Missouri Public Service Commission

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The Telecommunications Department 2004 in Review is a new report. In general, we have strived to create one document containing brief summaries of noteworthy telecommunications activity and work-related events for 2004. In addition the report tries to identify sources for further information. The report is primarily intended to be a resource document for the Telecommunications Department; however I anticipate other people may also have an interest in the report.

I'd like to thank the Telecommunications Department, the General Counsel's office, Dawn Hake and Sandy Reinhart for their assistance in compiling this report. Bill Voight should be given credit for coming up with the initial idea to create this type of report. I anticipate a similar report will be created at the end of 2005. If you have any comments or suggestions for this report, please let me know.

Sincerely,

John Van Eschen

John Van Eschen
Manager, Telecommunications Dept.

Informed Consumers, Quality Utility Services, and a Dedicated Organization for Missourians in the 21st Century

Missouri Public Service Commission

Telecommunications Department

2004 In Review

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TELECOMMUNICATIONS DEPARTMENT STAFF

John Van Eschen (Manager), Larry Henderson (Technical Specialist II), Mick Johnson (Technical Specialist II), Natelle Dietrich (Economist III), Walt Cecil (Economist II), Mike Scheperle (Economist II), Adam McKinnie (Economist II), Bill Peters (Economist II), William Voight (Rate and Tariff Supervisor), Art Kuss (Utility Engineering Specialist II), Sherri Kohly (Rate & Tariff Examiner III), Lisa Mahaney (Rate & Tariff Examiner II), Sara Buyak (Rate & Tariff Examiner II).

During 2004, Phil Garcia (Research Analyst), Chris Thomas (Economist II) and Tom Solt (Auditor III) left the Telecommunications Department. Phil Garcia's vacated Research Analyst position was reclassified to a Rate & Tariff Examiner I/II. Sara Buyak, a Research Analyst, was promoted into the new Rate & Tariff Examiner I/II. Sara's vacated Research Analyst position was reclassified to a Rate & Tariff Examiner I/II position. The department currently has three vacant positions: Economist I/II, Rate & Tariff Examiner I/II, and Auditor III.

STAFF TRAINING AND TRAVEL

This section identifies various training and seminars attended by the Telecommunications Department over the past year.

Internal Staff Training

Listed below is a list of dates/topics for internal Staff training within the Commission. The list provided below identifies internal training conducted prior to 2004. A subject matter expert within the department gave a short presentation of the topic. In most instances, a handout accompanied the presentation and the training typically lasted one hour. The dates/topics of this internal training are listed below:

Dates	Topic
February 5, 2004	Customer Specific Pricing
January 15, 2004	Metropolitan Calling Area Plan
December 17, 2003	The Basics of Digital Telephony
November 26, 2003	Tariffs (Common Q & A's about tariffs, finding things in tariffs)
November 19, 2003	Internet Telephony
November 12, 2003	Access Rates
November 5, 2003	Relay Missouri
October 29, 2003	Case Study of Carter Phone Decision
October 22, 2003	911 service
October 15, 2003	Tips on searching the FCC's web site.
October 9, 2003	Wireless telecommunications
September 24, 2003	Federal Universal Service Fund

September 17, 2003	Performance Measures
September 10, 2003	Triennial Review Order
August 27, 2003	Interconnection Agreement Process
August 20, 2003	Cost studies (Part II)
August 13, 2003	Cost studies (Part I)
August 6, 2003	Predatory pricing, unfair competition, anti-competitive tactics
July 16, 2003	Economics 101
July 9, 2003	Rulemakings
June 25, 2003	Technical Training wrap-up/test
June 18, 2003	Network Applications (56K, ISDN, PRI, T-1)
June 11, 2003	Oscilloscope & signal frequencies
June 4, 2003	Cable Entrance Facilities
May 21, 2003	Feeder cable
May 14, 2003	Technical training review
May 7, 2003	Bridge taps, load coils, serving area interfaces
April 30, 2003	Centrex & PBXs.
April 23, 2003	Resistence Design (How to design a telephone network)
April 16, 2003	Distribution Facilities
April 9, 2003	Drop & block wiring. How does a telephone work?
April 2, 2003	Overview of technical training

"Finance & Accounting for Non-Accountants": (September 27, 2004): Bill Peters, Art Kuss and Mike Scheperle participated in the one-day training sponsored by Commission Staff employees John Kiebel and Janis Fischer.

The training consisted of the following:

1. Basic Accounting Terminology
2. Financial Statements
3. More Accounting Terminology
4. Shareholder Annual Reports/Prospectus-How to Read Financial Reports
5. Regulation – SEC, FASB, FERC, NARUC, IRS

External Training

Partnership Program with the Rwanda Utilities Regulatory Agency: (October 25 through October 29, 2004). Commissioner Robert Clayton, Wess Henderson, Warren Wood and John Van Eschen traveled to Kigali, Rwanda. The trip was sponsored by the US Agency for International Development and coordinated by the National Association of Regulatory Utility Commissioners. The Rwanda Utilities Regulatory Agency (RURA) is a relatively new government agency and requested assistance in utility regulation. NARUC coordinated the formation of the international partnership program between RURA and the Missouri Public Service Commission. A full week of seminars was presented by the Missouri delegation and gave participants an understanding of the fundamentals of regulation. Five members of RURA are planning to visit the Missouri Commission in May 2005. A follow-up trip by the Missouri delegation to Rwanda may potentially occur later in 2005.

Information about this partnership, along with copies of all the presentations, can be found at http://www.narucpartnerships.org/rwanda.asp.

FRI Symposium (September 27, 2004): The Financial Research Institute at the University of Missouri – Columbia held their annual Utility Symposium on September 27, 2004. Speakers included Commissioner Stan Wise, the president of NARUC and Commissioner on the Georgia Public Service Commission; James Haines, the CEO of Westar Energy; and Dr. Stephen Ferris, the director of the FRI. Panel discussions took place regarding methods for determining return on investment; utility capital structure; and a "wrap up" panel for the events of the day that was chaired by Commissioner Robert Clayton. Panel members included Commissioners from Arkansas and Oklahoma; industry representatives; and consultants from various financial institutions. Attendants from the Telco Department included Sherri Kohly and Adam McKinnie.

Missouri Telecommunications Industry Association Annual Meeting (August 9-11): The meeting was held at the Lodge of the Four Seasons and had the following speakers: Jack Pendleton (GVNW) on "Red-Hot Technologies", Jim West (Staurulakis) "The Compensation Question", and Larry Winget ("the pit bull of personal development"). Bill Voight, Larry Henderson, Mick Johnson, Sara Buyak and John Van Eschen attended.

Missouri Telecommunications Industry Association Spring Meeting (May 26, 2004 in Kansas City): Updates on current telecommunications topics and trends (Legislation reports from Randy Tyree (OPASTCO's new legislative director) and Doug Galloway (Sprint); Teri Kessler outlined the latest from NECA; and Dave Lewis (CEO of Associated Network Partners, Inc.) provided thoughts on the impact of VoIP on local exchange carriers.)

"PSC 101 – Understanding the Basics for a Better Business Outcome": The Missouri Telecommunications Industry Association sponsored this seminar held on June 28, 2004, at the Capitol Plaza Hotel. The seminar was targeted to MTIA industry members. The half-day seminar had Dale Roberts cover such topics as the role of commissioners and administrative law judges, filing process, hearings, and the agenda. Gay Fred gave an overview of the Consumer Services Department along with a "top ten" list of consumer gripes. Dave Winter discussed work performed by the Accounting Department, specifically earnings investigations/reviews along with Staff's review of mergers, acquisitions & reorganizations. John Van Eschen, Bill Voight and Natelle Dietrich discussed tariff filings, interconnection agreements, the certificate application process, quality of service reports and universal service fund certifications.

"Telecom Symposium": On November 8, 2004, the University of Missouri conducted a seminar on telecommunications regulation. The symposium was primarily targeted to members of the Missouri General Assembly. Natelle Dietrich and John Van Eschen attended this seminar.

"Telephony 101": On December 1, 2004, the Missouri Cable Telecommunications Association conducted a seminar on the cable TV industry venturing into the phone business. The seminar was targeted to members of the General Assembly and the Missouri

Commission. Adam McKinnie, Bill Peters, Walt Cecil, Bill Voight, Natelle Dietrich and John Van Eschen attended this seminar.

Fiber to the Home Seminar (February the 4, 2004) in Blue Springs Missouri: Larry Henderson and Mick Johnson attended the seminar, which provided information on loop design, loop qualifications, equipment limitations and transport protocol.

Missouri Security Council Communications Committee Annual Meeting (February 12, 2004): Larry Henderson attended the meeting where the committee confirmed the following goals: (1) Identify communications requirements to preserve the health, property, security, and quality of life for people in the State of Missouri; (2) Identify all existing communications problems limiting the preservation of health, property, security, and quality of life for people in the State of Missouri; (3) Within the scope of this committee, promote and enhance all levels of communications essential to the preservation of the health, property, security, and quality of life for people in the State of Missouri; and (4) Report committee findings to the Missouri Security Council.

A New Wave of Telephony: The Role of Competitive VoIP Providers (March 3rd): Larry Henderson attended the Pike & Fischer interactive audio conference. This conference supplemented the activities of the Missouri PSC's VOIP Task Force.

IBM/Cisco Technology Seminars (Jefferson City): Larry Henderson and Mick Johnson attended a series of seminars hosted by IBM and Cisco. IBM conducted seminars on February 20, March 30, May 4, July 20, October 12 and December 1st. Cisco conducted seminars on April 12th and October 27th. The seminars focused on VoIP systems, network/interface equipment and network security. Several of the seminars provided hands-on experience with the VoIP technology. Cisco's demonstrations were conducted in conjunction with two Homeland Security meetings.

Nortel/Northern Telcom seminar (January in St. Louis): Nortel engineers displayed a new VoIP technology for existing PBXs. In addition various soft switches were displayed. See Mick Johnson for details.

Missouri State Fair: Larry Henderson and Sara Buyak manned the Commission's booth where they helped field consumer's questions on utility issues.

Mid-America Telecom Showcase & Seminar (MATSS) (October 18th and 19th in Kansas City): Larry Henderson and Mick Johnson attended the annual showcase co-sponsored by ATA, KTIA, MTIA, NTA, OTA, and SITA. The event features the latest in telecommunications technology, support services and product demonstrations. This year's emphasis was on providing the Triple Play. (Telephone- Television -Internet Access). This seminar has breakout sessions of technical interest in such areas as bonding and grounding of plant, battery back up digital line equipment, and loop design for providing the triple play over copper twisted pair. They also have breakouts on marketing, growth, and financing.

RATE CASES

Listed below are rate cases conducted during 2004:

Citizens Telephone Company: On September 28th, the Commission approved tariff sheets of Citizens Telephone Company that were filed in Case No. IR-2005-0024. The Department had recommended approval of the tariff sheets pursuant to a Stipulation and Agreement filed in Staff's audit of Citizens. As a result of the settlement, Citizens was ordered to reduce rates by $183,291 annually. Rate reductions were approved for E-9-1-1 related services, local rates, and exchange access rates.

Fidelity Telephone Company: On May 5th, the Commission approved tariff sheets of Fidelity Telephone Company that were filed in Case No. IR-2004-0272. The Department had recommended approval of the tariff sheets pursuant to a Stipulation and Agreement filed as a result of Fidelity's December 10, 2003, petition to implement a general rate increase of $2,359,972. As a result of settlement discussions, Fidelity's annual revenue was allowed to increase by $1,625,000 annually. Approximately 60 percent ($973,790) of the rate increase was applied to local rates, while approximately 40 percent ($651,210) was applied to exchange access rates.

Cass County Telephone Company: On May 11th, the Commission approved tariff sheets of Cass County Telephone Company that were filed in Case No. IR-2004-0354. The Department had recommended approval of the tariff sheets pursuant to a Stipulation and Agreement filed as a result of the Staff's earnings investigation of Cass County. As a result of the settlement, Cass County agreed to reduce its annual revenue by approximately $319,998. Rate reductions were approved for E-9-1-1 related services, Metropolitan Calling Area service, and exchange access rates.

AN ANALYSIS OF LOCAL COMPETITION IN MISSOURI

This section identifies relevant information concerning telecommunications-related competition in Missouri. A timeline of noteworthy events is provided that identifies significant cases and events since 1996. The impact of wireless and the impact of VoIP are briefly examined by citing various studies. The number of CLEC lines in Missouri is provided based on FCC documents.

Timeline of Noteworthy Events:

December 20, 1996: In Case No. TA-96-347 the Commission grants Cable-Laying Company d/b/a Dial US a certificate of service authority to provide basic local telecommunications service. The certificate became effective simultaneously with the effective date of the company's tariff that became effective for service on and after January 31, 1997. Dial US becomes the first competitive local exchange company to have the authority to offer basic local exchange service in Missouri. Dial US begins offering service in Springfield and Joplin exchanges.

September 16, 1997: Commission determines in Case No. TO-97-397 that SBC has met the requirements for converting from rate of return regulation to price cap regulation because Dial U.S. has been providing basic local telecommunications service in SBC's Springfield and Joplin exchanges since February 1997.

January 26, 1999: Commission determines in Case No. TO-99-294 that GTE Midwest Inc. has met the requirements for converting from rate of return regulation to price cap regulation because Mark Twain Communications Corporation has been providing basic local telecommunications service in GTE's Lewiston and LaBelle exchanges since July 28, 1998.

August 19, 1999: Commission determines in Case No. TO-99-359 that Sprint Missouri, Inc. has met the requirements for converting from rate of return regulation to price cap regulation. Commission cites ExOP provisioning of basic local service in Sprint's Kearney and Platte City exchanges. (ExOp's tariff became effective on December 15, 1998.)

March 15, 2001: In response to SBC's June 28, 2000 filing, the Commission issues a decision in Case No. TO-99-227 concluding SBC has met the requirements in Missouri of the 14-point competitive checklist of 47 U.S.C. 271(c) (2) (B). The Commission determined that CLECs serve approximately 12% of access lines in SBC's territory.

November 16, 2001: The Federal Communications Commission issues its Memorandum Opinion and Order in CC Docket No. 01-194 granting SBC's simultaneous applications for authorization under Section 271 of the Act to provide in-region, interLATA services in the states of Arkansas and Missouri.

December 27, 2001: The Commission issued a *Report and Order* in Case No. TO-2001-467 concerning whether effective competition exists for certain SBC services. Competitive classification for a particular service means that the company is no longer limited by price cap regulation in the pricing of the service. The Commission concluded effective competition for basic local telecommunications service exists in the following SBC exchanges:

> Kansas City and St. Louis exchanges: Core business switched services, business line-related services, directory assistance services for business customers, and operator services (specifically Busy Line Verification and Busy Line Interrupt).
>
> Harvester and St. Charles exchanges: Residential local service and related services, Optional MCA services, directory assistance services for residential customers and Busy Line Verification and Busy Line Interrupt.

The Commission further found effective competition exists in all SBC exchanges for the following services: Common Channel Signaling System 7 (SS7) and Line Information Database services private/dedicated line services, intraLATA toll services, wide area telecommunications (WATS) and 800 services, special access services, station-to-station, person-to-person services and calling card services.

The Commission also found, pursuant to Section 392.200.8, SBC is authorized to price high capacity exchange access line services and Plexar services on an ICB basis. Overall, the Commission found SBC's Tom Hughes's estimates of the number of lines served by competitors to be a reasonable estimate. Based on the various methods of calculation discussed, Mr. Hughes, in testimony, calculates CLEC market share between 9.5% and 12%.

May 21, 2002: Commission issues a Report and Order in Case No. TM-2002-232, authorizing GTE Midwest Incorporated d/b/a Verizon Midwest to transfer its exchanges to CentuyTel, granting CenturyTel certificates of service to provide basic local and intrastate interexchange telecommunications services, and holding that CenturyTel shall be subject to price cap regulation.

December 17, 2002: Commission determines in Case No. IO-2003-0132 that Spectra has met the requirements for converting from rate of return regulation to price cap regulation because Mark Twain Communications Company has been providing basic local telecommunications service in at least two Spectra exchanges since May 1998.

May 4, 2003: Commission approves stipulation and agreement between CenturyTel Missouri, LLC, Staff and OPC in Case No IO-2003-0253. The parties stipulated that the five-year clock for reviewing the status of competition in CenturyTel's exchanges began running on August 31, 2002. Effective competition will exist in CenturyTel exchanges beginning September 1, 2007, absent a finding by the Commission that competition does not exist.

December 4, 2003: The Commission determines in Case No. IO-2003-0281 that effective competition exists in the following Sprint exchanges:

> Kearney, Rolla and Norborne: Residential and business local service and related services (e.g. payphone service, directory assistance, local operator services, and ISDN service). Note that these services in other exchanges remain subject to price cap regulation. Optional MCA service is deemed competitive in the Kearney exchange.

In addition, the Commission determined the following Sprint services should be classified as competitive: Centrex, private line services, ATM service, Frame Relay service, intraLATA toll services, WATS/800 services, Line Information Data Base Access services, and Speed Dial.

July 30, 2004: SBC initiates a second case to investigate the status of competition in SBC exchanges. The case is assigned Case No. TO-2005-0035. Hearings are scheduled for January 31 through February 4, 2005.

March 6, 2005: SBC's M2A will expire. The M2A is a comprehensive contract available to CLECs relating to all aspects of SBC's wholesale operations. The M2A's expiration date is based on the Commission's March 6, 2001 decision in Case No. TO-99-227. At the time, the M2A would be available for four years (one year after the Missouri Commission's finding that SBC complies with the Section 271 requirements and for three additional years if the FCC approves SBC's 271 application).

Wireless & VoIP Impacts

Impact of Wireless: According to the FCC's "Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services" released September 28, 2004, the FCC estimates five to six percent of households now have wireless phones only. Estimates suggest that 23 percent of voice minutes in 2003 were wireless, up from 7 percent in 2000. Such effects included a decrease in the number of residential access lines, a drop in long distance revenues, and a decline in payphone profits. For the average household, wireless represents 27 percent of total telecommunications expenditures.

The FCC's December 2004 report on local competition indicates there were 2,859,953 wireless subscribers in Missouri as of June 2004, with 12 providers reporting.

Impact of VoIP (Voice over the Internet Protocol): According to forecasts by market research and consulting firm Parks Associates, there will be 4.5 million residential VoIP subscribers in the United States by 2007.[1] On a comparative basis, this projection represents approximately 2.4 percent of current wireline access lines in the United States. (The Industry Analysis Division of the Federal Communications Commission's (FCC's) Wireline Competition Bureau estimates there were a total of 187.5 million traditional switched access lines and 140.8 million mobile wireless subscribers in the United States as of December 31, 2002. Data for Missouri show approximately 3.5 million switched access lines and approximately 2.3 million mobile wireless subscribers.)

CLEC Lines in Missouri

According to the FCC's "Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services", as of June 30, 2004, CLECs in Missouri had 430,538 access lines or 13%. Only 13 CLECs report to the since only carriers with at least 10,000 switched access lines, or at least 10,000 mobile wireless telephone service subscribers, in a state were required to file. The report indicated that 42% of Missouri zip codes have no reporting CLECs.

Missouri annual reports show:

CLEC Provisioning	Residential	Business
Resold	41,597	27,148
UNE-Loop	4,665	68,300
UNE-Platform	71,722	78,822
Facilities-based	39,765	66,995

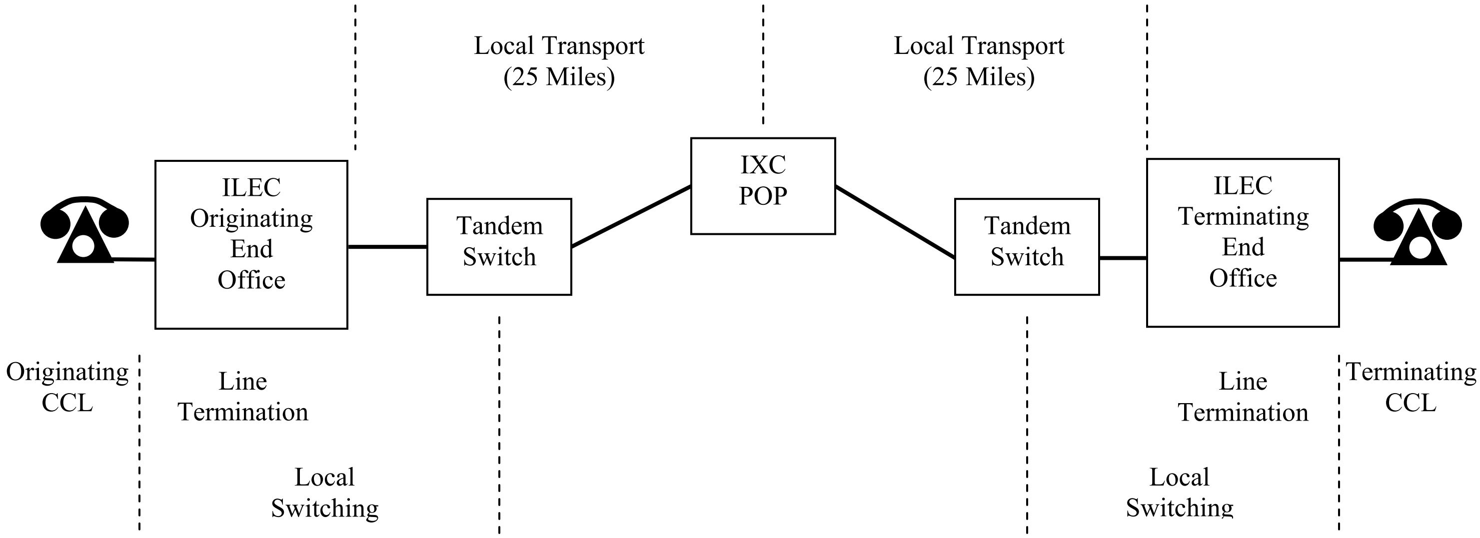
[1] From an article "Viral VoIP - The Spread of Residential IP Telephony": Xchange magazine, March 2004.

EXCHANGE ACCESS CHARGES

Exchange access charges are the rates charged by a local exchange carrier to a long distance carrier for the use of the local exchange carrier's network. Exchange access charges are not paid directly by consumers or end users of telephone service; rather, exchange access charges are wholesale charges paid by one telephone company to another. Exchange Access Service consists of two different types of access. The most common form of exchange access, called "switched access", utilizes switching and local loop facilities of local exchange carriers. Another form, denoted "special access", does not use switching facilities of local exchange carriers. In a special access arrangement, the long distance carrier purchases facilities that connect the end user directly to the long distance carrier's network.

The diagrams and rates in this section only attempt to depict switched access. How does one compare the access charges of different local exchange telephone carriers when the carriers use differing practices and methods for applying these rates? To answer this question, the department developed a Switched Access Rate Comparison table, to allow a simplified visual ranking of the switched access rates established by incumbent local exchange carriers (ILECs) in Missouri. The values calculated for this table do not necessarily represent a specific charge that would appear on a bill in the real world, but provide a means for matching charges in a consistent manner between divergent ILECs.

The values of interLATA and intraLATA charges would be the amounts accrued by a long distance carrier for use of the local exchange carrier's network. The chart depicts delivery of a long distance telephone call from one point in Missouri to another point in Missouri. For comparison purposes, the chart attempts to depict a long distance telephone call as if it traveled from one exchange to another exchange belonging to the same carrier, passing through tandem switches and an interexchange carrier's (IXC) Point-of-Presence (POP) for a distance of 25 miles on each end of the "POP". The form of this routing theory is illustrated in Figure 1, which displays how and where the cost elements are applied in the network. It should be noted that Missouri has not restructured local transport as has been done by the Federal Communications Commission for interstate long distance traffic. Therefore, the rate elements shown in this diagram apply only to intrastate calls, and not to interstate calls.



Section V. Figure 1. Interexchange Traffic Network Access Transport Configuration

The charges accrued would then include Originating Carrier Common Line (CCL) rates, the local switching and transport charges at each end of the call, and the Terminating CCL rate. The Local Transport charge is chosen for a 25-mile route, as the minimum distance-sensitive rate band published by certain companies is 25 miles. Due to differences in the way certain carriers handle their calls, additional rate elements such as "Line Termination" charges are included in calculations of the final amounts, shown under "Totals."

The totaled InterLATA and IntraLATA charges are then averaged. The ILECs are ranked according to average access charges from highest to lowest, so as to provide a simplified picture of how one ILEC's access charges compare to another:

The current rates provided in company tariffs and calculated values for comparing are listed in the Switched Access Rate Comparison table following.

Switched Access Rate Comparison of Incumbent Local Exchange Carriers (ILECs)

Sorted by Average Access Charge Ranking

All figures in USA Dollars

Average Access Rank	Telephone Company	Carrier Common Line (CCL) Inter LATA Originate	Inter LATA Terminate	Intra LATA Originate	Intra LATA Terminate	Local Switching (LS2)	Line Termination (LT)	FGC&D Local Transport (FGT)	TOTALS Inter-LATA	TOTALS Intra-LATA	Average Access Charges
1	Miller Telephone	0.0986	0.1690	0.0400	0.0686	0.0118	0.0149	0.0124	0.3458	0.1868	0.2663
2	Peace Valley Telephone	0.0530	0.1052	0.0530	0.1052	0.0118	0.0149	0.0241	0.2598	0.2598	0.2598
3	Northeast Missouri Rural Telephone	0.0574	0.1034	0.0574	0.1034	0.0118	0.0149	0.0189	0.2520	0.2520	0.2520
4	Mid-Missouri Telephone	0.0708	0.0958	0.0407	0.0697	0.0118	0.0149	0.0281	0.2762	0.2200	0.2481
5	Grand River Mutual Telephone	0.0682	0.1170	0.0418	0.0717	0.0118	0.0149	0.0221	0.2828	0.2111	0.2469
6	Ellington Telephone	0.0380	0.0652	0.0610	0.1045	0.0118	0.0149	0.0273	0.2112	0.2735	0.2424
7	MoKan Dial	0.0842	0.1443	0.0332	0.0569	0.0118	0.0149	0.0112	0.3043	0.1659	0.2351
8	Fidelity Telephone	0.0450	0.0450	0.0450	0.0450	0.0194		0.0457	0.2203	0.2203	0.2203
9	Stoutland [TDS] Telephone	0.0500	0.1538	0.0239	0.0407	0.0118	0.0149	0.0126	0.2824	0.1432	0.2128
10	Holway Telephone	0.0425	0.0820	0.0425	0.0820	0.0118	0.0149	0.0153	0.2085	0.2085	0.2085
11	BPS Telephone	0.0299	0.0714	0.0299	0.0714	0.0282		0.0133	0.2039	0.2039	0.2039
12	KLM Telephone	0.0446	0.0745	0.0446	0.0745	0.0118	0.0149	0.0155	0.2035	0.2035	0.2035
13	Citizens Telephone	0.0445	0.0757	0.0445	0.0757	0.0268		0.0115	0.1967	0.1967	0.1967
14	Steelville Telephone	0.0197	0.0698	0.0197	0.0698	0.0369		0.0140	0.1913	0.1913	0.1913
15	CenturyTel [Spectra]	0.0292	0.0606	0.0292	0.0606	0.0275		0.0130	0.1899	0.1899	0.1899
16	ALLTEL Missouri	0.0489	0.0880	0.0237	0.0427	0.0267		0.0167	0.2236	0.1530	0.1883
17	Choctaw Telephone	0.0597	0.1022	0.0317	0.0543	0.0118	0.0149	0.0035	0.2223	0.1464	0.1844
18	Oregon Farmers Mutual Telephone	0.0391	0.0692	0.0391	0.0692	0.0118	0.0149	0.0107	0.1830	0.1830	0.1830
19	Mark Twain Rural Telephone	0.0492	0.0842	0.0329	0.0564	0.0118	0.0149	0.0139	0.2146	0.1705	0.1926
20	Farber Telephone	0.0335	0.0574	0.0263	0.0451	0.0118	0.0149	0.0226	0.1895	0.1700	0.1798
21	Iowa Telecom	0.0251	0.0600	0.0251	0.0600	0.0282	0.0049	0.0133	0.1779	0.1779	0.1779
22	Chariton Valley Telephone	0.0440	0.0754	0.0322	0.0552	0.0118	0.0149	0.0104	0.1936	0.1616	0.1776
23	Cass County Telephone	0.0299	0.0446	0.0299	0.0446	0.0282		0.0133	0.1771	0.1771	0.1771
24	Orchard Farm [TDS] Telephone	0.0468	0.0802	0.0361	0.0619	0.0118	0.0149	0.0046	0.1896	0.1606	0.1751
25	New Florence Telephone	0.0208	0.0357	0.0393	0.0675	0.0118	0.0149	0.0192	0.1483	0.1986	0.1735
26	Sprint Missouri	0.0359	0.0541	0.0359	0.0541	0.0236		0.0180	0.1732	0.1732	0.1732
27	CenturyTel of Missouri	0.0204	0.0488	0.0204	0.0488	0.0274		0.0130	0.1692	0.1692	0.1692
28	Granby Telephone	0.0317	0.0543	0.0350	0.0600	0.0118	0.0149	0.0106	0.1606	0.1696	0.1651
29	Le-Ru Telephone	0.0267	0.0457	0.0267	0.0457	0.0271		0.0191	0.1648	0.1648	0.1648
30	Kingdom Telephone	0.0384	0.0659	0.0247	0.0422	0.0118	0.0149	0.0115	0.1807	0.1433	0.1620
31	IAMO Telephone	0.0254	0.0553	0.0254	0.0553	0.0118	0.0149	0.0137	0.1614	0.1614	0.1614
32	McDonald County Telephone	0.0267	0.0459	0.0267	0.0459	0.0270		0.0143	0.1551	0.1551	0.1551
33	Craw-Kan Telephone	0.0347	0.0595	0.0216	0.0371	0.0118	0.0149	0.0081	0.1638	0.1283	0.1460
34	Alma Telephone	0.0302	0.0518	0.0145	0.0249	0.0118	0.0149	0.0137	0.1628	0.1202	0.1415
35	New London [TDS] Telephone	0.0394	0.0675	0.0100	0.0100	0.0118	0.0149	0.0115	0.1833	0.0964	0.1399
36	Green Hills Telephone	0.0147	0.0507	0.0147	0.0507	0.0118	0.0149	0.0100	0.1388	0.1388	0.1388
37	Seneca Telephone	0.0192	0.0385	0.0192	0.0385	0.0179		0.0165	0.1265	0.1265	0.1265
38	Rock Port Telephone	0.0100	0.0147	0.0100	0.0147	0.0199		0.0139	0.0923	0.0923	0.0923
39	Goodman Telephone	0.0100	0.0164	0.0100	0.0164	0.0153		0.0165	0.0901	0.0901	0.0901
40	Lathrop Telephone	0.0112	0.0112	0.0112	0.0112	0.0176		0.0133	0.0842	0.0842	0.0842
41	SBC Missouri	0.0099	0.0180	0.0099	0.0180	0.0084		0.0076	0.0599	0.0599	0.0599
42	CenturyTel of Northwest Arkansas	0.0100	0.0140	0.0100	0.0140	0.0090		0.0046	0.0513	0.0513	0.0513
43	Ozark Telephone	0.0100	0.0100	0.0100	0.0100	0.0071		0.0038	0.0473	0.0473	0.0473
Total = 43	Incumbent Local Exchange Carriers										
	Access-Line-Weighted Averages =	0.01618	0.02982	0.01530	0.02827				0.0969	0.0938	0.0953

Column 1: Average Access Rank
ILEC's ranking by the average of representative IntraLATA and InterLATA Charges.
Highest Rates =1; Lowest Rates = 43.

Column 2: Telephone Company
Incumbent Local Exchange Carriers (ILECs) sorted in ascending alphabetical order.

Column 3: Carrier Common Line (CCL) InterLATA Originate
ILEC's Tariffed InterLATA Originating CCL Rate.

Column 4: Carrier Common Line (CCL) InterLATA Terminate
ILEC's Tariffed InterLATA Terminating CCL Rate.

Column 5: Carrier Common Line (CCL) IntraLATA Originate
ILEC's Tariffed Primary IntraLATA Originating CCL Rate.

Column 6: Carrier Common Line (CCL) IntraLATA Terminate
ILEC's Tariffed Primary IntraLATA Terminating CCL Rate.

Column 7: Local Switching (LS2)
Local Office Switching Rate.
ILEC's tariffed rate to cover the cost of local office switching.

Column 8: Line Termination (LT)
Line Termination Rate.
ILEC's tariffed rate to cover the cost of local office connections.
Some ILECs combine this cost with other functions.

Column 9: FGC&D Local Transport (FGT)
Local Transport Rate.
ILEC's tariffed rate to cover the cost of delivery of traffic between switching offices.
Usually mileage-sensitive; 25-mile distance is used for this calculation.

Column 10: Totals InterLATA
Calculated value for delivery charges of an InterLATA call as if long-distance between 2 exchanges in different LATAs of the same carrier.
(InterLATA Originating +Terminating CCL Rate)+[2*(LS2+LT+FGT)]+(4*TT)

Column 11: Totals IntraLATA
Calculated value for delivery charges of an IntraLATA call as if long-distance between 2 exchanges in the same LATA of the same carrier.
(IntraLATA Primary Originating + Primary Terminating CCL Rate)+[2*(LS2+LT+FGT)]+(4*TT)

Column 12: Average Access Charges
Calculated value when the long-distance call total charges described above are averaged.
(InterLATA Totals + IntraLATA Totals)/2

Bottom Row:
Access-Line-Weighted Averages.
These figures show column averages after taking into account the number of telephone lines served by the individual carriers. The larger carriers will then have a greater effect on these values, producing an average rate for a telephone line in Missouri.
Summation Individual Carrier's Rate x (Individual Carrier's Lines / Total of State Lines)

Notes to Comparison Table:

1. Certain ILECs apply discounted IntraLATA originating and terminating CCL Rates. Those are the rates paid after the delivering carrier's monthly usage exceeds a limiting number of minutes. Such rates do not appear in the table.
2. Certain ILECs use a method that supposes a sample call travels between two Interexchange Carriers (IXCs) enroute. Those carriers apply a small additional cost element called a Transport Termination charge. There will appear two Transport Termination charges at each end of a call, which add up to four such charges in the calculation formula. The calculated results for those carriers account for all access charges applied for a theoretical long-distance call, for comparison purposes in this table.

FEDERAL ACTIVITY

This section identifies noteworthy federal decisions related to telecommunications regulation. This section also identifies and summarizes comments filed by the Missouri Public Service Commission in dockets at the Federal Communications Commission.

Relevant Federal Decisions

Triennial Review Order

On December 15, 2004, the FCC adopted rules on ILEC obligations to make elements of their network available to carriers seeking to enter the local telecommunications market. The rules responded to the March 2004 decision by the US Court of Appeals for the D.C. Circuit, which overturned portions of the FCC's UNE rules in its triennial review order. By its new rules, the FCC evaluates impairment with regard to the capabilities of a *reasonably efficient* competitor; draws inferences regarding the prospect of competition in one geographic market based on the state of competition in other, similar markets; sets forth impairment standards for dedicated interoffice transport and high capacity loops based on the number of fiber-based collocators or number of business access lines; and removes any obligation for ILECs to provide unbundled access to mass market local circuit switching. The FCC established a 12-month transition plan for competitors to negotiate new agreements, build their own facilities, or find other means of servicing customers, but increased the price for access to elements by one dollar during that time. (Action by the FCC by Order on Remand, FCC 04-290. WC Docket No. 03-173).

The Missouri Commission initiated the following cases/activities in response to the directives in the Triennial Review Order:

September 18, 2003 – Case No. TO-2004-0140 – pleading to establish two cases.

September 22, 2003 – Case No. TW-2004-0148 – create working group proceedings.

September 22, 2003 – Case No. TW-2004-0149 – create working group proceedings.

November 5, 2003 – Case No. TO-2004-0207 – order creating case.

December 1, 2003 – Established procedural schedule outlining three phases:

- Phase 1 – Define particular geographic markets and the appropriate multi-line DS0 customer crossover between the mass and enterprise markets.
- Phase 2 – Determine whether FCC-defined triggers to measure existing switch deployment are met or whether a potential deployment analysis shows non-impairment and, if necessary, approval of the incumbent LEC hot cut process.
- Phase 3 – Determine whether FCC-defined triggers or potential deployment analysis for a finding of non-impairment have been met for specific types of high-capacity loops - dark fiber, DS3, or DS1- at particular customer locations, and

whether FCC-defined triggers or potential deployment analysis for a finding of non-impairment have been met for non-access to incumbent LEC transport on specific routes.

February 24, 2004 – Order establishing geographic markets and enterprise market cutoff (Phase 1).

- Order established that the appropriate geographic market is the exchange.
- Order established that a mass-market customer is defined as a customer with ten or fewer DS0 lines at a particular location.

March 5, 2004 – Order suspending schedule and directing filing. The decision of the United States Court of Appeals for the District of Columbia Circuit issued on March 2, 2004 may have a significant impact on this case. All activity in case is suspended until further notice.

July 30, 2004 – Notice closing case.

IP-Enabled Services

In February 2004, the FCC found that Free World Dialup (FWD) service as offered by Pulver.com is an unregulated information service subject to the FCC's exclusive jurisdiction; FWD is an Internet application available on Pulver's server that bears no geographic correlation to any particular underlying physical transmission facility; and, FWD uses a Pulver-assigned number, not a number from the numbering plan administrator. (WC Docket No. 03-45)

In 2004, the FCC found that AT&T's phone-to-phone service was an interexchange service that uses ordinary customer premises equipment (CPE) with no enhanced functionality, originates and terminates on the public switched network and undergoes no net protocol conversion. (WC Docket No. 02-361)

In November 2004, the FCC found that Vonage's DigitalVoice service cannot be separated into interstate and intrastate communications, declaring that the FCC, not state commissions, has the responsibility and obligation to decide whether regulations apply to IP-enabled services having the same capabilities. The FCC found Vonage customers must have access to a broadband connection to the Internet to use the service, which must be obtained from a provider other than Vonage. The FCC also found that although Vonage's services uses numbers from the numbering administrator as the identification mechanism for the user's IP address, the number is not necessarily tied to the user's physical location for either assignment or use. (WC Docket 03-211)

Missouri Commission Comments filed with FCC

NASUCA's petition to limit surcharges (CC Docket No. 96-45): Missouri Commission's comments supported NASUCA's proposal to limit line item surcharges and fees to situations where the charges are expressly mandated by federal, state and local authorities. Comments filed August 13, 2004.

SCB IP's petition for telephone numbers (CC Docket No. 99-200): SBC IP, a VoIP provider, wants to request and receive telephone numbers directly from the North American Numbering Administrator. The Missouri Commission did not take a position on the petition but asked the FCC to ensure any number conservation authority delegated to states apply to VoIP providers if the FCC grants SCB IP's petition. Comments filed August 31, 2004.

NPRM on UNE rules (WC Docket No. 04-313 & CC Docket No. 01-338): In this Notice of Proposed Rulemaking, the FCC sought input from states on the status of competition and any resolution in the TRO proceedings. The Missouri Commission summarized its TRO proceeding in Case No. TO-2004-0407 and discussed the 3 phases for that case. The Commission completed Phase I and attached a copy of its order. The Missouri Commission also summarized its findings in Case No. TO-2001-467 (the first SBC effective competition case) and Case No. IO-2003-02821 (the Sprint effective competition case). Comments filed October 4, 2004.

NPRM on ETC designation and USF funding (CC Docket No. 96-45): In this Notice of Proposed Rulemaking, the Missouri Commission filed Comments and Reply Comments. Comments support any additional FCC direction when states consider ETC designation requests. Missouri Commission provided information on its annual certification process for ensuring federal USF support is being used appropriately. Supports concept of limiting USF support to a single connection. Also commented on the Joint Board's lump sum payment proposal and the hold harmless proposal. Comments filed August 6, 2004. Reply Comments filed on September 21, 2004 based on concerns expressed by a local exchange carrier. Missouri Commission's Reply Comments acknowledge administrative challenges associated with limiting USF support to a single connection. Urges the FCC to address such issues before adopting any primary line limitation.

Sunset of SBC's 272 separate affiliate obligation (WC Docket No. 02-112): Missouri Commission recommended the FCC extend the sunset for six months to allow the Missouri Commission to complete its second investigation into the state of competition in SBC exchanges. Comments filed October 13, 2004. (Note: FCC ultimately allowed SBC's 272 separate affiliate obligation to expire in November 2004.)

Compensation for IP Relay Services (GC Docket No. 03-123): The FCC previously determined that IP Relay Services should be funded from the interstate Relay fund. The FCC recently issued a Notice of Proposed Rulemaking (NPRM) seeking comment as to whether it is still appropriate for IP Relay costs to be recovered from the interstate fund. The Reply Comments were in response to Sprint's (the Missouri Relay Administrator) comments that IP Relay should be recovered from both the interstate and intrastate relay funds. The Reply Comments generally recommended that IP Relay continue to be funded from the federal fund, but suggested the FCC wait until it addresses the issues in its IP Enabled services NPRM, and then make any decision in this proceeding consistent with that proceeding. The Reply Comments also suggested the FCC be cognizant of state regulations and procedures that may be inconsistent with a decision that a portion of IP Relay costs are intrastate.

Notice of proposed rulemaking on IP-Enabled Services (WC Docket 04-36): The comments address many of the issues raised in the NPRM by summarizing the findings and discussions from the Missouri VoIP Task Force and its report to the MoPSC. The comments encouraged the FCC to consider all issues being addressed in other dockets and the impact of those individual decisions on IP-enabled services. Such dockets include intercarrier compensation, public safety issues and universal service funding issues. The comments also encouraged the FCC to refer jurisdictional and universal service issues to the appropriate joint board.

EXPANDED CALLING

This section describes relevant activity pertaining to expanded calling.

Calling Scope Task Force (Case No. TW-2004-0471: *In the Matter of a Commission Inquiry into the Metropolitan Calling Area Plan and Calling Scopes in Missouri*) On March 18, 2004, the Commission established a fifteen member Task Force to investigate whether, and if so, what type, of changes should be made to the Metropolitan Calling Area Plans and to calling scopes in general. After five Task Force meetings and two sub-committee meetings the Task Force (on a 11-2-2 vote) filed its Final Report on September 29, 2004. The Task Force Final Report recommends the Commission establish a process to entertain requests for the establishment of new expanded calling plans or changes to existing expanded calling plans. The Task Force drafted a general procedure to entertain such requests. The Task Force also recommends the Commission investigate whether additional competitive incentives can be achieved with the establishment of a high-cost, state support fund to ensure that basic local service rates remain affordable for all Missourians. John Van Eschen, Natelle Dietrich and Bill Voight were members of the Task Force with Mike Scheperle and Walt Cecil assisting. It should be noted that a detailed list identifying local calling scopes and calling plans on an exchange-specific basis was developed; however the list was never filed into the case file. A survey was also developed intended to gauge public opinion regarding calling scopes; however the survey was not implemented.

Rockaway Beach's petition (Case No. TO-2003-0257): Citizens from the Rockaway Beach area filed a petition on January 29, 2003 for expanded calling to Branson. Staff became involved in the case in the Fall of 2004 when Staff hosted a conference call/meeting with Rockaway Beach officials, CenturyTel and the Office of the Public Counsel.

Other pending Expanded Calling-Related Requests:

-Reclassify Greenwood from MCA-3 to MCA-2.
-Add Lexington to Kansas City's MCA 5.

-Reclassify Ozark from MCA-2 to MCA-1.
-Expand St. Louis MCA to include Washington, Union, Wright City, St. Clair, Marthasville, Beaufort, Foley and Warrenton.

Extended Area Service routes: Appendix A displays a map of extended area service routes within senatorial districts.

PRICE CAP

This section identifies elections by companies to move from rate of return regulation to price cap regulation. This section also identifies and briefly describes rate adjustments by price cap regulated telecommunications companies. Staff's review of price cap rate changes is also discussed.

Elections to Become a Price Cap Company:

During 2004, the Missouri Public Service Commission invalidated price cap elections by two small incumbent local exchange companies, **Alltel Missouri** (Case No. IO-2002-1083) and **BPS Telephone Company** (Case No. IO-2004-0597). Both Alltel and BPS had relied on the presence of prepaid resale CLECs as their allowance to elect price cap regulation under Missouri Statutes. In both instances the Commission orders stated, "The types of services that [CLEC] provides [is] not what the legislature intended as basic local services necessary to invoke a lesser degree of regulation for small incumbent local exchange carriers."

Price Cap Rate Changes

Sprint:

On October 31, 2003, Sprint filed five, price-cap filings to adjust basic services rates by the change in the telephone services component of the consumer price index (CPI-TS) (pursuant to § 392.245.4(1)(a) RSMo 2000), to adjust non-basic services rates by 8% (pursuant to § 392.245.11 RSMo 2000). The CPT-TS declined over that year by a little more than ½% and resulted in a reduction in basic local exchange rates by $.01. Access rates (carrier common line) were also reduced by a small amount--these changes impacted about 20 rates. Around 480 nonbasic rates (business and residential) were increased by amounts approximately or exactly equal to 8%. Sprint also increased approximately 1,500 **maximum allowed** (not actually charged) rates by amounts approximately or exactly equal to 8%.

The Commission initially suspended the tariffs in response to OPC's motion (filed 11/19/03) requesting suspension and hearing. OPC's primary complaints, at the time, were that the cover letter accompanying the filings was deficient and Sprint had not provided meaningful public notice. On January 15, 2004 the Commission denied OPC's motion to suspend, effectively approving the filings. (See Case Nos. IT-04-225 through 229).

<u>SBC:</u>

SBC increased the following: Seven Digital Link Services-related rates by amounts ranging from 7.14% to 8%; two rates in PSC Mo No 41 (Integrated Services tariff) by 8%; numerous rates in PSC Mo No 35 (General Exchange tariff) which affected rates for directory listings, directory non-listing, directory non-publishing, (residential and business) and directory assistance (involving operator services) were increased by amounts from 7.4% to 8%. Directory search services and Plexar rates were increased by 8% by 2-3%, respectively. Staff recommended suspension because the rates increases generally exceeded the increases in the macroeconomic benchmark indicators that the Commission ordered the Staff to monitor. The Commission denied the suspension motion (3/2). In addition SBC changed discounts and certain rates in Easyoptions® Packages.

The filing was the annual CPI-TS adjustment associated with and as a follow-up to the above filings. In this filing SBC reduced the basic local rates (business and residential basic local flat rate 1-party, message rate 1-party, measured 1-party service, lifeline rates) for in its A-D zones, cross-border exchanges and the EAS rates by the change in the CPI-TS (-2.68%).

<u>Spectra:</u>

Effective: 9/1/04

Filing No. JI-2005-0037: Spectra decreased basic local exchange services rates and mandatory EAS rates by the reduction in the CPI-TS (2.5827%) and increased custom calling features, operator service rates, directory assistance rates, centrex rates and service packages rates by no more than 8%. Also, due to line count-changes, exchanges that lost lines were reclassified into lower rate-groups and those exchanges that increased line counts were reclassified into higher rate-groups pursuant to the rates charged in the company's tariff.

Filing No. JI-2005-0038: This filing reduced switched access and CCL rates by the change in the CPI-TS (2.5827%).

Filing No. JI-2005-0039: This filing increased nonbasic rates for Spectra toll plans by no more than 8%. These increases affect: MTS, blocks-of-time plans, discount calling plans, extended exchange calling plans, OCA plans and affiliated operator services.

<u>CenturyTel:</u>

Effective: 9/5/04

Filing No. JI-05-0059: CenturyTel decreased basic local exchange services rates and mandatory EAS rates by the reduction in the CPI-TS (2.5827%) and increased custom calling features, operator service rates, directory assistance rates, centrex rates and service packages rates by no more than 8%. Also, due to line count-changes, exchanges that lost lines were reclassified into lower rate-groups and those exchanges that increased line counts were reclassified into higher rate-groups pursuant to the rates charged in the company's tariff.

Filing No. JI-05-0060: This filing reduced switched access and CCL rates by the change in the CPI-TS (2.5827%).

Filing No. JI-05-0061: This filing increased nonbasic rates for CT toll plans by no more than 8%. These increases affect: MTS, blocks-of-time plans, discount calling plans, extended exchange calling plans, OCA plans and affiliated operator services.

Staff's Review of Price Cap Rate Adjustments:

Staff has identified the following indicators and benchmarks, which it could evaluate when undertaking an analysis of the non-basic rates included in a price cap filing. Depending on the size of the filing, some or all items are reviewed.

Items to be considered for all price cap filings:

- Staff would perform the customary "mathematical calculations" to make sure all proposed rate increases are less than or equal to 8 percent.
- Staff would review and include in its analysis, up-to-date annual adjustments to various economic indicators such as those mentioned in the Commission's past orders, including the consumer price index, the gross domestic product index and the producer price index.
- Staff would incorporate a spreadsheet or discussion of the history (which would be requested from the company) of all changes for each proposed rate adjustment. This history would include: the rate at the time the company became subject to price cap regulation; each rate adjustment since the company became subject to price cap regulation; the percent change in each proposed rate adjustment since the company became subject to price cap regulation.
- Staff would review and include in its analysis a discussion of any unique or special circumstances. (I.e., in a previous price cap filing, the price cap company eliminated multiple toll mileage plans and replaced them with a revenue proposal for flat-rated long distance rates).
- Staff would incorporate any relevant changes as a result of Commission directives or statutory changes.

Items to be considered in all smaller price cap filings or in larger price cap filings if given more than 45 days to review:

- Staff would review and discuss social and economic factors such as an emergency need associated with the service, elasticity of demand, customer usage patterns, etc.
- Staff would include an analysis of the rates for each service, to the extent available, for all Missouri ILECs, selected Missouri CLECs, selected Missouri IXCs and for the price cap company in its other states.
- Staff would include a discussion of other relevant cost drivers such as labor rates, productivity offsets, cost of capital etc. as appropriate.
- Other factors as deemed appropriate.

COMPLAINTS

This section identifies and summarizes formal complaints filed with the Commission.

Formal Complaints:

Case TC-2004-0442 (David Hicks vs. Sprint Missouri, Inc.): Service was disconnected by Sprint because the Complainant was delinquent with his account. Staff's investigation revealed no rules were violated by Sprint and recommended the case be dismissed. The Commission ultimately dismissed the case. Afterwards the Complainant placed a call to the commission, making various allegations against Staff and General Counsel. A subsequent outside investigation was conducted and found no validity to the Complainant's claims.

Case IC-2004-0608 (Ronald MacKenzie vs. Sprint Missouri, Inc.): The Complainant believes Sprint should absorb the costs of raising the telephone line in order to allow for proper clearance of his new driveway. Complainant claims it is not his responsibility to pay for safe access to his property. Staff made a site visit and took several pictures. The distance between the new driveway and Sprint's aerial cable was 10 feet while the National Electric Safety Code requires 15.5 feet. Staff concluded the National Electric Safety Code is being violated and the landowner should be responsible for expenses of raising Sprint's cable because the landowner's actions created the height problem. This case originally went through mediation and failed. The case is still pending.

Case No. TC-2002-1077 (13 small ILECs + 1 CLEC vs. Voicestream/T-Mobile and SBC): This complaint case alleges Voicestream (now, T-Mobile) and Western Wireless are not compensating Complainants for terminating wireless-originated traffic on their networks. Additional issues involve whether SBC should be secondarily liable and whether interMTA factors negotiated between the wireless carriers and the Complainants should be adopted. A final hearing was conducted in November 2003 with closing arguments conducted in December 2003. At this time, the Commission has not issued a decision.

Case No. TC-2002-57 (Northeast Missouri Rural Telephone Company/Modern Telephone Company vs. SBC, Cingular, Voicestream, and several other wireless carriers): This complaint case was originally filed by seven ILECs where Complainants allege certain wireless carriers are not compensating Complainants for terminating wireless-originated traffic on their networks during the time period of February 5, 1998 through December 31, 2001. The case has had two hearings. The first hearing centered on such issues as what compensation is appropriate, if any, if the complainant does not have a wireless termination tariff or an interconnection agreement with the wireless company. The second hearing focused on the appropriate level of inter-MTA factors. At this time, the Commission has not issued a decision.

Case No. TC-2004-0492 (Maria Perrron vs. MCI WorldCom Communications, Inc.): Ms. Perron disputed charges on her MCI statement. MCI removed the disputed charges and requested the Commission dismiss the complaint. The case was closed on May 25, 2004.

Case No. TC-2005-0139 (Larry Hawkins vs. Comm South/SBC): Mr. Hawkins is receiving harassing phone calls. Notice of complaint sent certified mail on December 27, 2004. Complaint is pending.

Case No. TC-2005-0148 and TC-2005-0174 (Lula Fabyanic vs. VarTec Telecom. Inc.): The first complaint was rejected because one person on behalf of another filed it. Case No. TC-2005-0148 was closed without any order ever being issued. The same complaint was later accepted by the Data Center and assigned Case No. TC-2005-0174. Notice of the complaint was sent December 20, 2004. Complaint is pending.

Case No. XC-2004-0274 (Rickey Oaks vs. Broadwing Communications, Inc.): Mr. Oaks filed a complaint regarding disputed charges. The parties filed a Settlement Agreement on November 1, 2004, wherein Broadwing removed the disputed charges from Mr. Oak's bill. The case was dismissed and closed on November 2, 2004.

Case No. TC-2005-0067 (Tari Christ d/b/a ANJ Communications, et..al. vs. SBC): A group of 28 payphone providers filed a complaint against SBC regarding rates charged by SBC for network services, stating the rates were not in compliance with the FCC's New Services Test. According to the FCC's *Wisconsin Order* in FCC docket 02-25, released 1-13-02, the New Services Test was put into place to ensure that payphone rates would be cost-based plus a reasonable amount of overhead. All parties agreed to engage in mediation. The parties are ordered to submit a status report to the Commission by February 28, 2005.

Case No. TC-2005-0205: During 2004 AT&T carrier mis-applied a $3.95 monthly charge to 29,165 Missouri customers. The misapplication was part of a nation-wide billing problem experienced by the carrier. AT&T refunded a total of $285,147 to these Missouri subscribers. AT&T agreed to provide 3,000 prepaid calling cards to the Missouri National Guard. Each card allows 3 hours of calling within the United States or approximately 17 minutes of calling to Iraq.

Other complaint cases: Staff filed approximately 80 formal complaints during 2004 against various certificated IXCs, CLECs, STS providers, payphone providers for failing to pay the PSC assessment and/or filing an annual report with the Commission. Many of the complaints resulted in Commission decisions to seek penalties against such violators.

Informal Complaints:

The Telecommunications Department addressed many informal complaints during the past year. Appendix B contains a brief description of some of these complaints, which are arranged into the following categories: selected quality of service-related complaints, selected billing-related disputes, and boundary disputes.

TELECOMMUNICATIONS QUALITY OF SERVICE

Quality of Service Reports

Commission rules require any company providing basic local telecommunications service to submit quality of service results on a quarterly basis. Larry Henderson and Mick Johnson review the results. They discuss with companies any developing problems in a company complying with the Commission's surveillance levels. Historical quality of service results are maintained to chart trends a company may be establishing over a period of time or used to compare Missouri quality standards to others in the nation. Quality of service results are maintained on a confidential basis on the Commission's intranet site. These results show the overall the quality of telecommunications service received by Missouri consumers is good.

New revisions to the Commission's quality of service requirements went into effect on June 30, 2004. On August 16th a seminar was conducted by the Commission Staff, at the request of the Missouri Telecommunications Industry Association, regarding the new requirements. In addition, a discussion was held to solicit feedback regarding a draft procedure allowing a company to request permission to exclude data in the tabulation of the company's results contained in their quarterly quality service report.

Since the approval of the new quality of service rules, Staff has been making a conscious effort to ensure all companies offering basic local telecommunications service are accurately compiling and submitting the required quality of service reports. Two separate letters went to all Competitive Local Exchange Carriers (CLEC's) that are not in compliance with the reporting requirements of Chapter 3 and Chapter 32. Numerous phone calls and e-mails have been fielded by Mick and Larry in answering questions about these reports. The reluctance of some carriers to submit the reports may cause Staff to recommend the Commission take formal action against such carriers.

Incumbent Local Exchange Carrier Facility Information

The Staff has a confidential database that identifies a variety of information. The database is an Excel spreadsheet that exists on the P-drive under the folder "Ilec Switch

Info (HC Protected)". This database identifies on an exchange specific basis the following information about each exchange: CLLI code; address, city and zip code of Telco central office, area code/NXXs in the exchange, counties in the exchange; switch manufacturer and type; the date the switch was installed; current software on the switch; future planned software deployment date; number of companies collocating; mille-watt number, silent termination number, the tandem serving the exchange, V & H coordinates, working access lines as of December 31, 2002. The database was compiled through data requests issued by the depreciation department in consultation with the Telecommunications Department.

Telephone Switching Links: Appendix C identifies telephone switching links within Missouri. This map identifies tandem locations and the exchanges that sub-tend specific tandems.

RULEMAKINGS

New Rulemakings Becoming Effective in 2004:

Certificate Applications Filing Requirements (Case No. TX-2003-0380) Effective November 30, 2004: This rulemaking codifies existing processes for submission and review of competitive applications. The rulemaking incorporates the financial analysis test and includes statutory requirements for CLEC applications. The rule also removes the requirement to file a tariff with a 45-day effective date at the same time the application is filed. The rulemaking affects the following Commission rule: 4 CSR 240-3.510.

Filing Requirements to Sell, Assign, Lease or Transfer Assets as well as Merge or Consolidate (Case No. TX-2003-0380) Effective November 30, 2004: This rulemaking affected 4 CSR 240-3.520 and 4 CSR 240-3.525. Commission rule 4 CSR 240-3.520 outlines various information and documentation that must be provided when companies seek authority to sell, assign, lease or transfer assets. Commission rule 4 CSR 240-3.525 outlines various information and documentation that must be provided when companies seek authority to merge or consolidate. Both rules were modified to remove various exemptions for competitive companies.

Filing Requirements to Issue Stock, Bonds, Notes and other Evidence of Indebtedness (TX-2003-0389) Effective November 30, 2004: This rule outlines various information and documentation that must be provided when companies seek authority to issue stock, bonds, notes and other evidence of indebtedness. The rule was modified to remove various exemptions for competitive companies. The rulemaking affects the following Commission rule: 4 CSR 240-3.530.

Tariff Filing Requirements (TX-2003-0379) Effective October 1, 2004: This rulemaking was a rewrite of the existing tariff filing requirements to update the rule with current processes and terminology. A requirement to submit a copy of customer notice of rate changes was included in the rule. The rule also outlined what must be included in a cover letter and allowed the ability to submit cover letter information via EFIS fields in lieu of a separate cover letter. The rulemaking affects the following Commission rule: 4 CSR 240-3.545.

Telecommunications Procedure for Ceasing Operations (TX-2003-0389) Effective November 30, 2004: This rule outlines the information that must be provided to the Commission when a company ceases operation in Missouri or discontinues providing basic local or interexchange service to any geographic service area within the state. The company must provide notice to the commission at least 30 days prior to cessation or discontinuance. The rulemaking affects the following Commission rule: 4 CSR 240-3.560.

Procedure for Telecommunications Companies that File Bankruptcy (TX-2003-0389) Effective November 30, 2004: Any telecommunications company certificated in Missouri that files bankruptcy or has an affiliate that files bankruptcy must notify commission within 10 working days of filing. If the certificated companies have non-certificated affiliates that file bankruptcy, only the telecom company first certificated in Missouri will be required to provide notice. The rule outlines the information that must be included in that notice. The rulemaking affects the following Commission rule: 4 CSR 240-3.565.

Telecommunications Quality of Service (Case No. TX-2004-0106) Effective June 30, 2004: This rulemaking clarifies portions of the Commission's quality of service requirements as applied to basic local exchange companies. The clarifications primarily attempt to ensure more consistent tracking and reporting of a company's quality of service results as submitted in the company's quarterly report to the Commission. In general, the rule provides greater guidance on tracking and compiling quarterly quality of service results. Although no new quality of service requirements were established, this rulemaking removes outdated requirements and provides clarifying definitions where appropriate. The rulemaking affects the following Commission rules: 4 CSR 240-3.500, 3.550, 32.020, 32.060, 32.070, and 32.080.

Caller ID Blocking (TX-2004-0206) Emergency rule effective October 6, 2003: The rule became permanent on March 30, 2004. The rule identifies standards for Caller ID blocking service whereby the caller's telephone number is blocked so the called party is unable to see the caller's telephone number. In particular, the rule requires all telecommunications companies to offer free per-line blocking service for law enforcement agencies and domestic violence intervention agencies. The rule affects the following Commission rules: 4 CSR 240-32.180 and 32.190.

211 (Case No. TX-2004-0153) Emergency rule effective March 15, 2004: The permanent rule became effective September 30, 2004. The rule requires an entity interested in being the 211 provider in an area to file an application with the Commission. Among the many requirements in the 211 application, entities must agree to follow Missouri law and Commission rules; are required to be certified or be seeking certification with the nationally recognized association for community information and referral programs, Alliance of Information & Referral Systems (AIRS); requires that the 211 provider pay all charges associated with providing the service, and prohibits charging end-users for the service. The rule affects the following Commission rule: 4 CSR 240-32.200. The Heart of Missouri United Way was approved as the first 211 provider in Missouri in Case No. AO-2004-0036.

