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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 10th  
day of August, 1999.

In the Matter of the Motion to	)	
Establish a Docket Investigating	)	
the IntraLATA Toll Service	)	
Provisioning Practices of Missouri	)	
Interexchange Carriers, Public	)	<u>Case No. TO-2000-16</u>
Utility or Common Carrier Duties of	)	
Interexchange Carriers, Motion	)	
to Show Cause, Request for Emergency	)	
Hearing, and Alternative Petition	)	
for Suspension and Modification	)	

ORDER DIRECTING NOTICE, DIRECTING REPORTS,  
AND REQUIRING RECORD COLLECTION

On July 9, 1999, the Mid-Missouri Group (MMG) of small telephone companies<sup>1</sup> filed a motion requesting that the Commission investigate the toll provisioning practices of Interexchange Carriers (IXCs), establish common carrier duties of IXCs, require AT&T Communications of the Southwest, Inc. (AT&T) to show cause why it should not be subject to penalties, or, in the alternative, delay the termination of the Primary Toll Carrier (PTC) plan. MMG requests that the Commission issue its decision on these issues prior to October 20, 1999.

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1 MMG consists of Alma Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, Mid-Missouri Telephone Company, Modern Telecommunications Company, MoKan Dial, Inc., Northeast Missouri Rural Telephone Company, and Peace Valley Telephone Company.

MMG asserts that, contrary to AT&T's sworn testimony in Case No. TO-99-254, AT&T has declined to accept requests from customers in MMG exchanges seeking to pick AT&T as their intraLATA toll provider. MMG points out that AT&T's actions are not only inconsistent with the position it took in TO-99-254, but also with the Commission-directed notice that MMG members sent to their customers. MMG believes that AT&T's actions raise the question of what obligations IXCs have to serve customers that request service. MMG expresses concern that other IXCs may, following AT&T's lead, also begin refusing to serve customers of its member companies. MMG specifically requests that the Commission determine to what extent an IXC can refuse service to a prospective customer and to what extent an IXC can offer different services in different geographic areas. MMG also requests more generally that the Commission examine the business office practices of IXCs and compare those practices to IXCs' tariffs.

For its motion to require AT&T to show cause, MMG states that AT&T's actions in refusing to provide service to customers who request it are in direct contradiction to a binding order of the Commission. MMG states AT&T is liable for penalties, and that its officers, agents, and employees may be liable for penalties including fines and imprisonment. MMG asks that the Commission require AT&T to show cause why it, and its officers, agents, and employees, should not be liable for penalties.

Finally, MMG asks that the Commission, if it finds that IXCs are not required to provide 1+ intraLATA service in its members'

exchanges, consider suspending the termination of the PTC plan until after the Missouri Universal Service Fund is operational and its members have reduced access rates.

On July 15, 1999, the Small Telephone Company Group<sup>2</sup> (STCG) filed a pleading in which it concurred with many, if not all, of the concerns raised by MMG. STCG states that customers of its members are experiencing problems with AT&T similar to those experienced by customers of MMG's members. STCG believes the Commission needs to take action to reconcile the information in the notice it directed STCG members to send to customers with AT&T's current refusal to provide 1+ intraLATA toll service in many parts of the state. STCG agrees with MMG that AT&T is discriminating against its member companies by refusing to provide their customers with the same services it is providing to customers of other LECs. STCG shares MMG's concern that the other large IXCs may, like

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2 The Small Telephone Company Group consists of BPS Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Goodman Telephone Company, Inc., Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, Iamo Telephone Company, KLM Telephone Company, Kingdom Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company. Alltel Missouri, Inc., although listed as a member of the STCG in the application to intervene, withdrew its application to intervene on July 21, 1999. The Commission will grant intervention to the members of the STCG as listed above, and not to Alltel Missouri, Inc.

AT&T, exit rural markets and jeopardize the goal of providing parity among services and prices provided in rural and urban markets.

On July 20, 1999, AT&T responded to MMG's motion and STCG's concurrence. AT&T argues that MMG is incorrect in its belief that the Commission's decision to allow the PTCs to exit the Secondary Carrier (SC) exchanges was premised on the assumption that all IXCs would provide 1+ intraLATA service in all those exchanges. AT&T states that, if it does have an obligation to serve as a common carrier, that obligation is fulfilled by offering dial around intraLATA service.

AT&T acknowledges that some of its service representatives have mistakenly told callers that AT&T will provide 1+ intraLATA service in SC exchanges, but states that those representatives were in error. AT&T also states that its service representatives have been "educate[d]" and apparently will no longer make this mistake. AT&T states that it will not provide 1+ intraLATA service to any customers in SC exchanges, not even those customers to whom it committed to provide service. AT&T argues that these mistakes do not warrant a full-blown investigation of IXC business office practices.

