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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 18th
day of March, 1999.

In the Matter of Southwestern Bell Telephone)	
Company's Tariff Revision Proposing to Offer)	<u>Case No. TT-99-243</u>
IntraLATA Toll Credits to New and Existing)	(Tariff Filing 9900375)
Business Subscribers.)	

ORDER DENYING APPLICATIONS FOR REHEARING

On December 9, 1998, the Commission issued an Order Denying Intervention and Denying Motions to Suspend. As a result, the proposed tariff (file number 9900375) filed by Southwestern Bell Telephone Company (SWBT) went into effect by operation of law. The tariff provides for a short-term promotion which offers intraLATA toll credits to new and existing SWBT business customers.

On December 14, 1998, the Mid-Missouri Group (MMG) filed an Application for Rehearing. MMG indicates that the tariff filing does not comply with the Primary Toll Carrier (PTC) Plan, and argues that the Commission failed to consider and rule upon the grounds given in opposition to approval. MMG states that the action of the Commission in denying the applications to intervene, in denying the motions to suspend the tariff for a contested case hearing, and in failing to decide the issues raised in opposition to approval of the tariff, was unlawful, unreasonable, and unjust on various grounds. MMG alleges that the Commission's actions violated the following statutes: Sections

386.020(24); 392.200.2; 392.200.3; 392.200.4; and 392.200.5, RSMo 1997. MMG's current arguments are substantially the same as those in its application to intervene and motion to suspend tariff, and the Commission declines to reiterate those arguments in detail here.

MMG requests that the Commission grant rehearing, reconsider and change its decision to approve this service until the above-referenced issues have been considered and determined in accordance with law, cancel SWBT's approved service tariffs in the interim, and permanently after hearing.

On December 18, 1998, the Small Telephone Company Group (STCG) filed an Application for Rehearing. STCG indicated that the Commission's decisions in the Order Denying Intervention and Denying Motions to Suspend are arbitrary, capricious, unjust, unlawful, unreasonable, and unsupported by competent and substantial evidence. STCG's arguments are largely the same ones it made in its original application to intervene and motion to suspend tariff, and are very similar to those of MMG. STCG alleges that SWBT's tariff violates the PTC Plan, but, like MMG, the STCG does not cite a specific provision in the PTC Plan which is violated. STCG also argues that the tariff violates various statutes, including portions of Section 392.200, RSMo Supp. 1997. Although the Commission has fully considered STCG's arguments, it declines to restate those arguments here.

On December 24, 1998, SWBT filed suggestions in opposition to the applications for rehearing. SWBT argues that MMG and STCG are attempting to use the PTC Plan to hamper SWBT's ability to provide additional choices and value to SWBT's own customers. SWBT points out that MMG and

STCG fail to cite any provision from any Commission order or any provision from the PTC Plan or PTC/SC contracts to support their claims. SWBT also notes that MMG and STCG claim that the Commission's order allowing the tariff to become effective violates several Missouri statutes, and that these are the same statutes that MMG and STCG claimed were violated in their original motions to suspend. SWBT alleges that MMG and STCG raise no new substantive points concerning these statutes and do not provide any further explanation to support their claim that the statutes were violated.

The Commission agrees with SWBT that the arguments in the motions for rehearing filed by MMG and STCG are substantially the same arguments offered in their applications to intervene and motions to suspend. MMG and STCG both claim that the Commission's December 9, 1998, order violates the PTC Plan. However, neither MMG nor STCG cite any specific prohibition within the PTC Plan, or from any Commission order, to support these claims. MMG and STCG also allege that the December 9, 1998, order violates various Missouri statutes. These statutes are the same ones MMG and STCG referenced in their applications to intervene and motions to suspend. In addition, MMG alleges that the Commission "failed to consider and rule upon the grounds given in opposition to approval." (MMG Initial Brief, p. 2). Contrary to MMG's contention, the Commission did review and consider these arguments prior to issuing its December 1998, order. At that time, the Commission determined that these arguments were not persuasive. The Commission has reviewed the prior

filings of MMG and STCG, along with the applications for rehearing, and again concludes that the arguments of MMG and STCG are not persuasive.

Section 386.500, RSMo 1994, provides that the Commission shall grant a rehearing if in its judgment it finds sufficient reason to do so. The Commission finds that there is not sufficient reason for rehearing, and that the applications for rehearing should be denied.

IT IS THEREFORE ORDERED:

1. That the Application for Rehearing filed by the Mid-Missouri Group on December 14, 1998, is denied.
2. That the Application for Rehearing filed by the Small Telephone Company Group on December 18, 1998, is denied.
3. That this order shall become effective on March 18, 1999.
4. That this case may be closed on March 19, 1999.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Ruth, Regulatory Law Judge

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION