

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 14th  
day of September, 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 DENYING MOTION TO SECURE TESTIMONY OF WITNESS

By its Order of July 16, 1982, the Commission directed its Staff to secure, file and offer the testimony of J. W. Wilson and Associates, Inc. on the issue of intrastate rate of return, but stated that the Staff need not adopt said testimony as its own. On September 8, 1982, Southwestern Bell Telephone Company filed its "Motion to Secure Testimony of Witness." By its Motion, Southwestern Bell requests that the Commission call, as its own witness in the instant case, a representative of one of the principal independent bond rating agencies for the purpose of eliciting testimony regarding: (a) the criteria employed by such agency in rating the debt securities of major corporations, particularly with respect to their assessment of business and financial risk; (b) the consideration, if any, given by such agency as to the effect of a firm's capital structure on the rating given by such agency to a specific new issue of debt securities; (c) the effect of such agency's rating on the cost of a new issue of debt securities; and (d) such other matters as the Commission may specify.

The Commission determines that Southwestern Bell's Motion should be denied. As stated by the Commission in its Order of July 16, 1982, the testimony and exhibits of J. W. Wilson and Associates in this case 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. Thus, if Southwestern Bell or any other party to the proceeding wishes to object to Mr. Wilson's testimony

on proper grounds, cross-examine the witness, or file rebuttal testimony to the testimony of J. W. Wilson and Associates, it is entitled to do so. The Commission will not, however, take it upon itself to assume that burden.

The Commission is aware of the Company's assertion that certain witnesses may appear at its behest and not that of Company; however, no evidence of this contention was offered. Should the Company show the Commission that such witnesses will not appear, either in response to a request or subpoena, the Company should again make its request to the Commission, for further consideration.

Southwestern Bell's "Suggestions in Support of the Motion of Southwestern Bell Telephone Company to Secure the Testimony of a Witness," filed with its Motion on September 8, 1982, contains a great deal of material which should rather be presented on the record through cross-examination or rebuttal testimony, or in the Company's brief. The Commission does take note, however, of Southwestern Bell's assertion in said Suggestions that, "by engaging a witness on such a controversial issue, the Commission has departed from its assigned role as an impartial finder of fact and has apparently assumed a partisan position as advocate." Bell goes on to assert that "[t]he choice of the witness, who has consistently testified contrary to Bell System companies throughout his professional career, aggravates the Constitutional due process departure of the Commission from its established duty as the initial trier of fact." The Commission has not assumed a partisan position as an advocate in this case, and will carefully and fairly consider all of the competent and substantial evidence presented to the Commission upon the record of this case. However, this Commission is a regulatory agency with responsibilities and powers quite distinct from those of a circuit or appellate court. Although the Commission is indeed "the initial trier of fact," in the same sense in which that phrase applies to a circuit court in Missouri, it is also an administrative regulatory body. It is clearly within the Commission's discretion to assure that viewpoints are presented to the Commission in the ratemaking process which the Commission determines should be heard, but which are not or may not be presented by other parties to the proceeding.

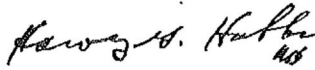
This does not, however, indicate any predisposition or prejudice by the Commission of any issues in this case. As previously stated, all of the competent and substantial evidence on this, and every, issue in the case will be carefully, objectively and impartially considered by the Commission in reaching its decision herein.

It is, therefore,

ORDERED: 1. That Southwestern Bell Telephone Company's "Motion to Secure Testimony of Witness" filed herein on September 8, 1982 be, and is hereby, denied.

ORDERED: 2. That this Order shall become effective on the date hereof.

BY THE COMMISSION

  
Harvey G. Hubbs  
Secretary

(S E A L)

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