

The Commission's position that such an investigation "would be redundant and duplicative" and, therefore, "a fruitless exercise", stands in stark contrast to its actions following the announcement of the SBC / Ameritech merger. Recognizing the obvious effect that the SBC / Ameritech merger would have on Missouri ratepayers, the Commission initiated a docket and held an on-the-record conference so that parties could "address what they believe[d] should be contained in the Commission's comments to the FCC regarding [the] merger."⁵ The Commission conducted this on-the-record conference despite SBC / Ameritech's claims that the Commission lacked jurisdiction to approve the transaction.

In addition to the SBC / Ameritech merger review, the Commission has routinely opened dockets or conducted investigations for the purpose of presenting well-informed comments and information to other agencies or the Missouri General Assembly. For instance, in February of 2004, the Commission issued an Order Establishing Case in Case No. TW-2004-0324 based upon an indication that the Federal Communications Commission would "soon issue a Notice of Proposed Rulemaking concerning Voice over Internet Protocol (VoIP) technology."⁶ Immediately prior to the Commission issuing its Order Establishing Case, the U.S. District Court for the District of Minnesota issued a decision which held that VoIP "is an information service and therefore not subject to state regulation".⁷ Despite the apparent lack of Missouri Commission jurisdiction, the Commission nonetheless found that the FCC rulemaking "will have an impact on telecommunications service in Missouri" and that a docket should be established under the Commission's general supervisory powers (Section 386.250) to "further [the Commission's] knowledge of VoIP technology and to assist in its preparation of comments to the FCC."⁸

⁵ *Order Setting Oral Argument*, Case No. TM-99-76, issued September 8, 1998

⁶ *Order Establishing Case*, Case No. TW-2004-0324, issued February 3, 2004.

⁷ *Id.*

⁸ *Id.*

Additionally, the Commission initiated a docket to study the issue of electric restructuring. In its Order Establishing Docket and Creating Task Force, the Commission notes:

Any decision to implement electric retail competition statewide in Missouri, not merely on an experimental basis, will require amendments to existing state law. While that policy decision must be made by the General Assembly and the Governor, the time has come for the Commission to establish a formal means to identify the risks and benefits that would face the State of Missouri in the event that retail competition occurs.⁹

Despite its recognition that it lacked any authority to unilaterally implement any suggested changes, the Commission established the restructuring docket in order to “compile a comprehensive plan for implementation of retail electric competition in the State of Missouri in the event legislation is enacted which authorizes it.”¹⁰

Without conceding any issue regarding Commission jurisdiction to review the proposed transaction, it seems apparent that the Commission should follow past precedent and conduct an investigation in order to more fully enlighten itself regarding the state of competition in the local and interexchange market and the degree to which competition in those markets will be impacted by Verizon’s acquisition of MCI. The mere establishment of such a docket would not contain an implicit finding that the FCC or DOJ would be “lax in their oversight”, but instead would be a logical step in anticipation of filing comments as routinely requested by those agencies.

Because of its proximity to consumers in Missouri and its duties under the state and federal telecommunications statutes to examine the status of competition, this Commission has the ability to add valuable information and insight into the impact of this merger on Missouri consumers. Moreover, the Commission should be mindful of the apparent demise of interexchange service as a result of the pending acquisitions of both AT&T and MCI.¹¹ Finally, the Missouri Commission has a responsibility to gather this information and to provide it, with critical analysis, to key elected policy makers. As the Missouri General Assembly prepares to

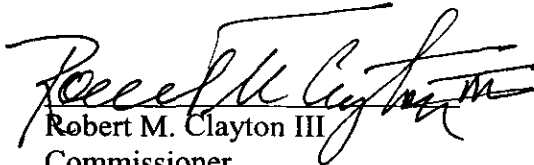
⁹ *Order Establishing Docket and Creating Task Force*, Case No. EW-97-245, issued March 28, 1997.

¹⁰ *Id.*

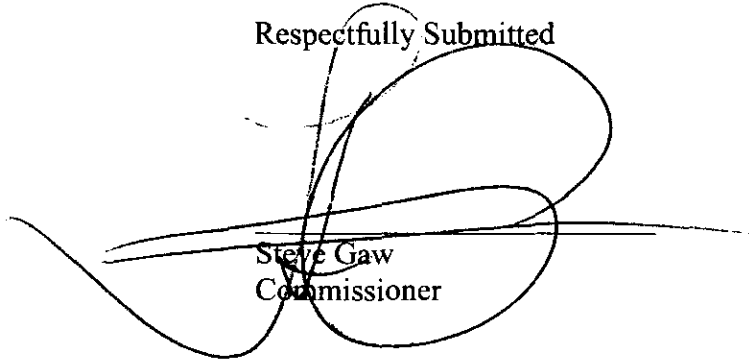
¹¹ See, Case No. TM-2005-0355 concerning the proposed acquisition of AT&T by SBC.

modify state telecommunications laws and as Missouri's Congressional delegation contemplates re-writing the Telecommunications Act of 1996, this Commission owes them the Missouri-specific data retrieved and compiled by Commission staff to protect Missouri consumers.

Respectfully Submitted



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Commissioner



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Commissioner

Dated at Jefferson City, Missouri,
on this 3rd day of May, 2005.