

PP
D/P

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 9th
day of March, 1999.

In the Matter of an Investigation into)
Various Issues Related to the Missouri) Case No. TO-98-329
Universal Service Fund.)

ORDER CONCERNING JUST, REASONABLE AND AFFORDABLE RATES AND COST
MODELS, REJECTING SUPPLEMENTAL TESTIMONY AND ALLOWING WITHDRAWAL
OF COUNSEL

On August 17 and 18, and December 1 through 8, 1998, the Commission convened a hearing to receive evidence concerning just, reasonable and affordable (JRA) rates and the proper method or methods to use to determine costs, respectively, for the purposes of the universal service fund. On December 1, the Commission issued an order that, *inter alia*, stated that the Commission would endeavor to issue a decision in the costing phase before testimony is due in the third phase. Based upon the evidence received to date, the Commission has determined that its best course of action is to hear evidence in all phases of this proceeding before deciding on a JRA rate or a costing method.

On December 24, the Commission issued an order that granted in part and denied in part GTE Midwest Incorporated's (GTE's) motion to compel AT&T Communication of the Southwest, Inc. (AT&T) to produce certain information. In that order the Commission stated:

GTE also requested that it be allowed to supplement its testimony if its motion to compel is granted. Had GTE submitted its DRs promptly, and filed its motion to compel expeditiously when it learned that AT&T had objections, the Commission would not be in the position of deciding whether to allow supplemental testimony after the hearing has ended. Nonetheless, the Commission is interested in having as complete a record as possible, and will allow GTE to file a pleading describing the testimony it would file if given the opportunity. GTE should explain in detail the nature of the testimony, whether it relates to an issue already set forth in the Hearing Memorandum (and which one) or a new issue, why the testimony could not have been filed until the new information was received, and when the testimony will be ready for filing.

The Commission ordered GTE to file this pleading by January 19, 1999. On January 20, GTE filed a motion requesting leave to file supplemental testimony, along with a motion to allow the filing a day late and a copy of the testimony. On January 28, AT&T filed a response opposing the filing of the supplemental testimony. On February 5, GTE filed a reply to AT&T's response. GTE's position is that the testimony it proffered could not have been written without the information it obtained pursuant to the Commission's December 24 order, and that the testimony is relevant to the Commission's evaluation of the Hatfield Associates, Inc. (HAI) model. AT&T contends that the delay is largely GTE's fault, and that allowing the supplemental testimony would require allowing other parties to respond to it, all of which would unduly delay the proceedings. AT&T also contends that some of the proffered testimony reaches erroneous conclusions, and that some is simply further criticism of the HAI model that is very similar to the criticism already offered.

As the Commission noted in its December 24, 1998 order, if GTE had submitted its DRs promptly, and filed its motion to compel

expeditiously when it learned that AT&T had objections, the Commission would not be in the position of deciding whether to allow supplemental testimony after the hearing has ended. After review of the proffered testimony, the Commission concludes that the information it contains is not sufficiently relevant, material and probative to reopen the record in this phase. The Commission will be revisiting the question of cost models at a later stage in this proceeding. As the Commission stated in its Order Regarding Late-filed Exhibit 79, it expects all parties to address the Federal Communications Commission's "Synthesis Model" in a future phase of this proceeding. Although the Commission certainly does not want the parties to reargue the relative merits of the HAI and BCPM models, some of the information that GTE obtained in response to the December 24 order may be useful in that phase.

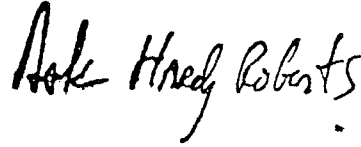
On January 21, Colleen M. Dale requested leave to withdraw as counsel for Brooks Fiber Communications of Missouri, Inc. Since Brooks Fiber Communications of Missouri, Inc. continues to be represented by counsel, the Commission will allow Colleen M. Dale to withdraw.

IT IS THEREFORE ORDERED:

1. That the Motion for Leave to File Supplemental Testimony filed by GTE Midwest Incorporated on January 20, 1999 is denied.
2. That Colleen M. Dale is granted leave to withdraw as counsel for Brooks Fiber Communications of Missouri, Inc.

3. That this order shall become effective on March 19, 1999.

BY THE COMMISSION

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive style with a large initial "D".

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Mills, Deputy Chief Regulatory Law Judge