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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of Southwestern Bell)
Telephone Company tariffs to establish)
rate bands for services which have been) CASE NO. TR-94-364
found to be transitionally competitive.)

DISSENTING OPINION BY COMMISSIONER HAROLD CRUMPTON

I respectfully dissent from the majority in this case and support the recommendation of the Staff of the Missouri Public Service Commission (Staff) in support of rate bands for Operator Services and Common Line 800 services. Staff supported the proposed rate bands because they found the rate bands to not be anti-competitive. Staff testified that Common Line 800 Service showed a positive net present value. Further, Staff testified that Operator Services and MTS are complementary services and when treated as such, they recover CAP costs.

The majority finds that the minimums established must meet those statutory requirements of Section 392.400, Subsections 1 through 5. However, the majority erred in deciding that its decision in TO-95-56 should be the prevailing standard. Competitive markets have changed. MCI and Sprint United had a much smaller presence in 1989 in the markets for Operator Services and Common Line 800 substitutes. The goal of Section 392.400 is to promote a diverse supply of efficiently delivered, universally available telecommunications services at widely affordable, reasonable prices in a market where full and fair competition acts as the market regulator consistent with the protection of ratepayers and consistent with the public interest. The Commission has a new role under Section 392.400, i.e., as a market place umpire, line judge, field judge, or referee.

Transitionally competitive and competitive offerings must have a range of prices available to the noncompetitive company. In the real

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world, the range may vary from one that recovers only the variable costs, to one that recovers variable costs plus an optimistic contribution to joint and common costs. Competitive companies have this latitude. In fact, on occasion, competitive telecommunications companies have exercised the option to lose money in order to attract business and retain market share. MCI and AT&T are formidable market powers when it comes to Operator Services and Common Line 800 substitutes. If it is wrong for the non-competitive company to offer services in a transitionally competitive market at prices that are subsidized by its other customers; then it is wrong for the competitive company to offer prices in the same market that are subsidized by its other customers? I am not suggesting that a noncompetitive company should be permitted to offer transitionally competitive services at prices subsidized by noncompetitive services. However, in competitive and transitionally competitive markets, noncompetitive companies must be allowed to act like competitive companies subject to regulatory review in order to prevent cross subsidization.

By what right does the regulator say that the competitive company can operate in a transitionally competitive market with a different set of rules? Who loses when the non-competitive company is denied access to the transitionally competitive market place by misguided and outdated regulations? The consumers lose! Witness the tariffs for operator services offered by two competitive providers:

(1) Provider A = \$4.50 per call person-to-person

(2) Provider B = \$1.00 per call person-to-person

What is the range offered by the tariff under question?

Proposed tariff = \$1.40 to \$3.50 per call person-to-person

Finally, I applaud the majority in finding that minimum rates for jointly-provided OUTWATS and 800 Services are consistent with full and fair competition. They are not making a finding as to the ratemaking

treatment to be accorded the company's revenues when a case involving the rates for noncompetitive services is before the Commission. Obviously, the majority should have used the same approach in its finding concerning Operator Services and Common Line 800 service.

Respectfully submitted,


Harold Crumpton, Commissioner

Dated at Jefferson City, Missouri
on this 31st day of March, 1995.