

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

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

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

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

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

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HEARING

EXAMINERS:

Paul S. DeFord and Cecil I. Wright.

REPORT AND ORDER

On July 24, 1986, the Commission issued a Report And Order in Cases No. TO-84-222, TO-84-223, TC-85-126 and TO-85-130. In the Report And Order the Commission resolved the issues raised in Cases TO-84-222, TO-84-223 and TC-85-126. In Case No. TO-85-130, which involved the interLATA access pool and the intraLATA toll pool, the Commission eliminated the interLATA access charge pool and ordered each local exchange company to file interLATA access tariffs. The Commission, based upon the evidence presented, rejected all proposals involving the intraLATA toll pool and requested the parties develop a replacement mechanism based upon a primary carrier by toll center plan to replace the intraLATA toll pool. The plan was to be filed by the parties on or before October 31, 1986.

On October 29, 1986, several parties involved in the attempt to develop a replacement mechanism for the intraLATA toll pool requested an extension of time to file a proposed replacement mechanism. The Commission granted the extension in an order issued November 14, 1986, and ordered that interested toll providers or industry representatives be included in the discussions. Several parties objected to the participation of the toll providers in the negotiation process. On November 18, 1986, the Commission was informed by letter that an agreement was reached on this issue.

On January 29, 1987, a Joint Recommendation and a Conceptual Framework were filed with the Commission by Public Service Commission Staff, Office of Public Counsel and all local exchange companies which contained a proposal for replacing the intraLATA toll pool with a primary carrier by toll center plan. In the Joint Recommendation the signatory parties requested the Commission indicate an acceptance of four basic conditions of the proposal and requested the Commission to establish a procedural schedule.

The Commission, in an order issued February 6, 1987, established a procedural schedule for the filing of comments concerning the Joint Recommendation and Conceptual Framework. Comments were filed by various parties.

On April 3, 1987, the Commission issued an order which addressed the four basic conditions as set out in the Joint Recommendation. The four conditions of the Conceptual Framework which the signatory parties requested the Commission address are:

- (1) Primary toll carriers will shift non-traffic-sensitive costs over an eight-year period as outlined in the Conceptual Framework.
- (2) Five sets of Missouri local exchange carrier intraLATA toll rates will be in effect, some of which may be lower and others higher than the current statewide intraLATA toll rates.
- (3) If presubscription is ordered for intraLATA toll traffic in Missouri, the structure, philosophy and details of the Conceptual Framework may not be appropriate.
- (4) All revenue recovery mechanisms filed in accordance with the Conceptual Framework, both initially and concurrently with each subsequent increment of non-traffic-sensitive cost shift, will be designed to maintain revenue neutrality for the applicable test period for each company and to be implemented without the necessity of a general rate case proceeding. The initial filing will be based on 1986 demand quantities and will be designed to be revenue neutral to the revenue received by each company from the Missouri intraLATA toll pool in 1986 as normalized through the fourth quarter of 1986.

The Commission determined that it should have further evidentiary hearings on the issue of the non-traffic-sensitive cost shift. The Commission stated the purpose of the hearing would be to hear evidence on the cost shift proposed in the Conceptual Framework and other alternatives. The Commission also indicated it would

also be desirable to consider non-traffic-sensitive cost shifts for interLATA access charges.

The Commission additionally raised the issue of whether the Conceptual Framework contemplated that the Commission would review and approve the specific contracts between the primary toll carriers and the secondary toll carriers and asked that the issue be addressed. The Commission determined that the issue of intraLATA presubscription was premature and declined to accept or oppose that condition. The Commission did acknowledge that there is no intraLATA presubscription under current Missouri law and if intraLATA presubscription is ordered it might be appropriate to reexamine whatever mechanism is adopted in these proceedings.

The Commission approved in principle the remaining two conditions which the parties indicated needed to be addressed. The Commission established a procedural schedule for the unresolved issues.

On May 26, 1987, a prehearing conference was held at which all parties agreed to waive cross-examination on the prefiled testimony. The Commission adopted a briefing schedule and briefs were filed according to that schedule.

Several parties filed joint briefs, while others filed individual briefs. Following is a list of parties who filed briefs, listed by the reference used in this order.

CompTel:	Competitive Telecommunications Association of Missouri (formerly Association of Long Distance Telephone Companies of Missouri).
US Sprint:	US Sprint Communications Company.
AT&T:	AT&T Communications of the Southwest, Inc.
MCI:	MCI Telecommunications Corporation.
SWB:	Southwestern Bell Telephone Company.
United:	United Telephone Company of Missouri.
GTE MTO Inc.:	GTE MTO Inc. (formerly General Telephone Company of the Midwest).

Contel: Continental Telephone Company of Missouri, Contel System of Missouri, Inc., and Webster County Telephone Company.

SMTC: Small Missouri Telephone Companies. Those companies listed in Exhibit 80, Schedule RCS-1.

Fidelity: Fidelity Telephone Company is a member of the SMTC but is also referred to separately in this proceeding.

The Cooperative Group: ALLTEL Missouri, Inc., Chariton Valley Telephone Corporation, Craw-Kan Telephone Cooperative, Inc., Kingdom Telephone Company, and Steelville Telephone Exchange, Inc. (Although ALLTEL Missouri, Inc., is shown in this group, it is listed as one of the Small Missouri Telephone Companies in Exhibit 80, Schedule RCS-1.

PC: Office of Public Counsel.

Staff: Public Service Commission Staff.

#### Findings of Fact

Having considered all of the competent and substantial evidence upon the whole record, The Missouri Public Service Commission makes the following findings of fact.

#### I. JOINT RECOMMENDATION/CONCEPTUAL FRAMEWORK

The Commission had recognized in the docket establishing the intraLATA toll pool that the Commission intended to move away from pooling as competition developed in the telecommunications industry. Case No. TR-83-253, RE: Southwestern Bell, 26 Mo. P.S.C. (N.S.) 344, 386 (1983). The Commission in its July 24, 1986, Report And Order authorized competition in the intraLATA market but rejected the proposals made by the parties which addressed the intraLATA toll pool. The Commission first rejected those proposals which recommended continuation of the toll pool since the Commission had already determined that intraLATA toll competition was in the public interest and should be allowed. Case No. TO-84-222, et al., RE: WATS Resale, et al.,

28 Mo. P.S.C. (N.S.) 535, 548 (1986). The Commission then rejected those proposals which presented replacement mechanisms for the intraLATA toll pool. These plans were rejected because of lack of substantial supporting evidence, the undue administrative burdens caused by the proposals, the opposition of other parties, and the non-traffic-sensitive (NTS) cost shift which was proposed in the plans.

After rejecting the proposals, the Commission stated that it was still convinced pooling must end and it ordered the Staff, PC and industry representatives, as well as interested parties, to attempt "to develop a modified version of the primary carrier plan whereby toll carriers would be designated based upon toll center ownership rather than on a LATA-wide basis." RE: WATS Resale, et al., at 595. In addition, the Commission requested the parties submit schedules showing the effects of shifting NTS costs from the subscriber plant factor (SPF) allocation to a subscriber line usage (SLU) allocation over five, seven and ten years.

On January 29, 1987, a Joint Recommendation was filed with the Commission with a proposal by the signatory parties for the implementation of a Conceptual Framework Missouri Intrastate IntraLATA Primary Carrier By Toll Center Plan. The Joint Recommendation and Conceptual Framework were the parties' proposal to end the intraLATA toll pool and to meet the concerns of the Commission as expressed in its July 24, 1986, order.

