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**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

In the Matter of United Telephone Company of )  
Missouri d/b/a Sprint's 1+ IntraLATA Toll Dialing ) Case No. TO-97-253  
Parity Implementation Plan. )  
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**REPORT AND ORDER**

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**Issue Date:** May 6, 1997

**Effective Date:** May 16, 1997

**OF THE STATE OF MISSOURI**

Case No. TO-97-253

## APPEARANCES

Linda K. Gardner, Senior Attorney, United Telephone Company of Missouri d/b/a Sprint, 5454 West 110th Street, Overland Park, Kansas 66211, for United Telephone Company of Missouri d/b/a Sprint.

Leland B. Curtis, Curtis, Oetting, Heinz, Garrett & Soule, P.C., 130 South Bemiston Avenue, Suite 200, Clayton, Missouri 63105, for MCI Telecommunications Corporation.

W.R. England, III, Brydon, Swearngen & England, P.C., 312 East Capitol Avenue, Post Office Box 456, Jefferson City, Missouri 65102, for: BPS Telephone Company, Bourbeuse Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Fidelity Telephone Company, Goodman Telephone Company, Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, Iamo Telephone Company, KLM Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company (Small Telephone Company Group).

Craig S. Johnson, Andereck, Evans, Milne, Peace & Baumhoer, L.L.C., 301 East McCarty Street, Post Office Box 1438, Jefferson City, Missouri 65102, for: Alma Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, Mid-Missouri Telephone Company, Modern Telephone Co., Mo-Kan Dial, Inc., Northeast Missouri Rural Telephone Company, and Peace Valley Telephone Company (the Mid-Missouri Group of Local Exchange Companies).

James C. Stroo, Associate General Counsel-Midwest, GTE Operations, 1000 GTE Drive, Wentzville, Missouri 63385, for GTE Midwest Incorporated.

Paul S. DeFord, Lathrop & Gage, 2345 Grand Boulevard, Suite 2500,  
Kansas City, Missouri 64108, for AT&T Communications of the Southwest, Inc.

Leo J. Bub, Attorney, Southwestern Bell Telephone Company, 100 North Tucker Boulevard, Room 630, St. Louis, Missouri 63101, for Southwestern Bell Telephone Company.

Michael F. Dandino, Senior Public Counsel, Office of the Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the public.

Colleen M. Dale, Deputy General Counsel, and Cherlyn D. McGowan, Assistant General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the staff of the Missouri Public Service Commission.

**ADMINISTRATIVE**

**LAW JUDGE:** L. Anne Wickliffe, Deputy Chief.

**REPORT AND ORDER**

**I. Procedural History**

United Telephone Company of Missouri d/b/a Sprint (Sprint-United) filed a 1+ IntraLATA Toll Dialing Parity Implementation Plan ( Plan) with the Commission for approval on December 24, 1996. The Plan was submitted to comply with the Federal Telecommunications Act of 1996 (the Act) and the Federal Communications Commission's Second Report and Order<sup>1</sup>, FCC 96-333 (FCC Order). The Commission granted intervention on February 3, 1997, to MCI Telecommunications Corporation (MCI), the Mid-Missouri Group of Local Exchange Telephone Companies<sup>2</sup> (MMG), Southwestern Bell Telephone Company (SWBT), AT&T Communications of the Southwest, Inc. (AT&T), GTE Midwest

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<sup>1</sup> *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Second Report and Order (Fed. Comm. Comm'n, Aug. 8, 1996).

<sup>2</sup> Alma Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, Mid-Missouri Telephone Company, Modern Telephone Co., Mo-Kan Dial, Inc., Northeast Missouri Rural Telephone Company, and Peace Valley Telephone Company.

Incorporated (GTE), and the Small Telephone Company Group<sup>3</sup> (STCG). The parties submitted prefiled testimony and the Commission conducted an evidentiary hearing on March 3. The parties submitted initial and reply briefs. Sprint-United submitted late-filed exhibits 10 and 11; no objections were filed to the admission of these exhibits.

## **II. Positions of the Parties and Discussion**

The FCC's Second Report and Order requires any LEC (local exchange company) that begins providing in-region, interLATA or in-region, interstate toll services before August 8, 1997, to implement toll dialing parity by August 8. Sprint-United offers its Plan in compliance with this requirement. Under the Plan ninety percent of Sprint-United's customers would receive intraLATA dialing parity by August 8; 97.7 percent by February 8, 1999; and 100 percent by December 1, 2000.

### **A. Balloting and Customer Notification**

Sprint-United proposes to notify customers of the implementation of intraLATA presubscription by means of a bill message. **See** Exhibit 2, Schedule MDH-3. Staff's position is that a bill message will not adequately inform customers of their options and that Sprint-United should conduct one round of customer balloting to avoid customer confusion.

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<sup>3</sup> BPS Telephone Company, Bourbeuse Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Fidelity Telephone Company, Goodman Telephone Company, Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, Iamo Telephone Company, KLM Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company.

Sprint-United counters that balloting would not reduce customer confusion and would cost approximately \$500,000. No party other than Staff supports the request for balloting and Sprint-United points out that no other state has ordered balloting for intraLATA presubscription alone. The Office of the Public Counsel (OPC), GTE, SWBT, and MCI all take the position that balloting is unnecessary and not cost-effective.

Sprint-United argues that a separate mailing is unnecessary and would cost approximately \$78,000. Sprint-United believes end-users are familiar with the benefits of selecting a carrier and that any additional information needed will be provided through the marketing efforts of the interexchange carriers.

STCG and AT&T argue that the information provided in the notice proposed by Sprint-United is inadequate. STCG's position is that because COS (Community Optional Service) service will change as a result of the Plan, Sprint-United should notify subscribers in petitioning and target exchanges that their COS service will be affected by the carrier they choose to handle their intraLATA 1+ toll calls. AT&T proposes a detailed letter to be sent as a separate mailing or a bill insert. The parties were given the opportunity to submit a proposed customer notice along with their briefs. OPC, SWBT, AT&T, and Sprint-United submitted proposals.

Balloting is an expensive procedure that is supported only by Staff. Dr. Ben Childers of the Staff testified that the purpose of balloting is to lessen customer confusion and stop multiple, contradictory PIC (primary interexchange carrier) changes by individuals or households. However, Childers admitted on cross-examination that balloting would not prevent customers from making multiple PIC changes immediately on the expiration of the balloting period.

Regardless of the form of notice, the attention of the customers must be adequately focused on the change in service. Therefore, a separate mailing is preferable to a bill insert, despite the additional cost. The proposed notice submitted by Sprint-United most clearly explains the implementation of intraLATA dialing parity. Sprint-United should further clarify its notice by including the following language proposed by OPC or language similar to it: "This means that any long distance company can be used to place an intraLATA call without dialing additional digits"; and "Please note that if you presently subscribe to a COS flat rate dialing plan through your local telephone company, your selection of a different intraLATA carrier may affect that service." Sprint-United's plan to provide a toll-free number for customers to obtain a list of participating long-distance providers is a reasonable means of assisting customers who wish to select a different intraLATA toll carrier.

## **B. Cost Recovery**

Sprint-United proposes to recover the costs of implementing intraLATA dialing parity over a three-year period by means of a charge applied to all intrastate originating access minutes, including the toll minutes of the LEC. Sprint-United includes in the costs to be recovered the foregone revenues that result from allowing end-users a six-month period during which they may change toll carriers without paying the \$5.00 PIC charge. GTE supports Sprint-United's cost recovery proposal.

Staff agrees with the three-year recovery period but disagrees with other aspects of Sprint-United's proposal. Staff's position is that recovery should occur only through a charge on intraLATA toll traffic in order to focus cost recovery on the traffic actually benefiting from dialing parity. Staff also opposes the inclusion of lost revenue for

foregone PIC charges in the costs to be recovered. Staff recommends that no recovery be permitted for these charges and that Sprint-United be allowed to reduce the period to 90 days during which end-users may change toll carriers without incurring a PIC charge.

AT&T and MCI argue that recovery should be assessed only against intraLATA originating toll minutes of use because intraLATA toll services are the beneficiaries of dialing parity. Both recommend that the Commission consider recovery over a longer time period, up to eight years, if necessary to ensure a moderate end-user charge.

SWBT makes no objection to approval of Sprint-United's cost recovery proposal but asks the Commission to permit other carriers to recover costs on a different basis where appropriate.

STCG and MMG take no position on cost recovery. OPC's position is that the issue of cost recovery should be deferred to a generic docket and not determined in this case.

The Commission is not being asked to make a generic ruling on cost recovery for implementation of intraLATA presubscription. This case deals with Sprint-United's implementation plan and the Commission's findings will be based on the evidence in this record. Dialing parity plans presented by other LECs will be judged on the record in those proceedings.

Sprint-United is proposing to allow its customers to change PICs at no charge for a 180-day period. This PIC-free changeover period will encourage competition in the intraLATA toll market and will result in Sprint-United losing revenue equal to the \$5.00 PIC charge it is entitled to collect each time a customer changes to a different intraLATA toll carrier. It is reasonable for Sprint-United to be allowed to recover the

foregone PIC charges as a cost to them of providing intraLATA dialing parity.

The beneficiaries of dialing parity are the end-users and the interexchange carriers who will be able to offer "one-stop shopping" for all long-distance services on a 1+ basis. Customers will be more likely to use an interexchange carrier for toll traffic when they can do so without having to dial an access code followed by "1" plus the number. If the Commission were to limit recovery to a surcharge on intraLATA traffic, Sprint-United, the primary intraLATA toll carrier, would bear a heavy portion of the costs of providing a service that will likely decrease its toll market share. Spreading the costs over all intrastate minutes is a reasonable means of recovering the cost of implementation. Since costs are to be recovered from all intrastate minutes, there is no need to extend the recovery period beyond the three years proposed by Sprint-United.

### **C. Primary Toll Carrier Plan**

The MMG takes the position that the PTC Plan (Primary Toll Carrier Plan) is incompatible with intraLATA presubscription and that the status of the PTC Plan should be addressed before presubscription is permitted. MMG's witness stated that this case would not directly impact the PTC Plan because Sprint-United is only implementing presubscription in exchanges where it is the incumbent LEC.

All other parties taking a position argue that although the PTC Plan should be addressed by the Commission in a separate case, there is no need to address it here.

The Commission Staff filed a motion asking the Commission to establish a generic docket, Case No. TO-97-217, to consider the role of the primary toll carrier plan once intraLATA presubscription is established



throughout the state. Since Sprint-United's implementation Plan will have no impact on the present operation of the PTC Plan, there is no need to consider the PTC Plan in this case.

#### **D. Expanded Calling Plans**

All parties agree that intraLATA toll dialing parity will have an impact on COS, but the parties do not agree on a solution. Sprint-United points out that unless all toll providers offer COS and exchange the necessary subscriber information, calls from target exchanges to petitioning exchanges will no longer be toll-free. Sprint-United argues that statewide COS issues should be considered in a separate proceeding and states that if the Commission cannot resolve COS in time for the company to comply with the FCC deadline, it could delay implementation of toll dialing parity.

OPC believes that two-way COS is important to end-users and the Commission should exhaust every avenue before eliminating the service.

Staff's position is that two-way COS is not viable in an intraLATA equal access environment and should be eliminated. Staff argues that one-way COS should continue to be provided at 50 percent of the price now charged for two-way COS. Staff also takes the position that the Commission should impose a moratorium on all new COS route petitions.

STCG's contends that the Commission should delay implementation of toll dialing parity until it has resolved statewide COS issues in a separate proceeding.

MMG takes the position that OCA (Outstate Calling Area) service should be eliminated and that elimination or modification of MCA (Metropolitan Calling Area) and COS service should be considered before implementation of intraLATA presubscription. MMG argues that expanded

calling plans are inconsistent with competition and may be barriers to entry.

GTE, SWBT, and AT&T encourage the Commission to consider COS issues in a separate statewide proceeding. MCI argues that competitive alternatives to COS should be allowed to develop in the market. MCI's position is that there should be no delay in implementing intraLATA dialing parity on account of COS.

The Commission established on March 7, 1997 a docket for full consideration of COS issues in Case No. TW-97-333. It is not necessary to resolve all COS issues in the context of this intraLATA dialing parity case. However, the parties have testified that provision of COS service will be affected if Sprint-United implements intraLATA dialing parity.

COS service offers a financial benefit both to subscribers and to target exchange callers. The LEC providing COS service must be able to communicate the necessary subscriber information to the toll provider in order for the system to operate. Currently only the primary toll carrier (PTC) has access to this information. IntraLATA dialing parity complicates the process because interexchange toll carriers other than the PTC would be able to provide intraLATA toll but would not know which end-users are COS subscribers. Without that information, users in target exchanges who call COS subscribers would incur toll charges, and the actual value of the COS service to its subscribers would be reduced.

Staff witness Gay Smith discussed the feasibility of several solutions to the COS problem and the difficulties in their implementation. Ms. Smith recommended that COS be offered only as a one-way service, with toll charges attaching to calls from the target exchange to the subscriber. She proposed that the price of COS service be reduced by 50 percent.

Although the solution may be a workable one, Staff provided no current data in this proceeding to support the 50 percent price reduction, and it is not known whether the half-price solution accurately reflects the cost of providing one-way COS service.

An alternative proposal was that intraLATA dialing parity be delayed in target COS exchanges and their associated EAS exchanges until the Commission has had time to resolve all COS issues in Case No. TW-97-333. Given the problems of continuing COS under intraLATA presubscription, delaying implementation in the target COS exchanges and their EAS exchanges is appropriate. Once COS issues have been fully considered and resolved in Case No. TW-97-333, those solutions can be imposed upon the target exchanges excluded from intraLATA presubscription here. In the meantime it would be appropriate to stay action on any pending COS petitions, and refrain from proceeding on new filings, until Case No. TW-97-333 has been resolved.

The testimony in this case indicates that MCA and OCA services will not be directly affected by Sprint-United's implementation of intraLATA dialing parity and need not be addressed here.

### **E. Carrier of Last Resort Obligation**

The MMG takes the position that the carrier of last resort obligation is a function of the PTC Plan and should be addressed before presubscription is permitted. All other parties taking a position on the issue argue that the carrier of last resort issue need not be addressed in this case. Since Sprint-United's implementation Plan, which is the issue in this case, will have no impact on the present operation of the PTC Plan, there is no need to consider the carrier of last resort obligation at this time.

## **F. Precedent**

SWBT raised the issue of the precedential value of the Commission's decision on Sprint-United's Plan. SWBT's position is that plans submitted by other local service providers should be evaluated independently and not expected to conform to Sprint-United's Plan if approved. STCG supports SWBT's position on this issue.

As stated in the discussion of cost recovery, dialing parity plans presented by other LECs will be judged in other proceedings.

## **III. Findings of Fact**

Having considered all of the competent and substantial evidence on the record, the Commission finds as follows:

1. That Sprint-United's implementation Plan should be approved with the exception that intraLATA dialing parity should not be implemented in COS target exchanges until after the Commission has resolved the future of COS service in Missouri in Case No. TW-97-333.

