

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 11th day of December, 1987.

In the matter of the investigation)
into WATS resale by hotels/motels.) Case No. TO-84-222
)

In the matter of the investigation)
into WATS resale applications for)
certificates of public convenience) Case No. TO-84-223
and necessity.)
)

In the matter of the investigation)
into the reasonableness of permitting)
competition in the intraLATA telecom-) Case No. TC-85-126
munications market in Missouri.)
)

In the matter of the Missouri interLATA)
access charge and intraLATA toll pool.) Case No. TO-85-130
)

ORDER OF CLARIFICATION AND DENYING REHEARING

On October 23, 1987, the Commission issued a Report And Order concerning the intraLATA toll pool. That order had an effective date of November 12, 1987. Timely motions for rehearing and/or clarification were filed by MCI Telecommunications Corporation (MCI), Missouri Public Service Commission Staff (Staff), Office of Public Counsel (PC), Southwestern Bell Telephone Company (SWB), and AT&T Communications of the Southwest, Inc. (AT&T). On November 25, 1987, SWB filed a reply to the applications for rehearing. On November 30, 1987, Contel and SMTC filed a response to the motions for rehearing. On December 3, 1987, Staff filed a response to SWB's application for rehearing.

MOTIONS FOR REHEARING

Section 386.500, R.S.Mo. 1986, states that the Commission shall grant a rehearing "if in its judgment sufficient reason therefor be made to appear." The Commission has reviewed the applications for rehearing filed in this matter and has determined that they do not raise questions sufficient to order a rehearing. Those applications will be denied.

CLARIFICATION

1. Staff filed a motion for clarification which requested the Commission to modify the Conceptual Framework by moving the implementation date for the Conceptual Framework from January 1, 1988, to July 1, 1988. Staff states the parties will need the additional time to file appropriate tariffs to develop the new local exchange company (LEC) billing and operational systems for replacing the intraLATA toll pool.

The Commission considers Staff's request reasonable and will set a July 1, 1988, implementation date for the Conceptual Framework.

2. MCI in its motion for rehearing requests the Commission clarify whether the primary toll carriers (PTCs) must impute and pay to themselves the same access charges that they impose upon interexchange carriers (IXCs) for both origination and termination of toll traffic. AT&T raises this same issue in its motion for rehearing. SWB addressed this issue, requesting that IXCs be required to file their percentages of intraLATA usage for a 1986 test period on or before December 1, 1987. SWB states that it needs the information to create tariffs applicable to interexchange carrier intraLATA traffic.

The Commission addressed this issue in its Report And Order. The Commission found that the LECs had agreed to charge the IXCs for intraLATA traffic equal to whatever settlement rates are established by the PTCs. The IXCs would be subject to the intraLATA access rate if they provided the LECs the necessary information showing the amount of their intraLATA traffic.

The Commission found that all intraLATA traffic should be subject to the same charges. The Commission considered that the LECs, including the PTCs, would charge all intraLATA traffic, even their own, the same rates. For the IXCs to receive this rate they must indicate to the LEC the level of their intraLATA traffic. The Commission does not feel this part of the order needs further clarification.

SWB's request that the Commission order the IXCs to provide their percentage of intraLATA traffic so the LECs can develop tariffs indicates a misunderstanding of the Commission's decision. The Commission determined that the PTCs would develop their rates and charges for intraLATA traffic based upon the Conceptual Framework. Once those rates and charges are developed tariffs would be filed which would make those rates and charges applicable to IXCs for intraLATA traffic.

The Commission determined that all intraLATA traffic should be charged the same rate. That rate is to be developed when the intraLATA toll pool is ended and the primary carrier by toll center plan is implemented. The rate is to be developed based upon the existing intraLATA toll pool, so traffic percentages of IXCs are not needed to develop the rate. IXCs must file their intraLATA traffic percentages when the Conceptual Framework is implemented.

3. SWB in its motion seeking clarification requests the Commission clarify two parts of its order. The first involves the adoption of the MITG formula for treatment of the interstate High Cost Fund (HCF). The second concerns the requirement that PTCs remain the providers of last resort as required under H.B. 360.

SWB states that the Commission indicated it might reconsider the decision adopting the MITG formula if it became apparent that LECs were recovering more than 100 percent of their NTS costs because of revenues from the HCF. SWB states the Commission has no vehicle for determining when and if any LEC has exceeded the 100 percent level. SWB suggests that the Commission order the LECs to report HCF amounts to the Commission.

The Commission has determined that additional reporting by LECs of HCF funds is not necessary at this time. The Commission has determined that any recovery of more than 100 percent of NTS costs from HCF funds can be determined in general rate case filings or complaint filings concerning an LEC, or at the time any additional NTS cost shift is requested.

SWB requests the Commission clarify the section of its order involving the provider of last resort provision of the Conceptual Framework. SWB contends the Commission misconstrued Section 392.460, R.S.Mo. (Supp. 1987) when it found that PTCs were providers of last resort under that section. SWB contends that it does not offer intraLATA toll service to customers in those areas for which SWB is not the local exchange service provider. SWB contends that the LECs which are the local exchange service providers for an exchange are the providers of last resort for basic interexchange telecommunications service under Section 392.460.

SWB argues that the Commission's order is unlawful if it requires SWB or other PTCs to provide intraLATA toll service in areas other than their own local exchanges. SWB requests the Commission clarify its order that this was not intended by the Commission's decision.

Contel and SMTC argue that although the Commission has previously found that SWB has statewide intraLATA toll authority, there is no need to modify the provider of last resort provision of the Conceptual Framework. Contel and SMTC state that the terms of the Conceptual Framework were not intended to circumvent Section 392.460 but to ensure that no one would be without basic interexchange service for five years because the PTCs' have assumed the responsibility.

Staff states in its response that the Commission need not resolve who is the provider of last resort under Section 392.460 in this docket. Staff states that the terms of the Conceptual Framework do not relieve any carrier of any obligation it has as a provider of last resort under Section 392.460. Staff states that the Conceptual Framework is a contract which does not purport to establish or abandon

provider of last resort obligations. The Conceptual Framework only obligates PTCs to perform that function for the five-year period.

Staff suggests that after the five-year period the issue of which carrier is the provider of last resort under Section 392.460 will need to be addressed if the contracts are not renegotiated. For now, though, Staff states that the Conceptual Framework ensures some company is performing the function.

Staff proposes the Commission require that if the five-year contracts are not renewed, the PTCs will continue to provide service under the Conceptual Framework until the provider of last resort issue is resolved and the service is being offered under some alternative plan.

The Commission in its Report And Order did not intend to make a determination of who the provider of last resort was under Section 392.460, and did not make such a determination. The Commission in its Report And Order was addressing the provision of the Conceptual Framework, Section IV, F., paragraph 5, which set a five-year time limit on PTCs for performing the carrier of last resort obligation under the primary toll carrier plan presented to the Commission by the parties. The Commission determined that the five-year time limit was not in the public interest, nor was it consistent with the intent of Section 392.460, R.S.Mo. (Supp. 1987).

The Commission considered the five-year time limit in the context of its decision concerning the eight-year NTS cost shift proposed by the parties. The Commission rejected the eight-year NTS cost shift because, as it stated in its Report And Order, the eight-year proposal would "lock the Commission into a significant shift of costs over an extended period of time during a period of volatility in the telecommunications industry and with many important issues not resolved." This same rationale applies to the five-year time limit issue.

One of the issues left unresolved by H.B. 360 was the determination of which company was the provider of last resort for basic interexchange telecommunications service. The Commission has determined that until that decision is made it is

in the public interest to ensure some company is obligated to provide that service. The Commission has determined that the PTCs, by agreeing to the Conceptual Framework, have agreed to assume this obligation until the Commission changes the primary toll carrier plan or makes a decision of which company is the provider of last resort for basic interexchange telecommunications service. Based upon this determination, the Commission determined that no time limit should be placed on any element of the Conceptual Framework, including the five-year time limit of Section IV, F., paragraph 5.

Since there is no time limit on the primary toll carrier plan to be implemented in the Conceptual Framework, there should be no time limit in the provider of last resort provision of Section IV, F., paragraph 5. If and when a PTC wishes to abandon its provider of last resort status under the primary toll carrier plan, it may file an application with the Commission. If a docket is established to make modifications in the primary toll carrier plan, this issue may also be addressed. Until such actions are taken, the Commission has determined, a PTC should not be allowed to place a five-year limit on its provider of last resort responsibility under the plan. To ensure that the Commission decision in the Report And Order is clear, the Commission will modify Ordered 3 of its Report And Order to specifically require the removal of the five-year limit from Section IV, F., paragraph 5 of the Conceptual Framework.

It is, therefore,

ORDERED: 1. That the applications and motions for rehearing of MCI Telecommunications Corporation, Office of Public Counsel, Southwestern Bell Telephone Company, and AT&T Communications of the Southwest, Inc., are hereby denied.

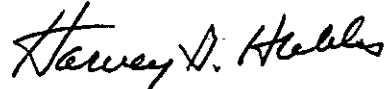
ORDERED: 2. That Ordered 3 of the Report And Order issued in this matter on October 23, 1987, shall be modified to read as follows:

"ORDERED: 3. That Section IV, F., paragraph 5 of the Conceptual Framework shall be modified to eliminate the five-year time limit for a PTC to perform the carrier of last resort

obligation for intraLATA toll traffic originating within the exchange of a PTC's subtending LECs."

ORDERED: 3. That this order shall become effective on the date hereof.

BY THE COMMISSION



Harvey G. Hubbs
Secretary

(S E A L)

Steinmeier, Chm., Musgrave,
Mueller, Hendren and Fischer,
CC., Concur and certify com-
pliance with the provisions of
Section 536.080, R.S.Mo. 1986.