

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service
Commission held at its office in
Jefferson City on the 27th day
of August, 2002.

In the Matter of MCI WorldCom Communications, Inc.'s)	
Proposed Tariff to Add An In-State Access Recovery)	<u>Case No. XT-2003-0047</u>
Charge and Make Miscellaneous Text Changes)	Tariff No. 200300092

ORDER DENYING SUSPENSION AND APPROVING TARIFF

This order approves the proposed tariff sheets filed by MCI WorldCom Communications Inc., and denies the Office of the Public Counsel's Motion to Suspend Tariff and for Evidentiary and Public Hearings.

On August 2, 2002, MCI WorldCom issued a tariff sheet designed to add an Instate Recovery Fee to the Rules and Regulations section of the tariff. The tariff revision would permit MCI WorldCom to assess a monthly fee of \$1.95 per account, per month, on residential customers. MCI WorldCom requested that the tariff become effective on September 3, 2002.

On August 8, 2002, the Office of the Public Counsel filed a motion asking the Commission to suspend MCI WorldCom's proposed tariff. In addition, the Public Counsel requested that the Commission hold both an evidentiary hearing and set the matter for local public hearings. The motion made several allegations that the tariff revision was not "just and reasonable" and that the proposed new charge would be discriminatory. Public Counsel stated that the proposed tariff is similar to the tariffs filed by AT&T

Communications of the Southwest, Inc., which the Commission approved in case number TT-2002-129, and by Sprint, which the Commission approved in case number TT-2002-1136.

On August 19, 2002, MCI WorldCom and the Staff of the Missouri Public Service Commission filed responses to Public Counsel's motion. MCI WorldCom indicates that its tariffs are similar to the AT&T and Sprint tariffs that the Commission has already approved. MCI WorldCom argues that it should not be treated any differently than those two companies. MCI WorldCom also points out that these tariffs apply to competitive services, do not unreasonably discriminate between customers, and comply with Section 392.500, RSMo 2000. MCI WorldCom asks the Commission to reject Public Counsel's motion and to approve the tariff.

Staff argues that as a competitive company, MCI WorldCom must comply with Section 392.500(2), RSMo, which authorizes rate increases with a tariff filing and notice to customers at least ten days before the increase. Staff states that MCI WorldCom has complied with Section 392.500(2). Staff also states that the Commission does not typically scrutinize the rate structure of competitive long distance service providers, except to determine compliance with a few limited rate requirements identified in Missouri statutes. Staff claims that this approach is consistent with Section 392.185(5), RSMo 2000, which permits "flexible regulation of competitive telecommunications companies and competitive telecommunications services," and with Section 392.185(6), RSMo 2000, which permits "full and fair competition to function as a substitute for regulation when consistent with the protection of ratepayers and otherwise consistent with the public interest." Staff indicates

that MCI WorldCom's proposed service charges would not warrant Commission intervention to regulate the charging and billing structure of a competitive company.

In addition, Staff states that more than 500 companies hold certificates to provide long distance service in Missouri. MCI WorldCom's customers may choose to switch long distance carriers, thereby allowing the competitive marketplace to regulate the charges.

Finally, Staff points out that MCI WorldCom's tariff is similar to the tariffs issued by AT&T and Sprint that the Commission has approved. Staff observes that monthly-recurring charges and surcharges are common in the industry, and suggests that MCI WorldCom should not be singled out for special treatment based on this tariff. Staff recommends that the Commission approve MCI WorldCom's tariff.

MCI WorldCom is a competitive company providing competitive telecommunications services. A proposed tariff that increases rates or charges of a competitive telecommunications company is governed by Section 392.500(2). That statute allows a proposed tariff increasing rates or charges to go into effect after the proposed tariff has been filed with the Commission and the affected customers are given at least ten days' notice. The Commission finds that MCI WorldCom has complied with the technical requirements of Section 392.500(2).

In interpreting the various provisions of Chapter 392, the Commission turns to the purposes of the chapter as specified in Section 392.185. That section states in part:

The provisions of this chapter shall be construed to:

* * *

(4) Ensure that customers pay only reasonable charges for telecommunications service;

(5) Permit flexible regulation of competitive telecommunications companies and competitive telecommunications services;

(6) Allow full and fair competition to function as a substitute for regulation when consistent with the protection of ratepayers and otherwise consistent with the public interest;

* * *

It is the Commission's task to balance these purposes.

Because MCI WorldCom's proposed monthly service charge of \$1.95 applies only to a competitive service, consumers are free to obtain service from an alternative provider if they object to the charge. Considering the competitive climate in which this service is offered, the Commission finds that the allowing full and fair competition to substitute for regulation will ensure that consumers pay only reasonable rates. As Staff noted, monthly recurring charges and surcharges are common in the telecommunications industry and MCI WorldCom should not be treated differently than other similarly situated telecommunications companies. The Commission determines that the proposed tariff is just and reasonable and should be approved. Therefore, the Commission will deny the motion to suspend and will approve the tariff sheet.

IT IS THEREFORE ORDERED:

1. That the Office of the Public Counsel's Motion to Suspend Tariff and for Evidentiary and Public Hearings is denied.

2. That the tariff filed by MCI WorldCom Communications, Inc., on August 2, 2002, is approved, to become effective on September 3, 2002. The approved tariff sheet is:

MO PSC Tariff No. 1
Original Page No. 40.2

3. That this order will become effective on September 3, 2002.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Simmons, Ch., Murray, Lumpe and Forbis, CC., concur
Gaw, C., dissents

Woodruff, Senior Regulatory Law Judge