

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of an Investigation of the)
Actual Costs Incurred in Providing)
Exchange Access Service and the Access) Case No. TR-2001-65
Rates to be Charged by Competitive Local)
Exchange Telecommunications)
Companies in the State of Missouri.)

**RESPONSE OF ALLTEL MISSOURI, INC.
TO STAFF'S SECOND PHASE PROPOSAL**

ALLTEL Missouri, Inc. ("ALLTEL"), pursuant to the Missouri Public Service Commission's *Order Directing Filing* entered in this matter on June 16, 2003, respectfully submits its Response to Staff's Second Phase Proposal.

1. As stated in its Initial and Reply Briefs, ALLTEL respectfully suggests that the Commission need not take any action with respect to switched access as a result of this case. In addressing the narrow public policy issue related to CLEC access charges for which this investigatory proceeding was established, the record evidence clearly supports a determination by the Commission that the interim CLEC access rate cap adopted in Case No. TO-99-596 is appropriate and in the public interest, and should be adopted on a permanent basis. Such adoption should be subject to the proviso that a totally facilities-based CLEC may be permitted to raise its switched access rates above the cap, upon a showing that its costs of providing switched access are higher than the rates allowed under the cap. There appears to be general consensus among most of the parties in support of that position.

2. Surprisingly, Staff suggests that these are the very issues that do not need to be resolved before moving to a second phase of this proceeding: "The remaining

issues from the Joint Issues List, issues 5, 6 & 7, do not need to be resolved before moving to a second phase since resolution of these issues will have no impact on determining the actual cost of exchange access.”¹ As identified in the Joint Issues List, those three issues are set forth as follows:

5. Is the current capping mechanism for intrastate CLEC access rates appropriate and in the public interest?
6. Are there circumstances where a CLEC should not be bound by the cap on switched access rates?
7. What, if any, course of action can or should the Commission take with respect to switched access as a result of this case?

3. Like most parties, ALLTEL has advocated that the Commission simply find that the interim CLEC access rate cap that was adopted in Case No. TO-99-596 is appropriate and in the public interest, and should be adopted on a permanent basis, subject to the proviso discussed above. Should the Commission wish to review switched access rates in the future, such review should be done in the context of ILEC-specific proceedings or other generic proceedings, consistent with the Commission’s statutory authority as set forth in ALLTEL’s Initial and Reply Briefs.

4. While the Staff previously recommended that the Commission initiate a second phase of this case (prompting the Commission’s Order requesting “detailed information concerning Staff’s proposed second phase and the product expected to result from it”²), Staff’s Second Phase Proposal clearly reveals that such recommendation was predicated on a resolution of the issues currently before the Commission.

The Staff believes the optimal procedure is to resolve all issues before moving to a second phase. However, the Staff does not believe all issues must necessarily be resolved before moving to a second phase. The Staff believes that, at a minimum, the Commission should: 1) determine the appropriate cost for switched access service; 2) determine the

¹ Staff’s Second Phase Proposal, p. 3.

² *Order Directing Filing* at 4.

Commission's authority to adjust switched access rates; 3) address the issues regarding the Commission's authority to expand calling scopes; and 4) address two issues presented in pending Case No. TO-98-329 concerning the Missouri universal service fund.³

5. Staff further suggests that, "Specifically the Commission needs to address whether the Staff's cost studies are an effective method for calculating the actual cost of switched access or whether some other cost study method is appropriate."⁴ While seeking to avoid being argumentative or repetitive, ALLTEL respectfully submits that the record in this proceeding clearly reveals the crucial and varied criticisms to Staff witness Johnson's surrogate approach and his methodologies employed in this proceeding.

The only competent and substantial evidence in the record of this proceeding addressing ALLTEL Missouri, Inc.'s Missouri intrastate access costs, is the ALLTEL cost study received into evidence as Exhibit 45 HC. As noted by the Office of the Public Counsel, "This case cannot produce a template for the PSC to use for each company and each situation involving access rates or any other rates."⁵ ALLTEL would agree with MITG that no "apples to apples" analysis of existing access cost comparisons for all LECs can be found in the current record.

That ["apples to apples" comparison] does not exist here. Instead, there is a confusing mix of different types of cost studies done by different companies and consultants, using different assumptions, different measures of costs, and different methods of preparation of the cost study. This mix does not give the Commission what it needed as a starting point for an orderly process to determine what access rate levels are consistent with the public interest. As a result, there is little, if anything the Commission can do with the evidence presented in this matter.⁶

³ Staff's Second Phase Proposal, p. 2.

⁴ *Id.*, p. 3.

⁵ Initial Brief of the Office of the Public Counsel at 13.

⁶ Initial Brief of MITG at 2.

6. While not agreeing that a “second phase” or new case is warranted, ALLTEL submits that if the Commission decides to proceed down that path, it should first determine its jurisdictional authority to adjust switched access rates. As noted in ALLTEL’s Reply Brief, the following statements of OPC capture the general conclusions of the parties to the jurisdictional issues presented:

If access rates are to be modified, then the PSC must follow the procedures for changing rates and cannot issue a blanket order to adjust rates for each local exchange company. There are specific statutory procedures for changing switched access rates for price cap companies under Section 392.245, RSMo 2000 and other statutory considerations. For rate of return companies, the changes to switched access rates must be part of a rate case where all relevant factors are considered. Company specific, complete and current data is essential if ratemaking and rate restructuring decisions are to be lawfully made.⁷

WHEREFORE, ALLTEL Missouri, Inc. respectfully submits its Response to Staff’s Second Phase Proposal.

Respectfully submitted,




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⁷ Initial Brief of OPC at 3.

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or e-mailed to all counsel of record this 15th day of August, 2003.



Larry W. Dority