

Leo J. Bub  
Senior Counsel

Southwestern Bell Telephone  
One Bell Center, Room 3518  
St. Louis, Missouri 63101  
Phone 314 235-2508  
Fax 314 331-2193



September 15, 1998

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
301 West High Street, Floor 5A  
Jefferson City, Missouri 65101

FILED  
SEP 16 1998  
Missouri Public  
Service Commission

Re: Case No. 00-99-44

Dear Judge Roberts:

Enclosed for filing with the Commission in the above-referenced case is an original and 14 copies of Southwestern Bell Telephone Company's Concurring Statement.

Please stamp "Filed" on the extra copy and return the copy to me in the enclosed self-addressed, stamped envelope.

Thank you for bringing this matter to the attention of the Commission.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Leo J. Bub".

Leo J. Bub

Enclosure

cc: Attorneys of Record

Missouri Public  
Service Commission  
99-44

Case No. 00-99-44

### CONCURRING STATEMENT

In conformance with the Commission's August 5 Order, the Applicants filed their Responsive Statement of Joint Applicants on August 31, 1998. At the September 2, 1998 prehearing conference, the Commission granted intervention to various parties, including Southwestern Bell Telephone Company. In addition, the Commission requested the parties to whom it granted intervenor status to file pleadings providing their position on the questions it posed to the Applicants in its August 5 Order. In conformance with the Commission's request at the September prehearing, Southwestern Bell respectfully states:

16.

Supplemental Order No. 52 in Commission Case No. 11,110 given the nature of the questions presented concerning the proper administration of the Public Service Commission Fund.

Southwestern Bell agrees that it would be appropriate for the Commission to stay the effectiveness of its assessment order to the extent that the assessments have been increased by the Article X transfers. Southwestern Bell also concurs that the ultimate remedy sought is that the Commission, after conducting an appropriate proceeding concerning the propriety of the assessments, issue a new supplemental order consistent with the evidence presented and the applicable law. Southwestern Bell also believes that a full evidentiary hearing may not be necessary because the basic facts will likely not be in dispute. It may therefore be possible to present the matter to the Commission on a stipulation of facts and brief the legal issues.

B. Nature of the Protest. Southwestern Bell's primary concern is with the increase in utility assessments due to Article X transfers. Like the Applicants, Southwestern Bell questions the propriety of using monies regulated utilities have paid into the Public Service Commission Fund to facilitate tax refunds to the general public mandated by Mo. Const. Art. X, Sections 16-24 (the Hancock Amendment).

C. Article X Distributions Received. Southwestern Bell concurs with the Applicants that the total amount of Article X distributions received by the Applicants and Intervenors is irrelevant to whether the Article X transfers out of the fund by the Commission were authorized by law, and whether the Article X transfers are expenses "to be incurred" by the Commission in the coming fiscal year or are "reasonably attributable to the regulation of public utilities" as those phrases are used in Section 386.370.1 RSMo (1997 Supp.). But without waiving these objections

to the relevance of the information requested, the total amount of Article X distributions received by Southwestern Bell Telephone Company for the 1995 and 1996 tax years are as follows:

1995 - \$628,586

1996 - \$667,452

D. Legal Authority. Southwestern Bell concurs with the citation of legal authority provided by joint Applicants in their August 31, 1998 Responsive Statement of Joint Applicants. Southwestern Bell also reserves the right to raise additional issues and provide legal authority as they may come to its attention.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

BY



PAUL G. LANE

#27011

LEO J. BUB

#34326

ANTHONY K. CONROY

#35199

KATHERINE C. SWALLER

#34271

Attorneys for Southwestern Bell Telephone Company

One Bell Center, Room 3518

St. Louis, Missouri 63101-1976

314-235-2508 (Telephone)

314-247-0014 (Facsimile)

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by first-class, postage prepaid, U.S. Mail on September 16, 1998.



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Leo J. Bub

DAN JOYCE  
MISSOURI PUBLIC SERVICE  
COMMISSION  
301 W. HIGH STREET, SUITE 530  
JEFFERSON CITY, MO 65101

KAREN WINN  
OFFICE OF THE COMMISSIONER OF  
ADMINISTRATION  
CAPITOL BUILDING, ROOM 125  
JEFFERSON CITY, MO 65101

MICHAEL F. DANDINO  
SENIOR PUBLIC COUNSEL  
OFFICE OF THE PUBLIC COUNSEL  
301 W. HIGH STREET, SUITE 250  
JEFFERSON CITY, MO 65101

ROBERT J. HACK  
MISSOURI GAS ENERGY  
3420 BROADWAY  
KANSAS CITY, MO 64111

JAMES C. SWEARENGEN  
PAUL A. BOUDREAU  
BRYDON, SWEARENGEN & ENGLAND  
P.O. BOX 456  
JEFFERSON CITY, MO 65102

MICHAEL C. PENDERGAST  
LACLEDE GAS COMPANY  
720 OLIVE STREET, ROOM 1520  
ST. LOUIS, MO 63101

JAMES M. FISCHER, P.C.  
101 W. MCCARTY STREET, SUITE 215  
JEFFERSON CITY, MO 65101

RONALD MOLTENI  
JEREMIAH W. (JAY) NIXON  
ATTORNEY GENERAL  
BROADWAY STATE OFFICE BUILDING  
221 W. HIGH STREET  
P.O. BOX 899  
JEFFERSON CITY, MO 65102