Exhibit No.
Issues: Tariffs
Witness: Graves
Type of Exhibit: Direct
Sponsor: MCI
Case No. TO-2002-129
Date: 06-01-05

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of AT&T Communications of the Southwest, Inc.'s Proposed Tariff to Establish a Monthly Instate Connection Fee and Surcharge	)))	**Case No. TT-2002-129**
In the Matter of Sprint Communications Company, L.P.'s Proposed Tariff to Introduce an In-State Access Recovery Charge and Make Miscellaneous Text Changes.	))))	**Case No. TT-2002-1136**
In the Matter of MCI WorldCom Communications, Inc.'s Proposed Tariff to Add an In-State Access Recovery Charge and Make Miscellaneous Text Changes.	))))	**Case No. XT-2003-0047**
In the Matter of MCI WorldCom Communications, Inc.'s Proposed Tariff to Increase its Intrastate Connection Fee to Recover Access Costs Charged by Local Telephone Companies.	)))))	**Case No. LT-2004-0616**
In Re the Matter of Teleconnect Long Distance Services and Systems Company, a MCI WorldCom Company d/b/a Telecom USA's Proposed Tariff to Increase its Intrastate Connection Fee to Recover Access Costs Charged by Local Telephone Companies.	))))))	**Case No. XT-2004-0617**

DIRECT TESTIMONY OF
ANDREW M. GRAVES
ON BEHALF OF MCI WORLDCOM COMMUNICATIONS, INC. AND
TELECONNECT LONG DISTANCE SERVICES AND SYSTEMS COMPANY

Carl J. Lumley, #32869
Leland B. Curtis, #20550
130 S. Bemiston, Suite 200
St. Louis, Missouri 63105
(314) 725-8788
(314) 725-8789 (FAX)
clumley@lawfirmemail.com
lcurtis@lawfirmemail.com
ATTORNEYS FOR: MCI WorldCom Communications, Inc.
and Teleconnect Long Distance Services and Systems Company

June 1, 2005

Q. Please state your name.

A. My name is Andrew M. Graves.

Q. By whom are you employed and in what capacity?

A. I am currently employed by MCI, Inc. as Director of Marketing Strategy and Policy for its Mass Markets Division. I have twelve years of experience in the telecommunications field, all with MCI, Inc. or its predecessor companies or subsidiaries. I have held this particular position since approximately February, 2004.

Q. Please describe your education and employment background.

A. My duties include overseeing all legal and regulatory issues related to marketing MCI, Inc.'s local and long distance services to residential customers. For instance, I work with the company's legal and regulatory groups to ensure favorable business conditions, and I make certain that our long distance and local operations comply with all regulations. I also work very closely with sales and product marketing groups to help formulate sales plans and product and pricing strategies. As a result, I am personally knowledgeable about MCI, Inc.'s mass market customer base and MCI, Inc.'s and its subsidiaries' relationships with its mass markets customers.

Q. What is the purpose of your testimony?

A. To support the MCI WorldCom and Teleconnect tariff provisions at issue in this proceeding.

Q. Please identify MCI WorldCom Communications, Inc.

A. MCI WorldCom Communications, Inc. is a Delaware corporation in good standing with the Missouri Secretary of State. It is a subsidiary of MCI, Inc.

MCI WorldCom was originally named WorldCom Technologies, Inc. In 1997, it obtained a certificate of authority to provide interexchange telecommunications services in Missouri from the Commission and was classified under Section 392.361 as a competitive company providing competitive services by the Commission in Case No. TA-98-16. In 1999, it was renamed MCI WorldCom Communications, Inc. in connection with mergers approved by the Commission in Case No. TM-99-588.

Q. Please identify Teleconnect Long Distance Services and Systems Company

A. Teleconnect Long Distance Services & Systems Company, Inc. is an Iowa corporation in good standing with the Missouri Secretary of State. It is also a subsidiary of MCI, Inc.

Teleconnect was originally named Teleconnect Co. In 1987 it obtained a certificate of authority to provide interexchange telecommunications services in Missouri from the Commission in Case No. TA-86-114. In 1988, Teleconnect adopted the original tariffs of its parent company Teleconnect Co. In 1989, it was classified under Section 392.361 as a competitive company providing competitive services by the Commission in Case No. TO-88-142.

