

Exhibit Number:  
Issue(s)  
Witness: Gay Smith  
Sponsoring Party: MoPSC Staff  
Case Number: TW-97-333

Cm

**MISSOURI PUBLIC SERVICE COMMISSION**  
**UTILITY OPERATIONS DIVISION DIVISION**  
**COMMUNITY OPTIONAL SERVICE INVESTIGATION**  
**CASE No. TW-97-333**

**REBUTTAL TESTIMONY**

**OF**

**GAY SMITH**

EXHIBIT NO. 33  
Date 6/23/97 Case No. TW97-333  
Reporter KRM

**JEFFERSON CITY, MISSOURI**  
**MAY, 1997**

**REBUTTAL TESTIMONY**

**OF**

**GAY SMITH**

**MISSOURI PUBLIC SERVICE COMMISSION**

**CASE NO. TW-97-333**

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4  
5 Q. Please state your name and business address.

6 A. My name is Gay Smith, and my business address is 301 West  
7 High Street, Jefferson City, MO 65101.

8 Q. Are you the same Gay Smith who filed direct testimony in  
9 this proceeding?

10 A. Yes, I am.

11 Q. Ms. Smith, what is the purpose of your rebuttal testimony?

12 A. My purpose is to respond to comments made by various  
13 parties regarding the relationship of Community Optional Service (COS)  
14 and the Primary Toll Carrier (PTC) plan as well as identify a misuse  
15 of the existing COS service.

16 **COS/ PTC Plan Relationship**

17 Q. Ms. Smith, what comments about the PTC plan are your  
18 referring to?

19 A. The direct testimony of several parties noted the  
20 relationship between future changes to COS and future changes to the  
21 PTC plan. For instance, Mr. Bob Schoonmaker on behalf of the Small  
22 Telephone Company Group and Ms. Mary Kahnert on behalf of GTE Midwest  
23 Incorporated mentioned Case No. TO-97-220, a case intended to address  
24 the future of the PTC plan. Ms. Kahnert on page 5, line 24, in her  
25 direct testimony in noting pending Case No. TO-97-220, "...[A]ny  
26 changes to COS service must be compatible with prospective changes to

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1 the PTC plan.." Mr. Schoonmaker said on page 21, line 11, in his  
2 direct testimony that, "...The Commission has already established a  
3 preliminary procedural schedule in Case No. TO-97-220 to deal with  
4 these issues. As the Commission considers the issues in that case,  
5 along with other cases such as the state universal service fund, any  
6 changes proposed in those cases that would impact the provision of COS  
7 will need to consider the COS impacts in connection with the changes  
8 that are proposed."

9 Q. Do you agree with the assessment that COS changes need to  
10 be considered in conjunction with changes to the PTC plan?

11 A. Yes. COS is presently classified as an intraLATA toll  
12 service that is provided through the PTCs. Any changes made to COS  
13 can impact the PTC plan and vice versa. For instance, if the  
14 Commission wants to keep COS service as presently offered, then the  
15 PTC plan at least in some form will have to remain intact.

16 COS would not exist today if it had not been for the PTC  
17 plan. When considering expanded calling scopes back in 1987 not all  
18 Local Exchange Companies (LECs) could technically provide COS or any  
19 similar service between exchanges and other LECs without building  
20 dedicated facilities or devising a specialized data base, network, or  
21 billing system. The PTC plan provided the avenue necessary whereby  
22 the PTC could handle the traffic between the various exchanges. At  
23 that time, PTCs could more easily provide an optional expanded calling  
24 plan than other LECs. The PTCs could technically provide COS through  
25 slight modifications to their practices used for intraLATA toll  
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1 traffic.

2           At this time, I am unclear as to whether the PTC plan can  
3 stay intact. My interpretation of the direct testimony is there are  
4 no reasonable alternative methods to retain two-way COS short of  
5 keeping the PTC plan intact and not implementing intraLATA  
6 presubscription in exchanges involved with COS. In my opinion,  
7 preventing exchanges from having intraLATA presubscription is not a  
8 viable option as it deprives these customers from being able to have  
9 some of the benefits of competition.

10           On the other hand, changes to the PTC plan can impact COS.  
11 If the responsibility of providing intraLATA presubscription shifts  
12 from the PTC to the local exchange company serving the petitioning  
13 exchange then this possibility brings up other issues such as toll  
14 versus local classification and COS pricing. Shifting the  
15 responsibility of providing intraLATA presubscription has sometimes  
16 been referred to as the Originating Responsibility Plan (ORP) as  
17 mentioned in Ms. Kahnert's testimony.

18           Q.    Has Staff ever endorsed the ORP plan?

19           A.    In Staff's Report to the Commission in Case No. TO-97-220,  
20 Staff indicated that the incumbent LEC is the most appropriate entity  
21 to maintain the responsibility for intraLATA toll traffic. Staff also  
22 stated that this responsibility for intraLATA toll traffic by the  
23 incumbent LEC is characterized as ORP.

24 Toll vs. Local Classification

25           Q.    If the Commission ultimately wants to change the PTC plan  
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1 to an ORP plan, what impact could such a change have on the  
2 classification of COS as a toll or local service?

3 A. If the Commission eventually adopts ORP in place of the PTC  
4 plan, then the PTC may no longer have the responsibility of providing  
5 1+ toll, COS, or any other toll service to a particular exchange.  
6 Presumably, if some form of COS is to be maintained, ORP may require  
7 the LEC serving a particular exchange to be the responsible party for  
8 providing COS. If the provider of COS changes, then the Commission may  
9 want to analyze the financial impact on the involved companies. I  
10 anticipate the issue of classifying COS as a toll or local service  
11 will have different impacts on the involved companies. Absent any  
12 direction from the Commission on how the PTC plan should change, if  
13 at all, I recommend the Commission continue to classify COS as a toll  
14 service. The Commission may simply want to leave the door open for  
15 a local classification or a different application of access charges  
16 if the affected companies can demonstrate that a local classification  
17 or a different application of access charges will minimize the  
18 financial impact to all involved companies as well as consumers.

19 Q. If the Commission eventually changes the responsibility of  
20 providing COS to a different company, do you anticipate compensation  
21 to be an issue?

22 A. Certainly. At the time COS was initially implemented, the  
23 courts ruled the companies were entitled to revenue neutrality. I  
24 would anticipate similar arguments if the Commission replaces the  
25 responsibility of providing COS with a different company. In fact,  
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1 some of the parties are already suggesting the Commission establish  
2 cost-based pricing for COS.

3 COS Pricing

4 Q. Do you believe COS should be cost based?

5 A. Perhaps but only if the Commission changes COS providers.

6 In my direct testimony I recommended COS be reduced to a one-way  
7 service and the COS rate be 50% of the existing COS rate. Absent  
8 further guidance on how or if the PTC plan will change, I continue to  
9 maintain my proposal. However, should the Commission alter the PTC  
10 plan so that the COS provider will change for a given exchange, then  
11 cost-based pricing may be a reasonable method to address the  
12 compensation issue. Just like the time when the Commission initially  
13 directed the companies to implement COS, the Commission will need to  
14 have some mechanism in place to allow the new COS providers to be  
15 adequately compensated. Cost based COS rates may be appropriate under  
16 such circumstances.

17 Q. Do you foresee difficulties in establishing cost based COS  
18 rates?

19 A. Yes. The Commission will need to address a variety of  
20 issues pertaining to the calculation of cost based COS rates such as  
21 what type of cost study to use, what costs should be included, and  
22 whether reduced revenues should be included in the calculation. From  
23 a consumer standpoint, cost based COS rates will eliminate the  
24 statewide COS rate structure. In fact, COS rates might even differ  
25 between exchanges served by the same company. I would anticipate  
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1 negative consumer reaction.

2 Potential Misuse of COS

3 Q. Ms. Smith in your review of the testimony and various data  
4 requests regarding existing two-way COS routes, have you seen any data  
5 that appeared out of the ordinary compared to past reviews of data  
6 associated with two-way COS?

7 A. Yes. The minutes-of-use (MOUs) reflected in Mr.  
8 Schoonmaker's Schedule RCS-2 of his direct testimony indicated more  
9 MOUs from the target exchange to the petitioning exchange on several  
10 COS routes. This traffic pattern is not typical of what I have seen  
11 in past reviews of COS traffic studies. Generally speaking, in past  
12 reviews I have seen a greater number of MOU in the petitioning  
13 exchange to the target exchange. Therefore having reviewed RCS-2, I  
14 submitted a number of data requests in an attempt to determine the  
15 underlying cause for the shift of traffic from the petitioning  
16 exchange to the target exchange.

17 Q. Ms. Smith what were the results of your discovery?

18 A. Various petitioning exchange LECs are subscribing to COS  
19 on approximately 23 COS routes totaling 134 COS access lines. I  
20 recently discovered these LECs are using the COS lines to market their  
21 Internet access services to consumers in the target exchange. The COS  
22 number which is subscribed to by the petitioning exchange LEC serves  
23 as a pilot number for a trunk hunting group that is tied to a bank of  
24 modems which allows an end user Internet access. This arrangement  
25 allows a target exchange customer to call the petitioning exchange

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1 number toll free to subscribe to an Internet access service. The  
2 Internet access service is not free to the end user but allows an end-  
3 user to access an Internet service provider toll-free whereas if two-  
4 way COS was not available the end-user would be required to pay toll  
5 for the call.

6 This arrangement has been or is financially beneficial to  
7 the petitioning exchange LEC who subscribes to COS for a flat rate,  
8 markets its Internet access service to customers outside their market  
9 area, in market areas where other competitive Internet service  
10 providers may exist. The LEC collects from the end user a fee for the  
11 Internet service based on a usage sensitive rate design. For example,  
12 10 hours of Internet access for \$7.95, 60 hours for \$19.95 and for  
13 every hour following either one of the options \$1.20 per hour. This  
14 expansion of their market area is available based on the elimination  
15 of toll charges that a customer would normally have to incur in order  
16 to reach the LEC's Internet service. Therefore, the petitioning  
17 exchange LEC benefits financially by offering a competitive service  
18 in an exchange by means of a regulated service at little cost to the  
19 LEC.

