy enunciated by the Commission as to the provision of operator services in Missouri in Case No. TA-88-218, et al. Therefore, the Commission believes that a hearing should be set herein to address the propriety of these tariffs. The Commission determines that MCI's operator services tariffs should remain suspended to ensure that the Commission has sufficient time in which to examine their propriety.

The Commission notes that the operator services tariffs of AT&T and Sprint had been approved prior to the inception of Case No. TA-88-218 and neither company has filed tariffs since the inception of Case No. TA-88-218 which raised issues

addressed in that case. The Commission notes further that it will institute as soon as practicable a rulemaking to address the application of its AOS policy to tariffs approved prior to the commencement of the AOS docket.

Since it is possible that the investigation of MCI's tariffs cannot be completed within the remainder of the 120 day suspension, the Commission further determines that these tariffs should be suspended for an additional six months beyond August 4, 1989, to February 4, 1990, unless otherwise ordered by the Commission. Because MCI has requested expedited consideration of these tariffs, the Commission will set an early prehearing conference for the purpose of developing an expedited procedural schedule herein. The Commission deems it inappropriate to join AT&T and Sprint as necessary parties to these proceedings since they address the propriety of tariffs governing the offering of operator services by MCI.

The Commission determines that its Secretary should send a copy of this order to any person or entity known to the Commission's Telecommunications Department to be legally rendering operator services within the State of Missouri as well as to each telephone company rendering local exchange service and each provider of interexchange service within the State of Missouri.

It is, therefore,

ORDERED: 1. That the motion of MCI Telecommunications Corporation for approval of tariffs or, alternatively, for early prehearing conference, hearing and joinder, is denied hereby in part and granted hereby in part as set forth herein.

ORDERED: 2. That an early prehearing conference is scheduled hereby to commence at 10:00 a.m. on June 27, 1989, at the Commission's offices in the Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

ORDERED: 3. That the tariffs filed herein by MCI Telecommunications Corporation are suspended hereby for an additional period of six (6) months beyond August 4, 1989, to February 4, 1990, unless otherwise ordered by the Commission.

ORDERED: 4. That the Commission's Secretary is directed hereby to serve a copy of this order as described herein.

ORDERED: 5. That this order shall become effective on the date hereof.

BY THE COMMISSION

Harvey G. Hubbs
Secretary

(S E A L)

Steinmeier, Chm., Mueller,
Hendren and Rauch, CC., Concur.
Fischer, C., Dissents.