

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of the request of)
Southwestern Bell for a variance)
from 4 CSR 240-33.030(1).)

CASE NO. TO-94-335

APPEARANCES: Paul E. Dorin, Attorney, 100 North Tucker Boulevard,
Room 630, St. Louis, Missouri 63101,
For Southwestern Bell Telephone Company.
Randy Bakewell, Assistant Public Counsels, P.O. Box
7800, Jefferson City, Missouri 65102, For the
Office of the Public Counsel and the Public.
Cherlyn D. McGowan, Assistant General Counsel, P.O. Box
360, Jefferson City, Missouri 65102, For the
Staff of the Missouri Public Service Commission.

Hearing
Examiner: Anne Wickliffe Freeman

REPORT AND ORDER

On April 25, 1994, Southwestern Bell Telephone Company (Bell) filed with the Commission a request for variance from the minimum charge rule set out in 4 CSR 240-33.030(1). The Office of the Public Counsel filed a request for hearing and the matter was set for evidentiary hearing on August 31, 1994. Parties wishing permission to intervene were directed to file their requests by August 1, 1994. On July 29, 1994, GTE Midwest Incorporated (GTE) filed an application to intervene which was granted on August 5, 1994. The parties resolved the issues and filed their Stipulation and Agreement on August 31, 1994.

On August 31, 1994, in open hearing, Bell and the Commission Staff (Staff) presented a Stipulation and Agreement to the Commission for approval. GTE asked to be excused from the hearing and the request was granted on the record. The Office of the Public Counsel (OPC) withdrew its request for hearing and stated on the record that the OPC was not opposed

to approval of the Stipulation and Agreement. The parties waived the presentation of evidence, the reading of the transcript by the Commission, and the right to judicial review, should the Commission approve the Stipulation and Agreement. Following the hearing, Staff submitted a late-filed exhibit entitled Alternate Appendix A on August 31, 1994. The parties were given until September 6, 1994, to file responses to this exhibit; no responses were filed.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact:

This case is properly before the Commission on a Request for Variance filed by Southwestern Bell. The parties have presented a Stipulation and Agreement for Commission consideration which is attached to this Report and Order, identified as Attachment 1, and incorporated herein by reference. The late-filed exhibit entitled Alternate Appendix A is also attached to this Report and Order, identified as Attachment 2, and incorporated herein by reference.

The Stipulation and Agreement provides for a temporary variance from 4 CSR 240-33.030(1), the minimum charge rule, to be granted to Bell for three years. The Staff will review the variance to determine its effect on ratepayers six months before the variance is scheduled to terminate. In response to Commission inquiries at hearing, the parties stated that a two-year period for the temporary variance would be acceptable.

The Stipulation and Agreement calls for Bell to provide a bill page in the first and second months' billing for all new installation customers to appear in the exact form, including typeface and capitalization,

designated in Appendix A. Alternate Appendix A (Attachment 2 to this Report and Order) was prepared in response to concerns expressed by the Commissioners during the hearing and offered as alternative language for this bill page. The cover letter which accompanied Attachment 2 indicated that Staff and Southwestern Bell worked together to produce the alternative language offered in that exhibit. In one year of the effective date of the Commission's order Bell will also provide a footnote on the bills to these same customers. The footnote will appear where the itemization of the total bill appears and will refer customers to the bill page described above. The footnote will appear in a form similar to that designated in Appendix B to the Stipulation and Agreement.

The Stipulation and Agreement provides that new customers who change to Local Measured Service (LMS) within their first two billing cycles will receive a credit from Bell for the difference between their flat rate service and the appropriate LMS rate. In addition Bell will waive the service connection charge for the change to LMS if requested during the first two billing cycles, and for customers who request Life Line Service at the time of application for service. Bell agrees to place a bill message in each customer bill on an annual basis in the form designated in Appendix C to the Stipulation and Agreement.

In order to track the effectiveness of the written notices, Bell agrees to establish two unique telephone numbers, one each for the Kansas City and St. Louis marketing areas. Bell agrees to track, on a monthly basis, the number of calls to each telephone number, the number of "takers" for LMS from these calls, the total number of LMS customers, and the total number of Bell residential customers. Bell agrees to provide this information to Staff every six months and to provide the total number of customers taking LMS service, and the percentage of total customers this

number represents, for the two years preceding Bell's application for variance.

The Commission believes that the Stipulation and Agreement of the parties represents a reasonable means of informing ratepayers of the existence of alternative forms of service which may be less expensive. The Commission approves, in particular, the tracking mechanism established to determine the effectiveness of the written notice as opposed to the oral notice required by 4 CSR 240-33.030(1). The Commission finds that the Stipulation and Agreement represents a reasonable resolution of the issues raised in this case and that the granting of a temporary variance in accordance with that agreement is in the public interest. Therefore, the Commission adopts the Stipulation and Agreement (Attachment 1) filed August 31, 1994, as amended by Alternate Appendix A (Attachment 2).

