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In the matter of Choctaw Telephone Company)
to file tariffs to provide community optional)
service and recover actual net revenue loss) Case No. TR-91-86
associated with provision of service to)
customers in Company's Missouri service area.)

As the result of a petition for review filed by Choctaw in the Circuit Court of Cole County, Missouri, a judgment was rendered on April 28, 1993,

reversing the order of the Commission and remanding the proceeding to the Commission.

On December 23, 1992, the Commission issued a Report and Order in Case No. TO-92-306 which created MCA service for the Springfield, Missouri, metropolitan area, including Choctaw's Halltown exchange. Under the terms of this order, the Halltown to Springfield COS route will be replaced by MCA service, with provisions for revenue neutrality for all LECs, to commence on October 1, 1993.

In light of the foregoing, on July 8, 1993, the parties filed a proposed Stipulation and Agreement in an effort to eliminate further litigation in this case, and to promote certainty with respect to MCA implementation.

The parties in the Stipulation, incorporated herein as Attachment A, agreed to the following matters:

1. That Choctaw is experiencing a monthly revenue loss from implementation of COS in the amount of \$933.00.

2. That Choctaw will not increase its COS surcharge to its COS subscribers between the date of approval of this Stipulation, if approved, and the date of implementation of MCA service, leaving the current COS surcharge in effect.

3. That \$721.75 of the \$933.00 monthly revenue loss qualifies for MCA support payments from Southwestern Bell Telephone Company and/or GTE to Choctaw. SWB and/or GTE agree to make this level of support payments to Choctaw in accordance with the terms of the MCA service.

4. That SWB and/or GTE will be entitled to include their respective amounts of support payments to Choctaw in SWB's and GTE's revenue neutrality calculations, and recover those payments in any approved revenue neutrality mechanism.

- 5. That, upon implementation of the Springfield MCA, Choctaw will withdraw all COS tariffs, including both the existing surcharge and the proposed surcharge increase.

The Commission has reviewed the Stipulation and Agreement in this matter in light of the decision and remand by the Circuit Court and finds the Stipulation and Agreement to be reasonable. The Commission is aware that the matter will be rendered moot by its decision regarding MCA service in the Springfield metropolitan area and feels that the proposed Stipulation and Agreement is an efficient and expeditious interim solution to this case. Therefore, the Stipulation and Agreement, Attachment A hereto, is approved.

IT IS THEREFORE ORDERED:

1. That the Stipulation and Agreement filed in this case on July 8, 1993, and incorporated herein as Attachment A, is hereby approved.

2. That this order shall become effective on July 27, 1993.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

Mueller, Chm., McClure, Perkins,
and Crumpton, CC., Concur.
Kincheloe, C., Absent.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

JUL - 8 1993

PUBLIC SERVICE COMMISSION

In the matter of Choctaw)
Telephone Company to file)
tariffs to provide community)
optional service and recover)
actual net revenue loss) Case No. TR-91-86
associated with provision of)
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STIPULATION

Choctaw Telephone Company (Choctaw), the Staff of the Public Service Commission (Staff), the Office of Public Counsel (OPC), Southwestern Bell Telephone Company (SWB), GTE North, Inc., GTE - Missouri, GTE Systems of Missouri, and GTE of Eastern Missouri (GTE) present the following Stipulation to the Commission for its consideration as a means to finalize this docket. This Stipulation is submitted to the Commission in its entirety as an interrelated and comprehensive agreement. In the event any term of this Stipulation is not approved by the Commission, the entire Stipulation shall be void and of no force and effect.

I. Pertinent Procedural History

This matter was initiated on May 29, 1992, when Choctaw filed a revised tariff seeking to increase its monthly Community Optional Service (COS) surcharge from \$2.09 and \$4.17 per residential and business access line, respectively, to \$4.02 and \$8.04. This revised tariff is designed to recover approximately \$933 per month

in revenues, exclusive of gross receipts and franchise taxes, which Choctaw alleges it is losing due to its provision of COS. The revised tariff bears a proposed effective date of July 20, 1992.

On June 10, 1992, the Commission issued its Suspension Order and Notice of Proceedings which suspended Choctaw's proposed tariff for 120 days beyond July 20, 1992.

On June 12, 1992, the Commission suspended Choctaw's proposed tariff an additional thirty days to December 17, 1992.

On July 21, 1992, the Commission established a procedural schedule herein.

On September 21, 1992, the parties waived cross-examination and submitted the matter for consideration of the prefiled testimony and briefs. The parties subsequently filed briefs.

On December 4, 1992, the Commission issued a Report and Order which, among other things, did not find what level of revenue loss, if any, was continuing to accrue to Choctaw as a result of COS provisioning, and which denied the proposed surcharge increase on the grounds Choctaw had failed to meet its burden of proof under Section 392.230 RSMo to demonstrate the proposed surcharge was just and reasonable based on all relevant factors, and, more particularly, that COS had caused Choctaw's equity return to fall below a reasonable level.

