

ANDERECK, EVANS, MILNE, PEACE & JOHNSON, L.L.C.

ATTORNEYS AT LAW

700 EAST CAPITOL AVENUE

COL. DARWIN MARMADUKE HOUSE

P.O. BOX 1438

JEFFERSON CITY, MISSOURI 65102-1438

TELEPHONE 573-634-3422

FAX 573-634-7822

EUGENE E. ANDERECK
TERRY M. EVANS
ERWIN L. MILNE
JACK PEACE
CRAIG S. JOHNSON
RODRIC A. WIDGER
GEORGE M. JOHNSON
BEVERLY J. FIGG
WILLIAM S. LEWIS
VICTOR S. SCOTT
COREY K. HERRON

MATTHEW M. KROHN
LANETTE R. GOOCH
SHAWN BATTAGLER
ROB TROWBRIDGE
JOSEPH M. PAGE
LISA C. CHASE
JUDITH E. KOEHLER
ANDREW J. SPORLEDER

January 24,, 2003

OF COUNSEL

MARVIN J. SHARP

PATRICK A. BAUMHOER

GREGORY C. STOCKARD (1904-1993)

PHIL HAUCK (1924-1991)

FILED³

JAN 24 2003

Missouri Public
Service Commission

Secretary

Missouri Public Service Commission

P.O. Box 360

Jefferson City, MO 65102-0360

Re: Case No. TR-2001-65

Dear Sir:

Enclosed please find for filing an original and five (5) copies of the Reply Brief of the Missouri Independent Telephone Group.

Thank you for seeing this filed.

Sincerely,



Lisa Cole Chase

LCC:tr

Enc.

cc: MITG Managers
Kent Larsen
Office of Public Counsel
General Counsel
Thomas R. Parker
James M. Fischer
Mary Ann (Garr) Young
Brian T. McCartney
Carl J. Lumley/Leland B. Curtis

Carol Keith
Paul G. Lane
Sheldon K. Stock
Stephen F. Morris
Paul H. Gardner
Lisa Creighton Hendricks
J. Steve Weber
Rebecca B. DeCook

Trenton Office
9th And Washington
Trenton, Missouri 64683
660-359-2244
Fax 660-359-2116

Springfield Office
1111 S. Glenstone
P.O. Box 4929
Springfield, Missouri 65808
417-864-6401
Fax 417-864-4967

Princeton Office
207 North Washington
Princeton, Missouri 64673
660-748-2244
Fax 660-748-4405

Smithville Office
119 E. Main Street
P.O. Box. 654
Smithville, Missouri 64089
816-532-3895
Fax 816-532-3899

JAN 24 2003

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Public
Service Commission

In the Matter of an Investigation of)
the Actual Costs Incurred in Providing)
Access Service and the Access Rates)
to be charges by Competitive Local)
Exchange Telecommunications)
Companies in the State of Missouri)

Case No. TR-2001-65

**REPLY BRIEF OF THE MISSOURI INDEPENDENT TELEPHONE COMPANY
GROUP**

COMES NOW the Missouri Independent Telephone Company Group (MITG) and files its reply brief with respect to this Commission's investigation into the actual costs of providing access service and the access rates to be charged by CLECs.

Cost Models

The participating LECs are in general agreement that the cost models set forth by Staff do not accurately reflect each company's actual costs in providing switched access service.¹ In fact, in recognition of these inaccuracies, many of the participating LECs submitted their own cost studies. Unfortunately, the cost models set forth by Staff will not be very useful in comparing costs to rates.

This docket has been instructive in demonstrating that no forward looking economic cost model has been developed to fit every type of telecommunications company.² Although the

¹ See Initial Brief of STCG and Holway et al., at pp. 17-29; Initial Brief of MITG at 4-5, 7-10; Initial Brief of Fidelity at p. 2, Initial Brief of Alltel at pp. 4-8; and Initial Brief of Sprint at pp. 2-3; Rebuttal Testimony of David Barch on behalf of SWBT pp. 2-13.

² See also Initial Brief of the Office of Public Counsel at p. 1. Sprint urges the Commission to use a forward looking economic cost model using the FCC's definition of TSLRIC from the Local Competition Order. The MITG would point out that the Local Competition Order pertains to local traffic, not the intrastate interexchange traffic to which the access costs in this case relate. The MITG concurs with the STCG's statements pertaining to "The FCC and the Missouri Commission have rejected the use of forward looking cost models for small rural companies at this time" at pp. 11-13 of their Initial Brief. Before utilizing a forward looking economic cost model for small rural companies,

MITG believes the Commission's initial intent was to perform a uniform cost study of the actual access costs of all LECS, such a study has not been presented to this Commission. Many of the telephone companies, including the MITG, agree that the Commission can follow the FCC's approach of adopting differing approaches to assess costs based on the type of telecommunications company (i.e. price cap ILECs, rate of return ILECs, and CLECs).³

Utilizing differing approaches would address the issue of whether to use a forward looking economic cost model or embedded costs, along with most of the technical issues raised in this proceeding.⁴ Utilizing differing approaches would also alleviate the difficulties of obtaining and updating the cost models used by Staff's consultant. Some of the cost models used by Dr. Johnson were proprietary, and it was unclear from the testimony at hearing whether all of those models would be available to other companies, or the price at which they would be made available.⁵

Access Rate Reform

Tinkering with different company access rates is not going to resolve the access rate issue raised by the IXC's in past proceedings. The telecommunications companies generally agree that the Commission has authority to lower rate of return ILEC (small company) access rates through individual rate cases, or through a generic docket if the Commission does so in a manner that leaves the companies in a revenue neutral position.⁶ The Telecommunications companies also

the MITG agrees with the STCG that additional proceedings would need to be undertaken to determine the appropriate cost model and develop the appropriate inputs to that model.

³ See Initial Brief of STCG and Holway et al., at p. 29; Initial Brief of MITG at p. 24; Initial Brief of Fidelity at p. 5; Initial Brief of Alltel at p. 10; Initial Brief of CenturyTel at p. 4; Initial Brief of AT&T at p. 37.

⁴ See also Initial Brief of CenturyTel at p. 2.

⁵ Tr. p. 197 l. 5- p. 198 l. 25; Tr. p. 632 l. 6-25; Tr. p. 633 l. 15-p. 634 l. 5; Tr. 707 l. 7-13.

⁶ See Initial Brief of STCG at p. 43-44; Initial Brief of MITG at p. 15; Initial Brief of Alltel at p.18-21; Initial Brief of CenturyTel at p. 11-13; Initial Brief of SWBT at p. 47; Initial Brief of AT&T at p. 21-22; Post Hearing Brief of MCI at p. 8; Initial Brief of Staff at p. 29; Initial Brief of the Office of Public Counsel at p. 3.

agree in general that the Commission does not have authority to lower price cap carriers (large ILECs) access rates.⁷

The large ILECs serve the majority of access lines in Missouri. The large ILECs charge intrastate rates 654% more than their interstate rates, while the small ILECs charge intrastate rates 279% more than their interstate rates.⁸ Since the overwhelming majority of actual access rates are associated with large ILECs and large ILECs also possess the greatest disparity between intrastate and interstate access rates, an examination of large the ILECs' access rates must precede an examination of small and rural access rates.

The small company access rates are a small portion of an IXC's total costs to provide toll service in Missouri.⁹ It is unlikely that any rate rebalancing of the small carriers' access rates will rise to a level sufficient for AT&T to flow through such reductions to their customers.¹⁰ The MITG would point out that if the Commission chooses to pursue access rate reform with the small rural companies, the only other revenue source currently available to these companies are their local rates. AT&T has suggested the Commission could implement a flat rated surcharge such as a subscriber line charge.¹¹ The FCC has an end user surcharge to offset the Carrier Common Line ("CCL") costs, but Missouri doesn't currently have an end user surcharge to offset intrastate access costs. Such a flat surcharge has the impact of raising each customer's local telephone bill with absolutely no guarantee that consumers will reap any savings from reduced toll charges.

⁷ See Initial Brief of STCG at p. 41; Initial Brief of MITG at p. 13; Initial Brief of Alltel at p. 15-18; Initial Brief of CenturyTel at p. 7-10; Initial Brief of Sprint at p. 39-40; Initial Brief of SWBT at p. 41-46; Post Hearing Brief of MCI at p. 5-6.

⁸ Dr. Johnson's Direct Testimony, Schedule 5, p. 1 of 13.

⁹ See Initial Brief of STCG at p. 38-39.

¹⁰ See Initial Brief of MITG at p. 11-12; Initial Brief of STCG at p. 38-40.

¹¹ Initial Brief of AT&T at p. 22.

The MITG believes that if access rate reform is limited to the small rural carriers, it is the IXCs who will benefit (without providing any flow through of access rates), and the small rural carriers' customers who will pay for such access reform. The MITG is also concerned that an increase in rural customers' local rates will also exacerbate the urban/rural parity issue.

Recommendation

The MITG agrees with the position of many of the parties that there is no cost-based reason for the Commission to change access rates at this time. The Commission lacks authority to reduce the access rates of price cap companies (the large ILECs), and any access reform measures limited to the small companies will fail to appease the Missouri IXCs and will not benefit the customers of the IXCs or the small companies. If the Commission wishes to pursue access reform, the MITG agrees with the citation in the Post Hearing Brief of MCI suggesting that the Commission "may need a legislative fix in order to address this problem."¹²

**ANDERECK, EVANS, MILNE,
PEACE & JOHNSON, L.L.C.**

By *Lisa Chase*

Craig S. Johnson MO Bar No. 28179
Lisa Cole Chase MO Bar No. 51502
Col. Darwin Marmaduke House
700 East Capitol Avenue
Post Office Box 1438
Jefferson City, Missouri 65102
Telephone: (573) 634-3422
Facsimile: (573) 634-7822

¹² Post Hearing Brief of MCI at p. 6.

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and accurate copy of the foregoing was mailed, U.S. Mail, postage pre-paid, this 24th day of January, 2002, to all attorneys of record.

Lisa Chase
Lisa Cole Chase