STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 11th day of September, 1997.

In the Matter of Westinghouse Electric Corporation, d/b/a Westinghouse Communications' Tariff Filing to Introduce Westinghouse Commercial Residential Service, Westinghouse Residential Postalized Service, and Westinghouse Residential Postalized Calling Card Service.	))))))))	**Case No. TT-98-90**

ORDER APPROVING TARIFF SHEETS AND DENYING MOTION TO CONSOLIDATE

Westinghouse Communications (Westinghouse) submitted a tariff filing (File No. 9800019) to the Commission for approval on July 7, 1997, with an effective date of August 7. The company later submitted substitute sheets and extended the effective date to September 15. Westinghouse is proposing, among other things, to introduce Westinghouse Commercial Residential Service, Westinghouse Residential Postalized Service, and Westinghouse Residential Postalized Calling Card Service.

The Staff of the Commission (Staff) filed a Motion to Suspend on August 28, stating that the tariff filing would violate Section 392.200.2, RSMo 1994, which prohibits rate discrimination, i.e., the charging of differing rates for the same service. Staff argues that the intrastate rates reflected in Westinghouse Commercial Residential Service, Westinghouse Residential Postalized Service, and Westinghouse Residential Postalized Calling Card Service result in Westinghouse charging differing rates for identical services. Staff stated that Westinghouse's position is that the plans are differentiated at the total plan level and that

intrastate service is only a portion of a total calling rate package that includes an interstate/international business calling plan. Staff's position is that, because the plans are indistinguishable at the intrastate level, Westinghouse's proposal would result in discriminatory pricing.

Staff points out that the Commission has the discretion to waive the application of certain statutory provisions and Commission rules, but asserts that the prohibition against discriminatory pricing is not among those provisions that can be waived. Staff argues that the tariff sheets should be suspended. Staff also filed, on August 28, a Motion to Consolidate this case with numerous other tariff filings to which the Staff has similar objections.

The Commission has reviewed Westinghouse's tariff filing and Staff's motions to suspend and consolidate. The Commission finds that the Motion to Consolidate this case with other tariff cases is inappropriate in that, although Staff makes the same objections to all the proposed tariffs, the tariffs have been submitted by various companies and differ in substance. Accordingly, each case will be considered on its own merits.

The Commission has considered the provisions of Westinghouse's proposed offerings and finds no violation of the prohibition against discriminatory pricing. The concept of discriminatory pricing is relevant only as applied to customers. The Commission must ask whether a proposed calling plan would result in similarly situated customers being forced to pay differing rates for the same services. *See* State of Missouri, ex rel. DePaul Hospital School of Nursing v. Missouri Public Service Commission, 464 S.W.2d 737, 740 (Mo. App. 1970). Although the intrastate portions of Westinghouse Commercial Residential Service, Westinghouse Residential Postalized Service, and Westinghouse Residential Postalized Calling Card

Service plans may not differ from one another or from Westinghouse's other intrastate services, the plans must be considered as a whole. Taken as a whole, the terms of these plans constitute a variation from a simple offering of intrastate services. Customers are free to choose the plan most appropriate to their calling patterns. Westinghouse's proposal is a valid promotional discount. Accordingly, the Commission finds that Westinghouse's proposed tariff sheets are just, reasonable, and nondiscriminatory and they shall be approved.

IT IS THEREFORE ORDERED:

1. That the following tariff sheets submitted by Westinghouse Communications on July 7, 1997, are approved to become effective on September 15, 1997:

P.S.C. Mo. - No. 1

1st Revised Sheet 45, Replacing Original Sheet 45
Original Sheet 45.1
1st Revised Sheet 54, Replacing Original Sheet 54
Original Sheets 73.1 through 73.17
1st Revised Sheet 95.1, Replacing Original Sheet 95.1
1st Revised Sheet 95.2, Replacing Original Sheet 95.2
Original Sheets 95.3 through 95.7
1st Revised Sheet 97, Replacing Original Sheet 97
Original Sheet 97.1

2. That this order shall become effective on September 15, 1997.

BY THE COMMISSION

(S E A L)

Cecil I. Wright
Executive Secretary

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

ALJ: Wickliffe