

Exhibit No.
Issues: Tariffs
Witness: Graves
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Sponsor: MCI
Case No. TO-2002-129
Date: 07-27-05

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of AT&T Communications of the Southwest, Inc.'s Proposed Tariff to Establish a Monthly Instate Connection Fee and Surcharge)	Case No. TT-2002-129
In the Matter of Sprint Communications Company, L.P.'s Proposed Tariff to Introduce an In-State Access Recovery Charge and Make Miscellaneous Text Changes.)	Case No. TT-2002-1136
In the Matter of MCI WorldCom Communications, Inc.'s Proposed Tariff to Add an In-State Access Recovery Charge and Make Miscellaneous Text Changes.)	Case No. XT-2003-0047
In the Matter of MCI WorldCom Communications, Inc.'s Proposed Tariff to Increase its Intrastate Connection Fee to Recover Access Costs Charged by Local Telephone Companies.)	Case No. LT-2004-0616
In Re the Matter of Teleconnect Long Distance Services and Systems Company, a MCI WorldCom Company d/b/a Telecom USA's Proposed Tariff to Increase its Intrastate Connection Fee to Recover Access Costs Charged by Local Telephone Companies.)	Case No. XT-2004-0617

**SURREBUTTAL TESTIMONY OF
ANDREW M. GRAVES
ON BEHALF OF MCI WORLDCOM COMMUNICATIONS, INC. AND
TELECONNECT LONG DISTANCE SERVICES AND SYSTEMS COMPANY**

**Carl J. Lumley, #32869
Leland B. Curtis, #20550
130 S. Bemiston, Suite 200
St. Louis, Missouri 63105
(314) 725-8788
(314) 725-8789 (FAX)
clumley@lawfirmemail.com
lcurtis@lawfirmemail.com
ATTORNEYS FOR: MCI WorldCom Communications, Inc.
and Teleconnect Long Distance Services and Systems Company**

July 27, 2005

1 **Q. Please state your name.**

2 A. My name is Andrew M. Graves.

3 **Q. Are you the same Andrew M. Graves that filed direct testimony in this proceeding?**

4 A. Yes.

5 **Q. What is the purpose of your surrebuttal testimony?**

6 A. I respond to the rebuttal testimony filed by Staff witness Voight and Public Counsel
7 witness Meisenheimer.

8 **Q. What part of Mr. Voight's rebuttal testimony do you wish to address?**

9 A. On page 5, Mr. Voight discusses the impact of Senate Bill 237 upon the prior holding of
10 the Court of Appeals regarding the tariffs at issue in this proceeding. I would observe
11 that Senate Bill 237 does seem to make a pertinent change in the statutes, in that new text
12 added to Section 392.500 indicates that subsection 1 of Section 392.200 will no longer
13 apply to rate changes under Section 392.500. Additionally, new section 392.200.12
14 indicates that subsections 1 through 5 will not apply to packages of services, which
15 would seem to have a bearing upon arguments about exempting local customers from the
16 interexchange fee at issue. And at least in some instances customer-specific pricing for
17 business customers will be authorized under subsection 392.200.8. New text in section
18 392.245.1 may have a bearing upon arguments about the reasonableness of rates in some
19 instances. For example, even with the surcharge MCI's rates are less than SBC's capped
20 daytime rates of 0.27 for residents and 0.302 for businesses¹ and, therefore, would seem
21 to be presumptively reasonable under the statute. And changes in section 392.245.5

¹ SBC Missouri Mo PSC Tariff No. 26, 24th revd sheet 21 (effective 7-15-04).

1 would also seem to have a bearing upon the differences between business and residential
2 services. I will leave it to the attorneys to argue these points. I simply wanted to point out
3 that it appears that there will be pertinent changes in statutory language as of August 28,
4 2005.

5 **Q. What parts of Ms. Meisenheimer's rebuttal testimony do you wish to address?**

6 A. I will respond to the part of her testimony that is a direct response to MCI, as well as the
7 part of her testimony that is labeled as responsive to all of the IXC fees at issue in the
8 case.

