

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
January 12, 1999**

CASE NO: TA-99-47

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

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Uncertified Copy:

Southwestern Bell Communications Serv.
d/b/a Southwestern Bell Long Distance
5850 West Las Positas Boulevard
Pleasanton, CA 94588

BEFORE THE PUBLIC SERVICE COMMISSION
OF 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 Provide Interexchange Telecommunications Services Within the State of Missouri.)
)
) Case No. TA-99-47
)
)
)

ORDER GRANTING MOTION TO STAY

On August 4, 1998, Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance (SBLD) filed an application for a certificate of service authority to provide interexchange telecommunications services within the state of Missouri. The parties were ordered to file a proposed procedural schedule no later than November 30, 1998.

On November 30, 1998, the Staff of the Missouri Public Service Commission filed a Motion to Establish Procedural Schedule, stating that all parties supported its proposed procedural schedule with the exception of the Office of the Public Counsel (OPC) which opposes it, and McLeodUSA, which was unavailable for comment. On December 1, 1998, OPC filed a Motion to Stay Proceeding, or in the Alternative, Motion to Dismiss.

In its motion, OPC states that Section 271 of the Telecommunications Act of 1996 prohibits SBLD from providing interLATA telecommunications service until the Federal Communications Commission (FCC) has approved an application for in-region interLATA service by Southwestern Bell Telephone Company or its affiliates. OPC argues

that the Commission has no jurisdiction to approve SBLD's inter-exchange application because even if approved, SBLD will not be able to provide service until after the FCC has approved the Section 271 application. On November 18, 1998, in Case No. TO-99-227, SBLD filed a notice with the Commission indicating its intent to file a Section 271 application with the FCC. OPC requests that this case be stayed until the FCC has taken final action on the Section 271 application. In the alternative, OPC requests that this case be dismissed for lack of jurisdiction.

On December 10, 1998, SBLD filed a response to OPC's motion. SBLD argues that the Commission does have jurisdiction to condition a grant of interexchange telecommunications service authority upon the approval by the FCC of its Section 271 application. SBLD states that if this proceeding is delayed or dismissed pending final federal action, SBLD's ability to provide in-region, interLATA service in Missouri will be unduly delayed once federal approval is granted. SBLD stated in its pleading that it does not object to delaying the interexchange application process until after the Commission has concluded the hearings before it in Case No. TO-99-227. On December 16, 1998, OPC filed a reply to SBLD's response.

The Commission has reviewed Staff's and OPC's motions, SBLD's response, and OPC's reply to that response. The Commission determines that the stay of this proceeding pending the Commission's recommendation at the conclusion of Case No. TO-99-227 will not unduly prejudice any party to this action. Therefore, the Commission determines that OPC's motion for stay should be partially granted.

The Commission will stay this proceeding until it makes its recommendation to the FCC, or otherwise concludes Case No. TO-99-227.

IT IS THEREFORE ORDERED:

1. That the Staff of the Missouri Public Service Commission's Motion to Establish Procedural Schedule is denied.

2. That the Office of the Public Counsel's Motion to Dismiss is denied.

3. That Case No. TA-99-47 is stayed until the issuance of the Commission's recommendation to the Federal Communications Commission or until otherwise ordered.

4. That this order shall become effective on January 22, 1999.

BY THE COMMISSION



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

(S E A L)

Nancy Dippell, Senior Regulatory Law
Judge, by delegation of authority pursuant
to 4 CSR 240-2.120(1) (November 30, 1995)
and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 12th day of January, 1999.

ALJ/Sec'y:

Dynell Hoyle

Date Circulated

1-7

Return by 3 p.m.

1-12

CASE NO.

IA-99-47

Lumpe, Chair

Crumpton, Commissioner

Murray, Commissioner

Schemelauer, Commissioner

Drainer, Vice-Chair

**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 12TH day of JANUARY, 1999.

Dale Hardy Roberts

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

