

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office
in Jefferson City on the 4th
day of May, 1993.

In the matter of Southwestern Bell Telephone Company's)
application for classification of certain services as) Case No. TO-93-115
competitive.)
)

ORDER APPROVING CLASSIFICATION OF CERTAIN SERVICES AS COMPETITIVE

On September 24, 1992, Southwestern Bell Telephone Company (SWB) filed a petition requesting the Commission classify Speed Calling 8 and Speed Calling 30 as competitive telecommunications services pursuant to Section 392.361, R.S.Mo. (Supp. 1992). On September 29, 1992, SWB filed a proposed tariff in this docket designed to classify the two services as competitive. The Commission suspended the proposed tariff until September 2, 1993. The Speed Calling services allow customers to program their telephone lines so that customers can dial one or two numbers rather than the entire number to make a call.

At the parties' request the prehearing conference set in this matter was continued. On March 15, 1993 SWB filed a motion in which it proposed a procedural schedule for this matter. The Commission adopted the procedural schedule on March 26, 1993 and then continued the prehearing conference pending settlement negotiations. On April 13, 1993 a Stipulation And Agreement was filed by all of the parties except the Small Telephone Company Group (STCG). By letter filed April 14, 1993 STCG stated it did not oppose the settlement.

The Stipulation And Agreement, Attachment A to this order and incorporated herein by reference, settles all issues in this case and would allow SWB to obtain competitive classifications for its Speed Calling 8 and Speed Calling 30 services. The parties state in the agreement that they do not oppose the contention that the two services are subject to sufficient competition to justify

a lesser degree of regulation. In addition, the parties indicate they do not oppose the contention that numerous other products in the marketplace directly compete with SWB's Speed Calling 8 and Speed Calling 30 services including a variety of telephone sets equipped with memory ability, autodialing, and other customer premises equipment. The parties agreed that the affidavit of SWB witness Karen Barnett which supports these contentions could be considered as part of the record.

The Commission has considered the Stipulation And Agreement and finds that it is a reasonable resolution of the issues raised by SWB's petition for competitive classification of Speed Calling 8 and Speed Calling 30. Based upon the parties' agreement the Commission finds that no hearing is necessary to take evidence on these issues since all interested parties have been afforded an opportunity for hearing.

The Commission finds further that Speed Calling 8 and Speed Calling 30 are subject to sufficient competition to justify a lesser degree of regulation and to be classified as competitive services. The evidence in the record indicates that there is a wide array of providers of customer premises equipment which offer similar services in competition with the two SWB services at a variety of prices. The Commission finds that for these two services these are all of the factors necessary to find that the two services should be classified as competitive. These may not be all the relevant factors for other services. The Commission finds that classifying these two services as competitive is consistent with the protection of ratepayers and promotes the public interest.

The Commission finds that the expenses and revenues of Speed Calling 8 and Speed Calling 30 shall be treated above the line for ratemaking purposes for purposes of Section 392.400.4, R.S.Mo. (Supp. 1992). In addition, since SWB has not requested the waiver of any Commission rules, therefore the Commission need not determine if waivers are appropriate.

IT IS THEREFORE ORDERED:

1. That the Stipulation And Agreement filed by the parties be hereby adopted.
2. That Southwestern Bell Telephone Company services, Speed Calling 8 and Speed Calling 30, be hereby classified as competitive services.
3. That Southwestern Bell Telephone Company be hereby authorized to file tariffs for service on and after May 14, 1993 which reflect the competitive classification of Speed Calling 8 and Speed Calling 30 services.
4. That this order shall become effective on the 14th day of May, 1993.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

Mueller, Chm., Rauch, McClure,
Perkins and Kincheloe, CC., concur.

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

In the Matter of Southwestern Bell)
Telephone Company's Application for)
Classification of Certain Services) Case No. TO-93-115
As Competitive)

STIPULATION AND AGREEMENT

As parties of this proceeding, Southwestern Bell Telephone Company (Southwestern Bell), Staff of the Missouri Public Service Commission, Office of Public Counsel, United Telephone Company of Missouri, Digital Teleport, Inc., Competitive Telecommunications Association of Missouri, Midwest Independent Coin Payphone Association, MCI Telecommunications Corporation, GTE Midwest, Inc., (successor corporation to GTE Systems of Missouri, GTE North, Inc., GTE Missouri and GTE of Eastern Missouri), hereby agree and stipulate to the matters set forth in this Stipulation and Agreement. If accepted by the Commission, this Stipulation and Agreement would eliminate the need for a hearing.

1. On September 24, 1992, Southwestern Bell filed its Petition to Classify Certain Services as Competitive pursuant to Section 392.361.1 RSMo. The two services at issue in this Petition are Speed Calling 8 and Speed Calling 30 services.

2. None of the parties oppose granting the relief sought by the Petition as it relates solely to Southwestern Bell's Speed Calling 8 and Speed Calling 30 services. None of the parties oppose the contention that numerous other products in the marketplace directly compete with Southwestern Bell's Speed Calling 8 and Speed Calling 30 services including a wide variety of

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telephone sets equipped with memory ability, autodialers, and other customer premises equipment that are available at a variety of prices and from a wide array of providers. The parties agree that the Commission may consider the attached Affidavit of Karen Barnett as part of the record.

3. None of the parties oppose the contentions that these two services are subject to sufficient competition to justify a lesser degree of regulation and that such lesser regulation is consistent with the protection of ratepayers and promotes the public interest.

4. None of the parties oppose treating the revenues and expenses from these services above-the-line for ratemaking purposes.

5. The parties, other than SWBT, do not by this Stipulation and Agreement take a position as to whether the cost accounting procedures (CAP) studies provided by SWBT comply with the Commission's Order in Case No. TO-89-56, or on any other issue not expressly addressed by this Stipulation and Agreement. All parties agree the Commission need not decide whether the CAP studies comply with the Order in Case No. TO-89-56 at this time.

6. The following general provisions are an integral part of this Stipulation and Agreement:

a. The matters set forth in this Stipulation and Agreement shall be received into evidence without the necessity of any witness taking the stand.

b. In the event that the Commission accepts this Stipulation and Agreement, the signatories hereto waive their right

to cross-examine any witnesses only with respect to the specific factual matters set forth herein and only with respect to this proceeding. The Stipulation and Agreement shall not otherwise bar or restrict any cross-examination of any witness on any other factual matters relevant to this proceeding, or in any other proceeding. Further, the signatories also waive their right to initiate an appeal of this proceeding, whether through a writ of review or otherwise, if the Commission adopts the Stipulation and Agreement.

c. The matters set forth in this Stipulation and Agreement are interdependent. In the event the Commission does not adopt the matters set forth in this Stipulation and Agreement in their entirety, this Stipulation and Agreement shall be void and no signatory shall be bound by any of the matters set forth herein.

d. The Stipulation and Agreement shall be null and void and have no effect whatsoever if the Commission grants an evidentiary hearing in response to a request for a hearing filed by a non-signatory party to this Case opposing this Stipulation and Agreement. Due to such effect, no signatory shall be prejudiced or bound by any of the matters set forth herein.

e. This Stipulation and Agreement is executed solely for the purpose of resolving by negotiated settlement various controverted issues raised by this proceeding. This Stipulation and Agreement does not constitute an acknowledgement or acceptance by any signatory that the position of any other signatory is correct or would or should prevail as a matter of fact, law, or

policy in this or any other contested proceeding. Except as may be specifically provided herein, none of the signatories to this Stipulation and Agreement shall be prejudiced or bound by the stipulations contained herein in any future proceeding, or in any proceeding currently pending under a separate docket in this or any other jurisdiction.

f. It is the express intention of the parties to enter into an agreement that will permit Southwestern Bell to obtain a competitive classification for its Speed Calling 8 and Speed Calling 30 services. However, this is done with the explicit understanding that this case and these services are not to be considered as a precedent for any other competitive classification of any other service offered by Southwestern Bell or any other local exchange company. This agreement is entered into with the understanding that issues like the appropriate procedures to be followed in competitive classification applications, the appropriate levels of contribution, the percentage of market share held by competing companies or any issue that may be related to granting a competitive classification to a service offered by a non-competitive telecommunications company are not being decided in this case in a manner to be used as precedent for any future case.

WHEREFORE, the undersigned parties respectfully request that the Commission accept this Stipulation and Agreement in its entirety and issue an order consistent herewith.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were served to all parties on the attached Service List by first-class postage prepaid, U.S. Mail.

Dated at St. Louis, Missouri, the 13th day of April, 1993.



Attorney