

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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|----------------------------------------------|---|-------------------------------------|
| In the Matter of Southwestern Bell Telephone |) | |
| Company, d/b/a SBC Missouri's Proposed |) | |
| Revised Tariff Sheet Intended to Increase by |) | <u>Case No. IT-2004-0015</u> |
| Eight Percent the Rates for Line Status |) | Tariff No. JI-2003-2141 |
| Verification and Busy Line Interrupt as |) | |
| Authorized by Section 392.245, RSMo, the |) | |
| Price Cap Statute. |) | |

DISSENTING OPINION OF COMMISSIONER CONNIE MURRAY

I find it incredulous that the majority has taken the position of effectively re-writing the price-cap statute¹ to read as the majority wishes it were written.² Furthermore, the conclusion to reject the tariff is unsupportable, even if the fatally flawed reasoning about the price-cap statute acting only as a rebuttable presumption were accepted as true.

The Report and Order is replete with inconsistencies and illogical reasoning. For example, it states that the highest Missouri rates for LSV are \$19.98 and for BLI are \$9.99. Yet, the majority finds that it would be unjust and unreasonable for SBC to charge \$1.62 for LSV and \$2.49 for BLI.

Another example of the majority's illogic is its attempt to use the CPI-TS as a measure of just and reasonable increases for non-basic services. The majority conveniently extracts that indicator from the statutory provision which

¹ Section 392.245 RSMo. 2000.

² See my Dissenting Opinion of July 3, 2003, from the Order Suspending Tariff in this case for a discussion of the meaning of the price cap statute.

relates only to basic local and exchange access rates.³ Then the majority uses that indicator in a totally different manner than it is used in that provision. Taking the majority's analysis to its logical conclusion would require a finding that anything other than a decrease in rates for non-basic services to levels below those in effect on December 31, 1996 is not just and reasonable.

Next, the majority makes the leap in reasoning that other economic measures, such as the CPI-LS and the GDP-PI, may serve as yardsticks for the determination of just and reasonable. From that leap is drawn the conclusion that, because neither index has increased close to eight-percent over the past ten years,⁴ the proposed eight-percent increase is not just and reasonable.

Although not specifically termed a yardstick, the majority references as "other pertinent evidence" that "Bell has *probably* (emphasis added) experienced annual increases in its labor costs, net of productivity gains, of about 5.0 percent." Also included as "other pertinent evidence . . . that suggests that the magnitude of the proposed price increases is excessive" is the opinion offered by Staff witness Thomas that the proposed increases are excessive in his opinion. None of the majority's "pertinent evidence" has any factual basis in the record.

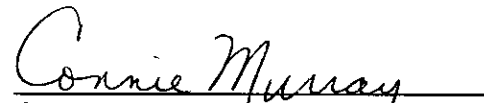
Today's decision is a huge step backwards for this Commission and for the telecommunications industry and its consumers in Missouri. I deeply regret

³ Section 392.245.4(a) RSMo 2000.

⁴ No explanation was given regarding the relevance of a ten-year period.

the delays, inconveniences and unnecessary expenses that have occurred and that will necessarily continue until the courts direct the Commission to implement the law. For all of these reasons, I respectfully dissent.

Respectfully submitted,



Connie Murray, Commissioner

Dated at Jefferson City, Missouri,
on this 6th day of November 2003.