Truth-in-Billing (Case No. TX-2001-512) Effective October 1, 2004: The rulemaking was initiated to bring certain Missouri rules in compliance with federal truth-in-billing requirements. The rule states that non-payment of the Missouri USF surcharge is considered non-payment of basic local service for the purpose of discontinuing service. A requirement was added that a telecommunications company, when discussing service plans and packages with customers and/or potential customers, shall clearly identify the exact name and rates associated with that plan or package as advertised and tariffed. The rule also added customer notice requirements for rate increases, but clarified that customers need not be notified of a change in service provider as a result of a merge. The rule added requirements that bills clearly identify the company name associated with each toll free number that appears on the bill for billing inquiries or disputes and added requirements that certain services be blocked or restricted upon customer request. Finally, the rule establishes times for companies to respond to staff inquiries related to informal complaints. The rule affects the following Commission rules: 4 CSR 240-33.030, 4 CSR 240-33.040, 4 CSR 240-33.060, 4 CSR 240-33.070; 4 CSR 240-33.080; 4 CSR 240-33.100 and 4 CSR 240-33.150. 4 CSR 240-33.030 was rescinded which required all telephone utilities to inform prospective customers of the lowest cost service and equipment costs available.

Customer Proprietary Network Information (Case No. TX-2003-0445) Effective November 30, 2004: The rule largely mirrors the FCC's customer proprietary network information (CPNI) rules. CPNI is information that relates to the quantity, technical configuration, type, destination, location and amount of use of telecommunications service subscribed to by any customer of a telecommunications company – basically anything that appears on your bill (except name, address, phone number). Differences between the Missouri rule and the federal rule include: Definitions of terms such as affiliate, agent, joint venture partner, independent contractor; clarification that CPNI released pursuant to the rule cannot be released further by an entity not subject to the rule; clarification as to when information can be released to emergency entities; a requirement that CPNI notices be in at least 10-point font and that the CPNI notice be no smaller than notice informing customer's of benefits of releasing information; and requirements on CPNI when telecommunications carrier files bankruptcy. The rule affects the following Commission rule: 4 CSR 240-33.160.

Arbitration Rules (TX-2003-0487) Effective August 31, 2004: The rules establish procedures for telecommunications companies seeking mediation or arbitration with this Commission pursuant to the federal Telecommunications Act. Under the rule, the Commission appoints an arbitrator (internal to the Commission unless parties agree to pay for an external arbitrator). The rule contemplates an arbitration advisory staff. The rule also outlines the procedures for the filing of the arbitrated agreement. The rule affects the following Commission rules: Chapter 36.

Proposed/Pending Telecommunications Rulemakings

Enhanced Record Exchange Rule Case No. TX-2003-0301: This proposed rule establishes procedures for exchanging traffic and intercompany billing records for traffic traversing the Local Exchange Carrier (FG-C or "LEC") network. As a result of continuing intercompany disagreements pertaining to traffic originating, traversing, and terminating on the LEC network, the Commission, on December 13, 2001, ordered staff to promulgate rules that reduce the number of billing discrepancies occurring on the LEC network, and to make it easier to resolve those that do arise. In promulgating the rules, the Staff conducted five industry workshops, filed four formal reports to the Commission, made five Agenda appearances, and hosted a substantial number of formal and informal meetings with industry representatives. On November 23, 2004 the Commission gave its approval to publish the 18-page rule with the Missouri Secretary of State's Office.

Interconnection Agreement Rule (Case No. TX-2003-0565): This proposed rule establishes procedures for reviewing and/or approving interconnection agreements, amendments, interconnection agreement adoptions and Statements of Generally Available Terms. The Commissioners voted to send the proposed rulemaking to the Secretary of State's Office for publication. The rulemaking affects the following Commission rule: 4 CSR 240-3.513

The Establishment of Monthly Charges and Taxes on Residential and Business Customer Bills
This proposed rulemaking identifies limitations and requirements for establishing and applying monthly charges and taxes for telecommunications services on residential and business customer bills. In November, the Commissioners voted to send the proposed rulemaking to the Department of Economic Development for review of fiscal impact. The rulemaking affects the following Commission rule: 4 CSR 240-33.045

Applications for Expanded Local Calling Area Plans Within a Community of Interest (Case No. TX-2005-0194): This proposed rulemaking implements a process for subscribers or governing bodies of a municipality or school district to submit applications for expanded local calling area plans within an identified community of interest as recommended in the MCA Task Force Report in Case No. TW-2004-0471. The rulemaking affects the following Commission rule: 4 CSR 240-2.061.

<u>TELEPHONE NUMBERS</u>

Number Conservation Efforts/Exhaust Dates

In past years, the Missouri Public Service Commission reviewed recommendations for area code relief and implemented a split or an overlay. The Commission reviewed and implemented methods to conserve telephone numbers through various number conservation efforts, including Rate Center Consolidation, Number Pooling, Reclamation, and Sequential Number Assignment to extend area code relief. Rate Center Consolidation was implemented in the 314 NPA, which reduced 14 rate centers to 7 rate centers. Mandatory or optional Number Pooling was implemented in the 314, 816, 573, 660, 636, and 417 area codes. Through the use of Number Pooling, telephone companies receive telephone numbers in blocks of 1,000 instead of blocks of 10,000. The Telecommunications Department Staff continues to investigate code usage, reclaim unused telephone numbers, and implement number conservation. Through the MoPSC's conservation efforts, the lives of the area codes have been extended as follows:

Area Code	Estimated Exhaust Date
314	1Q 2012
417	3Q 2008
573	2Q 2008
636	2Q 2023
660	3Q 2016
816	3Q 2012

Requests to Overturn Decisions by the North American Numbering Plan Administrator Case No. TO-2005-0062: Charter submitted an application to the Pooling Administrator for two blocks of MCA/NXXs[2], one block in the Wentzville and one block in the Pacific rate centers. The requests were denied because there currently are no MCA blocks available in the Wentzville or Pacific rate centers. The Commission overturned the Pooling Administrator's denial of a code of 10,000 telephone numbers in the Wentzville and Pacific rate centers. In an effort to conserve as many telephone numbers as possible, the Commission directed Charter to return 9,000 of the telephone numbers for the Wentzville rate center and 9,000 telephone numbers in the Pacific rate center to the Pooling Administrator. Charter was also instructed to file verification with the Missouri Commission when the company has returned the unused telephone numbers.

Telephone Number Portability

Section 251(b) of the Telecommunications Act (Act) requires local exchange carriers to provide local number portability, to the extent technically feasible, in accordance with requirements prescribed by the Federal Communications Commission. Local number portability is defined as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another."

On November 10, 2003, the FCC released a Memorandum Opinion and Order and Further Notice of Proposed Rulemaking (Opinion). In its Opinion, the FCC established a November 24, 2003 deadline by which "LECs must port numbers to wireless carriers

[2] MCA refers to the Metropolitan Calling Area plan available in certain urban areas in Missouri. NXX refers to the first three digits of a seven-digit telephone number.

where the requesting wireless carrier's coverage area overlaps the geographic location of the rate center in which the customer's wireline number is provisioned, provide that the porting-in carrier maintains the number's original rate center designation following the port." In the same Opinion, the FCC established a May 24, 2004 deadline by which "LECs [outside the top 100 MSAs] must port numbers to wireless carriers where the requesting wireless carrier's coverage area overlaps the geographic location of the rate center in which the customer's wireline number is provisioned, provided that the porting-in carrier maintains the number's original rate center designation following the port."

In response to the FCC's Opinion, 37 small local exchange carriers, in 33 cases, filed petitions with the Commission seeking a suspension and/or modification of the FCC's wireline/wireless porting requirements. The commission held several hearings and/or on-the-record presentations.

Several of the carriers requested a two-year suspension of the porting requirement stating that the costs associated with local number portability imposed an undue economic burden on the carrier and its customers. The Commission granted the suspensions. A few carriers asked for a suspension of up to two years to allow the carrier time to update its switches, or in the alternative upgrade existing switches. The Commission granted suspensions to all carriers allowing either time for switch replacement or time to assess costs associated with switch replacement versus switch upgrade.

Finally, all carriers sought modification of the FCC's rating and routing requirements, such that, if wireline-to-wireless LNP is requested, and the LEC has local number portability capability, the LEC would notify the wireless carrier that it is not the responsibility of the LEC to establish facilities and/or arrangements with third-party carriers to transport calls on a local basis to a point outside its local serving area. LECs will establish an intercept message for seven-digit dialed calls to ported numbers where the facilities and/or third-party arrangements have not been established informing subscribers that the call cannot be completed as dialed. The Commission granted all modifications until such time as the FCC addresses issues related to the rating and routing of calls.

UNIVERSAL SERVICE FUNDS

Missouri Universal Service Fund

Effective March 31, 2002, the Missouri Public Service Commission approved the establishment of a Missouri Universal Service Fund (MoUSF) to help low income and disabled Missourians receive discounts for basic local telephone service. The establishment of the MoUSF is pursuant to state law passed by the Missouri General Assembly in 1996 (Senate Bill 507). The plan would provide support for a substantial number of low income and disabled Missouri residents.

The program will be funded through a Missouri telecommunications carrier assessment. The purpose of the MoUSF program is to implement assistance to low-income and disabled customers for telecommunications services under the Lifeline and/or Link-up programs funded from the Federal Universal Service Fund. One goal established by the Missouri Public Service Commission was to fashion a state program so that the support amount provided to the low-income and disabled customers is set at a level necessary to gain the maximum Federal Universal support for services to such customers. The Commission established state support of $3.50 per customer per month, which would provide the maximum in federal funding. The Federal Universal Service Fund and the MoUSF may offer a discount to qualifying customers up to $13.50 per month. Adoption of the MoUSF low-income/disabled program will increase the level of penetration in households made up of low-income ratepayers and, possibly, households with disabled ratepayers.

The Missouri Universal Service Fund is administered by the Missouri Universal Service Board comprised of members of the Commission and the Office of Public Counsel. In 2004, the Missouri Universal Service Board hired QSI Consulting as the Fund Administrator to work with the Missouri Universal Service Board in administering the fund.

Low Income Program: Qualifications for the low income program are Medicaid, food stamps, Supplemental Security Income, Low-income Home Energy Assistance Program (LIHEAP), Federal Public Housing Assistance Program or Section 8. Currently, the federal lifeline services offer a discount for low income customers up to a $6.50 discount for the subscriber line charge (SLC) with an additional federal discount of $1.75 per customer per month on the consumers local telecommunications service. If the state offers a low income program, the federal USF program will match the state lifeline proposal by 50 % up to a maximum of $1.75 per customer per month. The State of Missouri is maximizing the federal contribution by establishing a $3.50 low income state fund whereby the additional federal support will be $1.75 per customer per month. Therefore, a customer may receive a discount as follows:

Subscriber Line Charge	$ 6.50
Federal local telecommunications discount	1.75
State low income discount	3.50
Additional Federal local telecommunications discount	1.75
Total Discount	$ 13.50

Disability Program: Qualifications for Disability Program are based on Veteran Administration Disability benefits, State Blind Pension Fund, State Aid to Blind Persons, Federal Social Security Disability, State Supplemental Payments. Currently, there is no federal lifeline services offered for disability consumers. The state disability proposal will offer a discount of $3.50 per customer per month off of the consumer's local telecommunications service. If any member of the household has a disability and is receiving disability benefits as defined above, the consumer is eligible to receive the disability discount.

Federal Universal Service Fund Certification

According to the FCC's rules, a state commission must provide an affirmative statement that it certifies carriers receiving federal universal service high cost support will use that high cost support in accordance with section 254(e) of the Telecommunications Act of 1996 (47 USC §254(e)). This certification is required by October 1 of each year for the following funding year. Staff collects data submitted by local exchange carriers for the purpose of determining whether or not to recommend certification of carriers eligible to receive funds from the high cost portion of the USF. Each year, carriers must submit an affidavit stating that they have used the funds from the prior year in an acceptable manner. Additionally, companies must state whether or not they are classified as an "average" or "cost" company, the amount of money they spent on USF entitled services over the last year, and the USF receipts from the past year.

On July 29, 2004, the MoPSC directed its Staff to investigate issues surrounding the allegations raised by the criminal indictments and the arrest warrant of individuals with ownership or business relationships with Missouri telecommunications carriers. As part of its investigation, Staff sent several discovery requests seeking responses on issues related to the allegations in the federal indictment. Staff contacted each company directly or through local counsel inquiring as to the impact on the company and its customers if the MoPSC did not certify the company for federal universal service fund high cost support by October 1, 2004. Audited financial statements for three of the five companies, in addition to information provided in response to discovery requests, provided Staff with support for a positive recommendation to the MoPSC for certification of three of the companies in question. The lack of audited financial statements, in addition to concerns raised through discovery request responses resulted in Staff's recommendation to the MoPSC and ultimately the MoPSC's decision to decline to certify Cass County Telephone Company and New Florence Telephone Company for funding year 2005 pending further inquiry and anticipated receipt of a third party audit. Upon receipt of the Commission's letter declining to certify Cass County and New Florence, the FCC instructed the Universal Service Administrator to immediately suspend all USF support payments with the exception of Lifeline payments for both companies. It is estimated that Cass County Telephone, if certified, would receive over $4,000,000 for funding year 2005 and that New Florence, if certified, would receive almost $240,000 for funding year 2005.

Wireless Eligible Telecommunications Carrier Requests

Wireless Eligible Telecommunications Carrier requests refer to applications with a state commission to be designated as eligible telecommunications carrier. Eligible telecommunications carrier status allows the carrier to receive financial support from the federal universal fund in serving high cost areas.

Case No. TO-2003-0531: On June 2, 2003 Missouri RSA No. 7 Limited Partnership d/b/a Mid Missouri Cellular (MMC) filed an application for "Designation as a Telecommunications Company Carrier Eligible for Federal Universal Service Support

Pursuant to §254 of the Telecommunications Act of 1996". The Commission denied eligible telecommunications carrier status to Mid-Missouri Wireless in Case No. TO-2003-0531 in its *Report and Order* issued August 5, 2004. The Commission stated as a reason for denying the application that the applicant did not meet the public interest standard required of it by federal statute. The Commission did not grant Mid-Missouri's motion for reconsideration or rehearing.

Case No. TO-2004-0527: On April 13, 2004 WWC License, LLC asked the Commission to label it as an eligible telecommunications carrier. At the request of the applicant the case is still pending and no procedural schedule has been set. The applicant would like the circuit court to rule on the appeal of the Mid Missouri Cellular case.

INTERCONNECTION AGREEMENTS

This section describes relevant activity involving interconnection agreements. This section also identifies noteworthy cases involving interconnection agreements filed before the Missouri Commission.

Interconnection Agreement Activity

Pursuant to Federal law, local telephone companies are required to obtain state commission approval for contracts entered into which permit the exchange of local telecommunications traffic. Such contracts are known as Interconnection Agreements. Guidelines established by the U.S. Congress require state commissions to assure that such Interconnection Agreements do not discriminate against 3rd parties, and that such Agreements are not against the public interest. In 2004, the Department recommended Commission approval of 60 such Interconnection Agreements. Once Agreements are approved, the parties frequently ask the Commission to approve modifications to the contents of the Agreements. In 2004, the Department filed 92 recommendations for the Commission to approve modifications to existing agreements. In 2004, no Agreement or modification was objected to by the Staff.

Noteworthy Cases Involving Interconnection Agreements

Case No. TO-2005-0117 (SBC vs. 12 CLECs): On October 28, 2004 SBC filed a petition to Amend Sections 251/252 interconnection agreements between SBC and twelve CLECs. SBC contends that its interconnection agreements with the twelve CLECs do not conform to current federal law relating to the provisioning of unbundled network elements (UNEs). SBC's petition asks the Commission to amend the interconnection agreements by approving language proposed by SBC that would list the UNEs that the FCC has determined need not be offered by SBC.

Case No. LC-2005-0080 (Brooks Fiber Communications, Intermedia Communications, MCImetro Access Transmission vs. CenturyTel of Missouri): The complaint requests that CenturyTel be required to fulfill the companies' requests for interconnection. A hearing has been scheduled for February 28, March 1 & 2, 2005.

Case No. TC-2004-0600 (MCImetro Access, NuVox Communication of Missouri, Socket Telecom, Victory Communications, et.al vs. SBC): A group of several competitive local exchange companies filed this complaint and requested immediate orders preserving the status quo and prohibiting discontinuance of unbundled network services. Complainants dismissed the complaint on July 19, 2004. The case was closed on July 23, 2004.

Case Nos. TO-2004-0576, TO-2004-0584 & VT-2004-0050 (SBC/Sage Agreement): On May 4, 2004, SBC Missouri submitted an amendment to an interconnection agreement between it and Sage Telecom, Inc. Case Number TO-2004-0584 was created when Staff filed a motion requesting Commission review of the amendment because of the relationship between the amendment and a "commercial agreement" between the two parties. Case Number TO-2004-0576 was created when the Commission, on its own motion, ordered SBC and Sage to show cause why the "commercial agreement" should not be filed pursuant to Section 252(e) of the federal Telecommunications Act of 1996 (47 U.S.C. 252). Both SBC and Sage responded that the commercial agreement need not be filed, and is not subject to Commission approval or rejection, because it is not an "interconnection agreement" as that term is used in the Telecommunications Act. The Commission found the amendment was clearly related to the "commercial agreement" since each references the other; they were apparently negotiated at the same time and were both executed within a few days of each other; the amendment, by its terms, stated that it would be void in any state in which the commercial agreement becomes inoperative; and, the "commercial agreement" refers to the "indivisible nature" of the commercial agreement and the amendment. From these facts, the Commission concluded that the two were indivisible; that is, neither one was a stand-alone agreement.

The Commission concluded that it is -- by definition -- against the public interest to approve one part of an interconnection agreement without considering all parts of that agreement together as a whole. Accordingly, the Commission rejected the amendment filed for approval in Case Number TO-2004-0584. The Commission did not order SBC and Sage to make a further filing, because "to do so would be to inappropriately interfere in the management of the companies". The Commission further stated in its order, "SBC and Sage now know that the Commission will not approve just a part or parts of an indivisible agreement. Armed with that knowledge, it is up to SBC and Sage to determine what their next steps will be."

Case No. TO-2005-0166: On December 13, 2004, Level 3 Communications, LLC filed a Petition for Arbitration of its interconnection agreement with Southwestern Bell Telephone Company, L.P. d/b/a SBC Missouri. Issues include: Efficient use of interconnection trunks for all traffic; transit traffic; unbundled network elements; using interconnection facilities for Internet-enabled traffic; intercarrier (reciprocal) compensation; and, general terms and conditions of the contract. A hearing is scheduled for February 16 & 17, 2005 and the Commission's final decision is due April 6, 2005.

Case No. CO-2005-0066: Although not filed as an arbitration, mediation or complaint case, the Commission was asked in September 2004 to resolve a contract dispute between

Socket Telecom and Spectra d/b/a Century Tel. This case focused on whether or not Century Tel is obligated to honor the contracts of GTE, the company from whom Century Tel purchased its Missouri telephone properties. On November 12th, staff participated in a hearing in which the Commission was requested by Socket to confirm the existence of an interconnection agreement between Socket and Century Tel. – an agreement that had previously been entered into between GTE and ATT. On December 14th, the Commission issued a *Report and Order* in which it found that Century Tel was providing service to Socket without benefit of a valid contract. Subsequent to this case, the Commission requested Staff to investigate the circumstances and necessity of Century Tel doing business in Missouri under both the Century Tel and Spectra corporate names.

APPEALS

This section identifies and summarizes court decisions of any appeals of telecom-related cases. This section also identifies cases currently being appealed pertaining to decisions made by the Missouri Commission on telecommunications matters.

Sprint's Annual Price Cap Rebalancing for 2002 and 2003: In Case Nos. IT-2003-0166 through IT-2003-0170, the Commission approved Sprint Missouri Inc., d/b/a Sprint's tariff filings designed to adjust Sprint's basic rates by the change in the CPI-TS as required by 392.245.4 RSMo. (2000); update Sprint's maximum allowable prices for non-basic services and adjusts certain rates as allowed by 392.245.11; and adjusts certain of Sprint's intrastate switched access rates and rebalanced Sprint's basic local rates in accordance with the provisions of Section 392.245.9. The following year, in Case Nos. IT-2004-0134 and IT-2004-0135, the Commission approved Sprint's filing to reduce Sprint's intrastate switched access rates and make a corresponding, revenue-neutral rate increase to basic local rates. Sprint relied upon the provisions of Section 392.245.9 to make these rate changes. In both years, the Office of the Public Counsel petitioned for judicial review. The cases were consolidated for hearing at the circuit court level, but remained separate for briefing and decision. In its decision in both Case Nos. 03CV323400 and 04CV323045, the Cole County Circuit Court found that in light of the references by the Commission in its orders in the underlying decisions to Case No. TR-2002-251, the Court lacked sufficiently detailed findings to permit meaningful review under Section 386.510 and reversed and remanded the cases to the Commission for the Commission to make findings of fact and conclusions of law consistent with the requirements to be made in the remand of Case No. TR-2002-251.

"Banking" of 8% Rate Increases for Non-basic Services: In Case No. TT-2002-447, the Commission found that Sprint and other price cap companies must "annually use or lose their ability to raise actual rates to the 8% cap increases allowed for in the [price cap] statute," rather than setting a 'maximum allowable price' and charging a rate less than that maximum allowable price to ratepayers in order to bank the increases from year to year. The Commission found that Sprint could not "bank" MCA optional tier increases by creating a dichotomy between the maximum allowable price under the Price Cap Statute and the rate actually charged to customers. The Office of Public Counsel petitioned for judicial review and the Cole County Circuit Court affirmed the

Commission's decision. However, the Western District Court of Appeals in Case No. WD63580 reversed the Commission's decision. The Court of Appeals agreed with Sprint, finding that Section 392.245.11 permits actual rates and maximum allowable prices to differ and that the maximum allowable price can increase up to 8% each year even if the price-capped company does not set its rates at that maximum allowable price. The Commission and the Office of Public Counsel have sought rehearing or transfer to the Supreme Court of the Western District's opinion.

Intrastate Access Recovery charge: In Case Nos. TT-2002-129 (for AT&T Communications of the Southwest), TT-2002-1136 (for Sprint Communications Company, L.P.), and XT-2003-0047 (for MCI WorldCom Communications Inc.), the Commission approved tariff sheets that were filed by each competitive telecommunications company to create a charge characterized as an "In State Access Recovery Fee," an "In-State Connection Fee," or an "In State Access Recovery Charge" of approximately $2.00 on their customers' monthly bills. In each case, the Office of the Public Counsel petitioned for judicial review and the Cole County Circuit Court affirmed the Commission's decisions. The Western District Court of Appeals reviewed the Commission's decisions in a consolidated proceeding and in Case No. WD63133 (consolidated with WD63134 and WD63135), determined that regardless of whether a case is contested or uncontested, the Commission must place its decision in writing, and must include findings of fact and conclusions of law that permit review. The Court found that the findings of fact were either inadequate or nonexistent, in that the Commission did not address many of the points raised by OPC and that the Court was simply unable to determine how the Commission arrived at its conclusion that the proposed tariff revisions were just and reasonable. The Court remanded the cases to the Commission for further findings of fact and conclusions of law consistent with its opinion. The Western District declined to rehear or transfer the case to the Missouri Supreme Court and the Missouri Supreme Court declined to accept the case as well. Accordingly, these decisions are in the process of returning to the Commission for further proceedings.

Sprint Price Cap Adjustment: In Case No. IT-2003-0292, *In the Matter of the Tariff Filing of Sprint Missouri, Inc. d/b/a Sprint to Increase the Rate for the Metropolitan Calling Area Plan*, the Commission approved Sprint Missouri, Inc.'s tariff sheets to increase the residential and business monthly rate for the Metropolitan Calling Area Plan (MCA). The Commission concluded that regardless of whether the price cap statute creates a rebuttable or unrebuttable presumption that a properly calculated price cap increase is just and reasonable, the increase should be approved. Office of Public Counsel petitioned for review. In Circuit Court Case No. 03CV326644, the Circuit Court (Judge Brown) affirmed the Commission's decision but concluded that the Commission does not have the authority to reject price cap increases on the basis that they are not just and reasonable. OPC appealed to the Missouri Court of Appeals for the Western District in Case No. WD64737 and the case is pending.

Compensation for Terminating Wireless Traffic: In Case No. TT-99-428, *In the Matter of Alma Telephone Company's Filing to Revise its Access Service Tariff, P.S.C. Mo. No. 2,* the Commission rejected small ILEC tariff filings which would apply intrastate access charges to all types of terminating traffic. The Commission rejected on the grounds that the tariff would apply access to intra-MTA wireless traffic in violation of federal law. The small ILECs appealed and the Circuit Court, in Case No. 02CV324810, reversed. The Commission and the wireless carriers appealed to the Missouri Court of Appeals for the Western District in Case No. WD62961. The Western District reversed and remanded the case back to the Commission. The Western District concluded that the amended tariffs contained a subordination clause that avoids any conflict with federal law. The subordination clause states that access rates apply "until and unless superseded by an agreement approved pursuant to the provisions of 47 U.S.C. 252." The Court held that this subordination clause preserves the option of the wireless companies to negotiate compensation rates with the small ILECs and thereby invoke federal law if they desire to have it preemptively applied. The Court further stated that federal law is not controlling in this situation since the wireless companies have not taken the necessary steps to invoke the reciprocal compensation procedures under the Telecommunications Act. In other words, access rates may apply to local wireless traffic so long as the wireless carriers have not pursued reciprocal compensation with the small ILECs and the application of access is subordinate to a reciprocal compensation agreement. The wireless carriers filed a Petition for Transfer, which is currently pending before the Supreme Court.

Effective Competition in SBC Exchanges (SBC's first case): In Case No. TO-2001-467, the Commission held that SBC, a price cap regulated ILEC, faced effective competition for business services in the Kansas City and St. Louis exchanges and for residential services in the Harvester and St. Charles exchanges. The Commission also held that several other SBC company-wide services had become competitive by operation of law under the transitionally competitive statutes. OPC petitioned for judicial review. The Circuit Court affirmed, in part, and reversed, in part, the Commission's decision. Various appeals followed. The Western District of the Missouri Court of Appeals affirmed the Commission's factual findings that effective competition existed in the listed SBC exchanges, but reversed the Commission's conclusion that several other services had become competitive by operation of law. The Western District held that when SBC became a price cap regulated company, all of its services became price cap regulated. SBC has applied to the Missouri Supreme Court for transfer.

8% Rate Increase for Nonbasic Services: In Case No. IT-2004-0015, the Commission rejected SBC's proposed rate increases of 8% or less for two nonbasic services. The Commission held that the Price Cap Statute, Section 392.245 RSMo, creates a rebuttable presumption that rate increases of less than 8% for nonbasic services are reasonable, but that these two rate increases are not reasonable. SBC petitioned for judicial review. The Circuit Court affirmed the Commission's decision. SBC and Sprint have appealed to the Western District of the Missouri Court of Appeals.

BPS First Price Cap Election: In Case No. IO-2003-0012, the Commission rejected BPS's price cap election because its resale agreement with MSDT included a non-compete clause. BPS petitioned for judicial review. The Circuit Court affirmed the Commission's decision. BPS has appealed to the Western District of the Missouri Court of Appeals.

ALLTEL Price Cap Election: In Case No. IO-2002-1083, the Commission rejected ALLTEL's price cap election because MSDT and Universal Telecom are not providing basic local service in a manner that would support price cap election by a small ILEC. ALLTEL has petitioned for judicial review.

Sprint Price Cap Rebalancing: In Case No. TR-2002-251, the Commission approved Sprint's 2001 rate rebalancing under subsection 9 of Section 392.245.9 RSMo, the Price Cap Statute. OPC petitioned for judicial review. The Circuit Court affirmed the Commission's decision. OPC appealed to the Western District of the Missouri Court of Appeals. The Court reversed and remanded to the Commission to make findings of fact. On remand, the Commission has again approved Sprint's 2001 rebalancing. OPC has requested rehearing by the Commission.

UNE Remand: In Case No. TO-2001-438, the Commission decided 356 separate issues regarding the prices that SBC would charge for unbundled network elements. SBC appealed parts of that decision to the U.S. District Court for the Western District of Missouri. The Court affirmed, in part, but vacated the Commission's capital structure determination. The Court held that the Commission improperly used SBC's per books capital structure as a starting point. On remand, in Case No. TO-2005-0037, the Commission concluded that an appropriate hypothetical capital structure for SBC contains 70 percent equity and 30 percent debt. The Commission also held that the question of the retroactive effect of the rates established in this case may not be an issue that the Commission can finally resolve in this order. SBC has asked the Commission for clarification or rehearing.

CERTIFICATE APPLICATIONS, TRANSACTION APPLICATIONS AND TARIFFS

This section describes activity pertaining to certificate applications, transaction applications (e.g. applications to sell, transfer assets, merge, consolidate and so forth) and tariffs.

Applications for Certificates of Operating Authority

One of the more significant work activities of the Telecommunications Department is to process and make recommendations for a variety of telephone company related activities for which telephone companies are required by law to obtain Commission approval. Among the recommendations made by the Telecommunications Department are requests by new companies seeking certificates of operating authority to provide telephone service in Missouri. Certificates of operating authority are issued by the Commission to provide local and long distance telephone service, pay telephone service, and shared tenant telephone service.

Applications for certificates of operating authority are reviewed for compliance with relevant statutes and Commission rules, depending on the particular service provided. All applicants are required to have proper registration from the Missouri Secretary of

State. The degree of Staff review depends on the type of operating authority requested. Pursuant to Missouri statutes, the most comprehensive review is reserved for companies seeking to provide basic local telephone service. For example, such applicants are required to demonstrate technical, financial, and managerial qualifications to provide basic local telephone service. For applicants of all telecommunications services, the Department continues to streamline the filing requirements and time period required for companies to obtain Commission approval for obtaining certificates of operating authority.

In 2004, the Department processed and routed 44 recommendations of approval for certificates of operating authority (Pay telephone certificates are granted automatically and are not subject to Staff review). In 2004, the Department did not recommend the Commission deny any requests for obtaining a certificate of operating authority.

Applications to Merge, Sale, Assign etc.

Applications of Telecommunications companies for Commission authority to merge, sell, assign, or transfer assets are reviewed for compliance with relevant statutes and Commission rules. Filing requirements for authority to merge are slightly different than requirements for authority to sell, assign, or transfer assets. The standard for approval of a merger or sale of assets is that the proposed transaction will not be detrimental to the public interest. In 2004, the Telecommunications Department processed 16 applications for authority to merge or to sell, assign, or transfer assets.

Tariffs

Pursuant to Missouri law, telephone companies are required to file tariffs with the Commission for the services offered to Missouri consumers, businesses, and for certain services provided to other telephone companies. A tariff is a description of a telephone company's services, and the rates, terms and conditions for offering the services. Tariffs are public documents. For each tariff filing, the Telecommunications Department reviews the filing for compliance with relevant Missouri statutes. After review, and in conjunction with the General Counsel's Office, the Staff makes a recommendation to the Commission. By law, tariff filings go into effect automatically unless Commission action is taken to stop the filing from becoming effective. Thus, the Department generally has only a few days in which to review a tariff filing. In 2004 the Telecommunications Department processed 1,049 tariff filing recommendations.

Significant Tariff Filings in 2004

Wireless E911 Phase 2 filing (Sprint/Case No. IT-2005-0005): On September 9th the Commission issued an Order Denying Motion to Suspend and Approving Tariff Sheets of Sprint Missouri's filing to introduce Phase 2 E911 wireless service in Missouri. The counties of Cass County and St. Louis County along with the Office of the Public Counsel had requested the Commission suspend Sprint's tariff sheets and investigate the cost of providing Phase 2 wireless E911 service. The Telecommunications Department reviewed Sprint's proprietary cost information and ultimately recommended approval. Although Missouri is a non-cost recovery state and counties are not permitted to tax wireless service providers or their customers to fund wireless E911 service, the filing permits Sprint to bill Public Safety Agencies for Phase 2 wireless service. It is anticipated that approval of the tariff sheets will not prohibit counties from negotiating rates, terms and conditions with Sprint for the delivery of Phase 2 wireless service.

311 and 511 services filing (Sprint/Case No. IT-2005-0006): Sprint introduced 311 and 511 abbreviated dialing. 311 dialing allows callers to reach non-emergency local governmental services while 511 dialing allows callers to reach travel information services. Approval of the tariff sheets does not mean these services will be implemented but rather approval will provide Sprint with the opportunity to offer the services to qualifying government agencies should the need arise.

Proposal for calculating the % of interstate calls if IXC traffic lacks calling party's number (SBC/Case No. TT-2004-0542): SBC's proposal attempted to address Percent Interstate Usage (PIU) factors in instances where more than 10% of access minutes are not accompanied with the caller's telephone number. The proposal also addressed verification and audit procedures and maintenance of call detail records. A noteworthy aspect of this case is the procedural schedule anticipated no written testimony; only live testimony at a hearing was planned. The procedural schedule also called for pretrial briefs rather than a list of issues. The proposed procedural schedule resulted in extensive discovery and depositions. SBC ultimately withdrew the proposal and has since initiated proceedings at the FCC to present many of the same items involved in this case.

Geographic Deaveraging in the Macon exchange (Case No. IT-2005-0134): The Commission allowed Spectra to establish a promotion limited to Macon exchange customers. The promotion offers Macon's business and residential customers a bundled flat rate for local and long distance telephone service. Staff filed a motion to suspend based on procedural matters. Section 392.200.4 RSMo requires a telecommunications company to file an application if it wants to limit a service or service's rate to a limited geographic area. Staff also objected to filing the proposal on less than 30 days notice. The Commission allowed the proposal to go into effect; however the Commission required Spectra to justify the promotion by filing an application.

SPECIAL PROJECTS

Annual Report Improvement Team Meetings

Staff meetings were conducted throughout 2004 in order to identify potential changes to the Annual Report filing requirements of utility companies. The Telecommunications Department participated in the meetings and provided input into items pertaining to telephone company annual reporting requirements. A thorough review of the annual report filing process was undertaken. Staff persons identified material in annual reports that could be deleted, ways to clarify instructions, and in some instances, suggestions were made to include additional information in the annual reports. The suggestions were then presented to the Division Directors and the Commission before any changes were made to the 2004 annual reports. As a result of the internal evaluation of the annual report filing process, it is expected that improvements will be made in tracking and filing the 2004 annual reports.

Telco's Mapping Opportunity

The Telco Department has installed an ESRI® (Environmental Systems Research Institute, Inc.) ArcGIS graphics program useful for the creation and development of maps and similar graphic documents. ArcGIS especially allows Telco to create large-scale electronic versions of the paper reference maps in telephone company tariffs.

ArcGIS also allows analysis of specific locations in the resolution of disputes concerning service areas or any bounded regions that are geographic in nature. There are some 700 telephone exchanges in Missouri, and there are other geographic entities of telecommunications significance besides ILEC territories, such as LATAs, MTAs, NPAs and MCAs. Telco can also use this capability to illustrate details in complaints or inquiries concerning locations, down to street level if necessary, and to illustrate specific service characteristics, such as the placement of EAS routes.

The mapping program can produce graphics that can be:

- Included as attachments to testimony or exhibits in Case files.
- Placed as less-detailed inserts into text documents.
- Transmitted by e-mail to interested parties.
- Printed out up to three feet high with a large-scale plotter for display in public hearings and informational presentations.
- Used to view map documents in the same format available from other sources, such as the U.S. Census Bureau or the University of Missouri.

ArcGIS requires a computer system with expanded capacity due to the large storage requirements. Telco personnel must develop expertise in use of the complex not-so-user-friendly program through the use of training manuals and some on-line resources. More advanced training can be provided through formal ESRI on-site courses. Due to the lack of exclusively dedicated resources, the Telco Department's creation of an electronic library is only at the beginning of its potential.

A Study of Voice over Internet Protocol in Missouri

On February 3, 2004, the MoPSC opened Case No. TW-2004-0324 to consider the extent to which Voice Over Internet Protocol Technologies may impact telecommunications service in Missouri. The Commission ordered its staff to conduct industry workshops and prepare a report on different ways VoIP technology is used in the marketplace, and to assess the significance that widespread deployment of VoIP technology may have on telecommunications in Missouri. In opening the case, the Commission was clear that it was not indicating a Commission opinion for or against state regulation of VoIP.

Industry Workshops were conducted by the staff on February 23 and March 8, 2004. The Workshops were attended by representatives of over 30 companies and various stakeholder interest groups. On May 3rd, a VoIP "roundtable" was conducted at the Truman State Office Building in Jefferson City. The roundtable was attended by a wide variety of telecommunications carriers, Internet Service Providers, and VoIP telephony providers. On March 30th , the VoIP Industry Task Force issued a 91-page Final Report. Although certain portions of the Report did not reflect the viewpoints of all parties, the Report was a collaborative effort between workshop and case participants. The Report identified four specific areas in which VoIP telephone service may impact telecommunications in Missouri. Those four areas were: (1) Sales Tax Revenue Impact; (2) Relay Missouri Funding Impact; (3) E-9-1-1 Funding Impact; (4) Regulatory Assessment Funding Impact; and (5) Local Exchange Carrier Revenue Impact. The Report formed the basis of the MoPSC's comments filed with the Federal Communications Commission (FCC).

Bankruptcy Monitoring TW-2003-0063

On August 15, 2002, the Commission opened this case to monitor the status of bankrupt telecommunications carriers, including WorldCom and its subsidiaries, and charged its Staff with the principal responsibility for informing the Commission of the impact of bankruptcies upon Missouri consumers and upon other Missouri telecommunications carriers. The Commission directed Staff to file a pleading advising the Commission of recommendations, if any, for proposed Commission procedures in future telephone bankruptcies. The Commission also directed Staff to file monthly status reports compiling and maintaining a list of those telecommunications carriers operating in Missouri that are currently in bankruptcy.

In 2004, Staff identified the following seven telecommunications carriers as having filed bankruptcy: Delta Phones, Inc., Amerivision Communications d/b/a Lifeline Communications, Inc., OneStar Long Distance, Inc., EZ Talk Communicaitons, LLC, Orion Telecommunications Corp., Cable & Wireless USA, Inc., and Norvergence, Inc.

In April and June 2004, MCI, on behalf of WorldCom and its subsidiaries, filed status reports informing the Commission that it had emerged from Chapter 11 bankruptcy. In September, Staff filed a recommendation informing the Commission that, in its opinion, the new bankruptcy rule (4 CSR 240-3.565) will provide the appropriate avenue for the Commission, through its Staff, to continue to monitor telecommunications bankruptcies and their impact on Missouri consumers and other telecommunications providers. Staff recommended this case be closed upon the effective date of the rule and that MCI and its subsidiaries be dismissed from any further obligations in the case. Staff further recommended that its requirement to file monthly status reports be dismissed with the closure of the case, as such requirement is no longer necessary with the requirement that companies notify the Commission through EFIS of bankruptcy filings. The Commission issued an order closing the bankruptcy monitoring case on November 30, 2004, releasing Staff and MCI from further reporting requirements.

Analysis of the Economic Impact of Municipally Owned and Operated Cable and Telecommunications Facilities and Services

Effective August 28, 2002, the Missouri General Assembly passed, and the Governor signed, CCS/SCS/HCS/HB 1402 to provide, in part, certain guidelines and standards by which municipalities and political subdivisions may own and operate cable television or telecommunications facilities and services. Pursuant to that bill, the legislature directed the Missouri Public Service Commission (PSC) to perform an annual economic impact study of the effects of municipally owned cable television systems and telecommunications networks. The PSC is to submit a report of the results of that study to the General Assembly by December 31 of each year until December 31, 2007.

Portions of the statutes, which CCS/SCS/HCS/HB 1402 modified, prevented "political subdivision[s from] provid[ing] or offer[ing] for sale . . . a telecommunications service or . . . facility". The Missouri Municipal League and municipally-owned utilities petitioned the Federal Communications Commission (FCC) for an order declaring the statute unlawful under 47 U. S. C. §253, which authorizes preemption of state and local laws and regulations "that prohibit or have the effect of prohibiting the ability of any entity" to provide telecommunications services. The FCC refused to declare the Missouri statute preempted, concluding that "any entity" in §253(a) does not include state political subdivisions, but applies only to independent entities subject to state regulation. The FCC's decision was appealed to an Eighth Circuit panel that unanimously reversed the decision. The Eighth Circuit focused its analysis on the words "any entity", left undefined by statute, placing much weight on the modifier "any". The decision was then appealed to the Supreme Court, which stated what was needed was a broader frame of reference to determine how Congress could have envisioned the preemption clause actually working if the FCC applied it at the municipal respondents' urging. See, e.g., New Jersey Realty Title Ins. Co. v. Division of Tax Appeals of N. J., 338 U. S. 665, 673 (1950) (enquiring into the "the practical operation and effect" of a state tax on federal bonds).

Nine cities in Missouri responded through a questionnaire that they were offering cable television and/or Internet services to the public through systems owned or operated by the municipality. Three cities offer cable television service and report 8,241 subscribers and seven cities[3] offer residential and/or business Internet services, reporting approximately 2,050 customers. The lack of existing service or poor quality service was most often cited as the reason for the city offering the services. Reported 2004 revenues for cable television services are $2,954,685. Reported 2004 revenues for Internet services are $3,089,264. No cities report offering local telecommunications service.

Relay Missouri

Section 209.251.1 RSMO, 2000 requires the Commission to implement a Dual Party Relay System to make it possible for deaf, hearing-impaired and speech-impaired persons using Telecommunications Devices for the Deaf to have reasonable access to telephone

[3] The City of Poplar Bluff is providing both Internet and cable television services.

services. To accomplish this goal, the Commission created the Relay Missouri Advisory Committee to advise the Commission about the needs of those who would use such a system and to monitor efficacy of such a system.

The Relay Missouri Advisory Committee regularly meets on a semi-annual basis and discusses the needs of and problems faced by users of the Dual Party Relay System as well as suggesting improvements and modifications that may be useful. Staff has two representatives on the Relay Missouri Advisory Committee.

The Commission imposes a surcharge on local lines to pay for the Dual Party Relay System. Staff evaluates the surcharge and forecasts usage of the Dual Party Relay System on an annual basis to ensure the viability of the system. The current surcharge is $0.10 per basic local line and the December 31, 2004 fund balance was approximately $3,000,000.

Case Efficiency Work Groups

On April 7, 2004, Chairman Gaw, Commissioners, Commission Judges, Staff personnel and industry participants convened a case efficiency roundtable emphasizing the need to potentially improve case efficiency. Three guidelines were established for discussion in the context of improving case efficiency.

1. Purpose is to see what we can do to make things better than they presently are.
2. Emphasis is also to involve the parties to examine improvements and to encourage a dialogue with the Commission.
3. Participants were encouraged to be vocal, but also constructive.

The case efficiency roundtable participants established five work groups.

1. Informal Rate Case Group
2. Formal Rate Case Group
3. Hearing Process Group
4. Non-Rate Case Group
5. Surveillance / Generic Policy Group

Each work group formed subcommittees to study various aspects and was asked to produce a formal product that identifies the following key steps:

- Timeframe associated with each step;
- Steps sequential or parallel;
- Purpose of the step and how it affects the hearing process; and
- Minimum filing requirements/data request issues.

Each work group met numerous times presenting their findings and recommendations to all participants on May 26, 2004. Rulemakings and recommendations have been made to Commissioners with additional dialogue ongoing in the process. Numerous

Telecommunications Department employees participated in the various work groups/subcommittee groups.

Toll-Free Internet Access

The purpose of the study is to determine which Missouri exchanges, if any, have toll-free access to an Internet Service Provider. The study identified the blocks of telephone numbers available within a specific exchange based on the area code and the first three digits of a seven-digit telephone number (the NPA NXXs). Gathered information for the local telephone numbers of major Internet Service Providers along with Internet Service Provider affiliates of incumbent local exchange carriers. Constructed a database of all Missouri exchanges showing the name of the Internet Service Provider available on a toll-free basis, if any. Included in this analysis the mandatory expanded calling scope of an exchange. The results of this study show the following 13 exchanges do not appear to have, at least at this time, any toll-free access to an Internet Service Provider: Allendale, Arcola, Avilla, Grant City, Union Star, Braddyville, Everton, Gorin, Greenfield, Jerico Springs, Maysville and Stewartsville. The following 18 exchanges require the customer to subscribe to the metropolitan calling area plan in order to have toll-free access to an Internet Service Provider: Ash Grove, Augusta, Camden Point, Dearborn, Defiance, Edgertown, Farley, Fordland, Grain Valley, Holt, Hurley, Marionville, Missouri City, New Melle, Platte City, Sparta, Walnut Grove and Weston.

NARUC

Natelle Dietrich is an active member of the NARUC Staff Telecommunications Subcommittee and serves as the leader of the federal regulatory policy subgroup. She attended Subcommittee meetings in March, July and November 2004. At the March meeting, Commissioner Connie Murray and Natelle sponsored a resolution honoring Commissioner Bryan Forbis. This resolution was presented to Commissioner Forbis' family. Throughout the year, the Staff Subcommittee also considered issues such as quality of service, the FCC's triennial review order, VoIP, intercarrier compensation and broadband over power lines. In addition to the meetings, Natelle participates on weekly commissioner conference calls addressing a variety of timely issues.

Cass County Telephone Company Investigation

A February 14, 2004 Kansas City Star article implicated organized crime involvement with certain Missouri companies. On July 27, 2004, the FBI charged Ken Matzdorff with telephone and internet-based criminal fraud. The complaint against Mr. Matzdorff was then dismissed without prejudice. Mr. Matzdorff subsequently pleaded guilty to charges related to money laundering, committing mail and wire fraud and defrauding the federal universal service fund and the National Exchange Carriers Association.

Mr. Matzdorff has overall management responsibility for Cass County Telephone Company as well as with other companies within or associated with the telecommunications industry. On July 29, 2004, the Missouri Commission directed its staff to investigate the issues surrounding the allegations, and inform the Commissioners of whether Missouri customers or their rates would be affected by the allegations. Staff's investigation resulted in a report containing initial conclusions and recommendations. (See Case No. TO-2005-0237).

