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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

PREHEARING CONFERENCE

May 16, 2003
Jefferson City, Missouri
Volume 1

In the Matter of an)
Investigation into the)
Provisioning of Expanded)
Local Calling Plans in the) Case No.: TO-2003-0297
Rural Areas of Missouri.)

VICKY RUTH, Presiding,
SENIOR REGULATORY LAW JUDGE.

REPORTED BY:

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1 P R O C E E D I N G S

2 JUDGE RUTH: Good morning. We are here for a
3 prehearing conference in Case No. TO-2003-0297, In the
4 Matter of an Investigation into the Provisioning of
5 Expanded Local Calling Plans in the Rural Areas of
6 Missouri.

7 My name is Vicky Ruth, and I will be
8 conducting this prehearing conference. In fact, this
9 case is being transferred from Chief Judge Dale Roberts
10 to myself.

11 Immediately following this prehearing
12 conference, we will have a prehearing conference in a
13 related case, TO-2003-0298. Today's date is May 16th,
14 and it is 10:05 a.m.

15 Let's begin by taking entries of appearance,
16 and I'll start over here with Public Counsel.

17 MR. DANDINO: Michael Dandino, Office of the
18 Public Counsel, Post Office Box 7800, Jefferson City,
19 Missouri 65102, representing the Office of Public
20 Counsel and the Public.

21 JUDGE RUTH: Thank you.

22 MR. GARDNER: Paul H. Gardener, Goller,
23 Gardner and Feather, 131 East High Street, Jefferson
24 City, Missouri, representing Sprint Missouri, Inc. and
25 Sprint Communications Company, LP.

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1 JUDGE RUTH: Okay.

2 MR. POSTON: Marc Poston, appearing for the
3 Staff of the Missouri Public Service Commission.

4 JUDGE RUTH: Okay. Are there any other
5 parties?

6 (No response.)

7 JUDGE RUTH: Now, then, Mr. Gardner, have you
8 filed anything in this case to date?

9 MR. GARDNER: No, actually we haven't. I'm --
10 I'm appearing on behalf of Sprint, but we're not a
11 party to this case.

12 JUDGE RUTH: Okay. So at this point you're
13 just interested?

14 MR. GARDNER: That's correct. Just kind of
15 monitoring.

16 JUDGE RUTH: I just wanted to make sure I
17 hadn't missed an application for --

18 MR. GARDNER: No.

19 JUDGE RUTH: -- intervention.

20 MR. GARDNER: We haven't -- we haven't filed
21 anything.

22 JUDGE RUTH: So I take it there is no one from
23 SBC participating in at least this hearing; is that
24 correct?

25 MR. CONROY: We're not a party either, Your

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1 Honor, but I'm here on behalf of SBC.

2 JUDGE RUTH: Okay. Anyone else that's present
3 that wants that noted in the record?

4 (No response.)

5 JUDGE RUTH: Okay. This case was opened when
6 Public Counsel filed on February 25th a motion to
7 establish an expanded local calling scope -- scopes for
8 rural areas in Missouri. On March 12th Public Counsel
9 filed additional comp-- comments supplementing its
10 pleading. And then on May 5th, the Commission issued
11 an order scheduling this prehearing conference.

12 Okay. Public Counsel, would you please take a
13 few minutes to further explain your position as to the
14 scope of this case and the procedures that you believe
15 that the Commission should take towards its resolution?

16 MR. DANDINO: Certainly, Your Honor.

17 JUDGE RUTH: And I -- okay. Sorry. Go ahead.

18 MR. DANDINO: We had filed this because
19 of -- of just customer concern and customer desire
20 for -- for ex-- for expanded local calling in the -- in
21 the rural areas.

22 When we filed this, we did not intend it to be
23 a contested case. And that question came up at the
24 agenda when the Commission was first considering this.
25 And that is why we filed the supplemental --

1 supplemental pleading to that -- really in response to
2 the Commission's questions, because they wanted to know
3 what our intentions was on what type of -- of process
4 to have.

5 And -- and we wanted to make -- make sure that
6 we -- we wanted to make it clear that -- we wanted some
7 type of a process where there's a free flow of ideas
8 back and forth without the -- the necessity of -- you
9 know, of formal filing of testimony at least at this
10 time.

11 We feel that until such time as we even get
12 a -- an idea from the Commission whether they want to
13 embark upon this, it would be premature to have a
14 contested case, because we would expect something
15 coming out of this which would not necessarily have
16 any -- have -- have any specific -- you know, specific
17 impact on the company.

18 And that -- and the reason I say that is,
19 we're basically almost looking at this in a -- in a
20 type of a rulemaking perhaps or -- or maybe
21 we'll -- more -- probably more exact is kind of the
22 generic dockets that were used before for the MCA and
23 the other expanded calling scopes.

24 One of the things that we wanted to --
25 to, in particular -- and when we brought it up in this,

1 is a lot of study has gone into all this -- you know,
2 these issues have been battered quite a bit with the
3 MCA case and -- and during the COS and everything.

4 And I think now we just wanted to bring
5 forward the -- the content of where -- where we're
6 gonna go, if anywhere, in the rural areas, and just
7 to -- to get a feel from the Commission where -- what
8 direction they want to go and whether -- and whether
9 the -- you know, what the industry feels about this,
10 and also whether the consumers out there -- whether
11 they've changed their mind since the end of COS.

12 Are -- perhaps they may be happy with this.
13 I'm not getting that feeling, but in the certain areas
14 that -- you know, that was previously served by COS
15 maybe some of the new plans that are coming out now,
16 the -- the customers may be more satisfied. So
17 that's -- that's kind of our -- our position in this.

18 I would also -- I would like to see -- my idea
19 of getting the gist from the Commission's conversations
20 at the agenda meeting was they want to -- they want
21 to -- to kind of address the MCA question and
22 this -- they want to get a lot of these questions
23 resolved in these -- these two cases, plus USF is all
24 being interrelated.

25 And -- and probably if we had just a -- just

1 to get the parties and the Commissioners to sit around
2 a table to talk about the broader picture, maybe that
3 would help.

4 The reason I -- I keep saying "and the
5 Commissioners," I don't think it's gonna be very
6 helpful for us to have a docket or a technical groups
7 or something when the Commissioners aren't there.

8 I -- I think, you know, they're the ones that
9 are gonna have to really decide this. And I think
10 they -- they need to hear, you know, some of the
11 comments and tell us, you know, what kind of direction
12 to go in here. That's -- that's my thought.

13 And then I just want to add one other thought.
14 Is the -- the -- the investigation into the adequacy of
15 the local calling scopes in the SBC local exchanges.

16 While this has some connection to it, I -- I
17 think it's a separate and independent case and I -- you
18 know, it may not be, you know, appropriate. I don't
19 think it's appropriate to combine these cases.

20 This is more in response to a very specific
21 problem that has -- that has arisen while the other
22 case is more of a general -- a general case.

23 JUDGE RUTH: Now, wait a minute. This -- the
24 297 is the general and the 298 is the specific --

25 MR. DANDINO: Yes.

1 JUDGE RUTH: -- SBC exchanges.

2 MR. DANDINO: Yes.

3 JUDGE RUTH: And I didn't mean to imply they
4 were being combined.

5 MR. DANDINO: Sure.

6 JUDGE RUTH: We are just having the prehearing
7 conferences one after the other, but they are actually
8 going to have separate transcripts.

9 MR. DANDINO: Sure. And -- and I -- I just
10 wanted to make that -- make that clear and everything.
11 In -- in fact, I -- just to -- just to bring it up,
12 too, we didn't even make it in terms of a complaint,
13 because we just think it -- it ought to be more in
14 terms of an investigation at this time.

15 JUDGE RUTH: You've mentioned several times
16 that you want to get the Commission's input. You've
17 also, I believe, suggested that the parties could get
18 together in technical groups.

19 Do you see the first step as getting the
20 parties together and coming up with some initial ideas
21 that you would present to the Commission?

22 MR. DANDINO: My -- my -- my thought is --
23 is -- what I was going to suggest today was that Public
24 Counsel -- that we would circulate a proposed agenda
25 for a meeting. Have anyone add anything else --

1 anything they want on it. And then take it to the
2 Commission and have the Commission -- and have just a
3 meeting with the Commissioners.

4 And we -- you know, we can either talk about
5 those -- those -- those issues or -- or just to see
6 what direction they want to go on -- on some of these
7 things.

8 JUDGE RUTH: So your first step would be a
9 meeting with the Commissioners. Would you have a
10 tentative proposal or idea for them, or are you
11 going --

12 MR. DANDINO: Yes. I -- I think some of it
13 would be what we have in here about the plan or, you
14 know, whether they're even interested in doing
15 something like this.

