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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

The Staff of the Missouri Public Service Commission,)	
)	
)	
Complainant,)	
)	
v.)	<u>Case No. TC-98-254</u>
)	
Cable & Wireless, Inc.,)	
)	
Respondent.)	
)	

ORDER ESTABLISHING PROCEDURAL SCHEDULE

The Staff of the Commission (Staff) filed a complaint against Cable & Wireless, Inc. (CWI) on December 19, 1997, alleging that CWI increased its rates without filing a tariff sheet reflecting the rate changes. CWI filed an answer admitting some of Staff's allegations and the parties met in a prehearing conference on March 10, 1998. Staff filed a Motion to Establish Procedural Schedule on March 18 proposing dates for the filing of testimony, prehearing conference, and evidentiary hearing agreed to by Staff and CWI. Staff further stated that the Public Counsel has decided not to participate actively in the case. Despite the fact that the Commission has not acted on the motion, the parties have filed testimony in compliance with the proposed schedule.

The Commission has reviewed the motion and the official case file, and finds that the procedural schedule proposed by the parties should be approved. Although the parties have requested two days for hearing, given the narrow scope of this case and the Commission's busy schedule, the case will be set for a one-day hearing instead. Accordingly, the procedural schedule set out in the Ordered Paragraphs below will govern this case and the following conditions shall attach:

A. The Commission will require the prefiling of testimony in compliance with the requirements of 4 CSR 240-2.130, including the filing of testimony on line-numbered pages. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays in the proceedings caused by allegations of unfair surprise at the hearing.

B. Testimony and schedules shall not be filed under seal and treated as proprietary or highly confidential unless a protective order has first been established by the Commission. The party that considers information to be proprietary or highly confidential should indicate the material's proper classification at the time of filing. Any testimony or schedule filed without a protective order first being established, or its classification clearly indicated, shall be considered public information.

C. The Commission will schedule a prehearing conference to allow the parties the opportunity to resolve substantive issues as well as to consider those matters described in 4 CSR 240-2.090(6). The parties shall also use the prehearing conference to eliminate issues which can be resolved through updating of a party's case, clarification of misunderstandings, explanation of an issue's interrelationship with other issues, and correction of clerical or arithmetic errors.

D. The parties shall file a hearing memorandum setting out the issues to be heard and the witnesses to appear on each day of the hearing, definitions of terms used in describing those issues, and each party's position on those issues. The hearing memorandum will set forth the issues that are to be heard and decided by the Commission. Any issue not contained in the hearing memorandum will be viewed as uncontested and not requiring resolution by the Commission.

The Commission Staff will be responsible for preparing and filing the hearing memorandum. The Commission wishes to emphasize the importance of the deadline for filing the hearing memorandum. Unless the Commission orders otherwise, the hearing memorandum shall be filed on the date set. Each party is expected to provide Staff with its position on each unresolved issue at least two business days before the due date. If a party fails to provide its position by that date, the Staff is not obligated to include that party's position in the hearing memorandum.

E. Any party wishing to offer a prefiled exhibit into evidence must bring to the hearing three copies of the exhibit for the court reporter. If the exhibit has not been prefiled, the proponent must also bring six copies for the Commissioners and the regulatory law judge, and copies for opposing counsel.

F. The Commission's general policy provides for the filing of the transcript within two weeks after the conclusion of the hearing. Any party seeking to expedite the filing of the transcript shall tender a written request to the administrative law judge at least five days before the hearing.

G. The briefs to be submitted by the parties shall follow the same format established in the hearing memorandum. Initial briefs must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission. Initial briefs shall be limited to 30 pages and reply briefs to 15 pages. All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080(7).

IT IS THEREFORE ORDERED:

1. That the following procedural schedule is adopted for this case, subject to the conditions discussed in the body of this order:

Staff's direct testimony	April 7, 1998, 3:00 p.m.
CWI direct testimony	May 7, 1998, 3:00 p.m.
Simultaneous rebuttal testimony	May 29, 1998, 3:00 p.m.
Prehearing conference	June 5, 1998, 10:00 a.m.
Hearing memorandum	June 18, 1998
Evidentiary hearing	June 25, 1998, 10:00 a.m.

2. That the prehearing conference and hearing will be held 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.

3. That anyone wishing to attend the prehearing conference or hearing who has special needs as addressed by the Americans With Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the prehearing or hearing at one of the following numbers: Consumer Services Hotline - 1-800-392-4211 or TDD Hotline - 1-800-829-7541.

4. That this order shall become effective on April 22, 1998.

BY THE COMMISSION



(S E A L)

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

L. Anne Wickliffe, Deputy Chief
Regulatory Law Judge, by delegation
of authority pursuant to 4 CSR
240-2.120(1) (November 30, 1995)
and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 22nd day of April, 1998.

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION