

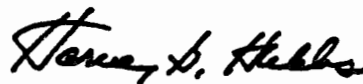
STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
Jefferson City

September 9, 1988

CASE NO. TA-88-218, et al.

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Andrew D. Lipman, Attorney at Law, 3000 K Street, N. W., Suite 300, Washington, D. C. 20007
Enclosed find certified copy of ORDER in the above-numbered case(s).

Sincerely,


Harvey G. Hubbs
Secretary

uncertified copy:

Charles L. Jones, Executive Vice-President, Missouri Hotel and Motel
Association, 119 Madison, Jefferson City, Missouri 65101
Donald B. Heidebrecht, United Telephone Company, P. O. Box 1024,
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Howard Keister, Contel of Missouri, Inc., P. O. Box 307, Wentzville, Missouri 63385
Wayne Clark, Missouri Telephone Company, Eastern Missouri Telephone Company,
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Harold A. Jones, Mid-Missouri Telephone Company, Box 38, Pilot Grove, Missouri 65276
Harold Fisher, Citizens Telephone Company of Higginsville, Missouri,
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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 9th
day of September, 1988.

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.

CASE NO. TR-88-282

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-88-283

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-88-284

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-89-6 ✓

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.

ORDER ESTABLISHING PROTECTIVE ORDER

On August 23, 1988, International Telecharge, Inc., Teleconnect Company,
Dial U.S. and Dial U.S.A. (Applicants) requested an order of the Commission

protecting specific information sought by Southwestern Bell Telephone Company (SWB). Applicants further request that the Commission enter an order directing sanctions against SWB since Applicants believe that the data requests seeking the information in question have been imposed by SWB for improper purposes in violation of Rule 55.03. No party has filed a pleading in opposition to the request of Applicants in the more than ten days since Applicants' request was filed.

The Commission determines it should adopt a protective order in this docket to facilitate the flow of information among the parties during the discovery process. The Commission further determines that the protective order adopted herein should apply not only to the discovery process but also to both the prefiled and oral testimony presented in this docket. The Commission believes it is in the public interest for the parties to seek the confidential designation only where it clearly is necessary.

Based on the information contained in Applicants' motion, the Commission is of the opinion that Applicants' request for sanctions against SWB is unwarranted and should be denied.

It is, therefore,

ORDERED: 1. That the request of International Telecharge, Inc., Teleconnect Company, Dial U.S. and Dial U.S.A., for sanctions against Southwestern Bell Telephone Company, is denied hereby.

ORDERED: 2. That a protective order is hereby issued and approved for the purpose of governing the discovery and use of confidential information in this docket, as follows:

- A. During the course of discovery a party may designate information sought by another party as confidential and shall make such information available to the attorney of record of the party seeking the information if such information is not objectionable on any other ground. (Hereinafter such information shall be referred to as "designated information"). If a party, during discovery, challenges

the designation of information as confidential, the party so designating the information shall have ten (10) days from the date the challenge is filed to file the specific ground or grounds for the confidentiality claim.

- B. That the term "confidential" is hereby defined to mean trade secrets, proprietary, confidential or privileged commercial or financial information.
- C. Except as provided in paragraph K below, attorneys who have been provided designated information shall be subject to the nondisclosure requirements set forth in paragraphs H, I and K, set forth below.
- D. If any party intends to use designated information in prefiled or oral testimony at the hearing, the party shall notify the party that provided the information of such intent.
- E. A party may designate prefiled or live testimony submitted in this case or portions thereof as confidential and shall designate as confidential any designated information received during discovery which is disclosed in that party's prefiled or live testimony.
(Hereinafter testimony designated as confidential shall be referred to as "designated testimony").
- F. Prefiled designated testimony shall be filed under seal and served upon all attorneys of record to this case.
- G. Within ten (10) days of the filing of designated testimony, the party asserting the confidential claim over the material shall file with the Commission the specific ground or grounds for each confidential claim. Such filing shall be under seal and served upon all attorneys of record to this case.
- H. Attorneys upon whom prefiled designated information or testimony has been served shall make such designated information or prefiled testimony available only to outside expert witnesses who have been

retained for purposes of this case and shall not disclose such designated prefiled testimony to anyone else. In no event shall such outside expert witnesses be employees, officers or directors of any of the parties in this docket.

- I. Outside expert witnesses as described in paragraph H above shall not disclose designated prefiled testimony to anyone except as provided in paragraphs L and P.
- J. Attorneys of record to this case shall require that the outside expert to whom disclosure is to be made, read this protective order and certify in a written nondisclosure agreement that the outside expert has reviewed the protective order and consented to be bound by its terms. The nondisclosure agreement shall contain the signatory's full name, permanent address, employer and the name of the party with whom the signatory is associated. Such agreement shall be filed with the Commission. Attached hereto as "Appendix A" and incorporated by reference herein is a form for use in complying with the terms of this paragraph.
- K. Paragraphs H, I and J shall not be binding on the Commission's Staff and the Office of the Public Counsel, whose access to and use of a utility's confidential material is governed by the provisions of Section 386.480, R.S.Mo. 1986.
- L. In the event a witness discloses the contents of designated prefiled testimony in his or her own prefiled testimony, such testimony shall also be designated as confidential and handled in accordance with this order.
- M. Unless good cause is shown, challenges to the confidential nature of prefiled designated testimony shall be filed with the Commission no later than ten (10) days prior to hearing.

- N. Unless otherwise ordered by the Commission, at the time designated prefiled testimony is offered into evidence, any party who has filed a timely challenge as provided in paragraph M may argue to the Commission or its hearing examiner the question of whether such testimony was properly designated as confidential.
- O. In the event no party challenges the confidential nature of prefiled designated testimony, or in the event the Commission or its hearing examiner rules that testimony was properly designated as confidential, then such testimony shall be received into evidence, subject to any other objections being made and ruled upon, and kept under seal.
- P. In addition, all live testimony, including cross-examination, and oral argument which reveals the content of prefiled designated testimony or which is otherwise held to be confidential, including any argument as to whether certain testimony is properly designated as confidential, shall be made only after the hearing room is cleared of all persons besides the Commission, its hearing examiners, court reporters, attorneys of record and witnesses to whom confidential information is available pursuant to the terms of this protective order. The transcript of such live testimony or oral argument shall be kept under seal and copies shall only be provided to the Commission, its hearing examiners, and attorneys of record. Such attorneys shall not disclose the contents of such transcripts to anyone other than those who may have access to confidential information under the terms of this protective order. Outside expert witnesses as described in paragraph H above shall not disclose the contents of such transcripts.
- Q. References to designated testimony, whether prefiled or live and transcribed, in any pleadings before the Commission shall be by citation only and not by quotation. Subject to the jurisdiction of any reviewing court, references to confidential testimony in pleadings

or oral arguments made to such a reviewing court shall also be by citation only.

- R. That all persons who are afforded access to information under the terms of this Protective Order shall neither use nor disclose such information for purposes of business or competition or any other purpose other than the purpose of preparation for and conduct of this proceeding and then solely as contemplated herein, and shall keep the information secure and in accordance with the purposes and intent of this order.
- S. Subject to the jurisdiction of any reviewing court, confidential testimony constituting part of the record before the Commission shall be delivered to any reviewing court under seal upon service of the appropriate writ of review.
- T. The Commission may modify this order on motion of a party or on its own motion upon reasonable notice to the parties and opportunity for hearing.
- U. That within ninety (90) days after the completion of this proceeding, including judicial review thereof, all confidential information, testimony, exhibits, transcripts or briefs in the possession of any party other than Staff or the Public Counsel shall be returned to the party claiming a confidential interest in such information and any notes pertaining to such information shall be destroyed.

ORDERED: 3. That this order shall become effective on the date hereof.

BY THE COMMISSION



Harvey G. Hubbs
Secretary

(S E A L)

Steinmeier, Chm., Musgrave,
Mueller and Fischer, CC., Concur.
Hendren, C., Absent.

STATE OF MISSOURI
PUBLIC SERVICE COMMISSIONNONDISCLOSURE AGREEMENT

I, _____, have been presented
a copy of this Protective Order issued in Case No. _____ on the
_____ day of _____, 1988.

I have requested review of the confidential information produced
in Case No. _____ on behalf of _____
_____.

I hereby certify that I have read the above-mentioned Protective
Order and agree to abide by its terms and conditions.

Dated this _____ day of _____, 1988.

Signature and Title

Employer

Party

Address

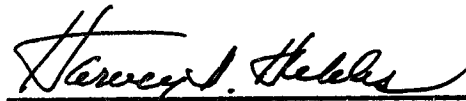
Telephone

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 9th day of September, 1988.


Harvey G. Hubbs
Secretary