

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION

3
4
5 TRANSCRIPT OF PROCEEDINGS

6 Rulemaking Hearing

7 January 22, 2003
8 Jefferson City, Missouri
9 Volume 1
10

11 In the Matter of a Proposed)
12 Rulemaking to Implement the)
13 Missouri Universal Service) Case No.: TX-2002-1026
14 Fund End-User Surcharge.)
15

16 KENNARD L. JONES, Presiding,
17 REGULATORY LAW JUDGE.

18 SHEILA LUMPE,
19 STEVE GAW,
20 COMMISSIONERS.

21 REPORTED BY:

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1 P R O C E E D I N G S

2 JUDGE JONES: Okay. This hearing will come to
3 order and we can go on the record now. This is
4 Case No. TX-2002-1026, In the Matter of a Proposed
5 Rulemaking to Implement the Missouri Universal Service
6 Fund End-User Surcharge that is now before the Public
7 Service -- Missouri Public Service Commission.

8 The date is January 22nd, 2003. I am Kennard
9 Jones, Presiding Judge over this matter. Commissioners
10 in attendance are Commissioner Sheila Lumpe and,
11 presumably, Commissioner Steve Gaw will be here.

12 The Commission has received written comments
13 from its Staff and from Southwestern Bell Telephone
14 Company. Southwestern Bell has suggested changes to
15 the proposed rules and will testify first.

16 Thereafter, the Staff of the Commission will
17 give testimony. Following Staff, Office of Public
18 Counsel, if they have comments, will -- will give
19 comments. And then followed by them will be John Idoux
20 of Sprint.

21 With that, Mr. Conroy, could you please come
22 forward?

23 Will you please state your name for the
24 record, please.

25 MR. CONROY: Anthony Conroy.

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1 JUDGE JONES: And you represent Southwestern
2 Bell?
3 MR. CONROY: Yes, sir.
4 JUDGE JONES: Okay. Will you --
5 MR. CONROY: Yes, I am an attorney
6 representing Southwestern Bell.
7 JUDGE JONES: Okay. Will you please raise
8 your right hand, sir?
9 (Anthony Conroy was sworn.)
10 JUDGE JONES: You may proceed.
11 ANTHONY CONROY testified as follows:
12 Thank you, Judge. Good morning,
13 Commissioners.
14 My name is Tony Conroy, and I represent
15 Southwestern Bell. I'm -- I'm here to talk about our
16 comments that we filed regarding the Commission's
17 proposed rules published in the December 2nd, 2002
18 Missouri Register, which were intended to facilitate
19 the implementation of the portion of the Missouri
20 Universal Service Fund dealing with assistance of
21 low-income and disabled customers as ordered by the
22 Commission in March of last year -- of 2002 in its
23 report and order of Case No. TO-98-329, which is the
24 underlying Universal Service Fund case.
25 A little bit of background. In January of

1 2001 the Commission Staff filed on behalf of all the
2 parties to the underlying Universal Service Fund case a
3 joint proposal, which had been agreed to by all the
4 parties in that case to get the low-income and disabled
5 portion of the fund up and running.

6 And Southwestern Bell was one of the parties
7 that agreed to that and agreed that it should be
8 implemented.

9 As part of this proposal the parties agreed
10 that several rule changes would be necessary to
11 implement that low-income and disabled portion of the
12 fund. And those rule changes were identified in the
13 proposal that was made by the parties and filed by
14 Staff in January of 2001.

15 In March of 2002 the Commission issued its
16 report and order in TO-98-329 that established the
17 low-income and disabled portion of the Missouri
18 Universal Service Fund.

19 And in that order the Commission found that it
20 was in the public interest to adopt the proposal that
21 had been previously filed.

22 The Commission also found that the rule
23 changes that had been identified by the parties were
24 necessary, and also found that eligible carriers should
25 recover their assessments from the -- or for the

1 Missouri Universal Service Fund through an explicit
2 surcharge on bills to end users.

3 So in this proceeding the Commission has
4 proposed those rule changes that had been identified by
5 the parties in January of 2001 in that joint proposal,
6 with some minor modifications, as well as a new rule
7 relating to the determination and collection of the
8 Universal Service Fund surcharge that was authorized by
9 the Commission in March of 2002.

10 Before I -- I briefly address each of the
11 proposed revisions that -- that we made I will -- I
12 would point out again that Southwestern Bell supported
13 the prompted limitation of the low-income and disabled
14 portion of the fund back when the proposal was
15 submitted in January of 2001, and we continue to
16 support it today.

17 And I would -- I'd also suggest that
18 the -- that our comments really are -- are fairly more
19 in the nature of clarification than they would be the
20 substantive changes or disagreements that we have,
21 because we don't disagree with the underlying purpose
22 of the rule changes.

23 The first thing -- I think there's four --
24 four basic areas. The first area we suggested a change
25 was in the -- the definition of applicable carrier

1 under 31.010.

2 And that was just to clarify that the
3 exception for carriers with minimal net intrastate
4 jurisdictional revenues below \$24,000 would be
5 determined on an annual basis. And again, I don't
6 think the parties disagree with that. I just wanted --
7 that was just a clarification.

8 We also proposed a new definition for net
9 jurisdictional revenue to clarify what revenues would
10 be subject to assessment and also what revenues would
11 be subject to the surcharge and which revenues the
12 surcharge would apply to.

13 We felt this was necessary because the rules
14 referred to not jurisdictional revenues, but really
15 didn't define it. And so we defined it as we thought
16 the parties had agreed to include all revenues received
17 by an applicable carrier from a retail customer
18 resulting from the provision of intra-state regulated
19 telecommunications services, but not to include
20 revenues from payphone operations or taxes or
21 uncollectibles -- things that are not retail.

22 And we've subsequently had some other
23 discussions with Staff about some other changes -- some
24 other minor changes or additions in this definition.
25 But we feel the definition of this term would be

1 necessary or appropriate just so that it's clear
2 what -- what the revenues are that are being assessed
3 and surcharged.

4 We also proposed minor modification in the
5 proposed changes to Rules 31.060, (5)(6). The primary
6 purpose there was to clarify that the payphone revenues
7 would not be subject to assessment and surcharge, and
8 also to provide that the notice of assessment from the
9 fund administrator should include the percentage
10 surcharge and that the assessment would be equal to the
11 revenues collected as a result of the application of
12 that surcharge.

13 And finally, we proposed to -- I think
14 restructure would be a good word -- the Commission's
15 proposed new rule addressing the surcharge, which is
16 31.065. This is -- this is the one rule that I don't
17 believe was included in the parties' January 2001
18 filing regarding the proposal for a low-income and
19 disabled fund.

20 We've suggested some new language to clarify
21 how we believe -- the parties believe the surcharge
22 authorized by the Commission will in -- in March of
23 2002 would work. I don't think we've changed anything
24 substantive or -- or suggested any substantive changes.

25 But basically our proposal is so that the rule

1 is clear that the surcharge would be mandatory, the
2 surcharge would be a percentage determined by the fund
3 administrator, the surcharge would be a percentage
4 applied against net jurisdictional revenues, the
5 surcharge revenues would be collected and should be
6 remitted to the fund administrator, and that the
7 recovery of the assessment -- the carrier's assessment
8 must be through the surcharge all of which were
9 addressed in the Commission's March 2002 order.

10 After filing our comments, I know that
11 representatives from Southwestern Bell have also had
12 discussions with some of the other parties, as well as
13 Staff. And by and large it's my understanding that
14 Staff is going to speak next, I think.

15 Basically doesn't have any disagreement with
16 the proposed changes that we've proposed in our
17 comments.

18 That's all I have.

19 JUDGE JONES: So we'll have questions from the
20 Commissioners.

21 Commissioner Lumpe, do you have any
22 questions?

23 QUESTIONS BY COMMISSIONER LUMPE:

24 Q. Mr. Con-- Mr. Conroy, I think you just said
25 that you've had conversations with Staff, and these are

1 not substantive changes and that Staff agrees with
2 these?

3 A. I -- I believe that to be the case.

4 Q. -- because ---

5 A. I'd let them discuss it for themselves, but
6 I --

7 Q. Okay.

8 A. -- based on those discussions, some of which
9 I've had and some of which my clients have had with
10 Staff representatives, I don't believe there's any
11 disagreement with the proposed changes.

12 Q. Okay. Because my main question would have
13 been what is the -- what is the significant impact that
14 this might have, say, on the fund or on the assessment
15 that is there.

16 And if you're telling me there's no impact on
17 the amount of the fund or the assessment; is that
18 correct?

19 A. I don't believe they impact either of those
20 substantive issues, the amount -- the size of the -- of
21 the low-income and disabled fund or the assessment that
22 would be collected to the surcharge.

23 I don't believe either of those. I'm
24 not -- Southwestern Bell is not intending to change the
25 substance on either one of those.

1 Q. Okay.

2 A. These are for clarification purposes only.

3 Q. And -- and one of the clarifications is that

4 it only applies to the regulated services?

5 A. Yes.

6 Q. And that's not substantive either?

7 A. No, because I -- that -- I think that was the

8 proposal --

9 Q. Okay.

10 A. -- in the first place, Commissioner.

11 COMMISSIONER LUMPE: Okay. I -- I think those

12 were my questions. I'll ask Staff those two.

13 THE WITNESS: Okay.

14 COMMISSIONER LUMPE: Okay. Thank you.

15 COMMISSIONER GAW: And I don't have any

16 questions, Judge. Thank you.

17 JUDGE JONES: Okay. Thank you.

18 Thank you, Mr. Conroy.

19 THE WITNESS: Thank you, Judge.

20 (Witness excused.)

21 JUDGE JONES: Marc Poston?

22 Please state your name for the record.

23 MR. POSTON: Marc Poston.

24 JUDGE JONES: And will you raise your right

25 hand and be sworn?

1 (Marc Poston was sworn.)

2 MARC POSTON testified as follows:

3 I'll -- I'll be brief. We -- we concur in the
4 historical facts as outlined by Southwestern Bell. And
5 we have had discussions with them following their
6 comments that they filed.

7 And I believe we have come to an agreement on
8 modifications to what was proposed and published on
9 December 2nd.

10 And Staff witness Chris Thomas is here to
11 discuss those -- those changes in detail if the
12 Commission wishes.

13 That's all I have to -- to open with, and
14 I'm -- I'll answer any questions you have.

15 JUDGE JONES: Commissioner Lumpe, do you have
16 any questions?

17 COMMISSIONER LUMPE: Yes.

18 QUESTIONS BY COMMISSIONER LUMPE:

19 Q. Are there -- are there changes to -- have you
20 made any changes to the comments that Southwestern Bell
21 made; in -- in other words, the provisions that they
22 outlined in their testimony. Have you made changes to
23 those?

24 A. Yes. The --

25 Q. Would you tell me what those are?

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1 A. I -- actually we have a handout that -- that
2 shows those changes. They're -- they're not complete
3 because --

4 Q. Do I have that handout?

5 A. I -- I have it right now. I can hand it to
6 you right now.

7 I should say that these -- the are not
8 entirely -- excuse me -- they're not entirely complete,
9 because we received another modification last night
10 that didn't get into this copy.

11 But we don't disagree with what Southwestern
12 Bell wishes to add to it.

13 Q. But there have been changes to the -- the
14 provisions that -- that Southwestern Bell made
15 originally. There are additional changes to that; is
16 that correct?

17 A. Correct. What -- what we think is a version
18 that both Southwestern Bell and Staff agreed to is not
19 entirely what Southwestern Bell has proposed in their
20 comments.

21 Q. All right. And you don't think there's any
22 substantive change and there won't be any impact to the
23 fund or to the assessment?

24 A. Correct. No substantive change and no impact
25 to the fund.

1 COMMISSIONER LUMPE: All right. Thank you.
2 That's all I have.
3 THE WITNESS: Do you wish to see these at this
4 point or --
5 COMMISSIONER LUMPE: Well, I think I'd rather
6 see the completed one instead of another interim one.
7 THE WITNESS: Okay.
8 COMMISSIONER LUMPE: Thank you.
9 MS. O'NEILL: Your Honor, if my office would
10 be allowed to have a copy of that so that we can
11 respond -- maybe we can get a copy of it right now.
12 THE WITNESS: Yeah. Right now. Sure.
13 MS. O'NEILL: Thanks.
14 THE WITNESS: Any other questions?
15 JUDGE JONES: Commissioner Gaw?
16 COMMISSIONER GAW: No, questions. Thank you.
17 (Witness excused.)
18 JUDGE JONES: Mr. Thomas, did you wish to
19 testify?
20 MR. THOMAS: I think Marc pretty much said
21 everything we need to say.
22 JUDGE JONES: Okay. And Ms. -- Ms. Ruth
23 O'Neill from the Office of Public Counsel?
24 MS. O'NEILL: Your Honor, because we weren't
25 aware of this negotiation, if we could have a moment to

1 take a look at these proposed revisions may affect the
2 comments that we want to make.

3 If we could have just a moment?

4 JUDGE JONES: You may.

5 Mr. John Idoux, do you have any questions or
6 comments you'd like to put on the record?

7 MR. IDOUX: Yes.

8 JUDGE JONES: Would you please state your name
9 for the record, sir.

10 MR. IDOUX: John Idoux.

11 JUDGE JONES: And would you raise your right
12 hand?

13 (John Idoux was sworn.)

14 JUDGE JONES: Okay. You may speak.

15 JOHN IDOUX testified as follows:

16 Thank you, Judge Jones, and the Commissioners.

17 As you may recall from the USF hearings Sprint
18 is a proponent of the -- of the low-income fund and
19 we're looking forward to working with the Commission
20 and the Staff and the fund administrator to get this up
21 and running.

22 In regards to the proposed rule changes that
23 Southwestern Bell has recommended, Sprint does support
24 those and believes that a collect-and-submit procedure
25 is the best process for, not only the industry, but for

1 the consumers as well.

2 And those are what the primary focus of those
3 proposed changes accomplishes is to just codify the
4 submits -- I'm sorry -- the collect-and-submit process.

5 So, therefore, Sprint does respectfully
6 request that the Commission adopt those changes. And
7 we look forward to seeing the implementation process of
8 the low-income fund move forward and expeditiously as
9 possible.

10 And those are Sprint's brief comments.

11 JUDGE JONES: Okay.

12 Commissioner Lumpe?

13 COMMISSIONER LUMPE: Yes.

14 QUESTIONS BY COMMISSIONER LUMPE:

15 Q. Mr. Idoux, were you involved in the
16 negotiations with Southwestern Bell; in other words,
17 you were aware of the comments they made. Are you
18 aware of the additional changes?

19 A. We were made aware of their proposed changes
20 and did review them and supported them. I was informed
21 of the additional change this morning and Sprint
22 supports that as well.

23 It's just a further clarification to hopefully
24 prevent any type of confusion in the future.

25 But Sprint believes that all the proposed

1 changes that are -- have been made were clearly within
2 the intent of the industry when it put forth the
3 consensus document back in 2001.

4 Q. Okay. So -- so you are aware of the
5 additional changes and you're also supportive of those?

6 A. Yes, we are.

7 Q. And you don't see any impact on the fund
8 itself or the assessment?

9 A. No, I don't believe the fund size will be
10 impacted or the assessment will be impacted. I believe
11 what we'll do is provide much less customer confusion
12 in the future.

13 COMMISSIONER LUMPE: Okay. Thank you,
14 Mr. Idoux.

15 JUDGE JONES: Commissioner Gaw?

16 COMMISSIONER GAW: No, questions. Thank you.

17 JUDGE JONES: Thank you, Mr. Idoux.

18 (Witness excused.)

19 JUDGE JONES: Ms. O'Neill?

20 MS. O'NEILL: Your Honor, we're not through
21 reading this yet. If we could have just a couple more
22 minutes, then we'll be ready to respond.

23 JUDGE JONES: While you all discuss that, I'm
24 going to go into intermission.

25 MS. O'NEILL: Thank you.

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1 (A RECESS WAS TAKEN.)

2 JUDGE JONES: Okay. We're -- we're back on
3 the record now.

4 Ms. O'Neill, you've had time to look over
5 those documents. Do you have comments?

6 MS. O'NEILL: Just very briefly.

7 JUDGE JONES: Will you state your name for the
8 record, please.

9 MS. O'NEILL: My name is Ruth O'Neill. I'm
10 Assistant Public Counsel for the Office of the Public
11 Counsel.

12 JUDGE JONES: And will you raise your right
13 hand?

14 (Ruth O'Neill was sworn.)

15 RUTH O'NEILL testified as follows:

16 Good morning, Your Honor, Commissioners,
17 Counsel.

18 Public Counsel did not file written comments
19 taking a position in support of these proposed rules.
20 And specifically, I think we want to talk about briefly
21 Rule 240 31 -- or 31.065, which is regarding the
22 Missouri USF surcharge, because the fact that we
23 continue to believe a surcharge is not the appropriate
24 manner for collecting carrier assessments for the
25 Missouri Universal Service Fund.

1 However, Public Counsel is strongly committed
2 to implementing the low-income, disabled Missouri
3 Universal Service Fund as soon as possible.

4 We recognize that in your report and order,
5 Commissioners, you decided that a surcharge would be
6 the funding mechanism for that fund, and that the
7 surcharge would be equal to the -- that would be how
8 you would pull up the actual assessment levels from the
9 companies.

10 Therefore, we believe the Commission's
11 proposed rule as published originally adequately
12 implemented the terms of the Commission's report and
13 order and that the surcharge was gonna be used.

14 It was our position this morning coming here
15 that that proposed rule appeared on its face to mirror
16 the Commission's decision.

17 The original proposed revisions that
18 Southwestern Bell offered we didn't believe should have
19 been adopted by the Commission.

20 Having looked at the possible negotiated
21 language from settlement that Staff and -- and Bell
22 have put together tentatively, we believe that some of
23 those concerns have been alleviated.

24 We do have an additional concern regarding a
25 possible -- another possible change, which you don't

1 have that Ms. Meisenheimer can address if you want to
2 ask her questions about that.

3 And that would be a proposed -- that would be
4 as to some language we believe may create some
5 confusion down the road.

6 I don't know if you want to ask her questions
7 about that this morning or if you want to see if we can
8 work that out and show you a final product.

9 All in all we do believe that the best way to
10 serve Missouri consumers is to implement this fund
11 quickly and fairly.

12 And since its surcharge is the mechanism that
13 the Commission has decided to use, we -- we do want to
14 make sure that the language is sufficient to provide
15 guidance to allow us to move forward with the USF.

16 We'd be happy to work with the Staff and Bell
17 to iron out any continuing differences in the language
18 so that we can give you a final proposal as soon as
19 possible.

20 Thank you.

21 JUDGE JONES: Any questions from the
22 Commissioners?

23 COMMISSIONER LUMPE: Yes.

24 QUESTIONS BY COMMISSIONER LUMPE:

25 Q. Ms. O'Neill, the -- the changed or the added

1 definition where it says, and those companies
2 with -- where it said, net intra-state end user, which
3 is now changed to annual net jurisdictional revenue, do
4 you -- do you see any difference in that?

5 A. I don't -- I don't think that's any -- any
6 material difference, and we don't have a problem with
7 that.

8 Q. Okay. You have no problem with that. That's
9 good.

10 Do you see any impact to the fund itself or
11 the assessment as it is? And I'm -- and I understand
12 you -- your assessment is not your optimal --

13 A. Right. Sure.

14 Q. -- what you want to do, but --

15 A. But we -- we want to go forward with it as
16 much as you do, Commissioner.

17 What's -- the concern that we have -- we do
18 have some concerns about some of the proposed revisions
19 that Bell had.

20 And now that there's some negotiation about
21 that language, there's some concerns that we want to
22 address with the parties and see if we can iron those
23 out before you get the final revisions.

24 Q. And how --

25 A. And --

1 Q. -- long do you think that might take to iron
2 that out and have a final revision?
3 A. We want to do it quickly, so I hope --
4 Q. A couple days?
5 A. -- maybe we can do it today -- today or
6 tomorrow.
7 Q. Okay.
8 A. And if you want some specifics about those
9 concerns, I think Barb might be a better person to ask
10 about that.
11 COMMISSIONER LUMPE: Then I would be happy
12 to -- to talk to Ms. Meisenheimer.
13 (Witness excused.)
14 MS. O'NEILL: Okay.
15 You can go up there.
16 JUDGE JONES: Up to the podium is fine.
17 Will you please state your name.
18 MS. MEISENHEIMER: My name is Barbara
19 Meisenheimer.
20 JUDGE JONES: And would you raise your right
21 hand?
22 (Barbara Meisenheimer was sworn.)
23 JUDGE JONES: Okay.
24 QUESTIONS BY COMMISSIONER LUMPE:
25 Q. Ms. Meisenheimer, would you tell me about your

1 concern that I assume it's in relationship to the 065
2 area?

3 A. Yes, it is. In Southwestern Bell's proposed
4 modifications we did have concerns primarily with No. 2
5 and No. 3 of the -- their modification of
6 4 CSR 240-31.065.

7 Having an opportunity to -- within the context
8 of this hearing look at the language that it looks like
9 the Staff and Southwestern Bell and Sprint have been
10 working together to iron out, some of the concerns that
11 I would have had about Southwestern Bell's proposed
12 language have been addressed.

13 And specifically, I thought it was very
14 important that the Commission not forego the
15 recognition that ultimately it is -- it is the
16 Commission, not the administrator, that approves the
17 surcharge level.

18 Because it's my belief that only the
19 Commission has the authority to impose a rate on
20 consumers.

21 So that was my primary concern with the Bell
22 language in part 2 and part 3.

23 Q. And that's been worked out in this new
24 document; is that correct?

25 A. That's correct.

1 Q. All right. So --

2 A. I did --

3 Q. So you don't have as much problem with it as
4 you did under this original filing by Bell?

5 A. They have addressed that concern; however, the
6 agreed-upon language that they've worked out this
7 morning raises a new concern for me.

8 Q. Okay.

9 A. And -- and I'd like to share that with you, if
10 I can.

11 Q. Please.

12 A. The last sentence of part 4 in the handout
13 that you received this morning from the Staff.

14 JUDGE JONES: Actually we didn't receive it,
15 because they intend to modify that. You can read to
16 us.

17 THE WITNESS: Okay.

18 JUDGE JONES: That would be fine.

19 THE WITNESS: Included in what I have reviewed
20 as where they're at currently in the negotiations,
21 there is a sentence that has been added at the end of
22 part 4 of 4 CSR 240-31.065.

23 And that sentence reads: The remittance of
24 all funds received from the end-user customers as a
25 result of the application of the USF surcharge shall

1 constitute full satisfaction of the carrier's annual
2 percentage assessment.

3 I guess -- and -- and I don't -- I have
4 concerns about this that there may be issues that have
5 not been explored.

6 For example, let's say that customers don't
7 pay their bill and ultimately their bill ends up as an
8 uncollectible.

9 Then has the carrier's responsibility to pass
10 on USF assessment monies -- are they free of that
11 obligation now?

12 And then when they do -- let's say they do
13 eventually collect the money from this customer, do
14 they pocket that money then or are they, then, required
15 to go ahead and pass on any amount recovered as an
16 uncollectible that was associated with the surcharge on
17 to the administrator?

18 So what I would recommend is that either you
19 just eliminate that additional language -- that would
20 be my first choice. Just don't let that get into your
21 rule.

22 As a second alternative, I mean, I would
23 really appreciate the opportunity to be a part of the
24 negotiations of the final product and to have the
25 opportunity to give you comments regarding what the

1 final negotiated language is.

2 Because at this point I don't know that Public
3 Counsel can commit to being able to reach a
4 satisfactory agreement with the other parties regarding
5 language.

6 And I don't want to forego our right before we
7 even see what that is. So those are -- those are my
8 comments.

9 BY COMMISSIONER LUMPE:

10 Q. Your concern now is sub 4, then; is that
11 correct?

12 A. Yes. And -- and, as I said, the Staff's input
13 on the previous sections it -- it looks like what they
14 negotiated is --

15 Q. Is satisfactory?

16 A. It's okay by me.

17 Q. Okay. It's satisfactory.

18 And all -- all of the other -- the 010 and the
19 060, are -- are those satisfactory also?

20 A. The -- I -- I -- I didn't have any --

21 Q. Problems with it?

22 A. -- problems with that.

23 Q. Okay. So it's -- it's the 065 and that one
24 particular area where you would like to be part of some
25 further negotiation with the Staff, Sprint,

1 Southwestern Bell who -- who --

2 A. And -- and I would ask that you not finalize
3 your decision on whether the -- or changes on your
4 proposed rule until such time as Public Counsel has
5 either settled in agreement with the other parties or
6 has had an opportunity to comment to you about what our
7 further concerns might be about any language.

8 Q. And -- and you feel you can do that in a
9 fairly expedited way?

10 A. I think so. This is a very limited piece.

11 Q. Yeah.

12 A. And as long as their negotiations don't extend
13 into other areas of the document -- no, I don't really
14 know what they have in mind because I haven't been a
15 part of that.

16 Q. Okay.

17 A. But we -- we will respond as promptly as we
18 possibly can.

19 Q. Okay. Because I think we've been addressing
20 this issue since -- since I started here with the
21 Commission. And it does seem time to maybe get it
22 done.

23 A. I -- I think that this -- this has been my
24 career case, and I -- I'm ready to see the low-income
25 fund implemented and -- and move forward for the

1 benefit of Missourians.

2 COMMISSIONER LUMPE: Thank you.

3 QUESTIONS BY JUDGE JONES:

4 Q. Ms. Meisenheimer, do you have any comments --
5 you're with Office of Public Counsel?

6 A. Yes, I am.

7 Q. Have you looked at the definition of
8 jurisdictional revenue in the proposed change to
9 31.010?

10 A. I -- I must admit that at one time I was much
11 more familiar with this material because I've been
12 involved in every phase of the proceeding.

13 I -- I didn't have a problem when I read this,
14 so we're not raising an objection to the modifications.
15 It just looks like they re-arranged where things were
16 defined.

17 Q. In your opinion, do you think excluding
18 revenues from payphone operations will affect the fund?

19 A. Certainly you will to some degree diminish the
20 base upon which you can draw to fund the program;
21 however, I -- as I said, I've been involved in this
22 process from the very beginning.

23 And we had workshops where we discussed
24 specifically the issue of payphones and how realistic
25 is it to be able to collect -- you know, for payphone

1 carriers to be able to collect from their customers
2 because now there's been approved a surcharge to
3 collect from other customers.

4 What you would have to do is adjust the
5 payphone rate. And people can't put in half a penny
6 into a payphone or it would be unrealistic to regularly
7 at each point where the Commission approved the
8 different surcharge rate to go back and change how much
9 is collected from the payphone.

10 So administratively I think it would be a
11 nightmare to ask carriers to -- I -- I mean, I think
12 it -- it could be done.

13 But we had this discussion, we negotiated many
14 terms, and ultimately I think it was agreed upon that
15 payphone providers would be excluded as -- as an
16 agreement between the parties.

17 Q. I'm gonna have -- do you believe there's
18 a -- a difference between a company that is a payphone
19 company and a telephone company at large that has
20 revenues from payphone operations?

21 A. Certainly I am aware that there are companies
22 in Missouri whose primary line of business is
23 payphones.

24 Say, for example, they own a small restaurant
25 and they've gotten a certificate to have a payphone

1 in -- in their restaurant, that is different than, say,
2 for example, a large company like, for example,
3 Southwestern Bell where a payphone service is one
4 component of their tot-- the total scope of their
5 service offerings.

6 So, yes, I do agree that there is a
7 distinction in terms of the scope of businesses;
8 however, as I said, if you're looking for the
9 Commission's order approved direct recovery on a
10 customer's bill -- and I don't know that it would be
11 fair to say, then, to Southwestern Bell you can charge
12 extra to your basic local service customers to recover
13 what we have to pay in to cover or the portion
14 associated with a payphone assessment.

15 So I -- I think just administratively the way
16 that it worked out, if you're gonna go with a
17 surcharge, you know, again-- against our
18 recommendation, then the way that it's written in here
19 is a reasonable way to do it that minimizes cost and
20 burden.

21 JUDGE JONES: Okay. Thank you.

22 Are there any other questions from the
23 Commissioners?

24 (No response.)

25 JUDGE JONES: Okay. Thank you,

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1 Ms. Meisenheimer.

2 THE WITNESS: Thank you, sir.

3 (Witness excused.)

4 JUDGE JONES: And is there anyone else who

5 would like to give comments either in support or

6 opposition of the rule changes here today?

7 (No response.)

8 JUDGE JONES: Okay. Seeing no one, then we

9 will conclude the hearing.

10 Thank you all for coming.

11 WHEREUPON, the hearing was concluded.

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