

B-
RS
MP
RO
W

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office
in Jefferson City on the 16th
day of April, 1998.

In the Matter of the Investigation by the Staff)
of the Missouri Public Service Commission into) Case No. TO-98-216
the Overearnings of Northeast Missouri Rural)
Telephone Company.)

ORDER DENYING MOTION TO COMPEL

On February 24, 1998, Northeast Missouri Rural Telephone Company (NMRTC) filed a motion to compel Southwestern Bell Telephone Company (SWBT) to answer certain of its data requests. NMRTC alleged that it served ten data requests on February 2 to SWBT and that SWBT had refused to respond to Data Requests 4 and 5. NMRTC attached a copy of SWBT's objections letter dated February 6.

Data Request 4 seeks information about the total number of minutes of use of SWBT's Missouri intrastate intraLATA toll service originating in all Missouri exchanges in which SWBT provisioned toll for calendar year 1997. Data Request 5 seeks the total dollar amount of SWBT toll revenue for Missouri intrastate intraLATA toll calls originating in all Missouri exchanges in which SWBT provisioned toll service for calendar year 1997. NMRTC states that SWBT has challenged NMRTC's proposed rate design because the rate design would disproportionately pass access savings to interLATA toll carriers as opposed to intraLATA toll carriers. NMRTC states that it wants the opportunity to present the Commission with information about the impact on SWBT's customers of the difference between NMRTC's proposed rate design and SWBT proposed rate design. NMRTC states that it needs

information as to traffic volumes, rates and commensurate intraLATA toll revenues of SWBT in order to do this. NMRTC also states that SWBT filed a motion to compel AT&T Communications of the Southwest (AT&T) to provide similar information. Finally, NMRTC points out that SWBT answered Data Requests 9 and 10, which asked SWBT to address how much SWBT's intrastate intraLATA toll rates could be reduced under NMRTC's proposed rate design, by stating that SWBT would answer these requests in its rebuttal testimony.

SWBT filed suggestions in opposition to NMRTC's motion to compel on March 6. SWBT repeats its objection to Data Requests 4 and 5, asserting the requests are overbroad and burdensome and concern information that is irrelevant and not calculated to lead to the discovery of admissible information. SWBT does not explain why the data requests are burdensome, but argues that the requests are overbroad and irrelevant to the extent that they seek information about calls that do not originate or terminate in NMRTC's exchanges. According to SWBT, the issue is not whether SWBT's toll rates will change, but the fairness of returning overearnings by equalizing intraLATA and interLATA access rates when the intraLATA access customers have contributed more to the overearnings of NMRTC. SWBT represents that the impact of NMRTC's proposed rates on SWBT's customers will be "relatively small," and that SWBT will pass on any savings from reduced access rates to its own customers. SWBT clarifies that it did not interpret NMRTC's Data Requests 9 and 10 as asking for a specific set of toll rates to be developed by SWBT in response to NMRTC's proposed rate structure. SWBT contends that its answers to Data Requests 9 and 10 were merely meant to convey that SWBT's rebuttal testimony will address the net expense reduction, if any, which will accrue to SWBT under NMRTC's proposed

rate restructuring.¹ Finally, SWBT distinguishes NMRTC's Data Request Nos. 4 and 5 from the data requests that SWBT sent to AT&T by pointing out that SWBT "sought to quantify the different revenue generating potential for inter and intraLATA toll calls to show that there is still full justification for preserving existing rate relationships between inter [LATA] and intraLATA access charges."

The Commission has reviewed the motion and response, as well as other pertinent pleadings, and finds that NMRTC's motion to compel should be denied. SWBT stated in its suggestions that the requests are burdensome, but SWBT did not provide the Commission with sufficient information to assess whether the requests were unduly burdensome. On the other hand, SWBT has demonstrated that the information requested is irrelevant with respect to calls originating and terminating in exchanges other than NMRTC's exchanges. The requested information may relate to SWBT's arguments against equalizing interLATA and intraLATA access charges, but only to the extent that SWBT's operations in NMRTC's exchanges would be impacted. For this reason, if SWBT had not already answered the requests to the extent of SWBT's calls originating and terminating in NMRTC's exchanges, the Commission would partially grant NMRTC's motion to compel and require SWBT to provide this NMRTC-specific information. However, the attachments to NMRTC's motion show that SWBT has already provided the information specific to NMRTC's exchanges in response to Data Requests Nos. 1, 2 and 3. In light of this fact, the Commission will deny the motion to compel.

¹ SWBT filed its rebuttal testimony on March 30. SWBT's rebuttal witness, Richard L. Taylor, did address the effects of NMRTC's proposed access rates on SWBT's payments to NMRTC.

IT IS THEREFORE ORDERED:

1. That Northeast Missouri Rural Telephone Company's February 24, 1998, motion to compel Southwestern Bell Telephone to respond to data requests is denied.

2. That this order shall become effective on April 16, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Randles, Regulatory Law Judge

RECEIVED
APR 16 1998
COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION