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STATE OF MISSOURI

PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Prehearing Conference

April 29, 1999
Jefferson City, Missouri
Volume 1

In the Matter of Alma Telephone)
Company's Filing to Revise its) Case No.
Access Service Tariff, P.S.C.) TT-99-428
Mo. No. 2.)

In the Matter of MoKan Dial,)
Inc.'s Filing to Revise its) Case No.
Access Service Tariff, P.S.C.) TT-99-429
Mo. No. 2.)

In the Matter of Mid-Missouri)
Telephone Company's Filing to) Case No.
Revise its Access Service) TT-99-430
Tariff, P.S.C. Mo. No. 2.)

In the Matter of Choctaw)
Telephone Company's Filing to) Case No.
Revise its Access Service) TT-99-431
Tariff, P.S.C. Mo. No. 1.)

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In the Matter of Chariton Valley)
Telephone Company's Filing to) Case No.
Revise its Access Service) TT-99-432
Tariff, P.S.C. Mo. No. 2.)

In the Matter of Peace Valley)
Telephone Company's Filing to) Case No.
Revise its Access Service) TT-99-433
Tariff, P.S.C. Mo. No. 2.)

BILL HOPKINS, Presiding,
SENIOR REGULATORY LAW JUDGE.

REPORTED BY:
MELINDA ADOLPHSON, CSR
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1 P R O C E E D I N G S

2 JUDGE HOPKINS: Good morning. Let's go on
3 the record. This is April 29th, 1999. Bill
4 Hopkins presiding. We have several cases here this
5 morning. TT-99-428, Alma Telephone Company; 429
6 MoKan; 430 Mid-Missouri Telephone Company; 431,
7 Choctaw; 432 Chariton Valley; and 433 is Peace
8 Valley.

9 While some judges may have varied from the
10 purpose in the past, the main reason for these
11 prehearing conferences, according to the rules of
12 the Public Service Commission is to determine
13 whether we have any actual issue in controversy and
14 whether the controversy can be resolved or
15 settled.

16 A prehearing conference should be
17 scheduled to afford the parties the opportunity to
18 discuss, define and possibly resolve the issues
19 presented in this case, or at least agree on a
20 procedural schedule. Is there any attorney who is
21 not prepared to follow those rules? Since there is
22 silence, I'm assuming everybody agrees with that.

23 Let me try to get these in order. These
24 are the entries of appearance. We have Penny Baker
25 and Julie Kardis from the General Counsel's

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1 Office?
2 MS. BAKER: That's correct.
3 JUDGE HOPKINS: Mr. Dandino, Public
4 Counsel.
5 England, McCartney?
6 MR. McCARTNEY: From Brydon, Swearengen.
7 JUDGE HOPKINS: You're representing?
8 MR. McCARTNEY: The Small Telephone
9 Company.
10 JUDGE HOPKINS: Okay. The Small
11 Telephone.
12 McKee, representing Sprint Spectrum.
13 Johnson, Craig Johnson. I'm sorry I had you out of
14 order and then Mr. DeFord representing AT&T
15 Wireless and Mr. Johnson is representing all the
16 Petitioners, is that correct, sir?
17 MR. JOHNSON: Yes.
18 JUDGE HOPKINS: All right. On 4-28 we
19 have applications to intervene from AT&T Wireless,
20 application to intervene from Small Telephone
21 Group, application to intervene from Sprint
22 Spectrum, application to intervene from
23 Southwestern Bell. Southwestern Bell is not here.
24 And from Southwestern Bell Wireless, and they are
25 not here either; is that correct? Okay.

1 We have the same interveners in all cases,
2 and in Chariton Valley, which is 432 -- I'm
3 sorry -- and Peace Valley that is 433. We have an
4 application to participate without intervention and
5 that's Mr. Fischer for GTE, and he's not here
6 either.

7 The intervention deadline was, I believe
8 yesterday, so I will be ruling on all of those
9 interventions and participation with that
10 intervention today. And if we go around here and
11 briefly, Ms. Baker or Ms. Kardis, either one, do
12 you want to tell us what your assessment of the
13 issues are here?

14 MS. BAKER: In general, I believe that the
15 revisions that were filed would apply to switch to
16 access rates to all traffic that originates on
17 wireless network and terminates into each of the
18 Petitioners network. And I don't believe that
19 that's consistent with Judge Brown's order. I
20 think that Judge Brown's order indicated that they
21 were free to seek compensation arrangements with
22 those wireless carriers, but I don't believe that
23 it's appropriate for them to do that by tariff.

24 JUDGE HOPKINS: Mr. Dandino?

25 MR. DANDINO: The Office of Public Counsel

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1 probably will not be actively involved in this
2 case, just monitor the case. We are attending just
3 to see, you know, what the issues that the parties
4 bring up and what impact it would have, if any, on
5 the end user consumers.

6 JUDGE HOPKINS: All right.
7 Go ahead.

8 MR. JOHNSON: Thank you. Craig Johnson.
9 The issue I think is one of the interpretation of
10 the Telecommunication's Act, the FCC rules --

11 JUDGE HOPKINS: Mr. Johnson, I'm sorry.
12 The court reporter can hear you, but I can't hear
13 you when you have your hand in front of your
14 mouth.

15 MR. JOHNSON: I'm sorry. I can't think
16 unless my hand is in front of my face. We think
17 the issue largely deals in the interpretation in
18 the Telecommunication's Act of '96, the FCC rules
19 and regulations that were promulgated pursuant to
20 that act, as well as the FCC report and order that
21 interprets the applicability of reciprocal
22 compensation.

23 We think that the order of Judge Brown,
24 that Staff referred to, basically said that
25 reciprocal compensation did not have anything to do

1 with the applicability of my clients' access rates,
2 and they were free to apply their access rates,
3 anything the Commission would allow them to apply
4 the access rates to. That decision came up in the
5 context of the Southwestern Bell Wireless
6 terminating the tariff.

7 Our fundamental position is that until we
8 get an approved interconnection agreement, we want
9 our access tariff modified to specify that the
10 tariff and the rates to the tariff will apply to
11 all traffic that terminates to us until it is
12 superceded by approved interconnection agreement.

13 And that when there is no direct physical
14 connection between a wireless carrier and P.C.S.
15 provider or between any other type of carrier that
16 wants to terminate traffic to us, it's appropriate
17 as long as that traffic is being delivered to us
18 indirectly through Southwestern Bell's facilities
19 or another IXC's facilities, that we get access and
20 access applies even if it's intra MTA traffic for
21 purposes of wireless or on access -- it is
22 appropriate for our access tariffs to apply to
23 inter MTA traffic that's delivered to us whether or
24 not a third carrier is involved in the middle.

25 We think that the FCC decision is clear,

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1 that access always applies when there's three
2 carriers that collaborate in originating,
3 transporting and terminating a call, and that
4 reciprocal compensation is only to apply when there
5 are two carriers who have a physical
6 interconnection between just those two, and they
7 negotiate the reciprocal compensation agreement to
8 apply for the -- to apply to the exchange of local
9 traffic between the two.

10 JUDGE HOPKINS: Okay.

11 MR. McKEE: Charles McKee for Sprint
12 Spectrum --

13 JUDGE HOPKINS: McCartney?

14 MR. McKEE: Oh, I'm sorry.

15 MR. McCARTNEY: Brian McCartney on behalf
16 of the Small Telephone Company Group, and we
17 generally support the Staff's tariff provisions. I
18 hope to make it clear that without an
19 interconnection agreement in place that PCS owners
20 get access charges should apply to the termination
21 of this traffic.

22 JUDGE HOPKINS: Now, Mr. -- I'm sorry --
23 Mr. McKee?

24 MR. McKEE: Charles McKee for Sprint
25 Spectrum d/b/a Sprint PCS. Sprint PSC would agree

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1 that this situation is governed by FCC rule and
2 order. We determine those rules and orders
3 differently than the Small Telephone Companies have
4 stated today. Our position is that the FCC's first
5 reporting order clearly states that access charges
6 are not to be applied to CMRS traffic. It states
7 at least twice and very succinctly that access
8 charges are inappropriate and cannot be applied to
9 traffic that is intra MTA.

10 We do agree that where inter MTA traffic
11 occurs, access charges will be assessed. We
12 understand that our calling scope is MTA wide and
13 that's been set by the FCC. That decision controls
14 with respect to indirect traffic. We disagree with
15 the characterization that all access -- or that all
16 traffic that transits another party is therefore
17 subject to access charges. That is not the way we
18 read the FCC's order.

19 And finally, the rate to actually be set
20 is specifically set forth in the FCC rules. The
21 FCC states the State will set and determine local
22 exchange carrier's rate at either the proxy levels
23 to determine by the FCC at bill and keep or a rate
24 based upon forward looking total element long-run
25 implemental cost study. And those are the only

1 three options of the rate that can be set by the
2 Commission for the termination of wireless
3 traffic -- or I'm sorry -- I said wireless
4 traffic. That's the rate to be determined by the
5 Commission for transport communication. And that's
6 the fundamental point of our disagreement.

7 JUDGE HOPKINS: DeFord?

8 MR. DeFORD: On behalf of AT&T Wireless
9 Services, I would agree with everything Mr. McKee
10 just said. The only thing I would add is that we
11 view this as purely a question of law. I think we
12 could quite easily and in this particular case,
13 stipulate to the relevant facts and submit it to
14 the Commission on brief and argument. I think it's
15 rather unique and I don't think there's any
16 disagreement amongst the exchange in traffic and
17 how we're doing it. I think the only question is
18 how the FCC's regulations, orders should be
19 interpreted and applied in this case.

20 MR. HOPKINS: Is there anything further
21 for anyone else?

22 MS. BAKER: Just as a question in that we
23 are to file either a stip or a procedural schedule,
24 would the Commission be opposed to a procedural
25 schedule which did exactly what Mr. DeFord just

1 said, and that is stipulated to whether the factual
2 matters are necessary and submitted briefs and
3 request for an oral argument.

4 JUDGE HOPKINS: I can't really rule on a
5 document that I haven't seen, but the concept
6 sounds good to me. It's a little difficult to rule
7 on something that's not in existence.

8 MS. BAKER: And I was only asking about
9 the concept.

10 JUDGE HOPKINS: The concept is good.

11 Anything else? Thank you. We're off the
12 record.

13 WHEREUPON, the on-the-record portion of
14 the prehearing conference was concluded.

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