

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 July, 1982.

Case No. TR-82-199

In the matter of the filing by  
Southwestern Bell Telephone Company  
of new intrastate rates, tolls and  
charges applicable to intrastate  
telecommunication services furnished  
within the State of Missouri.

ORDER CONCERNING DATA REQUESTS,

AND DIRECTING STAFF TO SECURE TESTIMONY OF A WITNESS

On June 30, 1982, the Public Counsel filed its "Motion to Compel Answers to Data Requests and to Define Scope of Discovery and Hearing," and its Suggestions in support of same. By its Motion, Public Counsel sets out certain data requests numbered 2 through 11 propounded by Public Counsel upon Southwestern Bell Telephone Company, to which Bell has objected. The data requests objected to by Bell primarily concern Bell's anticipated implementation of the "Computer II" decision of the Federal Communications Commission (FCC Docket No. 20828) as of January 1, 1983, and Bell's plans for the implementation of the proposed modification of the final judgment in the matter of United States v. Western Electric et al., Civil Action 17-49, (U.S.D.C.N.J. 1956).

Generally, Bell's objections to said data requests were that the matters inquired into are irrelevant and immaterial since the data sought is not known and measurable at this time and probably will not be until after January of 1983, so that answers would be speculative. Bell also objects on the basis that some of the requests seek the production of documents prepared in the course of and in contemplation of pending litigation and are, therefore, privileged attorney work product. Bell further asserts that all of the documents requested are proprietary

business records and therefore privileged, and that five of the requests are unreasonably burdensome.

Public Counsel urges the Commission to define the scope of discovery and of the hearing in this case as to the impact of the Computer II decision of the FCC and the proposed modified final judgment of the 1956 Consent Decree in order to avoid individual objections to testimony and to aid all parties in preparing for hearing.

The Commission determines that oral argument by counsel should be scheduled concerning Public Counsel's "Motion to Compel Answers to Data Requests and to Define Scope of Discovery and Hearing" of June 30, 1982. Such oral arguments should be presented to the Commission beginning at 10:30 a.m. on Friday, July 23, 1982, in the Commission's hearing room in Jefferson City, Missouri. The oral arguments of Public Counsel, the Commission Staff and Bell should be limited to fifteen minutes each (exclusive of time for questions from the bench), and the arguments of any other party to the case wishing to participate should be limited to seven minutes each (exclusive of questions from the bench).

On July 1, 1982, the City of Trenton, Missouri filed its "Application for a Prehearing Conference With Reference to the City's First Set of Data Requests" (hereinafter, Motion). By its Motion, the City of Trenton asserts that it propounded upon Southwestern Bell, on June 9, 1982, a series of six data requests, which Bell has allegedly refused to answer. On July 7, 1982, Bell filed its Response to the City of Trenton's Motion, asserting that Bell has answered Data Request Nos. IV, V, and VI of the City of Trenton; has sought clarification or more specificity in regards to Requests Nos. II and III; and has objected to a portion of Request No. I, while at the same time referring the City to a document which will supply the City with what Bell believes to be the relevant data requested. Bell attached copies of the data requests in question, and Bell's responses thereto, to its Response of July 7. Bell does not believe that an early prehearing conference is warranted as to the City of Trenton's data requests.

The Commission concludes that an early prehearing conference is not necessary to a determination of the matter. As to the City of Trenton's Data Request No. I, the Commission determines that Southwestern Bell should provide the information requested as to any employee of Southwestern Bell whose salary (or any part thereof) Bell is seeking to recover as an expense in this case. Bell does not need to provide the information requested by Data Request No. I as to any employee of AT&T or WEC.

As to Data Requests No. II and III, the Commission determines that Bell's response to the City of Trenton is reasonable. Bell has already filed prepared testimony and exhibits in this case. It is not required to highlight such testimony and exhibits in response to a Data Request. If the City of Trenton provides to Bell page references to the testimony and exhibits of a particular Bell witness concerning interest rates and inflation rates, Bell can then explain to the City of Trenton the source and/or basis of such rates (and provide working papers concerning such rates in response to Data Request No. V, if appropriate).

As to the City's Data Request No. IV, the Commission determines that Bell should be compelled to answer. The response previously given by Bell, (that Company has not separated and identified costs for the preparation of Case No. TR-81-208 or its present case No. TR-82-199), does not answer the Data Request.

Data Requests No. V and VI should be answered by Bell to reflect the additional answers required by the Commission's rulings as to Data Requests No. I and IV. Should the City of Trenton modify its Data Requests II and III in accordance with this Order, Bell should also, of course, revise its answers to Data Requests V and VI in accordance with such additional answers.

The Commission notes that the Commission Staff sought bids through the State's Office of Administration, Division of Purchasing, for a consultant respecting the question of whether it is appropriate to determine an intrastate rate of return for Southwestern Bell, and, if so, what such rate of return is. The Staff rated the bids that were submitted to the Office of Administration, Division of Purchasing.

The bids of Technical Associates, Inc. and J. W. Wilson & Associates, Inc. received the highest and the second highest scores, respectively. The Staff's recommendation to the Office of Administration, Division of Purchasing was that Technical Associates, Inc. be awarded the contract for consultation and testimony respecting the intrastate rate of return question.

The Commission has determined that it also desires to have prepared and presented to it in this case, testimony by J. W. Wilson and Associates, Inc. on the intrastate rate of return question. Such testimony (and necessary exhibits) shall be in addition to that presented by any party to the case, and shall be subject to the same rights of cross-examination and rebuttal testimony afforded to all parties to this case as to the testimony and exhibits of any other witness. As a matter of procedure, the Commission will direct its Staff to arrange for the preparation of such testimony and exhibits by J. W. Wilson and Associates, Inc., to work with J. W. Wilson & Associates, Inc. in the preparation of such testimony and exhibits, and to file such testimony and exhibits in this case on or before August 12, 1982. The Staff should also offer such testimony and exhibits at hearing, and proffer the supporting witness or witnesses for cross-examination, as Staff would as to one of its own witnesses. This procedure, however, in no way binds the Commission's Staff to adopt such testimony and exhibits of J. W. Wilson and Associates, Inc. as its own, and, therefore, Staff shall not have responsibility for redirect testimony, or for briefing, concerning such testimony and exhibits.

It is, therefore,

ORDERED: 1. That oral argument by counsel concerning Public Counsel's "Motion to Compel Answers to Data Requests and to Define Scope of Discovery and Hearing" of June 30, 1982 be, and is hereby, scheduled to be presented beginning at 10:30 a.m. on Friday, July 23, 1982 in the Commission's hearing room in Jefferson City, Missouri, in accordance with the time limitations set out hereinabove.

ORDERED: 2. That Southwestern Bell Telephone Company be, and is hereby, ordered and compelled to answer the City of Trenton's Data Request No. I to the

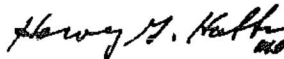
extent set out hereinabove, and to answer the City's Data Requests No. IV, V and VI fully and completely, within ten (10) days of the date of this Order.

ORDERED: 3. That Southwestern Bell Telephone Company's objections to the City of Trenton's Data Requests II and III be, and are hereby, sustained.

ORDERED: 4. That the Commission's Staff be, and is hereby, directed to secure the services of J. W. Wilson and Associates, Inc. for the preparation of prepared direct testimony and exhibits on the issue of intrastate rate of return, to work with J. W. Wilson and Associates, Inc. in the preparation of such testimony and exhibits, and to file such direct testimony and exhibits with the Secretary of the Commission and serve copies upon all other parties of record to this proceeding on or before August 12, 1982; and, further, to offer such direct testimony and exhibits at the hearing of this case in accordance with the discussion hereinabove.

ORDERED: 5. That this Order shall become effective on the date hereof.

BY THE COMMISSION



By the Commission  
Secretary

(S E A L)

Fraas, Chm., Dority, Shapleigh  
and Musgrave, CC., Concur.  
McCartney, C., Absent.