Q. Please identify the MCI tariffs at issue and describe the regulatory proceedings that have led up to the current proceedings.

A. On August 3, 2002, pursuant to Section 392.500, MCI WorldCom Communications, Inc. filed Original Tariff Page No. 40.2 for its Missouri PSC Tariff No. 1, adding section 6.10 Instate Access Recovery Fee, providing as follows:

Instate Access Recovery Fee

MCI(R) is charged to originate and terminate it's instate long distance calls over other companies networks. MCI will assess a monthly fee to residential customer to recover these charges. Customers will be exempt from this charge during any monthly billing period where their MCI spending is less than $1.00.

Residential Customers

An Instate Access Recovery Fee of $1.95 per account per month will be applied to invoices of customers of the following residential services under this tariff.

Option A (Dial One/Direct Dial)
Option B (Credit Card)

The tariff was assigned no. 200300092.

As the Commission previously confirmed in its August 27, 2002 order referenced below, MCI provided at least 10 days advance notice to customers of the tariff filing as required by Section 392.500, by including a notice in customer billing.

Public Counsel filed a motion to suspend the tariff filing, resulting in the opening of Case No. XT-2003-0047. After MCI and Staff responded, on August 27, 2002, the Commission issued its Order Denying Suspension and Approving Tariff with an effective date of September 3, 2002, which approved the tariff to become effective September 3, 2002.

In approving the MCI tariff, the Commission noted that similar tariffs had recently been approved for AT&T (Case No. TT-2002-129) and Sprint (Case No. TT-2002-1136).

Public Counsel pursued judicial review of all three of the foregoing orders. The Cole County Circuit Court initially affirmed the Commission's orders. However, the Missouri Court of Appeals, Western District, reversed the Commission's orders and the matters were remanded to the Commission "with directions to make findings of fact and conclusions of law, in accordance with the Mandate of the Missouri Court of Appeals."

In its Opinion, the Court of Appeals held that the Commission "failed to make sufficient findings of fact and conclusions of law to justify its orders." Specifically, the Court determined that the Commission "does not articulate, as required, the factual basis for its conclusion that the alleged [by Public Counsel] disparate treatment of residential, low volume, and rural customers was not a violation of 392.200.2 and .3 as claimed by OPC" and "fail[s] to articulate the factual basis for the Commission's conclusion that the proposed tariff revisions are just and reasonable." The Court indicated that the Commission "may reopen the case and hear additional evidence, if a majority of the Commission desires to do so. [citation omitted] Otherwise, it may make the required findings of fact and conclusions of law based on the evidence already presented."

On May 28, 2004 MCI WorldCom Communications, Inc. made a tariff filing that included, among other things, a first revised page 40.2 for Missouri PSC Tariff No. 1 that proposed an increase to the Instate Access Recovery Fee of $1.00 (an increase from $1.95 to $2.95).

As the Commission previously confirmed in its July 22, 2004 order referenced below, MCI WorldCom provided at least 10 days advance notice to customers of this increase as required by Section 392.500, by including a notice in customer billing.

This tariff filing was assigned number JL-2004-1424.

Public Counsel filed pleadings opposing the tariff filing, which resulted in the opening of Case No. LT-2004-0616.

The Commission suspended the tariff filing, directed MCI to respond to Public Counsel's pleadings (which it did), and held oral argument. On July 22, 2004, the Commission issued its Order Denying Suspension and Approving Tariff, effective August 1, 2004.

At the same time, Teleconnect filed fourth revised page 14 to its Missouri Tariff No. 1, proposing the same $1.00 increase to the fee.

When Teleconnect introduced the fee (after providing the required notice to customers), the tariff took effect as proposed without any proceedings. The revised tariff page included the original tariff language, as only the rate was changed. The language is as follows:

> Instate Access Recovery Fee
>
> A monthly service charge that is applied to Customers subscribed to the Company for long distance services associated with a residential telephone line or billed to a residential account. This charge reflects costs incurred by the Company in providing in-state long distance service over Customer's local exchange provider's network. You will be exempt from this charge during any monthly billing period where your MCI spending is less than $1.00. The fee will be listed as a separate line item in your invoice as Instate Recovery Fee.
>
> Monthly Charge: $2.95

As confirmed by the Commission in its July 22, 2004 order referenced below, Teleconnect provided at least 10 days advance notice to customers of this increase as required by Section 392.500, by including a notice in customer billing.

