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March 5, 2001

Mr. Dale Hardy Roberts
Secretary
Missouri Public Service Commission
200 Madison Street
Jefferson City, MO 65102

FILED²

MAR - 5 2001

RE: Case No. TX-2001-73

Missouri Public
Service Commission

Dear Mr. Roberts:

Enclosed for filing with the Commission is an original and 8 copies of :

OFFICE OF THE PUBLIC COUNSEL'S COMMENTS

Thank you for bringing this matter to the attention of the Commission.

Very truly yours,

Michael F. Dandino
Senior Public Counsel

cc: Attorneys of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²
MAR - 5 2001
Missouri Public
Service Commission

In the Matter of the Proposed)
Rule 4 CSR 240-32.130 to 32.170,)
Prepaid Interexchange)
Calling Services)
)

Case No TX-2001-73

OFFICE OF THE PUBLIC COUNSEL'S
COMMENTS

Comes now the Office of the Public Counsel and files its Comments on the proposed rulemaking on prepaid interexchange calling services, pursuant to Section 386.250 (6), RSMo. 2000, Section 1.040, RSMo. 2000, and Commission Rule 4 CSR 240-2.050(1) within 30 days of the publication of notice of rulemaking in the Missouri Register on February 1, 2001.

GENERAL COMMENTS

The Office of the Public Counsel generally supports the proposed rules to regulate prepaid calling cards. These rules are reasonable and do not impose an undue burden on those carriers offering this telecommunication service in this state. The adoption of these rules would promote the public interest. Even in a competitive market place, government must provide some ground rules to prevent shady practices, misrepresentations, and fraud. One method to protect the consumer is to assure that only qualified carriers can offer the service. The rules do this by requiring that providers of prepaid cards are authorized to provide the telecommunications services they purport to sell via the cards and are certificated as an interexchange carrier in this state. Another means to protect the consumer is to ensure that consumers have adequate and relevant

information to make an informed choice. The rules do this by requiring carriers to officially disclose the prices, terms and conditions in filed tariffs, but also properly disclose the price, terms, and conditions of the product directly in the market where the consumer makes the purchasing decision and uses the card. The rules have pre-purchase disclosure requirements for the card, packaging or by vendor display and after purchase disclosure for the card, the packaging and inserts with the product. Rule 32.160.

These rules go a long way to addressing consumer needs in the prepaid calling services market. The Federal Trade Commission has a publication, "Buying Time: The Facts About Pre-Paid Phone Cards," that discusses consumer issues with this telecommunications product. (<http://www.ftc.gov/bcp/online/pubs/products/buytime/index.htm>)

The FTC identified the most common consumer complaints:

- access numbers or PINS that don't work;
- issuers who go out of business, leaving card holders with a useless card;
- customer service numbers that don't work or are so busy all the time as to be worthless;
- toll-free access numbers that are always busy, preventing the use of the card;
- rates that are higher than advertised;
- hidden surcharges, taxes, and connection charges;
- cards that debit minutes or units even if there is no connection made; and,
- poor quality connections.

Consumer Action (<http://www.consumer-action.org>) has identified a troubling development in the prepaid phone card market with a trend by card issuers to allow retail vendors to set the final price for the card. So long as the price does not exceed the

tariffed per minute price, such a practice would allow price flexibility for the consumer in purchasing the cards. On the downside, if the consumer wants to determine the true price per minute on the card, the card or package or vendor display must provide a formula to calculate the per minute rate from the vendor's price. This may be at variance with the materials and the rate and time listed on the card. This could add to customer confusion and places a greater burden on the purchaser to compare the relative value of the cards offered. Without a calculator the customer may have no effective way to make a ready comparison. Purchase of cards are not long planned decisions, but are impulse purchases at checkout stands, convenience stores, and truckstops. The comparison on prices and the disclosure of the price per minute should be a relatively easy task for most consumers.

Rule 32.130 General Provisions

Public Counsel has no comments on this proposed rule.

Rule 32.140 Definitions

Public Counsel has no comments on this proposed rule.

Rule 32.150 Qualifications for and Responsibilities of the Prepaid Calling Service

Public Counsel has no comments on this proposed rule.

Rule 32.160 Customer Disclosure Requirements

(1) pre-purchase disclosures: Public Counsel supports this specific rule. Subsection (B) gives the company flexibility to price the card using minutes of use or units so long as the carriers provides a clear statement of the domestic rate charged if the card is used or a means to translate to or calculate the per minute rate if

a different measure is used. This calculation must include applicable surcharges and taxes or any other added variable so that there is disclosure of what will be charged and how it will be charged.

(2) post purchase: Public Counsel supports this specific rule since it allows the customer to take the key information needed to use the card, to verify charges, and to reach the carrier if there are any problems. Public Counsel suggests that the post purchase information include not just the expiration policy, but the expiration date, if applicable. Public Counsel also suggests that the packaging of the card should be sealed or there should have a sticker covering the PIN to prevent a non-purchaser from copying and using the number for a card.

32.170 Standards for Prepaid Calling Service

Public Counsel has no comments on this proposed rule.

WHEREFORE, Public Counsel asks the Commission to consider its comments and to issue rules in accordance with these comments.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL


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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was mailed or hand delivered this 5th
day of March, 2001 to the MOPSC General Counsel, PO Box 350, Jefferson City MO
65102

