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August 15, 2002

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

FILED²

AUG 15 2002

Re: Case No. TO-2001-391, MCA Proceedings

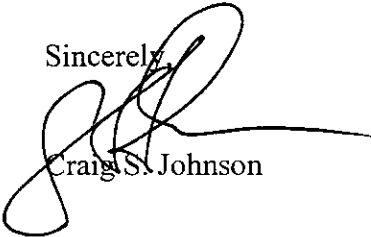
**Missouri Public
Service Commission**

Dear Secretary Roberts

Enclosed for filing please find an original and eight (8) copies of MITG's Initial Comments Regarding the July 15, 2002 On-The-Record Presentation.

Thank you for seeing this filed.

Sincerely,


Craig S. Johnson

CSJ:tr

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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

FILED²

AUG 15 2002

Missouri Public
Service Commission

In the Matter of a Further Investigation)
of the Metropolitan Calling Area Service)
After the Passage and Implementation of) Case No. TO-2001-391
the Telecommunications Act of 1996.)

MITG Initial Comments Regarding the July 15, 2002
On-the Record Presentation

Missouri ILEC expanded local calling has been provisioned on the intraLATA toll network

Every ILEC has both local and toll facilities. Local facilities normally refer to the facilities utilized for intraexchange or local calling. Toll facilities normally refer to facilities utilized to provision interexchange or toll calling. Normally there is no intercompany compensation associated with the use of intraexchange calling.¹ Normally there is intercompany compensation associated with interexchange calling between customers of different LECs.

In its simplest form, a local calling scope includes only the exchange of the customer. "Expanded calling" includes any calling scope beyond the customer's own exchange that customer can reach without paying usage sensitive toll rates.

Some ILECs may have several contiguous exchanges. SWBT is the most obvious example in Missouri. Historically these companies have been able to provide expanded calling between their own contiguous exchanges by interoffice facilities. This could be referred to as "intracompany" expanded calling. Intercompany compensation was not

involved. The financial puts and takes of “intracompany” expanded calling could be confined to the rate design and revenue/ expense structure of that one company.

When demand required expanded calling between the exchanges of *different* companies, two considerations are involved: (1) what intercompany facilities will be used; and (2) what intercompany compensation will be used.

In 1992 This Commission last examined expanded calling plans on a statewide basis. The Commission addressed these two issues for each calling plan created: Metropolitan Calling Area Service, Outstate Calling Area Service, and Community Optional Service. MCA was classified as a “local” expanded calling plan, with no intercompany compensation. OCA and COS were classified as “toll” expanded calling plans, and access compensation for these plans.

While the Commission classified these services differently, and imposed different types or modifications of intercompany compensation, the one thing that all three of these services had in common is that they were provisioned upon the very same interconnected intraLATA toll networks of the various ILECs as is used for intraLATA toll. Since 1992, this system of interconnected intraLATA toll network of Missouri ILECs has carried intraLATA toll traffic for which intercompany compensation was paid (toll, OCA, and COS) as well as carrying expanded local calling traffic for which no intercompany compensation was paid (MCA).

Why customers of small rural ILECs lost their expanded calling plans

Interexchange calling jurisdictions are divided into interLATA and intraLATA toll. As of October of 1999, pursuant to the Telecommunications Act of 1996, all ILECs

¹ For purposes of these comments, the use of UNEs to facilitate local competition under the 1996 Act is not considered.

have been required to implement intraLATA toll competition. This required all ILECs to allow their customers to choose what IXC they wanted to carry their intraLATA toll (usually 1+) traffic.² This is known as customer “presubscription”. It also required all ILECs to give intraLATA toll competitors the same type of access to the ILEC exchange. This is known as “equal access”.³

Prior to intraLATA toll dialing parity, predominantly due to the structure of the PTC Plan, all intraLATA 1+ toll traffic was directed to SWBT, GTE, Sprint, and Fidelity as PTCs. These PTCs carried 1+ intraLATA toll originating in every exchange in Missouri, including the exchanges of small rural ILECs.

In October of 1999 the mandate to have intraLATA toll dialing parity, or “1+ intraLATA toll competition” was implemented. This has resulted in the elimination of COS. It has also resulted in the loss of OCA for customers of small rural ILECs. It did not result in the loss of MCA service.

The reasons for the loss of COS and OCA for customers of small rural ILECs are two: First, the PTCs were allowed to exit as toll provider for the exchanges of small rural ILECs. With the advent of intraLATA toll competition, they wanted to terminate service in small rural ILEC areas in order to meet competition in their local exchange service areas. They were allowed to exit. Once they were allowed to exit, they stopped providing toll services, including COS and OCA, in small rural ILEC exchange service areas.

² InterLATA toll dialing parity had been implemented by ILECs many years prior to October of 1999, pursuant to the structure of LATAs and RBOC restrictions imposed by divestiture for purposes of interLATA competition.

³ The equal access requirement underlies the tariff language specifying that, when FGD is available, FGC will no longer be provided.

Second, there could no longer be one, and only one, interexchange carrier to whom the SC directed all intraLATA 1+ traffic. Instead many different IXC's would be placing 1+ traffic on their facilities in the ILEC exchange. There would no longer be a single uniform interconnection of ILEC local exchange and PTC interexchange carrier facilities utilizing a contractually agreed upon system of signaling, recording, routing, rating, trunking, billing record creation, and billing record exchange. The single PTC as interexchange carrier for 1+ intraLATA toll was replaced by a multitude of IXC's with a multitude of service offerings and rate plans. Especially with respect to the "return calling" feature of COS, whereby calling from the target exchange back to the petitioning exchange were toll free due to screening tables utilized by the PTC and SC, this feature could not be ubiquitously provisioned in a multiple carrier environment.

Why customers of ILECs in the MCA did not lose their expanded calling plan

MCA service was classified as local, and the Commission ordered it to be provisioned on a "bill and keep" basis. This means that no intercompany compensation is exchanged for MCA traffic.⁴ MCA was provisioned so as not to be dialed on a 1+ basis. This meant MCA calls did not have to be directed to the customers chosen 1+ intraLATA toll carrier. The ILECs continued to direct it to their uniform interconnection of ILEC local exchange and PTC interexchange facilities using the same signaling,

⁴ This is not to say that no intercompany compensation issues were associated with the creation of MCA service. It was hotly contested. See pages 26-29 of the December 23, 1992 Report and Order in TO-92-306. The simultaneous creation of MCA, OCA, and COS was done on a revenue neutral basis. This revenue neutrality simultaneously looked at the changes in revenues and expenses from the overlay of all of the three plans on each involved ILEC. Small ILECs were allowed to make up lost access revenue with increased access rates. For the larger ILECs, the PTCs, SWBT temporarily subsidized the revenue losses of United/Sprint and GTE/Verizon via an arrangement underlying their Joint Recommendation. One irony is that although the financial effects of all three plans upon all ILECs was considered in 1992, and to a certain degree the puts

recording, routing, rating, trunking, record creation, record exchange, and intercompany compensation billing system.

As a consequence of the regulatory structure upon which MCA was created, its termination was not directly required by the implementation of the local and intraLATA toll competition provisions of the 1996 Act.⁵ In small rural ILEC MCA exchange, the MCA provider was the small rural ILEC. There was no demand by any PTC to stop providing MCA service in the exchanges of another LEC. Because MCA calls were not dialed on a 1+ basis, no MCA traffic would be lost to IXCs. Because MCA calls were not lost to IXCs, MCA traffic could remain on the interconnected toll network between the former SCs and former PTCs. MCA traffic rides the same facilities as toll traffic for which intercompany compensation is due. Because there was no intercompany

and takes from OCA and COS intertwined with the puts and takes of MCA, MCA alone has survived.

⁵ There was some thought that, indirectly, the 1996 Act might require the termination of MCA service as being anti-competitive. It is quite possible that MCA is not priced to cover its true service costs. This is due to the pricing established over revenue neutrality and intercompany compensation adjustments created in a monopoly setting. MCA service has aspects of both toll and of local. Like toll, MCA customers can place calls over long distances. Like local, the service is flat rated, and unlimited volumes of calls can be made for a single price. The MCAs take up large areas within each LATA. The MCAs include the majority of customers within each LATA. The MCAs have the highest densities of low cost customers. The MCAs have the highest concentrations of customers initiating or receiving the largest volumes of traffic. At the time of implementation of the 1996 Act, MCA was only available from ILECs. The existence of MCA set the parameters of service with which both toll and local competitors had to compete. In Order to compete with SWBT for local service in downtown St. Louis or KC, CLECs were forced to resell MCA service. A CLEC could not be expected to build its own network, negotiate reciprocal compensation with all LECs located within an MCA, and offer unlimited calling within the same MCA at a price of \$ 11.35 per month. With respect to intraLATA toll competition, the existence of MCA also meant there was a significantly reduced amount of 1+ intraLATA toll traffic to compete for. All calls from MCA mandatory tiers within the MCA scope were local. Most calls from MCA optional tiers within the MCA scope were local. Given the number of MCA subscribers, and the amount of customers within the LATA the MCA calling scope afforded, there was little 1+ traffic left after 1992. This disadvantage was exacerbated by the Local Plus offering, which allowed the MCA subscriber to obtain unlimited toll calling to that part of the LATA outside the MCA for a flat rated additive. Local Plus was recently withdrawn.

