

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 January, 1994.

The Staff of the Missouri Public Service)	
Commission,)	
)	
Complainant,)	
)	
v.)	<u>Case No. TC-93-224</u>
)	
Southwestern Bell Telephone Company,)	
a Missouri corporation,)	
)	
Respondent.)	
)	
In the matter of proposals to establish an alternate)	
regulation plan for Southwestern Bell Telephone)	<u>Case No. TO-93-192</u>
Company.)	
)	

ORDER CONCERNING APPLICATIONS FOR REHEARING

The Commission issued its Report And Order in these consolidated cases on December 17, 1993. In the Report And Order the Commission ordered a reduction in revenue for Southwestern Bell Telephone Company (SWB) of \$84,617,000, Case No. TC-93-224, and the Commission rejected SWB's proposed alternative regulation proposal and developed an Accelerated Modernization Plan (AMP) which it offered to SWB, Case No. TO-93-192. In response to the Report And Order, SWB, the Office of Public Counsel, Midwest Independent Coin Payphone Association, Missouri Cable Television Association, MCI Telecommunications Corporation and AT&T Communications of the Southwest, Inc. (AT&T) filed applications for rehearing. AT&T also filed a motion for clarification, but that motion addresses the same issues raised in its application for rehearing.

The Commission has reviewed the applications for rehearing and finds that there is not sufficient justification presented by the parties to rehear any parts of the Commission's decision in Case No. TC-93-224, and the Commission also

finds that requests for rehearing of the Commission's decision concerning the AMP in Case No. TO-93-192 are moot since SWB has decided not to accept the plan and operate under an alternative form of regulation. Questions concerning customer sharing and the Commission's authority therefore need not be addressed.

The Commission finds that the requests for rehearing of specific issues in Case No. TC-93-224 are, in effect, restatements of the evidence and arguments considered by the Commission in reaching its initial decision. The Commission, though, will address three of the matters raised in the application for rehearing in that case. These matters involve (1) the new affiliate transaction docket, Case No. TO-94-184, (2) SWB's assertions concerning the Commission's bias in its yellow pages imputation decision, and (3) the issue of the use of 1993 data for developing the rates which result from the \$84,617,000 reduction and the relationship of those rates to the Report And Order in Case No. TT-94-119.

The Commission established the affiliate transaction case to resolve what it considered to be important questions about SWB's cost studies and procedures associated with transactions with affiliate companies. The focus of this docket will be upon compliance with Federal Communications Commission (FCC) procedures for ensuring prices charged by SWB to affiliates and prices paid by SWB to affiliates are reasonable and represent market prices as closely as possible. This docket is not designed for Staff to present its testimony from Case No. TC-93-224 again, but is designed to focus more specifically on cost studies and procedures. As stated in the Report And Order there will be no revenue requirement adjustments which result from any decision in this docket. SWB may have won the issue of whether there should have been an adjustment for any of the affiliated transactions but there still remain some important questions about its procedures which need to be addressed. Even SWB should realize that a resolution of these questions involving affiliate transactions will be beneficial in any subsequent proceeding.

In addition, the Commission is aware that the FCC/state joint audit is addressing potentially similar issues. The results of that audit, though, have not been completed. Perhaps that audit will resolve many of the matters which Case No. TO-94-184 was established to consider and a review of those results may aid in resolving the issues in the new docket. The establishment of a docket, though, is not inconsistent with the joint audit and depending on the detail and focus of the joint audit, a separate docket is not duplicative. At this time, the Commission believes the new docket is necessary to resolve concerns raised about SWB's affiliate transaction procedures, and any issues involving the joint audit should be addressed in the new docket.

SWB has raised the issue of the Commission's alleged bias concerning the imputation of yellow pages revenue issues. This bias, SWB asserts, is demonstrated by the Commissioners' participation in developing information concerning legislation to remove the authority to impute yellow pages revenues from the statutes, by forwarding this information to legislators, and by the Commission's "aggressive" examination of SWB witnesses at the hearing. On this issue SWB has clearly moved into an "Alice in Wonderland" world where Public Service Commissioners stand mutely by while regulated utilities deluge state legislators with their own views, and Commissioners can only ask "softball" questions of witnesses at hearing. The Commission does not believe its actions indicated any lack of impartiality but only the responsibility of Commissioners to help ensure that legislators were fully informed on the legislation before them. It was SWB which took it upon itself to have legislation introduced on this subject, knowing full well that it was a pending matter before the Commission, and the company cannot credibly claim to have expected substantively different Commission action in regard to the proposed legislation. In addition, the Commission does not believe it is limited to only asking neutral questions of witnesses at hearings.

The issue raised by AT&T of what minutes of use to utilize in developing the rates which resulted from the \$84,617,000 reduction needs to be addressed. The Commission found in the Report And Order that the rate design stipulation was reasonable, with certain modifications. Under that stipulation rates would be reduced to certain levels based upon the total reduction ordered by the Commission. Specifically, local transport rates (by band) and common carrier line (CCL) charges (both originating and terminating) were to be reduced to a certain level based upon the overall rate reduction. The Commission issued a scenario request on December 3, 1993, in which it indicated the possible results of the revenue requirement issues and the rate design issues. Based upon that scenario request, the parties calculated the overall revenue reduction and the rates which would result from the reduction based upon the Commission's scenario. (Exhibit 247). The scenario responses also included additional rates which reflected the changes which would occur in the TC-93-224 rates based upon the Commission's decision in Case No. TT-94-119, which was being considered during this same time period and in which any rate changes were to be effective on the same date as those in Case No. TC-93-224. The differences in the pertinent rates are set out below.

	<u>A</u> Stipulated Rates	<u>B</u> TC-93-224 R&O Rates	<u>C</u> TT-94-119 R&O Rates
Local Transport			
Band 1	.0043	.0041	.0050
Band 2	.0067	.0074	.0077
Band 3	.0141	.0155	.0162
Band 4	.0239	.0264	.0274
CCL			
Originating	.0100	.0100	.0100
Terminating	.0143	.0147	.0148

As can be seen from the above chart, the rates filed in the scenario responses in TC-93-224 in Column B and adopted by the Commission in its Report

And Order are slightly higher than those which were reflected in the stipulation, Column A. This difference, AT&T contends, results from the use of 1993 data for calculating the rates. The rate changes to the TC-93-224 rates which result from the decision in TT-94-119 are shown in Column C. These rates are higher than those which resulted from the Commission's decision in TC-93-224, because of changes resulting from the decision in TT-94-119.

Staff filed suggestions opposing AT&T's motion for clarification in which it agreed that the rates filed in the scenario responses and approved by the Commission were determined using the most recent updated quantities, rather than test year quantities. Staff indicates that it uses the most recent quantities in telecommunication rate cases to develop rates and that it believes these quantities establish rates which better reflect ongoing company operations. Staff also argues that the rates in the stipulation were suggested rates, not the exact rates agreed to for the case.

The Commission has reviewed this matter and finds that the stipulation is not entirely clear that the rates in Column A were to be the exact rates to be adopted if the stipulation was approved. The stipulation, in paragraph 4, indicates the Column A rates are suggested rates and the stipulation indicates that SWB would provide Staff with information regarding SWB's future switched access traffic in order to study the possibility of determining any stimulation that might occur. This language leaves open the possibility that the rates set out in the stipulation are not those which would ultimately result and the Commission, therefore, will not grant AT&T's request for rehearing on the use of the 1993 data for setting the rates which resulted from the \$84,617,000 reduction in revenues for SWB. The stipulation contemplates changes in those rates and the rates approved by the Commission are consistent with the stipulation. The Commission believes this problem can be avoided in the future if the stipulation

reflects the exact method and data to be used for calculating rates agreed to by the parties.

As for the rate changes which result from the Commission's decision in TT-94-119, the Commission finds that this matter is not an issue in Case No. TC-93-224. The only connection between the two decisions is that the rates are to be effective on the same date so SWB's tariffs would, by necessity, have to reflect the ultimate rate which results from both decisions. The tariffs approved by the Commission in this case reflect the rates which are the result of both decisions. The tariffs approved reflect the proper rate to be charged for service based upon the Commission decisions and the effective date of the Report And Order, January 1, 1994. AT&T has filed an application for rehearing in TT-94-119, which is the appropriate case to consider any issue it has with the rates which result from that decision. The Commission will not grant rehearing based upon AT&T's request in this case.

IT IS THEREFORE ORDERED:

1. That the applications for rehearing of Southwestern Bell Telephone Company, the Office of Public Counsel, Midwest Independent Coin Payphone Association, Missouri Cable Television Association, MCI Telecommunications Corporation, and AT&T Communications of the Southwest, Inc., be hereby denied.
2. That this order shall become effective on the date hereof.

BY THE COMMISSION



David L. Rauch
Executive Secretary

(S E A L)

Mueller, Chm., McClure, Perkins
and Kincheloe, CC., concúr.
Crumpton, C., absent.