

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 8th  
day of July, 1983.

CASE NO. TR-83-253

In the matter of the filing by  
Southwestern Bell Telephone Company  
of new intrastate tariffs, rates, tolls  
and charges applicable to intrastate  
telecommunications services furnished  
within the State of Missouri.

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ORDER GRANTING LATE INTERVENTIONS  
AND CONCERNING EX PARTE COMMUNICATIONS

On June 23, 1983, Northeast Missouri Rural Telephone Company and Green Hills Telephone Corporation filed applications to intervene in this case, accompanied by a "Motion to Accept Out of Time Applications to Intervene." Both of these firms are independent telephone companies providing intrastate telecommunication services within this State and under the jurisdiction of this Commission. They are represented by the same counsel that is already representing a number of other independent telephone companies in this case whose intervention has been previously granted. These firms state that their delay in filing applications to intervene was occasioned by their expectation that the Commission would establish a separate docket in which consideration of toll issues would take place. Since it now appears those issues will be treated exclusively in this case, these firms seek intervenor status.

On June 27, 1983, the Bell System Missouri Interexchange Organization (BSMIO) filed its motion to intervene in this case. BSMIO asserts that it is a yet-to-be-formed corporate organization which, until January 1, 1984, will be a subsidiary of Southwestern Bell Telephone Company and which, on and after January 1, 1984, will be a subsidiary of American Telephone and Telegraph Company (AT&T). As an AT&T subsidiary, BSMIO will provide intrastate interexchange (inter-LATA)

telecommunications services within the State of Missouri, and will obtain access to its customers through facilities provided by exchange carriers, including Southwestern Bell. BSMIO has only recently designated its senior management personnel, and states that it has not been feasible to intervene in these proceedings at an earlier time. In view of this voluntary motion to intervene, BSMIO also submits that the need for the parties to this proceeding to comment on the Commission's authority to order such separate representation has been obviated.

The Commission has considered these Applications to Intervene, and determines that they should be granted.

The members of the Public Service Commission have individually received letters, news releases, and press clippings from the Missouri Public Interest Research Group (MoPIRG), an intervenor in this proceeding, during recent weeks. These letters and other documents have pertained to the access charge decision of the Federal Communications Commission, and alleged violations by Southwestern Bell Telephone Company of various Public Service Commission Billing Practices Rules. MoPIRG's letter dated June 4, 1983 concerning alleged rule violations by Southwestern Bell states that MoPIRG is "not writing to you as a party to the pending SWBell rate case." However, MoPIRG is a party to the pending Southwestern Bell rate case and is bound by the Rules and Regulations of this Commission, including 4 CSR 240-4.020. That rules provides, in part, as follows:

(1) (A) During the pendency of an administrative proceeding before the commission, an attorney or law firm associated therewith shall not make or participate in making a statement, other than a quotation from or reference to public records, that a reasonable person would expect to be disseminated by means of public communication if it is made outside the official course of the proceeding and relates to any of the following:

1. Evidence regarding the occurrence or transaction involved.

2. The character, credibility or criminal record of a party, witness or prospective witness.

3. Physical evidence, or the performance or results of any examinations or tests, or the refusal or failure of a party to submit to examinations or tests.

4. His opinion as to the merits of the claims, defenses or positions of any interested person.

5. Any other matter which is reasonably likely to interfere with a fair hearing.

...

(B) An attorney shall exercise reasonable care to prevent his employees and associates from making such an extra-record statement as he is prohibited from making.

(2) In all proceedings before the commission, no attorney shall communicate, or cause another to communicate, as to the merits of the cause with any commissioner or examiner before whom the proceeding is pending, except:

(A) In the course of official proceedings in the cause.

(B) In writing directed to the Secretary of the commission with copies served upon all other counsel of record and participants without intervention.

...

(4) It is improper for any person interested in a case before the commission to attempt to sway the judgment of the commission by undertaking directly or indirectly outside the hearing process to bring pressure or influence to bear upon the commission, its staff, or the presiding officer assigned to the proceeding.

...

(7) These prohibitions apply from the time an on-the-record proceeding is set for hearing by the commission until the proceeding is terminated by final order of the commission. An "on-the-record proceeding" means a proceeding where a hearing is set and to be decided solely upon the record made in a commission hearing.

Further, in its "Suspension Order and Notice of Proceedings, Order of Consolidation and Granting Intervention" issued in this case on March 2, 1983, the Commission ordered the following:

ORDERED: 23. That all counsel and parties to this proceeding shall review 4 CSR 240-4.020 and comply with its terms; shall communicate the meaning and importance of this Order to all personnel who counsel believes or reasonably should believe ought to be made aware of same; and all counsel shall immediately report to the Commission all future possible violations of any Commission rule by any party, including the party they represent.

The Commission specifically reminds counsel for MoPIRG to comply with the requirements of the Commission's Rules of Practice and Procedure, including the rule concerning conduct during proceedings. The Commission is required by law to base all of its findings of facts and conclusions of law upon the competent and substantial evidence upon the whole record, and to protect the rights of all parties before it through due process of the law. The Commission cannot by law, and will not, countenance efforts by any party in this or any other proceeding to influence the judgment of the Commission outside of the hearing process.

If MoPIRG wants to bring any matter to the Commission's attention, or to seek any Commission action, in this proceeding, it should file appropriate motions, or prepared direct testimony and exhibits, with the Secretary of the Commission and serve copies upon the other parties to this case.

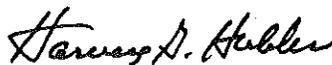
It is, therefore,

ORDERED: 1. That Northeast Missouri Rural Telephone Company, Green Hills Telephone Corporation, and the Bell System Missouri Interexchange Organization be, and are hereby, granted leave to intervene in this proceeding.

ORDERED: 2. That all counsel and parties to this proceeding shall comply strictly with 4 CSR 240-4.020, "Conduct During Proceedings."

ORDERED: 3. That this Order shall become effective on the date hereof.

BY THE COMMISSION



Harvey G. Hubbs  
Secretary

(S E A L)

Shapleigh, Chm., Fraas, Dority  
and Musgrave, CC., Concur.