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In the Matter of GTE Midwest Incorporated's)
Proposed Revision of its PSC Mo. No. 1 to) Case No. TT-98-545
Introduce LATA-wide GTE Extended Reach Plan.)
)

On July 9, GTE and the Staff of the Missouri Public Service Commission (Staff), filed a joint motion to establish a procedural schedule and request a protective order. On July 10, 1998, a Joint Response to Staff's Motion to Establish Procedural Schedule was filed on behalf of MCI Telecommunications Corporation, AT&T Communications of the Southwest, Inc., Sprint Communications Company L.P., COMPTel-MO, Mid-Missouri Group, the Small Telephone Company Group, and the Office of Public Counsel (collectively referred to as Respondents).

The Respondents stated that they were in agreement with Staff and GTE as to the proposed dates for prefiled testimony and for hearing memorandums to be filed. However, the Respondents requested that the Commission refrain from scheduling a hearing until after the issuance of the Report and Order in Case No. TT-98-351 which will be a determination by the Commission of similar issues. Respondents state that depending on the Commission's decision in Case No. TT-98-351, a hearing may no longer be necessary or the issues to be decided may be affected. The Commission has indicated in its Order Withdrawing Request for Late-Filed Exhibit and Further Suspending Tariff, issued June 19 in Case No. TT-98-351, that it will decide that case by October 5.

Although the issues in Case No. TT-98-351 are similar, the tariffs are not identical. The Commission determines that the hearing should not be delayed until after a decision is issued in Case No. TT-98-351. Therefore, the Commission concludes that the hearing should be held as proposed in GTE and Staff's procedural schedule.

In order to allow adequate time for preparation of the transcript and for briefing, the Commission has determined that an additional tariff suspension will be necessary. Therefore, the Commission will suspend the effective date of the tariff until December 20, 1998. The extension of this tariff beyond 120 days is not a determination by the Commission of the issue of whether the GTE Extended Reach Plan should be classified as a new service. The extension is merely related to the administrative needs of the Commission, to aid the Commission in scheduling this matter, and is intended to give the parties adequate time to prepare and submit posthearing briefs as well as to allow the Commission sufficient time to thoroughly examine all the evidence presented.

The Commission will adopt a variation of the proposed procedural schedule as set forth in the ordered paragraphs below. In addition, the Commission finds that the following conditions shall be applied to the schedule.

A. 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 essential terms, each party's position on the disputed issues, and the order of cross-examination. 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. Staff will be responsible for preparing and filing the hearing memorandum. The Commission emphasizes the importance of the deadline for filing the hearing memorandum. Commission Staff will be responsible for preparing and filing the hearing memorandum, and the hearing memorandum shall be filed on or before the date set. Each party is directed to provide Staff with its position on each unresolved issue at least two business days prior to the filing deadline for the hearing memorandum. Each party shall either present its signature element (a signed page), shall provide written authorization to permit the General Counsel to sign for that particular party, or shall be available to sign the final draft at the offices of the General Counsel prior to the filing deadline. A hearing memorandum which is not signed is considered noncompliant and any party who fails or refuses to sign the final copy of the hearing memorandum is hereby ordered to file its own hearing memorandum, which follows the same numbering and topic outline, by the hearing memorandum filing date.

B. The Commission's general policy provides for the filing of the transcript ten working days 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.

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

GTE and Staff also requested that a protective order be issued to allow customer specific information to be filed under seal. No objections to a protective order being granted were made by the Respondents. Upon review of the request, the Commission finds that there is a need to protect confidential information and the request for a protective order is reasonable. The Commission has previously recognized the need to protect confidential information and the issuance of protective orders has helped to minimize disputes in past cases. Therefore, the Commission concludes that a protective order should be granted.

IT IS THEREFORE ORDERED:

1. That the effective date of the tariffs submitted by GTE Midwest Incorporated on May 22, 1998, shall be further suspended from October 20, 1998, to December 20, 1998.

2. That the following procedural schedule is adopted for this proceeding, subject to the conditions discussed above:

Direct testimony	-	July 27, 1998 3:00 p.m.
Rebuttal testimony	-	August 24, 1998 3:00 p.m.
Surrebuttal testimony by all parties	-	August 31, 1998 3:00 p.m.
Hearing Memorandum	-	September 4, 1998
Evidentiary hearing	-	September 14, 15 and 17, 1998 9:00 a.m.

3. The evidentiary 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 days before the hearing at: Consumer Services Hotline - 1-800-392-4211 or TDD Hotline - 1-800-829-7541.

4. That the request for protective order made by GTE Midwest Incorporated and Staff is granted and the protective order attached to this order (Attachment A) adopted.

5. That this order shall become effective on July 27, 1998.

BY THE COMMISSION

(S E A L)



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

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

Dippell, Regulatory Law Judge

PROTECTIVE ORDER

- A. The following definitions shall apply to information which a party claims should not be made public.

HIGHLY CONFIDENTIAL: Information concerning (1) material or documents that contain information relating directly to specific customers; (2) employee-sensitive information; (3) marketing analyses or other market-specific information relating to services offered in competition with others; (4) reports, work papers or other documentation related to work produced by internal or external auditors or consultants; (5) strategies employed, to be employed, or under consideration in contract negotiations.

PROPRIETARY: Information concerning trade secrets, as well as confidential or private technical, financial and business information.

- B. During the course of discovery a party may designate information as HIGHLY CONFIDENTIAL or PROPRIETARY (hereinafter, "designated information") and shall make such designated information available to the party seeking discovery, if such information is not objectionable on any other ground, under the restrictions set out in paragraphs C and D. The party designating the information as HIGHLY CONFIDENTIAL or PROPRIETARY shall provide to counsel for the requesting party, at the time the designation is made, the ground or grounds for the designation. The requesting party may then file a motion challenging the designation. The party designating the information confidential shall have five (5) days after the filing of the challenge to file a response. No other filings are authorized.

(C. Materials or information designated as HIGHLY CONFIDENTIAL may at the option of the furnishing party, be made available only on the furnishing party's premises and may be reviewed only by attorneys or outside experts who have been retained for the purpose of this case, unless good cause can be shown for disclosure of the information off-premises and the designated information is delivered to the custody of the requesting party's attorney. Outside expert witnesses shall not be employees, officers or directors of any of the parties in this proceeding. No copies of such material or information shall be made and only limited notes may be taken, and such notes shall be treated as the HIGHLY CONFIDENTIAL information from which notes were taken.

(D. Disclosure of PROPRIETARY information shall be made only to attorneys, and to such employees who are working as consultants to such attorney or intend to file testimony in these proceedings, or to persons designated by a party as outside experts. Employees to whom such disclosure is to be made must be identified to the other party by name, title and job classification prior to disclosure. Information designated as PROPRIETARY shall be served on the attorney(s) for the requesting party. On-premises inspection shall not be required for PROPRIETARY information, except in the case of voluminous documents (see paragraph K). Any employees of the party who wish to review such PROPRIETARY materials shall first read this order and certify in writing that (s)he has reviewed same and consented to its terms. The acknowledgment so executed shall contain the signatory's full name, permanent address, title or position, date signed, and an affirmation that the signer is acting

on behalf of his/her employer. Such acknowledgment shall be delivered to counsel for the party furnishing the information or documents before disclosure is made.

- E. Attorneys, in-house experts or outside experts who have been provided access to material or information designated HIGHLY CONFIDENTIAL or PROPRIETARY shall be subject to the nondisclosure requirements set forth in paragraphs C or D, whichever is applicable, and S.
- F. If material or information to be disclosed in response to a data request contains material or information concerning another party which the other party has indicated is confidential, the furnishing party shall notify the other party of the intent to disclose the information. The other party may then choose to designate the material or information as HIGHLY CONFIDENTIAL or PROPRIETARY under the provisions of this Protective Order.
- G. Any party may use material or information designated as HIGHLY CONFIDENTIAL or PROPRIETARY in prefiled or oral testimony at hearing provided that the same level of confidentiality assigned by the furnishing party is maintained, unless otherwise classified by the Commission. In filing testimony all parties shall designate as HIGHLY CONFIDENTIAL or PROPRIETARY only those portions of their testimony which contain information so designated by the furnishing party. If any party plans to use information and testimony which has been obtained outside this proceeding, it must ascertain from the furnishing party if any of such information is claimed to be HIGHLY CONFIDENTIAL or PROPRIETARY prior to filing.