Conclusions of Law

The Public Service Commission has arrived at the following conclusions of law:

Southwestern Bell Telephone Company is a public utility subject to the jurisdiction of the Missouri Public Service Commission pursuant to Chapters 386 and 392 of the Revised Statutes of Missouri, as amended. The Commission concludes that it has legal authority to accept a Stipulation and Agreement as offered by the parties as a resolution of the issues raised in this case, pursuant to § 536.060 RSMo (1986). Based upon the information contained within the Stipulation and Agreement of the parties, and the supporting information offered at the hearing of August 31, 1994, the Commission concludes that the Stipulation and Agreement should be approved.

IT IS THEREFORE ORDERED:

1. That the Stipulation and Agreement (Attachment 1 to this Report and Order), as amended by Alternate Appendix A (Attachment 2 to this Report and Order), filed by the parties to this case on August 31, 1994, be adopted by the Commission for resolution of all issues.

2. The language of Alternate Appendix A (Attachment 2) shall be substituted for the language of original Appendix A to the Stipulation and Agreement.

3. That Southwestern Bell be granted a variance from 4 CSR 240-33.030(1) for a period of two years from the effective date of this order.

4. That the variance granted herein be conditioned upon Southwestern Bell's compliance with the Stipulation and Agreement in every particular.

5. That this Report and Order shall become effective on September 23, 1994.

BY THE COMMISSION



David L. Rauch
Executive Secretary

(SEAL)

Mueller, Chm., McClure, Perkins,
and Kincheloe, CC., Concur.
Crumpton, C., Absent.

Dated at Jefferson City, Missouri,
on this 13th day of September, 1994.

FILED
AUG 31 1994
MISSOURI
PUBLIC SERVICE COMMISSION

BEFORE THE PUBLIC SERVICE COMMISSION
 OF THE STATE OF MISSOURI

In the matter of the Request)
 of Southwestern Bell for a) Case No. TO 94-335
 Variance from 4 CSR 240-)
 33.030(1).)

STIPULATION AND AGREEMENT

On April 25, 1994, Southwestern Bell Telephone Company ("SWBT or the Company") filed an Application pursuant to 4 CSR 240-33.100, seeking a variance from the provisions of 4 CSR 240-33.030(1). Having conferred, the Staff of the Missouri Public Service Commission ("Staff") and SWBT stipulate and agree as follows:

1. SWBT is a Missouri corporation with its principal office at One Bell Center, St. Louis, Missouri 63101, and is subject to the jurisdiction of the Missouri Public Service Commission ("Commission"). SWBT is a "local exchange telecommunications company" and a "public utility", as those terms are defined in § 386.020 RSMo (1993 Supp.), and is duly authorized to provide telecommunications service within the State of Missouri.

2. Section 4 CSR 240-33.030(1) (the "Minimum Charge Rule") requires a telephone company to notify each applicant for service, at the time a service request is made, of the lowest cost service available.

3. Section 4 CSR 240-33.100 authorizes a utility or customer to seek a variance from the provisions of Chapter 33.

4. This Stipulation and Agreement has resulted from

extensive negotiations among the signatories and the terms hereof are interdependent. In the event the Commission does not adopt this Stipulation and Agreement in total, the Stipulation and Agreement shall be void and no signatory shall be bound by, prejudiced or in any way affected by any of the agreements or provisions hereof: (a) in this proceeding; (b) in any future proceeding; and/or (c) in any proceeding currently pending under a separate docket.

5. In the event the Commission does adopt this Stipulation and Agreement in total, the signatories shall not be prejudiced, bound by or in any way affected by the terms of this Stipulation and Agreement: (a) in any future proceeding; and/or (b) in any proceeding currently pending under a separate docket.

6. The signatories recommend that:

- (a) The Commission issue an Order in this docket which approves this Stipulation and Agreement and grants SWBT a temporary variance for three (3) years from 4 CSR 240-33.030(1) as provided under 4 CSR 240-33.100 in conformance with the terms of this Stipulation and Agreement, and this variance will be reviewed six months prior to termination of the variance.
- (b) SWBT be required to provide a bill page in the first (1st) and second (2nd) months' billing for all new installation customers ("new customers"). The bill page shall appear in the form designated in Appendix A to this Stipulation and Agreement, including bolding, capitalization and exact language.
- (c) Within one (1) year of the effective date of any Commission Order approving SWBT's request for a waiver, SWBT be required to place a footnote wherever the itemization of the total bill appears referring customers to the bill page described in paragraph 6 (b). The footnote shall appear in a form similar to that designated in Appendix B to this Stipulation and Agreement.

- (d) SWBT be required to provide new customers, who contact SWBT and change to Local Measured Service ("LMS") within their first two billing cycles, a credit for the difference between their existing flat rate service and the appropriate LMS rate; No service connection charge ("SCC") for the change to LMS shall be applicable to these customers during this period.
- (e) SWBT be required to waive the SCC for Life Line Service for new customers who request Life Line Service at the time of application for service.
- (f) SWBT be required to place a bill message annually in each customer bill in the form designated in Appendix C.
- (g) To aid the Commission in its evaluation of the effectiveness of the bill page, SWBT be required to establish two (2) unique telephone numbers; one each for the Kansas City and St. Louis marketing area. SWBT be required to track on a monthly basis: the number of calls to each such telephone number, the number of "takers" for LMS from these calls, the total number of LMS customers and the total number of SWBT residential customers. SWBT agrees to provide this information to Staff every six (6) months. SWBT also agrees to provide the total number of customers taking LMS service and the percentage of total customers this number represented for the two (2) years preceding the date of SWBT's application for variance in this case.

9. In the event the Commission accepts the specific terms of this Stipulation and Agreement, the signatories waive, with respect to the issues resolved herein: their respective rights pursuant to § 536.080.1 RSMo 1986 to present testimony, to cross-examine witnesses, and to present oral argument and written briefs; their respective rights to the reading of the transcript by the Commission pursuant to § 536.080.2 RSMo. 1986; and their respective rights to judicial review pursuant to § 386.510 RSMo. 1986.

10. If requested by the Commission, the Staff shall have the right to submit to the Commission a memorandum explaining its

rationale for entering into this Stipulation and Agreement. Each Party of Record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's memorandum, a responsive memorandum which shall also be served on all Parties. All memoranda submitted by the Parties shall be considered privileged in the same manner as are settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all parties, and shall not become a part of the record of this proceeding or bind or prejudice the Party submitting such memorandum in any future proceeding or in this proceeding whether or not the Commission approves this Stipulation and Agreement. The contents of any memorandum provided by any Party are its own and are not acquiesced in or otherwise adopted by the other signatories to the Stipulation and Agreement, whether or not the Commission approves and adopts this Stipulation and Agreement.

The Staff shall also have the right to provide, at any agenda meeting at which this Stipulation and Agreement is noticed to be considered by the commission, whatever oral explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other Parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any

Protective Order issued in this case.

WHEREFORE, the signatories respectfully request that the Commission issue its order approving the terms of this Stipulation and Agreement.

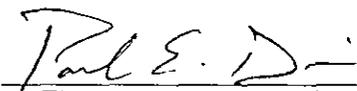
Respectfully submitted,



Cherlyn D. McGowan
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SOUTHWESTERN BELL TELEPHONE COMPANY

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 31st day of August, 1994.



APPENDIX A

LOWER PRICED SERVICE OPTIONS

You currently subscribe to single-party telephone service that includes unlimited local calling. Another type of service, **Local Measured Service (LMS)**, is available in your area. With this type of service, you are charged a flat monthly rate plus a charge for each outbound local call you make. Depending on the number of local calls you make, the time of day the calls are made, and the duration of the calls, this could be a less expensive type of telephone service for you. If you choose to change to LMS prior to the issuance of your next bill, you will not be charged for this change and will receive a credit for any difference in the monthly rate.

Lifeline Telephone Service provides qualifying customers with a \$7 monthly reduction to their local telephone bill. Lifeline is available to customers who are at least 65 years old or disabled, head of the household and have an annual household income of \$7,500 or less and qualifies for the Energy Assistance Program as certified by the Missouri Department of Social Services.

Some households without telephone service that receive Medicaid payments may qualify for **LinkUp Missouri Service**. LinkUp provides for reduced telephone service connection charges.

If you are interested in learning more about these options, call your Southwestern Bell Telephone business office toll free at xxxx-xxxx.

APPENDIX B

LOWER COST OPTIONS AVAILABLE-see details on last page of this bill

APPENDIX C

**ANNUAL NOTICE
LANGUAGE**

For information regarding **LOWER PRICED** local telephone service options such as Local Measured Service, LifeLine Service, and LinkUp Service please refer to the Customer Guide Pages located in the front of your Southwestern Bell Telephone Directory or call your local business office.

ALTERNATE APPENDIX A

LOWER PRICED SERVICE OPTIONS

Local Measured Service (LMS) is available in your area, and may be a lower cost option for you, depending on the number of local calls you make, the time of day the calls are made, and the duration of the calls. With this type of service, you are charged a lower flat monthly rate plus a charge for each outbound local call you make. You currently subscribe to single-party telephone service that includes unlimited local calling. If you choose to change to LMS prior to the issuance of your next bill, you will not be charged for this change and will receive a credit for any difference in the monthly rate.

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