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November 10, 1999

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

FILED³

NOV 10 1999

Missouri Public
Service Commission

Re: Case No. AX-2000-113

Dear Judge Roberts:

Enclosed for filing with the Missouri Public Service Commission in the above-referenced case is an original and 14 copies of Southwestern Bell Telephone Company's:

1. Motion to Accept Reply Comments; and
2. Reply Comments

Thank you for bringing this matter to the attention of the Commission.

Very truly yours,

Leo J. Bub /tm

Leo J. Bub

Enclosure

cc: Attorneys of Record

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

FILED³
NOV 10 1999

In the Matter of the Proposed Rule 4 CSR)
240-2.065 Practice and Procedure - Tariff)
Filings Which Create Cases.)

Case No. AX-2000-113
Missouri Public
Service Commission

**SOUTHWESTERN BELL TELEPHONE COMPANY'S
MOTION TO ACCEPT REPLY COMMENTS**

Southwestern Bell Telephone Company, pursuant to 4 CSR 240-2.080(12), respectfully moves the Missouri Public Service Commission to accept Southwestern Bell's Reply Comments in this rulemaking. In support of its Motion, Southwestern Bell states:

1. On September 1, 1999 the Commission initiated this rulemaking by publishing proposed procedural rule changes in the October 1, 1999 Missouri Register, Vol. 24, No. 19. In its instructions published with the proposed rule, the Commission indicated that "anyone may file a statement in support or opposition to this proposed rule" and that such comments were to be filed by November 1, 1999. No provision, however, was made for the filing of Reply Comments and the Commission specifically stated that "no public hearing is scheduled" in this rulemaking.

2. Under the Commission's current rulemaking procedures, there are provisions under which the Commission may receive reply comments. 4 CSR 240-2.180(4) provides that the Commission may either provide for the submission of comments on a proposed rule by a specific date not less than 30 days after the publication date; or "for both a written comment period and hearing." Under 4 CSR 240-2.180(6), "hearings on rulemaking may be for commissioner questions or for the taking of initial or reply comments." (emphasis added). And the Commission typically provides parties such an opportunity to express their views in rulemakings. For example, the Commission provided for public hearings in its recent

rulemakings on proposed Safety Standards (4 CSR 240-18.010); Surety Bonding Requirements (4 CSR 240-32.110); Snap-Back Procedures (4 CSR 240-32.120); and Billing Practices (4 CSR 240-33.010-33.140). (See, October 1, 1999 Mo. Register, Vol. 24, No. 19, pp. 2340-2377).

3. Here, no hearing has been scheduled which would allow parties to present their views on the comments filed by other parties.

4. Southwestern Bell, after reviewing comments filed by other parties in this rulemaking, has concerns about certain proposals made in those comments and wishes to express them to the Commission.

WHEREFORE, Southwestern Bell respectfully requests the Commission to accept the Reply Comments being filed simultaneously with this Motion.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

BY

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

In the Matter of the Proposed Rule 4 CSR)
240-2.065 Practice and Procedure - Tariff) Case No. AX-2000-113
Filings Which Create Cases.)

**SOUTHWESTERN BELL TELEPHONE COMPANY'S
REPLY COMMENTS**

Southwestern Bell Telephone Company, pursuant to 4 CSR 240-2.080(12), respectfully submits the following Reply Comments to certain proposals made by other parties in this rulemaking:

1. The Commission, in its proposed rule 4 CSR 240-2.065, Tariff Filings, set out procedures for a public utility submitting a tariff "which constitutes a general rate increase request." The Office of the Public Counsel (OPC) suggests broadening the scope of this process to include not only general rate increases but "any tariff that affects residential rates" or that "affects the revenue of the company." OPC states that even a tariff that proposes a restructured rate design without an overall rate increase or is "revenue neutral" may still have a significant effect on the public and should be afforded the same comprehensive treatment as a tariff that proposes a general rate increase.

2. Southwestern Bell opposes OPC's suggestion because it would unnecessarily complicate the tariff filing process and significantly increase the workload of companies making tariff filings, Staff and the Commission. In addition, OPC's suggestion would be inappropriate as applied to price cap companies and to services that are transitionally competitive or competitive under Missouri statutes.

3. In the rules as proposed by the Commission, a requirement was added that a public utility which submits a "general rate increase" shall simultaneously submit its direct

testimony with the tariff. Expanding this rule, as OPC suggest, to apply whenever a company files a tariff that "affects residential rates" or "affects revenue of a company" -- even if it is a revenue neutral filing -- unnecessarily creates significant additional work both for the company submitting the filing and for the Commission and its Staff. Today, all utilities routinely submit tariff filings for new services or rate changes for existing services. In most cases, after general Staff review and comment, the Commission permits these filings to become effective within the statutory time frame. It is only when the Commission Staff or another party voices a concern with the proposed tariff (usually in a Motion filed with the Commission) does the Commission open a case. And it is only after the Commission determines that appropriate grounds for suspending a tariff for investigation does the case go forward and the need arises for testimony to be filed. Requiring the filing of direct testimony simultaneously with such routine tariff filings is unnecessary and not only creates work for the party filing the tariff, but also for Staff and the Commission itself, which would have to review that testimony.

4. Moreover, as Southwestern Bell indicated in its initial comments, the requirements set out in the proposed rule (including those for filing direct testimony with a tariff) should not apply to price cap regulated companies as they are controlled by Section 392.245 RSMo (1998 Supp.), which permits them to raise their maximum allowable rates under the conditions set out in the statute. Similarly, rate increases within a previously approved rate band for a transitionally competitive or competitive service pursuant to Sections 392.500 and 392.510 RSMo (1994) should not be subject to the proposed rule. And it appears that the Commission has already addressed such services at 4 CSR 240-10.070(2)(A), which states that increases within a previously approved rate band for a transitionally competitive or competitive service are not considered "general rate increases" subject to the minimum filing requirements for a general

rate increase request. The Commission, in this rulemaking, should recognize the mandates of Section 392.245 and similarly define "general rate increase request" to exclude tariff filings made by price cap companies raising the maximum allowable rate permitted under the statute.

WHEREFORE, Southwestern Bell respectfully requests the Commission to reject OPC's proposal to broaden the scope of the general rate increase process to apply to any tariff filings that merely "affect residential rates" or the "revenue of a company."

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

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CERTIFICATE OF SERVICE

Copies of these documents were served on the following parties by first-class, postage prepaid, U.S. Mail on November 10, 1999.

Leo J. Bub /tm

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