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December 2, 1988

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Secretary

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General Counsel

FILED
DEC - 2 1988

PUBLIC SERVICE COMMISSION

Mr. Harvey G. Hubbs
Secretary
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

Re: Case No. TA-88-218 - In the matter of the application of American Operator Services, Inc. for a certificate of service authority to provide Intrastate Operator-Assisted Resold Telecommunications Services, as consolidated.

Dear Mr. Hubbs:

Enclosed for filing in the above-captioned case is an original and fourteen (14) conformed copies of the Initial Brief of the Staff of the Public Service Commission of Missouri. Copies have been sent this date to all parties of record.

Thank you for your assistance in this matter.

Sincerely,

Charles Brent Stewart
Assistant General Counsel

CBS:nsh

Enclosures

cc: All parties of record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

DEC - 2 1988

PUBLIC SERVICE COMMISSION

In the matter of the application)
of American Operator Services, Inc.)
for a certificate of service)
authority to provide Intrastate)
Operator-Assisted Resold)
Telecommunications Services.)

Case No. TA-88-218 ✓

In the matter of Teleconnect)
Company for authority to file)
tariff sheets designed to establish)
Operator Services within its)
certificated service area in the)
State of Missouri.)

Case No. TR-88-282 ✓

In the matter of Dial U.S. for)
authority to file tariff sheets)
designed to establish Operator)
Services within its certificated)
service area in the State of)
Missouri.)

Case No. TR-88-283 ✓

In the matter of Dial U.S.A. for)
authority to file tariff sheets)
designed to establish Operator)
Services within its certificated)
service area in the State of)
Missouri.)

Case No. TR-88-284 ✓

In the matter of International)
Telecharge, Inc. for authority to)
file tariff sheets designed to)
establish Operator Services within)
its certificated service area in)
the State of Missouri.)

Case No. TR-89-6 ✓

INITIAL BRIEF OF THE STAFF OF THE
PUBLIC SERVICE COMMISSION OF MISSOURI

INTRODUCTION

Because an accurate and detailed procedural history of this consolidated case already has been provided in the Initial Briefs of the several parties, the same will not be here repeated. Staff does, however, wish to point out the following for purposes of clarification.

First, Applicant American Operator Services, Inc. (AOSI) is seeking a certificate of service authority to provide intrastate operator-assisted resold telecommunications services within the State of Missouri. The other applicants, Teleconnect Company (Teleconnect), Dial U.S., Dial U.S.A., and International Telecharge, Inc. (ITI), each presently possess a certificate of service authority to provide operator services within the State of Missouri and are now seeking approval of their respective operator services tariffs.

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Second, the Staff has been investigating the issue of competitive operator services since early 1988. Based on its investigation, the Staff in this case is recommending that AOSI be granted its requested certificate of service authority provided it makes available to the appropriate local exchange companies and to the Staff its percentage interstate-intrastate, interLATA-intraLATA use (PIU) reports. Staff is further recommending that the tariffs of the other applicants be approved if they make certain changes to those tariffs which reflect Staff's recommended requirements. Staff's proposed requirements are designed to permit competition in the operator services market while at the same time provide end users with the basic and necessary regulatory protections which will enable them to make an informed choice as to who will provide their operator services. Staff's proposed requirements in large measure reflect the guidelines stated in the July 1988 resolution of the National Association of Regulatory Utility Commissioners (NARUC) (Bryan Direct, Attachment W).

Third, except for the Office of Public Counsel, all parties to this case have generally agreed to Staff's position and proposals. Interestingly, even though the Office of the Public Counsel opposes the provision of operator services by AOSI and ITI, the Office of the Public Counsel for the most part agrees with Staff's proposed tariff requirements (Tr. 488-89, 503-05).

Fourth, while this case in some respects has been a "referendum" on the provision of competitive operator services generally, it must be remembered that the Commission's final decision will bind only the Applicants herein. If the Commission desires to promulgate regulations applicable to and binding on all operator service providers in Missouri, a formal rulemaking proceeding clearly will be required.

In Staff's view, therefore, there are only two real issues before the Commission in this consolidated case: 1) should AOSI be granted its requested certificate, and 2) what regulatory terms and conditions should be applied to each applicant (including AOSI if its certificate is granted) in their respective operator services tariffs.

In the interest of brevity and in an attempt to avoid redundancy, Staff will limit its comments to only these issues.

DISCUSSION

A. THE COMMISSION SHOULD GRANT AOSI ITS REQUESTED CERTIFICATE OF SERVICE AUTHORITY.

AOSI is requesting permission to provide resold interexchange telecommunications services in the State of Missouri as those terms are defined in Section 386.020(19), (33), and (41) RSMo Supp. 1988. Section 392.430 provides in part:

. . . The Commission shall approve an application for a certificate of . . . interexchange service authority upon a showing by the applicant, and a finding by the Commission, after notice and hearing, that the grant of authority is in the public interest.

While the statute does not enumerate exactly what is required of an applicant seeking a certificate of service authority, the Commission traditionally has required such applicants to submit information sufficient to demonstrate their financial ability to provide the proposed service; a brief description of where and what type of service they propose to provide; and demonstrate their willingness and ability to comply with all terms and conditions the Commission may lawfully impose upon them, as well as with all applicable Commission rules and regulations. Case No. TX-85-10, 10 Mo. Reg. 1048 (1985); In the matter of the investigation into WATS Resale by hotels-motels, et al., 28 Mo. P.S.C. (N.S.) 535 (1986). AOSI has fulfilled each of these obligations. (AOSI Application; Bryan Direct).

The admission by AOSI that they are currently carrying intrastate calls (Tr. 83) in apparent violation of Section 392.440 RSMo Supp. 1988 should not automatically preclude AOSI from receiving its requested certificate of service authority. An Applicant's past violations of law are to be considered by the Commission only as an indication of whether the Applicant will abide by the law under the authority applied for and the authority is not to be withheld from the Applicant as punishment for past violations. State ex rel. Twehous Excavating Company, Inc. v. P.S.C., 617 S.W.2d 104 (Mo. App. 1981). The fact that AOSI has applied for a certificate of service authority and the fact that AOSI has agreed to Staff's proposed tariff

requirements should indicate that AOSI will abide by all applicable laws and Commission regulations in the future.

The basic question, of course, is whether AOSI's provision of competitive operator services within the State of Missouri is, in fact, in the "public interest". Section 392.530 RSMo Supp. 1988 provides that H.B. 360 shall be construed to:

- (1) promote universally available and widely affordable telecommunications services;
- (2) maintain and advance the efficiency and availability of telecommunications services;
- (3) promote diversity in the supply of telecommunications services and products throughout the State of Missouri;
- (4) insure that customers pay only reasonable charges for telecommunications service;
- (5) permit flexible regulation of competitive telecommunications companies and competitive telecommunications services; and
- (6) allow full and fair competition to function as a substitute for regulation when consistent with the protection of ratepayers and otherwise consistent with the public interest. . . .

While the Commission has yet to address the specific issue of whether operator services constitutes a competitive service, the matter is now before the Commission in the IXC classification docket, Case No. TO-88-142. The Commission, however, has indicated that toll competition generally is in the public interest. For example, the Commission has stated:

Based on the evidence presented in this case the Commission finds it authorizing intraLATA toll competition will result in new and improved services, lower prices and faster responses to customer's needs which will benefit the public. . . .

In the matter of the investigation into WATS Resale by Hotel/Motels, 28 Mo. P.S.C. (N.S.) 535, 547 (1986). See also, In the matter of the Application of Mid-America Long Distance Company, Case No. TA-88-144 (August 9, 1988). Even a cursory review of the transcript herein should reveal a general consensus that operator services are, and should be, competitive.

The Commission already has granted certificates of service authority to other operator service providers. These include AT&T, the local exchange companies, US Sprint, LTS, and American

Communications (Van Eschen Direct, p. 4). Moreover, Teleconnect, Dial U.S., Dial U.S.A., and ITI currently possess certificates of service authority similar to the one now sought by AOSI. In this regard, AOSI is simply another provider of operator services seeking entry into the operator services market. AOSI, therefore, should be accorded the same regulatory treatment given the other operator services providers.

Some interexchange carriers may find it necessary to offer complimentary services, such as operator services, with their toll services so that they can become a "full service provider". Companies which solely provide operator services, may also be appropriate if the interexchange carrier would prefer to contract for their services rather than employ their own operator staff (Van Eschen Direct, p. 4). The competitive operator services market is evolving. While the Public Counsel would urge certain distinctions between and among certain operator services providers, such distinctions can make little difference for the ultimate end user (Tr. 507-508). Even the witness for the Office of the Public Counsel admits that operator service companies such as AOSI benefit the end user by providing new types of useful services (Tr. 583-584).

For these reasons, the Staff would urge the Commission to grant AOSI's requested certificate of service authority so that AOSI can be regulated to the same extent as are currently certificated providers of operator services.

B. THE COMMISSION SHOULD APPROVE EACH OF THE APPLICANTS' OPERATOR SERVICES TARIFFS, PROVIDED SUCH TARIFFS REFLECT STAFF'S PROPOSED REQUIREMENTS.

Most customer complaints involving competitive operator service providers are concerned with a lack of company identification and matters regarding rates (Van Eschen Direct, p. 5). In an effort to protect the end user while still permitting competition in the operator services market, Staff has proposed the following requirements:

- 1) the operator service provider must not knowingly bill for any incomplete calls or emergency calls;
- 2) the operator service provider must provide identification of the operator's company to the caller during the initial verbal contact, as well as to the billed party on third number billed calls and collect calls;

- 3) upon request, the operator service provider must provide rate quotes, at no charge, which include the rates associated with the initial minute and additional minute (or other appropriate rate structure), operator surcharge, and any additional charges;
- 4) only charges established by certificated parties that have also submitted rates to the Commission may be combined into a single charge on a customer's local exchange bill and also receive discontinuance of service for nonpayment. All other charges established by noncertificated parties must be separately identified and specifically associated with each call;
- 5) the operator service provider's name should be listed on the local exchange bill, rather than the billing agent's name;
- 6) if telephone company calling cards are used, the operator service provider must appropriately bill for these charges, including the correct identification of the caller's location and the called party's location. The operator service provider must also utilize reasonable calling card verification procedures, which are acceptable to the company issuing the calling cards; and
- 7) operator service providers may eventually handle "zero minus" calls, if the company can satisfactorily demonstrate that emergency calls would be adequately and efficiently handled. However, until this can be demonstrated, all "zero minus" traffic will be handled by AT&T or the local exchange companies.

Staff believes that these proposals are generally not controversial. Most parties to this case have agreed that these requirements, for the most part, constitute a reasonable and appropriate regulatory response to the provision of operator services by competitive operator services companies. Admittedly, some differences of opinion do exist. However, since it is expected that such differences will be discussed in each party's Initial Brief,

Staff will withhold its specific comments on these issues at this time, but will respond where necessary when Staff files its Reply Brief.

Respectfully submitted,



Charles Brent Stewart
Assistant General Counsel

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all parties of record on this 2nd day of December, 1988.