The Conceptual Framework is supported by all Missouri local exchange companies (LECs), Staff and PC except on one important issue. PC opposes any NTS cost shift. The Joint Recommendation indicated that other issues not addressed by the Conceptual Framework might not be resolved through negotiations, especially since the rates and charges which would be filed to implement the plan have not been developed. The signatory parties indicated they would attempt to resolve all matters through negotiations and would submit the unresolved matters to the Commission.

The Conceptual Framework would require five LECs to become responsible for carriage of intraLATA toll. These five LECs would be called Primary Toll Carriers

(PTCs) and each would file tariffs reflecting the individual company's rates and charges for toll calls. The responsibility for a particular call would be based upon the ownership of the toll complex from which the call originates. The five PTCs would be SWB, Contel (including Continental Telephone Company of Missouri, Contel System of Missouri, Inc., and Webster County Telephone Company), Fidelity Telephone Company, United Telephone Company of Missouri and GTE MTO Inc. All other LECs would be classified as Secondary Carriers (SCs).

The parties in the Joint Recommendation stated they believed the five-PTC concept as detailed in the Conceptual Framework met the Commission's major objections to the plans proposed in the earlier phase of the proceeding. The Commission by order issued April 3, 1987, accepted the five-PTC part of the Conceptual Framework.

In its April 3rd order the Commission also accepted the part of the Conceptual Framework which would require that the tariffs and charges established under this proposal be revenue neutral. The Conceptual Framework does contain a provision that would allow a PTC to file an alternative to this proposal for Commission approval if the actual rates and charges resulting from the plan result in unacceptable rate aberrations. The Conceptual Framework states in paragraph IV.E.2. that "[i]n no event will this plan be implemented prior to review and approval by the PSC of an alternative support mechanism, if appropriate, such that all PTCs will be assured revenue neutrality as of the date of implementation."

The Conceptual Framework contains a provision for a shift in NTS costs from the current SPF allocation to a SLU allocation over an eight-year period with a 20 percent shift every two years, beginning January 1, 1988. PC objected to this provision and this matter was set for further hearing and will be discussed below.

A second issue left unresolved by the Conceptual Framework is the treatment of the interstate universal service fund, also known as the high cost fund (HCF), in calculating intraLATA toll subject to the NTS cost shifts. The Commission will address this issue below.

As stated above, the Commission has already accepted two basic elements of the Conceptual Framework for eliminating the intraLATA toll pool. The Commission considers the adoption of the five-PTC concept and the proposal for revenue neutrality as consistent with its directives in the Report And Order issued July 24, 1986. Since only five different sets of tariffs will be filed, the plan avoids the tremendous administrative burden of all LECs filing tariffs. The plan ends the intraLATA pool in a manner acceptable to all affected parties and will allow the PTCs to compete more effectively in the intraLATA market. The plan meets the concerns of parties concerning control of network facilities, and promotes the efficient design of the Missouri toll network by placing responsibility with those LECs who own the toll complexes.

Based upon the Commission's previous acceptance of the PTC and revenue neutral portions of the Conceptual Framework and the Framework's elimination of many of the concerns expressed by the Commission concerning earlier proposals, the Commission finds the Conceptual Framework should be adopted except for those portions which are specifically addressed and changed or modified in this Report And Order.

## II. SPECIFIC ISSUES CONCERNING THE CONCEPTUAL FRAMEWORK

### A. Filing of Tariffs and Contracts

The Commission in its April 3, 1987 order raised the issue of whether, under the Conceptual Framework, the Commission would review and approve the specific contracts between PTCs and between PTCs and SCs involving settlements under the plan. The parties indicated in their briefs that this issue had not been resolved prior to filing the Joint Recommendation/Conceptual Framework, but that a general consensus had been reached among the LECs concerning the issue.

Based upon the plan outlined in the Conceptual Framework, each PTC will be required to develop rates and charges for originating and/or terminating calls between PTC and SC and between PTCs as well as transport and other elements of providing intraLATA toll service. The general consensus as expressed by Contel and

SMTC, SWB, the Cooperative Group and Staff is that the specific rates and charges for carrying intraLATA toll traffic would be filed in tariffs subject to the Commission's traditional review. Contracts will be needed under the plan between PTCs and between PTCs and SCs that set out billing arrangements, facility meet points and interconnection agreements for networking purposes. Any contract involving compensation would be subject to Commission review and approval to assure the revenue neutrality of the rates and charges.

Staff witness Goldammer stated that all contracts should be filed with the Commission and any rates should be filed as tariffs for approval by the Commission. Goldammer stated this position was different from Staff's traditional position concerning contracts but that due to changes in the telecommunications environment, the Staff needed ready access to these contracts.

MCI contends that the general consensus is not specific enough concerning what will be in the contracts and the contracts should be filed with the Commission for review and approval to prevent cross-subsidies or other anticompetitive practices. MCI does not feel a review just to determine revenue neutrality is sufficient review of these contracts.

The Commission has determined that the general consensus as described by Contel in its Initial Brief, pp. 18-19, will meet the regulatory requirements of review by the Commission. The Commission finds that the toll rates and charges for usage sensitive settlements shall be filed in tariffs. Contracts between PTCs and between PTCs and SCs which contain compensation provisions will be filed with the Commission for its approval to assure revenue neutrality. The Commission has also determined it is essential that Staff be kept informed of all agreements involving the provision of intraLATA toll and so will order each PTC to submit to Staff a copy of each contract it executes with a PTC or SC.

B. H.B. 360

Since the filing of the Joint Recommendation/Conceptual Framework in January 1987, the Missouri Legislature has enacted some significant changes to Chapter 392, R.S.Mo., by passage of H.B. 360. The new statutory sections became effective September 28, 1987. The Commission has not had sufficient time to consider all of the possible ramifications or influences H.B. 360 might have on the Conceptual Framework. There is one area, though, that the Commission is aware of and must address.

In paragraph IV.F.5. of the Conceptual Framework each PTC has agreed to perform the carrier of last resort obligation for the intraLATA toll traffic originating within the exchanges of its subtending LECs for the duration of the contract, which is five years. This provision in the Conceptual Framework appears to be clearly contrary to Section 392.460, R.S.Mo. (Supp. 1987). This section states:

No telecommunications company authorized by the commission to provide or offer basic local or basic interexchange telecommunications service within the state of Missouri on January 1, 1984, shall abandon such service until and unless it shall demonstrate, and the commission finds, after notice and hearing, that such abandonment will not deprive any customers of basic local or basic interexchange telecommunications service or access thereto and is not otherwise contrary to the public interest.

The Commission has additional reservations concerning the five-year carrier of last resort provision, but in light of requirements of Section 392.460 it has determined it need not address those concerns. As the providers of basic interexchange telecommunications service, the PTCs are required to continue to provide that service until they seek abandonment of that requirement from the Commission. In light of the provisions of Section 392.460, the Commission therefore finds section IV.F.5. of the Conceptual Framework, regarding carrier of last resort responsibility, is unreasonable and unlawful and the Conceptual Framework should be modified to eliminate that provision.

C. High Cost Fund

The Joint Recommendation in paragraph 19 indicated that revenue requirements of plans that will shift NTS costs from SPF to SLJ were filed utilizing two formats because of a dispute over the proper treatment of federal HCF revenues received by certain individual companies. The parties to the Conceptual Framework requested the Commission address and resolve this issue in this order since no negotiated resolution has been achieved.

Two proposals were made in the original phase of these proceedings concerning how the HCF revenues should be treated for purposes of determining state toll NTS revenue requirements for the LECs receiving revenue from the HCF. One proposal, made by the Missouri Independent Telephone Group (MITG), would make no adjustment to an LEC's intraLATA toll NTS revenue requirement, while the second proposal, made by SWB, would adjust intraLATA NTS revenue requirement for amounts received from the HCF.

All parties concerned with this issue agree that the purpose of the HCF is to minimize the pressure on local exchange rates which would occur because of the Federal Communication Commission's (FCC) shift to a gross allocator. Certain high cost LECs were losing significant intrastate toll allocations because of the shift to the gross allocator.

SWB suggests that through the HCF an LEC could recover more than 100 percent of all NTS costs by a combination of the gross allocator and the HCF. SWB proposed a formula to allocate a portion of HCF revenues to the state toll NTS revenue requirement to avoid this result. Contel, SMTC and the Cooperative Group oppose SWB's formula.

Contel and SMTC argue that SWB's proposal would create an additional revenue requirement for Contel's customers of over \$4 million in 1996. Contel, SMTC and the Cooperative Group also contend that SWB's proposal violates the intent of the HCF if it is used to reduce state toll allocations. SMTC witness Schoonmaker, in his

testimony on behalf of the Missouri Independent Telephone Group (MITG) in the earlier phase of this proceeding, (Exhibit 65, p. 40), and Cooperative Group agree with SWB that more than a 100 percent recovery would not be appropriate.

The Commission has determined that based upon the stated intent of the creation of the HCF, use of HCF revenues to calculate an intraLATA toll NTS revenue requirement would not be appropriate and therefore adopts the proposal of the MITG as presented in the earlier phase of this proceeding. If at some point it becomes apparent that LECs are recovering more than 100 percent of their NTS costs because of revenues from the HCF, the Commission may reconsider its decision.

AT&T witness Shashack proposed in his rebuttal testimony (Exhibit 105, p. 11) that the HCF revenue received by Contel be used as an offset in AT&T's proposal for shifting NTS costs. The Commission addresses AT&T's proposal below.

D. NTS Cost Shift

The Conceptual Framework contains a proposal for reducing NTS costs which are recovered through intraLATA toll rates. The plan calls for an eight-year plan to shift NTS costs allocated to intraLATA toll from the current frozen SPF levels to moving SLU levels. This shift would be accomplished by a 20 percent adjustment every two years during the eight years of the plan, beginning January 1, 1988. The elements of NTS cost which are part of this calculation are loop, non-CPE and the unamortized portion of inside wire. Each 20-percent increment of the proposed reduced NTS cost shift would be reflected in proportionally reduced toll rates and settlement charges of each PTC.

Under the Conceptual Framework only the PTCs will be required to make the NTS cost shift. SCs have the option of remaining with the frozen SPF allocation or shifting to the moving SLU. The SPF allocator is referred to as "frozen" because it is set at its 1981 level. The SLU allocator is referred to as "moving" because SLU is based upon usage and as usage changes, the allocation will change. In this

proceeding, it is apparent the parties assume usage will increase and so the distance between the moving SLU and the frozen SPF will decrease over time.

Under the Conceptual Framework a PTC has the option to recover the NTS cost shifts through rate filings increasing rates for vertical/discretionary service offerings and/or service connection charges and/or toll surcharges and other revenue sources. (The parties have agreed that "other revenue sources" does not include changes in intrastate access charges.) These rate filings are to be implemented simultaneously and automatically with each NTS cost shift and may be proposed without a general rate case proceeding. If a PTC wishes to increase local exchange rates to recover the NTS cost shifts, it may do so only in a general rate case proceeding.

SCs are not required to make any NTS cost shift under the proposal but may do so if they choose. The Conceptual Framework proposes to limit SC recovery of NTS costs from settlements established by PTCs to 1986 test year NTS quantities.

All of the LECs and Staff have agreed to the terms of the Conceptual Framework regarding the above-described NTS cost shifts. PC objected to this portion of the Conceptual Framework. The Commission ordered further evidence to be submitted on this issue from signatory parties and other interested persons. In order to clarify the many arguments involving this issue, the Commission will set out each party's position before making its findings.

1. Public Counsel

PC was the single participant in the development of the Conceptual Framework which objected to the proposed NTS cost shift. PC's objection basically is that the NTS cost shift is not needed to implement the Conceptual Framework and that there is not sufficient competent and substantial evidence in the record to support the proposed shift. PC claims that use of a usage allocator such as SLU does not properly assign NTS costs. PC supports the use of the frozen SPF because it adjusts for a toll deterrent factor. This toll deterrent factor, PC asserts, is necessary to get a proper comparison of usage measurements. PC contends that there is stimulation of

usage which occurs if toll rates are replaced with flat rates and this factor must be accounted for in allocating NTS costs.

PC supports its position further by citing the use by the FCC of a gross allocation factor of 25 percent. The FCC, PC contends, has not adopted SLU for allocation purposes. The FCC's gross allocator allocates approximately the same amount of NTS costs to interstate toll as the frozen SPF. PC's witness Dunkel states that the FCC's rate design decision for the recovery of NTS costs, part from usage sensitive costs and part from a subscriber line charge (SLC), does not indicate support by the FCC for the SLU allocation.

In support of its position, PC next states that the amount of NTS costs allocated to intraLATA toll is already being reduced. All customer premises equipment (CPE) costs will be removed from toll by the end of 1987; embedded inside wire costs are being amortized over a ten-year period and so are being removed from toll, and the NTS portion of local switching equipment has been recommended to be allocated in the dial equipment minutes (DEM) factor rather than by frozen SPF over a five-year period beginning in 1988. PC asserts that additional shifts of NTS costs are not warranted. Further, PC asserts that there is no evidence of facilities bypass of the local network. PC states it could find no evidence of bypass and there is no economic incentive for bypass because of the cost of facilities for customers to bypass the LEC facilities.

PC states, finally, that the NTS cost shift proposed will impact local exchange rates and thus affect the goal of universal service. The increase in local exchange rates could be significant for certain companies, such as Contel. Other local rates will only be able to absorb the first phase of the shift and subsequent shifts will necessitate local exchange rate increases. PC also points out that the increase in local rates will be exacerbated by the proposed increase in the SLC by the FCC and any other rate increases occurring because of an increase in normal

operating expenses. There is also the possibility of an interLATA NTS cost shift as proposed by the interexchange carriers (IXCs) in this docket.

2. Staff

Staff indicates it supported the Conceptual Framework without reservation, as well as the NTS cost shift proposal. This support, Staff states, resulted when it became clear that some NTS cost shift was essential for any agreement among the LECs. Staff points to Section 392.240 as indicative of the importance of industry agreement concerning joint rates. Staff points out that the five PTCs will assume individual responsibility for the NTS costs in their separate local exchange networks and this supports the shift as equitable. Staff states further, though, that industry agreement does not remove Commission authority or jurisdiction over the rates and charges proposed and does not prevent the Commission from modifying any part of the Conceptual Framework it finds unreasonable or unjust.

Staff supports the proposed NTS cost shift as reasonable for three primary reasons: (1) the proposed shift is gradual; (2) the shift will not result in automatic increases in local rates; and (3) the shift is limited by the moving SLU level. Staff states its support for the NTS cost shift does not indicate that NTS costs are associated with any particular rate element and Staff still supports a policy of maximizing the contribution of toll revenues.

3. SWB

SWB's basic position is that the NTS cost shift should be approved because all LECs agreed to the proposal and the NTS cost shift is essential to dissolving the intraLATA toll pool. SWB states that the unanimous agreement of all LECs is a compelling reason to approve the NTS cost shift. SWB cites the Commission's own language in its earlier Report And Order in this case to show how important industry support is. RE: WATS Resale, at 592. SWB also cites Staff's support for the proposal.