16 I don't want to take -- I don't want to take
17 the whole industry, and we spend a lot of time on these
18 things if the Commission is really not interested in
19 it.

20 JUDGE RUTH: So you want input from the
21 Commissioners before you go too far?

22 MR. DANDINO: Oh, sure.

23 JUDGE RUTH: I mean, in some investigative
24 cases -- and this one wasn't necessarily designated an
25 investigative case. But in some of those investigative

1 cases the parties will meet for some time and come up
2 with a report that they present to the Commission.

3 If I'm following you, you're not suggesting
4 we -- we follow that particular route per se?

5 MR. DANDINO: Right. Right. I -- I think --

6 JUDGE RUTH: You want -- you want input --

7 MR. DANDINO: Right.

8 JUDGE RUTH: -- sooner than a report?

9 MR. DANDINO: Right. You know, I -- I think,
10 you know, we've talked about a number of these issues,
11 and I don't think there's -- it's necessarily gonna
12 help us. I think we all know -- you know,
13 we're -- what we'll -- what we'll -- what we probably
14 end up doing, we're gonna be disagreeing about certain
15 things and everything and we're gonna be right back
16 where we are.

17 And it may be just that, you know, we're just
18 talking in circles because the Commission isn't ready
19 to do anything. The Commission says, you know, we'll
20 give competition a -- more opportunity to do it or, you
21 know, we'd rather expand the MCA instead or we want,
22 you know, to do something else.

23 Well, it goes back to what we said in the
24 MCA case. I think the industry and -- you know, needs
25 a little direction from this Commission on -- on what

1 they -- you know, what they -- what we want to see.

2 You know, what they -- what they're
3 willing -- what they're willing to consider, and --
4 and -- and get the feedback from the industry about
5 what the industry is willing to -- you know, willing to
6 do.

7 I -- I just don't want to -- I just don't want
8 to -- I -- I want to get something out there where we
9 can -- we'll have something concrete in front of us --
10 or concrete maybe. Or just at -- at least have an idea
11 of whether we're gonna go forward with this or not.

12 JUDGE RUTH: Okay. Mr. Dandino, I wanted to
13 follow up. You said that you wanted to gauge the
14 interest from the public out there as to how -- you
15 know, is -- is this something they want or have other
16 plans -- competitive plans kind of taken its place.

17 How much contact have you had with the
18 Public? I mean, I -- I assumed -- and I may be
19 wrong -- that you must have been having continuing
20 requests -- substantial number of continuing requests
21 for this or you wouldn't have brought this case.

22 MR. DANDINO: Right. I mean, there's -- you
23 know, when people just call the office, they're -- it's
24 something they're interested in. It's a complaint that
25 they have about the service or, you know, about why

1 can't we get this, why can't we get that.

2 And the reason I brought up the -- you know,
3 just in -- in a recent or -- or whether they're still
4 interested in it, it's just been within the last couple
5 months that some of the -- the local companies have
6 offered -- started offering expanded calling statewide
7 and LATA-wide or nationwide, all packaged in packaged
8 programs, which if -- if these things are available in
9 the -- in the rural areas may eliminate the need for
10 this.

11 But -- and -- and, you know, that's a recent
12 development. And, you know, I -- you know, I don't
13 want to -- I -- you know, which once again goes into
14 the -- the question is, we don't want to spend a lot of
15 time on this if there's -- if there's movement toward
16 getting to what we need or what we're looking for in
17 the end.

18 JUDGE RUTH: Okay. So you -- I believe you're
19 suggesting that your office has anecdotal evidence that
20 there might still be an interest for this, but you
21 haven't conducted any type of survey?

22 MR. DANDINO: No.

23 JUDGE RUTH: Do you feel that something like
24 that is necessary? Obviously there's expense and
25 effort --

1 MR. DANDINO: Sure.

2 JUDGE RUTH: -- that's --

3 MR. DANDINO: Sure.

4 JUDGE RUTH: -- associated with something like

5 that. I'm asking -- or how you would expect the

6 Commission to gauge whether -- or the extent of

7 interest for programs such as you have mentioned.

8 MR. DANDINO: Well, part of it would perhaps

9 have -- have some public hearings in the rural areas.

10 Also I -- you know, surveys. There may be even some --

11 you know, contacting some of the municipalities or

12 counties in those areas.

13 I -- you know, I haven't figured out a whole

14 plan on this.

15 JUDGE RUTH: Okay. Thank you.

16 Mr. Gardner, do you have anything you'd like

17 to add?

18 MR. GARDNER: Not at this time.

19 JUDGE RUTH: Okay.

20 Mr. Poston?

21 MR. POSTON: The Staff has not taken a

22 position on the issues -- the expanded calling issues

23 that were identified by Public Counsel in their

24 filings.

25 We -- we agree that it's -- that it would be

1 premature to proceed with a contested case at this
2 point, and we also agree that Commission direction up
3 front, as suggested by Public Counsel, would be
4 helpful.

5 JUDGE RUTH: Does that mean you support the
6 idea of perhaps informally meeting with some of the
7 parties on your own, coming up with a very brief agenda
8 of what you would like to talk to the Commissioners
9 about and then having a meeting with the
10 Commissioners? Is --

11 MR. POSTON: We would be willing to do that
12 if -- if --

13 JUDGE RUTH: I'm just asking. That was, I
14 think, one of Public Counsel's suggestions for the next
15 step. Have the parties talk among themselves, come up
16 with an agenda.

17 I don't know if that'd be a list of questions,
18 topics or proposals, but then you would come back and
19 tell the Commission that you're ready to meet with the
20 Commission and you would request that they schedule a
21 meeting for that.

22 Is that basically what you were suggesting,
23 Mr. Dandino?

24 MR. DANDINO: Yes.

25 JUDGE RUTH: And is that agreeable to the

1 Staff?

2 MR. POSTON: I think that -- that'd be a good
3 way to gauge the Commission's interest and -- and the
4 issues identified by Public Counsel, yes.

5 JUDGE RUTH: Do you have any suggestions to
6 make regarding what the Commission should consider?

7 MR. POSTON: Not at this time, no.

8 JUDGE RUTH: Okay. Did you have anything?

9 MR. GARDNER: No.

10 JUDGE RUTH: Okay. Okay. I don't have any
11 additional questions. What I'm going to do is wait for
12 the transcript, and then take this back to the
13 Commissioners and ask them how they want to proceed.

14 I'm going to tell them it's Public Counsel's
15 suggestion that the parties get together informally.
16 You may want to do that in the meantime, even if it's
17 just by phone while you're waiting for the
18 Commissioners to decide.

19 And if they're agreeable to scheduling a
20 meeting, I'll issue an order to that effect; if they
21 have something else they want to do, then that will be
22 covered in an order also.

23 Did you have something, Mr. Dandino?

24 MR. DANDINO: Yes, Your Honor. Right now the
25 only parties in this are -- are Public Counsel and the

1 Staff. And probably wouldn't be appropriate to move
2 for summary judgment, but I -- I was just wondering
3 whether the Commission planned to -- to, you know, send
4 out notice, you know, and set an intervention deadline.

5 JUDGE RUTH: That's a good point. And I'll
6 ask the Commissioners. This has only been my case for
7 a very short time, and I don't know if the
8 Commissioners have definitely decided on how they want
9 to handle this. I know there was discussion as to is
10 it a contested case or not. And that is also something
11 that they'll have to address.

12 I think sending notice out to interested
13 parties -- interested companies would be a good idea.
14 But that may wait until the Commissioners decide what
15 it is they want to do.

16 MR. DANDINO: I mean, they -- they very well
17 may decide that they don't want anything to do with
18 this at this point, and I -- you know, that's their
19 decision to make.

20 JUDGE RUTH: Okay. Does anyone have anything
21 they want to add before we go off the record?

22 (No response.)

23 JUDGE RUTH: Okay. Then that will conclude
24 the on-the-record portion at least of this prehearing
25 conference.

1 If the parties decide after I leave you want
2 to get together and discuss any of this, you're welcome
3 to. And if any -- anyone in the audience feels the
4 need to follow up with some kind of post-prehearing
5 conference pleading notes, suggestions you're, of
6 course, welcome to do that.

7 I realize there are only two parties, but the
8 Commission would entertain anyone's comments or
9 suggestions, if you wish to do so.

10 Okay. That finishes TO-2003-297. And I think
11 we've move right on into Case No. TO-2003-0298.

12 WHEREUPON, the on-the-record portion of the
13 prehearing conference was concluded.

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