AT&T states that its instructions to MMG member companies to stop advising customers that AT&T is an available 1+ intraLATA carrier is not a violation of the Commission's orders approving intraLATA dialing parity plans. AT&T argues that, since it has changed its plans, the notice the Commission ordered sent to customers is incorrect, but that it is not in violation of any order.

AT&T states that, although MMG argues that AT&T is in violation of Commission orders and thus subject to penalties, MMG's pleading would not constitute a sustainable complaint. AT&T argues that there is no provision under Missouri law that would allow the Commission to conduct a show cause proceeding as MMG requests.

Finally, AT&T disputes MMG's argument that AT&T's refusal to offer 1+ intraLATA service in some parts of the state is a valid reason to delay the termination of the PTC plan. AT&T believes that there will be enough IXCs from which SC customers can choose, so that those customers will receive "reasonable parity" of services and prices with customers in more urban areas. AT&T states that it is not convinced that the Missouri Universal Fund will solve the problems it perceives in offering 1+ intraLATA service in SC exchanges.

Although the Commission does not believe that the allegations raised by MMG require an investigation into the business office practices of all IXCs, the Commission is concerned with AT&T's refusal to offer 1+ intraLATA service to customers who request it. AT&T will be ordered to file a verified report stating, by exchange, the number of requests for 1+ intraLATA service it has received, the number it has accepted, and the number it has declined. If AT&T has not kept these records, it shall state its best approximation of the number of potential customers it has refused to serve, as well as the minimum and maximum number of requests it believes it has refused. In addition, if AT&T has not kept such records to date, it will be ordered to immediately begin keeping them.

The Commission's Staff will be ordered to investigate AT&T's refusal to serve customers in SC exchanges, and file a verified report on the results of its investigation. Staff shall address, at least, the following issues: whether under the terms of AT&T's currently effective tariffs it has an obligation to provide 1+ intraLATA service to all customers who request service where AT&T has sufficient facilities in place; whether AT&T has sufficient facilities in place throughout the state to be able to serve 1+ intraLATA customers; whether AT&T has an obligation as a common carrier or public utility to provide 1+ intraLATA service to customers who request it; and whether AT&T's offering of 1+ intraLATA toll service to customers in some exchanges and only dial around intraLATA toll service in other exchanges violates any Missouri law, particularly Section 392.200, RSMo.

The Commission will direct that notice of this application be sent to all telecommunications companies in the state of Missouri, and allow proper parties to intervene. AT&T, MMG, and STCG will be made parties without the necessity of a formal application to intervene. These entities, as well as those subsequently granted intervention, will be allowed to respond to the reports filed by Staff and AT&T.

**IT IS THEREFORE ORDERED:**

1. That AT&T Communications of the Southwest, Inc. shall file a verified report as discussed herein no later than September 8, 1999.

2. That the Staff of the Commission shall file a verified report as discussed herein no later than September 8, 1999.

3. That AT&T Communications of the Southwest, Inc., the Small Telephone Company Group, and the Mid-Missouri Group are made parties.

4. That responses to the verified reports filed by AT&T Communications of the Southwest, Inc. and the Staff of the Commission shall be filed no later than September 20, 1999.

5. That AT&T Communications of the Southwest, Inc. shall keep records by exchange of the numbers of requests for 1+ intraLATA toll service it receives as discussed herein.

6. That the Records Department of the Commission shall send notice to all telecommunications companies certificated to do business in the state of Missouri.

7. That any party wishing to intervene or to file comments in this matter shall file an application, or shall file their written comments, no later than August 24, 1999, with:

Dale Hardy Roberts, Secretary  
Missouri Public Service Commission  
Post Office Box 360  
Jefferson City, Missouri 65102

and send copies to:

Paul S. DeFord  
Lathrop & Gage L.C.  
2345 Grand Blvd., Ste. 2800  
Kansas City, Missouri 64108-2684

Craig S. Johnson  
Andereck, Evans, Milne, Peace & Baumhoer  
P.O. Box 1438  
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W.R. England, III  
Brydon, Swearngen & England P.C.  
P.O. Box 456  
Jefferson City, Missouri 65102

and

Office of the Public Counsel  
Post Office Box 7800  
Jefferson City, Missouri 65102

8. That this order shall become effective on August 20,  
1999.

BY THE COMMISSION



Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Schemenauer, and Drainer, CC., concur  
Crumpton and Murray, CC., absent

Mills, Deputy Chief Regulatory Law Judge

RECEIVED  
AUG 10 1999  
COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION