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September 20, 1999

Mr. Dale Hardy Roberts  
Secretary  
Missouri Public Service Commission  
301 W. High Street, Room 530  
Jefferson City, MO 65102

**FILED<sup>2</sup>**

SEP 20 1999

Missouri Public  
Service Commission

RE: Case No TO-2000-16

Dear Mr. Roberts:

Enclosed for filing with the Commission is an original and 14 copies of :

RESPONSE OF THE OFFICE OF THE  
PUBLIC COUNSEL TO THE  
REPORTS OF AT&T AND THE STAFF

Thank you for bringing this matter to the attention of the Commission.

Very truly yours,

Michael F. Dandino  
Senior Public Counsel

cc: Attorneys of Record

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the	)	
the Motion to Establish a Docket	)	
Investigating the Intralata Toll	)	Case No TO-. 2000-16
Service Provisioning Practices of Mo.)	)	
Interexchange Carriers, Public Utility)	)	
or Common Carrier Duties of Inter-	)	
exchange Carriers, Motion to Show	)	
Cause, Request for Emergency	)	
Hearing, and Alternative Petition	)	
for Suspension and Modification	)	

**FILED<sup>2</sup>**  
SEP 20 1999  
Missouri Public  
Service Commission

**RESPONSE OF THE OFFICE OF THE  
PUBLIC COUNSEL TO THE  
REPORTS OF AT&T AND THE STAFF**

The Office of the Public Counsel suggests to the Commission that the reports filed by AT&T and the Commission's Staff should not serve as the sole basis for resolving the issues in this case. Public Counsel believes that the information provided in the reports is incomplete and taken alone do not adequately reflect the state of affairs in the telecommunications environment in Missouri involving intralata presubscription as ordered by this Commission. The Commission has asked the Staff and AT&T to respond to specific questions posed by the Commission. Public Counsel suggests that the inquiry is broader and has serious public policy consideration.

In the hearings on the plans and on the end of the PTC, the parties used the best information available. In GTE's and Sprints process for 1+ presubscription the core issue was the effect it had on COS. In this case, the parties did not have a crystal ball to divine the scope of the problems with this process. Public Counsel has received

information via data requests that reflects considerable consumer confusion, anger and frustration about the implementation of intralata presubscription, especially in the service areas of the secondary independent carriers. The complaints target the confusion about AT&T's position in this process and the inability of consumers to select AT&T or stay with SWBT as the intralata carrier under presubscription process.

The reports do not tell the whole story of the problems the consumer faces today. The reports filed with the Commission are silent on this consumer unrest. The reports are devoid of any reflection of the level of consumer anger and frustration at the entire process and the telecommunications companies. The reports do not have sufficient data for the Commission to advise it of the status of IXC's willing to provide intralata service to the SC exchanges and what these carriers bring to the customers in terms of price and service so the Commission can see whether the customers are better off under this process. These are vital issues to consider.

Public Counsel cautions the Commission that far reaching policy decisions on the future of intralata and interlata toll service in Missouri should not be made in an information vacuum. The Commission made its determination on the plans to implement 1+ presubscription and on the termination of the PTC plan based upon evidence then before it. Now that the process has begun, matters unknown at the time of the hearings, such as AT&T's stance on accepting and servicing customers and the resultant misinformation and miscommunication to consumers on who and what was available, has changed the operative facts. Once again, consumers in the Secondary Carrier territories feel that the new era in competition has only limited their choices and left them worse off.

Public Counsel is especially concerned about the tone of the Staff's memorandum and report. The report takes a narrow view of the questions posed makes a word search of the statutes and the tariffs for "carrier of last resort" and "1+ intralata presubscription" the prime focus for the basis of its response. Whether or not there is a interexchange carrier of last resort specified in a statute, it is the result and effect which is the point. The consumer needs assurance of continuous service, not matter how it is termed. The report as a result has tunnel vision and overlooks the Commission's authority to carry out the legislative purpose and the consumer's rights as defined in the purpose of the regulation of telecommunications in Section 392.185, RSMo. This focus also glosses over the concept that competition functions as a substitute for regulation "when consistent with the protection of ratepayers and otherwise consistent with the public interest." Sec. 392.185 (6), RSMo.

The report does not present the broader picture that threaded throughout the entire statutes involving the regulation of public utilities is the requirement that it serve the public interest as reflected in the nine specific legislative purposes in Sec. 392.185. The Commission carries out the law in the interests of the public to further the public convenience and safety and to further the public interest. The Commission's regulatory authority is designed to protect the public and carry out the legislative purpose and direction in the statutes.

The Staff reports does not give sufficient weight or recognition to the mandate of Section 392.185 in its evaluation of Issues 1, 3, 4 and 5.

Public Counsel questions conclusions reached in the Staff report on Issue 2 concerning whether AT&T has sufficient facilities for Intralata traffic. The Staff states

that it has not determined the answer with absolute certainty, but then proceeds to conclude AT&T does not have enough capacity. If the question cannot be determined with certainty, this conclusion is unwarranted. The report makes a number of assumptions about capacity without supporting data.

This issue of facilities then raises a question which is left unasked and unanswered. If the dialing parity for intralata was envisioned in the Telecom Act of 1996 and AT&T has been a proponent of such dialing parity, then why doesn't the capacity exist. The Staff report questions whether AT&T can handle the traffic. But the issue as framed by AT&T in the hearings was not capacity, but profitability. AT&T repeated said it would be willing to serve those customers if access rates were at cost and there was a profit in it. Capacity was not an issue.

Public Counsel also takes issue with the Staff's position that dial around using 1010XXX is a substitutable service for 1+ presubscription for intralata service. The services are substitutable only to the extent that they are methods of placing a toll call. In like manner, an operator assisted call or a calling card call are also methods of placing a toll call. But the service are not truly substitutes for each other.

Presubscription is a valued service. Consumers are deprived of this service if they cannot reach a carrier via 1+ dialing and must instead resort to dial around for toll calls. This is not dialing parity and does not provide the consumer with advanced features of the telecommunications network enjoyed by others throughout the state.

In this case, Public Counsel believes that the Commission should have information to develop a picture of what was occurring in the exchanges after the Commission's orders on presubscription and the termination of the PTC plan. Public

Counsel surveyed Missouri local exchange companies through data requests on some aspects of intralata presubscription. Included in the requests were the identification of IXC's willing to provide intralata service to residential and business customers and which companies specifically asked not to be listed as a choice for intralata presubscription. An integral part of the data requests was an attempt to capture the mood and sentiment of the public by asking the LECs for the complaints and comments made to them about intralata presubscription. Since LECs are the first point of contact between the public and the telephone industry and they send the intralata presubscription notices, it seemed that the LECs would be the likely lightning rod for measuring customer reaction to the process and to disclose problems. Public Counsel also asked the Staff for reports made to the PSC consumer division. Since GTE and SWBT have refused to provide information regarding consumer complaints about 1+ presubscription in their territories, Public Counsel is hampered in its effort to gauge consumer sentiment in those areas. Public Counsel's data is not complete since SWBT has not yet provided the answers to the data requests and GTE has not provided information concerning customer complaints on intralata presubscription and on CSR training and customer information. Motions to compel this information have been filed.

Public Counsel also requested LEC training materials and the information disseminated to the public to evaluate how the message and information was communicated to consumers by Customer Service Representatives (CSRs).

Public Counsel offers some of the customer concerns about the conduct of the intralata presubscription process. Because a protective order has not been entered in this

case, comments are not identified or attributed to any individual or company service areas, but rather are provided to give the Commission a sense of the public concern and problems.

1. The terms "intralata" and "interlata" mean nothing to consumers and their use in customer notices was confusing. The public interest notice was very confusing and many customers did not understand it or what they needed to do.
2. Customers complained of difficulty in getting through to IXC's to ask about rates, plans and general questions.
3. CSRs were not prepared or knowledgeable about presubscription and the offerings of their own companies. The information was often incorrect and misleading. The CSR did not know anything about it or was rude and misinformed.
4. IXC representatives, especially AT&T, often called LECs to get information.
5. AT&T confused customers by accepting some orders, rejecting some orders, and accepting then rejecting some orders.
6. AT&T confused the process with the LECs sending letters to the LECs on its policy after the first notices went out. This compounded the customer's confusion and lead to anger and frustration about the process.
7. Customers were upset that SWBT not serving them at all when it was before.
8. The number of complaints made to LECs were very significant. While some reported too many complaints to count, others reported over 600 complaints, over 3000 complaints, and 15-20 per day. Two LECs reported that almost

90% of their customers contacted them because of the confusion and uncertainty in who was serving and what they should do. As of June 4, 1999, the Staff reported 46 calls.

9. Customers don't know who to believe since they receive conflicting information, revised notices, written information at odds with oral information, and different information from LEC, IXC and AT&T CSRs and finger pointing and blame among them all.
10. Customers complained about the loss of "one telephone bill" and did not want multiple bills from multiple companies.
11. Some customers cited the loss of benefits they now have with the present carrier which they may lose with another carrier. The examples were loss of extended exchange calling plans after 7 months, loss of COS and loss of service such as automatic payment of telephone bills from bank accounts and concern that MCA service might no longer be available..
12. Customers did not know why SWBT left the market. They complained that SWBT CSRs said that SWBT was still available for service when it was not.
13. Customers were left to fend for themselves with little direction to go for information, sometimes not even a telephone number. Then when they contacted an IXC there was not enough information to compare companies, rates and plans; have to jump through hoops to contact companies to get information and to avoid set up fees and user fees; CSRS tell customers different rates and conditions so customers do not know what they are getting.



14. Customers do not understand why they have to change if they were satisfied with SWBT or just want to keep SWBT.
15. Customers do not understand why they can't take AT&T since they already have it (for interlata, but they usually don't say that).

Exhibit B to the Staff's report sets out the rates for various affiliated companies that have been created overnight so the local customers can have 1+ dialing if they do not make a choice and to prevent the customer from having no 1+ intralata carrier thereby forcing the customer to dial around for each intralata call. The Exhibit indicates a higher price in some respects for this toll service. Again the push for competition has not yet brought benefits to rural consumers, but again makes them worse off than before for the sake of competition.

About 30 IXC's have indicated a willingness to offer 1+ intralata service, but it does not appear that any one company is available in all areas. MCI World Com (and its related companies) and Frontier appear available in most independent service areas as does Teleco Communications Group carriers, such as Dial and Save and Long Distance Wholesale Club and Excel. It remains to be seen what these companies will bring to those areas in terms of service and prices.

A troubling problem not directly discussed is the effect of AT&T's stance on its intralata availability. Its position works against the customer's desire for

one bill and one company service. This desire is especially true for low volume users who want to minimize their paper work and do not need two separate long distance companies for intralata and interlata. AT&T's intralata position acts to "scrape off" the unprofitable interlata customers by denying those customers 1+ access to AT&T. This strategy points to an escape from interlata obligations to serve and a further reduction in choice for rural consumers. As the dominant long distance company, AT&T may set the stage for others to abandon the rural communities. The effect of this policy needs to be examined by the Commission to assure that rural customers will have a full choice of telecommunications services.

### **Conclusion**

Public Counsel believes that the Commission should take a hard look at the state of intralata presubscription, the practices of the IXC's in implementing this process and the burden place on consumers by the process now and in the immediate future. The consumer complaints confirm that the move toward competition on the present fast track program for the end of the PTC without a proper transition phase results in confusion and consumer frustration and mistrust of the process. It particularly places an undue burden on rural customers in the SC exchanges. Consumers are told they will be better off with competition, but they only see choices they were comfortable with and wanted taken away and they are forced to make a selection they do

not want to make or to select companies they don't want. The public doesn't understand this and sees little benefit.

Public Counsel suggests that the Commission proceed with this case to fully develop the facts so it can make a decision based on the present circumstances. To that end and for the reasons set forth in this response, Public Counsel moves the Commission to hold an evidentiary hearing on this matter.

The Commission should enter an order suspending the termination of the PTC plan until further order of the Commission to preserve the present structure and to give the Commission time to act in a reasoned, deliberate manner.

This response and comments are not intended to be all inclusive and Public Counsel does not waive its right to present other issues and evidence in support in an evidentiary hearing.

Respectfully submitted,

**OFFICE OF THE PUBLIC COUNSEL  
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BY:



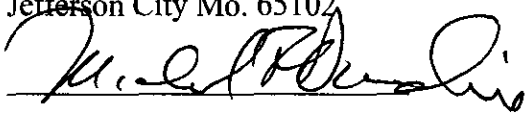
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was faxed or mailed to the counsel of record on the attached service list this 20 day of Sept, 1999:

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