2. That Sprint-United should give customer notice of its Plan by means of a separate mailing and that balloting is not necessary.

3. That the customer notice submitted by Sprint-United with its brief is appropriate and will be approved with the addition of the following language or language similar to it: "This means that any long distance company can be used to place an intraLATA call without dialing additional digits"; and "Please note that if you presently subscribe to a COS flat rate dialing plan through your local telephone company, your selection of a different intraLATA carrier may affect that service."

4. That Sprint-United's proposal to recover the revenue it foregoes as a result of offering a 180-day period in which customers may change their intraLATA toll carrier without paying the PIC charge is reasonable and shall be approved.

5. That Sprint-United's proposal to recover its costs by means of a surcharge on all originating intrastate minutes of use is reasonable and shall be approved.

6. That Sprint-United's plan to recover costs over a period of three years is reasonable and shall be approved.

7. That the Commission's determination in this case does not preclude other LECs from proposing different implementation plans for intraLATA dialing parity that may include different estimates of costs and methods of cost recovery.

8. That implementing intraLATA dialing parity in COS target exchanges and their associated EAS exchanges will complicate the existing toll collection process and will reduce the value of the COS service to subscribers.

9. That the role of the Primary Toll Carrier Plan has been brought before the Commission in Case No. TO-97-217, and the PTC Plan and carrier of last resort obligation need not be considered in this case.

#### **IV. Conclusions of Law**

The Missouri Public Service Commission has reached the following conclusions of law:

Sprint-United is a public utility and a telephone company subject to the Commission's jurisdiction under Section 386.250 and Chapter 392, RSMo 1994. The Federal Telecommunications Act of 1996 and the Federal Communications Commission require LECs such as Sprint-United to implement

intraLATA equal access by August 8, 1997. A LEC that is not able to comply with the deadline must notify the FCC by May 8, 1997, and justify its inability to comply.<sup>4</sup> The Act requires LECs to provide dialing party without unreasonable delays.<sup>5</sup>

Sprint-United has submitted an intraLATA dialing parity implementation plan to this Commission for approval. Based upon its findings of fact, the Commission has determined that the Plan should be approved with the exception of delaying implementation in target COS exchanges. The Commission concludes that such a delay is reasonable, and will not prevent the development of competition in the intraLATA toll market.

**IT IS THEREFORE ORDERED:**

1. That late-filed Exhibit 10 and Exhibit 11 are received into evidence.

2. That the implementation plan proposed by United Telephone Company of Missouri d/b/a Sprint on December 24, 1996, should be approved with the exception that intraLATA dialing parity should not be implemented in COS (Community Optional Service) target exchanges and their associated EAS exchanges pending the outcome of Case No. TW-97-333.

3. That United Telephone Company of Missouri d/b/a Sprint shall advise customers of the implementation of intraLATA dialing parity by means of a separate mailing, the form of which shall be approved by the Commission.

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<sup>4</sup> 47 C.F.R. § 51.211(c).

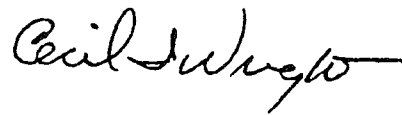
<sup>5</sup> 47 U.S.C. § 251(b)(3).

4. That United Telephone Company of Missouri d/b/a Sprint shall file with the Commission a proposed customer notice in compliance with this Order no later than May 16, 1997 for approval.

5. That the cost recovery method proposed by United Telephone Company of Missouri d/b/a Sprint is approved.

6. That this Report and Order shall become effective on May 16, 1997.

**BY THE COMMISSION**



**Cecil I. Wright  
Executive Secretary**

( S E A L )

Zobrist, Chm., and Drainer,  
C., concur;  
Crumpton, C., concurs, with  
concurring opinion to follow;  
certify compliance with the  
provisions of Section 536.080,  
RSMo 1994.

Dated at Jefferson City, Missouri,  
on this 6th day of May, 1997.