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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 3rd
day of September, 1998.

In the Matter of Southwestern Bell Telephone)
Company Filing Revised Tariff Sheets and a New) Case No. TT-99-78
Optional Bill Payment Plan called "SmartPayment) (Tariff File #9900028)
PlanSM".)
)

ORDER DENYING INTERVENTION AND APPROVING TARIFF

Southwestern Bell Telephone Company (SWBT) filed a revision, File No. 9900028, to its General Exchange Tariff on July 13, 1998. SWBT was seeking to revise its tariff to allow for the introduction of a new billing option, SmartPayment PlanSM (Plan). The Plan, if approved, would allow certain of SWBT's business customers to prepay their monthly recurring phone charges for either a three- or five-year period. The effective date of the proposed revised tariff has been extended to September 4.

Sprint Communications Company L.P. (Sprint) filed a Motion to Suspend and Petition for Intervention on August 24. Sprint stated it has a direct interest in the Commission's decision in this case that is different than the general public because it anticipates entering the local exchange market and would then be in direct competition with SWBT. Sprint argues that no other party will adequately protect its interests in this matter and that its intervention would be in the interest of justice and would not impair the orderly and prompt conduct of the proceeding. Sprint opposes Commission approval of SWBT's proposed tariff

revision, taking the position that the Plan is anticompetitive and discriminatory toward CLECs since it will allow SWBT to encumber the development of competition in Missouri by contracting with business customers for up to a five-year period. Sprint indicated it would not be able to compete for and obtain business customers since SWBT would have a "virtual monopoly" over their local services. Sprint also stated it was concerned that the Plan might interfere with SWBT's duty to provide competitive local exchange companies with resold and unbundled access to local exchange services under Section 251 of the Telecommunications Act.

MCI Telecommunications Corporation (MCI), MCImetro Access Transmission Services, Inc. (MCImetro) and Brooks Fiber Communications of Missouri, Inc. (Brooks Fiber) jointly filed a Motion to Suspend and an Application to Intervene on August 27. MCI, MCImetro and Brooks Fiber stated they have a direct interest in the Commission's decision in this case that is different than the general public because they are providers of telecommunications services in direct competition with SWBT and purchase access services from SWBT. MCI, MCImetro and Brooks Fiber argued that no other party will adequately protect their interests in this matter and that their intervention would be in the public interest because of their expertise in the telecommunications industry and their interest in enhancing competition. MCI, MCImetro, and Brooks Fiber opposed Commission approval of SWBT's proposed tariff revision, taking the position that the Plan is anticompetitive to CLECs since they will not be able to enter into the basic local marketplace as SWBT will already have "locked up" many of the business customers in long term contracts.

SWBT filed Suggestions in Opposition to Motion to Suspend on August 27 in response to Sprint's Motion to Suspend. SWBT stated Sprint's claim that the proposed tariff revisions resulted in an anticompetitive impact could not be sustained. SWBT indicated it had revised portions of the original filing to alter the liability customers incurred upon early termination and stated the services it was proposing to offer were available for resale by CLECs at an appropriate discount. SWBT requested denial of Sprint's Motion to Suspend and approval of its proposed tariff revision.

The Staff of the Commission (Staff) filed a memorandum recommendation on August 26. Staff indicated the Plan was designed to allow various customers to prepay their monthly recurring phone charges for either a three- or five-year period, payment is due up front and is adjusted to reflect the time value of money. Payment under the Plan will not change as a result of SWBT-initiated rate increases but adjustments will be made for rate decreases. Staff stated initially the Plan contained a significant penalty for early cancellation of service but SWBT revised the formula for calculating the penalty, replacing the "prepayment offset" with an "administrative charge" that is equal to the charge to initiate or terminate detailed billing, currently \$5.00. As a comparison, Staff explained that, under the initial Prepayment Offset proposal, a customer who agreed to a three-year plan at a monthly rate of \$100, and discontinued service after six months would receive a discontinuance settlement of \$2,044. For his six months of service the customer would have effectively paid \$180/month for a service tariffed at \$100/month. Under SWBT's modified proposal, filed as a substitute sheet, the same customer discontinuing service after six months would

receive a discontinuance settlement of \$2,517. For his six months of service the customer would have effectively paid \$100.83/month for the service. Staff indicated the administrative charge of \$5.00 is reasonable and also that, under the new formula, a customer who canceled early would be paying close to tariffed rates for the services received under the Plan. Staff also pointed out that this proposal is similar to SWBT's Optional Payment Plan for Switched Access Service approved in Case No. TT-96-21.

Staff also indicated if the Plan were not available for resale they would share Sprint's concern about anticompetitiveness but, under Section 251(c)(4) of the Telecommunications Act of 1996, SWBT would be required to offer the Plan for resale. SWBT informed Staff that the Plan would be available for resale with the applicable wholesale discount applied. Staff recommended the Commission approve the proposed tariff as amended and clarify that SWBT is required to offer the Plan for resale.

The Commission has reviewed SWBT's application, the pleadings filed, and the Staff recommendation. The Commission finds that SWBT's proposed new billing option, SmartPayment PlanSM, and the related proposed tariff revision are reasonable and in the public interest. The Commission finds that the arguments raised by Sprint, MCI, MCImetro and Brooks Fiber do not warrant a denial of approval for the proposed tariff revisions. By changing how the discontinuance penalty is calculated and clarifying that the Plan will be available for resale with the applicable wholesale discount applied, SWBT addressed any possible anticompetitive effects in the Plan. The voluntary nature of the Plan allows each potential customer to evaluate its requirements and opt into or out of

the Plan if there is an economic benefit to the customer. Chapter 392 requires the Commission to foster fair competition, and the Commission believes that the Plan will benefit competition and ultimately the end-user customer. In addition, the new billing option SWBT is proposing is similar to SWBT's Optional Payment Plan for Switched Access Service previously approved by the Commission in Case No. TT-96-21. Accordingly, the Commission finds that a hearing is not necessary regarding this matter and that SWBT's proposed tariff should be approved. Since a hearing is not necessary, the applications to intervene of Sprint, MCI, MCImetro and Brooks Fiber shall be denied.

IT IS THEREFORE ORDERED:

1. That the following tariff sheets, submitted on July 13, 1998, by Southwestern Bell Telephone Company are approved:

P.S.C. Mo.-No. 35 General Exchange Tariff

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Section 53:

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2. That the following parties' applications to intervene in this case are denied:

Sprint Communications Company L.P.
MCI Telecommunications Corporation
MCImetro Access Transmission Services, Inc.
Brooks Fiber Communications of Missouri, Inc.

3. That Southwestern Bell Telephone Company shall offer its new billing option, SmartPayment PlanSM, for resale with the applicable wholesale discount applied.

4. That this order shall become effective on September 4, 1998.

BY THE COMMISSION

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Harper, Regulatory Law Judge

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION