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PLEASE REPLY TO THE MISSOURI OFFICE  
FILE NO. 3332800-2

December 29, 1988

## VIA FEDERAL EXPRESS

Mr. Harvey G. Hubbs  
Secretary  
Missouri Public Service Commission  
301 West High Street  
Floor 5-A North  
Jefferson City, MO 65101

Re: Case Nos. TA-88-218, et al.

Dear Mr. Hubbs:

Please find enclosed for filing the original and 14 copies of the Reply Brief of American Operator Services, Inc. By copy of this letter, I have mailed a copy of the enclosed brief to all parties of record.

Very truly yours,



MPJ/wsh  
Enclosure  
cc: All Parties of Record

FILED  
DEC 30 1988  
PUBLIC SERVICE COMMISSION

IN THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED  
DEC 30 1988  
PUBLIC SERVICE COMMISSION

In the matter of the application )  
of American Operator Services, Inc. )  
for a certificate of service authority ) Case No. TA-88-218  
to provide Intrastate Operator-Assisted )  
Resold Telecommunications Services. )

In the matter of Teleconnect Company )  
for authority to file tariff sheets )  
designed to establish Operator Services ) Case No. TR-88-282  
within its certificated service area )  
in the State of Missouri. )

In the matter of Dial U.S. for )  
authority to file tariff sheets )  
designed to establish Operator Services ) Case No. TR-88-283  
within its certificated service area )  
in the State of Missouri. )

In the matter of Dial U.S.A. for )  
authority to file tariff sheets )  
designed to establish Operator Services ) Case No. TR-88-284  
within its certificated Service area )  
in the State of Missouri. )

In the matter of International )  
Telecharge, Inc. for authority to file )  
tariff sheets designed to establish ) Case No. TR-89-6  
Operator Services within its )  
certificated service area in the State )  
of Missouri. )

REPLY BRIEF OF APPLICANT AMERICAN OPERATOR SERVICES, INC.

Comes now the Applicant, American Operator Services, Inc.,  
d/b/a National Telephone Services (NTS), and in reply to the  
post-hearing briefs of the other parties, Staff, and Public  
Counsel, states the following.

The opening briefs demonstrate that, with one exception, all  
participants in the proceedings support competitive operator  
services in Missouri. The supporters of NTS and the other  
competitive OSPs are correct: competition in the operator-  
assisted telecommunications service market will redound to the

benefit of all Missourians, including telephone owners and users. There is no need to reiterate the many benefits of operator services competition, but suffice it to say that the benefits will be many.

The sole objecting party is Public Counsel. In almost every respect, Public Counsel's arguments are based on stale and inaccurate information and betray a hidebound view of competition. Quite candidly, little response to Public Counsel's arguments is necessary. NTS has already complied with many of the rules which Public Counsel would like to impose on competitive OSPs. However, Public Counsel's apparent interest in protecting the de facto monopoly of AT&T and the local exchange companies in the operator services market does not justify imposition of discriminatorily onerous regulations competitive OSPs. As NTS demonstrated in its initial post-hearing brief, the competitive OSPs need a level playing field of regulation before they can compete effectively with the dominant companies.

Although NTS does not seek certification under the interexchange carrier rules, the Commission's pronouncements on competition in the interexchange field are applicable to competition in operator services. Where appropriate, competition should take the place of regulation, for competition minimizes the expenditure of limited Commission resources and allows for faster provider responses to the needs and desires of the consumer.

I. PUBLIC COUNSEL HAS FAILED TO UNDERMINE THE PERSUASIVE EVIDENCE THAT COMPETITIVE OPERATOR SERVICES ARE IN THE PUBLIC INTEREST.

The principal point espoused by Public Counsel is that the Commission should not allow competitive operator services at all. This narrow view is hardly justified by the "facts" and decisions relied on by Public Counsel, who ignores unrebutted testimony, particularly admissions by its own witness, in attempting to prove that competitive OSPs are out to do nothing less than steal from the customer. Other State regulatory decisions to which Public Counsel refers are not only contrary to decisions of many other State commissions, but are based on specific fact patterns no longer relevant, due to the rapid development of the industry.

Public Counsel recites the list of horrors of which it claims the competitive OSPs are guilty. In so doing, Public Counsel does little more than recite factually-unsupported allegations which the competitive OSPs conclusively rebutted in their prefiled testimony and on cross-examination. To demonstrate that, only a few examples of Public Counsel's selective view of the evidence are necessary. Public Counsel claims that competitive OSPs intentionally accept the AT&T calling card; in fact, that problem is of AT&T's making, as acknowledged by Staff witness Van Eschen. (Tr. Vol. II, at pp. 168-169; Tr. Vol. II, at p. 372). Public Counsel accuses competitive OSPs of "price gouging," but competitive OSP rates are only slightly higher than those of the so-called "traditional" carriers, and by Public Counsel's own admission at

the hearing, those rates are not excessive or unreasonable. (Tr. Vol. IV, at pp. 525-27). NTS has committed to comply with any Commission rule limiting the collection of surcharges, a commitment which should take care of Public Counsel's concern on that point; Public Counsel overlooks NTS's promise. Public Counsel also conveniently ignores the unrebutted testimony that billing for uncompleted calls is unavoidable, specifically in the areas where NTS utilizes non-premium access. Public Counsel overlooks the fact that its own witness admitted the existence of that problem. (Tr. Vol. IV, at p. 539).

