

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY**

MAY 23, 1997

CASE NO: TW-97-333

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

Sincerely,



**Cecil L. Wright
Executive Secretary**

Uncertified Copy:

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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 23rd
day of May, 1997.

In the Matter of an Investigation into)
the Provision of Community Optional) CASE NO. TW-97-333
Calling Service in Missouri.)

ORDER GRANTING MOTION TO COMPEL AND ORDER SCHEDULING HEARING

On May 1, 1997, Southwestern Bell Telephone Company (SWBT) filed its Motion To Compel Responses To Data Requests. Within its motion SWBT alleges that the Small Telephone Company Group (STCG) and Mid-Missouri Telephone Company (MMTC) have failed or refused to provide full responses to SWBT's data requests Number 5 through 15. These data requests sought *inter alia* information about how these telephone companies (or their affiliates) use SWBT's community optional calling service (COS) when they order COS for their official company lines. Based upon the pleadings in this case, it would appear that both the MMTC and STCG have failed or refused to respond to SWBT's data requests. On May 5, STCG filed its response to SWBT's motion to compel data requests. STCG has stated that in consideration of the revised procedural schedule, it will respond to data requests #5-15. MMTC has not filed a response to SWBT's motion and is now out-of-time for filing any such response.

The purpose of discovery is to eliminate concealment and surprise in litigation. See Hilmer v. Hezel, 492 S.W.2d 395 (Mo. App. 1973). Discovery is equally important as a method of determining what the real issues are in order that trial preparation can be limited to only those issues which are truly contested, thereby saving the time and expense of unnecessary preparation and adjudication. Young the Frozen Foods

Express, Inc., 444 S.W.2d 35 (Mo. App. 1969). See also J.D.C. v. S.H.C., 719 S.W.2d 866 (Mo. App. 1986). The general scope of discovery is set by Mo. R. Civ. Pro. 56.01(b)(1) and provides that, except for privileged matters, partner may obtain discovery concerning any matter relevant to the subject matter involved in the pending action if it appears reasonably calculated to lead to the discovery of admissible evidence.

The Commission finds that the information requested by SWBT in data requests 5 through 15 may be relevant to this investigation and should be provided to SWBT forthwith. Inasmuch as no timely objection to the data request was filed by either recipient of the data requests by the deadline of April 27th, the answers to those data requests should have been provided not later than May 7, 1997. Therefore, that information shall be provided to SWBT immediately upon receipt of this order.

On May 1, 1997, the Commission issued an order changing procedural schedule in this case. That order was issued pursuant to the delegation rule by the administrative law judge to whom this case is assigned. The procedural issue which has yet to be addressed by the Commission is the official rescheduling of the evidentiary hearing in this matter. The Commission will reschedule the evidentiary hearing to commence at 10 a.m. on Monday, June 23, 1997, and to be continued to June 24 if necessary.

IT IS THEREFORE ORDERED:


1. That any response which has yet to be provided to the data requests 5 through 15 issued by Southwestern Bell Telephone Company on or about April 17, 1997, shall be provided by Mid-Missouri Telephone Company and the Small Telephone Group within two business days of the effective date of this order.

2. That the evidentiary hearing in this matter shall be rescheduled to commence at 10 a.m. on Monday, June 23, 1997, in Room 520B, Harry S. Truman office building, and shall continue through Tuesday, June 24, 1997, if necessary.

3. That any person(s) with special needs as addressed by the Americans With Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one of the following numbers: Consumer Services Hotline -- 1-800-392-4211, or TDD Hotline --1-800-829-7541.

4. That this Order shall become effective on May 23, 1997.

BY THE COMMISSION



Cecil I. Wright
Executive Secretary

(S E A L)

Zobrist, Chm., Murray,
and Drainer, CC., Concur.
Crumpton, CC., Absent

ALJ: Roberts

Atty/Sec'y:	<u>Robert / Priddy</u>
Date Circulated	<u>5-22-97</u> <u>TU-97-333</u>
CASE NO.	
Chairman	<u>W. S. Jr.</u>
Commissioner	<u>Albert</u>
Commissioner	<u>cm</u>
Commissioner	<u>ad</u>
Commissioner	
Agenda Date	<u>5-23-97</u>
Action taken:	<u>3-0, A/A</u>

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 23 day of May, 1997.



Cecil I. Wright
Cecil I. Wright
Executive Secretary