Choctaw requested rehearing of the December 4, 1992 Report and Order, which request was denied by Order dated January 8, 1993. Choctaw filed a petition for review with the Circuit Court of Cole County, docketed as Case No. CV193-66CC.

On April 28, 1993, the Cole County Circuit Court entered Findings of Fact, Conclusions of Law and Judgment reversing the December 4, 1992 Order and remanding the proceeding to the Commission. The Circuit Court held, among other things, that "if the Commission desires a LEC to offer a new service which will reduce the level of revenues the LEC would have collected under existing rates without a finding of unlawfulness or unreasonableness, the Commission must provide the LEC, at that LEC's election, with revenue neutrality. In establishing revenue neutrality, the Commission can neither allow for the possibility of a reduced revenue level nor require the LEC to shoulder the burden of establishing it is in an underearnings situation as a condition precedent to entitlement to revenue neutrality. If either were allowed to occur, the result would be an improper shifting of the statutory presumption that existing rates and revenue levels are presumed lawful. If the Commission believes that revenue neutrality is not necessary for the LEC to continue to earn a reasonable rate of return upon the provisioning of COS, the Commission must institute a general rate proceeding, and allow suspension of the COS service during the pendency of that proceeding."

During the pendency of the above referenced proceedings, the Commission on December 23, 1992 in Case No. TO-92-306 issued a Report and Order which, among other things, created MCA service for the Springfield metropolitan area. The Springfield MCA will include Choctaw's Halltown exchange. Under the terms of this

Order, the Halltown to Springfield COS route will be subsumed and replaced by MCA service. New provisions for revenue neutrality for all LECs, including provision for long term support from SWB and GTE as primary toll carriers (PTCs) to Choctaw as a secondary carrier (SC), are addressed in this Order. As currently contemplated by the Technical Committee, Springfield MCA implementation is estimated to commence on or about October 1, 1993.

Current Status

The Circuit Court Judgment is final, and on remand to the Commission. Under the terms of the Court's Order, the Commission should consider whether Choctaw is suffering COS-related revenue losses and the amount of revised surcharge necessary to return Choctaw to pre-COS revenue levels. There was substantial agreement in this regard in the prefiled testimony of Staff witness Starkey and Choctaw witness Van Ruler.

Any revenue losses the Commission finds to exist have occurred to Choctaw since August 28, 1991, and are continuing to occur monthly. Due to the prohibition against retroactive ratemaking, these past losses cannot be recovered. Moreover, losses cannot be recovered on a prospective basis unless the Commission approves tariffs designed to do so to take effect, or adopt the terms proposed in this Stipulation.

Were the Commission, on remand, to approve a revised COS surcharge level, under the terms of the December 23, 1992 Order in

Case No.. T0-92-306 that surcharge would be eliminated with MCA implementation in a few months.

Without inclusion of a revised COS surcharge for Choctaw in pre-MCA revenue levels, Choctaw will not be entitled to support from SWB and/or GTE under the terms of the December 23, 1992 MCA Order. In the event pre-MCA revenue levels do include revised surcharge amounts in accordance with the prefiled testimonies of Starkey and Van Ruler, Choctaw would be entitled to support from SWB and/or GTE.

Stipulation Terms

In light of the foregoing considerations, the parties have agreed to enter into the following Stipulation terms. These terms are designed to eliminate further litigation, to avoid unnecessary customer consternation, and to promote certainty with respect to MCA implementation.

1. It is agreed for purposes of this Stipulation that Choctaw is experiencing a monthly revenue loss from implementation of COS in the amount of \$ 933.00.

2. It is agreed for purposes of this Stipulation that Choctaw will not increase its COS surcharge to its COS subscribers between the date of approval of this Stipulation, if approved, and the date of implementation of MCA service. The existing COS surcharge will remain in effect.

3. The parties agree that \$721.75 of the \$ 933.00 monthly revenue loss (\$8,661.00 annualized) qualifies for MCA support


payments from SWB and/or GTE to Choctaw under the terms of the MCA Order, the agreements underlying the joint recommendation between PTCs, and deliberations of the Technical Committee. SWB and/or GTE agree to make this level of support payments to Choctaw in accordance with the terms of the MCA service.

4. The parties agree that SWB and/or GTE will be entitled to include their respective amount of support payments to Choctaw in SWB's and GTE's revenue neutrality calculations, and recover those payments in any revenue neutrality mechanism approved for SWB and GTE.

5. Upon implementation of Springfield MCA, Choctaw will withdraw all COS tariffs, including both the existing surcharge tariff as well as the proposed tariff to increase the surcharge.

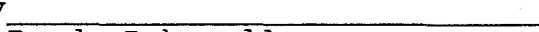
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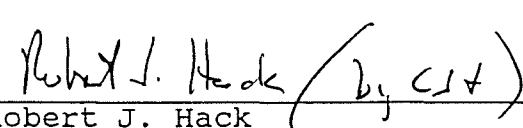
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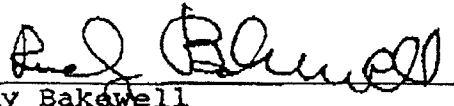
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