

**HENDREN AND ANDRAE**

ATTORNEYS AT LAW  
THE MONROE HOUSE  
235 EAST HIGH STREET  
P. O. BOX 1069

JEFFERSON CITY, MISSOURI 65102

(314) 636-8135

JOHN H. HENDREN (1907-1988)  
CHARLES H. HOWARD (1925-1970)  
JOHN E. BURRUSS, JR. (1933-1985)

HENRY ANDRAE  
KELLY POOL  
RICHARD S. BROWNLEE III  
MICHAEL A. DALLMEYER  
DUANE E. SCHREIMANN  
J. KENT LOWRY  
DOUGLAS L. VAN CAMP  
GERALD E. ROARK  
MICHAEL G. BERRY  
DONALD C. OTTO, JR.  
HALLIE H. GIBBS II

TELECOPIER  
(314) 636-5226

December 28, 1988

Mr. Harvey Hubbs  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

Re: Case No. TA-88-218, et al.

Dear Mr. Hubbs:

Please find enclosed an original and 14 copies of the Reply Brief of Teleconnect Company and International Telecharge, Inc. which I ask that you file in regard to the above-referenced cases.

Very truly yours,

HENDREN AND ANDRAE

  
Donald C. Otto, Jr.

DCO:glw

Enc.

cc: All parties of record

PUBLIC SERVICE COMMISSION

DEC 28 1988

FILED

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

CASE NO. TA-88-218

In the matter of the application of American Operator Services, Inc. for a certificate of service authority to provide Intrastate Operator-Assisted Resold Telecommunications Services.

CASE NO. TR-88-282

In the matter of Teleconnect Company for authority to file tariff sheets designed to establish Operator Services within its certificated service area in the State of Missouri.

CASE NO. TR-88-283

In the matter of Dial U.S. for authority to file tariff sheets designed to establish Operator Services within its certificated service area in the State of Missouri.

CASE NO. TR-88-284

In the matter of Dial U.S.A. for authority to file tariff sheets designed to establish Operator Services within its certificated service area in the State of Missouri.

CASE NO. TR-89-6

In the matter of International Telecharge, Inc. for authority to file tariff sheets designed to establish Operator Services within its certificated service area in the State of Missouri.

REPLY BRIEF OF TELECONNECT COMPANY AND  
INTERNATIONAL TELECHARGE, INC.

I. Reply Argument

A. Teleconnect

As the briefs of the various parties have made clear, no participant in this case opposes Teleconnect's operator service

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filings. Teleconnect agrees with the need for reasonable regulations applied to all providers of operator services and refers the Commission to Teleconnect's brief in chief on this issue. However, it must be reiterated that any regulations that are created must be applied to all operator service companies. Any regulation or requirements that are applied only to certain companies are discriminatory and, therefore, unlawful.

B. International Telecharge, Inc. ("ITI")

All parties, other than Public Counsel, either do not oppose ITI's filings or discuss in the briefs proposed regulations which ITI has adequately addressed in its brief-in-chief. Public Counsel, however, makes a number of statements and assertions that need to be addressed. These items are as follows:

1. Public Counsel contends ITI was not specifically certificated to provide alternative operator services (Brief, p. 4). The certificate that ITI holds is the same certificate that companies such as Sprint and other companies that provide operator services have from this Commission. This Commission does not issue specific certificates for operator service providers, so ITI should not be denigrated for not possessing something that does not exist.

2. Again at page 4 of its brief, Public Counsel states that ITI has not sought approval of any intrastate tariffs until the present case. This creates a misleading innuendo that ITI has been operating for a year, and has not sought tariff approval during that time. As the record will reflect, the truth of the matter is that ITI has been seeking Commission tariff approval

since the time it was certified. Missouri law requires carriers to cost-justify tariffs, and ITI's staff had difficulty in producing Missouri-specific numbers. ITI would have had an approved tariff, reflecting AT&T and Southwestern Bell rates, if the generic investigation had not intervened.

3. Public Counsel next contends that ITI is not a typical reseller. It is true that ITI provides enhanced services to the users of its services. However, ITI is subject to the same forces of competition that drive other resellers. The record is clear that there is strong competition for traffic aggregators, such as hotels and hospitals. The record also reflects that such aggregators are highly sensitive to the needs of their guests or patients. If company fails to fulfill those needs, it will lose the customer, and could ultimately fail. The industry has already seen two providers, Pamtel and Central, go into Chapter 11. ITI believes that in Central's case, it lost customers because its rates were too high.

4. Public Counsel also appears to contend that only ITI and NTS contract with traffic aggregators for services. In fact, other companies including AT&T have begun offerings to hotels, COCOTS and hospitals. Next year, MCI and Sprint are expected to be active in offering their services to site owners of public pay telephones. Meanwhile, ITI is offering services to presubscribed customers of United States Transmission Service. As Dr. Thomas observed, the marketplace is changing rapidly.

5. At page 6 of its brief Public Counsel makes a series of allegations which are not supported by the record. The statement

that the end user is unaware that he is using a provider other than AT&T is contradicted by Mr. Freel's sworn testimony that ITI identifies itself at least twice on every transaction with the end user. On automated calls, ITI does not use a "bong" tone, but features a recording which informs the end user that they are dealing with a company other than AT&T.

Public Counsel claims that ITI "plays on the end user's lack of information... by accepting AT&T calling cards." Public Counsel ignores the fact that the vast majority of so-called AT&T cards are exactly identical to BOC calling cards. The BOCs and AT&T have been sharing the same database for such cards since divestiture. Judge Greene has recently made it clear that companies such as ITI may accept and validate BOC calling cards. If a caller describes a card as an AT&T card, ITI asks permission for ITI to bill to the number associated with that card.

6. The next misleading claim is that ITI charges rates "in excess of those charged by typical IXCs." Public Counsel ignores the fact that the rates ITI proposes in Missouri match Southwestern Bell and AT&T rates. Public Counsel also ignores the fact that ITI offers callers the option of being billed at 5% below AT&T or Bell rates if the call is placed on a major credit card (such as Visa or American Express). Public Counsel also ignores the fact that ITI's operator surcharges are lower than "traditional IXCs."

Public Counsel shows great concern over surcharges in addition to ITI's rates. What Public Counsel does not reflect is the fact that it is the subscriber, not ITI, who sets the level

of the surcharges. Public Counsel also ignores the fact that it is possible for end users to be paying the exact same surcharge to a hotel today, so that the total amount for the call may be exactly the same. Public Counsel also ignores the fact that end users may pay less overall than if they pay for surcharges at the front desk, because ITI's answer supervision is generally superior to that of the hotel PBX. Finally, Public Counsel ignores the fact that competition means that today's things do not have to be done the exact same way they have always been done.

7. Public Counsel incorrectly states that ITI deliberately charges for incomplete calls. Public Counsel ignores the fact that due to its previous monopoly status, only AT&T has ubiquitous answer supervision from the LECs. All other companies - MCI, Sprint, ITI, etc. - must utilize software supervision. Public Counsel ignores the fact that this problem will diminish as ITI and other carriers are able to obtain access equal to that available to AT&T. Public Counsel also ignores the fact that ITI will not charge a consumer for an incomplete call if the caller identifies the call as incomplete.

8. The next concern voiced by Public Counsel is that the the end user may have local service disconnected for failure to pay operator service charges. However, Public Counsel does not point out that ITI has never requested local service disconnection. Public Counsel fails to point out a single person in Missouri has been disconnected or had disconnection threatened for failure to pay an ITI bill. ITI believes that if an end user

has had ITI identified twice, and has been billed at tariff rates for a completed call, ITI should be allowed to have the same disconnection rights as AT&T.

9. ITI also strongly disagrees with Public Counsel's claim that end users are "captive." The record reflects that most end users can reach their carrier of choice by dialing a 950 or 1-800 number. The record also reflects that ITI has a policy of transferring callers back to the local exchange company upon request. If callers cannot reach their carrier, it is not because of any action of ITI. The call aggregator, such as the hotel, may block certain forms of access. This blocking is not encouraged or condoned by ITI. ITI employees and others have encountered such blocking in telephones and hotels subscribed to AT&T. If the Commission wants to regulate CPE owners, that is where it must address the question of blocking.

10. At page 7 of its brief Public Counsel attempts to rely upon decisions issued by the North Carolina, Tennessee, and Alabama Commissions. The Missouri Public Service Commission should take note that Bell South has been particularly active in its efforts against competitive operator service providers, and Commissions involved have been affected by that attitude. For example, Judge Greene, in his October 14 order, singled out Bell South for refusing to allow calls to be billed as calling card calls without validation, while also refusing to make validation available. Furthermore, the Missouri Commission can only rely upon the record formed in this case, which is significantly different from the record in North Carolina, Tennessee and

Alabama. Finally, all of those decisions are currently scheduled for rehearing or are on appeal.

Specifically the Public Counsel relies on the Bell South state opinions for conclusions regarding the proper payment of access charges. The Public Counsel ignores the fact that ITI raised the question of access charges in this docket, and is the leading proponent of the concept that intrastate access should be paid on intrastate calls. ITI can accurately identify which calls are intrastate, and report those calls to its underlying carrier. If the Commission desires, such information can also be supplied directly to the LECs. The LECs that perform billing and collection on behalf of ITI can also check the calls that they bill as another means of insuring that ITI accurately reports its percentage of intrastate usage.

11. The regulations proposed by Public Counsel at page 13 of its brief are, for the most part, acceptable to ITI. ITI believes that the Commission should not rate-base/rate of return rates of ITI, but should "cap" rates at \$1.00 over the AT&T or BOC daytime rates. ITI's proposed rates are significantly below this cap. However, the cap is a functional compromise which will protect ratepayers without requiring a rate case for every operator service provider. Similarly, ITI believes that ITI should be allowed to bill and collect surcharges on behalf of subscribers, so long as the total cost to the end user is below the ITI proposed cap. ITI would be willing to tariff the surcharge, and indicate that they were capped at \$1.00.

ITI does not believe that "detailed complaint procedures" are appropriate on the telephone. ITI does advocate that its



1-800 number for billing inquiry be placed on all LEC bills, where technologically feasible. If the Commission wants to insure that notification materials are on or near telephones, it must regulate the call aggregators directly as it is physically impossible for ITI to insure such compliance. ITI does not have access to every hotel room or hospital room; ITI's operators cannot tell if a telephone has a sticker or a tent card. ITI is willing to supply such materials, and require in its tariff that they be posted, if all operator service providers are subject to the same requirements.

The Public Counsel requirement that the operator service provider provide free access to all other carriers is not technologically possible for any carrier, even AT&T. The Commission can order CPE owners to allow 950 or 1-800 calls. The Commission can order AT&T to provide a 1-800 number for its cardholders. These actions will secure the same result as Public Counsel's suggestion, without requiring any company to do the impossible.

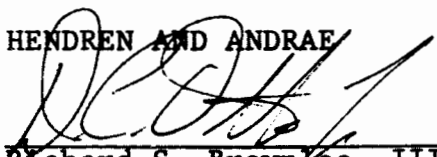
## II. Conclusion

The record in this case has shown that the Operator Services offerings of Teleconnect and ITI are in the public interest and that neither of these companies should be denied the ability to provide a service currently offered by companies with identical certificates. Both Teleconnect and ITI agree that some regulation applied equally to all operator service providers, is in the public interest. Teleconnect and ITI, therefore,

respectfully submit that their respective offerings should be approved immediately to allow Missouri to benefit from the substantial benefits which will result from fair, even-handed competition in this market.

Equally important is the fact that both Teleconnect and ITI have the same certificate to operate as does AT&T, U.S. Sprint and others who currently provide operator services in this state. What Public Counsel has proposed in its brief discriminates against the so-call "Alternative" operator service companies in general, and ITI in particular. Such discrimination is unlawful under the terms of the Missouri Constitution and Telecommunication statutes and has also been found unlawful at the interstate level by Judge Greene. Simply put, Teleconnect and ITI have every right to provide operator services in this state under their certificates--a right which cannot be taken away in the manner suggested by Public Counsel and which must be recognized by this Commission.

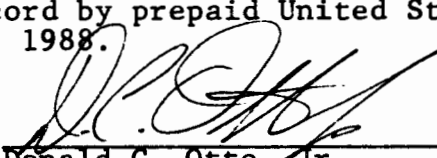
HENDREN AND ANDRAE

  
Richard S. Brownlee, III  
Donald C. Otto, Jr.  
235 East High Street  
P.O. Box 1069  
Jefferson City, MO 65102

Attorneys for Teleconnect and  
International Telecharge, Inc.

CERTIFICATE OF MAILING

I hereby certify that I served a copy of the foregoing document upon all parties of record by prepaid United States mail on this 20<sup>th</sup> day of December, 1988.

  
Donald C. Otto, Jr.