

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

*Rtd
Binder*

In the matter of the investigation of experimental)
extended measured service (EMS).)

CASE NO. TO-87-131

REPORT AND ORDER

Date Issued: December 29, 1989

Date Effective: January 9, 1990

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HEARING
EXAMINER:

Beth O'Donnell

Procedural History

This case was initiated by a Commission order in Case No. TO-86-8 issued on May 14, 1987. In Case No. TO-86-8 the Commission determined that flat rate extended area service (EAS) should be terminated in this state and that a measured extra-exchange calling experiment should be established in its place. The Commission terminated EAS because it no longer functioned. For several years customers had been voting against implementation of EAS. The above-referenced case was docketed to administer the extended measured service (EMS) experiment, receive data arising from the experiment and consider the propriety of making EMS permanent. The experiment commenced in June, 1987, and lasted two years.

On December 20, 1988, the Commission separated consideration of the metropolitan optional service plans from Case No. TR-89-14 and consolidated consideration of that issue into this case.

The Commission's Staff filed its proprietary summary report of the data gleaned from the EMS experiment on June 30, 1989, and a nonproprietary summary of its report was filed on July 26, 1989. Prehearing conferences among the parties to this case were held on March 20, 1989, July 18 through 20, 1989, and September 11, 1989.

The following were made parties and attended the final prehearing conference: Alma Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, Citizens Telephone Company, Craw-Kan Telephone Cooperative Association, Inc., Eastern Missouri Telephone Company, Ellington Telephone Company, Farber Telephone Company, Goodman Telephone Company, Inc., Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, IAMO Telephone Company, KLM Telephone Company, Kingdom Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Miller Telephone Company, Missouri Telephone Company, MoKan Dial Company, Inc., New Florence Telephone Company, New London

Telephone Company, Orchard Farm Telephone Company, Peace Valley Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., Stoutland Telephone Company, and Wheeling Telephone Company (all hereinafter referred to as the Small Company Group); ALLTEL Missouri, Inc., Contel System of Missouri, Inc., Contel of Eastern Missouri, Contel of Missouri, Inc. (all hereinafter referred to as Contel); Bourbeuse Telephone Company (BTC), Fidelity Telephone Company (FTC); Southwestern Bell Telephone Company (SWB); GTE North Incorporated (GTE); and United Telephone Company of Missouri (United). All the foregoing parties are signatories to a joint recommendation described hereinafter.

Others made parties and appearing at the final prehearing conference were: MCI Telecommunications Corporation (MCI); AT&T Communications of the Southwest, Inc. (AT&T); Mid-Missouri Telephone Company (Mid-Mo); Northeast Missouri Rural Telephone Company (NMR); City of Independence, Missouri, City of Oak Grove, Missouri, City of Ozark, Missouri, City of Platte City, Missouri, and County of Jackson, Missouri (all hereinafter referred to as the Intervening Cities); the Office of the Public Counsel (Public Counsel); and the Staff of the Missouri Public Service Commission (Staff).

On July 31, 1989, 40 of the 44 local exchange companies (LECs) in the State of Missouri filed a Joint Recommendation proposing an extra-exchange calling plan as an alternative to EMS. These LECs subsequently prefiled testimony which, among other things, contained evidence offered in support of their plan. Other parties prefiled testimony which, among other things, proposed alternative extra-exchange calling plans. The LECs which signed the joint recommendation will be referred to hereinafter as the Signatories.

A hearing was held September 12, 1989, to receive the sworn statements of telephone customers and their elected representatives who have an interest in an extra-exchange calling program. On September 25 through 29, 1989, an evidentiary hearing was held. Briefs were filed pursuant to a schedule established by the

hearing examiner. A motion to strike the initial brief of the Intervening Cities was filed by SWB. This motion will be denied herein.

Findings of Fact

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

Introduction

The principal matter at issue herein concerns the provision of a reasonably priced extra-exchange calling service to customers in exchanges demonstrating a community of interest. Certain telephone exchanges in this state have heavy toll traffic to other nearby exchanges because the community of which the customers are a part extends beyond the boundaries of any one exchange. This is known as a community of interest. Necessary services for individuals living in one telephone exchange are located in another telephone exchange. These services include doctors, hospitals, schools, churches, police and fire protection, other governmental offices and commercial centers. Since these services are an integral part of daily life these telephone customers are forced to make toll calls on a daily basis resulting in high telephone bills. These customers seek to alleviate this problem through an extra-exchange calling service offered at less than toll prices.

There are, however, other concerns which must be considered in fashioning a solution to this problem. The record indicates that lowering the price for this extra-exchange calling will result in some degree of revenue loss for the telephone companies involved. Any such revenue loss, if not offset by some increase in revenues from other sources, could result in the telephone companies earning below the rate of return set by this Commission. To avoid this, it may be necessary to raise the price of other services. Therefore, the Commission must balance the interests of the customers desiring rate relief from high toll bills against the

interests of the other ratepayers who might have to pay higher rates to offset the reduced revenues even though they will not benefit from such rate relief. The ratepayers who are experiencing these high toll bills have repeatedly brought their concerns to the Commission's attention. The ratepayers who may experience increased rates without the benefit of extra-exchange calling plans may remain unaware of the possible cost to them of such plans. The Commission has the responsibility to protect the public interest and must balance the interests of both groups. This is the dilemma that the Commission faces in its efforts to solve this problem. The need to balance these interests has guided the Commission in deciding this case.

The Rates Proposed For The Extra-Exchange Calling Plans

The joint recommendation of the majority of the state's LECs is designed to meet the needs of the heaviest users of toll within a demonstrated community of interest. This plan has been named the extended local calling scope (ELCS) service. Under the ELCS plan the standard service between exchanges within the community of interest would be toll. Customers wanting extra-exchange calling at less than toll rates would have three options from which to choose.

One-way optional flat rate service would be offered at the following rates per month per access line:

<u>Name of Service</u>	<u>Rate Proposed</u>
Metropolitan Residential	\$16.00
Metropolitan Business	22.00
Rural Residential	12.50
Rural Business	17.50

One-way optional usage sensitive service would be offered at \$4.00 per access line per month plus 50 percent off the applicable toll rate.

Two-way optional flat rate service would be offered, subject to the availability of facilities, at the following rates per month per access line:

<u>Name of Service</u>	<u>Rate Proposed</u>
Metropolitan Residential	\$49.00
Metropolitan Business	61.00
Rural Residential	42.00
Rural Business	52.00

An additional nonoptional one-way flat rate service could be acquired by an exchange when 67 percent of the customers in this exchange subscribe to the optional ELCS services. This service could be offered only after a balloting of the customers in the exchange. Fifty percent of the ballots mailed would have to be returned and 67 percent of these would have to vote in favor of the service. The rate for this service would be 67 percent of the rate for one-way optional flat rate service.

The rates proposed in the ELCS program are based upon research done by some of the signatory parties into the rates high-use customers were willing to pay; the rates for other similar services such as optional measured metropolitan exchange service (OMMES) and metropolitan optional service plan (MOSP); information on the calling habits, including calling volumes, of customers making toll calls to requested exchanges; and similar extra-exchange calling services in other jurisdictions.

In general, the Staff supports these services at the rates proposed in the Joint Recommendation with one exception. Staff disagrees with the rates proposed for two-way optional flat rate service. Staff states that the rate for this service is inflated because it is based upon an excessive price for remote call forwarding of \$17.00. This rate is from \$6.80 to \$14.94 above the cost to provide that service as based upon the last cost studies performed. Staff believes that these cost studies are either overstated or outdated. Therefore, Staff proposes that the rate for this service be reduced to the following levels:

<u>Name of Service</u>	<u>Rate Proposed</u>
Metropolitan Residential	\$37.00
Metropolitan Business	54.00
Rural Residential	30.00
Rural Business	45.00

The Public Counsel proposes an alternative extra-exchange calling plan designed to provide rate relief to all telephone customers in exchanges demonstrating a community of interest. Under Public Counsel's community calling plan (CCP) the standard service for exchanges demonstrating a community of interest would be extended community calling (ECC), which allows customers to call between the designated exchanges at a discount of 50 percent from the applicable toll rate. In addition, the CCP would provide customers with two options. A one-way flat rate option would be available at the following rates:

<u>Name of Service</u>	<u>Rate Proposed</u>
Metropolitan Residential	\$11.05
Metropolitan Business	23.55
Rural Residential	5.75
Rural Business	12.10

A two-way flat rate option would be available at the following rates:

<u>Name of Service</u>	<u>Rate Proposed</u>
Metropolitan Residential	\$19.35
Metropolitan Business	41.35
Rural Residential	10.10
Rural Business	21.25

Public Counsel bases its proposed rates for its optional plans upon what would be the metropolitan optional two-way rate if a fifth tier were added to the St. Louis or Kansas City metropolitan optional plans. The metropolitan residential rate for the two-way option of \$19.35 is calculated by adding \$5.15 to the Tier IV WASP service additive, which is the existing difference between the Tier III and Tier IV additive. Public Counsel recommends that exchanges outside the proposed Tier V position would be charged an additional \$5.15 added to the \$19.35 rate.

Public Counsel's one-way flat rate option is priced at 57 percent of the price for the two-way service. This price is based upon the finding in Staff's summary report on the data gathered from the EMS experiment, showing that 57 percent of total calling on the EMS routes originated in the petitioning exchange. Both of these optional metropolitan rates are designed to be attractive to those customers in the top quartile of usage. The business metropolitan rate is based upon a 2.1 to 1 ratio of business to residential services which Public Counsel states is the current ratio contained in the primary toll carriers' (PTC) tariffs.

The goal of Public Counsel's rural rates is to be attractive economically to the top 10 to 20 percent of users among the rural residential customers. To achieve this goal, Public Counsel examined the calling characteristics of all the routes in the EMS experiment which did not have the Kansas City or St. Louis metropolitan area as their requested exchange. As a result of this examination, the Public Counsel concluded that an average rate of \$5.75 should be economically attractive to approximately 10 to 20 percent of the rural residential customers. The residential rural one-way optional rate produced by this method is \$5.75, which is 57 percent of the two-way optional flat rate for rural residential customers, which is \$10.10. As with the metropolitan rates, this ratio is based on the percent of two-way calling which, on the average, originates in the petitioning exchange in the EMS experiment. Public Counsel's proposed rural business optional rates are 2.1 times the rural residential optional rates. As in the metropolitan rates, Public Counsel states this ratio is based upon the ratio currently contained in the PTCs' tariffs.

The Commission determines that the rates proposed by Public Counsel for its optional plans are more reasonable than those proposed in the Joint Recommendation. The purpose of these rates is to provide rate relief to customers in exchanges demonstrating a community of interest. The optional metropolitan plans are designed

to provide similar rate relief to citizens of the metropolitan areas. This is a better basis for establishing metropolitan extra-exchange calling rates than data which is primarily based on a survey of customers as to what rates they would find acceptable. The latter has overtones of what the market will bear. The validity of these results is even more questionable since some of the customers sampled were unrepresentative of the average use in their exchange. Therefore, their assessment of an acceptable rate level is not a reliable basis for establishing such a rate.

This analysis is equally applicable to Public Counsel's basis for establishing rural rates. They are based upon actual usage in the rural exchanges with a goal of benefiting 10 to 20 percent of those users.

As to the other bases used by the Signatories to establish their rates, the Commission is not persuaded that the costs for such programs in other jurisdictions is a reasonable basis for establishing these rates. The degree to which the rates are based on prices of similar services is unclear. The only evidence of such a basis is the remote call forwarding element which, as Staff has shown, is priced significantly above the cost of providing that service.

The Commission does not desire to establish the rates for optional calling plans within a community of interest based upon what the market will bear. Rather, the Commission believes it is necessary to establish rates for these calling plans which ease the burden of high toll bills from customers living in exchanges demonstrating a community of interest. At the same time, these rates should not reduce the revenue of the LECs offering these services so as to necessitate raising the rates of other customers of those LECs to an unreasonable level. The Commission is of the opinion that the rates should be low enough to stimulate usage in order to recover some of the LECs' lost toll revenues but high enough to recover the LECs cost of providing the service.

Since neither the Signatories nor Public Counsel provided a cost study for their respective plans the Commission cannot be certain that the rates proposed by Public Counsel would recover the cost of delivering these services. However, the Commission has no reason to believe that these costs would not be recovered, especially since these prices are based upon prices currently charged by SWB in providing its metropolitan optional calling plan. Therefore, the Commission will adopt Public Counsel's proposed optional rates.

The Intervening Cities propose that Public Counsel's rates be accepted now on an interim basis pending a study of the cost of providing the extra-exchange calling program. The Intervening Cities assert that eventually the rates for the extra-exchange calling program should be priced residually. In addition, the Intervening Cities propose that these rates even now should be discounted based on the degree of penetration in the petitioning exchange. The Intervening Cities propose a sliding scale which would automatically reduce the rate for two-way flat rate optional service by 25 percent when 50 percent of the customers in the exchange subscribe to the service and by 50 percent when 75 percent of the customers subscribe to the service.

The Commission does not believe that the prices for the COS program should be established residually. The interests of the ratepayers in general who might have to pay for the provision of COS without personally benefitting from it must be held in mind and balanced against the interests of those customers within the community of interest who need rate relief.

The Commission is interested in the suggestion of the Intervening Cities as to the penetration discount. However, the Commission will defer a decision on this proposal until it has more information on the success and cost of the program. It has yet to be demonstrated that economies of scale are applicable to the provision of COS.

Extra-Exchange Calling Services To Be Offered

As set forth in the section immediately preceding this one, the Signatories propose that toll be the standard service offered in exchanges demonstrating a community of interest, while Public Counsel proposes that a 50 percent discount from toll (ECC) be offered as the standard extra-exchange calling service between such exchanges.

Public Counsel and the Intervening Cities argue that ECC should be offered as the standard service because exchanges demonstrating a community of interest should not have to pay toll within that community of interest.

The LECs argue that it is necessary to retain toll as the standard service to avoid undue revenue loss by the companies. The LECs state that not all customers within a community of interest make sufficient toll calls to require rate relief from toll rates through an extra-exchange calling program. The LECs observe that the Commission should take into account the interests of the other ratepayers who may have to pay higher rates as a result of the extra-exchange calling program without themselves benefiting from such a program. The LECs argue that a true balancing of the interests requires that only those customers with high toll bills should be provided relief from such bills. The LECs state that to provide a discount from toll for even those customers without high toll bills would cause too much revenue loss. The LECs further state that this revenue loss would be too costly to the ratepayers at large and not sufficiently beneficial to the low use customers within the community of interest. Therefore, the LECs argue that a reasonable extra-exchange calling program would not require the LECs to provide discounted toll as the standard service in an extra-exchange calling plan.

The Commission is sympathetic to Public Counsel's point of view that no extra-exchange calling within a community of interest should be toll. However, the Commission must balance the interests of the ratepayers at large and the customers

within a community of interest. The Commission is of the opinion that an extra-exchange calling program within a community of interest should provide rate relief to those customers requiring it without unduly burdening the ratepayers at large. Therefore, the Commission determines that the extra-exchange calling program adopted herein should have toll as its standard service.

The ELCS program provides for an option within a community of interest which allows customers access to a one-way, 50 percent discount from toll for the monthly price of \$4.00 per access line. The Commission determines that this option should be available in the metropolitan areas as part of the extra-exchange calling program adopted herein. This option will provide metropolitan customers within a community of interest a discount from toll for a nominal monthly fee. Since the Commission has chosen Public Counsel's charges for the flat rate options there is little value in providing this measured option in the rural areas. The charge of \$4.00 is too close to Public Counsel's rural residential one-way optional flat monthly rate of \$5.75 to represent a reasonable alternative. However, the \$4.00 monthly charge for the usage sensitive option appears to have some value as an alternative to Public Counsel's metropolitan residential one-way flat monthly rate of \$11.05.

Both the Public Counsel and the LECs have proposed that there be a one-way and two-way optional flat rate service. The Intervening Cities emphasize the importance of the two-way flat rate service as the type of flat rate calling program which their citizens require. The Intervening Cities do not oppose the provision of one-way flat rate service as an option.

The Commission determines that it is important to provide the two-way flat rate option and that the two-way option should be a part of the extra-exchange calling program adopted herein. The record supports the conclusion that heavy toll users within a community of interest needing to call doctors, hospitals, churches,

governmental offices and other services in the requested exchange, also need to be called by the individuals rendering these services.

The Commission further determines that it would be useful to offer the lower cost one-way option for those customers whose calling patterns do not require return calling. As evidenced by the Staff report on the EMS experiment, there is more calling into the requested exchange than back to the petitioning exchange. The Commission believes that the lower cost one-way option would meet the needs of this group of callers. Therefore, the Commission determines that the one-way option should also be a part of the program adopted herein.

The ELCS program offers an additional service which is mandatory and requires a balloting of the customers within an established community of interest when 67 percent of those customers have subscribed to the optional ELCS services. Should 67 percent of 50 percent of the ballots sent show approval, the rate for one-way ELCS service would be reduced to 67 percent of its optional level.

The Commission is of the opinion that this additional service is impractical. The EAS program which was rejected by this Commission in Case No. TO-86-8 was mandatory and required a balloting of the customers in the exchanges seeking EAS. The Commission rejected that program in part because the balloting proved to be an insurmountable obstacle. The overwhelming majority of these votes on establishing mandatory EAS failed to pass. The Commission believes that the mandatory nature of this proposal conflicts with the spirit of the extra-exchange calling plan adopted herein. A mandatory plan would require all customers in the petitioning exchange to take and pay for the service. To a customer who does not need or desire the service, even a 33 percent discount is unattractive. Therefore, the Commission determines that this additional offering should not be a part of the extra-exchange calling program adopted herein.

In summary, the Commission has determined that the extra-exchange calling program adopted herein shall consist of three alternatives to the standard toll service. The first option is a one-way 50 percent discount from toll which can be purchased at the monthly price of \$4.00 per access line. The second option is a one-way flat rate service at the monthly price of \$5.75 per access line for rural residential customers; \$11.05 for metropolitan residential customers; \$12.10 for rural business customers; and \$23.55 for metropolitan business customers. The metropolitan rates are based on Public Counsel's proposed price for "Tier V" or closer exchanges. Beyond "Tier V" exchanges, an additional charge of \$2.95 per additional tier for residential customers and \$6.30 per additional tier for business customers would apply for qualifying exchanges.

The third option is a two-way flat rate service at the monthly price of \$10.10 per access line for rural residential customers; \$19.35 for metropolitan residential customers; \$21.25 for rural business customers; and \$41.35 for metropolitan business customers. The metropolitan rates are based on Public Counsel's proposed price for "Tier V" or closer exchanges. Beyond "Tier V" exchanges, an additional charge of \$5.15 per additional tier for residential customers and \$10.85 per additional tier for business customers would apply for qualifying exchanges. This extra-exchange calling program will be known as community optional service (COS).

Intercompany Compensation

With toll service the primary toll carriers (PTCs), SWB, United, Contel, GTE and Fidelity, receive the revenue from toll and pay the secondary carriers (all remaining LECs) for access to the local exchange. Under the Signatories' inter-company compensation plan, ELCS would be local and the PTCs would collect no toll revenue. The secondary carriers would retain the revenue from the ELCS plan and the

PTCs would not pay access charges. Secondary carriers would pay terminating compensation to the PTCs.

This plan results in significant loss of revenues to secondary carriers. In some instances, the secondary carriers would lose more revenue from loss of these access charges than their customers would gain in rate relief from toll rates.

To temporarily alleviate some of this burden, the Signatories propose an interim support mechanism (ISM). Under the ISM, the PTCs will compensate their respective secondary carriers on a route-by-route basis for any net revenue decreases sustained by them to the extent the PTC experiences a net revenue increase on that route. This support will terminate after five years on any one route. The overall life of the interim support mechanism is eight years.

Public Counsel opposes the intercompany compensation plan and proposes that intercompany compensation remain as it is now under toll service with the following exceptions: first, the PTCs would receive less revenue for the calls they carry for the secondary carriers to the extent that the extra-exchange calling plan results in a revenue reduction from the toll level; second, the PTCs would pay less access to the secondary carriers in an amount matching the reduction of the revenue received. Public Counsel argues that this would reduce the losses of all the LECs to the level of the reduction of revenue caused by the extra-exchange calling program.

The Signatories argue that the change in service from toll makes the extra-exchange calling program local and that intercompany settlements must reflect that change. The Signatories further argue that the burden experienced by the secondary carriers under the intercompany compensation program cannot be all that onerous since most of these secondary carriers signed the Joint Recommendation containing the intercompany compensation proposal. SWB argues further that the two secondary carriers which oppose the intercompany compensation proposal, NMR and

Mid-Mo, have such low local rates that they could afford to raise them in order to bear these losses.

Mid-Mo and NMR argue that the interim support mechanism has two major flaws. It is temporary and not based on the secondary carriers' need, but rather, provides for the PTCs to pay the lesser of the PTCs' net gain and the secondary carriers' loss. Mid-Mo and NMR propose, rather, that the Commission establish a permanent high cost fund (HCF) funded by a surcharge on all the access lines in the state. Mid-Mo and NMR argue that the charge per line would be small if all the subscribers in the state shared the cost. Mid-Mo and NMR propose that anticipated losses for an extra-exchange calling program above a threshold established by the Commission would be recovered by LECs from this HCF. Up to the threshold, LECs would have the option of recovering their losses by increasing local rates or absorbing the cost.

The Commission is not satisfied with the Signatories' intercompany compensation plan. First, the Commission questions the compatibility of this plan with Public Counsel's rates which the Commission has adopted. In addition, the Commission is concerned that the intercompany compensation plan would result in some of the secondary carriers experiencing substantial losses. For many of these small companies, the chief sources of income are access charges and local rates. Significant increases in local rates would be the sole recourse for these companies if access revenues were lost.

The Commission believes that Public Counsel's proposal may offer a solution to this problem. Modifying the present intercompany settlement procedure to reflect any losses in revenue from COS appears to avoid the problems arising from treating COS as solely a local service. This approach confines the losses of all companies to those engendered by the COS plan itself and avoids windfalls to some companies at the expense of other companies. It also has the virtue of automatically reflecting in

the intercompany compensation any revenue increases experienced due to stimulation of traffic along the COS routes. It appears to allow PTCs acting as secondary carriers to receive some level of access charges from their PTC. The Commission has previously established that extra-exchange calling programs are not automatically to be deemed local. In its decision issued in Case No. TO-86-8, the Commission designated EMS as toll for purposes of settlements. The Public Counsel's proposal is compatible with this approach.

However, the Commission is reluctant to direct the LECs to adopt the Public Counsel's intercompany compensation plan without giving the LECs an opportunity to refine and adapt it to their special needs or to fashion a new plan which avoids the problems in the Signatories' plan. The Commission is open to alternative solutions, including the concept of an HCF, perhaps acting as a safety net to forestall raising local rates above a set level.

Therefore, the Commission determines that the parties to this case should have 60 days from the effective date of this Report and Order to present the Commission with an intercompany compensation plan which avoids the distortions of the Signatories' plan and is compatible with the COS rates adopted herein. Should the parties be unable to present the Commission with a reasonable plan by the deadline, the Commission will retain jurisdiction to issue an order selecting a specific plan.

Revenue Recovery

The Signatories propose that the LECs recover revenue losses engendered by ELCS solely from local exchange rates. They further propose that recovery be available concurrently with the establishment of the ELCS routes.

Although Mid-Mo and NMR agree that implementation of the ELCS plan should be "revenue-neutral", they are concerned that recovery of such losses solely from local exchange rates might cause the local rates of some LECs to soar thereby endangering universal service.

Staff and Public Counsel oppose this provision of the Joint Recommendation. Staff and Public Counsel point out that the automatic revenue recovery mechanism has several flaws. First, it uses potentially unreliable projections of future losses in setting present rates; second, it divorces net revenue from an assessment of the appropriate rate of return; third, it fails to account for possible sources of revenue gain, including termination of the interim support mechanism; fourth, it places the entire revenue loss on local exchange rates when some of that revenue might be more reasonably recovered from other services; fifth, it may be single issue ratemaking in violation of the Missouri Supreme Court's decision in UCCM. State ex rel. Utility Consumers Council of Missouri, Inc., v. Public Service Commission, 585 S.W.2d 41 (en banc 1979).

The Signatories respond that this automatic revenue recovery is not single issue ratemaking because it merely constitutes the redesigning of rates among classes of ratepayers. The Signatories assert that they do not desire to increase their revenue flow but merely to ensure that they achieve their approved revenue requirement despite revenue losses from the conversion of toll routes to the extra-exchange calling program.

The Signatories' proposal includes a true-up provision to ensure that projected revenue losses are adjusted to reflect actual losses. The LECs argue that, without concurrent revenue recovery, some of their losses will be permanent. The LECs assert that with the rate case method of recovery, losses must be incurred in order to have a test year on which to base the recovery and further losses will be suffered before the rate case is concluded. The LECs state that these losses will never be recovered because of the prohibition in this state against retroactive ratemaking.

The Intervening Cities do not oppose the automatic recovery proposed by the Signatories. They argue that it would be confiscatory to compel the companies to

provide an extra-exchange calling service resulting in revenue losses without permitting recovery of the foregone revenues. The Intervening Cities suggest that, upon a showing by the LECs of a revenue shortfall, they be permitted to increase local rates after 30-day notice subject to refund if later found to be excessive.

The Commission is of the opinion that the concerns voiced by Staff and Public Counsel are legitimate. The Commission is reluctant to approve an increase in rates without considering all relevant factors including possible revenue increases from other services, the reasonableness of the LEC's rate of return and the reliability of the projections of loss. The Commission is also reluctant to assign the burden of recovery solely to local exchange rates without evidence that such recovery would not be more appropriate from other services.

However the Commission recognizes the dilemma of the LECs which face the possibility of permanent losses unless they receive expedited consideration of their situation. Therefore, the Commission determines that the LECs which feel they will experience a substantial revenue reduction from the provision of COS, should file tariffs increasing rates for selected services. The Commission and its Staff will afford these tariffs expedited consideration which may include a review of the confidential surveillance reports, a mini-audit of the company's earnings and a review of the company's rate of return based upon current market conditions. Upon receipt of the Staff's recommendation, the Commission will decide whether to suspend or approve the proposed increase after considering all relevant information available. Since the amount of revenue losses, if any, may be based upon estimates or forecasts at first, the Commission might exercise the option of making such rates interim subject to refund at an interest rate to be named later pending the development of additional financial data.

The Qualifying Criteria

All the parties agree that the present EMS routes and the routes which have qualified for EMS during the experiment (the frozen routes) should be deemed qualified for the extra-exchange calling program adopted herein. The Commission believes that this approach is reasonable and should be adopted.

The parties have proposed various standards by which additional exchanges would qualify for the extra-exchange calling program. These criteria measure the level of toll traffic from the petitioning to the requested exchange. The LECs propose a tripartite standard. First, the petitioning exchange must make an average of four calls per access line per month to the requested exchange. Second, 51 percent of the customers in the petitioning exchange must make two or more calls to the requested exchange. Third, 33 percent of the customers in the petitioning exchange must make at least \$5.00 per month in toll calls to the requested exchange. Customers subscribing to foreign exchange (FX) would be considered to have met all three criteria.

Public Counsel's proposed standard consists of the LECs' first and second criteria. Public Counsel opposes the LECs' third criteria. The Intervening Cities concur in Public Counsel's position.

Staff proposes that the sole standard be that two-thirds of the access lines in the petitioning exchange show at least two calls per billing cycle into the requested exchange.

There is no evidence in this docket which indicates that the criteria presently being used in the EMS experiment are unreasonable. The present criteria, which were also the criteria in the previous EAS rule, provide that exchanges demonstrate a community of interest when an average of six calls per access line per month are made from the petitioning to the requested exchange and two-thirds of the

customers in the petitioning exchange make two or more calls to the requested exchange per month.

The basic purpose of the standard adopted is to balance the interests of the general ratepayers who might have to pay higher rates as a result of an extra-exchange calling program from which they personally do not benefit against the interest of the customers within the community of interest who require rate relief. If the standard is too lenient, the burden on the general ratepayers is unreasonably increased. If the standard is too strict customers requiring rate relief within communities of interest will continue to suffer from unreasonably high toll bills.

The evidence indicates that the standard suggested by the LECs is too strict. Three-fourths of the routes which either have EMS service now or have since qualified for it under the old standard would fail the LECs' criteria requiring one-third of the subscribers to have at least \$5.00 in toll calls per month. Many contiguous exchanges would fail this third criteria while noncontiguous exchanges would pass it because of the distance sensitivity of toll bills.

Since 46 percent of the petitions for EMS have passed the present calling criteria, the Commission does not believe the present criteria are either too strict or too lenient. Therefore, the Commission is of the opinion that it is unnecessary to adopt the less stringent standard proposed by Public Counsel and Staff or the more stringent standard proposed by the LECs. The Commission determines that the present standard should be retained for determining eligibility for the COS program.

The Commission further determines that the standard for determining eligibility should be applied only to the traffic flowing from the petitioning to the requested exchange. FX customers should be counted among those passing the criteria. The LECs should perform the study and file their results with the Commission within 120 days of the order directing a calling study. Consideration of eligibility for the COS program should be initiated by either a petition of 25 or more customers

within a petitioning exchange or at the request of a political subdivision, the Public Counsel or upon application from a LEC for a route within, or originating from, its service area.

Public Counsel has suggested that the calling usage study be performed over two billing cycles. The advantage of using two cycles lies in the increased validity of the data. The disadvantage lies in the increased cost to the company and, ultimately, to the general ratepayers. The Commission is of the opinion that one billing cycle is sufficient. As noted above, 46 percent of the frozen petitions for EMS passed the calling criteria. During the EMS experiment the data from one billing cycle was used unless there was a flaw in the original study. Since the success ratio in qualifying for the EMS experiment is satisfactory from the standpoint of balancing the interests involved, the Commission believes the present procedure of using one billing cycle should be retained.

Miscellaneous Issues

Contiguity

In addition to the usage criteria, the LECs argue that the exchanges should pass a locational test in order to qualify for the extra-exchange calling program. They state that the exchanges should either be contiguous or share boundaries with a single intervening exchange which already has an extra-exchange calling program with the requested exchange. The LECs argue that routes between distant exchanges which really do not share common services and a community of interest might qualify for an extra-exchange calling program on the basis of high toll traffic alone. The LECs argue that the expenses of these routes would unfairly burden the ratepayers at large. The Staff temporarily supports the LECs' locational criterion as prudent in avoiding a possible onslaught of costly routes which do not conform to the concept of a community of interest.

The Public Counsel and Intervening Cities strongly disagree stating that the calling usage criteria are a sufficient test to demonstrate the existence of a community of interest.

The Commission is of the opinion that the usage criteria are sufficient, in most cases, to winnow out distant exchanges. Should instances arise where the usage criteria are met but the exchanges are distant from one another, the Commission will balance the interests on a case-by-case basis.

Intrastate/IntraLATA

The LECs propose offering the interexchange calling program on an intrastate, intraLATA basis only. The interexchange carriers (IXCs) strongly support this position. The IXCs state that interLATA EAS might result in SWB carrying interLATA traffic which would be in violation of restrictions imposed by the modified final judgment (MFJ) which dictated the terms of the breakup of AT&T. The IXCs argue that problems such as these were not sufficiently addressed in these proceedings to allow a well-informed decision permitting interLATA EAS. The IXCs further assert that creation of interLATA EAS would undermine the IXCs along routes they now serve.

The Commission determines that it is unnecessary to address this problem in this docket. There are no current requests for an interLATA, interexchange calling program. The Commission will address this problem if and when it arises.

The IXCs also support the LECs' proposal to confine the extra-exchange calling program to the state of Missouri. The Public Counsel, Staff and Intervening Cities all advocate the inclusion of the Kansas portion of the Kansas City metropolitan exchange in the extra-exchange calling program. The IXCs warn that including the Kansas side of the Kansas City metropolitan exchange in any interexchange calling program would create a new interstate, local EAS revenue requirement without any consideration of the magnitude of the needed increase of some local rate to fund this new revenue requirement.

The Intervening Cities argue that it would be the rankest discrimination to exclude the Kansas side from the calling scope of the new interexchange calling program while subscribers to the WASP program in Kansas City have access to the Kansas portion of the Kansas City metropolitan exchange.

The Commission finds no compelling evidence in this docket to indicate that access to the Kansas side of the Kansas City metropolitan exchange should be blocked to subscribers to COS. Currently, customers of SWB's WASP program are able to call the Kansas portion of the Kansas City metropolitan exchange as are United's customers in Ferralview and Lake Lotawana. The Commission finds no reason on this record to treat the customers of COS differently than the customers of WASP in this regard. Therefore, the Commission determines that the COS plan should provide service to the Kansas portion of the Kansas City metropolitan exchange.

Metropolitan Definition

For purposes of applying the rates, the LECs propose to define Springfield as a metropolitan area along with St. Louis and Kansas City. Public Counsel, Staff and the Intervening Cities propose to define Springfield as rural. Staff points out that Springfield has 90,523 access lines while Kansas City has 414,017 and St. Louis has 784,098. Given the disparity in the number of lines, Staff argues there is no justification for charging customers calling into Springfield the same metropolitan rate as would be charged for calling into St. Louis and Kansas City. The LECs argue that Springfield should be designated as metropolitan because it was so designated for inclusion in SWB's OMMES program. The LECs further argue that Springfield should be classified metropolitan to reduce the revenue deficiency resulting from the interexchange calling program the cost of which would otherwise be borne by the general ratepayers.

The Commission is of the opinion that the disparity between the number of lines in Springfield as compared to St. Louis and Kansas City is such that calling

into Springfield should be designated as rural for purposes of the COS program. The Commission is sensitive to the issue of balancing the interests of the ratepayers in general and the customers in communities of interest requiring rate relief. The Commission might revisit this issue again should revenue losses for the COS program be such that a rebalancing of the interests is deemed appropriate.

The Commission is also of the opinion that St. Charles County should be designated rural as to COS charges for extra-exchange calling within that county. As to calling from St. Charles County into the St. Louis metropolitan area, such calling should be designated as metropolitan for purposes of setting the COS rates.

The Telephone Directory

Public Counsel, the Intervening Cities and Staff believe that subscribers to the two-way optional flat rate service should receive a free, annual white pages directory of the requested exchange.

The LECs argue that the provision of such a directory would add significantly to the loss of revenue experienced by them in providing the extra-exchange calling program. The LECs note that a St. Louis white page directory is priced at \$15.60 on the 1989 price list.

The Commission determines that subscribers to the two-way optional flat rate service should receive a free annual white pages directory of the requested exchange. The Commission is of the opinion that provision of directories is a necessary adjunct to two-way service within a demonstrated community of interest.

Seven-Digit Dialing

The Intervening Cities propose that the extra-exchange calling program be offered using seven-digit dialing where technically and economically feasible. Where not feasible, the Intervening Cities desire that seven-digit dialing be available, at least, from the petitioning exchange to the requested exchange. Where seven-digit dialing is not used, the Intervening Cities want the LECs to employ another number

besides "1" or "0" as the initial number. The Intervening Cities' position is based upon their belief that it should be clear to the subscribers that the extra-exchange calling program is not toll.

The LECs propose that the extra-exchange calling program be available either through seven-digit dialing or one-plus dialing at the LECs option based upon feasibility and cost.

The Commission determines that the LECs should make the COS program available via seven-digit dialing where economically and technically feasible. The evidence indicates that additional costs would be required to make the service available via seven-digit dialing in many instances. The Commission is reluctant to require the LECs to provide seven-digit dialing where it would require additional cost.

Throughout this decision the Commission has attempted to balance the interests involved. The Commission does not believe that the ratepayers at large should pay higher rates to ensure that subscribers to extra-exchange calling programs need only dial seven digits.

The LECs state that a non-one-plus configuration is not standard and can be incompatible with some prefixes. The Commission determines that it is unnecessary for the LECs to make available a non-one-plus configuration. Once again, the balancing of the interests requires that the relief afforded the customers within a community of interest not unduly burden the ratepayers at large for costly features that are convenient but not necessary.

Calling Scope

The Intervening Cities propose that a petitioning exchange demonstrating a community of interest with a requested exchange be eligible not only for the extra-exchange calling program to the requested exchange but also to those exchanges with which the requested exchange has expanded calling. In addition, the Intervening

Cities argue that there should be a two-way optional service available within clusters of rural exchanges at an affordable rate without separate rates to each exchange.

The LECs oppose these suggestions due to the cost involved in offering these expanded calling scopes.

The Commission determines that the calling scope under the COS program should include exchanges with which the requested exchange already has expanded local calling. This would primarily affect urban areas where the requested exchanges are the Kansas City or St. Louis metropolitan exchanges which consist of several zones. There is no evidence to indicate that it would be unduly expensive to provide expanded calling under these circumstances. However, where no such expanded scope already exists for the requested exchange, there is more of a question as to the amount of revenue loss involved. The Commission does not believe that it has sufficient information on this record to allow such a decision. Therefore, the Commission will respond to this issue on a case-by-case basis.

Service Details

The LECs propose that customers of the EMS program have 90 days after notification of termination of the EMS program in which to choose one of the optional programs without paying a connection charge. Those not choosing an option will default to toll. The Intervening Cities agree with the concept of free connection during the 90-day period.

The Intervening Cities suggest that the interexchange calling program adopted herein be available in the present EMS exchanges and the frozen exchanges within four months of the decision in this case and subsequently within four months of an exchange having qualified by meeting the usage standard.

The Commission determines that these suggestions are reasonable and should be adopted as part of the COS program. Customers within qualifying exchanges,

including experimental EMS exchanges and the frozen exchanges, will have 90 days from notification of the availability of COS in which to choose one of the optional programs without a service connection charge or default to toll. The LECs will be directed to provide to EMS and frozen exchanges the COS program within 120 days of the effective date of this Report and Order. The LECs will provide COS to exchanges hereinafter within 120 days of the exchange having qualified, unless otherwise ordered by the Commission.

The LECs support a two-year moratorium on reconsideration of petitions requesting the nonoptional flat rate service proposed by the LECs. The Commission has rejected the nonoptional service in this Report and Order. However, the Commission determines that it is reasonable to have a two-year moratorium on petitions for the COS program from a given exchange unless the petitioners from that exchange can show changed circumstances since the previous failed petition. This approach will forestall wasting the resources of the Commission and the LECs in dealing with petitions where there is little likelihood of the exchange meeting the standard required to demonstrate a community of interest.

Tier Reappraisal

The Intervening Cities and Public Counsel urge the Commission to establish a docket to reexamine the tier structure of the WASP program. These parties state that many of the tiers are misclassified with, for example, Tier IV exchanges abutting Tier II exchanges.

The LECs oppose this reappraisal stating that the program is working well and requires no reexamination.

The Commission determines that it is reasonable to reexamine the tier structure of the WASP program and will establish a docket to do so.

School Plan

In addition to the ELCS program, the Signatories propose a program to provide all customers within a public school district toll free intraLATA calling to their primary and secondary schools. The program would not provide such service from the schools to their constituents within the school district.

The Commission is of the opinion that the LECs should be able to provide this service if they so desire. The Commission makes no decision at this time concerning the treatment such a program should be afforded in a ratemaking context.

Alternatives To The COS Program

The Commission does not view the COS program as an exclusive solution to the problem of high toll bills within communities of interest. The Commission encourages the LECs to formulate alternative solutions to these problems whether they occur on intracompany or intercompany routes. The solution proposed by Contel for their exchanges in St. Charles County is a case in point. The Commission would like to see similar solutions offered for other such routes throughout the state. To this end, the Commission will entertain requests for waivers from the application of the COS program adopted herein.

Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

This Commission has jurisdiction of telecommunications companies pursuant to Chapters 386 and 392, RSMo Supp. 1989.

Section 386.330(1), RSMo Supp. 1989 provides in pertinent part:

The commission may of its own motion, investigate...any act or thing done or omitted to be done by any...telecommunications company, subject to its supervision, and the commission shall make such inquiry in regard to any act or thing done or omitted to be done by any such public utility...or corporation in violation of any provision of law....

Section 392.200(1), RSMo Supp. 1989 provides in pertinent part:

Every telecommunications company shall furnish and provide with respect to its business such instrumentalities and facilities as shall be adequate and in all respects just and reasonable. All charges made and demanded by any telecommunications company for any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than allowed by law....

The Commission has found that a reasonably priced extra-exchange calling service should be made available by the local exchange companies to their customers in exchanges demonstrating a community of interest. To achieve that goal, the Commission has adopted the COS plan and will direct the local exchange companies to inaugurate this plan within 120 days of the effective date of this Report and Order in the experimental EMS exchanges and those exchanges which have already demonstrated a community of interest by passing a calling usage study during the EMS experiment. The Commission will further direct the local exchange companies to implement the COS program in those exchanges which hereinafter demonstrate a community of interest by passing the calling usage criteria adopted herein.

Pursuant to Sections 536.010 and 536.021, RSMo Supp. 1989, the Commission will promulgate a rule to implement the decisions made in this Report and Order.

It is, therefore,

ORDERED: 1. That the local exchange companies are directed hereby to implement the community optional service (COS) program as outlined herein within 120 days of the effective date of this Report and Order in the experimental extended measured service (EMS) exchanges and in those exchanges which have passed the calling usage criteria during the course of the extended measured service (EMS) experiment.

ORDERED: 2. That the parties to this case are directed hereby to fashion an intercompany compensation plan consistent with the decisions made herein and file such plan with the Commission on or before March 12, 1990.

ORDERED: 3. That Case No. TO-90-134 is initiated hereby to reexamine the tier classifications in the wide area service plans.

ORDERED: 4. That the Commission's Secretary is directed hereby to send a copy of this order to all local exchange companies in the State of Missouri and notice of this order to the members of the Missouri General Assembly, the county commissions of each county in the State of Missouri, to the publishers of each newspaper located in the State of Missouri as listed in the newspaper directory of the current Official Manual of the State of Missouri and to the contact persons in each case pending before the Commission requesting extended measured service (EMS).

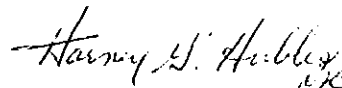
ORDERED: 5. That the motion to strike the initial brief of the Intervening Cities filed herein by Southwestern Bell Telephone Company is denied hereby.

ORDERED: 6. That late-filed exhibits 47, 49 and 50 are received hereby into the record of this proceeding.

ORDERED: 7. That all motions and objections not heretofore ruled upon are denied and overruled hereby.

ORDERED: 8. That this Report and Order shall become effective on the 9th day of January, 1990.

BY THE COMMISSION


Harvey G. Hubbs
Secretary

(S E A L)

Steinmeier, Chm., Fischer and Rauch, CC., Concur and certify compliance with the provisions of Section 536.080, RSMo 1986. Mueller, C., Dissents.

Dated at Jefferson City, Missouri, on this 29th day of December, 1989.