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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 22nd
day of July, 1998.

In the Matter of MoKan Dial, Inc.'s Complaint)
Against Southwestern Bell Telephone Company for) Case No. TC-98-241
Terminating Cellular Compensation.)

In the Matter of Choctaw Telephone Company's)
Complaint Against Southwestern Bell Telephone) Case No. TC-98-250
Company for Terminating Cellular Compensation.)

In the Matter of Chariton Valley Telephone)
Corporation's Complaint Against Southwestern) Case No. TC-98-251
Bell Telephone Company for Terminating Cellular)
Compensation.)

In the Matter of Peace Valley Telephone Company's)
Complaint Against Southwestern Bell Telephone) Case No. TC-98-257
Company for Terminating Cellular Compensation.)

In the Matter of Northeast Missouri Rural)
Telephone Company's Complaint Against South-) Case No. TC-98-285
western Bell Telephone Company for Terminating)
Cellular Compensation.)

In the Matter of Modern Telephone Company's)
Complaint Against Southwestern Bell Telephone) Case No. TC-98-313
Company for Terminating Cellular Compensation.)

In the Matter of Mid-Missouri Telephone Company's)
Complaint Against Southwestern Bell Telephone) Case No. TC-98-340
Company for Terminating Cellular Compensation.)

**ORDER CONSOLIDATING CASES, DENYING MOTIONS TO DISMISS, DENYING
MOTIONS TO STRIKE, SETTING EARLY PREHEARING CONFERENCE,
AND ORDERING FILING OF PROCEDURAL SCHEDULE**

On January 29, 1998, MoKan Dial, Inc. (MoKan) filed a complaint against Southwestern Bell Telephone Company (SWBT). MoKan's complaint alleges the wrongful termination of cellular compensation in violation of Sections 386.390, 392.220, and 392.240, RSMo, requests the determination by the Commission that MoKan has been damaged by the termination in a certain dollar amount such that MoKan can seek recovery of damages in

Circuit Court pursuant to Section 392.350, and an order directing SWBT to pay the cellular compensation in accordance with MoKan's access tariff. Since the filing of MoKan's complaint, six other complaints alleging similar facts with regard to SWBT's treatment of each Complainant and requesting the same relief be granted have been filed as set out in the table below.

Consolidation of Cases

On May 26, 1998, a Motion to Consolidate Complaints was filed in each case by the Complainant in that case. The Commission determines that in the interest of case efficiency the seven complaint cases listed below should be consolidated for the purpose of considering the issues surrounding the termination of cellular compensation by SWBT. The seven cases are as follows:

Case No.	Complainant	Date Filed
TC-98-241	MoKan Dial, Inc.	December 16, 1997
TC-98-250	Choctaw Telephone Company	December 19, 1997
TC-98-251	Chariton Valley Telephone Corporation	December 19, 1997
TC-98-257	Peace Valley Telephone Company	December 22, 1997
TC-97-285	Northeast Missouri Rural Telephone Company	January 12, 1998
TC-98-313	Modern Telephone Company	January 26, 1998
TC-98-340	Mid-Missouri Telephone Company	February 10, 1998

The Commission has determined that the factual and legal issues in each of the seven cases are similar, with the major exception being the identity of the complainant. Therefore, the Commission will consolidate the seven cases with Case No. TC-98-241 being designated as the "lead" case. The parties of record in each of the cases listed above shall be

(parties of record to the consolidated case without filing for intervention. The parties will be required to file pleadings in only the lead case.

Request for Investigation

In each of the consolidated cases, the Staff of the Missouri Public Service Commission (Staff) filed a Motion Recommending Staff Investigation. In its motions the Staff indicated that SWBT's answers to the complaints "are based on factual information not available to the Staff" and thus the Staff wishes to investigate those facts further. Staff indicates that it needs to conduct an investigation into the factual disputes. Because this case has been pending before the Commission for some time, and due to the fact that the issues are being contested, the Commission will set the case for an early prehearing conference and Staff may conduct its investigation in the context of a contested case through the usual discovery process.

Motion to Dismiss

In its answer to each complaint, SWBT filed a motion to dismiss. The motions to dismiss allege numerous arguments including which tariff is applicable and whether the appropriate rates have been paid. Both of these issues are factual disputes and therefore, the Commission will deny SWBT's motions to dismiss.

Motion to Strike

In response to the motions to dismiss a plethora of responsive pleadings in each case have been filed.¹ The final responsive pleading

¹ The specific pleadings are: Opposition to Southwestern Bell Telephone Company Motion to Dismiss; Southwestern Bell Telephone Company's Reply
(continued...)

filed in four of the cases was Southwestern Bell Telephone Company's Motion to Strike, in which SWBT states the "Complainant's 'Response to Southwestern Bell Telephone Company's Reply to Opposition to Motion to Dismiss' . . . is an unauthorized pleading." SWBT further states that the response should be stricken from the Commission's record because it is irrelevant.

There is no rule of the Commission which would require these pleadings to be stricken from the record. Furthermore, the Commission will base its final decision on facts presented on the record and substantiated by competent evidence. Factual allegations contained in the responsive pleadings of both parties need not be stricken from the record as they will be given the weight they deserve in the Commission's final decision. Therefore, SWBT's Motions to Strike are denied.

Prehearing Conference and Procedural Schedule

The Commission finds that a hearing may be necessary to resolve the issues and that a prehearing conference should be conducted. The Commission will set a prehearing conference date and a date for the parties to file a proposed procedural schedule.

IT IS THEREFORE ORDERED:

1. That Case Nos. TC-98-241, TC-98-250, TC-98-251, TC-98-257, TC-97-285, TC-98-313, and TC-98-340 are consolidated for hearing purposes. The lead case shall be Case No. TC-98-241. All parties to

¹ (...continued)
to MoKan Dial (and each of the Complainant's in the respective Complaints); Response to Southwestern Bell Telephone Company's Reply to Opposition to Motion to Dismiss (filed in Case Nos. TC-98-241, TC-98-250, TC-98-251, and TC-98-257); and Southwestern Bell Telephone Company's Motion to Strike (filed in Case Nos. TC-98-241, TC-98-250, TC-98-251, and TC-98-257).

TC-98-250, TC-98-251, TC-98-257, TC-97-285, TC-98-313, and TC-98-340 are hereby made parties to the consolidated case.

2. That Staff's requests for an investigation are granted to the extent that Staff conducts its investigation during the regular course of the contested case.

3. That Southwestern Bell Telephone Company's motions to dismiss are denied.

4. That Southwestern Bell Telephone Company's motions to strike are denied.

5. That the parties shall meet in a prehearing conference on August 19, 1998 at 10:00 a.m. in the Commission's Conference Room No. 3 on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

6. That the parties shall file a proposed procedural schedule no later than August 31, 1998.

7. That anyone wishing to attend the prehearing conference who has special needs as addressed by the Americans With Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days before the prehearing or hearing at one of the following numbers:
Consumer Services Hotline - 1-800-392-4211 or TDD Hotline - 1-800-829-7541.

8. That this order shall become effective on August 4, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Dippell, Regulatory Law Judge

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION