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**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of AT&T Communications of the)
Southwest, Inc.'s Petition for Arbitration)
Pursuant to Section 252(b) of the Tele-) Case No. TO-97-40
communications Act of 1996 to Establish an)
Interconnection Agreement with South-)
western Bell Telephone Company.)

In the Matter of the Petition of MCI Tele-)
communications Corporation and Its Affiliates,)
including MCI metro Access Transmission)
Services, Inc., for Arbitration and Mediation) Case No. TO-97-67
Under the Federal Telecommunications Act)
of 1996 of Unresolved Interconnection Issues)
with Southwestern Bell Telephone Company.)

CONCURRING OPINION OF COMMISSIONER CRUMPTON

AT&T, MCI and Southwestern Bell Telephone (SWBT) had the chance but failed to deliver an open market plan for Missouri's largest public switched network. Thus, it is with reservations that I concur in the opinion of the majority. I am very much concerned with the pricing structure established by the majority opinion and therefore must attempt to set down my conclusions and thinking for the future. I supported the majority so that Missouri could move forward on the road to local choice in its public switched network. My decision was made easier by the majority's recognition that the approval is for interim prices which are to be reviewed in the near future. As in the MFS order, I am concerned with due process issues in the arbitration process. In addition, I remain skeptical that the Commission has included enough for an incumbent to earn a reasonable profit, pay its income taxes and recover other expenses in the prices SWBT can charge for network elements. No business can survive without recouping such costs through the prices it charges its customers. Income taxes are an operational expense. If the Commission does

not permit recovery of operational expenses, then we may end up shifting assets from one company to another.

Regulators have, over time, created a rate making system based on high margins for certain services that are not based on cost, but are instead based on meeting social goals and needs. This rate design system created uneconomic market prices that were intentionally high in order to provide support for unfunded social programs.

The Federal Communication Commission's interpretation of the new federal Telecommunications Act requires regulators to force the service provider to sell its goods and services at prices based on Total Element Long Run Incremental Cost (TELRIC) to competitors who have no similar price constraints. Regulators must be careful to not condemn the service provider and its workers to a future of lower standards of service for customers without choice, unemployment for workers, and diminishing support for social goals and needs. The social goals and needs are still in place.

The purpose of telecommunications reform is to encourage competition and the creation of new jobs, new services, and new investment projects while offering efficient prices. The Commission must be careful that in setting prices it does not create disincentives to new investment in physical plant and human resources.

Therefore, the Commission must review its interim prices on an expedited fashion in the near future in order to set network element prices and discounts that create the proper incentives.

If the Commission does not move in this direction, the new competitors will have no incentive to invest in physical plant in Missouri. Nor will they need to invest in human resources in Missouri to manage their physical plant and create new products or services.

Instead, the only incentive for the new competitors will be to set up a shell of a company in Missouri and buy SWBT services at prices below cost.

I must point out the fact that other plans and programs were introduced before this decision. The Ameritech Illinois Wholesale Network Service Tariff ("Ameritech Plan"), offered new entrants the ability to purchase, on a wholesale basis, all local exchange services offered by Ameritech. Additionally, each new entrant could purchase unbundled network elements and use them to provide telecommunications services by themselves or in combination with the new entrant's facilities.

The Rochester Telephone Corporation Plan was announced January 1, 1995. This plan was touted as a plan which could do nothing other than enhance local competition. The plan included a resale discount which was originally 13.5% on a temporary basis and later changed to a permanent rate of 17%. Only AT&T and Time Warner attempted to offer services on a resale basis pursuant to the Rochester Plan's terms. Active marketing of those services ceased. Apparently, the incentive to increase competition was not there.

The Ameritech and Rochester plans recognize that the local loop is the bottleneck in the process. The entity that controls the loop has an advantage. Since SWBT, AT&T, and MCI did not create an open market which would reduce SWBT's advantage to a manageable level, this Commission had to enter the arbitration process. AT&T's experience in Rochester demonstrates that a wholesale discount of 17% is not high enough to attract resellers. The goal in Missouri should be to attract facilities based investment, new jobs, new services and more efficient prices, not to subsidize major corporations.

I urge the parties to understand that the initial pricing of resale services and network elements by this Commission was only a first step and opportunity in assuring that local competition occurs and moves forward in the State of Missouri. Once Missouri numbers and other information exist and can be analyzed which would provide competent and substantial evidence to the Commission that is Missouri specific as to what are appropriate rates for resale services and network elements, I would anticipate further proceedings to establish rates that truly develop the competitive environment that the Commission is attempting to foster.

Respectfully submitted,


Harold Crumpton, Commissioner

Dated at Jefferson City, Missouri, on
this 14th day of January, 1997.