20 Possible Inappropriate Use of Existing Two-Way COS

21 Q. Ms. Smith why is the access to an Internet service provider  
22 on two-way COS a problem?

23 A. In the tariffs under the terms and conditions for COS, it  
24 specifically states that "COS is not to be shared or resold". In my  
25 opinion the provisioning of Internet access by way of COS is the  
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1 sharing or reselling of COS.

2 Q. How is it sharing or reselling COS?

3 A. In my initial review of the provisioning of Internet access  
4 through the use of COS, the petitioning exchange LEC's COS telephone  
5 number served as a pilot number for a trunk hunting group that is tied  
6 to a bank of modems to allow an end user to gain access to the  
7 Internet. The result allows a target exchange customer to call the  
8 petitioning exchange number toll free for Internet access service.  
9 Moreover, the existing COS tariffs state that, "COS is not to be  
10 offered in conjunction with services such as Cellular, Public, Semi-  
11 Public, Coin Box, Customer-Owned Pay Telephone Services or comparable  
12 services offered by other local exchange companies in their exchanges  
13 listed in this tariff."

14 I also found that the COS rate application for this  
15 arrangement was inappropriately applied. The COS tariffs read that  
16 COS must be applied on a per line basis or must be purchased on all  
17 access lines for an account which is combined billed. The rate  
18 application being applied however was for one COS line although there  
19 were as many as 24 modems tied through trunk hunting on one COS  
20 number. However, it is my understanding that LECs have either  
21 retroactively resolved the inequity in the COS rate application or  
22 they are in the process of correcting the inequity.

23 Q. What would your recommendation be to resolve the misuse of  
24 COS?

25 A. I would recommend that the LECs cease using COS for  
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1 Internet access. It has been my understanding that other Internet  
2 providers who have requested COS service for providing Internet access  
3 have been told that the service is not available to them due to the  
4 resale restriction in the tariff. I view this restriction for one  
5 company but not another company as anti-competitive and discriminatory  
6 and therefore, LECs should cease using COS for Internet access.

7 Q. Ms. Smith do you have any additional comments you would  
8 like to make regarding the testimony filed in this case?

9 A. Yes. I have proposed that the Commission eliminate two-way  
10 COS and replace it with one-way only COS, priced at 50% of the two-way  
11 rate. However, after further review of all the issues and the close  
12 relationship of COS and the PTC plan, I would like to make an  
13 additional recommendation.

14 Q. What would be your recommendation?

15 A. In my opinion the Commission should consider eliminating  
16 COS in its entirety. I base this recommendation on the fact that if  
17 it had not been for the existing PTC plan, COS would not have been  
18 created. I anticipate that the need for COS will be eliminated with  
19 the migration of customers from the COS plan to other competitive  
20 services that better meet the customers needs or desires. Therefore,  
21 I believe there will be a decline in the COS customer base which  
22 causes one to consider whether there is a need to go through all of  
23 the complexities involved in modifying the service. As stated in my  
24 direct testimony, any change to the existing COS plan is going to be  
25 painful with very little benefit, if any, gained through that process.

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1 Q. Ms. Smith, can you summarize your rebuttal testimony?

2 A. Yes. I agree with many witnesses that there is a strong  
3 relationship between the decisions reached in this case regarding COS  
4 and any subsequent decisions to change the PTC plan. The Commission  
5 should try to keep in mind these relationships as they make decisions  
6 in this case. If the Commission anticipates changing the PTC plan so  
7 that it shifts the responsibility of providing COS, then the  
8 Commission may want to carefully consider how COS should be classified  
9 and priced. My testimony also identified a misuse of COS as  
10 discovered through the review of direct testimony and made a  
11 recommendation for resolving this situation.

12 Q. Ms. Smith, does this conclude your testimony?

13 A. Yes.  
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BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

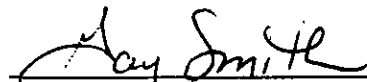
In the Matter of an Investigation into the  
Provision of Community Optional Calling  
Service in Missouri.

Case No. TW-97-333

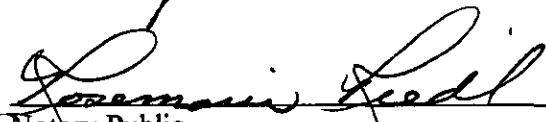
AFFIDAVIT OF GAY SMITH

STATE OF MISSOURI            )  
  )     SS.  
COUNTY OF COLE            )

Gay Smith of lawful age on her oath states: that she has participated in the preparation of the foregoing Rebuttal Testimony in question and answer form, consisting of 10 pages be presented in the above-referenced case; that the answers in the foregoing Rebuttal Testimony were given by her; that she has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of her knowledge and belief.

  
\_\_\_\_\_  
Gay Smith

Subscribed and sworn to before me this 23rd day of May, 1997 *er*

  
\_\_\_\_\_  
Notary Public

My Commission Expires: June 1, 1997