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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In re: Request of Southwestern Bell)
Telephone Company for a variance) CASE NO. TO-97-71
from 4 CSR 240-33.030(1).)
)

REPORT AND ORDER

Issue Date: December 20, 1996

Effective Date: December 31, 1996

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OF THE STATE OF MISSOURI

In re: Request of Southwestern Bell)
Telephone Company for a variance) CASE NO. TO-97-71
from 4 CSR 240-33.030(1).)
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APPEARANCES: Leo J. Bub, Attorney, Southwestern Bell Telephone Company, 100 North Tucker Boulevard, Room 630, St. Louis, Missouri 63101, for Southwestern Bell Telephone Company.

Michael F. Dandino, Senior Public Counsel,
Office of the Public Counsel, Post Office
Box 7800, Jefferson City, Missouri 65102,
for the Office of the Public Counsel and
the Public.

Cherlyn D. McGowan, Assistant General Counsel,
Missouri Public Service Commission, Post
Office Box 360, Jefferson City, Missouri 65102,
for the Staff of the Missouri Public Service
Commission.

Administrative

Law Judge: L. Anne Wickliffe, Deputy Chief

REPORT AND ORDER

Southwestern Bell Telephone Company (SWBT) filed on August 22, 1996 a request for a permanent variance from the minimum charge rule set out in 4 CSR 240-33.030(1). A two-year variance was granted in Case No. TO-94-335. SWBT now seeks a permanent variance on essentially the same terms as the temporary variance.

The Commission Staff (Staff) filed a memorandum on August 28, 1996, recommending that the permanent variance be granted. The Office of the Public Counsel (OPC) filed a response, followed by a request for hearing on August 30, 1996. Before a hearing date was set the parties

filed a Joint Motion to Suspend Procedural Schedule stating that the parties expected to enter into a stipulation resolving the issues. MCImetro Access Transmission Services, Inc. filed an application to intervene which was denied on October 15, 1996. The parties filed a Joint Stipulation and Agreement on October 18, 1996; Staff filed Suggestions in Support on October 23, 1996; and the Commission set November 22, 1996, as the hearing date on the stipulation.

At the hearing, SWBT, OPC, and Staff presented a Stipulation and Agreement to the Commission for approval and responded to Commission questions. 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.

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 a permanent variance filed by SWBT. 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. Commission Rule 4 CSR 240-33.030(1) requires that when a new customer applies for telephone service the telephone company must notify the applicant of the lowest cost service available, which is Local Measured Service (LMS). SWBT's position is that very few customers are interested in subscribing to LMS and that when new customers call for service they find the representative's description of LMS to be an annoyance rather than a service. SWBT believes customers can be notified of LMS availability

just as effectively by means of a written notice. SWBT is not requesting that the application of the rule be waived, but that the Commission approve its alternative means of complying with the rule, i.e., by written notice.

When the Commission granted a two-year variance in Case No. TO-94-335, the grant included certain requirements. The Staff was directed to review the variance to determine its effect on ratepayers six months before the end of the two-year period. SWBT agreed to provide a bill page in the first and second months' billing for all new installation customers to appear in an agreed-upon form. The agreement also called for inclusion of a footnote on customer bills after one year, also in an agreed-upon form. In order to measure the effectiveness of the written notices, SWBT established special telephone numbers for customer contacts and agreed to track the number of LMS subscribers during the two-year period. SWBT was to provide periodic updates on this information to Staff.

The Suggestions in Support of the present stipulation, filed by Staff, included the data accumulated on the number of calls regarding LMS and the number of subscribers to LMS service (Appendix A to Suggestions in Support). Those numbers indicate that less than three percent of SWBT's customers subscribe to LMS service and that the number has decreased slowly but steadily every year since 1992.

The Stipulation and Agreement filed by the parties requests approval of the permanent variance SWBT requests from 4 CSR 240-33.030(1). SWBT agrees to continue the written notice procedures. The forms of the written notices are included as appendices to the stipulation. SWBT agreed to continue the practice of crediting customers with the difference between flat-rate service and LMS when a customer requests a change to LMS within

their first two billing cycles. SWBT also agreed to waive the service connection charge for new Lifeline Service customers.

The Commission finds 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 finds that the data accumulated by the tracking mechanism established in TO-94-335 indicates that the written notice procedure is adequate. 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 permanent variance in accordance with that agreement is in the public interest. Therefore, the Commission adopts the Stipulation and Agreement (Attachment 1) filed October 18, 1996, in resolution of the issues.

Conclusions of Law

The Commission, therefore, makes 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. 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 R.S.Mo. (1994). Based upon the information contained within the Stipulation and Agreement of the parties, and the supporting information offered at the hearing of November 22, 1996, the Commission concludes that the Stipulation and Agreement should be approved.

IT IS THEREFORE ORDERED:

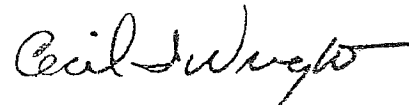
1. That the Stipulation and Agreement (Attachment 1 to this Report and Order), filed by the parties to this case on October 18, 1996, is adopted by the Commission for resolution of all issues.

2. That Southwestern Bell is granted a variance from 4 CSR 240-33.030(1) in accordance with the Stipulation and Agreement approved in Ordered Paragraph 1.

3. That the variance granted is conditioned upon Southwestern Bell's compliance with the Stipulation and Agreement in every particular.

4. That this Report And Order shall become effective on December 31, 1996.

BY THE COMMISSION



**Cecil I. Wright
Executive Secretary**

(S E A L)

Zobrist, Chm., McClure,
Kincheloe, and Crumpton, CC.,
concur.
Drainer, C., absent.

Dated at Jefferson City, Missouri,
on this 20th day of December, 1996.