

FILED

SEP 18 1987

PUBLIC SERVICE COMMISSION

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of Southwestern Bell)
Telephone Company for the authority)
to file tariffs reflecting credits)
to local service access lines and) Case No. TR-88-23
lifeline tariffs for telephone)
service provided to customers in the)
Missouri services area of the Company.)

In the matter of the investigation of)
the revenue affects upon Missouri) Case No. AO-87-48 ✓
utilities of the Tax Reform Act of 1986.)

OPPOSITION TO MOTION FOR CLARIFICATION

Comes now Southwestern Bell Telephone Company (Southwestern Bell) and responds as follows to the Motion for Clarification filed by Continental Telephone Company of Missouri, Contel System of Missouri, Inc. and Webster County Telephone Company (hereinafter collectively referred to as "Contel") concerning the Order of the Public Service Commission of Missouri (Commission) dated August 28, 1987, in the above-referenced cases.

1. In the August 28, 1987 Order, the Commission approved the Stipulation and Agreement executed by Southwestern Bell and the Commission Staff concerning the impact of the Federal Tax Reform Act of 1986 on Southwestern Bell's revenue requirement. A provision of this stipulation is that Southwestern Bell will absorb the revenue loss that it will experience from the implementation of the Extended Measured Service (EMS) experiment. Southwestern Bell conservatively estimates this revenue loss to be \$1.3 million.

2. Contel now asserts that this provision of the stipulation affects the Commission's earlier determination that the costs, investment and revenues arising from EMS must be assigned to the intraLATA toll pool (the Pool). (Contel Motion, para. 4) See, Case No. TO-86-8, Investigation into all issues concerning the provision of Extended Area Service (EAS), Order of Clarification and Denial of Petitions for Rehearing, May 14, 1987 (hereinafter "Order of Clarification"). Contel suggests that, for Southwestern Bell to absorb the revenue loss associated with experimental EMS, Southwestern Bell should be required to remit "rated" toll revenues to the Pool from routes where EMS has been established, rather than "adjusted" toll revenues. Otherwise, Contel alleges, Southwestern Bell's revenue loss from EMS will be borne by all Pool participants, not by Southwestern Bell alone. (Contel Motion, paras. 5-6)

3. Contel betrays in its Motion a fundamental misunderstanding of Southwestern Bell's tax reform stipulation as it concerns EMS. The stipulation in no way affects the Commission's requirement that costs, investment and revenues arising from EMS be assigned to the Pool. The stipulation does not reduce by a single dollar the revenue to be received by Contel or any other pool member. As the Commission indicated in the Order of Clarification, classifying EMS as toll for separations purposes will disperse among participating telephone companies any resulting

revenue shortfall. Simply put, Southwestern Bell's share of the after-pooling revenue shortfall that will result from all telephone companies offering EMS will exceed \$1.3 million.

5. The sole effect of the tax reform stipulation is that Southwestern Bell is foregoing its right to seek replacement revenues to compensate for its revenue loss from the EMS trial. The Commission in the Order of Clarification in no way precluded telephone companies from seeking to offset their revenue losses arising from EMS. Contel itself certainly can attempt to offset its EMS-induced revenue shortfall. Southwestern Bell, however, has chosen not to recover its revenue loss by increasing other rates, but to use anticipated gains derived from federal tax reform to offset this loss. In this way, Southwestern Bell -- not the Pool -- is fully absorbing its share of the revenue shortfall resulting from EMS. Ironically, as indicated in the Order of Clarification, Contel itself endorsed the use of federal tax gains to offset any revenue shortfall resulting from EMS. Contel apparently did not then view such an approach as affecting the pooling requirement. That Southwestern Bell has followed this approach cannot come as a surprise to Contel; Southwestern Bell thoroughly discussed this matter with Contel representatives prior to Commission approval of Southwestern Bell's tax reform stipulation.

6. As executed and approved, therefore, Southwestern Bell's tax reform stipulation clearly has no impact on

pooling of EMS-related revenues, investment and costs. Similarly, the stipulation does not affect either Contel's revenues from the Pool or its rights concerning compensation for its share of the revenue loss caused by EMS. The "clarification" requested by Contel, however, would modify the terms of the stipulation and would affect the Pool and all its participants.

7. By seeking to have Southwestern Bell remit "rated," unadjusted revenues to the Pool in connection with EMS, Contel wishes Southwestern Bell to remit "revenues" to the Pool in excess of those it would have achieved in the absence of EMS.¹ In other words, Southwestern Bell would be forced to contribute to the Pool approximately \$2,132,052 that it never achieved. Through dispersal of Pool funds, Southwestern Bell would be refunded approximately \$1,234,052 of this additional Pool contribution. The portion distributed to other Pool participants -- \$898,000 -- would constitute a net revenue loss to Southwestern Bell. This revenue loss would be on top of Southwestern Bell's after-pooling revenue loss. In effect, Southwestern Bell would be required to suffer an EMS-related revenue loss twice. This is contrary to the intention of the parties to the stipulation.

¹See Attachment A for all revenue calculations.

8. While Contel's "clarification" would unfairly and unreasonably increase Southwestern Bell's revenue loss, it would have the opposite effect on the Pool participants other than Southwestern Bell. As noted above, Southwestern Bell's remittance of revenues to the Pool, unadjusted for EMS, would ultimately increase the revenues of other Pool participants by approximately \$898,000, of which approximately \$365,000 would go to Contel. Contel, therefore, essentially is seeking enrichment from Southwestern Bell's settlement of the tax reform proceeding. Such a result would be clearly unacceptable. In determining the appropriate treatment of Southwestern Bell's expected savings from tax reform, the Commission certainly did not intend to cause the enrichment of the other telephone companies in Missouri. To do so would clearly constitute unlawful confiscation of Southwestern Bell's assets.

9. In conclusion, Contel seeks not a clarification of Southwestern Bell's tax reform stipulation but a modification. This modification would cause an increased revenue loss to Southwestern Bell and a revenue gain to Contel and other telephone companies. The stipulation as written does not affect the Pool or its participants. It simply concerns how Southwestern Bell will handle its share of the revenue shortfall it will experience as a result of the EMS trial. Contel requests a drastic distortion of the intent of the parties to the stipulation.

WHEREFORE, Southwestern Bell requests that the Commission deny Contel's Motion for Clarification.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid, this 18th day of September, 1987, to the attached Certificate of Service List.

Jeanne A. Fischer
Jeanne A. Fischer

Attachment A

1.	Annual Toll Revenue Before EMS		\$3,460,625
	Billed minutes of use	23,111,676	
	Average revenue per minute	.15	
	(rounded from .1497349)		
2.	Expected EMS Revenue		2,132,052
	23% stimulation in minutes of use due to 50% price reduction results in 28,427,361 EMS minutes.		
	50% price reduction reduces average revenue per minute to .075		
3.	Revenue Reduction (line 1 - line 2) (Rounded to \$1.3M in stipulation)		<u>\$1,328,573</u>
4.	Revenue to be Remitted to the Pool by SWB, Based on Contel's Proposal		\$4,264,104
	28,427,361 EMS minutes at .15 average revenue per minute		
5.	Funding Requirements of Contel's Proposal		
	EMS Revenue	\$2,132,052	
	SWB TRA funds	1,300,000	
	SWB contribution	<u>832,052</u>	
			\$4,264,104
6.	Estimated Pool Disbursement of SWB's TRA Funds and Contribution		
	SWB	\$1,234,052	
	Contel	365,000	
	Other companies	<u>533,000</u>	
			\$2,132,052
7.	Net Loss to SWB from Contel's Proposal		
	Payment to pool	\$2,132,052	
	Receipts from pool	<u>1,234,052</u>	
			\$ 898,000

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