BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

Case No. TO-82-17

In the matter of the filing by Southwestern Bell Telephone Company of a tariff designed to withdraw its TELPAK service offering to customers in its Missouri service area.

APPEARANCES: Jack C. Lorenz, General Solicitor - Missouri, and Al Richter, Jr., Attorney at Law, 100 North Tucker, St. Louis, Missouri 63101, for Southwestern Bell Telephone Company.

Kent M. Ragsdale, General Counsel, P. O. Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

Mark W. Comley, Assistant Attorney General, Broadway State Office Building, 8th Floor, Jefferson City, Missouri 65101, for the State of Missouri.

Michael C. Pendergast, Assistant Public Counsel, 1014 Northeast Drive, Jefferson City, Missouri 65101, for the Office of the Public Counsel.

Joseph B. Moore, Assistant United States Attorney for the Eastern District of Missouri, Room 414, 1114 Market Street, St. Louis, Missouri 63101,

AND

Peter Prutzman, Attorney, DECCO Legal Office, Scott Air Force Base, Illinois 62225, for: Defense Commercial Communications Office of the Defense Communications Agency of the Department of Defense; the General Services Administration and all other Federal Executive Agencies pursuant to 40 USC Section 481.

REPORT AND ORDER

On June 24, 1981 Southwestern Bell Telephone Company (Company) of St. Louis, Missouri submitted to this Commission a tariff sheet designed to withdraw TELPAK service in its entirety on July 28, 1982. The tariff bore a requested effective date of July 28, 1981.

By its "Suspension Order" issued July 14, 1981, the Commission suspended the Company's TELPAK withdrawal tariff until November 25, 1981. By that Suspension Order, Bell was also directed to submit to the Commission for its approval, a proposal for notifying Bell's Missouri TELPAK customers of Bell's intention to withdraw TELPAK. By Order dated August 14, 1981, the Commission approved a form of notice submitted by Southwestern Bell and ordered Bell to mail such notice to its existing TELPAK customers.

On September 25, 1981, the State of Missouri filed its Application to Intervene in this case. On October 30, 1981, Southwestern Bell filed its "Response to Order," advising the Commission of its compliance with the Commission's Order of August 14, 1981 pertaining to notice to customers of this case.

On November 9, 1981, the Commission issued its "Second Suspension Order and Notice of Proceedings" in this case, further suspending the proposed tariff withdrawing TELPAK service from November 25, 1981 to May 25, 1982. That Order also established an intervention deadline of December 15, 1981, established deadlines for the filing of prepared testimony and exhibits by the parties to this case, set the matter for prehearing conference on March 3, 1982 and hearing on March 4 and 5, 1982, granted the State of Missouri leave to intervene in this case, and ordered Southwestern Bell to send notice to its existing TELPAK customers of the intervention deadline and the hearing dates established in the order. By Order of November 24, 1981, the Commission approved the form of the notice to be sent by Bell to its existing TELPAK customers pursuant to the Second Suspension Order of November 9, 1981. Southwestern Bell Telephone Company has complied with all directives of this Commission concerning notice to Bell's customers in this case.

On December 9, 1981, Southwestern Bell filed its "Request for Early Prehearing," asking the Commission to set an early prehearing conference in this case between the intervention deadline (December 15, 1981) and the Company's prefiling date (January 4, 1982). The Company expressed its belief that an early prehearing conference could potentially lead to either a joint recommended resolution of this case or an articulation of the specific issues to be presented to the Commission in testimony.

On December 14, 1981, Southwestern Bell Telephone Company filed its

"Request for Change in Schedule of Proceedings," requesting that the early prehearing conference previously asked for be set for January 5, 1982, and that the deadlines for the prefiling of direct testimony by the parties to this case be changed. The document recited that the originally suggested December dates for an early prehearing conference were not feasible for all those wishing to attend, and that since one purpose of the early prehearing conference could be to specify what issues should be addressed in prefiled testimony, the prefiling deadlines should be extended accordingly.

On December 16, 1981, the Secretary of Defense of the United States, through Washington counsel for the Defense Communications Agency and on behalf of the consumer interests of the Department of Defense, the General Services Administration and all other Federal Executive Agencies, filed a "Petition for Leave to Intervene of the Federal Executive Agencies."

On December 22, 1981, the Commission issued its "Order Setting Early Prehearing Conference and Changing Schedule of Proceedings." By that Order, the Commission established an early prehearing conference to be held on Tuesday, January 5, 1982, extended the filing deadlines for prepared testimony and exhibits for all parties to the case, moved the prehearing conference to March 29 and the hearing to March 30 and 31, 1982, and conditionally granted leave to intervene in the case to the Federal Executive Agencies of the United States, if said Agencies complied with the Commission's rules by January 5, 1982 by having their out-of-state counsel file necessary statements concerning bar membership, and by having a member of the Missouri Bar file an entry of appearance as associate counsel.

Mr. Joseph B. Moore, Assistant United States Attorney for the Eastern District of Missouri, notified the Commission's presiding officer on January 4, 1982 that he would be entering his appearance as associate counsel for the Federal Agencies in this case, and asked to be excused from participation in the early prehearing conference. He was so excused. Mr. Moore's written entry of appearance was filed on January 11, 1982. The statement concerning bar membership of out-of-state counsel for the Federal Executive Agencies was duly filed on January 14, 1982.

The early prehearing conference was held as scheduled on Janaury 5, 1982. During that conference, the parties agreed to a proposed stipulated settlement of this case. By letter filed January 8, 1982, counsel for Southwestern Bell advised the Commission of the stipulation, and of the fact that the parties had agreed to ask that the schedule for filing prepared testimony and exhibits be held in abeyance until such time as the Commission could rule on the stipulated settlement. The Company agreed to file its testimony within five (5) days after an order of the Commission disapproving the Stipulation. The Stipulation was also filed on January 8, 1982.

On January 11, 1982, the Commission issued its "Order Changing Date of Hearing and Suspending Schedule of Proceedings." By that Order, the hearing in this case was changed from March 30 and 31, 1982 to January 14, 1982, and counsel for each party was directed to be present at the hearing and prepared to summarize for the Commission the party's position in this case and as to the proposed Stipulation. Each party was also directed to have available at the hearing its witnesses for examination by the Commission or by the other parties. The January 11, 1982 Order further suspended the remainder of the schedule of proceedings previously established in this case (including the deadlines for the filing of prepared testimony and exhibits) pending the Commission's determination as to whether the Stipulation and Agreement should be approved.

The hearing of this case was held on January 14, 1982 in the Commission's hearing room in Jefferson City, Missouri. Each party to the case was represented by counsel. The Stipulation was offered into evidence as Joint Exhibit No. 1, and was received in evidence subject to approval of the Stipulation by the Commission. Further evidence was adduced at the hearing, and the case was taken under advisement by the Commission for decision. Under the terms of the Stipulation, if the Stipulation is approved by the Commission, the parties waive their rights to present testimony, to cross-examine witnesses, to present oral argument or written briefs, to judicial review, and concerning the reading of the record by the Commission.

Findings of Fact

The Public Service Commission of Missouri makes the following findings of fact, based upon the competent and substantial evidence upon the whole record:

Southwestern Bell Telephone Company is a corporation duly organized and existing under the laws of the State of Missouri, and is authorized to conduct and is engaged in conducting a common carrier telecommunications business in Missouri and other states. Southwestern Bell has its principal place of business at 1010 Pine Street, St. Louis, Missouri 63101. It is a telephone public utility and, as such, is subject to the jurisdiction of the Public Service Commission of Missouri under Chapters 386 and 392, RSMo 1978.

The Stipulation entered into by the parties in this case (Joint Exhibit No. 1) is attached to this Report and Order as Appendix A and is hereby incorporated by reference herein.

TELPAK is a form of Private Line service. A Private Line is a dedicated channel between two or more points providing a communication link between those points. The Private Line services used by the State of Missouri under TELPAK include Tie Lines, by which a person in a State agency can reach a branch of that agency by dialing a three-digit prefix and a three-digit suffix, and Foreign Exchange service by which a person on the State's telephone system in Jefferson City can dial a three-digit number, which results in a dial tone in another telephone exchange within the State. (For example, dialing the digits 898 from a State office in Jefferson City produces a dial tone in the St. Louis telephone exchange, at which point any seven-digit telephone number in the St. Louis telephone exchange can be dialed and reached).

TELPAK service provides a discount from Type 311 voice-grade channel Private Line rates. TELPAK A service provides a 10% discount for up to twelve Private Line circuits. TELPAK B provides a 20% discount from Private Line rates for up to 24 Private Line circuits. TELPAK C gives its customers a 30% discount for the use of up to 60 circuits, and TELPAK D gives a 40% discount for up to 240 Private Line circuits.

TELPAK service has been available in Missouri since 1961. The TELPAK rates approved by this Commission in Case No. TR-80-256 were based on the Type 311 voice-grade channels. That same relationship has continued to the present time.

TELPAK service has been eliminated on the interstate level, by authorization of the Federal Communications Commission.

There are eight existing TELPAK customers in the State of Missouri. The Automobile Club of Missouri (AAA) has one TELPAK B arrangement. Bussman Manufacturing Company has one TELPAK B arrangement, as does Credit Systems Inc., (Master Charge). McDonnell Douglas Corporation has one TELPAK A arrangement, as does the Kellwood Company. Aeronautical Radio, Inc. has three TELPAK A arrangements and five TELPAK B arrangements. At the present time, the State of Missouri has 17 TELPAK A channels, 21 TELPAK B channels, and 20 TELPAK C channels. The Federal Government has 9 TELPAK B channels.

Simultaneous with the filing of the instant tariff, Southwestern Bell Telephone Company filed another tariff which would limit TELPAK services to existing TELPAK customers. That tariff went into effect without suspension, making TELPAK service obsolete so that no new TELPAK customers will come on line.

The withdrawal of TELPAK services under the proposed tariff would not require existing TELPAK customers to make any physical changes in their telephone service equipment, but, rather, would simply eliminate the TELPAK discount rates for service. If TELPAK service was withdrawn, current TELPAK customers could be changed at that point in time, for billing purposes, to individual channel Private Line service, with no service interruption. An existing TELPAK customer could also consider other alternatives such as Message Toll Service (MTS) or Wide Area Telephone Service (WATS). If TELPAK services are being used for the transmission and reception of data, customers could consider using digital data services if they are available between the points which are necessary to the customer. The customers would also have the option of going to their own private system.

Southwestern Bell Telephone Company believes that TELPAK customers receive the same service as customers of individual Private Line channels, and that it costs Southwestern Bell Telephone Company the same amount to provide TELPAK service as to provide individual Private Line service. Thus, the Company believes that there is no cost-of-service justification for providing a discount for TELPAK services. However, the Company was willing to enter into the instant Stipulation, providing for the TELPAK discount to be phased out over approximately a three-year period, in view of the concerns expressed by the State of Missouri and the Federal Executive Agencies as to the time necessary for planning alternatives to TELPAK service and for processing those alternatives through legislative channels.

The approval of the Stipulation in this case would have no immediate revenue impact upon Southwestern Bell. On July 1, 1983, if existing TELPAK customers had in effect at that time the exact same services currently in effect, Bell's revenues would increase approximately $460,000 on an annual basis due to the halving of the TELPAK discounts as of that date. The Stipulation would not result in any increase in the rates paid by Private Line customers in general or other customer classes of Southwestern Bell Telephone, other than the eight existing TELPAK customers.

The State of Missouri's present monthly billing from Southwestern Bell Telephone Company for TELPAK services is approximately $126,000. Assuming the same level of usage was in effect on July 1, 1983 as at the present time, the State's monthly bill would be approximately $149,000 after the TELPAK discount was cut in half pursuant to the Stipulation. The annual effect would be an increase of approximately $278,000. For the Federal Executive Agencies, the current monthly billing of approximately $16,000 would be increased to approximately $19,000 as of July 1, 1983, pursuant to the Stipulation, resulting in an annual increase of approximately $36,000. These figures pertain to the inter-exchange mileage portion of TELPAK service, not the TELPAK channel terminal which is not affected by the Stipulation in this case. These figures are also based on the number of TELPAK private line channels which were in service on December 9, 1981, and on the rates that were in effect on December 9, 1981.

Some TELPAK services are used for data transmission, rather than voice transmission. Data transfer requires a higher grade line than voice transmission, and data grade private lines are priced higher than voice grade private lines. The TELPAK customer, however, pays the same rate for TELPAK private lines (being a discount from the Type 311 voice-grade channel Private Line rates) whether the TELPAK line is, in fact, voice-grade or data-grade. If TELPAK service is withdrawn, the former TELPAK customer would be paying the higher data service rates for those data applications, rather than the voice-grade rates, unless the customer went to an alternative type of service, such as digital data services.

The State of Missouri considers TELPAK service to be the backbone of the State telephone network, through which a substantial portion of voice communications, and a majority of data communications, are passed. The State agencies which are the biggest users of TELPAK services are those with the largest data centers, namely the division of Employment Security, the Department of Social Services, the Department of Mental Health, the Office of Administration, and the University of Missouri. During the year 1980, TELPAK rates were raised twice as a result of rate increases granted to Southwestern Bell Telephone Company. State agencies had no additional funds budgeted for TELPAK services, so that those agencies were required to absorb the increases within their existing budgets. Since those rate increases, the State agencies have gone through a process of concentrating their data circuits. The State has also set up a Telecommunications Task Force composed of representatives of the State agencies which are major TELPAK users, members of the Legislature, and other elected officials. The Telecommunications Task Force, which was created in the summer of 1981, is examining the alternatives to TELPAK services which are available to the State.

The State of Missouri believes that it needs at least two legislative sessions to adequately prepare and budget for alternatives to the TELPAK services which are being withdrawn. Budgets for the Fiscal Year 1983 have been presented to the Legislature, and do not reflect the rate increases that were awarded on December 9, 1981 to Southwestern Bell Telephone Company in Case No. TR-81-208, and to United Telephone Company on December 15, 1981 in Case No. TR-81-302.

The State of Missouri believes that the Stipulation presented to the Commission by the parties in this case will save the State in excess of $1.2 million over the next three years. That figure is based upon the assumption that, without the Stipulation, TELPAK would be withdrawn as of July 1, 1982, and assumes at least one 10% Private Line increase during the next three years. The $1.2 million figure also assumes an increase in the rates for data services, up to the appropriate data-grade Private Line rates, rather than to Type 311 voice-grade rates, and assumes further a considerable expansion in data processing circuits for State agencies, based upon the recommendation the Governor has made in the area of teleprocessing to the Legislature for the Department of Social Services and other agencies.

The State has reduced the circuit mileage of its TELPAK use in response to recent Southwestern Bell rate increases, and has concentrated TELPAK use in an effort to optimize the level of TELPAK use. The State has not, however, shifted to the use of statistical multiplexers or data concentrators which would cut down the actual number of lines needed. The State Telecommunications Task Force is exploring such possibilities. It is not clear on the record why the Governor's Office and the Budget Office have not recommended to the Legislature that the Fiscal Year 1983 budgets be revised upward to account for the December, 1981 rate increases of Southwestern Bell Telephone Company and United Telephone Company.

If the State determined that it needed to build its own private telephone communication facilities as an alternative to TELPAK services, the State believes that it would not be possible to construct such facilities by the January 1, 1985 withdrawal date agreed to in the Stipulation. The State does not at this time have a detailed plan, written or otherwise, for telecommunications planning.

The State is of the opinion that complete withdrawal of TELPAK services prior to January 1, 1985 would decrease the possibility of Statewide coordination of the process of finding TELPAK alternatives, thereby decreasing the likelihood of economizing and consolidating telecommunication services under the leadership of the Telecommunications Task Force of the State of Missouri. An earlier withdrawal, in the State's opinion, would force individual agencies to react faster to the withdrawal of TELPAK services, increasing the likelihood of each agency finding its own TELPAK alternatives rather than coordinating those efforts with other agencies in an effort to achieve interagency sharing of telecommunications services. The State believes that a unified, Statewide approach to finding TELPAK alternatives could result in economies of scale resulting in savings to the total State budget.

Southwestern Bell Telephone Company will withdraw TELPAK services in the State of Arkansas in mid-1982, and in Texas on January 1, 1985.

Conclusions

The Public Service Commission of Missouri reaches the following conclusions:

Southwestern Bell Telephone Company is a public utility subject to the jurisdiction of this Commission as provided in Chapters 386 and 392, RSMo 1978. The tariffs which are the subject matter of this proceeding were suspended pursuant to authority vested in this Commission in Section 392.230, RSMo 1978. The burden of proof to show that the proposed tariffs are just and reasonable shall be upon the Company.

The Commission, after notice and hearing, may order a change in any rate, charge or practice, including rate design, and it may determine and prescribe the lawful rate, charge or practice thereafter to be observed. Concerning any proposed change in rates, charges or practices of a regulated utility, the Commission may accept a stipulation of settlement on any contested matter submitted by the parties. The Commission is of the opinion that when the matters of agreement between the parties appear to be just and reasonable, they should be accepted.

The Commission concludes that the terms and provisions of the Stipulation reached in this case and presented to the Commission as Joint Exhibit No. 1 are just and reasonable, and should be approved. The Stipulation accomplishes the result, with reasonable speed, of eliminating a discount which does not have cost-of-service justification while, on the other hand, affording every reasonable opportunity to the governmental agencies and other customers which use TELPAK service to adjust to the elimination. No other customer classes will suffer increased rates as a result of this case; nor would the earlier elimination of the TELPAK discount have a significant downward impact on the rates paid by other customer classes. In accordance with the Commission's conclusion herein, the revised tariff previously suspended in this case will be disallowed and, in lieu thereof, Southwestern Bell Telephone Company will be directed to submit for Commission approval a tariff designed to implement the Stipulation filed in this case as Joint Exhibit No. 1.

It is, therefore,

ORDERED: 1. That the tariff sheet filed on June 24, 1981, and suspended by the Commission in this case, be, and is hereby, disallowed, and Southwestern Bell Telephone Company is authorized to file in lieu thereof, for approval of this Commission, a revised tariff sheet designed to implement the Stipulation presented in this case as Joint Exhibit No. 1.

ORDERED: 2. That the tariff filed pursuant to the authority granted in this Report and Order shall become effective, upon approval by the Commission, on the effective date of this Report and Order.

ORDERED: 3. That this Report and Order shall become effective on March 5, 1982.

BY THE COMMISSION

Harvey G. Hubbs

Harvey G. Hubbs
Secretary

(S E A L)

Fraas, Chm., McCartney and
Musgrave, CC., Concur.
Dority, C., Concurs with
separate opinion to follow.
Shapleigh, C., Not Participating.

Dated in Jefferson City, Missouri
on this 18th day of February, 1982.

APPENDIX A

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the matter of the filing of Southwestern Bell Telephone Company of a tariff designed to withdraw its TELPAK service offering to customers in its Missouri service area	)))))	Case No. TO-82-17

FILED

PUBLIC SERVICE COMMISSION

STIPULATION

On the basis of negotiations and discussions conducted during the early prehearing conference of January 5, 1982 in the above-captioned case, Southwestern Bell Telephone Company (Company), the Staff of the Missouri Public Service Commission (Staff), the Office of Public Counsel (Public Counsel), the State of Missouri (State) and the Federal Executive Agencies (Agencies) have entered into the following Stipulation which they have agreed to present to the Commission as a recommended resolution of all issues in this case:

1. This case involves Company's proposal to withdraw its intrastate TELPAK Service Offering. TELPAK, which is offered under the Company's Private Line tariff, is an obsolete service offering. There are currently only eight TELPAK customers in Missouri and they are the only customers affected by Company's proposals in this case. Company filed its TELPAK withdrawal proposal on June 24, 1981, with a requested effective date of July 28, 1981. Under Company's proposal as filed, TELPAK service would have been withdrawn on July 28, 1982, twelve months after the effective date of the tariff. On July 14, 1981, the Commission suspended the Company's TELPAK proposal to November 25, 1981. On November 9, 1981, the Commission further suspended the tariff until May 25, 1982. By Orders of July 14, August 14, November 9, and November 25, 1981, the Commission caused notice of Company's TELPAK proposal and a schedule of proceedings in this case to be sent to all eight Company TELPAK customers. Company complied with the Commission's notification requirements and each TELPAK customer has received at least two written notifications regarding these proceedings. Only two of those customers, State and Agencies, intervened in the case and both participated in the early prehearing conference. No other TELPAK customer has entered an appearance in this case and the deadline for interventions was December 15, 1981.

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2. The remaining schedule of proceedings in this case is as follows:

Company testimony	January 13, 1982
Other testimony	February 15, 1982
Rebuttal testimony (all)	March 19, 1982
Hearings	March 29-31, 1982

3. At the early prehearing conference of January 5, 1982 the parties agreed to a proposed stipulated settlement of this case which, if approved by the Commission, will resolve all issues in the case. The parties have agreed to present this Stipulation to the Commission and ask that the schedule for filing testimony in this case be postponed until the Commission has had time to act on the Stiuplation. Should the Commission approve the Stipulation, the parties agree that Company should file tariffs consistent with the Stipulation and this case should be dismissed. If the Commission rejects the Stipulation, the Company will proceed to file its testimony within five (5) days of the Commission's order rejecting the Stipulation and the Hearing Examiner will be asked to set dates for the remaining testimony.,

4. The substance of the stipulated settlement reached by the parties is as follows:

A. At the present time TELPAK mileage rates reflect the following discount from Type 311 voice grade private line channel rates

Service	Discount
TELPAK A	10%
TELPAK B	20%
TELPAK C	30%
TELPAK D	40%

B. The present discount levels as set out above will remain in effect until 7/1/83. Any changes in Type 311 rates between now and 7/1/83 will result in TELPAK rate changes in accordance with the above discount schedule.

C. On 7/1/83 the discount levels will change and rates will be adjusted as follows:

Service	Discount
TELPAK A	5%
TELPAK B	10%
TELPAK C	15%
TELPAK D	20%

D. Any changes in Type 311 rates between 7/1/83 and 1/1/85 will result in TELPAK rate changes in accordance with the discount schedule in C above.

E. On 1/1/85 TELPAK rates will be withdrawn and individual channel private line rates as appropriate will apply.

F. TELPAK channel terminal rates are not subject to this agreement and their respective rate levels will be adjusted as changes are proposed by the Company and approved by the Missouri Public Service Commission.

5. That the parties to this Stipulation shall not be deemed to have approved or acquiesced in any ratemaking principle, cost of service method, or rate design proposal; and any number used in this Stipulation or in the rates and tariffs provided for by this Stipulation, shall not prejudice, bind or affect any party hereto, except to the extent necessary to give effect to the terms of this Stipulation.

6. That in the event the Commission accepts the specific terms of this Stipulation, the parties waive their rights to present testimony to cross-examine witnesses with respect to such testimony.

7. That in the event the Commission accepts the specific terms of this Stipulation, the parties waive their respective rights to present oral argument or written briefs, pursuant to Section 536.080(1), R.S.Mo. 1978.

8. That in the event the Commission accepts the specific terms of this Stipulation, the parties waive their respective rights pertaining to the reading of the transcript by the Commission, pursuant to Section 536.080(3), R.S.Mo. 1978.

9. That in the event the Commission accepts the specific terms of this Stipulation, the parties waive their respective rights to judicial review as regarding the disposition of Case No. TO-82-17, pursuant to Section 386.510, R.S.Mo. 1978.

10. Approval of this Stipulation will not eliminate any service arrangements currently utilized by Company's customers. Effective January, 1985 TELPAK customers will still be able to retain their current service arrangements, if they so choose, at the then prevailing individual channel private line rates.

Respectfully submitted,

FOR THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION

By Kent M. Ragsdale

Date 1/8/82

FOR SOUTHWESTERN BELL TELEPHONE COMPANY

By [illegible signature]

Date 1/6/82

FOR FEDERAL EXECUTIVE AGENCIES

By Peter [illegible]

Date 1/6/82

FOR OFFICE OF PUBLIC COUNSEL

By Martin Bregman

Date 1/8/82

FOR THE STATE OF MISSOURI

By Mark A. Conley

Date 1-8-82