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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 28th
day of January, 1998.

In the Matter of Southwestern Bell	)	
Telephone Company's Tariff Filing to	)	
Revise its Wireless Carrier	)	<u>CASE NO. TT-97-524</u>
Interconnection Service Tariff,	)	
PSC Mo.-No. 40.	)	

ORDER DENYING MOTIONS FOR REHEARING OR CLARIFICATION

The Missouri Public Service Commission (Commission) issued a Report And Order in this case on December 23, 1997, in which the Commission rejected the revisions filed by Southwestern Bell Telephone Company (SWBT) to its Wireless Carrier Interconnection Service Tariff on June 5, as amended on July 9. The Commission further directed SWBT to file with the Commission tariff revisions consistent with its Report And Order. On January 5, 1998, SWBT filed a motion for clarification, and the Mid-Missouri Group of Local Exchange Companies (Mid-MO Group) and the Small Telephone Company Group (STCG) filed applications for rehearing.

SWBT asks the Commission to state in a clarifying order that before its "secondary liability" will arise, third-party local exchange companies (LECs) must first exhaust their remedies under the Telecommunications Act of 1996 (the Act) and before the Commission, including through requests for interconnection, arbitration, and the filing of tariffs. SWBT also requests a clarification that secondary liability should not be imposed where the wireless carrier is insolvent.

The Mid-MO Group contends: (1) that reciprocal compensation only applies when there is a direct physical connection between the wireless carrier and the LEC; (2) that the Act provides for transport and termination, not transport without termination; (3) that Section 251(f)

provides an exemption for rural LECs from Section 251(c) obligations; (4) that the Commission's order is inconsistent because it admits that the matter of whether reciprocal compensation applies where three carriers are needed to complete a local call is an open question; (5) that the Commission's decision is unreasonable and violates the Act because only wireless carriers can request reciprocal compensation but do not have a duty to do so; (6) that the service offered by SWBT is an end-to-end service because SWBT is refusing to block the traffic; (7) that the Commission's determination that SWBT is only secondarily liable is unlawful because wireless carriers will be in violation of SWBT's tariff *ab initio* since agreements cannot be established prior to the January 6, 1998 effective date of SWBT's tariffs, and the Commission has no jurisdiction over wireless carriers; and (8) that the Commission has not required any entity to pay specific amounts to third-party LECs for the termination of traffic, thus nonpayment will continue, which amounts to a confiscatory taking of property without compensation under the Missouri Constitution.

The STCG contends: (1) that the Commission's order authorizing SWBT to file a tariff which mandates a relationship between wireless carriers and third-party LECs is inconsistent with federal law and beyond the Commission's jurisdiction; (2) that the Commission's order is unreasonable in allowing SWBT to offer transport without termination because transport and termination are necessarily linked, and the Act contemplates reciprocal compensation in situations where two carriers and not three carriers are involved; (3) that it is unreasonable to assume wireless carriers will have agreements in effect by the date the tariff is approved, thus wireless carriers will be in violation of the tariff as soon as it is approved; (4) that there is no evidence to suggest that the Cellular Usage Summary Report (CUSR) will provide information adequate to

negotiate agreements with or bill wireless carriers, and no evidence to support a charge for the report; and (5) that the Commission's order is unlawful because the evidence shows that only SWBT has a direct interconnection and business relationship with third-party LECs.

The Mid-MO Group filed a reply to SWBT's motion for clarification on January 9, and the STCG filed a similar reply on January 14. SWBT filed suggestions in opposition to the applications for rehearing on January 15, and filed a response to the Mid-MO Group's reply on January 20. SWBT also subsequently filed a response to the STCG's reply on January 26.

Pursuant to Section 386.500, RSMo 1994, the Commission shall grant and hold a rehearing if in its judgement sufficient reason has been made to appear. None of the grounds raised by the parties in their various motions are matters which the Commission has not previously considered in rendering its decision. The Commission finds that the motion for clarification filed by SWBT, and the applications for rehearing filed by the Mid-MO Group and the STCG, do not present sufficient grounds for clarification or rehearing. The Commission will, therefore, deny the motions.

IT IS THEREFORE ORDERED:

1. That the motion for clarification filed on January 5, 1998, by Southwestern Bell Telephone Company is denied.
2. That the applications for rehearing filed on January 5, 1998, by the Mid-Missouri Group of Local Exchange Companies and the Small Telephone Company Group are denied.

3. That this order shall become effective on January 28,
1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Bensavage, Regulatory Law Judge

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COMMISSION COUNCIL
PUBLIC SERVICE COMMISSION