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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 1st day of April, 1998.

In the Matter of the Application of AT&T )  
Communications of the Southwest, Inc., for a )  
Certificate of Service Authority to Provide ) **Case No. TA-96-322**  
Basic Local Exchange and Local Exchange )  
Services. )  
)

**ORDER TERMINATING PROCEDURAL SCHEDULE**

AT&T Communications of the Southwest, Inc. (AT&T) was granted a certificate of service authority to provide basic local telecommunications services in the state of Missouri on February 21, 1997. AT&T filed tariff sheets on August 22, reflecting the rates, rules, and regulations it proposed to use in offering basic local service. The original filing carried an effective date of October 6, which was extended several times.

Southwestern Bell Telephone Company (SWBT) filed a Motion for Determination of Applicable Tariff Terms for Resold Services on November 17. SWBT pointed out that the Commission stated in its order of November 5, 1997, that the issue would be taken up when AT&T filed its basic local tariff.

AT&T and MCI Telecommunications Corporation and MCImetro Access Transmission Services, Inc. (MCIM) filed responses on December 1 asking the Commission to deny SWBT's motion or set the case for hearing. Additional pleadings were filed and the Commission suspended the tariff sheets until June 15, 1998, and established a procedural schedule by order issued January 14, 1998.

AT&T filed a Notice of Tariff Withdrawal and Motion to Terminate Procedural Schedule on January 30 advising the Commission that it had withdrawn its basic local tariff. AT&T asked the Commission to terminate the procedural schedule on the grounds that, in the absence of a pending tariff, SWBT's motion for resolution of the applicability of tariff restrictions on resold services is no longer ripe for consideration. The Commission suspended the schedule pending further Commission action by notice issued on January 30.

SWBT filed a response on February 2 opposing AT&T's motion to terminate the schedule. SWBT argued that the Commission should continue the pending procedural schedule or set up a different docket in which to resolve the issue of whether SWBT can apply its tariffed use restrictions and service definitions on resold services. SWBT stated that the issue must be resolved despite the withdrawal of AT&T's tariff.

The Staff of the Commission (Staff) filed a response to AT&T's motion to terminate the schedule on February 9 that addressed SWBT's arguments. Staff agreed with AT&T that the controversy is not ripe for decision and that the schedule should be terminated. Staff stated that there would be no hardship to SWBT in delaying a decision on the issue of the applicability of tariff conditions to resold services until an appropriate basic local tariff is before the Commission for review.

SWBT filed a reply to Staff's pleading on February 23 arguing that this matter is ripe because AT&T and SWBT have a binding interconnection agreement under which AT&T may engage in the resale of SWBT's tariffed services. SWBT stated that if the determination of the issue is delayed until AT&T files new tariffs, then AT&T's tariff approval will also be delayed. According to SWBT, the issue of the applicability of SWBT's

tariff provision to resold services is not dependent upon the particular tariffs filed by AT&T.

The Commission has reviewed the pleadings filed and its prior orders and determines that AT&T's motion to terminate the procedural schedule should be granted. It is not an appropriate use of administrative resources for the Commission to undertake the task of resolving the issues in the abstract. In its November 17 motion SWBT presented an extensive list of specific tariff terms and restrictions it believes should apply to resold services. It would serve no useful purpose for the Commission to issue a declaratory judgment on specific questions, some of which might not arise at all when AT&T's tariffs are presented for review. SWBT complained that it has held up filing tariff proposals for new services because of uncertainty about whether the associated terms and conditions would apply if AT&T chooses to resell those new services. SWBT pointed to no other harm to SWBT that would result from the Commission's terminating the procedural schedule in this case. The Commission is aware of the uncertainty in this and other areas, which has resulted from legislative and administrative efforts to initiate a competitive environment in the telecommunications industry, and of the negative consequences of delay. However, the Commission is not willing to undertake resolution of the issues surrounding the applicability of SWBT's tariff terms and restrictions to resold services in the absence of a set of particular basic local tariffs.

**IT IS THEREFORE ORDERED:**

1. That the Motion to Terminate Procedural Schedule filed by AT&T Communications of the Southwest, Inc. on January 30, 1998 is granted.

2. That the procedural schedule established by the Commission on January 14, 1998, is terminated.

3. That this order shall become effective on April 14, 1998.

**BY THE COMMISSION :**



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

( S E A L )

Lumpe, Ch., Drainer and Murray,  
CC., concur.  
Schemenauer, C., not participating.  
Crumpton, C., absent.

Wickliffe, Deputy Chief Regulatory Law Judge

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COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION