Regulatory and
Governmental Affairs

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Mr. Dale Hardy Roberts
Secretary/Chief Administrative Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, MO 65102-0360

Subject: TX-2001-73 - In the Matter of the Prepaid Interexchange Calling Services
4 CSR 240-32.130 through 4 CSR 240-032.170

Dear Mr. Roberts:

Enclosed are the original and nine (9) copies of Verizon Select Services Inc.'s comments in the above referenced case.

If you require additional information, please contact Dave Evans at 573/636-7196.

Sincerely,

Thomas R. Parker

TRP:gl
Enclosures

c: Service List

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Missouri Public Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

In the Matter of the Prepaid Interexchange Calling Services 4 CSR 240-32.130 through 4 CSR 240-32.170	))	Case No. TX-2001-73

COMMENTS OF VERIZON SELECT SERVICES INC.

Verizon Select Services Inc. ("Verizon") respectfully submits the following Comments regarding the proposed changes to 4 CSR 240-32.130 through 4 CSR 240-32.170.

Introduction

In its proposed additions to Chapter 32 rules, the Missouri Public Service Commission ("Commission") has attempted to codify certain business practices that Verizon and other similarly situated card providers have already adopted. In some cases, the Commission's proposal will require some providers to change business practices and their existing pricing. The proposed standardization will remove operating characteristics which currently differentiate one provider from another in the competitive market. The Commission should pay heed to the longstanding case law in this state that the Commission should not invade the prerogative of management to operate its business as it deems appropriate in the absence of any showing by the Commission that current practices are not in the public interest. This is particularly true in the free market where competitive choices by definition means different service options and prices. In *State ex rel. City of St. Joseph v. Public Service Commission*, 325 Mo. 209, 30 S.W.2d 8 (banc 1930), the Missouri Supreme Court held that company management could not be interfered with as long as the result did not affect the public's rights nor could the Commission dictate the way the utility ran its business.. *State ex rel. Harline v. Public Service Commission*, 343 S.W.2d 177

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(Mo.App. 1960) declared that the regulatory power of the P.S.C. does not embrace the general management of the utility incident to ownership. *State ex rel. Southwestern Bell Telephone Co. v. Missouri Public Service Commission*, 262 U.S. 276, 43 S. Ct. 544, 67 L. Ed. 981 (1923), stands for the proposition that the regulatory power of the P.S.C. does not clothe the P.S.C. with general powers of company management incidental to ownership. Accordingly, Verizon recommends that the Commission not increase regulation in this area of telecommunication services. Overly burdensome regulatory requirements should be rejected because they limit a customer's opportunity to choose one carrier over another based on price, service, or some combination of these and other items.

Verizon has specific comments on two sections of the proposed rules: customer disclosure requirements and service standards. Each section is discussed separately below. In addition, Verizon notes that the rules appear to have been written assuming all calling cards reflect a block of minutes. There are also cards which reflect a set monetary value and the rules should reflect both of these alternatives.

4 CSR 240-32.160 Customer Disclosure Requirements

Subsection (1)(C) of the proposed rule requires a statement noting that items such as surcharges and taxes increase the effective per minute rate. Verizon contends such information is redundant and could cause customer confusion. Existing rules require the card and/or packaging to include the rate per minute, connect fees and surcharges. It is clear to the customer from the requirements contained in subsection (1)(B) the value to be decremented from the card per call and per minute. Such decrements may take the form of minutes or some monetary value. Verizon's comments are also applicable to the proposed subsection (2)(F) which addresses similar disclosure after customer purchase of the calling card. Quite simply, the level of detail is completely unnecessary.

Subsection (2)(C) requires the provider to disclose a toll-free access number. Verizon requests clarification that a local number would fulfill the proposed requirement. Verizon recommends that providers be allowed to provide access via a toll-free number or a local access number – at their discretion.

Section (3) requires the provider's contract with its distributor to contain terms and condition addressing the disclosure of certain information to the customer. This requirement is redundant and unnecessary. It is the responsibility of the card provider to furnish card information and this responsibility should not be placed on the retail distributor. Moreover, the packaging and the card as issued by the card provider will contain the required disclosure information. The card provider should not be required to enter contracts with retailers and distributors to ensure such information is provided to the customer. Such activity only increases the cost to the provider with little or no benefit accruing to the customer.

Section (4) details specific requirements for customer service activity. The proposed rule requires a live operator be available 24 hours a day, 7 days a week. Alternatively, an electronic voice recording can be used to log complaints. The use of the latter requires a return customer contact within one business day. This proposed rule is onerous, potentially limits competition and limits customer choice. The proposed rule is illustrative of the regulatory burdens noted previously in Verizon's comments and should be eliminated. Card providers should have the option of choosing whether or not customer service will be offered to their customers 24 hours a day. Some providers may offer around the clock service and will price their product accordingly. Other providers may not offer such an extensive customer service option and the public will have a lower priced option in the market. Customers can and should make their purchasing decision based on the service and prices offered. By including these requirements in its proposed rule, the Commission is limiting potential customer choice and competitive alternatives.

4 CSR 240-32.170 Standards for Prepaid Calling Service

Proposed section (3) requires charges to prepaid calling cards be expressed in minutes of use (whole minutes or fractions). Implicit in this rule is the assumption that all calling cards are minutes based. If the Commission is to keep this proposed rule, it should reflect the alternatives currently available to customers – cards can be purchased for either a block of time or a set dollar level of usage. Requiring all cards to decrement in minutes limits customer choice and hinders competition. Verizon recommends the rule be reworded as follows:

> Increments charged to the prepaid calling card shall be expressed in minutes of use, or fractions thereof, for minute-based cards and in dollars and cents for dollar-based cards.

In Section (4), the proposed rule requires that the calling card provider ensure a 98% call completion rate. Such a requirement should not be imposed on the card provider because it is dependent on the underlying carrier(s) to complete the call. While the card provider can ensure there are no charges on incomplete calls, a call completion metric is wholly outside of its scope of responsibility unless it owns the underlying transport. Further, Chapter 32 of the Commission Rules already address this service objective. Those regulations note "… that ninety-eight percent (98%) of interexchange switched calls shall be completed without encountering a blockage or equipment busy condition." (4 CSR 240-32(H)(1))

The proposed rule in subsection (6)(D) applies to companies ceasing operations in Missouri. Such card providers are required to provide customer service information regarding refunds for 60 days from the date they cease operations in Missouri. This period is extensive.

Verizon recommends that the 60 days be shortened to 30 days. If subsection (6)(C) is approved, customers will be notified of the operating change for a period of 45 days each time they use their card (15 days before operations cease and 30 days after service termination). This is sufficient time to seek reimbursement of any unused service. Finally, Verizon notes that the written notice requirement in subsection (6)(B) should be deleted. Most customers purchase calling cards via retailers, vending type machines, or other venues in which they are not required to furnish their name and home address. The requirement contained in proposed rule (6)(B) is irrelevant and not applicable for the vast majority of cardholders. It is impossible to implement.

Conclusion

Wherefore, Verizon respectfully requests that the Commission decline to adopt the proposed changes, as discussed herein to 4 CSR 240-32.

Respectfully submitted,

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ATTORNEY FOR
Verizon Select Services Inc.

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document was hand-delivered to Dale Hardy Roberts, Secretary/Chief Administrative Law Judge, Missouri Public Service Commission, 200 Madison Street, Suite 100, Jefferson City, Missouri and was mailed, postage prepaid this 1st day of March, 2001, to the following:

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Gail Luecke

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