This tariff filing was assigned number JX-2004-1436.

Public Counsel filed pleadings opposing the tariff filing, which resulted in the opening of Case No. XT-2004-0617.

The Commission suspended the tariff filing, directed Teleconnect to respond to Public Counsel's pleadings (which it did), and held oral argument. On July 22, 2004, the Commission issued its Order Denying Suspension and Approving Tariff, effective

August 1, 2004, and issued a subsequent Notice of Correction correcting errors in references to the tariff pages at issue.

Public Counsel sought judicial review of the Commission's Orders in Case Nos. LT-2004-0616 and XT-2004-0617. Subsequently, the appellate proceedings regarding the initial MCI WorldCom tariff filing were concluded. As a result, by stipulation, the cases concerning the $1.00 increases were remanded to the Commission for further consideration.

In February 2005, the Commission reopened Case Nos. XT-2003-0047, LT-2004-0616 and XT-2004-0617 and set simultaneous conferences in those cases as well as the original AT&T and Sprint cases. Subsequently, the Commission consolidated these cases, informed the parties that it wanted to hear additional evidence on these tariffs, and directed the parties to file a proposed procedural schedule. The parties agreed to a proposed procedural schedule that the Commission then approved.

Q. Are MCI and Teleconnect currently charging the fee that is at issue?

A. Yes. MCI and Teleconnect believe the tariffs covering this rate are in effect, pending final resolution of this matter.

Q. What are MCI's and Teleconnect's intrastate long distance rates, aside from the fee that is at issue?

A. MCI and Teleconnect each have a wide variety of rates, depending on programs, plans, and discounts. MCI's highest rate for Option A (Dial One/Direct Dial) service is 25 cents per minute. MCI's highest rate for Option B (Credit Card) service is 55 cents per minute. Teleconnect's highest rate is its Hello America service at a top rate of 25 cents per minute.

However, as the FCC has observed, such basic schedule rates are essentially obsolete due to the availability of numerous calling plans. In its latest "Reference Book of Rates, Price Indices, and Household Expenditures for Telephone Service", (at p. iv, I4-I6) the FCC states:

> Toll Service Rates:
>
> ▪ The increased availability and marketing of discount and promotional long distance plans, as well as the popularity of wireless "bucket-of-minutes" plans, has made basic schedule rates obsolete for many long distance customers, particularly business customers and high volume residential consumers. Today wireline, wireless, and cable companies are offering consumers bundled packages of local and long distance service, and buckets of minutes that can be used to call anyone, anywhere, and anytime.
>
> ▪ The average revenue per minute of long distance calling, which reflects rates paid by residential and business consumers, has fallen from 15 cents in 1992, when discount and promotional long distance plans were introduced, to 7 cents in 2003, a decrease of 53%.[1]
>
> ▪ During 2004, the consumer price index for interstate toll service fell 8.7% and the consumer price index for intrastate service fell 6.6%, while the overall consumer price index rose 3.3%.
>
> * * *
>
> C. Toll Service Rates
>
> Since 1992, carriers have introduced an impressive array of discount and promotional plans, and many long distance residential customers subscribe to these plans. These plans take a variety of formats. Some plans offer a block of

[1] This refers to interstate rates.

calling times for a fixed fee and reduced per minute rates for additional calling while others give volume discounts or discounts for calls to certain phone numbers or area codes. One common trend has been the introduction of flat-rate calling plans, which eliminate the mileage bands associated with traditional basic schedules. For example, Verizon's "Freedom" plan offers unlimited long-distance and local calling (as well as unlimited voice mail, caller ID, call waiting, speed dialing, and three-way calling) for as low as $49.95 per month (not including add-on charges). In addition, Verizon offers discounts on its high-speed Internet and wireless offerings to those subscribers who sign up for the "Freedom" plan.

Section 271 of the Telecommunications Act of 1996 allowed the Regional Bell Operating Companies (RBOCs) to provide in-region interLATA toll services once the companies satisfied a fourteen-point "checklist" of conditions which demonstrates that their local exchange markets are open to entry by competitive local exchange carriers. All of the RBOCs attained section 271 approvals for their particular markets, and many are now offering discounted bundled packages of voice and popular calling features.

Wireless companies and prepaid calling cards offer more options for long-distance customers. Wireless companies now offer packages which enable customers to purchase a set number of minutes of usage per month at a set rate (some with unlimited nights and weekends) and allow customers to use these minutes for local or long distance calling. Consumers may also purchase prepaid calling cards, which contain an allotted number of minutes, with some charging rates less than three cents per minute.

Using revenue per-minute data for both residential and business interstate toll traffic, Table 1.15 illustrates the downward trend in long distance rates since discount long distance plans were introduced in 1992. The carriers' average revenue per interstate toll minute has fallen by 53% since 1992, demonstrating that the advent of discount long distance plans has produced lower rates for both business and residential consumers.

* * *

2. Toll Rates

Up until August 2001, all interstate interexchange carriers were required to file tariffs setting forth their rates with the FCC. These filings were available for public inspection at the FCC's Reference Information Center, Washington, DC. As of August 1, 2001, interstate carriers were no longer required to file tariffs setting for their interstate long distance rates. Since that date, carriers are required to post their rates on their websites.

The BLC publishes a number of price indices that follow trends in toll rates. Part III of this report reviews these indices. The most current figures can be obtained at stats.bls.gov.

Finally, there are a number of firms that specialize in monitoring major long distance companies and their rates, and many of these firms maintain Internet sites. Some examples are Abtolls.com, a free directory service guide to long distance carriers and their rates; Telecommunications Research and Action Center, which uses a search engine to find the lowest long distance rates for any selected calling pattern; *Phone Bill Busters*, which lists discount long distance plans and uses a search engine to find the lowest long distance rates for any selected calling pattern; and *Discount Long Distance Digest*, an Internet newsletter which offers a "free multi-carrier cost comparison service." One can access these services on the Internet at www.abtolls.com, www.trac.org, www.phone-bill-busters.com and www.thedigest.com

Q. Who are MCI's and Teleconnect's competitors?

A. There are hundreds of companies authorized to provide intrastate interexchange services in Missouri. Some are exclusively interexchange carriers, known as IXCs. Others also provide local services and are either incumbents (ILECs) that were providing local services before the passage of the Telecommunications Act of 1996 or are new market entrants known as alternative or competitive LECs (CLECs). According to the Commission's 2004 Annual Report, there are 495 authorized IXCs, 43 ILECs and 88 CLECs in Missouri. Most prominent among interexchange providers are the larger incumbent local exchange companies and their affiliates, such as SBC, Sprint, CenturyTel and Spectra. SBC is in the process of acquiring AT&T, which is another significant competitor.

In November 2001, in Case Nos. TA-2001-475 and TA-99-47, when the Commission granted authority to a separate affiliate (then known as SBCS) of SBC Missouri to enter the interLATA market in Missouri pursuant to Sections 271 and 272 of the Telecommunications Act of 1996, it found that it "has regularly issued certificates to more than 600 IXCs - including affiliates of other ILECs - classified as 'competitive' in Missouri." Further, the Commission found that "A minimum of 74 carriers serve with 1+ service in each SWBT exchange in Missouri." And the Commission found that "the enhanced competition provided by SBCS in the long-distance market will 'ensure that customers pay only reasonable charges … for [those] services.'"

Additionally, wireless carriers and VOIP providers offer long distance services. According to the FCC's December 2004 report there were 2,859,953 wireless subscribers (as compared to wireline subscribers of about 3.5 million) in Missouri, with 12 providers reporting. The Commission Telecommunications Staff reported these figures in their 2004 "In Review" report. VOIP providers are not required to obtain PSC certificates of authority.

A copy of the Staff report is attached hereto as **Schedule AG-1**.

Q. Has Public Counsel acknowledged that the long distance market is competitive in Missouri?

A. Yes. In the brief (at page 12) that Public Counsel filed in the Circuit Court in the review proceeding concerning the original MCI tariff filing at issue, Public Counsel stated: "the competitive marketplace determines to what extent the carrier will seek to recover all or any part of [its] costs in its rates."

A copy of the first page and page 12 of that brief is attached hereto as **Schedule AG-2**.

Q. How do MCI's and Teleconnect's rates compare to those of their competitors?

A. MCI and Teleconnect rates are competitive and as a result customers regularly select these companies to be their providers, and choose to remain with them.

Q. Can a prospective customer easily obtain information to allow them to compare one provider to another?

A. Yes. For example, the Commission's website provides rate comparisons and links to other sources for rate comparisons.

Sample printouts of information obtained through the Commission's website are attached hereto as **Schedule AG-3**.

The FCC also provides guidance to people looking for a provider.

A printout of information from the FCC's website is attached hereto as **Schedule AG-4**.

Each company also disseminates information to customers in a wide variety of ways, including TV, radio, print media, direct mail, and telemarketing. Additionally, each company posts rate information on its website.

Q. If an existing customer is dissatisfied with MCI's or Teleconnect's rates, can it change providers?

A. Yes. Changing interexchange providers is something that customers do all the time. It is a simple process. A customer need only authorize the new provider to make the change (as well as lift any freeze on changes that the customer may have placed to guard against unauthorized changes). The Commission and the FCC have implemented rules to make certain that such changes are processed immediately. For example, see 4 CSR 240-33.150. Once the customer changes their presubscribed carrier, when they dial 1 plus the called telephone number, they will get service from the new carrier. Customers can even choose separate providers for intraLATA long distance and interLATA/interstate long distance (as well as international calling).

Q. Based on your experience and expertise, do you have an opinion, to a reasonable degree of certainty, as to whether the MCI and Teleconnect rates, including the fee at issue, are reasonable?

A. Yes. These rates are reasonable charges for intrastate long distance service and are competitive with market rates charged by other companies, as shown above. In this case, we are talking about a total additional charge of less than $36 per year.

Q. Can the Commission rely on the market to assure long distance rates are reasonable?

A. Yes. Under Section 392.185(6), the Commission can and should allow competition to function as a substitute for regulation to assure that rates are reasonable.

In Case No. IO-2003-0281, the Commission released Sprint from price cap regulation for intrastate intraLATA long distance services throughout the state, which means the amount Sprint charges for such services has been deregulated. The Commission granted similar relief to SBC in Case No. TO-2001-0467, and although that decision was recently reversed and remanded, SBC was able to set its prices without regulatory oversight as to reasonableness for a period of four years and has not been required to change rates since the reversal of the Commission's decision. These two carriers serve areas in which the vast majority of the population of Missouri resides, and the Commission has been relying on the market to control intraLATA toll prices charged by them throughout the state.

SBC witness Craig Unruh recently testified in Case No. TO-2005-0035 that:

> "SBC Missouri did restructure its intraLATA toll service because the competitive market for toll had evolved to a different pricing structure. Prior to a competitive classification, SBC Missouri's intraLATA toll pricing was based on numerous mileage bands so the price of a call depended on how far the call was between the two parties (e.g., a 10 mile call cost less than a 50 mile call). The marketplace for basic long distance had evolved to a more simple time of day approach where it no longer mattered how far you were calling. To remains competitive, SBC Missouri restructured its toll pricing to match the structure that had become prevalent in the marketplace."

A copy of this testimony excerpt (pages 13-14) is attached hereto as **Schedule AG-5**.

As discussed above, SBC has been providing interLATA long distance services through SBCS n/k/a SBC Long Distance, Inc. under Section 272 of the Telecommunications Act of 1996, and while the obligation to use a separate subsidiary expired in November 2004 it appears SBC continues to provide such services through the subsidiary. The Commission granted authority to the subsidiary in Case Nos. TA-2001-475 and TA-99-

47, and classified the company and its services as competitive. (The company changed its name to the current one in Case No. TN-2005-0149).

MCI and Teleconnect regularly monitor the rates charged by their competitors and make sure that their rates remain competitive.

Q. Does it make a difference in terms of what the customer pays, whether the fee is stated as a separate surcharge or simply included in the rate?

A. No, the customer's total payment would be the same.

Q. Why do MCI and Teleconnect want the fee at issue to be a separate charge, rather than simply including it in the base rates?

A. MCI and Teleconnect offer services throughout the country. They need uniform base rates for marketing purposes because the market has moved to either block-of-time or all jurisdiction pricing. MCI and Teleconnect disclose during their marketing activities that additional charges can apply depending on location. Existing customers were given notice when the fee was introduced, and when it was increased, as required by law. And of course, customers are reminded of the charge each time it appears on their bill and can always change carriers if they are dissatisfied. The fee is not hidden from customers.

Q. Why did MCI and Teleconnect introduce the fee, and subsequently increase it?

A. Because the rates charged to them by local exchange carriers for originating and terminating switched access services (that enable long distance calls to originate and terminate on the local facilities that serve the end user) are significantly higher in

Missouri than in some other states. MCI and Teleconnect introduced the fee and increased it in an effort to have total rates that take these unusually exorbitant access charges into account.

As reflected in the Telecommunications Department Staff's 2004 "In Review" report (which provides further information regarding switched access charges at pages 9-11), average access charges in Missouri can be as high as 26.63 cents per minute, depending on the local exchange carrier. The staff's chart shows ILEC rates, and CLECs are allowed to charge as much as the ILEC under the standard conditions that the Commission includes with CLEC certificates of authority.

Staff witness Ben Johnson testified in Case TR-2001-65 that Missouri rates are generally higher than rates in other states. He stated:

> "The Missouri rates are generally higher. Rates for other states are set forth on Schedule 6. The total rates range from a low of $0.0029 to a high of $0.0998 with an overall average of $0.0240. The average rate of the Missouri large ILECs is close to the high end of the national range and considerably higher than the average of the other states. The average rate of the small Missouri ILECs is also much higher than the average rate charged by the ILECs in the other states. However, the latter comparison must be viewed with caution, since the rate data from other states was obtained from large ILECs."

A copy of page 134 of Mr. Johnson's Direct testimony, together with his Schedule 6, is attached hereto as **Schedule AG-6**.

AT&T witness Matthew Kohly testified in the same case, stating:

> "Undeniably, Missouri's access rates are among the highest in the nation. Based upon AT&T's own data, Missouri ranks fifth in the nation for the highest average

> switched access rates. The only states exceeding Missouri in this category are North Dakota, South Dakota, New Mexico, and Alaska."

A copy of page 24 of Mr. Kohly's Surrebuttal testimony is attached hereto as **Schedule AG-7.**

In its Report and Order in Case TR-2001-65, the Commission acknowledged that Missouri switched access charges are high and problematical. The Commission stated at pages 11-13 (footnotes deleted):

> "Intrastate exchange access, or switched access, is a telecommunications service that permits interexchange calls between subscribers located in different local exchanges within the state of Missouri. It is a wholesale service that local exchange telecommunications companies sell to other carriers to permit them to "access" their customers through their networks. A long distance or "toll" call incurs access charges at each end, originating and terminating. Switched access is not sold to end users, that is, residential and business customers, but to other telecommunications carriers. The access charge regime came into existence in 1983 with the break up of AT&T."

> "Switched access service is a locational monopoly. Consequently, competitive pressure cannot exert sufficient market discipline to maintain access rates at a reasonable level in the absence of a cap. For ILECs subject to price-cap regulation, the cap is provided by the provisions of Section 392.245, the Price Cap Statute. For ILECs subject to traditional rate-of-return regulation and for telephone cooperatives, the cap is found in the Commission's authority to directly set access rates. For CLECs, the cap is imposed by the Commission as a condition of competitive classification."

> "Historically, state commissions and the federal government have acted to keep residential telephone service rates low in order to encourage a high level of participation in the local telephone network by residential customers. As a result, business rates, toll rates and access rates have historically been set high, in order to produce sufficient revenue to support the low residential rates. In Missouri, urban areas provide such support to rural areas, business customers support residential customers, and heavy users of toll services support light users. Additionally, high access rates provide important support in high cost, rural areas."
> "IXCs, such as AT&T, have complained about high Missouri intrastate switched access rates for years. High switched access rates impact the carriers that terminate toll calls to those exchanges and necessarily result in higher prices for toll services.

> Some IXCs refuse to serve some rural areas because of high access rates. Others have imposed access recovery surcharges in Missouri. Additionally, these high access rates discourage the small ILECs from cooperating to provide expanded local calling scopes to their subscribers. For example, it is difficult for a carrier to offer its subscribers either an expanded calling scope plan or a block-of-time plan for a monthly charge when it has to pay high access charges per minute to another ILEC to terminate those calls. Lower access rates would make plans of this sort more attractive. High access rates also distort the IXC market, create disincentives for IXCs to serve certain markets, and provide opportunities for discriminatory pricing. They are anti-competitive and deter local market entry by imposing increased business expenses on new entrants."

