

Exhibit No.

Issue: All Issues

Witness: Larry Stone

Type of Exhibit: Direct Testimony

Sponsoring Party: City of St. Louis

Case No.: TM-96-62

City of St. Louis

Case No. TM-96-62

DIRECT TESTIMONY

OF

LARRY STONE

FILED

MAR 27 1996

MISSOURI  
PUBLIC SERVICE COMMISSION

MARCH 27, 1996

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

In the Matter of the Application )  
of MCIMetro Access Transmission Services, ) Case No. TM-96-62  
Inc. for determination of no jurisdiction )  
over a sale of assets. )

AFFIDAVIT OF LARRY STONE


STATE OF MISSOURI )  
 ) SS.  
CITY OF ST. LOUIS )

I, Larry Stone, of lawful age, being duly sworn, depose and state:

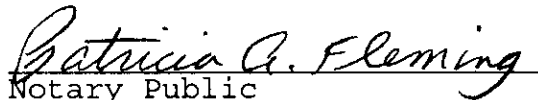
1. My name is Larry Stone. I am Communications Manager for the City of St. Louis.

2. Attached hereto and made a part hereof for all purposes is my direct testimony.

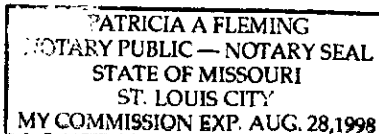
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge, information and belief.

  
Larry Stone

27th Subscribed and sworn to before me, a Notary Public, this day of March, 1996.

  
Notary Public

My Commission Expires: 8/28/98



**Direct Testimony of Larry Stone  
on Behalf of  
City of St. Louis**

**Q. Please identify yourself to the Commission.**

A. I am Larry Stone. I am manager of the Communications Division of the City of St. Louis.

**Q. Please describe your background to the Commission.**

A. I received a bachelor's degree in journalism from the University of Missouri in 1960. From 1977 to 1989, I was employed as public relations director and media relations director for St. Mary's Health Center in suburban St. Louis. After that I was retained as a consultant to Human Resource Management Company. I was hired as manager of the City's Communication Division in 1991.

**Q. What are your general duties as communications manager?**

A. The communications division has two primary responsibilities -- telecommunications regulation and program production for government access channels on the City's cable television system. There are 13 employee positions in the communications division.

**Q. With respect to your duties related to telecommunications, have you become familiar with industry practices, regulations and operations?**

A. Yes. That is particularly true with respect to MCIMetro Access Transmission Services, Inc., which I refer to as

MCIMetro. Because the communications division's day-to-day telecommunications regulator was unable to work for a period of time, I became involved in some of the MCI matters during that time and I remained involved to maintain continuity.

**Q. Mr. Stone, are you familiar with Chapter 23.64 of the City Code?**

**A. Yes.** Among other things, it sets out the City's requirements for Competitive Access Providers to obtain access to City rights of way. Such providers must, among other things, agree to pay an annual license fee based on the size of their systems as measured by linear feet. The current per-foot charge is \$1.65.

**Q. Did all of the Competitive Access Providers operating in the City agree to pay the license fees before they were permitted to install their systems?**

**A. Yes.**

**Q. How many competitive Access Providers operate in the City and how much do they pay in license fees for each year?**

**A. Five.** They pay a total of about \$496,700 per year in license fees.

**Q. Does Southwestern Bell pay a license fee to the City?**

**A. No.** Southwestern Bell, the local telephone service provider in the City, pays a 10 percent tax gross receipts. The Southwestern Bell gross receipts tax paid to the City amounted to \$8,761,819.12 for fiscal year 1994-1995.

Q. Based on your experience in the telecommunications field, do you think MCIMetro would enjoy a competitive advantage over other telecommunications companies operating in St. Louis if MCIMetro is allowed an exemption from the license fees other Competitive Access Providers are required to pay?

A. Certainly. MCIMetro would be relieved of a significant overhead expense that its competitors must pay. As we all know, when one company enjoys that sort of advantage, it stifles competition among providers. Competition is good for the public because it encourages companies to keep their rates low in order to attract and keep customers. Giving MCIMetro a leg up on competitors can only diminish those benefits.

Q. Can the City somehow compel MCIMetro to pass any savings on to its customers?

A. I don't believe the City possesses a vehicle for accomplishing that. And I think it would be naive to expect MCIMetro to do anything but charge its customers what the market will bear. Any reduction in rates will occur because of market demands, not as a result of MCIMetro's civic-mindedness. I don't mean to criticize MCIMetro. Any company in the same position would do the same thing.

Q. Do you know if MCIMetro has plans to provide local service in Missouri?

A. I do not have any specific knowledge about Missouri. But I do know from press accounts that MCIMetro's mission is to

provide local telephone service. That is confirmed by its own promotional materials and other MCIMetro documents which I believe were introduced as exhibits at trial in St. Louis when MCIMetro sued the City in an effort to obtain the rights previously held by Western Union Corporation.

**Q. When other companies begin providing local service in Missouri pursuant to the recently enacted federal telecommunications laws, does the City plan to collect a gross receipt tax from them as well?**

**A.** At this time the City plans to collect a 10 percent gross receipts tax from all providers of local telephone service. However, those plans may be modified somewhat depending on our analysis of the recently enacted federal telecommunications legislation and any state legislation that may be adopted. But in any event, there will be a gross receipts tax or fee applied to local service providers. Of course, that position may change if MCIMetro prevails in its efforts to acquire, assume and enforce all of Western Union's rights to operate without charge.

**Q. How would the City's position change in that event?**

**A.** My understanding is that a court previously found Western Union exempt from gross receipts tax requirements stemming from use of public rights of way. If MCIMetro now enjoys that exemption, it would have an incredible advantage over Southwestern Bell, other local service providers and prospective providers. As I noted before, Southwestern Bell

pays more than \$8 million a year in gross receipts taxes. MCIMetro's competitive advantage would be substantial.

**Q. Have you had an opportunity to review the new federal telecommunications laws and assess their potential impact on the City?**

**A.** I am still in the process of reviewing the legislation. But one provision is somewhat troublesome as it relates to the MCIMetro situation. A section of the law prohibits discrimination by local governmental entities in assessing fees. If MCIMetro is allowed to step into Western Union's shoes and assert an exemption from local license fees, gross receipts taxes and so on, I fear that the anti-discrimination provisions of the federal law may be construed to require the City to also exempt all other telecommunications companies from those fees and taxes. That would mean a loss of about \$13.7 million a year in revenue. By comparison, the City receives a total of about \$300 million a year in general revenue, meaning that the City stands to lose nearly five percent of its gross annual revenue if MCIMetro assumes Western Union's rights.

On the other hand, the federal law may supersede and abrogate Western Union's 1881 contract in that it compels the City to charge Western Union (and any successors) an amount equal to that paid by other telecommunications companies to use the public rights of way. I'll leave the

interpretation of the anti-discrimination provision of the law to the lawyers.