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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 4th day of February, 1998.

In the Matter of Southwestern Bell Telephone Company's Proposed Revision of Its PSC MO - No. 35, General Exchange Tariff to Provide a 1+ SAVER 10% Toll Discount to SWB Local Exchange Customers Subscribing to Certain Local Vertical Service Packages.	**CASE NO. TT-98-292**

ORDER APPROVING TARIFF

On December 22, 1997, Southwestern Bell Telephone Company (SWBT) submitted tariff sheets designed to revise its P.S.C. Mo.-No. 26 Long Distance Message Telecommunications Service Tariff, and its P.S.C. Mo.-No. 35, General Exchange Tariff, Section 44, to provide a 1+ Saver℠ 10% Optional Calling Plan (the Plan) free of charge for customers subscribing to The WORKS®, BizSaver℠, or the BASICS℠ vertical services packages. The Plan would provide a 10% discount on the customer's use of SWBT's Long Distance Message Telecommunications Service during all rate periods, with no monthly recurring rate, and no initial block of minutes or additional usage rate. The offer would apply to existing and new business and residence customers, and would be available to SWBT local exchange customers statewide. The tariff sheets bear an effective date of January 21, 1998. However, the effective date was extended to the current effective date of February 6.

The Mid-Missouri Group of Local Exchange Companies (Mid-MO Group)[1]

[1]For purposes of this proceeding, the Mid-MO Group is comprised of Alma Telephone Company, Chariton Valley Telephone Corp., Choctaw Telephone Company, Mid-Missouri Telephone Company, Modern Telecommunications Company, MoKan Dial Inc., Northeast Missouri Rural Telephone Company, and Peace Valley Telephone Company.

filed an Application to Intervene and a Motion to Suspend Tariff on January 16. The Mid-MO Group states that it represents the interests of its members and their local exchange customers who rely upon SWBT for intraLATA 1+ toll services, and thus it has an interest different than that of the general public. The Mid-MO Group states that because local exchange customers of non-SWBT local exchange companies (LECs) cannot and do not purchase SWBT's local vertical service packages, under the proposed tariff revision these toll discounts would not be available to non-SWBT local exchange customers.

The Mid-MO Group also contends that because its customers cannot take advantage of this discount, SWBT's tariff offering will violate state law in the following respects: (A) The Plan violates the requirement that a carrier's toll calling plans be equally available to all of the carrier's toll customers; (B) the Plan violates the statutory requirement that carriers geographically average their toll rates over all exchanges; (C) the Plan violates Section 392.200.2, RSMo Supp. 1997[2], which prohibits special rates for service provided to a carrier's customers in preference to other customers for a like service under the same or substantially the same circumstances and conditions; (D) the Plan violates Section 392.200.3, which prohibits a carrier from giving undue preference or advantage in rates to any locality, person, or corporation; (E) the Plan violates Section 392.200.4, which prohibits a carrier from defining a service as a different service based upon the geographical area or market within which the service is offered or provided; (F) the Plan violates the policy of promoting parity of urban and rural telecommunications services, in violation of Section 392.185; (G) the Plan violates Section 392.200.5,

[2]All statutory references are to the 1997 Supplement of the Missouri Revised Statutes, unless otherwise noted.

which prohibits a carrier from charging a different price per minute for the same, substitutable, or equivalent interexchange service provided over the same or equivalent distance points; (H) the Plan violates Section 392.230, RSMo 1994, which prohibits a carrier from charging less for the transmission of toll service for a longer distance than is charged for a shorter distance.

On the same date the Small Telephone Company Group (STCG)[3] filed an Application to Intervene and Motion to Suspend Tariffs. The STCG states that it has an interest in ensuring that all interexchange (IXC) services offered by SWBT are made available to the customers of its member companies under the same terms, rates, and conditions as are available to SWBT's customers. The STCG group maintains that the proposed tariff sheets should be suspended for the following reasons: (A) the Plan is contrary to the Primary Toll Carrier (PTC) Plan, which requires SWBT to make available to end-user customers of Secondary Carriers (SCs) the same interexchange services as are available to SWBT's own end-user customers, at the same rates, terms, and conditions; (B) the plan may violate Section 392.200.5, which requires statewide uniform toll rates unless the long distance carrier can affirmatively show that it is in the public interest to deaverage toll rates; (C) the plan may be contrary to Section 392.200, which prohibits discriminatory rates and services; and (D) the plan may

[3]For purposes of this proceeding, the Small Telephone Company Group is comprised of: Alltel Missouri Inc., BPS Telephone Company, Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Goodman Telephone Company, Inc., Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, Iamo Telephone Company, KLM Telephone Company, Kingdom Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, Mark Twain Rural Telephone Company, McDonald County Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Co., Ozark Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., and Stoutland Telephone Company.

constitute the unlawful bundling of services in contravention to provisions of the Telecommunications Act of 1996 (the Act) and Senate Bill 507.

SWBT filed a pleading in opposition to the applications to intervene and motions to suspend on January 26. SWBT takes issue with the interpretations of the statutes cited by the Mid-MO Group and the STCG. SWBT notes that Section 392.200.2 prevents the collection of different rates for a similar service under the same or substantially the same circumstances and conditions. SWBT points out that it will treat its own customers the same as the customers of SCs: only those customers who purchase one of SWBT's the WORKS®, BizSaver℠, or the BASICS℠ vertical service packages will receive the 10% discount on intraLATA toll services. Similarly, SWBT notes that Section 392.200.3 only prohibits undue or unreasonable preferences. SWBT maintains that its proposed plan provides customer choice and value, and can be used as a marketing tool to increase the sale of SWBT's toll and vertical services. Finally, SWBT indicates that it is unaware of any provision in the Act or Senate Bill 507 which would prohibit its proposed package offering, and claims that such vague allegations unsupported by specific statutory references should not be sufficient to warrant the suspension of the tariff.

The Staff of the Commission (Staff) filed a memorandum containing its recommendation on January 28. Staff describes the proposed plan, and notes that the service is similar to other discount options offered by SWBT that offer a percentage discount on Long Distance Message Telecommunications Service. The difference with this proposed discount option is that there is no monthly recurring rate; instead customers are required to meet an additional subscription requirement in order to qualify for the discount. The additional subscription requirement is similar to Option (D) on sheet 49 of SWBT's current Long Distance Message Telecommunications Service tariff, in that both require customers to purchase a service from SWBT's General Exchange Tariff. This discount plan was previously approved by the Commission on December 28, 1994 in tariff file No. 9500374. Staff also indicates that substitute sheets were filed on January 9[4] to correct format numbering and make minor textual changes. Staff states that it has reviewed the proposed tariff filing as amended, and the rate and cost information provided by SWBT, and recommends Commission approval. Staff adds that it is unaware of any other filings that would affect or which would be affected by this proposal.

The Commission has reviewed SWBT's tariff submission, the motions to suspend, and Staff's recommendation, and finds that the applications for intervention and motions for suspension of the proposed tariff should be denied, and the tariff sheets approved. The Commission finds that the proposed Plan is not unduly or unreasonably preferential or discriminatory. The Plan is reasonably related to the goals of increasing customer choice and promoting the sales of SWBT's services, and the preconditions for the receipt of the 10% discount are rationally related to SWBT's expectation that any lost toll revenue from the discount will be made up from increased toll usage and sales of vertical service packages. The fact that customers of SCs cannot qualify for the Plan because they cannot purchase the requisite local vertical service packages from SWBT is irrelevant, since the PTC Plan was never intended to prevent the PTC's from creating new services for their own customers.

The Commission notes that Staff reviewed the rate and cost information provided by SWBT, and had no objection to the tariff filing. All customers will be treated alike because the Plan will be offered

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[4] The substitute sheets were actually filed on January 8.

throughout SWBT's service area, and SWBT customers who do not purchase the requisite vertical services packages, like the customers of SCs, will not qualify for the discount. In addition, SWBT currently has in effect a discount plan similar to the one proposed. Finally, the proposed plan is not unlike a volume discount,[5] in that both are designed to stimulate usage of SWBT's toll services and thus recover or exceed the lost toll revenue. The Commission thus finds that the tariff proposal is just and reasonable, and should be approved.

IT IS THEREFORE ORDERED:

1. That the applications to intervene filed by the Mid-Missouri Group of local exchange companies and the Small Telephone Company Group on January 16, 1998 are denied.

2. That the motions to suspend filed by the Mid-Missouri Group of local exchange companies and the Small Telephone Company Group on January 16, 1998 are denied.

3. That the following tariff sheets filed by Southwestern Bell Telephone Company on December 22, 1997 are approved as amended, to become effective on February 6, 1998:

P.S.C. Mo.-No. 26
1st Revised Sheet 45.01 Replacing Original Sheet 45.01
4th Revised Sheet 46 Replacing 3rd Revised Sheet 46
6th Revised Sheet 49 Replacing 5th Revised Sheet 49
3rd Revised Sheet 50 Replacing 2nd Revised Sheet 50

P.S.C. Mo.-No. 35
6th Revised Sheet 1 Replacing 5th Revised Sheet 1

[5] See § 392.200.5.

4. That this order shall become effective on February 6, 1998.

BY THE COMMISSION

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton,
Murray, and Drainer,
CC., Concur.

Bensavage, Regulatory Law Judge