Q. Do MCI and Teleconnect have such fees in other states for the same reason?

A. Yes, in Alabama, Arkansas, Arizona, Colorado, Florida, Georgia, Iowa, Idaho, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Montana, North Carolina, North Dakota, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming, where switched access charges are also well above their economic cost.

Q. Is there anything unusual about including such an additional charge in the rate structure?

A. No, such additional charges are common. Many carriers exercise their business judgment to have multiple components in their rate structures. Indeed, it has always been commonplace in the industry to have multiple rate elements for various services. It even appears that other companies have the same type of surcharge in Missouri and are not the subject of any pending challenge. At the oral argument regarding the increase to the fee, Staff counsel referred to US Telecom and Artech Telecom as examples (Case Nos. XT-2003-256, XT-2003-267, XT-2003-268). (Tr. 78-79).

Q. Are there cost studies regarding these rates and services?

A. No. MCI and Teleconnect set rates within the constraints of the market. Cost studies are not conducted. Overall the companies derive a profit by controlling expenses and generating sufficient revenues. In this instance, because the cost of switched access is outside the companies' control, additional revenues are obtained through the fee.

Q. To whom does the fee apply?

A. It applies to residential customers who subscribe to MCI's option A (dial one/direct dial) and option B (credit card) intrastate long distance services, and to residential customers who subscribe to Teleconnect's intrastate long distance services. The charge does not apply if other MCI spending is less than $1.00 for the monthly billing period. The charge does not apply to customers who subscribe to other services, but rather only to those that subscribe to these intrastate long distance services. It is an intrastate long distance rate element.

Q. Why doesn't the charge apply if MCI spending is less than $1.00?

A. The companies do not feel it is necessary to apply the charge to customers with such minimal usage.

Q. Are residential and business long distance rates the same?

A. No, as has been common practice in the industry for decades, there are various differences between the rates charged to businesses and the rates charged to residential customers.

During the oral argument regarding the tariff pages that increased the fee, counsel for Public Counsel stipulated that business and residential customers are two separate classes of customers. (Tr. 46-47).

Q. Is there anything unusual about using a fixed fee to partially recover costs that vary with usage?

A. No, it is simply a matter of business judgment that the simplicity of the flat rate is preferable to adding a rate element that varies with usage. In this case, the unique access costs that are of concern will vary with usage, but MCI and Teleconnect decided that a flat rate element was the appropriate choice. As indicated above, if customers disagree they can simply choose a provider with a different rate structure. Typically, a residential customer will have varying usage from month to month, and an average or flat rate applies fairly to all.

Q. Does the fee at issue apply differently to urban versus rural customers?

A. No.

Q. Has the Commission proposed a rule regarding the billing of separate charges?

A. Yes. A proposed rule is pending before the Commission in Case No. TX-2005-0258.

Q. Would the fee at issue in this case violate the proposed rule?

A. No. The proposed rule implicitly confirms that such separate charges are acceptable, but would establish "minimum requirements for clarity in billing separately identified charges." Consistent with the proposed rule, MCI and Teleconnect do not misrepresent the fee to be a governmentally mandated or authorized fee. But if the Commission disagrees, MCI and Teleconnect will work with the Commission to develop mutually agreeable language. I would note, however, that in the event of a change in the language such change cannot be longer than what is supportable in our billing system due to space limits that we must work within.

Q. Has the FCC recently addressed such separate fees?

A. Yes. In its Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking, in CC Docket No. 98-170 (Truth and Billing Format), Adopted March 10, 2005 and Released March 18, 2005, the FCC reiterated that its rules permit non-misleading line items. Specifically, the FCC concluded that there is no basis to conclude that line item charges are unreasonable.

Q. What relief do MCI and Teleconnect seek in this case?

A. The companies want the Commission to stand by its prior approvals of the tariffs and simply issue a more detailed decision to meet the requirements of the courts.

Q. Does this conclude your direct testimony?

A. Yes.