

E-
K₀
PK
CK

At a session of the Public Service Commission held at its office in Jefferson City on the 15th day of August, 1997.

In the Matter of an Investigation Concerning the Continuation or Modification of the Primary Toll Carrier Plan When IntraLATA Presubscription is Implemented in Missouri.)
) Case No. TO-97-217,
) et al.
)
)

ORDER GRANTING MOTION TO COMPEL

This case was established for the Commission to consider the continued viability in a competitive environment of the Primary Toll Carrier (PTC) Plan under which Missouri basic local service providers operate. The case is set for hearing October 23 through November 4, 1997.

The Mid-Missouri Group (MMG) of local exchange companies filed a Motion to Compel Sprint/United and GTE to Answer Data Requests (DRs) on July 31. MMG stated that United Telephone Company of Missouri d/b/a Sprint (Sprint-United) and GTE Midwest Incorporated (GTE) refused to answer seven of the DRs submitted to them by MMG. Sprint-United and GTE sent objections to MMG as permitted by Commission rule 4 CSR 240-2.090(2). MMG submitted the DRs and the objections to them as late-filed attachments to their filing on August 7.

The ten days allowed by 4 CSR 240-2.080(12) for response to MMG's motion have passed and no responses were filed. It is incumbent upon the respondent to a motion of this type to make its position known to the Commission. However, despite the fact that Sprint-United and GTE have not filed responses properly setting their objections to the DRs before the

Commission, the Commission will consider the objections as they were reported by MMG in making its ruling on the motion.

A. DRs addressed to United Telephone Company of Missouri d/b/a Sprint.

Sprint-United made three general objections to all seven DRs. First, Sprint-United objected to these DRs:

to the extent they request revenue, minute and access charge data associated with toll originated in Sprint's exchanges on the grounds of relevancy. The provision of toll to Sprint's own customers is not an issue in this docket and is irrelevant to the issue of the proper disposition of the Primary Toll Carrier plan as it relates to intraLATA dialing parity implementation by secondary carriers. (Attachment 4 to August 7 filing.)

The Commission agrees with Sprint-United that the company's provision of toll to its own customers is not at issue and is irrelevant to the disposition of the case. Therefore, the Commission finds that Sprint-United need not produce data regarding toll originating in Sprint-United exchanges.

Second, Sprint-United objected that the DRs are burdensome and the data is equally available to the Secondary Carriers (SCs). Although the PTCs and SCs may need to cooperate in sharing data in order for some of the breakout information requested in these DRs to be made available, the Commission finds that the DRs are not overly burdensome and that the PTC has at least part, if not all, of the data necessary to provide responses. The Commission overrules this objection.

Third, Sprint-United objected that "these data requests may be requesting toll and usage data for companies that are not part of the Mid-Missouri Group and which may wish to protect the proprietary nature of this competitive information." The Commission finds that this objection has some validity but that adequate protection for this information is available by means of the Commission's standard protective order. A

protective order was issued in this case on July 9 which includes a provision requiring the party to whom a request for such information is addressed to refer the material for classification to the "owner" of the information. See Attachment A, page 3, paragraph F of Order Modifying Procedural Schedule, Granting Motion to Late-File Technical Conference Report, and Adopting Protective Order, issued July 9, 1997. The Commission overrules Sprint-United's objection and directs all parties to abide by the applicable section of the Protective Order where information regarding other parties is concerned.

Sprint-United also addressed each DR specifically but raised only one additional ground for objection, i.e., relevancy. The relevancy objection will be discussed below in the context of the discussion of GTE's objections to the very similar DRs it received from MMG.

B. DRs addressed to GTE Midwest Incorporated.

GTE objected to all of the DRs at issue on the grounds that the requests are "overbroad, irrelevant to this proceeding, not calculated to lead to admissible evidence and GTE does not have this information available but would have to undertake a burdensome special study to develop the information if it could be developed at all."

DRs 1-3 all appear to address the issue of whether Primary Toll Carriers (PTCs) are losing revenues in acting as PTCs. This is an allegation the PTCs have repeatedly made in prior cases when the PTC plan has been raised as an issue. DRs 4-6 ask for specific information concerning Community Optional Service (COS) and Outstate Calling Area (OCA) traffic, both of which have a significant impact on intercompany arrangements regarding local toll. The PTC Plan was specifically designed to address these kinds of arrangements.

The purpose of this docket is to determine whether the PTC Plan can continue as it is now exists, or whether it must be modified, replaced, or eliminated in order to meet the needs of a competitive telecommunications environment. Accordingly, the Commission finds that the data requested is relevant and is calculated to lead to admissible evidence. Sprint United and GTE's objections on relevancy grounds are overruled. GTE's objections on the grounds that the requests are burdensome are overruled as well. See the discussion of Sprint-United's second general objection, supra.

C. Conclusion.

Sprint-United's objections to DRS 1-7 are overruled with the exception that Sprint-United need not produce data regarding toll originating in Sprint-United exchanges. In all other respects MMG's motion to compel is granted.

All of GTE's objections to DRS 1-7 are overruled and MMG's motion to compel is granted.

All parties are cautioned that they must abide by the provisions of the Protective Order that governs this case, particularly where information is requested that concerns a party other than the recipient of the request. The recipient must notify the relevant party of the request and give that party opportunity to classify the requested material.

All parties are also put on notice that the Commission expects the PTCs and SCs to cooperate in the sharing of information necessary to produce data that is categorized as Message Telecommunications Service (MTS), COS, or OCA as requested in the DRS that are the subject of this order.

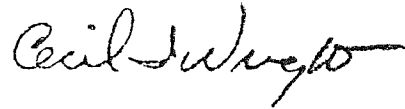
IT IS THEREFORE ORDERED:

1. That the Motion to Compel Sprint/United and GTE to Answer Data Requests filed on July 31, 1997, by the Mid-Missouri Group is granted except as limited by Ordered Paragraph 2.

2. That United Telephone Company of Missouri d/b/a Sprint shall not be required to produce data regarding toll originating in Sprint-United exchanges.

3. That this order shall become effective on August 15, 1997.

BY THE COMMISSION

A handwritten signature in dark ink, appearing to read "Cecil I. Wright", with a stylized flourish at the end.

**Cecil I. Wright
Executive Secretary**

(S E A L)

Zobrist, Chm., Crumpton,
Drainer, Murray and Lumpe,
CC., concur.

ALJ: Wickliffe