These are but a few of the red herrings which Public Counsel dangles before the Commission. Similarly, Public Counsel's brief refers to four decisions of State regulatory commissions which denied certification to competitive operator services companies. In each case, the Commission relied on information which is now totally out of date. Cases decided by regulatory commissions only a few months ago are now factually out-of-date, as they were based on evidence of practices of the industry in 1987 and early 1988. As Mr. Byran testified to, without rebuttal, the practices of the members of the competitive operator services industry have improved substantially in the past few months. Rates have come down and service reliability has improved. The responsible competitive OSPs have taken actions necessary to preserve their competitive positions. It is critical for the Commission to decide this case strictly on the record before it. Failing to do so, as Public Counsel might wish, will constitute an injustice against companies which have attempted in good faith to improve their business practices.

II. NTS IS ALREADY IN SUBSTANTIAL COMPLIANCE WITH THE PUBLIC COUNSEL'S PROPOSED REGULATORY SCHEME, BUT BELIEVES THAT ANY REGULATION ADOPTED BY THE COMMISSION SHOULD BE EVENHANDED.

In Section B of his opening brief, Public Counsel suggests a number of areas where he believes competitive operator services should be regulated. Public Counsel implies that NTS and other competitive OSPs are not meeting any of these suggestions. However, the facts demonstrate to the contrary. NTS is already in compliance with many of the requirements which Public Counsel would like the Commission to impose.

NTS does not believe that the Commission should exert the stranglehold-like regulation which Public Counsel would like. However, NTS has embraced Staff's proposal on regulation, and there are certain similarities between Staff's proposal and Public Counsel's proposal.

Public Counsel asserts that all competitive OSPs should demonstrate their financial ability to provide the proposed services and give a detailed description of the services which they propose to offer. NTS has done that.

Public Counsel proposes that all "O-" emergency calls be routed to the local exchange company. Staff has also proposed that, pending proof that the OSP can properly route emergency calls. Although NTS believes that its emergency call-handling procedures would be satisfactory to the Commission, it does not oppose sending "O-" traffic to the local exchange company.

Third, Public Counsel requests that competitive OSPs file just and reasonable rates with the Commission. Not only has NTS filed its proposed rates, but Public Counsel's own witness has conceded that the rates are just and reasonable.

Fourth, Public Counsel argues that competitive OSPs should not bill surcharges to end users. Again, although NTS believes that surcharges serve a legitimate purpose, NTS would not be opposed to a Commission ruling proscribing the billing and collection of surcharges.

Fifth, Public Counsel sets forth a number of end user notice requirements. The unrebutted evidence is that NTS identifies itself to callers in sufficient time to allow them to disconnect the call without charge, and that it will provide rate quotes upon request. Further, NTS provides tent cards and stickers for placement at the telephone equipment.<sup>1</sup>

Public Counsel believes that competitive OSPs should provide toll free access to other interexchange carriers or local exchange carriers. NTS already provides free access, on request, to AT&T and the relevant local exchange companies, even though NTS suffers the penalty of having to pay unreimbursed access charges for such calls. However, with calls splashed back to AT&T, it is impossible for the AT&T bill to reflect the actual origination point of the call, due to AT&T's unilateral refusal to accept the ANI of the originating telephone number.

Finally, Public Counsel believes that charges should not be rendered for incomplete calls. NTS believes that, too. Unfortunately, with the absence of answer supervision from certain non-premium access lines, certain timing surrogates are

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<sup>1</sup>Customer notification procedures should be uniform throughout the operator services industry. They should apply to the dominant providers as well as the competitive OSPs.

necessary. Until all local exchange companies provides hardware answer supervision to all interexchange carriers, billing for some incomplete calls will be unavoidable. The other side of the coin is that some completed calls of short duration are not billed.

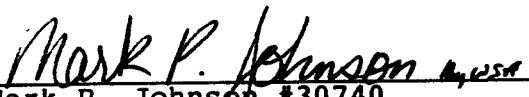
In short, Public Counsel has little to add to the proposal espoused by Staff. NTS has stated its support for Staff's proposal, and still believes that Staff has put forward a reasoned regulatory scheme.

### III. CONCLUSION

NTS believes that the evidence conclusively demonstrates that competitive operator services are in the public interest. NTS is eminently qualified to provide those services in Missouri, to the benefit of both telephone owners and users.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, United States mail, postage prepaid, to All Parties of Record, this 27th day of December, 1988.

Theresa J. Linn