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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 2nd day of November, 1999.

In the Matter of the Application of Mark Twain)
Communications Company for a Certificate of)
Service Authority to Provide Basic Local Tele-) Case No. TA-98-305
communications Service in Portions of the State)
of Missouri and to Classify Said Services and)
the Company as Competitive.)

ORDER GRANTING MOTION TO CLOSE CASE
AND DENYING APPLICATION FOR REHEARING

On July 12, 1999, the Staff of the Missouri Public Service Commission (Staff) filed a Motion to Close Case. The motion indicates that on January 22, 1998, Mark Twain Communications Company (MTCC) filed an Application for Authority to Provide Basic Local Telecommunications Service. GTE Midwest Incorporated (GTE) filed a timely application to intervene, which was granted on March 17, 1998. MTCC filed a tariff on April 29, 1998, and the Commission adopted an Order Granting Certificate of Service and Suspending Tariff on May 19, 1998. On July 16, 1998, Southwestern Bell Telephone Company (SWBT) filed an Application to Intervene and Motion to Suspend. SWBT's application was several months past the intervention deadline of February 27, 1998. On July 23, 1998, the Commission adopted an Order Conditionally Approving Tariff, and also denied SWBT's application to intervene. On September 9, 1998, the Commission issued an Order Approving Revised Statement of Customer Rights and Responsibilities.

In response to Staff's motion to close, the Commission issued an Order Directing Response on August 12, 1999, which indicated that any party wishing to respond to the motion had 15 days to show cause as to why the case should not be closed. Although no responses were filed, a careful review of the file indicates that there is a pending request for rehearing, which was filed by Southwestern Bell Telephone Company (SWBT) on July 27, 1998. Although the Commission referenced this request in its September 9, 1998, order, the Commission did not decide the issue, and instead indicated that it would be addressed in a subsequent order. However, such an order was never issued.

SWBT's application for rehearing requests that the Commission grant rehearing of its Order Conditionally Approving Tariff, alleging that the Commission misunderstands the facts and misapplies the law. First, SWBT argues that it sought intervention as soon as it could have or should have. Second, SWBT argues that Missouri and federal law require a review of MTCC's CLEC access tariff to ensure that the rates are just and reasonable, and that refusal to do so because a third party's interest did not develop until after the initial parties to the case have reached a stipulation is arbitrary and capricious.

MTCC filed a response to SWBT's application for rehearing on August 5, 1998. MTCC argues that SWBT does not show in its application that the Order Conditionally Approving Tariff is unlawful, unjust or unreasonable. As to SWBT's argument regarding intervention, MTCC counters that the intervention deadline was February 27, 1998, and that MTCC filed its proposed tariff on April 29, 1998, 78 days before SWBT

sought to intervene. MTCC argues that SWBT should have known that its obligations as a Primary Toll Carrier (PTC) would require it to terminate its intraLATA toll traffic, as well as that of Secondary Carriers subtending SWBT, other PICs and cellular providers, to MTCC and other competitive local exchange carriers (CLECs) within the LATA. In addition, SWBT should have known that it would be expected to pay tariffed access charges to MTCC just as it pays access charges to all other local interexchange companies and CLECs.

MTCC states that SWBT does not cite any Missouri or federal law which would require a review of MTCC's access rates to ensure that they are just and reasonable. MTCC alleges that no law requires the Commission to review CLEC rates to make sure they are just and reasonable, and that if it weren't for the Stipulation and Agreement in this case, the changes in MTCC's rates would not now be subject to Commission approval.

The Commission has reviewed SWBT's application for rehearing and MTCC's response, along with the official case file, and concludes that SWBT's arguments for rehearing are not persuasive. SWBT did not file its application to intervene in a timely manner, and SWBT did not demonstrate good cause for requesting intervention nearly five months after the passing of the intervention deadline. 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 the application for rehearing should be denied. The Commission also finds that the Motion to Close Case, filed by Staff on July 12, 1999, should be granted.

IT IS THEREFORE ORDERED:

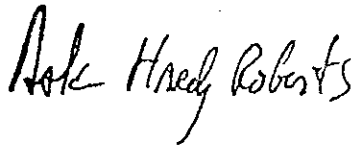
1. That the Motion to Close Case filed by the Staff of the Missouri Public Service Commission is granted.

2. That the Application for Rehearing filed by Southwestern Bell Telephone Company is denied.

3. That this order shall become effective on November 12, 1999.

4. That this case may be closed on November 15, 1999.

BY THE COMMISSION



**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

(S E A L)

Lumpe, Ch., Crumpton, Drainer,
Murray, and Schemenauer, CC., concur.

Ruth, Regulatory Law Judge

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION