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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 28th
day of December, 1999.

In the Matter of Southwestern Bell) Case No. TT-2000-269
Telephone Company's Feature Group C) Tariff File No. 200000253
Tariff, P.S.C. Mo.-No. 36.)

ORDER REJECTING APPLICATION FOR REHEARING AND RECONSIDERATION

On September 17, 1999, Southwestern Bell Telephone Company (SWBT) filed tariff sheets to clarify that customers will continue to have access to Feature Group C (FGC) facilities. The tariff bore an effective date of October 18, 1999. In a letter dated October 12, 1999, the Commission, through its Secretary, advised SWBT that the tariff filing was being made effective in accordance with Section 392.220, RSMo Supp. 1998. By order issued October 14, 1999, and effective on October 18, 1999, the Commission suspended the tariff.

On October 28, 1999, SWBT filed an application for rehearing and reconsideration. Pursuant to 386.500, RSMo 1994, no cause or action arising out of any order of the Commission shall accrue in any court unless an application for rehearing is filed before the effective date of the order. Pursuant to 4 CSR 240-2.160, applications for rehearing may be filed before the effective date of the order. SWBT's pleading was filed ten days after the effective date of the order, and is therefore

untimely. The Commission will reject the pleading insofar as it purports to be an application for rehearing.

Pursuant to 4 CSR 240-2.160, motions for reconsideration shall be filed within ten days of the date the order is issued. SWBT's pleading was filed fourteen days after the order was issued, and is therefore untimely. The Commission will reject the pleading insofar as it purports to be a motion for reconsideration.

In addition to rehearing and reconsideration, SWBT also requests (at Paragraph 4) clarification of the effect of the October 12, 1999, letter vis-à-vis the October 14, 1999, order. The letter simply advised SWBT that, as of October 12, 1999, the Commission did not intend to take action to suspend the tariff and would allow it to go into effect pursuant to Section 392.220, RSMo Supp. 1998. The letter did not, as SWBT claims, "approv[e] the tariff." Neither did the Commission, at any Agenda session, take action to approve the tariff. The first action the Commission took with respect to the tariff was to vote to issue an order suspending it at an Agenda session on October 14, 1999.

On November 4, 1999, the Mid-Missouri Group of companies (MMG)¹ filed suggestion in opposition to SWBT's October 28, 1999, pleading. MMG reiterated its opposition to the tariff, and stated that the Commission acted properly in suspending the tariffs after issuing a letter stating that they would be allowed to go into effect by operation of law.

¹ In this case, MMG consists of Alma Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, MoKan Dial, Inc., Modern Telecommunications Company, and Northeast Missouri Rural Telephone Company.

On November 5, 1999, the Staff of the Commission filed a response to SWBT's October 28, 1999, pleading. Staff points out that the pleading is untimely as either an application for rehearing or a motion for reconsideration. Staff disagrees with SWBT's contention that the tariff had already been approved at the time the Commission acted to suspend it. Finally, Staff reiterates that "it has no objection to the proposed tariff."

The tariff was not approved by the October 12, 1999, letter. Thus there was no impropriety in the Commission's action suspending it in its October 14, 1999, order.

IT IS THEREFORE ORDERED:

1. That the application for rehearing and reconsideration filed by Southwestern Bell Telephone Company is rejected.
2. That this order shall become effective on December 28, 1999.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Murray,
and Drainer, CC., concur
Schemenauer, C., absent

Mills, Deputy Chief Regulatory Law Judge

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION