

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 March, 1993.

The Staff of the Missouri Public Service)	
Commission,)	
)	
Complainant,)	
)	
v.)	<u>Case No. TC-93-224</u>
)	
Southwestern Bell Telephone Company, a Missouri)	
corporation,)	
)	
Respondent.)	
)	

ORDER ADOPTING PROCEDURAL SCHEDULE AND
GRANTING AND DENYING INTERVENTIONS

On January 15, 1993, Commission Staff filed a complaint against Southwestern Bell Telephone Company (SWB) alleging that under traditional ratemaking methods SWB's current rates produce an excessive level of earnings in the range of \$100 million to \$150 million per year. The Commission gave notice of the complaint to SWB on January 20, 1993 and gave SWB until February 23, 1993 to answer the complaint, and to either concur in Staff's test year or recommend a different test year. On February 1, 1993 Staff filed prefiled direct testimony in support of the complaint. On February 23, 1993 SWB filed its answer and recommendation concerning the appropriate test year.

In its answer SWB denies that its earnings are excessive and contends that traditional ratemaking methods should not be utilized to review its revenue requirement. SWB contends that the Commission should analyze the benefits that have accrued to customers under the experimental incentive regulation plan adopted for SWB instead of the historical test year procedure proposed by Staff. SWB contends the State, customers and the company have received benefits,

including lowered or stable rates, shared earnings and improved services, which should be reviewed in determining whether it is earning excessive revenue.

In addition to its answer, SWB asserted several affirmative defenses to the complaint. SWB asserts that its earnings levels are consistent with the range of earnings approved for the current incentive regulation plan, Case No. TO-90-1. SWB asserts that other local exchange companies (LECs) in Missouri exhibit the same or similar characteristics as those cited by Staff to support the complaint and complaints have not been filed against those LECs.

In addition, amplifying its answer, SWB asserts that it was authorized to retain all earnings up to 14.1 percent return on equity (ROE) and share earnings above that level. SWB states it shared revenues with customers in 1990 and 1991. The computation of the ROE, SWB states, contained revenues from Southwestern Bell Yellow Pages, Inc. which should not be considered. SWB asserts that the incentive regulation plan has been a success and its earnings should be evaluated in light of that success and not on an historical test year, traditional ratemaking basis.

The Commission has considered Staff's complaint and SWB's answer and affirmative defenses and finds that there are factual issues to be resolved and that this matter should be set for hearing. How and whether the current incentive regulation plan affects this complaint is a question of fact, as is whether the revenues of Southwestern Bell Yellow Pages, Inc. should be imputed to SWB and if so, at what level. The other issues raised by SWB are also questions of fact that cannot be resolved without a full evidentiary hearing. The Commission will follow the agreement of the parties in Case No. TO-93-192 and adopt the same procedural schedule for this case as was proposed in that case, except that it will require the hearing memorandum in this case to be filed earlier and that a reconciliation be filed. In addition, the Commission will establish an intervention date.

Test Year

Staff in its complaint utilized a test year of calendar year 1991 updated through September 30, 1992. SWB in its answer states that if an historical test year is adopted, it should be the twelve months ending September 30, 1992, which SWB states would then be brought to year-end and pro forma adjustments applied for known and measurable changes. SWB then states it will use 1991 as its starting point. SWB states that it will file its testimony based upon what it considers the appropriate test year. SWB, finally, asserts that Staff has "fabricated" a test year most favorable to its position and therefore Staff's test year is not valid.

The Commission has considered this issue in previous cases and is unwilling to again be caught up in the test year game. A test year is a starting point from which all parties' cases must begin so that their cases can be reconciled when the case is submitted to the Commission for decision. For a party, such as SWB, to state that it will file its evidence based upon a certain test year other than the one ordered by the Commission, will not be tolerated. Test year recommendations are proposed to the Commission and the Commission adopts a test year based upon those recommendations. If a party wants its evidence considered, it will file that evidence based upon that test year.

The Commission will repeat here what it has described elsewhere with regard to the test year. The test year is a twelve-month period which is audited based upon a company's books for that period. Adjustments to the booked amounts are proposed utilizing annualizations, normalizations, ending balances or other appropriate methods. Updates of the test year, as Staff has proposed in this case, may be made to the test year for items where significant changes have occurred. These updates will be for specific items, not all company accounts, and will be to a certain date. Staff has followed this procedure in proposing a test year of calendar 1991 updated through September 30, 1992. Isolated

adjustments can be proposed for items beyond the updated period. These are items which a party contends are known and measurable and for which the adjusted numbers should be used to calculate the company's revenue requirement.

Any party, as SWB has suggested in answer, may object to the method of calculating the adjustments to test year amounts and any party may propose another method of calculating those adjustments. This, though, does not change the test year. A party which bases its case on a test year different from that adopted by the Commission risks losing issues based upon its noncompliance with the Commission's order.

In this case SWB asserts that Staff's update through September 30, 1992 does not properly match revenues, expenses and rate base. SWB does admit, though, that Staff updated the main components of rate base, plant and depreciation reserve, payroll expense, depreciation levels and revenues. What SWB objects to is that items such as nonwage-related expenses, income tax adjustments, deregulated services and the remaining components of rate base are not updated.

The Commission finds that Staff's test year is appropriate for reconciling the issues in this case. Staff's updates bring most major items forward to a reasonable date. To now move the test year as proposed by SWB would require Staff to audit the remaining items, and SWB has provided no indication that significant changes have occurred which would require these items to be reaudited. If there are isolated adjustments SWB wishes to propose to a later date, it may do so, but it must file its case based upon a test year of calendar year 1991 updated through September 30, 1992. This is the appropriate test year for this case.

Interventions

Applications to intervene have been filed by: MCI Telecommunications Corporation, Midwest Independent Coin Payphone Association (MICPA), AT&T Communications of the Southwest, Inc., Competitive Telecommunications Association of Missouri, United Telephone Company of Missouri, Northeast Missouri Rural Telephone Company, Mid-Missouri Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, MoKan Dial, Inc., Peace Valley Telephone Company, Alma Telephone Company, Missouri Cable Television Association (MCTA), and GTE North Incorporated, GTE Missouri, GTE of Eastern Missouri and GTE Systems of Missouri. On February 24, 1993 SWB filed a response opposing the intervention of MCTA.

The Commission will grant the applications to intervene except for MCTA. As stated in the denial of intervention of MCTA in Case No. TO-93-116, the Commission has no record that any cable television company holds a certificate of service authority to provide interexchange or local telecommunications service in Missouri and the fact they might potentially become a provider is not sufficient interest to separate their interest from that of the general public. The Commission will deny MCTA's intervention on that basis. MICPA will be subject to the same requirements as other parties with regard to discovery requests and failure to comply with relevant reasonable requests may result in its loss of status as a party.

The Commission has also determined that a copy of the press release concerning this case shall be sent to all members of the General Assembly who represent customers in SWB's service area, to all newspapers of general circulation, as listed in the newspaper directory of the current *Official Manual of the State of Missouri*, which serve SWB's service area, and to the County Commissions and municipal governments in SWB's service territory.

IT IS THEREFORE ORDERED:

1. That the following procedural schedule be hereby adopted for this proceeding:

Intervention deadline, Case No. TC-93-224	March 19, 1993
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Rebuttal testimony filed by SWB and other parties to the direct testimony of Staff regarding the earnings/rate level of SWB	May 3, 1993 (3:00 p.m.)
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Surrebuttal testimony filed by Staff to the rebuttal testimony of SWB and other parties regarding the earnings/rate level of SWB;	June 14, 1993 (3:00 p.m.)
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and

Cross-surrebuttal testimony filed to
respond to other parties' rebuttal
testimony

Prehearing conference concerning the earnings/rate level of SWB	June 28 - July 2, 1993 10:00 a.m. (first day)
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Hearing memorandum and reconcilia- tion, Case No. TC-93-224	July 7, 1993
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Hearings regarding earnings/rate level of SWB	July 12 - 23, 1993; and (if necessary) August 2 - 6, 1993 10:00 a.m. (first day)
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The prehearing conference and hearing shall be held in the Commission's hearing room on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

2. That any person with special needs as addressed by the Americans With Disabilities Act shall notify the Chief Hearing Examiner, Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102 [(314) 751-7497] at least ten (10) days prior to the hearing.

3. That the test year adopted for this case is calendar year 1991 as updated through September 30, 1993.

4. That intervention be hereby granted to MCI Telecommunications Corporation, Midwest Independent Coin Payphone Association (MICPA), AT&T Communi-

cations of the Southwest, Inc., Competitive Telecommunications Association of Missouri, United Telephone Company of Missouri, Northeast Missouri Rural Telephone Company, Mid-Missouri Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, MoKan Dial, Inc., Peace Valley Telephone Company, Alma Telephone Company, and GTE North Incorporated, GTE Missouri, GTE of Eastern Missouri and GTE Systems of Missouri.

5. That the application to intervene of Missouri Cable Television Association be hereby denied.

6. That notice of this matter shall be sent by the Information Office as described in this order.

7. That this order shall become effective on the date hereof.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

McClure, Chm., Perkins and
Kincheloe, CC., concur.
Rauch, C., dissents.
Mueller, C., absent.