

DISSENTING STATEMENT OF  
 COMMISSIONER JAMES H. QUELLO  
 IN RE: SPRINT AND SPLS TARIFF FILINGS

I am in agreement with the majority that SPRINT Option IV and SPLS Option III do not constitute acceptable private line offerings as contemplated in the Specialized Common Carrier docket.<sup>1/</sup> However, I do not believe it is necessary to follow the majority's rationale in order to reach that conclusion.

I am in basic disagreement with my colleagues regarding two fundamental definitions. First, I disagree that the intercity portions of all the offerings are not "common use" of circuits and, further, I disagree that such use is within the definition of private line service. Second, I am at a loss to explain why the definition of "dedicated" with reference to private line service is so illusive.

The intercity portions of all of the proposed options in both SPRINT and SPLS can only be described as being in "common use" when any customer of a given service has access to all of the circuits available to any other customer subscribing to the same service. The only uncommon element is that the range of customers need have no identical interests except in the use of the same intercity circuits.

Any reasonable definition of "dedicated" must include reference to the private use of a customer if it is to retain any meaning in the present context. If service is to be substituted for customer, as the majority insists, then the vast MTS network is certainly "dedicated" to MTS. Once the principle has been established, it would appear to settle the matter unless, of course, we are to carve out some artificial distinction on the basis of sheer size alone. If so, where and upon what bases are the lines to be drawn?

I have supported virtually all of the Commission's actions favorable to a competitive environment in the telecommunications industry. I continue to favor competition in the non-monopoly services, including the private line services. I do not believe, however, that it serves any useful public purpose to rewrite the dictionary in an effort to persuade ourselves that we are not beginning to intrude into areas in which the Commission has categorically stated that it did not wish to intrude.<sup>2/</sup>

<sup>1/</sup> Specialized Common Carrier Services, 29 FCC 2d, 870

<sup>2/</sup> WATS, like MTS, is not subject to competition, pursuant to the Specialized Common Carrier decision, 20 FCC 2d, 870

The various services proposed here can be distinguished from MTS and WATS, even SPRINT Option IV and SPLS Option III. The Commission foresaw such potential difficulties and wisely made references to facilities dedicated to the customer's private use. In our Execunet decision, we noted that "...the private line service must be provided via facilities which are in some significant respect dedicated to the private use of the customer and not used or usable for public communications services." <sup>3/</sup> (emphasis added) When the meaning of "private use" is perverted to mean use by a range and variety of customers, however, then the term has no useful meaning for our purposes.

The integrity of our nation's message telephone service is of such importance to the well being of all of us that I believe if we are to err, as I think we have in this instance, we should err on the side of caution.

Therefore, I dissent.

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<sup>3/</sup> MCI Telecommunications Corporation, 60 FCC 2d, 42