compensation paid for MCA traffic, the only issue between carriers has been one of recording and providing records for the billing of traffic on this network for which intercompany compensation is due.⁶

Commission authority to establish local calling scopes

The statutes establishing the Commission's jurisdiction to determine local calling scopes, to classify expanded calling services as being toll or local, and to determine the accompanying changes in intercompany compensation, have not changed since the 1992. The Commission has the same legal authority today to create a rural expanded calling plan as it did in 1992 to create both urban and rural expanded calling plans.

§386.020(31) defines local exchange telecommunications service as service between two points within an exchange." §386.020(4) RSMo defines basic local telecommunications service as "two way switched voice service between a local calling scope as determined by the commission...". This last phrase suggests that the Commission has the discretion to extend the calling scope for basic local service beyond exchange boundaries.

In its Order creating MCA, the Commission last dealt with the interplay of statutes enabling it to classify expanded calling services as local. Verbatim excerpts of the Commission's conclusions and reasoning utilized in creating MCA service, taken from pages 26-29 of the December 23, 1992, Report and Order in TO-92-306, while somewhat lengthy, demonstrates the path the Commission can now use:

“Tariffing/Intercompany compensation

These issues are closely related and so will be addressed together since the parties have taken position on one issue based upon that party’s position on the other issue. **The tariffing issue requires two decisions: (1) what is the appropriate classification of MCA service; and (2) what LECs should be responsible for filing the tariffs to implement the service. The intercompany compensation issue then requires a decision of how companies will compensate one another for handling MCA calling.**

The Signatory Parties in their Joint Recommendation propose that MCA service be classified as local, tariffed by the individual LECs, and that intercompany compensation be based upon the agreement among the Signatory Parties with support payments to LECs not signatories to the Joint Recommendation. The other parties propose that MCA service be classified as toll or long distance, tariffed by the Primary Toll Carriers (PTCs), and that intercompany compensation be through access charges.

The parties supporting the classification of MCA as local discuss the MCA service in terms of basic local telecommunications service or characterize the service requested by customers as expanded local calling. The parties supporting the classification of MCA as toll discuss the MCA service as replacing interexchange toll service and characterize the MCA service as flat rate interexchange telecommunications service.

These discussions and characterizations are not definitive or very probative. The consistent customer comment concerning the existing services provided by the LECs is that they involve toll charges between areas customers consider within their communities of interest. Customers want a flat rate calling service which will allow them to call their doctors, schools, relatives or other persons in neighboring exchanges without the uncertainty of the size of their telephone bill which occurs through use of usage-sensitive toll rates. Under a flat rate service customers would know what they were paying to call regardless of

⁶ Under an “originating responsibility” system where it is the responsibility of the carrier originating the call to provide billing records for other carriers to bill compensation back to the originating carrier, there is

the number of minutes of telephone use during a month. Customers do not care nor are they concerned whether the MCA service will be classified as toll or local; they want the flat rate.

With the adoption of the MCA plan, the Commission will be requiring the implementation of a **flat rate interexchange calling service**. This service will allow a subscriber to purchase unlimited interexchange calling at a flat rate and thus eliminate this major point of contention for customers who are unable to call exchanges with which they have a community of interest.

A review of the briefs indicates that **there is no legal requirement that the Commission classify MCA service as either local or toll**. The statutory definitions of basic local telecommunications service and interexchange service, the Commission's rules, the Primary Till Carrier Plan, and the Uniform System of Accounts are neither prescriptive nor prohibitive on this issue.

The statutes define basic local service and interexchange service. The distinction between the two types of services revolves around whether calls are within a local calling scope or between points in different calling scopes. The Commission is of the opinion that the **MCA service is neither a basic telecommunications service nor basic interexchange service**. **The Commission believes that MCA is a substitute for these two services which provides an option to those two basic services**. For the MCA service to be basic local telecommunications service, it would have to be mandatory throughout the MCAs.

Since the Commission has determined that there is no requirements, either legal or factual, to classify MCA service as local or toll, the Commission will look to the evidence concerning the proposals to determine which is more reasonable. Based upon its review, the Commission finds that the proposal presented by the Signatory Parties is more reasonable.

Several factors support the Commission's decision. First, the Commission has found earlier that the calling pattern of the MCA plan should be a continuation of the WASP currently being provided. WASP service is now

an incentive not to create records.

tariffed as local, and even though the Commission will be substantially expanding the number of exchange in the MCA beyond the current WASP exchanges, it is more consistent to continue the same classification as is currently in place.

Staff contended that the MCA is different from WASP since MCA will require intercompany compensation while WASP does not. Although this is true, the Commission does not find this difference sufficient to require that MCA be classified as toll.

The Commission also finds that a classification of MCAs as local is consistent with the intercompany compensation plan the Commission finds the most reasonable. The Signatory Parties represent a substantial majority of the exchanges within the MCAs. Those companies have reached agreement on a plan for intercompany compensation that will not require adjustment to access rates and which compensates each company for lost revenues. The adoption by the Commission of the additive rate design, which will cause additional revenue losses to United, does not alter the reasonableness of this decision. Under this plan there are not substantial revenue shifts between the Signatory Parties and these parties have agreed to support payments to the smaller LECs which will be included in the MCAs.

The proposals supported by the Signatory Parties is based upon each LEC billing its own customers/subscribers for the MCA service and then keeping the revenue. Any small LEC which incurs a loss under this system will receive support payments from the Signatory Parties. The Signatory Parties propose to continue these support payments through the next rate proceeding of each affected small LEC. This will be true even under the additive rate design.

The Commission, while adopting the bill-and-keep intercompany compensation proposal and support payments, finds that the time limitation on support payments to the small LECs is not reasonable. Any limitation on the duration of the support payments will just exacerbate any problems that small LECs have in implementing the MCA service and will reduce the Commission's flexibility in approving just and reasonable rate in any future small LEC rate case.

The Commission finds that the support payments will continue for the small LECs until the Commission issues an order in which it finds that they should cease. This will allow for a review of the issue in a rate case but will give the Commission the flexibility to allow the support payments to continue. The Joint Recommendation proposal for tariffing, classification and intercompany compensation will be adopted with this modification.”(bolding added)

Whether the Commission desires to visit the topic of changing the terms of MCA service (Staff’s MCA2 proposal), to visit the topic of expanding the calling scope of MCA service to additional tiers, or to visit the topic of creating a rural expanded calling plan to replace the loss of COS and OCA, its authority to do so is no different than that that existed in 1992 when it created MCA service.

Difficulties Presented with respect to expanding rural local calling scopes in a competitive environment

The introduction of local and intraLATA toll competition by the 1996 Act has made the practical aspects of creation or expansion of local calling plans more difficult. Former PTCs and former SCs no longer jointly provision interexchange services. Today IXCs order access services from LECs. There is no longer a mutuality of interest in serving the same customers.

Today the largest ILECs are price cap regulated, and the majority of small ILECs are rate of return regulated. Fashioning a revenue neutral platform overlaid upon intercompany compensation upon which an expanded calling plan can be constructed is

more difficult now. The Commission should not forget that the Missouri Universal Service Fund may provide a tool in this regard.⁷

It will be essential to any such effort for the Commission to create a straw proposal for the industry to consider, evaluate, and respond to. Any such proposal should include a description of the service, its classification as local, its calling scope, its pricing and the amount of traffic included in the price, who the provisioning company will be, what facilities the traffic will traverse, the type of intercompany compensation to be used, and what source or sources of revenue will be available to allow implementation without adverse financial impacts to provisioning carriers.⁸

The MITG companies stand ready to cooperate in any such effort.

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⁷ The MITG has previously suggested that, assuming essential local service includes expanded calling needs, the MoUSF may provide the better vehicle, by use of the high cost fund component of the fund, and by use of the assessment mechanism of the fund, to equalize or provide comparable expanded calling plan scopes without directly impacting intercompany compensation.

⁸ In the MoUSF docket, the MITG made a similar suggestion with a "RCA" straw proposal.

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and accurate copy of the foregoing was mailed, via U.S. Mail, postage prepaid, this 15 day of August, 2002, to all attorneys of record in this proceeding.



Craig S. Johnson MO Bar No. 28179