

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

In the Matter of a request for the Modification of the            )  
Springfield Metropolitan Calling Area Plan to Make the        ) Case No. TO-2005-0143  
Ozark Exchange Part of the Mandatory MCA Tier 2.            )

**DISSENTING OPINION OF COMMISSIONER CONNIE MURRAY**

In its April 11, 2006 Order, the Commission denied AT&T Missouri's and CenturyTel's Motions to Dismiss that challenged the Commission's authority to alter Metropolitan Calling Area (MCA) Plans. I agree with the movants' arguments and believe that the Commission's Order exceeds its authority.

Section 392.200.9<sup>1</sup>, provides the Commission with authority to modify or alter existing local exchange boundaries as follows:

"This act shall not be construed to prohibit the commission, upon determining that it is in the public interest, from altering local exchange boundaries, provided that the incumbent local exchange telecommunications company or companies serving each exchange for which the boundaries are altered provide notice to the commission that the companies approve the alteration of exchange boundaries."

In order for the Commission to alter local exchange boundaries, it must find that it is in the public interest and that the ILECs have provided notice that they approve of the alteration. Instead of attempting this simple analysis, the Commission merely stated that the parties' argument failed because Public Counsel's proposal "would not be changing an exchange boundary. The expansion would be accomplished by including the entire Ozark exchange." Basically, the Commission is asserting that by including all


---

<sup>1</sup> Section 392.200.9, RSMo Supp. 2005.

of the Ozark exchange into the Springfield MCA, no boundaries are changing. This is nonsensical. It is obvious that the Springfield MCA, with its local exchange boundaries, is now going to "change" to include the town of Ozark so that calls between Ozark and Springfield will no longer be toll calls. Because AT&T Missouri and CenturyTel did not approve the alteration, this is a clear violation of Section 392.200.9. The Commission cannot lawfully force an expansion of the MCA boundaries without the consent of the ILECs whose boundaries will change.

This Commission has no legal authority beyond that which is granted by statute. When a statute speaks specifically to an issue, we cannot rationalize our way around it by citing to our general authority to oversee telecommunications companies. I must, therefore, respectfully dissent.

**Respectfully submitted,**

  
Connie Murray, Commissioner

Dated at Jefferson City, Missouri  
on this 14<sup>th</sup> day of April, 2006.