

SPENCER FANE BRITT & BROWNE LLP
ATTORNEYS AND COUNSELORS AT LAW

PETE MIRAKIAN
DIRECT DIAL (816) 292-8158
pmirakian@spencerfane.com

1812101-14

September 18, 2000

Via Facsimile and FedEx

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
301 West High Street, Floor 5A
Jefferson City, MO 65101

FILED
SEP 18 2000
Missouri Public
Service Commission

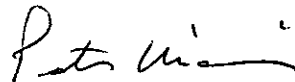
Re: Case No.: TO-2000-374

Dear Judge Roberts:

I have enclosed for filing in the above-captioned case an original and eight copies of the Brief of ExOp of Missouri, Inc. Copies of this Brief are being served on the Office of the Public Counsel as well as each of the other parties to this case.

Thank you for bringing this filing to the Commission's attention.

Yours truly,



Pete Mirakian

cc: Mr. Thomas W. White

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

SEP 18 2000 js

Missouri Public
Service Commission

In the Matter of the Petition of the North)
American Numbering Plan Administrator)
On Behalf of the Missouri Telecommunications)
Industry, for Approval of NPA Relief Plan for)
The 314 and 816 Area Codes.

Case No. TO-2000-374

BRIEF OF EXOP OF MISSOURI, INC.

COMES NOW ExOp of Missouri, Inc. ("ExOp") and for its Brief states as follows:

Introduction

Two primary issues have been addressed in this case: number conservation issues and area code relief. As a fully facilities-based competitive local exchange carrier ("CLEC") presently offering a full array of telecommunications services in Kearney, Missouri, ExOp brings a unique perspective to both of these questions. ExOp does not resell any part of its service; ExOp serves all of its customers over ExOp lines through ExOp's switch. The decisions the Public Service Commission (the "Commission") makes in this case, therefore, will have a direct impact on ExOp's continued ability to compete and to provide service to its customers.

As virtually all of the parties have agreed in their testimony and Position Statements, the best approach for the Commission to take in the 816 area code is to order an all-services overlay. Of more immediate concern to ExOp, the Commission should not move ahead of the Federal Communications Commission's (the "FCC's") timetable in implementing thousand-block number pooling ("TBNP"). Until the proper steps have been taken to ensure a smooth transition to TBNP, the slow response time of the public and private switched network (especially that of the private branch exchange ("PBX") operators) should convince the Commission not to rush into a TBNP system that will greatly multiply the number of occurrences of the sort of problems

ExOp has experienced in causing the overall network to recognize new NXX codes as they are put into service.

This Brief will address the issues as they were presented in the parties' Position Statements.

1. What, if any, action should the Commission take regarding number conservation (i.e., number pooling, sequential numbering assignments, etc.) in the following NPAs?

(a) 314

ExOp does not operate in the 314 NPA, so it respectfully declines to brief that issue. Nevertheless, ExOp believes the issues are virtually identical in both the 314 and 816 NPAs.

(b) 816

The testimony in this case has shown that number exhaust cannot be remedied by number conservation measures alone; however, in combination with the area code overlays proposed by NANPA and supported by most of the parties, some ongoing relief can be gained by adopting conservation measures. Rate center consolidation can be implemented in a number of densely populated areas today, as indicated by testimony offered by Southwestern Bell Telephone Company and others. The Commission should also encourage companies to consolidate rate centers across current exchange boundaries where such consolidation is technically feasible. As ExOp extends its network into cities around Kearney, for example, ExOp hopes to continue to use its current NXXs for customers located both inside and outside of Kearney, thus treating multiple communities as a single rate center. In addition to solving technical feasibility issues, ExOp will need the cooperation of the incumbent local exchange carriers ("ILECs") to carry out

this type of rate center consolidation. The Commission should encourage this sort of cooperation in its order in this case.

The Commission should not adopt TBNP in advance of the FCC's national TBNP roll-out. As ExOp noted in its Supplemental Position Statement filed in this case, the current system for updating the public and private switched network to account for new NXX codes is slow and cumbersome. When ExOp was issued its first two NXXs, it took approximately two months for the other phone companies within the LATA to reprogram their switches and tandems to identify those NXXs with ExOp, thus allowing calls to be properly routed to and from ExOp customers. More than a year after being assigned its first two NXXs, ExOp continues to have problems caused by the failure of PBX operators to have their PBXs programmed to recognize ExOp's NXX codes. As long as this partially unregulated situation continues to exist, a move from assigning numbers in blocks of 10,000 to TBNP would multiply by ten the frequency with which telephone companies would be required to obtain new sets of telephone numbers, which would likely result in ten times the number of problems associated with causing the public and private switched network to reprogram its equipment to identify the new numbers to the proper carriers. Until these problems can be addressed and alleviated, the Commission should abstain from seeking authority to implement TBNP in the 816 area.

2. What area code relief should the Commission order implemented in the following NPAs:

(a) 314

ExOp respectfully declines to brief this issue.

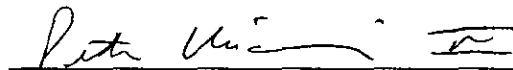
(b) 816

In light of the need to create additional NXX codes in the 816 NPA, the Commission should adopt the proposed all-services overlay for the 816 NPA. As virtually all of the parties to this case agree, an all-services overlay would be faster to implement and better for consumers than a geographic split. The geographic split along the Missouri River proposed by the Office of the Public Counsel (the "OPC") would cause serious hardship to ExOp and its customers. ExOp's current customers are all in the city of Kearney, which would be removed from the 816 area code under the OPC's plan. The all-services overlay proposal would avoid the stigmatization inherent in a geographic split. Under an all-services overlay, the consumers in Kearney would remain within the greater Kansas City community because they would continue to share area codes used throughout the metropolitan area. ExOp's customers are already becoming accustomed to dialing ten digits to dial across the state line to Kansas for local calls, so a switch to 10-digit dialing throughout the Kansas City area on both sides of the state line would not pose a significant problem. The other advantage that the testimony in this case has pointed to in implementing an all-services overlay is that once such an overlay has been adopted in the first instance, all subsequent overlays merely result in the creation of new area codes without further disruption of dialing patterns. If the Commission were to order a geographic split, it would, at best, be postponing the inevitable change to 10-digit local dialing throughout the Kansas City metropolitan area. Based on the evidence presented in this case, therefore, ExOp strongly urges the Commission to adopt an all-services overlay in the 816 NPA to alleviate the shortage of new NXX codes.

WHEREFORE, ExOp of Missouri, Inc. respectfully requests that the Commission accept the foregoing as ExOp's Brief in this case.

Respectfully submitted,

SPENCER FANE BRITT & BROWNE LLP



Peter Mirakian III, Mo. Bar 47841
1000 Walnut, Suite 1400
Kansas City, MO 64106-2140
(816) 474-8100 (telephone)
(816) 474-3216 (facsimile)
e-mail: pmirakian@spencerfane.com

ATTORNEYS FOR EXOP OF MISSOURI, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Brief has been served via U.S. mail, facsimile, or electronically on the persons listed below, on this 18th day of September, 2000.

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Edward J. Cadieux/Carol Keith
Gabriel Communications, Inc.
1600 Swingley Ridge Road, Suite 500
Chesterfield, MO 63006

Lee S. Adams/Cheryl Twitt/Kimberly Wheeler
Morrison & Foerster LLP
2000 Pennsylvania Avenue, Suite 5500
Washington, DC 20006

Linda K. Gardner
Sprint Missouri, Inc.
5454 West 110th Street
Overland Park, KS 66211

Carl J. Lumley/Leland B. Curtis
Curtis Oetting Heinz Garrett & Soule PC
120 South Bemiston, Suite 200
St. Louis, MO 63105

Kevin Zarling
AT & T Communications of the Southwest, Inc.
919 Congress, Suite 900
Austin, TX 78701

Paul S. DeFord
Lathrop & Gage
2345 Grand Boulevard
Kansas City, MO 64108

James M. Fischer/Larry W. Dority
Fischer & Dority, P.C.
101 West McCarty Street, Suite 215
Jefferson City, MO 65101

W.R. England III
Brydon Swearengen & England
312 East Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102

Dana K. Joyce, General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102


Craig S. Johnson
Andereck Evans Milne Peace & Johnson
301 East McCarty Street
P.O. Box 1438
Jefferson City, MO 65102

Mark W. Comley
Newman Comley & Ruth
601 Monroe Street
P.O. Box 537
Jefferson City, MO 65102-0537

James F. Mauze
Thomas E. Pulliam
Ottosen Mauze Leggat & Belz, L.C.
112 South Hanley Road
St. Louis, MO 63105-3418

Paul G. Lane/Leo J. Bub
Anthony K. Conroy/Mimi B. MacDonald
Southwestern Bell Telephone Company
One Bell Center, Room 3510
St. Louis, MO 63101

Kenneth L. Ludd
13075 Manchester Road 100N
St. Louis, MO 63131



Pete Mirakian