

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office
in Jefferson City on the 11th
day of May, 1993.

In the matter of the investigation into the justness)
and reasonableness of intrastate access rates.) Case No. TO-93-286
)

ORDER DENYING MOTION TO ESTABLISH DOCKET

On April 14, 1993, AT&T Communications of the Southwest, Inc. (AT&T) filed a motion requesting the Commission to establish a docket for the purpose of investigating the justness and reasonableness of access rates charged by Missouri local exchange companies (LECs). AT&T states in support of its motion that the access rates of the more than 45 LECs were established in 1987 to allow for the recovery of the same amount of revenue each LEC received from the interLATA toll pool. AT&T states that most of these access rates have not been changed since 1987 although minutes of use have increased and the average cost per minute in providing access has decreased. AT&T indicates that access rates range from 7 cents per minute to approximately 43 cents per minute. Because of mandated statewide average rates, AT&T asserts that the high level of access rates is a disincentive to competition in many areas.

The establishment of an investigatory docket, AT&T contends, would be utilized to establish reasonable principles and guidelines for setting access rates and that the individual complaint dockets already filed by AT&T could be utilized to implement or apply the principles.

Mid-Missouri Group¹, Small Telephone Company Group² (STCG), Office of Public Counsel (OPC), GTE Midwest Incorporated (GTE), and United Telephone Company of Missouri (United) filed responses to AT&T's motion. MCI Telecommunications Corporation (MCI) filed an application to intervene. All of the responses oppose the motion except GTE's, which supported the establishment of a docket to develop reasonable principles and guidelines for setting access rates.

The Commission has considered AT&T's motion and the responses and finds that the creation of a docket as requested by AT&T would not be in the public interest nor would it aid the general inquiry concerning access rates. The Commission is reluctant to engage in "declarations of law in the abstract" since they have no force of law. *State ex rel. Kansas Power and Light Company v. PSC*, 770 S.W.2d 740, 743 (Mo. App. 1989). The Commission was criticized in the *KPL v. PSC* case for promulgating an order when it did not address an actual controversy. A generic docket as requested by AT&T would suffer from a similar infirmity. Any general pronouncements would have no force or effect except as general statements of Commission intentions.

¹The "Mid-Missouri Group" consists of the following companies: Mid-Missouri Telephone Company, Chariton Valley Telephone Corporation, Northeast Missouri Rural Telephone Company, MoKan Dial, Inc., Alma Telephone Company, and Peace Valley Telephone Company.

²The "Small Telephone Company Group" consists of the following companies: Bourbeuse Telephone Company, Citizens Telephone Company of Higginsville, Missouri, Inc., Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Farber Telephone Company, Fidelity Telephone Company, Goodman Telephone Company, Inc., Granby Telephone Company, Grand River Mutual Telephone Corporation, Green Hills Telephone Corporation, Holway Telephone Company, Iamo Telephone Company, KLM Telephone Company, Kingdom Telephone Company, Lathrop Telephone Company, Le-Ru Telephone Company, McDonald County Telephone Company, Mark Twain Rural Telephone Company, Miller Telephone Company, New Florence Telephone Company, New London Telephone Company, Orchard Farm Telephone Company, Oregon Farmers Mutual Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, Steelville Telephone Exchange, Inc., Stoutland Telephone Company, and Wheeling Telephone Company.

The Commission believes a pronouncement of reasonable principles and guidelines concerning access charges would be subject to criticism on the same basis as the order in the *KPL v. PSC* case and any principles would still be subject to review and complete reconsideration in any rate case where access charges become an issue. Although AT&T may be right about the origin of current access charges, the Commission finds that any change of those access charges must be on a case-by-case basis taking into account the individual costs, revenues and other characteristics of each LEC. Any general principle promulgated in a generic docket would be subject to modifications by the distinctive characteristics of each LEC. The Commission finds that the proper forum for addressing access rates is in a general rate case or complaint case.

Principles are better developed, unless a rulemaking procedure is contemplated, through the give and take of a live controversy and not in the abstract. Current access rates are charged pursuant to tariffs found to be just and reasonable by the Commission. To change those rates, an LEC's overall revenues and rate design must be examined. The Commission recognizes the legal and logistical impediments to AT&T's pursuit but the Commission does not believe that a generic docket to develop reasonable principles would be an efficient utilization of resources or accomplish the expected goal. As stated in the Commission's order dismissing AT&T's complaint against Iamo Telephone Company, Case No. TC-93-60, AT&T's recourse is to intervene in a general rate case filed by the LEC and address the issue on a case-by-case basis.

IT IS THEREFORE ORDERED:

1. That the Motion To Establish Docket filed by AT&T Communications of the Southwest, Inc., be hereby denied.

2. That this order shall become effective on the 21st day of May,
1993.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

Mueller, Chm., McClure, Perkins
and Kincheloe, CC., concur.
Crompton, C., absent.