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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 14th day of January, 1998.

In the Matter of the Application of AT&T)
Communications of the Southwest, Inc., for a)
Certificate of Service Authority to Provide) Case No. TA-96-322
Basic Local Exchange and Local Exchange)
Services.)
)

ORDER SUSPENDING TARIFF AND ESTABLISHING PROCEDURAL SCHEDULE

AT&T Communications of the Southwest, Inc. (AT&T) was granted a certificate of service authority to provide basic local telecommunications services in the state of Missouri on February 21, 1997. AT&T filed tariff sheets on August 22, reflecting the rates, rules, and regulations it proposes to use in offering basic local service. The original filing carried an effective date of October 6, which was subsequently extended. The current effective date of those tariff sheets is February 15, 1998.

Southwestern Bell Telephone Company (SWBT) filed a Motion for Determination of Applicable Tariff Terms for Resold Services on November 17. SWBT believes that the terms and conditions of its tariffed services, which apply to SWBT and its end-user customers, should apply to AT&T and its end-user customers when AT&T offers services for resale. AT&T filed a response on December 1 asking the Commission to deny SWBT's motion or, in the alternative, set the case for hearing. AT&T argued that this Commission's prior orders have determined that no use restrictions other than those already specified should be imposed upon the resale of SWBT's services unless SWBT can demonstrate their reasonableness. AT&T argued

that SWBT's motion fails to meet its burden of proof on reasonableness. MCI Telecommunications Corporation and MCImetro Access Transmission Services, Inc. (MCIM) filed a response to SWBT's motion on December 1, stating that the Commission should not consider the motion without first conducting an evidentiary hearing. MCIM asked the Commission to set the case for hearing and set a procedural schedule or, in the alternative, to deny SWBT's motion.

SWBT filed a reply to the two responses on December 10, arguing that its tariff provisions define and explain the services offered and do not constitute conditions or limitations on resale. SWBT further argued that the Telecommunications Act of 1996 prohibits only unreasonable or discriminatory conditions or limitations on resale and does not prohibit all conditions or limitations. See 47 U.S.C. § 251(c)(4)(B). Consolidated Communications Telecom Services Inc. (Consolidated) filed a response to SWBT's initial motion on December 15. Consolidated concurred in the requests made by AT&T and MCIM that the Commission deny SWBT's motion or, in the alternative, conduct an evidentiary hearing.

The Commission has reviewed the pleadings filed and its prior orders and determines that a hearing is necessary to resolve the issues in this case. Accordingly, the Commission will suspend AT&T's basic local tariff filing, set the case for hearing, and establish a procedural schedule. Ordinarily, the Commission would set an early prehearing conference to allow the parties to propose a procedural schedule but, in this case, the Commission will establish the schedule. It is important that competition in the basic local telecommunications market not be delayed unnecessarily, and so the Commission will impose a schedule in order to expedite the process of considering this tariff filing. The

proposed tariff sheets will be suspended for a period of 120 days beyond the effective date of February 15 to June 15, 1998, or until otherwise ordered by this Commission. The following conditions will also apply to the procedural schedule in this case.

A. The Commission will require the prefiling of testimony in compliance with the requirements of 4 CSR 240-2.130, including the filing of testimony on line-numbered pages. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays in the proceedings caused by allegations of unfair surprise at the hearing.

B. Testimony and schedules shall not be filed under seal and treated as proprietary or highly confidential unless a protective order has first been established by the Commission. The party that considers information to be proprietary or highly confidential should indicate the material's proper classification at the time of filing. Any testimony or schedule filed without a protective order first being established, or its classification clearly indicated, shall be considered public information.

C. The Commission will schedule a prehearing conference to allow the parties the opportunity to resolve substantive issues as well as to consider those matters described in 4 CSR 240-2.090(6). The parties shall also use the prehearing conference to eliminate issues which can be resolved through updating of a party's case, clarification of misunderstandings, explanation of an issue's interrelationship with other issues, and correction of clerical or arithmetic errors.

D. The parties shall file a hearing memorandum setting out the issues to be heard and the witnesses to appear on each day of the hearing, definitions of terms used in describing those issues, and each party's

position on those issues. The hearing memorandum will set forth the issues that are to be heard and decided by the Commission. Any issue not contained in the hearing memorandum will be viewed as uncontested and not requiring resolution by the Commission. The briefs to be submitted by the parties shall follow the same format established in the hearing memorandum. Initial briefs must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.

The Commission Staff will be responsible for preparing and filing the hearing memorandum. The Commission wishes to emphasize the importance of the deadline for filing the hearing memorandum. Unless the Commission orders otherwise, the hearing memorandum shall be filed on the date set. Each party is expected to provide Staff with its position on each unresolved issue at least two business days before the due date. If a party fails to provide its position by that date, the Staff is not obligated to include that party's position in the Hearing Memorandum.

E. Any party wishing to offer a prefiled exhibit into evidence must bring to the hearing three copies of the exhibit for the court reporter. If the exhibit has not been prefiled, the proponent must also bring six copies for the Commissioners and the regulatory law judge, and copies for opposing counsel.

F. The Commission's general policy provides for the filing of the transcript within two weeks after the conclusion of the hearing. Any party seeking to expedite the filing of the transcript shall tender a written request to the regulatory law judge at least five days before the hearing.

G. Initial briefs shall be limited to 30 pages and reply briefs to 15 pages. All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080(7).

IT IS THEREFORE ORDERED:

1. That the effective date of the tariff sheets filed by AT&T Communications of the Southwest, Inc. on August 22, 1997, is suspended for 120 days from February 15, 1998 to June 15, 1998. The tariff suspended is:

P.S.C. Mo. No. 1 - Local Exchange Tariff

2. That the following procedural schedule is adopted subject to the conditions discussed above:

Simultaneous Direct testimony due	February 4, 1998 3:00 p.m.
Simultaneous Rebuttal testimony due	February 27, 1998 3:00 p.m.
All parties Surrebuttal testimony due	March 6, 1998 3:00 p.m.
Prehearing conference	March 10, 1998 9:00 a.m.
Hearing memorandum due	March 13, 1998
Evidentiary hearing	March 17-18, 1998 9:00 a.m.

3. That the prehearing conference and hearing will be held in the Commission's hearing room on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. Anyone wishing to attend who has special needs as addressed by the Americans With Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the prehearing or hearing at one of the

following numbers: Consumer Services Hotline - 1-800-392-4211, or
TDD Hotline - 1-800-829-7541.

4. That this order shall become effective on January 14, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Drainer
and Murray, CC., concur.

Wickliffe, Deputy Chief Regulatory Law Judge

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**COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION**