

B ✓
PB
Ro
S

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 25th
day of February, 1998.

In the Matter of Southwestern Bell Telephone)
Company's Tariff Revisions Designed to)
Introduce a LATA-Wide Extended Area Service) CASE NO. TT-98-351
(EAS) Called Local Plus, and a One-Way COS)
Plan.)

**ORDER GRANTING INTERVENTION, SUSPENDING TARIFF,
AND SETTING EARLY PREHEARING CONFERENCE**

On February 5, 1998, Southwestern Bell Telephone Company (SWBT) submitted proposed revisions to its Local Exchange Tariff, P.S.C. Mo. No. 24, which includes tariff changes associated with the offering of a local one-way Community Optional Service (COS) plan and the introduction of a LATA-wide Extended Area Service (EAS) plan.

SWBT explains in its cover letter that the one-way COS plan will be offered on an interim basis to customers located in existing SWBT COS Petitioning Exchanges, until such time as the LATA-wide EAS plan can be implemented in those exchanges. SWBT indicates that the LATA-wide EAS offering is an optional one-way outbound local calling plan that provides subscribers flat rate unlimited calling to all customers within the LATA. SWBT further states that it intends to market the LATA-wide service as Local PlusSM. Calls under the plan would be placed using the local dialing pattern. In addition, SWBT maintains that it cannot offer the LATA-wide service to customers of secondary carriers (SCs) and still recover its costs. Likewise, SWBT also states that while the LATA-wide service would be available for resale by other local service providers, the service is not financially viable if resellers are allowed to aggregate usage. The tariff sheets bear an effective date of March 9.

On February 13, COMPTel-MO filed a motion to suspend SWBT's tariff submission, establish an intervention deadline, and set an early prehearing conference. With regard to the one-way COS offering, COMPTel-MO contends that allowing SWBT to charge a flat rate for what essentially is a toll service suffers from the same anticompetitive effects described in the evidence in Case No. TW-97-333. With regard to the LATA-wide EAS offering, COMPTel-MO claims that Local PlusSM is not genuinely a local service, but is properly characterized as a flat rated toll service. COMPTel-MO maintains that the tariff filing is anticompetitive because if its members attempted to duplicate the service, they would be expected to pay SWBT access charges on a per-minute basis, and the cost of access would eventually be more than the price charged for the flat rated service.

COMPTel-MO further contends that Local PlusSM is subject to the Commission's rulings on imputation for pricing/costing purposes, and claims that there is a legitimate question concerning whether the service can pass the required imputation test, or whether the service is cost-based. COMPTel-MO notes that the service should be priced higher than access, since the service includes more than the cost of originating and terminating the call, but also includes such costs as the "long haul" of the call, billing, collection, and promotional costs. COMPTel-MO concludes that Local PlusSM will adversely affect competition. In the alternative, COMPTel-MO requests that the Commission exempt its members and other interexchange carriers (IXCs) from the tariff filing's prohibition on aggregate usage.

On the same date AT&T Communications of the Southwest, Inc. (AT&T) also filed a motion to suspend and motion to intervene. AT&T maintains that SWBT's proposal essentially reclassifies traffic that is currently considered long distance or toll as local exchange traffic, and offers this repackaged toll traffic at a flat monthly rate with 7-digit or

10-digit local dialing. AT&T contends that the proposed tariffs are unjust, anticompetitive, and unreasonable because: (a) the service would allow SWBT to effectively monopolize a LATA by transforming a toll service into a local service; (b) the service would preclude effective competition by exacerbating the dialing disparity that exists in the intraLATA toll market; and (c) it is unclear whether the service will recover its imputed access costs. AT&T states that it competes with SWBT for the traffic that SWBT seeks to reclassify as local, that it cannot offer a 7-digit or 10-digit local dialing pattern to its customers, and that its ability to provide a service in competition with SWBT's will be hampered, and thus it has an interest different from that of the general public and should be allowed to intervene.

The Mid-Missouri Group of Local Exchange Companies (Mid-MO Group)¹ also filed an application to intervene and motion to suspend on February 18. The Mid-MO Group first asserts that the proposed services are intraLATA interexchange, or toll services, under state and federal law. The Mid-MO Group claims that the filing of this tariff prior to the introduction of intraLATA 1+ presubscription may have anticompetitive effects. The Mid-MO Group also asserts that the proposal is contrary to the Commission's recent order in Case No. TW-97-333, and contrary to the Commission's recent response to the Missouri General Assembly's joint resolution opposing the elimination of two-way COS, in the following respects: (a) the proposal is currently unnecessary given the Commission's extension of the March 31 deadline for the elimination of the current two-way COS service; (b) since the proposal anticipates that the one-way COS

¹ For purposes of this proceeding, the Mid-MO Group is comprised of Alma Telephone Company, Chariton Valley Telephone Corp., Choctaw Telephone Company, Mid-Missouri Telephone Company, Modern Telecommunications Company, MoKan Dial Inc., Northeast Missouri Rural Telephone Company, and Peace Valley Telephone Company.

would only be offered until the LATA-wide Local PlusSM became available, SWBT would in effect be allowed to determine when to eliminate a Commission-mandated service prior to a Commission-approved termination date for COS; and (c) the Commission has indicated to the General Assembly that it would establish a new docket to consider replacement calling plans for COS, and SWBT's proposed tariff should be considered in that new docket.

Further, the Mid-MO Group states that the proposed tariff changes should not be allowed to go into effect without the establishment of an intercompany compensation plan for traffic which will terminate in the exchanges of non-SWBT local exchange companies (LECs). The Mid-MO Group explains that since the proposed service is only available to SWBT customers, those customers will be able to use the service to call customers of Secondary Carriers (SCs) within the LATA, such that the service will produce only terminating traffic from SWBT to SCs. To the extent that SWBT intends to compensate SCs under the Primary Toll Carrier (PTC) Plan, the effect may be to confiscate the facilities of SCs, since the ratios established under the auspices of the PTC Plan were based upon existing traffic amounts.

Alternately, the Mid-MO Group argues that under the PTC Plan, SWBT is obligated to make its toll services available in the SC exchanges at services as a PTC, and thus the proposed tariff would deprive SC customers of the equal availability of SWBT-provided toll calling plans. The Mid-MO Group also contends that the proposed tariff violates statutes requiring the geographic averaging of toll rates, and parity of services in rural and urban exchanges. Finally, the Mid-MO Group contends that the interests of its members who rely upon SWBT for intraLATA 1+ toll services is different than that of the general public, and that it should be allowed to intervene in this proceeding.

The Commission has reviewed SWBT's tariff submission, along with the concerns raised by COMPTel-MO, AT&T, and the Mid-MO Group in their respective motions to suspend, and determines that those concerns are sufficient to warrant the suspension of SWBT's tariff revisions. The Commission determines that it would be appropriate to suspend the tariff sheets filed by SWBT for a period of 120 days in order to allow time for a more thorough review of the issues. The Commission will therefore suspend the tariff sheets filed by SWBT for a period of 120 days from the current effective date of March 9 to July 7. The Commission also finds that it would be appropriate to grant intervention to COMPTel-MO, AT&T, and the Mid-MO Group, and to set an early prehearing conference for March 17. The parties should use the early prehearing conference to delineate and narrow the issues, and shall file a proposed procedural schedule by March 24.

IT IS THEREFORE ORDERED:

1. That Kevin K. Zarling has complied with 4 CSR 240-2.040, and will be permitted to appear before the Commission pro hac vice on behalf of AT&T Communications of the Southwest, Inc.

2. That COMPTel-MO, AT&T Communications of the Southwest, Inc., and the Mid-Missouri Group of Local Exchange Companies are granted intervention in this proceeding.

3. That the tariff sheets filed by Southwestern Bell Telephone Company on February 5, 1998, are suspended for a period of 120 days from March 9, 1998 to July 7, 1998.

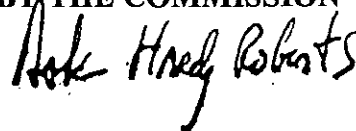
4. That an early prehearing conference is scheduled for 9:00 a.m. on March 17 in the Commission's hearing room on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

5. That anyone with special needs as addressed by the Americans With Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one of the following numbers: Consumer Services Hotline -- 1-800-392-4211, or TDD Hotline -- 1-800-829-7541.

6. That the parties shall file a proposed procedural schedule by March 24, 1998.

7. That this order shall become effective on March 9, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Murray, and
Drainer, CC., Concur.
Crumpton, C., Absent.

Bensavage, Regulatory Law Judge

RECEIVED

FEB 26 1998

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION