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November 19, 2003

FILED

NOV 19 2003

Missouri Public
Service Commission

Secretary of the Commission
Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

Re: MITG's Brief on the Jurisdiction of the Commission to Regulate Voice Over
Internet Protocol Services
Case No. LA-2004-0133

Dear Secretary:

Enclosed please find an original and eight (8) copies of the MITG's Brief on the
Jurisdiction of the Commission to Regulate Voice Over Internet Protocol Services.

Thank you for seeing this filed.

Sincerely,



Bryan Lade

BL:lw

Enclosures

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED
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Missouri Public
Service Commission

In the Matter of the Application of)
Time Warner Cable Information Services)
(Missouri), LLC for a Certificate of Service)
Authority to Provide Local and)
Interexchange Voice Service in)
Portions of the State of Missouri and to Classify)
Said Services and the Company as Competitive)

Case No. LA-2004-0133

**MITG'S BRIEF ON THE JURISDICTION OF THE COMMISSION
TO REGULATE VOICE OVER INTERNET PROTOCOL SERVICES**

COMES NOW the Missouri Independent Telephone Company Group ("MITG"), by and through undersigned counsel, in response to the November 10, 2003 order of the Commission, directing parties to the above captioned case to file "a brief setting forth its position as to whether the Missouri Public Service Commission has jurisdiction to regulate Voice over Internet Protocol ["VoIP"] services," and files the following:

Introduction

In its application Time Warner Cable Information Services ("TWCIS) propose to provide intrastate local and interexchange voice service in Missouri. TWCIS there announced its plans to offer voice service targeted to the residential market on a flat rate basis that allows local calling, operator services, directory assistance, white page directory listings, enhanced 911 services, out bound 800 toll-free calling, local number portability, and access to telephone relay services. TWCIS's own description notes that their "customers will be able to call and be called by any other IP voice service subscriber of applicant, and that its IP voice service subscribers will also have access to the "public switched telephone network", and thus will be able to call and be called by all other parties connected to the PSTN." In its description of its operation

Time Warner states that it "will deploy a softswitch and two Media Gateway Controllers in Kansas City , Missouri. In addition, [Time Warner] will deploy new Multimedia Terminal Adapters . . . in the homes of customers using the . . . voice services."

The Missouri Public Service Commission does possess jurisdiction over the services proposed to be offered by TWCIS. These services are within the definition of telecommunications services as defined by § 386.020(53) RSMo, pursuant to the legislature's grant of jurisdiction to the commission as stated in § 386.250(2) RSMo.

Argument

The Commission has the regulatory jurisdiction over any entity providing telecommunications services within the state of Missouri. The General Assembly stated in § 386.250(2) RSMo. (2000) that this commission's

jurisdiction, supervision, powers and duties . . . shall extend . . . to all telecommunications facilities, telecommunications services and to all telecommunications companies so far as such telecommunications facilities are operated or utilize by a telecommunications company to offer a provide telecommunications service between one-point and another within this state or so far as such telecommunications services are offered or provided by a telecommunications company between one-point and another within this state.

Thus, to the extent that the services TWCIS plans to offer fall within the definition of telecommunications service, they are clearly within the jurisdiction of this Commission.

Section 386.020.53 RSMo. defines "telecommunications service [as] the transmission of information by wire, radio, optical cable, electronic impulses, or other similar means. As used in this definition "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols."

The services that TWCIS proposes to provide will include the transmission of information, knowledge, or intelligence by electrical impulse or similar means over a cable or

wire. There is no dispute that the end result of TWCIS's service will be the transmission of spoken voice between the caller and the called party, which is exactly the same result of plain old telephone service (POTS).

Although Voice over Internet Protocol services are relatively recently developed and implemented technologies, they remain the functional equivalent of POTS, and deserve no different regulatory treatment in the future than does POTS.

The Missouri statutes are technology-neutral. To except from this statute based upon a new technology will start the Commission's jurisdiction down a slippery slope, the bottom of which could easily result in the relinquishment of oversight over many carriers currently subjected to regulation.

It does not matter if the medium is POTS analog voice transmission over copper wires and switches, or if the medium is IP digitized data packets of voice transmitted by computers over cables to and from the internet and/or to and from the traditional telephone network. The result is a voice conversation between the caller and the called party. When this conversation occurs, TWCIS will be providing a telecommunication service under Missouri law.

The MITG is aware of no federal statute which purports to preempt Missouri jurisdiction over the technology TWCIS purports to utilize.

Conclusion

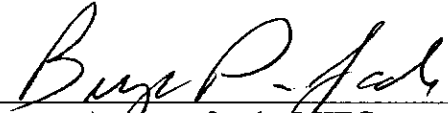
Under current Missouri law, this Commission has jurisdiction over TWCIS as a provider of telecommunications service. The Commission should exert jurisdiction, and investigate and resolve any issue related to VoIP services, and the consideration of TWCIS's certification request, in the most expedient manner possible.

**ANDERECK, EVANS, MILNE,
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was hand delivered or mailed, U. S. Mail, postage pre-paid, this 19th day of November 2003, to:


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