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**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office  
in Jefferson City on the 9th  
day of October, 1997.

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

**ORDER DENYING MOTIONS TO VACATE AND TO SUSPEND SCHEDULE**

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.

MMG filed a Motion to Vacate April 1, 1998 Dialing Parity Implementation and Motion to Suspend Procedural Schedule and Continue Proceeding on September 16, 1997. STCG filed a response on September 26 supporting MMG's motions. SWBT, GTE, and MCI filed pleadings opposing MMG's motions. MMG filed a response to SWBT, GTE, and MCI's pleadings on October 1.

**A. Motion to Vacate.** MMG argues that the Commission's Report and Order in Case No. TO-97-220, issued on May 22, directing Missouri's small companies to implement toll dialing parity by April 1, 1998, is FCC-driven and should be vacated. MMG points out that the United States Court of Appeals for the Eighth Circuit vacated the FCC rules regarding

implementation of intraLATA toll dialing parity<sup>1</sup> and that, therefore, this Commission's schedule is no longer needed and is not in the public interest.

SWBT stated in its reply that it is not only the FCC's rules that require implementation of toll dialing parity, but also the Telecommunications Act of 1996 (the Act). See § 251(b)(3) of the Act. GTE and MCI echoed SWBT's argument. In addition, GTE pointed out that GTE and Sprint-United have already begun implementation of intraLATA dialing parity under Commission-approved plans. Finally, SWBT argued that the Commission continues to have control over the timing of intraLATA presubscription and is free to extend the implementation date if it is shown to be necessary.

The facts in Case No. TO-97-220 were not in dispute; the parties briefed the legal issues. The consensus of the parties was that, because of the PTC Plan and the mandatory provision of Community Optional Service (COS), it was not feasible for the petitioners to provide intraLATA dialing parity until those issues were resolved. See Joint Motion, and Joint Response of MCI and AT&T to Joint Motion filed in Case No. TO-97-220. The parties were further agreed that the petitioners should not be required to provide dialing parity on the schedule set out by the FCC's rules. The April 1, 1998, deadline was proposed by the parties<sup>2</sup> and adopted by the Commission based on factors unique to Missouri.

The Commission finds that MMG's motion to vacate is not persuasive and will not be granted. The implementation of dialing parity is a duty

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<sup>1</sup>The People of the State of California, et al. v. The Federal Communications Commission, et al., No. 96-3519 (8th Cir. August 22, 1997).

<sup>2</sup>Note that STCG withdrew its support of the April 1, 1998, implementation deadline in its brief filed on May 5, 1997.

imposed upon incumbent local exchange carriers by Section 251(b)(3) of the Act. The implementation schedule set out in the FCC's rules is a moot issue for the petitioners to Case No. TO-97-220 because the Commission's Report and Order exempts them from those rules and establishes a Missouri-specific deadline. The order allows the petitioners to delay implementation of intraLATA dialing parity until the sooner of April 1, 1998, or resolution by the Commission of the issues surrounding COS service and the PTC Plan, and imposition of a schedule. The April date was specifically approved by the Commission, over the objections of STCG, and represents the Missouri Commission's view of an appropriate implementation deadline.

Further, the Commission is convinced that vacating the May 22 order is not in the public interest. Missouri's legislature, in enacting Section 392.455, RSMo Supp. 1996, made clear its intention to promote competition and enhance consumer choice in the basic local telecommunications market. Neither is viable without making intraLATA dialing parity available to end users as soon as it is feasible.

**B. Motion to Suspend Procedural Schedule.** MMG argued that it cannot complete discovery in time for the hearing scheduled in this case to begin on October 23. MMG also argued that the hearing should be continued until the Commission has issued its order in Case No. TW-97-333 regarding COS issues. STCG supported MMG's motion.

MCI argued that MMG's discovery problems are of its own making, stating that MMG waited until long after the case was filed before initiating formal discovery. SWBT stated that much of the extensive review MMG cited as necessary for resolution of this case has already been done. At the time SWBT filed its response direct testimony had already been filed.

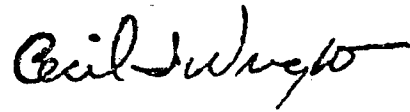
The Commission has considered MMG's motion and the responses filed and finds that the hearing in this case shall proceed as scheduled. The Commission's schedule is such that resetting this matter would necessitate a lengthy delay. Furthermore, the parties have already filed both direct and rebuttal testimony. MMG's motion for continuance shall be denied.

**IT IS THEREFORE ORDERED:**

1. That the Motion to Vacate April 1, 1998 Dialing Parity Implementation and Motion to Suspend Procedural Schedule and Continue Proceeding filed by the Mid-Missouri Group on September 16, 1997, are denied.

2. That this order shall become effective on October 9, 1997.

**BY THE COMMISSION**

A handwritten signature in black ink, appearing to read "Cecil I. Wright".

**Cecil I. Wright  
Executive Secretary**

( S E A L )

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

Wickliffe, Deputy Chief Regulatory Law Judge