Second Lines at Residential Locations

In response to Chair Gaw's request, Staff compiled a graph showing the number of second residential access lines in Missouri for the past six years. Second residential access lines and total access lines provided by incumbent local telephone companies peaked in 2000 at 332,675 lines and have declined every year to 236,168 lines in 2004 (a 29% decline). In addition, Staff graphed the total number of access lines in Missouri for this same time period. Total access lines peaked in 2000 at 3,637,807 lines and have declined for the next three years to a low of 2,902,657. Total access lines experienced a slight increase from 2003 to 2004 with 2,941,537 lines in 2004.

N11 Dialing

Abbreviated dialing codes allow callers to connect to a location that would otherwise only be accessible by dialing a seven or ten-digit telephone number. The local exchange carrier network must be programmed to translate the three-digit number to the appropriate seven or ten-digit number so the call can be routed accordingly. Following are the existing N11 code assignments:

211: Assigned for community information and referral services
311: Assigned nationwide for non-emergency police and other government services
411: Unassigned, but used virtually nationwide for directory assistance
511: Assigned for traffic and transportation information
611: Unassigned, but generally used by carriers for repair services
711: Assigned nationwide for Telecom Relay Services
811: Unassigned, but generally used by local exchange carriers for business office use
911: Directed to be used nationwide for emergency services

In 2004, the Commission established a 211 rulemaking, discussed in more detail under the rulemaking section of this report. The Commission also looked at the need for 311 and 511 proposed rulemakings.

311

The FCC designated 311 as the nationwide number for non-emergency police and other government services. A person might call 311 to inquire why streets were not plowed on a particular day. Typically, 311 has been operated by police departments or city agencies. The FCC provided little guidance to state commissions for implementing and monitoring 311. The FCC noted that 311 calls are typically intrastate; thus, states would regulate cost recovery. The FCC also noted that states would resolve any disputes should multiple entities seek to be the 311 provider in any given area (i.e., The city government and the county government want to be the 311 provider for a city). The MoPSC determined a proposed rulemaking was not necessary at this time.

511

The FCC designated 511 as the nationwide number for traffic and transportation information. Typically 511 has been implemented and operated by state departments of transportation. The Missouri Department of Transportation is in the process of implementing 511 in Missouri. On November 18, 2004, MoDOT gave a presentation to the Commission on the status of 511 in Missouri. In 2005, 511 will cover Kansas City, St. Louis and the I-70 corridor. The system will provide real-time information on public safety messages, work zones, incidents, special events, road closures, major weather conditions and Amber Alerts. All wireline and wireless carriers will be requested to route 511 calls to regionalized toll free numbers.

The FCC did not specify parameters for cost recovery or technical issues, leaving these issues to federal, state and local government transportation agencies. State public utility commissions continue to exercise jurisdiction over N11 codes to the extent necessary to ensure carriers comply with transportation agency requests to deploy 511.

TELEPHONE STATISTICS

Broadband Deployment

According to a recent government report, nationally, Internet access is roughly at a 20-40-40 split: roughly 20% of households have broadband Internet access, roughly 40% of households have dial-up Internet access, and roughly 40% of households have no Internet access at all. Internationally, the United States ranks 11th in broadband use, according to a 2004 United Nations study cited in a USA Today article. Nations ahead of the United States in broadband use include: South Korea, Hong Kong, and Iceland. According to data gathered by the FCC, Missouri, as of June 2004, has 543,189 high-speed Internet lines. Of these, 233,916 were DSL (Digital Subscriber Lines), provided by a local telephone company. These numbers are up from the same survey last year. As of June 2003, there were 439,067 total high-speed Internet connections and 138,046 DSL lines.

Narrow Band Internet Availability

According to data gathered by Staff, in the 687 identified telephone exchanges in Missouri, customers in 552 of them could directly access the Internet on a toll free dial up basis. Out of the remaining exchanges, customers in 97 exchanges could access the Internet on a toll free basis through an EAS (Expanded Area Service) route by paying a monthly surcharge allowing the customer to call a neighboring exchange on an unlimited basis (often, this EAS surcharge is mandatory). Customers in 18 exchanges could access the Internet on a toll free basis if they subscribed to the MCA (Metropolitan Calling Area) plan in their exchange, allowing them to call the other exchanges in the MCA plan on a toll free basis. Customers in 14 exchanges could access the Internet on a toll free basis utilizing Sprint's InfoLink plan, which allows customers in Sprint exchanges where there is no local ISP (Internet Service Provider) to access a telephone number to an ISP outside their exchange on a toll free basis for a monthly fee. Customers in 2 exchanges could access the Internet on a toll free dial up basis if they subscribed to an EECP (Extended Exchange Calling Plan), which allows a customer to place calls to another exchange in return for a monthly fee. Finally, customers in 4 exchanges have no toll free dial up access to the Internet.

Local Service Rates

	Without EAS or MCA 3, 4, 5		**With EAS & MCA**	
	Residential	Business	Residential	Business
Weighted Mean	$10.45	$30.18	$14.10	$34.00
Median	$10.36 (CTel)	$36.50 (SBC)	$11.31 (Spec)	$36.50 (SBC)
Mode	$ 9.03 (SBC)	$37.50 (SBC)	$11.26 (SBC)	$36.50 (SBC)

The R1 and B1 rates are those rates applied to single-line residential and business customers, respectively. All three measures attempt to indicate the typical revenue generated on a statewide per line basis.

"Average" is often considered synonymous with "mean". The weighted R1 and B1 mean rates are found by multiplying the number of lines in each exchange by the rate charged in that exchange and summing all such values produced by all exchanges. That sum is then divided by the total number of lines in the state yielding an average rate (or average revenue per line).

The median rate (or revenue per line) is the middle rate of the data set. It is defined as the rate with half of the population paying a higher rate and the other half of the population paying less. To calculate the median rate, it is necessary to "list," in order, each rate each time a customer pays that rate. The middle value on the list is the median and is frequently a value actually paid and will not likely equal the weighted average rate.

The mode is the most frequently occurring rate and is found by listing in order all rates paid. Once the listing is complete, the mode is found by counting the number of times each rate occurs and choosing the rate that occurs most frequently.

Estimating Revenues for Telecom Companies

For Commission assessment purposes companies are required to submit annual revenue statements; however some companies fail to file such statements. In such situations the Telecommunications Department staff estimates revenues for these non-reporting companies. Here's what we did for this past year: For companies where staff had 2004 revenue data, we forecasted 2005 revenue by multiplying 2004 revenue by the average change in revenue (2003-2004) for the respective categories. On average, CLEC revenue increased by 5% from 2003 to 2004, IXC revenue increased by 6%, and Payphone revenue increased by 3%. When 2004 revenue was not available, staff forecasted 2005 revenue based on the median 2004 revenue for the respective categories. Median 2004 revenues were $8,950 for CLECS, $0 for categories Payphone and Shared Tennant Providers and $757 for IXCs.

LEGISLATION

Four pieces of telecommunications legislation were proposed in 2004 in the Missouri General Assembly. The proposed legislation included the following: (1) allowed customer-specific pricing for DS-1 services and any business services in exchanges with a competitive classification and allowed a telecommunications company to offer special promotions to existing customers; (2) defined how a telecommunications company may achieve competitive classification for an exchange, allowed price cap-regulated companies to conduct six years of rate rebalancing and shortened the Commission's timeframes for reviewing rate changes; (3) clarified that all price cap filings submitted pursuant to Section 392.245 RSMo were presumed just and reasonable upon submission to the Commission; and (4) required providers of telecommunications services and information services to pass calling party number on all communications. Throughout the legislative session, the proposals were combined into one bill. Ultimately, the proposed legislation did not pass.

M2A[4] PERFORMANCE MEASURES RESULTS

SBC is required to monitor its wholesale performance for services provided to CLECs under Attachment 17 of the M2A on a monthly basis. There are about 100 gross performance measures each of which is divided into sub-measures of which there are currently 1458. The monitoring involves statistical tests to compensate for type 1 and type 2 errors.

SBC monitors each sub-measure for each M2A CLEC each month. When SBC's wholesale service performance for any given CLEC falls below a predetermined benchmark or the average measure of SBC's retail performance for that service, SBC pays "liquidated damages" to the CLEC. The amount paid to a CLEC for substandard performance depends on the nature of the service and the number of times SBC has failed to meet the standard.

Certain services are deemed to be potentially damaging to the competitive market if the associated success standards are not met. For these services (measures) SBC monitors them over a rolling three-month period. If SBC misses the standard in all three months in any given period, a payment would be due to the State's treasury in addition to the payment due the CLEC.

[4] M2A refers to the Missouri 271 Agreement. The M2A is a comprehensive contract available to competitive local exchange carriers for SBC Missouri's wholesale services. The M2A was proposed by SBC Missouri and was contingent on SBC Missouri gaining regulatory authority to provide in-region interLATA toll services as contemplated by Section 271 of the federal telecom act. See Case No. TO-99-227.

Over the past year, SBC monitored approximately 1,458 sub-measures with an average of 400 showing measurable activity. SBC achieved an average success rate of approximately 94%, meaning they satisfied the monthly standards for 94% of all measures showing measurable activity. As of September 2005, SBC paid CLECs (aggregated) $399,250 and the treasury $225,000. Since the beginning of the performance remedy plan in April 2001, SBC has paid the CLECs and the State a total of $6,060,130.

FREQUENTLY ASKED QUESTIONS

The following questions represent some commonly asked questions fielded by the Telecommunications Department. The responses are intended to provide initial guidance in responding to such questions and solely represent the opinion of the management of the Telecommunications Department.

Q. Why are intrastate long distance rates higher than interstate long distance rates?

Response: Rates for long distance service can be influenced by many factors. One notable factor is the rates a long distance service provider must pay to local telephone companies for the use of the local telephone company's facilities in originating and terminating their long distance calls. These inter-company compensation rates, also known as switched access rates, essentially are part of a long distance company's cost of providing long distance service. The long distance provider will establish long distance rates that will recover the company's costs of providing the long distance service. Intrastate switched access rates in Missouri are generally higher than corresponding interstate switched access rates. In this respect long distance companies may establish intrastate long distance rates that are higher than corresponding interstate long distance rates.

[A logical follow-up question to this response might be "why are Missouri's intrastate switched access rates higher?" Lowering switched access rates essentially represents a trade-off with higher monthly local service rates. The Missouri Commission, whose jurisdiction is limited to intrastate telecommunications services, has generally strived to maintain low local telephone service rates; although in recent years the Missouri Commission has taken greater strides to reduce intrastate, switched access rates. In contrast, the Federal Communications Commission, who has jurisdiction over interstate services, has established lower interstate, switched access rates primarily through the application of a monthly subscriber line charge.]

Q. My property straddles the exchange boundary line between two local telephone companies. My home/business is located in Company A's serving area. My yard/farm extends into the Company B serving area. I would like to have Company B service. Can I have Company B's service?

Response: The Missouri Public Service Commission cannot order Company B to provide service outside of its certificated area. Nevertheless a couple of options or considerations exist for the customer; however each option has complications:

Option 1: If the customer's property has some form of permanent structure equipped with electricity located in Company B's territory then Company B could provide service to that structure. The customer would need to make separate arrangements to extend Company B's service to his home/business in Company A's territory. If the customer doesn't have a permanent structure equipped with electricity in Company B's territory then this option is not possible.

Option 2: The customer can request Company A to provide foreign exchange service to Company B. Foreign exchange service allows the customer to literally receive dial tone from Company B and have a phone number from Company B. Unfortunately, foreign exchange service can be expensive.

Option 3: The customer can request Company A to relinquish the portion of its territory to Company B so that Company B serves the customer's entire property. Both Company A and B will need to agree to the boundary change and make the appropriate tariff filings. The customer will need to contact the companies to discuss this option.

Q. I manage a theater and we have a problem with cell phones going off during shows. I want to install a cell signal blocker. The FCC says it's your call. Can I install it? They have them in Mexico, Canada and United Kingdom.

Response: Wireless service is not within the Missouri Commission's jurisdiction. Nevertheless, our legal counsel believes blocking cell signals is illegal in the United States based on the following: The operation of transmitters designed to jam or block wireless communications is a violation of the Communications Act of 1934, as amended ("Act"). See 47 U.S.C. Sections 301, 302a, 333.

Q. My excavator says the phone cable has to be lowered in order to install my new driveway. Am I responsible for paying the telephone company's expenses associated with relocating a telephone cable?

Response: Yes. The telephone company should not be expected to absorb costs associating with moving a cable based on a customer's desire to have it relocated.

Q. I understand the Missouri Commission requires telephone companies to bury their cable a certain depth, but my cable is buried just a couple of inches deep. Can I require the telephone company to bury the cable to a deeper level?

Response: Generally, no. Commission Rule 4 CSR 240-32.060(15) identifies requirements for buried cable; however these requirements might be more appropriately labeled as expected guidelines. The Commission's rules provide some discretion to the telephone company in determining the depth of its cable. For example, according to the

Commission's rule for buried drops, "Buried drop cable shall be placed at a minimum depth of twelve inches (12") unless the company determines that good cause could be shown." Obviously, terrain plays a significant part in determining how deep a cable may be placed. For example, rocky terrain can create difficulties in burying cable. Any consideration to requiring the telephone company to lower the cable, at the company's expense, will need to investigate such things as: the terrain in question, whether the telephone company originally buried the cable at a reasonable level, whether subsequent work by the landowner may have changed the overall depth of the cable and so forth.

Q. My Internet speed just got worse after I observed the telephone company performing some work in my neighborhood. Can you do something about restoring my old Internet speed?

Response: The Telecommunications Department can try and help identify why your Internet speed decreased; however we may not be able to ensure your old Internet speed will be restored. Sometimes the cause of slower Internet speed will also affect your voice service. If you are also experiencing problems with your voice service then we'll need to discuss the specifics of your voice problems.

If the customer's voice service is fine but the customer is solely concerned about a decrease in Internet speed then discuss the following:

Your question suggests a correlation between the company's recent work in your area and a decrease in your Internet speed. We have observed that if the telephone company installs Digital Line Carrier, the new technology can impact the transmission speed of a basic dial-up customer. Digital Line Carrier may impact a customer's Internet speed because data on a basic telephone line will now be undergoing multiple analog/digital conversions. These multiple conversions will cause a basic dial-up customer's data transmission speed to be 28.8 kbs or less. If the company has installed Digital Line Carrier, we won't be asking the telephone company to fix anything because there is nothing technically wrong with your service. Furthermore, the Missouri Commission has not established a minimum data transmission speed on dial-up Internet service. The Missouri Commission looked at establishing such a standard a couple years ago but determined the costs were too high to establish even a relatively slow minimum transmission speed. Ironically, one of the reasons a telephone company installs Digital Line Carrier is to have the capability to provide broadband services to a larger area. In such situations a telephone company's logical response to complaints about slow Internet speeds is to sell you their broadband service, such as Digital Subscriber Line (DSL) service. Such a service may be appropriate for you, if it is available, although you may also want to explore broadband services offered by other providers such as other local phone companies, your local cable TV company or a wireless/satellite provider if they are available. (The Missouri Commission does not regulate rates for DSL and other broadband services.) Contact the company on behalf of the customer and verify if the slower Internet speed is due to the company's recent installation of Digital Line Carrier.

Q. What are the clearance requirements for aerial cable?

Response: Clearance requirements for aerial cable are identified in the National Electrical Safety Code. Clearance requirements vary depending on what is being cleared. Some of these clearances are as follows: Railroad tracks (23.5’), state roads (18’); other roads, streets driveways, parking lots and alleys (15.5’); open space subject to pedestrians (9.5’).