

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

In the Matter of the Determination of Prices, Terms,)      Case No. TO-2001-440  
and Conditions of Line Splitting and Line Sharing. )

**AT&T'S COMMENTS ON IMPACT OF  
FCC'S TRIENNIAL REVIEW DECISION**

AT&T Communications of the Southwest, Inc. and AT&T Local Services on behalf of TCG St. Louis, Inc. and TCG Kansas City, Inc. ("AT&T"), pursuant to the Commission's Order Directing Filing, dated March 31, 2003, hereby submit the following comments regarding the impact of the FCC's Triennial Review Decision on this proceeding.

On February 20, 2003, the Federal Communications Commission ("FCC") issued a 2-page press release and a 4-page attachment in which the FCC explains, at a very high level, the decisions it has reached in its Triennial Review proceeding. Importantly, the actual FCC Order in the Triennial Review proceeding has not yet issued. As the Commission is aware, FCC Orders are typically very detailed, and the Triennial Review Order is expected to run hundreds of pages. The detail surrounding the reported, high-level Triennial Review decisions laid out in the Press Release and attachment has yet to be revealed. Such detail will inevitably be relevant to the assessment of impact of the Triennial Review Order on this proceeding. Therefore, prior to the issuance of the Order itself, no party can definitively state what the impact of that order will be on any particular issue or proceeding. At this point, parties would necessarily be speculating as to the specific requirements that will be set forth in the actual text of the Order.

Accordingly, any conclusion as to how this proceeding is impacted by that decision must await the issuance of the FCC's Order.

As an example, based upon the press release and attachments, the FCC has made the following statements regarding line sharing. In the Press Release, the FCC states: "the Commission will no longer require that line-sharing be available as an unbundled element." In the attachment to the Press Release, the FCC provides further information and states that:

Line Sharing – The high frequency portion of the loop (HFPL) is not an unbundled network element. Although the Order finds general impairment in providing broadband services without access to local loops, access to the entire stand-alone copper loop is sufficient to overcome impairment. During a three-year period, competitive LECs must transition their existing customer base served via the HFPL to new arrangements. New customers may be acquired only during the first year of this transition. In addition, during each year of the transition, the price for the high-frequency portion of the loop will increase incrementally towards the cost of a loop in the relevant market.<sup>1</sup>

According to these statements, it would appear that the FCC Order will provide for a transition toward the elimination of line sharing as an unbundled network element, but line sharing will continue to be available for at least one year, even if it is ultimately phased out.

Moreover, in his press statement, Commissioner Copps expressed dissatisfaction with the line sharing decision, stating:

There are aspects of this Order that are certainly not my preferred approach, but which I have had to accept in order to reach compromise. In particular, there is the decision to eliminate access to only part of the frequencies of the loop as a network element. I would have preferred to maintain this access, also known as line sharing. I believe that line sharing has made a contribution to the competitive landscape. Instead of recognizing this contribution and encouraging it, we provide today only an extended transition period to allow competitors to purchase the entire loop

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<sup>1</sup> Attachment to the FCC's February 20, 2003 Press Release, p. 2.

facility as a network element, or to pair with a voice provider, to offer the full range of services to a customer.<sup>2</sup>

In addition, Chairman Powell and Commissioner Abernathy explicitly dissented on the line sharing portion of the Order. It is unclear how these opinions (which actually represent at least a 3-2 opinion in favor of line sharing) will impact the final written FCC order.

Accordingly, AT&T would caution the Missouri Commission against making any decisions to close or narrow the scope of this docket until the FCC issues the full text of the Triennial Review Order. At this point, it is simply premature to reach any conclusions regarding the impact of the Triennial Review decision on the line sharing issues in this proceeding. Once the Order has issued, the Commission should solicit comments on the impact of the actual Order on this proceeding.

With respect to line splitting, the FCC Press Release and attachment simply do not address line splitting. It would appear that the FCC has made no change to its previous rulings on line splitting. Accordingly, at this point, the FCC Order does not appear to have any effect on the line splitting issues raised in this proceeding.

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<sup>2</sup> Press Statement of Commission Michael J. Copps, Approving in Part, Concurring in Part, Dissenting in Part, p. 2.

Respectfully submitted on this 21<sup>st</sup> day of April, 2003.

**AT&T COMMUNICATIONS OF  
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LOCAL SERVICES ON BEHALF OF  
TCG ST. LOUIS, INC. AND TCG  
KANSAS CITY, INC.**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing document were served on all parties on the Service List by U.S. Mail on April 21, 2003.

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