10 **Q. Do you have any general observations regarding Ms. Meisenheimer's testimony?**

11 A. Yes. It does not appear that Ms. Meisenheimer has any background regarding marketing
12 or competitive pricing. The background she describes appears to be exclusively based
13 upon "traditional" utility regulation of earnings and rate design. Second, her testimony is
14 long on unsubstantiated commentary and short on factual information.

16 **Q. On pages 8-11, Ms. Meisenheimer summarizes her "specific objections" to MCI's
17 rate design. How do you respond?**

18 A. First, she objects to the fact that the fee at issue can apply "even in cases in which
19 customers have no instate calling." She also objects to the use of a flat rate when
20 underlying costs are charged on a per-minute basis. As evident throughout her testimony,
21 Ms. Meisenheimer confuses the way in which companies set end user rates with the way
22 in which costs are determined. For example, the majority of the industry currently offers

1 "all you can eat" plans, where consumers purchase a flat rated bucket of minutes covering
2 all of their transactions. The company determines how to recoup its costs for providing
3 the service based on estimates of gross usage volumes for all of its customers. The market
4 dictates that flat rates must be used more and more, in order to satisfy customer demands
5 and expectations. While there cannot be a perfect match between usage sensitive costs
6 and flat rates, experience has allowed MCI to estimate these costs and develop pricing
7 plans accordingly. As to her point that the result can be that "customers who use less will
8 pay proportionately more", I would observe that this principal applies throughout our
9 economy as a result of the myriad forms of available volume discounts. I would also
10 point out that subsection 392.200.5 expressly authorizes volume discounts. Further,
11 customers are free to alter their usage and do so all the time, so there really is no set class
12 of "customers who use less".

13
14 Next, she argues that MCI cannot consider the differential between interstate and
15 intrastate access rates without taking into account the Federal Subscriber Line Charge.
16 What she fails to disclose is that MCI as an IXC does not receive the Federal Subscriber
17 Line Charge, as it applies to local bills and is recovered by LECs. So it is in fact
18 appropriate for MCI to ignore an unavailable revenue stream when it designs its
19 interexchange rates. Moreover, the existence of the SLC is yet another reason why it is
20 perfectly appropriate to exempt MCI's own local customers from the fee at issue,
21 notwithstanding Ms. Meisenheimer's seemingly inconsistent objection to that exemption.
22 Further, the SLC demonstrates the propriety of using a flat surcharge.

1
2 Ms. Meisenheimer also objects to the fact that the fee only applies to residential
3 customers. But the nature of her arguments on this point later in her testimony
4 demonstrate that her argument could only hold sway if the Commission were to conclude
5 that all existing rate differences between residential and business customers are unlawful
6 and unreasonable (including, for example, the SBC long distance rates cited above). In
7 fact, the legitimacy of rate designs that treat residential and business customers
8 differently is so well established that it is hard to give serious attention to Ms.
9 Meisenheimer's objection. Even the most recent changes to the Missouri
10 telecommunications statutes confirm that business and residential customers are distinct
11 customer classes. (See 392.200.8 and 392.245.5). At bottom, her objection is simply
12 another unsubstantiated attack on the discretionary business judgment of the companies
13 regarding rate design.

14
15 Ms. Meisenheimer makes the fallacious argument that the fee effectively discriminates
16 against rural customers who cannot qualify for the local exemption, when in fact any long
17 distance customer that is not also a local customer is not eligible for the exemption,
18 regardless of where they live, whether urban or rural.

19
20 Finally, Ms. Meisenheimer contends that MCI's direct evidence is inadequate and,
21 without explanation, asserts that the surcharge does not meet the standards of subsections
22 4(1) and 5 of Section 392.200. While our attorneys will address the statutes in argument

1 and brief, I feel that I should at least point out that subsection 4(1) has nothing to do with
2 this case, as MCI does not propose to define a service as different based upon geographic
3 area or market segmentation. It also does not appear to me that subsection 5 applies, and
4 again I would note the potential impact of Senate Bill 237 in the immediate future. The
5 service at issue is the same in all areas and has a rate design that properly takes various
6 conditions and circumstances into account.

7
8 Regarding our direct evidence, notwithstanding Ms. Meisenheimer's unsubstantiated
9 comments, I submit that the companies have all demonstrated that the fees in question are
10 lawful, just and reasonable. She contends that our explanation of the thought process that
11 led to the fees in question is "brazen" and "compelling", but does not offer any
12 explanation. She issues vague warnings about opening the "floodgates", but she offers no
13 details. Public Counsel's position appears to be that the Commission was wrong in
14 finding interexchange services to be competitive, yet the Commission's decision in Case
15 No. TO-88-142 states that Public Counsel stipulated to the point. Since 1988 long
16 distance rates have consistently moved downward. As reported in the FCC's 2005
17 Reference Book, the average revenue per minute from long distance calling has fallen
18 from 15 cents in 1992 to 7 cents in 2003, a decrease of 53%. Further, the Reference
19 Book at page iv states "During 2004, the consumer price index for interstate toll service
20 fell 8.7% and the consumer price index for intrastate toll service fell 6.6%, while the
21 overall consumer price index rose 3.3%." It would seem indisputable that competitive

1 market forces are keeping long distance rates reasonable, despite Public Counsel's
2 attempts to "sound an alarm."

3 **Q. At pages 11-16, Ms. Meisenheimer provides her general observations regarding**
4 **access recovery surcharges. First, she responds to Mr. Rhinehart's testimony about**
5 **the Commission's authority. Do you have a reply?**

6 A. Yes. As I indicated above in response to Mr. Voight's testimony, it would appear that
7 there are statutory changes that will take effect on August 28, 2005 and that will have a
8 bearing upon the Commission's authority regarding these tariffs. I would also observe
9 that Section 392.185 does not appear to be an independent source of authority, but rather
10 a source of interpretative guidance. I do not mean to argue these points, as the attorneys
11 can present our legal arguments. I simply want to alert the Commission that this is a
12 point of controversy.

13
14 **Q. Next Ms. Meisenheimer responds to Mr. Appleby's testimony regarding the**
15 **competitive nature of the long distance market. How do you reply?**

16 A. Ms. Meisenheimer does not dispute that the Missouri long distance market is competitive,
17 or "highly competitive" to use Mr. Appleby's words. Instead she skirts the issue and
18 hypothesizes that it might be possible to have unreasonable rates in a competitive market.
19 In doing so, she ignores all the facts presented by the companies regarding the overall
20 decline in long distance rates and diminished reliance upon usage charges due to
21 competition. She totally misses the point that customers will change providers if their
22 current carrier's rates become unreasonable. She totally ignores the statutory intent (set

1 forth in the statute she cites on the same page) to allow competition to substitute for
2 regulation to assure that rates are reasonable, and instead argues that the Commission
3 should analyze the rates in question without regard to the level of competition in the
4 market, stating that "section 392.200 contains no excuse for competition." This statement
5 exemplifies her unfortunate bias towards a traditional monopoly regulatory approach that
6 has no application to the long distance market of 2005.

7 **Q. At page 12, Ms. Meisenheimer discusses the companies' compliance with state and**
8 **federal rules. How do you respond?**

9 A. I would simply observe that she tacitly admits that the companies all have complied with
10 state and federal rules. MCI's charges are clearly stated on its bills and customers are able
11 to call 1-888-624-5622 toll free or access the company website at www.mci.com/service
12 to obtain additional information.

13 **Q. At page 13, Ms. Meisenheimer again criticizes the companies for charging different**
14 **rates to residential customers than to business customers. How do you respond?**

15 A. She admits on page 14 that these are two different customer classes. And of course they
16 are, and have been recognized as such for years. One would not think that Ms.
17 Meisenheimer would want residential customers to have to pay the same local rates as
18 small businesses, yet that is the direction her testimony would lead the Commission. It is
19 not discrimination to charge different rates to different classes of customers, regardless of
20 cost considerations. The companies have the business discretion to develop different
21 rates for different classes of customers. As the other IXC witnesses have testified,

1 different parts of the companies are responsible for making such decisions and that is
2 because totally different analyses are involved.

