

# BEFORE THE PUBLIC SERVICE COMMISSION

## OF THE STATE OF MISSOURI

In the Matter of the Notice of Election of )  
ALLTEL Missouri, Inc., to be Price-Cap- )  
Regulated under Section 392.245, )  
RSMo 2000. )

Case No. IO-2002-1083

### DISSENTING OPINION OF COMMISSIONER CONNIE MURRAY


I do not necessarily believe that a strict application of the price cap statute (392.245.2) provides a well-reasoned result. Nevertheless, I cannot find any statutory construction that gives the Commission discretion to reject the price cap election of ALLTEL.

I am particularly concerned that price cap election may delay or circumvent access charge reform. It is also possible that price cap election may allow incumbents to freeze rates at levels that would be disallowed pursuant to an earnings investigation.

The statute, however, does not give the Commission discretion to reject a price cap election by an incumbent local exchange telecommunications company such as ALLTEL where, as here, an alternative local exchange telecommunications company has been certified to provide basic local telecommunications service as defined by § 386.020(4), and is providing such service in any part of the incumbent company's service area.

For these reasons, I dissent from today's Report and Order which finds  
ALLTEL ineligible to elect price cap status.

Respectfully submitted,

  
**Connie Murray, Commissioner**

Dated at Jefferson City, Missouri,  
on this 20th day of July, 2004.