The Commission, SWB asserts, is limited by Section 392.240.3, R.S.Mo. 1986, in its jurisdiction over the division of costs and revenues for joint services to instances where the companies disagree upon the division. SWB contends this has been the Commission's historical practice, as with the procedures for administration of the interLATA access and intraLATA toll pools. Since there is unanimous agreement among the LECs, SWB contends, the Commission must approve the NTS cost shift.

SWB states further that the Conceptual Framework allows the Commission to dissolve the pool on a revenue neutral basis by using test year period pool draw, thus reducing rate case activity, and the NTS cost shift prevents subsidies by shifting costs to discretionary services offered by LECs. Each PTC will be required to price according to its own costs, SWB states, and this will increase each toll provider's freedom and responsibility related to its pricing.

SWB states, finally, that NTS costs for the intraLATA toll pool are too high. The allocations were set based upon SPF to maintain uniformity in interLATA and intraLATA toll rates and to allow AT&T and SWB to earn the revenue requirement approved by the Commission. Now that competition has been authorized by the Commission (at least 25 non-local-exchange companies compete in the intraLATA market), SWB asserts the SPF allocation factor is obsolete. SWB contends the FCC has moved from SPF to SLU for its interstate allocation. The difference between the Conceptual Framework and the FCC's method is that the FCC places the costs on the end user, while the Conceptual Framework puts it on other services.

SWB contends, finally, that the NTS cost shift makes sense because, by definition, NTS costs do not vary with usage and therefore the rate used to recover them should not be usage sensitive. Competition, not bypass, SWB asserts, requires the shifting of NTS costs. SWB states further that the NTS shift is important because it funds the diminution of intercompany and intercustomer subsidies which were inherent in the pooling process.

#### 4. Contel and SMTC

Contel and SMTC state that they support the NTS cost shift as proposed in the Conceptual Framework because it has been agreed to by all LECs after long and arduous negotiations and it is essential to the ability of the PTCs to price their services competitively. The NTS cost shifts are at the very core of the agreement, and the proposal is workable and consistent with the realities of the intralATA market as well as providing significant protection for basic local exchange customers.

Contel and SMTC argue that SPF allocates a disproportionate amount of NTS costs based upon a complex formula and these costs are higher than they would be utilizing the more appropriate usage allocator. Recovery of NTS costs, which are fixed, through usage sensitive rates, Contel and SMTC state, causes significant problems in the competitive intralATA toll market. SLU, Contel and SMTC state, is a reasonable method of allocating NTS costs.

Contel and SMTC point out that the current SPF allocation is 69 percent higher than the SLU allocation. Contel and SMTC argue the SLU allocation is the truer indication of costs of providing intralATA toll service. Contel and Fidelity will both be PTCs under the Conceptual Framework and both support the shift.

The competition of the IXCs is particularly important in this matter, Contel states, because the toll rates of IXCs are declining and it is unfair to force Contel, in particular, to bear higher NTS costs in the face of this competition. Contel states that it needs the NTS cost shift to avoid unacceptable increases in toll rates when the PTC plan is implemented. Contel draws \$1.36 from the current pool for each \$1.00 it contributes. Revenue neutral rates will cause a dramatic increase in Contel's toll rates unless the shift is approved. Contel and Fidelity, as well as other LECs, will benefit from the lower toll rates of other PTCs if the NTS cost shifts are approved, since the lower toll rates will reduce their costs for terminating charges.

Contel admits that because it is a high cost company its vertical/discretionary service category will not bear more than the initial phase of the proposed shift. The later shifts will necessitate Contel seeking increases in local exchange rates.

The SMTC support the cost shift as proposed since they have the discretion of whether or not to make the NTS cost shift. Also, the SCs support the NTS cost shift for the PTCs because of the threat of bypass and the Conceptual Framework is dependent upon the PTCs' rates being competitive.

5. Cooperative Group

The Cooperative Group will all be SCs under the Conceptual Framework and they support the NTS cost shift as a part of the implementation of the Conceptual Framework. The Cooperative Group states the cost shift is needed to avoid substantial increases in existing intraLATA toll rates, to permit a reduction in the cost of terminating access in the intraLATA toll market, to remain competitive with the IXCs, and to minimize the risk of uneconomic bypass of the intraLATA toll network through facilities bypass or service bypass.

6. United

United states that it supports the NTS cost shift from frozen SPF to moving SLU. United states the proposed eight-year plan provides for a gradual transition for the cost shift, and this addresses one of the Commission's concerns as expressed in its Report And Order in the earlier phase of this proceeding.

The cost shift is essential, United contends, because of the increased level of competition in the intraLATA market. This competition makes United's markets vulnerable once the Conceptual Framework is implemented and if there is no correspondent NTS cost shift. United states it would also be subject to an increased number of applications for extended area service (EAS) if its toll rates increase.

An example of the problem facing United was provided by United witness Dobras. Dobras described how a three-minute call from Tebbetts to Jefferson City

generates toll revenue of \$ .44, while current originating and terminating access charges, absent the NTS cost shift, would be \$. 66 for the same call. United states it will have to increase its intraLATA toll rates to cover this difference if the NTS cost shift is not approved. United's problems are also demonstrated by the difference between its draw from the current pool of \$1.11 for every dollar of revenue contributed.

7. GTE MTO Inc.

GTE MTO Inc. states that by its prior orders the Commission determined a NTS cost shift was necessary. By opening the intraLATA toll market to competition, the Commission has in effect agreed to reduce intraLATA toll rates from their artificially inflated prices. Bypass, GTE MTO Inc. maintains, is occurring and the Commission should recognize this fact and allow the NTS cost shift to reduce intraLATA toll rates.

GTE MTO Inc. cites two examples of intraLATA toll users which have bypassed the LEC through use of a microwave tower to route their intraLATA toll traffic. GTE MTO Inc. contends that the NTS cost shift is necessary to allow the PTCs to compete with this bypass. Increased toll usage resulting from more competitive rates, GTE MTO Inc. contends, will reduce the need to seek increases of local exchange rates.

8. AT&T

AT&T generally supports the shifting of NTS costs from SPF from SLU, but AT&T's main arguments address the issue of interLATA NTS costs, which will be addressed below.

9. US Sprint

US Sprint generally supports the NTS cost shift as proposed in the Conceptual Framework. US Sprint, though, maintains the eight-year shift proposed in the Conceptual Framework is too slow and fails to acknowledge the need for further shifts in the future. US Sprint contends that NTS costs are caused by the customers of the

local exchange network and the NTS costs should ultimately be shifted entirely to those customers. The transfer of all NTS costs to the local customer, US Sprint states, will create economic efficiency, end the unfair subsidy, force local phone rates to be more in line with costs, and allow toll rates to move to cost-based levels. US Sprint proposes an NTS shift over five years and states that this will cause almost no different cost than the eight-year plan.

US Sprint raises three additional issues: first, that PTCs not discriminate against IXCs which provide intraLATA service; this issue will be addressed below; second, that PTCs not recover shifted NTS costs through increased access charges to IXCs; the PTCs have stated this is not their intent; third, that the availability of intraLATA presubscription should not be permanently foreclosed; this issue has been decided by the Commission in its April 3, 1987, order.

10. MCI

MCI states it does not oppose the NTS cost shift as set out in the Conceptual Framework. MCI, though, raises the same issue as US Sprint concerning discriminatory treatment by the PTCs. This issue will be addressed below. The other issues raised by MCI address interLATA NTS costs and will be addressed below.

11. CompTel

CompTel states that the Commission in its July 24, 1987, Report And Order authorizing intraLATA competition indicated Commission support for competition for existing intraLATA toll traffic as well as generation of additional toll traffic. Based upon that authorization, CompTel argues that access rates charged IXCs for intraLATA traffic should be the same as the toll settlements charged to LECs. CompTel argues that any difference in these rates would be discriminatory. CompTel also states that (1) it supports use of the SLU allocation because it properly reflects cost of the service, (2) the current allocation of NTS cost has special long distance usage, and (3) the possibility of bypass does exist in the future, especially service bypass.

12. Commission Decision

Three proposals to shift NTS cost from the SPF allocation were made in the original phase of this proceeding. The Commission rejected Staff's proposal of an eight-year shift from frozen SPF to a 17 percent gross allocator not only because it would have had the most drastic settlement shift, but because it would require SWB to move further than SLU and thus assign substantially more NTS costs to toll. The Commission found, additionally, that Staff's plan was unrealistic and counterproductive in accomplishing a gradual transition to a more competitive intraLATA market.

RE: WATS Resale, et al., at 594.

The Commission rejected SWB's plan for a movement from a frozen SPF to SLU over a three-year period because it shifted too much NTS costs from toll to local too quickly. The Commission found that the evidence presented concerning competition and bypass did not justify SWB's proposal. RE: WATS Resale, et al., at 594.

The Commission rejected the MITG plan of shifting three dollars over a three-year period as not reasonable. Again, the Commission stated that the threat of bypass was not significant enough to warrant the adoption of such an arbitrary and immediate shift of NTS costs to local exchange service. The Commission restated its support of universal service and was concerned an immediate and arbitrary shift of NTS costs would not promote that goal. The Commission suggested that additional evidence on the effects of any proposed NTS cost shift would be necessary before any determination could be made concerning the penetration of telephone service in Missouri. RE: WATS Resale, et al., at 594.

Although the Commission rejected the proposals for NTS cost shifts, it remained convinced that the intraLATA pool must be eliminated to allow the intraLATA market to deal with developing competition. To achieve the elimination of the pool the Commission ordered the parties to attempt to reach agreement on a primary carrier plan based upon toll center ownership. The Commission also asked the parties to

provide schedules which showed the effects of plans shifting NTS costs over five, seven and ten years. RE: WATS Resale, et al., at 591-596.

The LECs, Staff and PC met and developed a proposal for ending the intra-LATA pool. This proposal was filed with the Commission on January 29, 1987, and the Conceptual Framework which detailed the proposal contained the eight-year frozen SPF to moving SLU proposal that is at issue here. All LECs and Staff agreed to the proposed shift of NTS costs, but PC raised serious objections to the proposal.

PC's objections to the proposed NTS cost shift are set out above. Those objections center mainly on PC's position that the cost shift is not necessary for implementation of the plan and there is not sufficient evidence in the record to support the proposed shift. Supporters of the proposal counter this argument by stating that the eight-year frozen SPF to moving SLU proposal is a negotiated settlement agreed to by all LECs and is an essential element in the Conceptual Framework. Supporters state that some of the PTCs need the cost shift to keep toll rates affordable and to meet the growing competition in the intraLATA toll market.

A review of the NTS cost shift proposal indicates it meets most of the objections raised by the Commission to earlier proposals. The Commission appreciates the work of the parties in developing this proposal. The Commission is aware of the extended negotiations that must have taken place to develop a plan which has the support of all LECs and Staff, and almost complete support from PC. The Commission also appreciates the work of the parties in developing the schedules showing the effects of the NTS cost shifts over five, seven and ten years. Since the Commission has addressed this issue extensively in its July 24, 1986, Report And Order and the Conceptual Framework proposal is in response to the Commission order, the Commission will focus mainly on whether the NTS cost shift proposal meets the concerns expressed by the Commission.

SWB and Staff raised an issue concerning the Commission's authority over joint rates under Section 392.240.3. SWB interprets the provisions of 392.240.3 to

limit the Commission's jurisdiction over the division of costs and revenues for jointly provided services to instances where the companies disagree upon the division. Staff cites Section 392.240.3 to show legislative support for industry agreements. Staff, though, states that its citing of Section 392.240.3 does not indicate a belief that the Commission lacks jurisdiction over any aspect of the Conceptual Framework even though there is unanimous agreement among the LECs.

The Commission is aware of the provisions of Section 392.240.3 concerning division of costs and of joint rates, but has determined this section neither limits its jurisdiction in this matter nor particularly addresses the issue of the ending of the intraLATA pool. The other provisions of Section 392.240 and the provisions of Sections 392.200, 392.220 and 392.230 provide the Commission with complete jurisdiction over the provision of telecommunications service in Missouri and over the rates charged for that service. The proviso concerning agreement of the companies on the division of costs and joint rates must be read in the context of the Commission's broad jurisdiction in this area. The Commission's legislative mandate to ensure that rates are just and reasonable cannot be eliminated by an agreement of LECs concerning those rates.

Another issue raised is the evidence of competition in the intraLATA market. PC argues strenuously that no NTS cost shift is warranted because of the lack of evidence of competition or bypass. The Commission has addressed this issue in its July 24 Report And Order by first authorizing intraLATA competition and then by indicating that at that time there was insufficient evidence of bypass and competition to adopt the proposals for shifting NTS cost presented.

The evidence in this portion of the case indicates there are now approximately 25 companies authorized to provide intraLATA toll service. These companies may now compete directly with the LECs and customers may now determine whether it is economically feasible to bypass the facilities of the LEC or to take an alternate service from the LEC to take advantage of this competition.

PC has effectively demonstrated, through the testimony of Dunkel, that facilities bypass is still not occurring for the provision of intraLATA toll service. SWB did provide one example of facilities bypass for interstate calls. SWB, Contel and GTE MTO Inc. cited examples of service bypass and instances where large companies are bypassing the LEC to make intracompany toll calls. Also, Contel cited an example of service bypass where a large customer moved from 1+ dialing to a private line. All of the LECs project increased bypass as competition for the intraLATA toll customer increases.

The Commission agrees generally with PC's position that it is not now economical to bypass the facilities of the LEC for intraLATA traffic. The evidence is that little facilities bypass has occurred in Missouri and that competitors use the LEC's NTS facilities to complete calls. The Commission also generally agrees with PC that the large customers who use WATS and 800 service have less incentive to bypass since the common carrier line charge has been removed from those rates. The Commission, though, has determined that the evidence of bypass of local facilities by Venture, Union Electric and General Motors for intracompany calls is sufficient to indicate that some bypass of LECs' facilities is occurring, and with the increased competition recently authorized and advancing technology the potential for lost revenue for some of the LECs exists. The Commission considers the potential for additional lost revenues from companies bypassing local facilities for intracompany calls significant enough for the Commission to consider this bypass of the LEC local facilities in reaching a decision on this issue. However, the Commission also recognizes that nonprice considerations may also greatly influence a company's decision to build an intracompany network. Some of these factors may include concerns over control, security and/or privacy, stability of prices over time and the ability of bypass facilities to provide additional services (e.g., high speed data transmission) and greater reliability and flexibility of certain bypass facilities.

Another issue raised is whether a usage sensitive allocator such as SLU is the more appropriate way to allocate NTS costs and whether this is just a prelude to assigning all NTS costs to the local customer. The Commission has previously addressed the continuing debate about who causes the NTS costs of the local network. In the divestiture case, Case No. TR-83-253, the Commission stated that:

The Commission, having considered the various arguments of the parties, is persuaded, and finds, that the cost of a local loop can arise from a demand for local and/or long-distance service. Therefore, local loop costs should properly be recovered through contributions from at least three services: local exchange, carrier access and toll. The local loop has no value to any customer unless other customers are connected. The loop is in place to satisfy customers' demands for both long-distance and local service. This Commission finds and concludes that the local loop now gives a telephone subscriber access to an integrated telephone network which includes local exchange capabilities, and interstate and intrastate long distance (toll) capabilities as well. Since both local exchange service and toll service make use of the local loop, both services should contribute to the cost of the local loop. . . .

. . . To announce that economic efficiency requires that interLATA toll carriers be provided with absolutely free access to the local loops of local exchange telephone customers is patently absurd. Thus, the interexchange carriers should pay for their use of the local network in providing toll services, just as local exchange service should pay for its use of the local loop.

RE: SWB, 26 Mo. P.S.C. (N.S.) 381, 382 (1983).

The Commission in comments before the FCC has restated its position that shifting all NTS costs to the local customer is not appropriate. Comments Of The Missouri Public Service Commission In Response To The Federal Communications Commission's Further Notice Of Proposed Rulemaking, pp. 7-8, CC Docket No. 78-72, CC Docket No. 80-286 (filed August 29, 1986). The Commission finds nothing in the evidence in this case which has changed its position on who causes the NTS costs. The Commission considers its decision in this proceeding to be a determination of whether it is reasonable to shift some of the NTS costs now allocated to intraLATA toll to other services, not the adoption of the proper theory of cost causation for NTS costs.

In ordering the parties to develop a replacement mechanism for the intraLATA toll pool based upon a primary carrier by toll center ownership, the Commission did not indicate that an NTS cost shift was a necessary ingredient of any plan. The Commission did indicate it wished to see schedules showing the effects of any proposed shift, but this was not a determination that a shift should occur.

The Commission understands that the parties who developed the Conceptual Framework feel the NTS cost shift is an essential element of the plan, and the Commission considers the unanimity an important asset of the plan. The statements of several parties, though, indicate that the plan could be implemented without a cost shift, and so although the proposed shift is an essential element, the shift is not a precondition to its implementation. Any shift authorized in this proceeding will be based upon what the Commission finds are the appropriate factors for determining whether NTS costs should be shifted.

Based upon a review of the evidence in this proceeding and the Commission's intention to eliminate the intraLATA pool, the Commission has determined that some shift of NTS costs should occur as part of the implementation of the Conceptual Framework. The Commission has determined that it is reasonable to allow some shifting of NTS costs because of the potential effect that the Conceptual Framework will have on the toll rates of the PTCs, especially Contel and United. The effect of the elimination of the intraLATA toll pool on the toll rates to be developed by the PTCs could be especially dramatic for Contel and United since they receive substantially more revenue from the pool than they contribute. To reduce this dramatic impact by shifting some NTS costs away from toll appears reasonable and is supported by the evidence showing the effect of the shifts. The example presented by United as to the effect of the Conceptual Framework on toll rates from the Tebbetts exchange is very persuasive.

Even though the Commission has found that some NTS cost shift is supported by the record, the Commission has determined it cannot adopt the full eight-year cost

shift as set out in the Conceptual Framework. The Commission is not convinced by the evidence that a full move to the moving SLU is appropriate or in the best interests of ratepayers. The fact the frozen SPF allocates more costs than does moving SLU is not evidence which supports SLU as the more appropriate allocator. The Commission's main concern with the eight-year proposal is that adoption of the plan would lock the Commission into a significant shift of costs over an extended period of time during a period of volatility in the telecommunications industry and with many important issues not resolved. The Commission has determined that there are too many uncertainties in the telecommunications market to adopt an eight-year plan.

The parties have proposed that the Commission adopt an eight-year plan, while the PTCs were only willing to be carrier of last resort for five years. Although the Commission has disapproved this part of the Conceptual Framework, the contracts signed under the Framework will presumably still be for five years. Thus, the parties were asking for an eight-year commitment from the Commission while only offering a five-year commitment for themselves.

The evidence shows that if the Commission adopted the eight-year shift, the vertical/discretionary services could only absorb the shift for the first and maybe the second phase of cost shifts. PC argues that even this is unlikely since the vertical/discretionary services are priced for maximum contribution at this time. This means, of course, that the LECs would have to seek rate increases during the course of the eight-year plan as each 20 percent shift occurs after the initial shift. This, the Commission has determined, would have a potential detrimental effect on universal service, especially since other pressures on local rates would be occurring at the same time. The single most immediate pressure would be any NTS cost shift which might be authorized from intrastate access charges.

In addition, the Commission, if it adopted the eight-year plan, would be doing so without seeing the actual rates to be implemented under the Conceptual Framework in the first year. Without knowing these rates the Commission would be

committing to a substantial shift in cost onto local rates without the benefit of knowing where the settlement rates will be set initially. The Commission has therefore determined it cannot adopt a plan with such long term consequences under these circumstances, and has determined adoption of the eight-year plan at this point is not reasonable.

As stated earlier, the Commission has found that some NTS cost shift is appropriate. What the Commission objects to is a long term commitment to shifting costs to the moving SLU proposed in the Conceptual Framework. The Commission has determined that some shift is reasonable and so will approve the initial phase of the eight-year proposal.

The Commission finds that the 20 percent shift will enable the parties to implement the Conceptual Framework and eliminate the intraLATA toll pool. This shift will reduce the impact of the implementation of the Conceptual Framework on the PTCs, especially since the evidence indicates the PTCs' vertical/discretionary services can absorb the initial shift without the need to seek an increase in local exchange rates. The Commission decision will preserve the Commission's goal of promoting universal service and will allow the Commission the opportunity to see the actual rates and charges to be made under the Conceptual Framework before adopting subsequent shifts. By not adopting the eight-year plan, the Commission will have more flexibility in dealing with other pressures on local exchange rates, and this also leaves open the possible adoption of additional shifts in intraLATA NTS costs at some later time.

E. Discrimination Between PTCs and SCs

The Conceptual Framework in paragraph IV.A.5. makes any NTS cost shift authorized by the Commission mandatory for PTCs, but it allows SCs the discretion of whether or not to make the cost shift. PC objects to this part of the Conceptual Framework, contending that there is no basis for this different treatment and it is therefore discriminatory.

PC witness Dunkel states that any difference in treatment for the same type of costs must be based upon some factor related to the costs. Dunkel's position is, there are no differences in NTS costs among the LECs, whether PTC or SC, and the fact PTCs own toll complexes is not sufficient justification for the different treatment since toll complex ownership has no relationship to NTS costs.

The Cooperative Group, whose members will all be SCs under the proposed plan, state that the permissive provision for shifting NTS costs by SCs was an important part of the negotiations. Many SCs realized that their vertical/discretionary services could not support a mandatory shift and the SCs would be forced to seek a general rate increase to maintain revenue neutrality. These SCs' support of any NTS cost shift is based upon the permissive provision.

The Cooperative Group states further that the permissive proposal is not discriminatory because the rates are being set by different companies which have different characteristics. Also, the rates tariffed by LECs are not directly tied to the underlying costs of each service.

Contel, SMTC and SWB agree with the Cooperative Group's position concerning the different treatment of NTS cost shift between PTCs and SCs. Contel and SMTC argue that PTCs and SCs are not similarly situated because PTCs will be competing in the intraLATA toll market while SCs will not. Contel and SMTC point up the great diversity of the LECs which cause variations in costs among the LECs.

The Commission has determined that different treatment between PTCs and SCs for NTS cost shifts is not discriminatory. The Commission finds that there is sufficient distinction between the risks engaged in by PTCs to treat them differently with regard to the NTS cost shift. Also, the size and cost characteristics of each LEC create enough diversity that costs need not be treated similar for all LECs.

F. Cap on NTS Cost Recovery for SCs

In paragraph IV.C.2.b. the Conceptual Framework states:

SC usage-sensitive settlements paid by the respective PTCs will be set at revenue neutral levels reflecting test year settlements

with no NTS cost shifts. These usage-sensitive settlements will include traffic-sensitive (TS) and NTS elements. The TS element(s) will be applicable to all subject toll usage; the NTS element(s) will be applicable only to the volumes each year which are equal to the test year's quantities.

PC objects to this provision because it limits the recovery of NTS costs by SCs to the test year 1986 levels. PC contends this provision shifts revenues from the SCs to PTCs since as usage volumes grow above 1986 levels, only the PTCs will benefit. PC states the SCs will receive no revenue from the increased toll volumes, while toll volume in Missouri is expected to grow an average of 7 percent per year. This provision provides that 100 percent of any new NTS costs will be borne by services other than intraLATA toll. PC proposes that the final sentence of paragraph IV.C.2.b. of the Conceptual Framework read: "The TS and NTS element(s) will be applicable to all subject toll usage."

Contel, SMTC and the Cooperative Group support the cap as an essential element in the Conceptual Framework. They contend that the PTCs own the revenues from intraLATA toll service and this money is not being taken from the SCs. SWB points out that the SCs will not share in the risk of providing the intraLATA toll service and any stimulation created by the PTCs belongs to the PTCs. SWB cites the cap as a gradual version of the NTS cost shift and as a compromise approved by the SCs in lieu of a mandatory shift.

From the evidence presented concerning the cap and its effect, the Commission has determined that the cap should be approved in order to implement the Conceptual Framework. The cap is supported by the SCs and allows for some shifting of NTS costs without the need for rate case filings, and the Commission finds such a shift reasonable when taken with its decision on the NTS cost shift issue.

The Commission, though, wishes to revisit this issue if a future NTS cost shift is presented. The Commission wishes to review the amount of any NTS shift which is occurring from the cap and the amount of any lost revenues incurred by the SCs. The Commission has determined the uncertainty of the effect of this cap is one

more reason to limit the NTS cost shift proposed by the Conceptual Framework and to retain control of future shifts and not approve an eight-year plan.

### III. INTERLATA NTS COST SHIFT

The Commission in its Report And Order of July 24, 1986, stated that it opposed LECs in Missouri assigning a greater level of NTS costs to the interLATA access pool than to the intraLATA toll pool. The Commission recognized this as a double SPF allocation and ordered that NTS costs should be allocated such that one minute of interLATA access recovers the same amount as one minute of intraLATA access. RE: WATS Resale, et al., at 600.

Based upon arguments raised in the applications for rehearing of the July 24 Report And Order, the Commission reversed the decision set out above and stated that "[t]he parties are in agreement, and the Commission hereby finds, that the local exchange companies have not recovered more than 100% of the NTS costs assigned to toll services." The Commission went on to state that its primary concern was maintaining the revenue neutral position of the companies affected by the proceeding. The Commission stated that "[s]ince the record is unclear as to whether revenue neutrality can be accomplished in a just and reasonable manner if some NTS costs currently assigned to interLATA toll are shifted to intraLATA toll, the Commission is of the opinion that it should withdraw its decision regarding the double SPF issue." The Commission indicated it would consider the issue in future proceedings RE: WATS Resale, et al., 28 Mo. P.S.C. (N.S.) 604, 607-608 (1986).

In its April 3, 1987, order establishing the hearings on the intraLATA NTS cost shift proposal the Commission requested the parties address interLATA cost allocations in this proceeding. Three IXCs filed testimony and briefs concerning interLATA NTS cost shifts. Their positions as well as the positions of those parties opposing the IXCs' position will be set out below.

A. AT&T

AT&T's position is that the current method of assigning NTS costs to intrastate toll services is discriminatory since it results in intrastate toll subscribers paying higher rates to recover a disproportionate share of NTS costs than intraLATA toll subscribers. AT&T claims that the NTS shift proposed in the Conceptual Framework only worsens the discrimination. AT&T then proposes its own plan to eliminate this alleged discrimination.

AT&T proposes to make test year adjustments related to (1) the reduction of the federal income tax rate to 34 percent in 1988, (2) the deregulation of inside wire in 1987, (3) the removal of CPE expense, (4) the amortization of embedded inside wire expense, and (5) the transfer of revenue requirement to the HCF. AT&T states its plan also addresses the double SPF problem recognized by the Commission in its July 24 Report And Order. AT&T asserts that its plan will equalize the assignment of NTS costs to interLATA toll and intraLATA toll and will do so without requiring an increase in LECs' intraLATA toll rates.

AT&T argues in support of its plan that the implementation of the NTS cost shift in the Conceptual Framework would cause the difference in NTS costs assigned to interLATA and intraLATA to remain, and this difference should not continue since both involve the identical use of the local exchange line and related access facilities. AT&T insists only through a shift in this docket can this alleged discrimination be alleviated.

AT&T states its plan involves a four-step process. The first step is to reduce test year assignable NTS costs by the five factors described earlier. These adjustments should be made to NTS costs as a whole, not just intraLATA NTS costs. Step two would be to eliminate double SPF and equalize current assignment of NTS costs between intrastate access charges and intraLATA toll. This second step, AT&T states, could be accomplished without increasing intraLATA toll rates by deferring the intraLATA toll NTS cost shift until 1990 and by applying the revenues produced by

the vertical/discretionary service increases in 1988 to the intrastate access cost shift.

The third step would be in 1990, the first phasedown year, where intraLATA toll would apply its 1990 NTS cost phasedown shift against the 1988 equalization shift from access. Each succeeding phasedown would be on an equal basis until the assignment reaches SLU. Step four would be to implement the NTS cost shifts by lowering access charges.

B. US Sprint

US Sprint states that the Conceptual Framework totally ignores the fact of intraLATA competition and any plan approved by the Commission should foster the growth of competition. To accomplish this US Sprint states that the Commission should require PTC settlement payments be equal to the interexchange carriers' access charges. US Sprint also argues that PTCs should not be allowed to recover any NTS cost shifts through increased access charges to IXCs. US Sprint also raises the issues of a shorter period for shifting NTS costs from SPF to SLU and intraLATA pre-subscription. Both of these issues are addressed earlier in this Report And Order.

C. MCI

MCI opposes the Conceptual Framework's proposed treatment of NTS cost shifts insofar as it fails to treat all providers of intrastate toll service fairly and uniformly. MCI states that the amount of NTS costs allocated to an intrastate toll should be the same as that allocated to intraLATA toll. MCI argues that the facilities utilized for these calls are identical and so there is no justification for the different treatment. MCI also argues that any shift made for intraLATA traffic should be made for access paid by IXCs for intraLATA traffic.

MCI suggests that the Commission reinstate its ruling requiring the elimination of the double SPF problem since the pools which created the problem will be eliminated in this order. MCI argues that the phasedown of NTS costs should be accomplished as quickly as possible since it is long overdue. MCI also suggests that

the shift of NTS costs from intrastate toll can be absorbed by the LECs by the same factor proposed by AT&T for adjusting the test year.

D. Parties Opposing InterLATA NTS Cost Shift

Even though the LECs and Staff are not in complete agreement about the need for an interLATA NTS cost shift similar to the one proposed in the Conceptual Framework, they do agree on the basic reasons for denying any interLATA NTS cost shift in this proceeding. The LECs and Staff oppose the adoption of AT&T's proposal for shifting NTS costs and any attempt to equalize the NTS cost shift between interLATA and intraLATA for several reasons.

The main reason is that this portion of this proceeding should focus on the elimination of the intraLATA pool. Any attempt to adjust interLATA NTS costs in this proceeding, these parties contend, would unduly delay that goal and would make the Conceptual Framework proposal unworkable. AT&T's proposal would shift substantial costs onto LECs which would cause general rate case filings to recover these costs through local exchange rates. United stated that if there is an NTS cost shift for interLATA access, there should be corresponding automatic increases approved in local rates to maintain revenue neutrality.

Staff as well as other parties argue strenuously that they are not prepared nor did they present testimony concerning all of the issues raised by an interLATA NTS cost shift. Staff wishes to address such issues as the market differentiation and the policy questions behind parity between interLATA and intraLATA toll rates. In addition, Staff and the LECs state that AT&T's proposal cannot be adopted in isolation from other adjustments which would need to be made to the test year if AT&T's proposal is adopted. These adjustments would necessarily create a docket similar to a general rate case, which is where the LECs and Staff, generally, feel the interLATA NTS cost shift issue should be addressed.

Staff and SWB both argue, additionally, that there is no particular level of NTS costs which were recovered in the interLATA pool access rates, and this is

especially true now since that pool was eliminated on a revenue neutral basis. The current interLATA access charges were set by each LEC on a revenue neutral basis, not in any particular cost element.

E. Commission Decision

Although the Commission has indicated in its July 24 Report And Order and its order issued September 17, 1986, that it would reconsider interLATA NTS cost allocations, and in its order issued April 3, 1987, has indicated it would consider interLATA cost allocations in this proceeding, the Commission has determined after reviewing the evidence and the arguments of the parties in this phase that attempting to shift NTS costs for interLATA toll in this proceeding would defeat the Commission goal of elimination of the intraLATA toll pool as expeditiously as possible. The Commission stated in its July 24 Report And Order that it wished to eliminate the intraLATA toll pool and ordered the parties to come up with a replacement mechanism to accomplish that goal. The parties filed such a plan, which is the subject of this proceeding. The Commission has determined it must address the elimination of the intraLATA toll pool before it can consider any NTS cost shift for interLATA toll.

A review of the proposal presented by AT&T supports the Commission decision. AT&T has proposed a complex and highly controversial plan for equalizing NTS costs between interLATA and intraLATA toll. AT&T's plan would make significant adjustments to test year costs and revenues. The Commission finds that there is not sufficient evidence of the effects of AT&T's proposal on local rates to adopt the proposal. One of AT&T's proposals has been addressed for some LECs in Case No. AO-87-48, the Commission's investigation into the effects of the Tax Reform Act of 1986. The effects of that docket would need to be considered before AT&T's proposal could be adopted and no evidence was presented on those effects. Also, AT&T's proposal, if it was found reasonable, would unduly delay implementation of the Conceptual Framework, which the Commission finds is unacceptable.

In addition, the Commission agrees with Staff's position that there is no specific element of NTS costs in interLATA access charges currently because of the elimination of the interLATA toll pool on a revenue neutral basis. Since there is no specific element of NTS costs in the interLATA access charges of the LECs, AT&T's proposal has no support based upon the way interLATA access rates are established.

As evidenced by the Commission's decision on the intraLATA NTS cost shift, the Commission wishes to eliminate the intraLATA toll pool, but seeks to maintain control of the costs which will be shifted until after rates are actually implemented. A shifting of interLATA NTS costs would further complicate this process and would inhibit the Commission's ability to supervise an orderly transition from pooling into a more competitive market. For these reasons, the Commission has determined it will reject any interLATA NTS cost shift in this proceeding.

#### IV. INTRALATA ACCESS CHARGE

The LECs have agreed to charge the IXCs access charges for intraLATA traffic equal to whatever settlement rates are when established by the PTCs. This agreement, though, is premised upon the IXCs' ability to identify that portion of their intrastate toll traffic which is intraLATA and to provide that information to the LECs. Staff states that this modification would not violate the Stipulation And Agreement approved by the Commission concerning IXC reporting of intraLATA toll traffic.

The Commission has determined that the LECs' position is reasonable and should be adopted. All intraLATA traffic should be subject to the same charges, but the LECs cannot be expected to charge IXCs for intraLATA traffic when they have no information concerning the amount of that traffic. The Commission will therefore order the LECs to implement intraLATA access tariffs which are designed to produce revenues equal to the intraLATA settlement payments developed under the Conceptual Framework and this Report And Order, with the provision that the IXCs to be charged

the intraLATA access rate must provide the LECs with the volumes of traffic which is intraLATA.

### Conclusions

The Missouri Public Service Commission has reached the following conclusions.

The Commission has jurisdiction over the subject matter of this proceeding pursuant to the provisions of Chapter 392, R.S.Mo. 1986. This portion of the consolidated proceedings was the result of the Commission's July 24, 1986, order. In that order the Commission determined that the proposals for ending the intraLATA toll pool were unreasonable and so ordered the parties to meet and propose a replacement mechanism based upon the concept of primary toll carriers by toll complex ownership.

The parties filed a Joint Recommendation and Conceptual Framework which contained a proposal to end the intraLATA toll pool based upon a primary toll carrier by toll complex ownership concept. The Commission ordered this proceeding to resolve certain issues left unresolved by the Joint Recommendation and Conceptual Framework filed by the parties.

The Commission has found that the Conceptual Framework is reasonable and should be implemented with certain specific modifications as discussed in the Findings of Fact above. The Commission concludes that the Conceptual Framework as modified by the findings is just and reasonable and should be implemented. The Commission has concluded further that this Report And Order concludes the deliberations in the consolidated dockets TO-84-222, TO-84-223, TC-85-126 and TO-85-130. These dockets will be ordered closed by the Commission.

It is, therefore,

ORDERED: 1. That the Conceptual Framework as modified by the findings in this Report And Order should be implemented.

ORDERED: 2. That as part of the Conceptual Framework, Primary Toll Carriers are authorized to make a twenty percent (20%) shift in non-traffic-sensitive costs in conformance with the Conceptual Framework.

ORDERED: 3. That the language in IV.F.5. of the Conceptual Framework relating to carrier of last resort shall be deleted from that paragraph.

ORDERED: 4. That the Commission has adopted the treatment of the High Cost Fund as proposed by the Missouri Independent Telephone Group for purposes of implementing the Conceptual Framework.

ORDERED: 5. That all rates and charges made for intraLATA toll traffic will be filed in tariffs subject to Commission review and all contracts involving compensation will be submitted to the Commission for review to assure revenue neutrality.

ORDERED: 6. That all contracts which involve intraLATA toll traffic shall be provided to Public Service Commission Staff.

ORDERED: 7. That Cases No. TO-84-222, TO-84-223, TC-85-126 and TO-85-130 are hereby closed.

ORDERED: 8. That this Report And Order shall become effective on the 12th day of November, 1987.

BY THE COMMISSION



Harvey G. Hubbs  
Secretary

(S E A L)

Steinmeier, Chm., Musgrave, Mueller,  
Hendren and Fischer, CC., concur and  
certify compliance with the provisions  
of Section 536.080, R.S.Mo. 1986.

Dated at Jefferson City, Missouri,  
on this 23rd day of October, 1987.