3
4 **Q. At page 14, Ms. Meisenheimer again criticizes the exemption afforded to local**
5 **customers. How do you reply?**

6 A. Again, she totally ignores the facts and makes a nonsensical argument. Local residential
7 customers are exempted because there is a cost difference. On the prior two pages of her
8 testimony, she argues that we cannot charge different rates to different classes of
9 customers without showing a cost difference, yet now she argues that we cannot charge
10 different rates to customers within the same class when there is an indisputable cost
11 difference. Basically, Ms. Meisenheimer shows over and over that she does not like our
12 surcharges and based solely on her personal preference contends that the Commission
13 should override the market and reject them. But any customer that shares her preference
14 can simply change carriers - they do not have to come to the Commission and try to make
15 a mountain out of a molehill.

16
17 Further, as I have already testified, there is no basis for her conclusion that there is
18 different treatment of rural customers versus urban customers.

19
20 **Q. At page 15, Ms. Meisenheimer argues that the difference between interstate access**
21 **and intrastate access rates is irrelevant. How do you respond?**

1 A. Her opinions would no doubt be different if she had to pay switched access rates. I have
2 not delved into the record in the TR-2001-65 case, as she purports to have done (she does
3 not support any of her assertions with citations). But I have examined the Commission's
4 Order - and I understand that it is the Commission that decides what the evidence in a
5 case shows, not the parties. As I quoted in my direct testimony (p. 17-18), the
6 Commission found that Missouri switched access charges are problematical. To quote
7 another portion (p. 20) of the Commission's Order, "The evidence is persuasive that
8 access rates are high in comparison to costs for all of the LECs." Ms. Meisenheimer
9 would apparently have written the order differently, but that is not her prerogative.

10
11 IXCs pay different switched access rates depending on whether a call is interstate or
12 intrastate. They are entitled to charge different rates for such calls. They are entitled to
13 exercise their business discretion in deciding how to do that, including by choosing to use
14 a combination of usage charges and flat rates.

15 **Q. Finally, at page 16 Ms. Meisenheimer purports to sponsor a schedule to illustrate**
16 **"absurd results and discriminatory effects." How do you respond?**

17 A. She offers no explanation of the purported illustration. What I see is that customers with
18 lower volumes can effectively have a higher rate per minute. That is a very normal
19 pricing structure. And it is certainly to be expected when there is a combination of flat
20 and usage sensitive rates. I also see that there can be instances where customers with no
21 intrastate calling in a particular month will pay the fee. Again, that is simply part of the
22 rate design. Finally, I see that local customers do not pay the fee, which is of course true

1 because they are not subject to it for the reasons set forth herein and in the direct
2 testimony of all the company witnesses.

3
4 **Q. Do you have anything further to say at this time?**

5 A. I have reviewed the Commission's recent comments to the FCC and am aware that
6 at least some Commissioners seem to share Public Counsel's general dislike for
7 surcharges. I find that most unfortunate. There is no distinction in terms of financial
8 impact on customers between the various surcharges that the government places on
9 telephone bills and company surcharges. A dollar is a dollar to the customer. There is no
10 sound reason for government to be willing to utilize such surcharges for its purposes, but
11 then turn around and restrict use of them in a competitive market. A debate over the
12 clarity of specific charges may certainly be appropriate, but that is not the issue here. As
13 the FCC has concluded in its *Second Report and Order, Declaratory Ruling, and Second*
14 *Further Notice of Proposed Rulemaking*, In the Matter of Truth-in-Billing and Billing
15 Format, CC Docket No. 98-170 (March 18, 2005), companies have a legitimate right to
16 make use of such surcharges as part of their rate designs. The Commission should abide
17 by that decision and not allow personal biases and preferences such as those put forth by
18 the witness for Public Counsel to override the varied desires of customers that are being
19 addressed fairly in the competitive market. Companies must be allowed the discretion to
20 design their competitive rates in the way they conclude will work best. Customers (and
21 competitive responses) will determine whether or not the companies make good
22 decisions. If companies make mistakes, the market will correct them very quickly and

1 often permanently, as a customer lost due to dissatisfaction is a customer that is quite
2 difficult to regain.

3 **Q. Does this conclude your surrebuttal testimony?**

4 **A. Yes.**