

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
October 9, 2001

CASE NO: TA-99-47

**Office of the Public Counsel**  
P.O. Box 7800  
Jefferson City, MO 65102

**James M. Fischer**  
101 Madison, Suite 400  
Jefferson City, MO 65101

**Kenneth A. Schiffman**  
Sprint Communications Company L.P.  
8140 Ward Parkway, 5E  
Kansas City, MO 64114

**Mary Ann (Garr) Young**  
William D. Steinmeier, P.C.  
P.O. Box 104595  
Jefferson City, MO 65110

**W.R. England, III/Sondra B. Morgan**  
Brydon, Swearngen & England  
P.O. Box 456  
Jefferson City, MO 65102

**Stephen F. Morris**  
MCI Telecommunications Corporation  
701 Brazos, Suite 600  
Austin, TX 78701

**General Counsel**  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**Craig S. Johnson**  
Andereck, Evans, Milne Peace & Baumhoer  
301 East McCarty Street, PO Box 1438  
Jefferson City, MO 63102

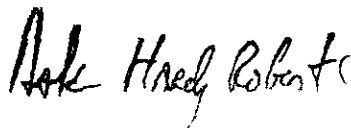
**Carl J. Lumley/Leland B. Curtis**  
Curtis, Oetting, Heinz, Garrett & Soule  
130 S. Bemiston, Suite 200  
Clayton, MO 63105

**Paul S. DeFord**  
Lathrop & Gage, L.C.  
2345 Grand Boulevard  
Kansas City, MO 64108

**Richard S. Brownlee, III**  
Hendren and Andrae  
221 Bolivar Street, PO Box 1069  
Jefferson City, MO 65102

Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,



**Dale Hardy Roberts**  
Secretary/Chief Regulatory Law Judge

Uncertified Copy:

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 9th day of October, 2001.

In the Matter of the Application of Southwestern Bell )  
Communications Services, Inc., d/b/a SBC Long )  
Distance, for a Certificate of Service Authority to ) **Case No. TA-2001-475**  
Provide Interexchange Telecommunications Services ) **Tariff No. 200100928**  
Within the State of Missouri. )

In the Matter of the Application of Southwestern Bell )  
Communications Services, Inc., d/b/a Southwestern Bell )  
Long Distance, for a Certificate of Service Authority to ) **Case No. TA-99-47**  
Provide Interexchange Telecommunications Services ) **Tariff No. 200100925**  
Within the State of Missouri )

**ORDER SUSPENDING TARIFFS, DIRECTING FILING OF  
PROCEDURAL SCHEDULE, SETTING PREHEARING CONFERENCE,  
AND CONSOLIDATING CASES**

This order suspends the tariffs of Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance and d/b/a SBC Long Distance. This order also directs the parties to appear for a prehearing conference, file proposed procedural schedules, and consolidates identical cases.

Southwestern Bell Communications Services, Inc., filed applications for interexchange authority in Case Nos. TA-99-47 and TA-2001-475. As part of those applications it submitted tariff filings (File Nos. 200100928 and 200100925). The proposed effective dates of those tariffs have been extended until October 20, 2001.

A motion to suspend the tariffs and an application to intervene was filed in each case on March 19, 2001, by the Missouri Independent Telephone Group (MITG). MITG

08

alleged potential problems with signaling, terminating access recording, terminating record creation, and terminating compensation business structures, as its reason for requesting a hearing for this tariff. MITG was granted intervention on September 13, 2001, in TA-2001-475, and on September 9, 1998, in TA-99-47.

AT&T Communications of the Southwest, Inc., filed an application to intervene and a request for hearing on April 2, 2001. AT&T suggested that any grant of authority to SBC should be conditioned upon compliance with Section 271 of the Federal Telecommunications Act of 1996. In addition, AT&T requested a hearing to examine whether the granting of the application and approval of the tariffs is in the public interest as required by Section 392.440, RSMo.

AT&T also filed a motion to consolidate Case Nos. TA-2001-475 and TA-97-47, and requested that the commission set a procedural schedule in this case. AT&T was granted intervention on September 13, 2001, in TA-2001-475, and on September 9, 1998, in TA-99-47. AT&T stated that the two cases at issue involve identical facts and law, and involve the same parties. Thus AT&T argues that the cases should be consolidated.

The Staff of the Missouri Public Service Commission filed a recommendation in each case, recommending that the Commission grant SBC its certificates and approve the tariffs with some modification. Staff objected, however, to the Commission granting SBC status as a competitive company.

SBC has responded to each of the allegations in the motions to suspend, and to Staff's recommendation that SBC not be granted competitive status. SBC argues that the

Commission has contemplated these issues in its Case No. TO-99-227<sup>1</sup>, and has determined that SBC's entry into the market is in the public interest.

The statutes clearly contemplate that the Commission will have a hearing on these issues if requested. Section 392.340, RSMo, states:

Except as provided in section 392.450, the commission shall approve an application for a certificate of local exchange or interexchange service authority upon a showing by the applicant, and a finding by the commission, *after notice and hearing*, that the grant of authority is in the public interest. (Emphasis added.)

And Section 392.361, RSMo, states in part:

In response to a petition filed. . .the commission shall afford all interested persons reasonable notice *and an opportunity to be heard* to determine whether a telecommunications company or service may be subject to sufficient competition to justify a lesser degree of regulation. (Emphasis added.)

AT&T and MITG have each requested that the Commission set this matter for hearing regarding the tariff issues and AT&T has also requested a hearing with regard to granting the certificate. Furthermore, there is a dispute between Staff and SBC with regard to classification as a competitive company. Southwestern Bell Communications argues that it should be granted competitive status but does state in its October 1, 2001, filing that "[s]hould the Commission have further questions that would keep it from granting the competitive status as requested herein, SBCLD would respectfully request an on-the-record presentation to address such concerns."

The Commission has reviewed the multiple motions, responses, replies, and recommendations of the parties. The Commission finds that significant questions have

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<sup>1</sup> *In the Matter of the Application of Southwestern Bell Telephone Company to Provide Notice of Intent to File an Application for Authorization to Provide In-region InterLATA Services Originating in Missouri Pursuant to Section 271 of the Telecommunications Act of 1996.*

been raised regarding the granting of a certificate to SBC and the granting of competitive status. The Commission also finds that questions regarding the proposed tariffs have been raised and that the tariffs should not become effective as filed until the issues regarding the certificate are resolved. The Commission determines that the tariffs should be suspended for further consideration pending the review of SBC's application. Therefore, the tariffs will be suspended for a period of 120 days.

In addition, because one of the issues in this case is the request for competitive status, and because Section 392.361.2, RSMo, contains a provision indicating that the Commission will make a determination "within nine months of the filing of the petition,"<sup>2</sup> the Commission will expedite the hearing procedure on this matter. The Commission also determines that the legal and factual issues are identical in these cases and in the interest of efficiency will consolidate them for hearing purposes. Case. No. TA-2001-475 will be designated as the lead case. The parties will be required to file pleadings in only the lead case.

The Commission will set a prehearing conference in this matter as directed below and will require the parties to file proposed procedural schedules. The proposed procedural schedules shall establish dates for the pre-filing of testimony according to Commission rule, as well as a date for the filing of an issues list and position statements. The proposed procedural schedule shall also establish dates for an expedited hearing of this matter. At the prehearing conference, the parties should be prepared to discuss which

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<sup>2</sup> The section further states that the Commission may extend its decision for good cause for up to two three-month periods.

party has the burden of proof with regard to granting of a certificate, granting competitive status, and approval of the tariffs.

**IT IS THEREFORE ORDERED:**

1. That the proposed tariff sheets filed by Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance assigned Tariff File No. 200100925 as substituted, are suspended for a period of 120 days beyond October 20, 2001, to February 17, 2002. The tariff sheets suspended are:

**P.S.C. Mo. No. 1**

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**Original Sheet No. 1 through Original Sheet No. 240**

2. That the proposed tariff sheets filed by Southwestern Bell Communications Services, Inc., d/b/a SBC Long Distance assigned Tariff File No. 200100928 as substituted, are suspended for a period of 120 days beyond October 20, 2001, to February 17, 2002. The tariff sheets suspended are:

**P.S.C. Mo. No. 1**

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**Original Sheet No. 1 through Original Sheet No. 240**

3. That a prehearing conference shall be held on October 19, 2001, beginning at 10:00 a.m. The prehearing conference shall be held in Suite 305, located in the office of the Missouri Public Service Commission in Jefferson City, Missouri, on the main floor of the Governor Office Building, 200 Madison Street. The Governor Office Building meets the accessibility standards required by the Americans with Disabilities Act. If any person needs additional accommodations to participate in the prehearing conference, please call the Missouri Public Service Commission's Hotline at 1-800-392-4211 (voice) or 1-800-829-7541 (TDD) prior to the hearing.

4. That the parties shall file a proposed procedural schedule no later than October 24, 2001. The procedural schedule shall include dates for the filing of testimony and for a hearing.

5. That Case Nos. TA-99-47 and TA-2001-475 are consolidated for hearing purposes. The lead case shall be Case No. TA-2001-475.

6. That this order shall become effective on October 19, 2001.

**BY THE COMMISSION**



**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

( S E A L )

Simmons, Ch., Murray, Lumpe,  
and Gaw, CC., concur.

Dippell, Senior Regulatory Law Judge

**STATE OF MISSOURI**

**OFFICE OF THE PUBLIC SERVICE COMMISSION**

**I have compared the preceding copy with the original on file in this office and  
I do hereby certify the same to be a true copy therefrom and the whole thereof.**

**WITNESS my hand and seal of the Public Service Commission, at Jefferson City,  
Missouri, this 9<sup>th</sup> day of Oct. 2001.**

*Dale Hardy Roberts*

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**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

