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In the Matter of an Investigation into)
Various Issues Related to the Missouri) Case No. TO-98-329
Universal Service Fund.)

During the evidentiary hearing on the cost phase of this case held December 1-9, 1998, the bench requested from AT&T Communications of the Southwest, Inc. (AT&T) a run of the "Synthesis Model" the Federal Communications Commission (FCC) is considering. The Commission reserved number 79 for this exhibit that was to be late-filed.

On December 16, AT&T filed Exhibit 79. AT&T describes what it filed as the basic local cost results for the three major incumbent local exchange companies using the October 9, 1998 version of the model platform chosen by the FCC in its Fifth Opinion and Order. AT&T populated the model platform with loop inputs from the FCC Staff Hybrid Proxy Cost Model and the switching, interoffice, and expense inputs from version 5.0a of the Hatfield Associates, Inc. Model (HAI 5.0a).

On December 30, Southwestern Bell Telephone Company (SWBT), GTE Midwest Incorporated (GTE), and Sprint Missouri, Inc. (Sprint) filed objections to the admission of Exhibit 79. All three parties object on the grounds that the submission of the results as a late-filed

exhibit prevents other parties from conducting discovery and cross-examination about them.

SWBT also objects that the FCC's synthesis model continues to evolve, and the version that AT&T used is several versions old. In addition, SWBT asserts that the inputs (mostly HAI 5.0a defaults) AT&T used are inappropriate, and that the entity that prepared it is not a party.

GTE also objects to Exhibit 79 on the grounds that neither the inputs nor the "model" correspond to the bench's request, and that the model itself has not been introduced in this case.

Sprint also objects to Exhibit 79 because no witness appeared to testify about the exhibit, and the description of what would be filed given by AT&T witness Kahn on the stand differs from the material that actually was filed. Sprint raises additional objections based upon lack of foundation, hearsay, relevance, and due process.

The Commission finds that the objections are well taken. Allowing Exhibit 79 into evidence without allowing parties to cross-examine the entity that prepared it would be unfair to the parties, and might constrain their due process rights. In addition, the fact that no witness testified about how it was prepared means that there is little foundation for it. The Commission will sustain the objections to Exhibit 79, and not make it a part of the record. The Commission expects all the parties to address the synthesis model in a future phase of this proceeding.

IT IS THEREFORE ORDERED:

1. That Late-filed Exhibit 79 shall not be made a part of the record.
2. That this order shall become effective on February 2, 1999.

BY THE COMMISSION

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive, flowing style.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Crumpton, Murray, Schemenauer and Drainer, CC., concur
Lumpe, Ch., concurs with concurring opinion

Mills, Deputy Chief Regulatory Law Judge

OF THE STATE OF MISSOURI

In the Matter of an Investigation into Various)
Issues Related to the Missouri Universal Service) Case No. TO-98-329
Fund.)

CONCURRING OPINION OF CHAIR LUMPE

During the evidentiary hearing of December 1 through 9, 1998, numerous references were made to the "FCC Synthesis Model runs obtained from PNR & Associates." Because references were made to a model which was not in evidence, it was requested that that model be provided and Exhibit No. 79 was reserved for that model. Pursuant to that request AT&T submitted the results of a run of a model platform that approximates the FCC Synthesis Model on a compact disc on December 16, 1998.

However, on December 30 objections to the admission of that exhibit were filed by Sprint Missouri, Inc. (Sprint), Southwestern Bell Telephone Company (SWBT), and GTE Midwest Incorporated (GTE).

After a careful review of the objections raised by the aforementioned parties, the Commission has determined it appropriate to sustain the objection(s). Therefore, Exhibit No. 79 will not be admitted into the record. I recognize and support the procedural and evidentiary reasons for rejecting this exhibit.

However, I am disappointed that Sprint, SWBT, and GTE have sought to keep this information out of the record. The public interest, as well as the interests of the parties, are best served

when the Commission is able to make its decisions based upon the broadest possible range of information.

Respectfully submitted,



Sheila Lumpe, Chair
Missouri Public Service Commission

Dated at Jefferson City, Missouri,
on this 21st day of January, 1999.