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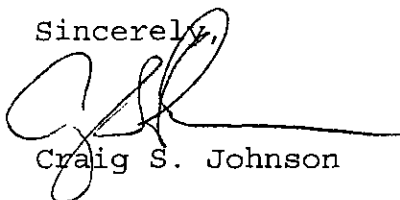
Re: TW-97-333

Dear Mr. Wright:

Enclosed please find an original and 14 copies of the Mid-Missouri Group's Response to Staff's Motion to Modify/Delay the Procedural Schedule in this case. A copy of this letter and a copy of the enclosed response has been served upon all attorneys of record.

Thank you for seeing these filed.

Sincerely,



Craig S. Johnson

CSJ:skl

Enclosures

cc: Office of Public Counsel  
MO PSC Staff  
Paul DeFord  
Stephen Morris  
Mark W. Comley  
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In the Matter of an Investigation into )  
The Provision of Community Optional ) Case No. TW-97-333  
Calling Service in Missouri. )

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33.

Bell, there is no reason that their data requests could not have been directed to the parties at the outset of this case. Instead, Staff and Southwestern Bell for some reason have chosen to submit these data requests and motions to delay the procedural schedule until after the parties' direct testimony was filed, over a month after this docket was initiated.

4. The use of COS, OCA and other calling plans such as SWB's "Designated Number" for the provisioning of internet access services has been common for some time. If there were any question concerning the propriety of provisioning of internet access in conjunction with COS, Southwestern Bell and/or Staff could have raised this matter informally, or in an appropriate proceeding focused on this issue. Instead, they have chosen to wait until the eleventh hour to raise the issue in a docket not primarily concerned with internet access. If this issue is to be joined in this case, the entire procedural schedule needs to be modified. If Southwestern Bell and Staff make any accusations in the rebuttal round of testimony, the small telephone companies, including the Mid-Missouri Group, should be afforded the opportunity to respond in a subsequent round of testimony. Currently no such surrebuttal is scheduled. Such a procedural posture would clearly be inappropriate.

Should the Commission choose to join this issue in the case, Staff's proposed modification to the procedural schedule is inadequate, as it would not give the small companies an opportunity to respond to any testimony by Staff or Southwestern Bell in their

respective rebuttal testimonies.

5. The small companies have been engaged in the provisioning of internet access since approximately November of 1995. There has been a significant demand for this service made on behalf of city officials, county officials, school districts, judicial offices, as well as private individuals. We decided to meet this public service by making internet access available.

Upon making it available in our exchanges, we have been requested to make the service available even in Southwestern Bell exchanges, where Southwestern Bell either refused to make it available, or made it available on terms incenting persons to request us to provide the service. We have even been contacted by Southwestern Bell employees living in Southwestern Bell exchanges who wanted us to provide the service.

Other internet access providers subscribe to COS in order to make internet access rates as reasonable as possible, and sometimes in order to provision on a flat rate. It is our understanding that internet access users are a significant source of use for Southwestern Bell's "designated number" calling plan.

Company purchase of COS in order to provision a separate internet access service is not "reselling" COS. If that analysis were applicable, every internet access provider such as America Online, Microsoft, Compuserve, Prodigy, etc. would be guilty of reselling local service. If that analysis were applicable COCOT providers would be guilty of reselling long distance service.

Tariff provisions prohibiting the reselling of services are of

questionable validity after enactment of the Telecommunications Act of 1996. would override any tariff provision prohibiting reselling of COS service. It is ironic that when it comes to MCA service, Southwestern Bell has taken the position that its tariff prohibition against reselling of MCA has been overridden by the Telecommunications Act, and has negotiated several interconnection agreements on precisely this basis. Yet now the analysis is somehow different when it comes to COS service.

With respect to the supposed tariff prohibition against "sharing" COS service, that tariff term is vague, incapable of specific meaning, and not applicable to the present situation where companies purchase COS for the provisioning of internet access.

In short, if the small companies are guilty of anything, they are guilty of trying to meet a demand for a valuable service SWB failed to meet. There is a significant public interest in internet access, promoted and fostered by the educational community, the information services community, the Missouri legislature, and this Commission. This service should be available in rural exchanges, even if the large companies have little interest in providing it there.

WHEREFORE, on the basis of the foregoing, the Mid-Missouri Group respectfully requests that Staff's motion to modify the procedural schedule be denied, and this case proceed to hearing under the existing schedule on the issues it was originally intended for, or, if the Commission intends to join the internet access issue in this docket, that the procedural schedule be

modified to include a round of surrebuttal/cross-surrebuttal by the small telephone companies to respond to any rebuttal testimony of Staff and Southwestern Bell which is directed to this issue, that three weeks be allowed from the date of filing this rebuttal testimony and the date the surrebuttal/cross-surrebuttal is due, and that the hearing date be moved back accordingly.

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ATTORNEYS FOR THE MID-MISSOURI GROUP

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was mailed first class, postage prepaid this 29<sup>th</sup> day of April, 1997, to all attorneys of record.

  
Craig S. Johnson