- H. A party may designate prefiled or live testimony, or portions thereof, submitted in this case as HIGHLY CONFIDENTIAL or PROPRIETARY (hereinafter, "designated testimony"). Prefiled testimony designated as HIGHLY CONFIDENTIAL or PROPRIETARY shall be filed under seal and served upon all attorneys of record. Only those portions of the prefiled testimony designated as HIGHLY CONFIDENTIAL or PROPRIETARY should be filed under seal, and should be marked in a manner which clearly indicates which materials are considered HIGHLY CONFIDENTIAL and which are considered PROPRIETARY.
- I. Within five (5) days of the filing of designated testimony, the party asserting the claim shall file with the Commission the specific ground or grounds for each claim. Such filing shall show the nature of the information sought to be protected and specifically state the alleged harm of disclosure. Such filing shall be filed under seal only if it contains either PROPRIETARY or HIGHLY CONFIDENTIAL information and shall be served upon all attorneys of record.
- J. Attorneys upon whom prefiled testimony designated HIGHLY CONFIDENTIAL or PROPRIETARY has been served shall make such testimony available only to those persons authorized to review such testimony under the restrictions in Paragraphs C or D, whichever is applicable.
- K. If a response to a discovery request requires the duplication of voluminous material or material not easily copied because of its binding or size, the furnishing party may require the voluminous material be reviewed on its own premises. Voluminous material shall

mean a single document, book or paper which consists of more than 150 pages.

- L. Attorneys of record in this case shall require that the in-house or outside expert read this Protective Order and certify in a written nondisclosure agreement that the person has reviewed the Protective Order and consented to be bound by its terms. The nondisclosure agreement shall contain the signatory's full name, permanent address, employer and the name of the party with whom the signatory is associated. Such agreement shall be filed with the Commission. Attached hereto as Appendix "A" and incorporated by reference herein is a form for use in complying with the terms of this paragraph.
- M. In the event a witness discloses the contents of designated prefiled testimony in his or her own prefiled testimony, such testimony shall also be designated in the same manner as the designated prefiled testimony and handled in accordance with this order.
- N. Unless good cause is shown, challenges to the confidential nature of prefiled designated testimony shall be filed with the Commission no later than ten (10) days after the grounds supporting the designations are filed or at the hearing, whichever occurs first. The party making the designation shall have five (5) days to respond to the challenge or may respond at the hearing, whichever occurs first.
- O. The Commission or Regulatory Law Judge may rule on the challenge to the designations prior to the hearing, or at the hearings.
- P. In the event no party challenges prefiled designated testimony, or in the event the Commission or its Regulatory Law Judge rules that testimony was properly designated, then such testimony shall be

received into evidence, subject to any other objections being made and ruled upon, and kept under seal.

Q. In addition, all live testimony, including cross-examination and oral argument which reveals the content of prefiled designated testimony or which is otherwise held to be confidential, including any argument as to whether certain testimony is properly designated, shall be made only after the hearing room is cleared of all persons besides the Commission, its Regulatory Law Judges, court reporters, attorneys of record and witnesses to whom the designated information is available pursuant to the terms of this Protective Order. The transcript of such live testimony or oral argument shall be kept under seal and copies shall only be provided to the Commission, its Regulatory Law Judges, and attorneys of record. Such attorneys shall not disclose the contents of such transcripts to anyone other than those who may have access to the designated information under the terms of this Protective Order. Persons who have access to the designated information under the terms of this Protective Order shall treat the contents of such transcript as any other designated information under the terms of this Protective Order.

R. References to designated testimony, whether prefiled or live and transcribed, in any pleadings before the Commission, shall be by citation only and not by quotation. Subject to the jurisdiction of any reviewing court, references to designated testimony in pleadings or oral arguments made to such reviewing court shall also be by citation only.

S. All persons who are afforded access to information under the terms of this Protective Order shall neither use nor disclose such

information for purposes of business or competition or any other purpose other than the purpose of preparation for and conduct of this proceeding and then solely as contemplated herein, and shall keep the information secure and in accordance with the purposes and intent of this order.

- T. Subject to the jurisdiction of any reviewing court, designated testimony constituting part of the record before the Commission shall be delivered to any reviewing court under seal upon service of the appropriate writ of review.
- U. The Commission may modify this order on motion of a party or on its own motion upon reasonable notice to the parties and opportunity for hearing.
- V. Within ninety (90) days after the completion of this proceeding, including judicial review thereof, all designated information, testimony, exhibits, transcripts or briefs in the possession of any party other than Staff or the Public Counsel shall be returned to the party claiming a confidential interest in such information and any notes pertaining to such information shall be destroyed.
- W. The provisions of paragraph C, D, J and L of this Protective Order do not apply to Staff or Public Counsel. Staff and Public Counsel are subject to the nondisclosure provisions of Section 386.480, RSMo 1994. Staff and Public Counsel shall provide a list of the names of their employees who will have access to the designated information.
- X. Outside experts of Staff or Public Counsel who have been contracted to be witnesses in this proceeding shall have access to designated information and testimony on the same basis as Staff and Public

Counsel except the outside expert shall read this order and sign the nondisclosure agreement attached as Appendix "A" hereto.

- Y. Outside experts of Staff and Public Counsel who have not been contracted to be witnesses in this proceeding are subject to the provisions of this Protective Order.
- Z. Prefiled testimony and exhibits, whether filed or offered at the hearing, shall be prepared in the manner described in Appendix "B".

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

NONDISCLOSURE AGREEMENT

I, _____,
have been presented a copy of this Protective Order issued in Case
No. _____ on the _____ day of _____, 19____.

I have requested review of the confidential information produced in
Case No. _____ on behalf of _____
_____.

I hereby certify that I have read the above-mentioned Protective
Order and agree to abide by its terms and conditions.

Dated this _____ day of _____, 19____.

Signature and Title

Employer

Party

Address

Telephone

1. If prefiled testimony contains parts which are classified as Proprietary or Highly Confidential, it shall be filed with the Commission's Secretary/Chief Regulatory Law Judge's Office as follows:
 - A. An original plus eight (8) copies of prefiled testimony with the Proprietary or Highly Confidential portions obliterated or removed shall be filed.
 - B. One (1) copy of those pages which contain information which has been designated as Proprietary, with any Highly Confidential portions obliterated or removed, shall be filed in a separate envelope. The portions which are Proprietary shall be indicated as described in D, below.
 - C. One (1) copy of those pages which have been designated as Highly Confidential shall be filed in a separate envelope. The portions which are Highly Confidential shall be indicated as described in D, below.
 - D. Six (6) copies of the complete prefiled testimony to be filed under seal for the Regulatory Law Judge and Commissioners. The Proprietary pages shall be stamped "P" and the Proprietary information indicated by two asterisks before and after the information, ****Proprietary****. The Highly Confidential pages shall be stamped "HC" with the Highly Confidential information indicated by two asterisks and underlining before and after the Highly Confidential information, ****Highly Confidential****.

Any deviations from this format must be approved by the Regulatory Law Judge.

2. Three (3) copies of exhibits, whether testimony or other, shall be filed at the hearing with the information separated as described in 1.A, 1.B and 1.C above with each copy of the Proprietary and Highly Confidential portions placed into separate envelopes to be marked as Exhibit __, Exhibit __P and Exhibit __HC.

RECEIVED
JUL 17 1998
COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION