REBUTTAL TESTIMONY
OF
JOHN C. DUNN
ON BEHALF OF
FIDELITY NATURAL GAS
CASE NO. GR-92-314

Q. Please state your name and business address.

A. My name is John C. Dunn. My business address is 11020 King Street, Overland Park, Kansas 66210.

Q. Are you the same John C. Dunn who filed direct testimony in this proceeding?

A. Yes sir, I am.

Q. What is the purpose of your testimony at this point in the proceeding?

A. My testimony is rebuttal testimony to the position taken by the Staff in connection with zone rates on the Missouri Pipeline system. I will also comment on information that has recently become available regarding developments in the bankruptcy proceeding of Edisto Resources, the parent of Missouri Pipeline Company.

Q. What is your position with respect to zone rates on the Missouri Pipeline system?

A. I believe they are inappropriate, inequitable, contrary to Commission policy, and are being proposed only because the simplicity of the system makes zone rate calculations easy for this system. Furthermore, I will show that the zone rate proposal will lead to a perverse end result including rates charged that are inversely related to length of haul and an end to the extension of gas service along the I-44 corridor.

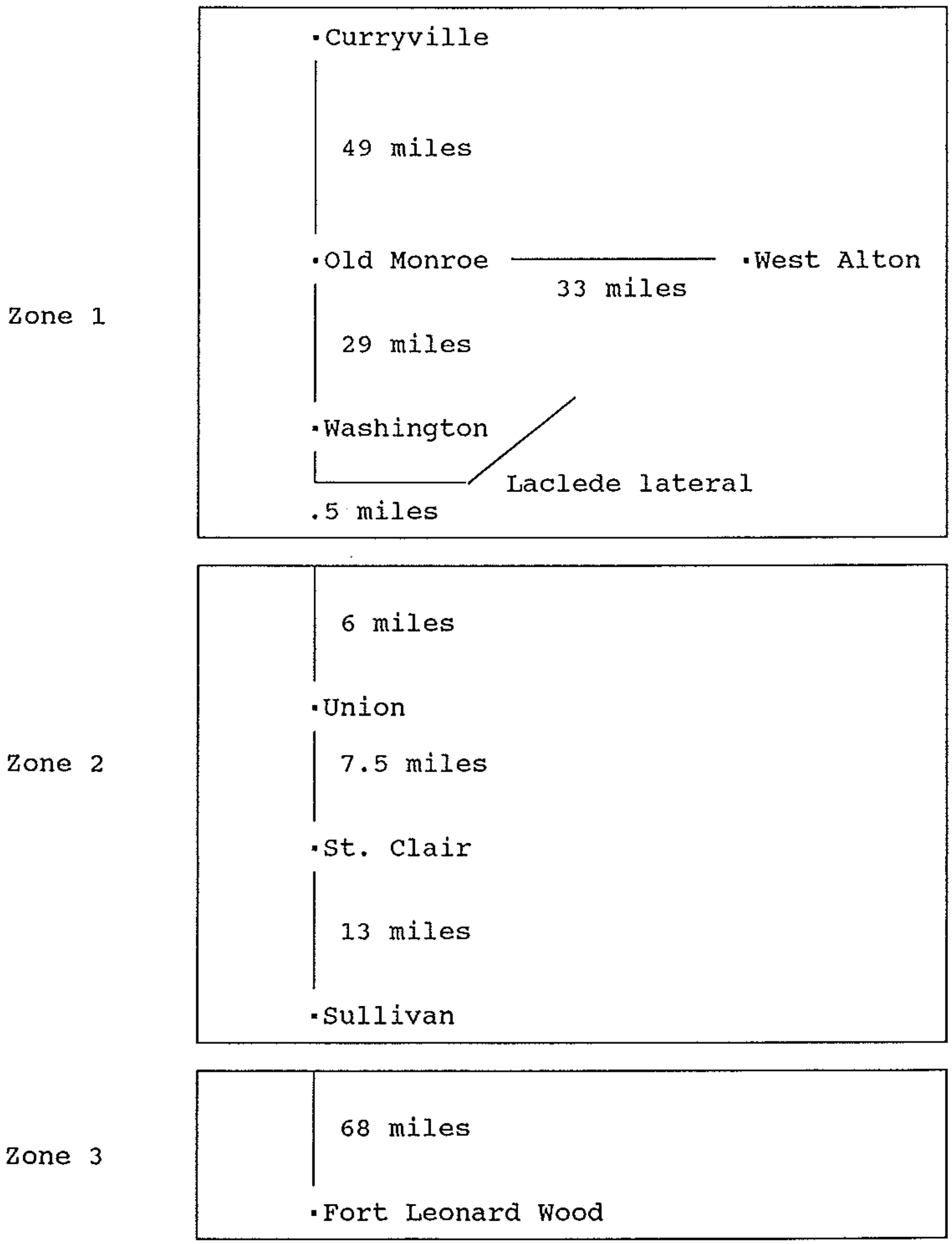
Q. What is the Staff proposal to create zone rates for the Missouri Pipeline system?

A. Staff Witness Proctor has proposed the creation of two zones on the Missouri Pipeline. (See Hearing Memorandum, Attachment A). When Missouri Gas is considered, the total delivery system will have three zones. These zones are shown on Schedule 1 of the workpapers of Michael Proctor supplied in this case.

Schematically, the system is shown on page 2A.

As shown by the schematic, Zone 1 covers the haul from Curryville to one-half mile south of Washington or a total distance of 78.5 miles. Zone 2 covers the haul from the Laclede lateral one-half mile south of Washington to Sullivan or a distance of 27.25 miles, and Zone 3 covers the distance from Sullivan to Fort Leonard Wood or a distance of approximately 68 miles.

Schematic Representation
Missouri Pipeline System
From Staff Workpapers



Q. What is your first reaction to this Staff proposal?

A. By any standards of the pipeline industry or regulation of pipelines, these zones are extremely short. More typically, zones are much longer covering substantially greater distances. For example, Panhandle Eastern has divided its total system for sales gas into two zones. The west end of the system which covers the field where gas is input into the system is Zone 1, and Zone 2 is the field to Detroit or a distance of several hundred miles.

Texas Eastern, Panhandle's sister company, has zone rates on its system. The smallest zone on that system is 300 miles in length. A subsidiary of Texas Eastern, Alginquin Pipeline, has a total length of 300 miles and it is a straight haul pipeline without zone charges. In the most recent rate proceeding, customers on that line (close to the input point) proposed zone rates. Those proposals were rejected by FERC for the 300 mile pipeline system.

In the final analysis, although it is possible to make calculations that divide pipelines into five, ten, or twenty mile increments, most regulatory agencies agree that subdividing pipelines into such small zones does not promote important public policies or reflect underlying economic realities.

The Proposal is Contrary to Commission Policy

Q. Why do you believe that the zone proposal is contrary to the Commission policy?

A. I believe the Commission has repeatedly demonstrated in its decisions, particularly in connection with the telephone industry, that it is interested in increasing customer choice and extending service to as many customers as possible. As a result, although there have been repeated proposals to the Commission, particularly by the Staff to implement zone charges or deaverage rates, the Commission has rejected those in favor of promoting universal service at affordable rates.

Q. Has the Commission considered and rejected the adoption of zone charges in telephone cases?

A. Yes. In three separate proceedings, the Commission has rejected the Staff's proposals to create zone charges for telephone companies. (See Re: Continental Telephone Company, 28 Mo. P.S.C. (N.S.) at 45 (1985); Re: Holway Telephone Company, 26 Mo. P.S.C. (N.S.) at 654 (1984); and Re: Le-Ru Telephone Company, Case No. TR-84-132 (1984) (attached as Schedule No. 1). In these proceedings, the Commission found that cost of service factors alone should not be determinative. Instead, the Commission has considered the overall impact of creating zone charges on the rates charged to the customers. In Re: Holway

Telephone Company and Re: Le-Ru Telephone Company, the overall rate increases were so substantial that the Commission determined "that any additional charge would be unreasonable." 28 Mo. P.S.C. (N.S.) at 49 (1985). In addition, the Commission has generally taken a public policy position that "geographic deaveraging of toll rates should be prohibited. . . ." See Re: Investigation Telecommunications Issues, 28 Mo. P.S.C. at 600 (1986), attached as Schedule No. 1. This Commission policy is also consistent with federal policies that discourage geographic deaveraging of toll rates. These policies are designed to promote universal telephone service at reasonable and affordable rates.

Q. Is the overall rate increase proposed for Missouri Pipeline in this proceeding substantial?

A. Yes. In its initial tariff filing, Missouri Pipeline requested an approximately 70% increase in rates. The Company's proposed increase did not include a rate design proposal to deaverage rates or create zone charges as proposed by the Staff. (See Minimum Filing Requirements, Section B, Schedule 1).

If the Commission adopts the agreements contained in the Hearing Memorandum, Missouri Pipeline Company will receive an overall increase in revenues of approximately $1.453

million, or 22%. By any measure, such an increase is quite substantial.

Q. If the Commission adopts the Staff's proposal to create zone charges, will Fidelity's rates increase by more than the system average increase?

A. Most definitely. Fidelity's firm demand rates will increase by 87% compared to a system average increase of 75%. Fidelity's firm commodity rates will increase by 31.42% compared to a system average increase of 14.80%. As discussed in the testimony of Ken Matzdorff, this deaveraging of rates will make it extremely difficult to make natural gas available in Sullivan and in areas served by the MoGas Pipeline along the I-44 corridor.

Q. Are there any other reasons why you believe that the zone rate proposal is contrary to Commission policy?

A. The Staff made a similar zone rate proposal to the Commission for this pipeline in the certificate Case No. GA-90-280. (Direct Testimony of Craig A. Jones, Ex. No. 96, pp. 19-21 and Schedule 5). After various parties, including Laclede Gas Company, Missouri Pipeline Company and the Cities of Union, Washington, St. Clair, Rolla Municipal Utilities and the County of Franklin, Missouri, opposed the Staff's zone rate proposal, the Commission Staff agreed to enter in a Joint Recommendation (attached as Schedule No. 2) in which it abandoned its zone rate proposal and instead agreed that:

> The MPC transportation rates established by the Commission in this proceeding in the New MPC Service Area shall be the same as the transportation rates currently charged by MPC in its current service area.

(Schedule No. 2, p. 2).

In its Report and Order in Case No. GA-90-280, the Commission stated at page 17:

> The Commission has considered MPC's proposal, and evidence supporting same, to charge the same transportation rates in its requested pipeline extension as it presently charges in its existing pipeline. At hearing, this single rate was referred to as a "blanket" rate. The Commission finds that MPC's proposal for one blanket rate is reasonable and supported by the evidence. The Company's increased volumes, through deliveries to Laclede under the ESCO contract, will make it feasible to recoup its new investment without increasing its rates. The Commission also finds that maintaining MPC's present rate will help keep the cost of downstream deliveries of natural gas in the I-44 corridor, discussed infra, at a competitive level.

The Commission also specifically reserved "for its future consideration the question of treating MoGas and MPC as one entity for ratemaking purposes." (Report and Order, p. 40).

In my opinion, the decision of the Commission in Case No. GA-90-280 to adopt a single, averaged rate structure throughout the Missouri Pipeline Company system will promote the availability of natural gas at competitive prices. I believe that the Commission should reaffirm its earlier decision in this proceeding, especially since Fidelity Natural Gas (and probably other municipalities) have built distribution system(s) in reliance upon an averaged transportation rate.

Q. Are there any specific reasons why this proposal would be contrary to the Commission policy of extending service?

A. The zone rate proposal made by the Staff will make natural gas more expensive the further the gas is hauled on the Missouri Pipeline/Missouri Gas system. I think there is a strong probability that this will lead to a termination of development of LDCs outside of Zone 1 simply because LDCs under the Staff proposal will not be able to effectively compete with alternative supplies of energy, particularly propane.

For example, the City of Rolla has already considered the issue of extending a franchise to supply natural gas within its city limits. It has delayed issuing a franchise because of questions about the economic feasibility of natural gas in Rolla. Those concerns regarding the economic feasibility arise under the current rate design. If the zone rate proposal is implemented, natural gas for Rolla and nearby communities may not be economically feasible.

The same may be true for Sullivan. It appears that natural gas in Sullivan (especially for high volume users) will no longer be competitive under the zone rates proposed by the Staff. This may mean that development of the natural gas system in Sullivan will be slowed and ultimately natural gas will not be made available to all potential Sullivan customers.

Q. Are there any other factors which make this contrary to Commission policy?

A. The impact of the Staff proposal is on the wrong end of the system. There are a number of small towns and delivery points north and east of Sullivan which are served by Laclede. Laclede is charging the same averaged rates for the new systems as those charged in St. Louis. It is intuitively reasonable that the cost of doing business in new service areas is higher than the embedded cost of providing service from older, well developed and less expensive facilities in St. Louis. Nonetheless, the Commission has approved such an approach. This approach is good public policy since it will facilitate extension of service and to provide new customers with benefits of choice between fuels and natural gas as an alternative.

The Staff now proposes, contrary to the intent of the Commission decisions, that while one group of customers on the Missouri Pipeline system is being subsidized by charging those customers average rates, another group of customers, including Sullivan and St. James, will be burdened with additional charges making their gas less affordable rather than more affordable.

The Proposal Is Inequitable

Q. Why is the Staff proposal for zone rates at this point in the history of Missouri Pipeline inequitable to Fidelity Natural Gas?

A. The Staff made this proposal to the Commission in the initial proceeding concerning the extension of the Missouri Pipeline facilities in Case No. GA-90-280. The Commission instead adopted an averaged rate structure. Based on the Commission findings and the principles of regulation embodied in those findings, Fidelity Natural Gas proceeded with its plans to develop a natural gas distribution system in Sullivan.

The Staff proposal today, to change the rate design on Missouri Pipeline, is a proposal which is tantamount to changing the rules part way through the game. Furthermore, the change in rules is not neutral. It is very detrimental to Fidelity Natural Gas and had Fidelity been faced with zone rates when the initial decisions were made, it may not have proceeded with the development of the natural gas distribution system in Sullivan.

Q. How can such a major decision as whether or not to proceed with Fidelity Natural Gas depend upon what appears to be a relatively minor change in the rate design?

A. The move to zone rates is not a minor change in the rate design. We believe that the move in zone rates will have a number of effects on the system. First, it will reduce the realized sale volumes on the system because it will competitively disadvantage natural gas development. Such a reduction in volumes will lead to unnecessary increases in rates for the volumes on the system. Thus, under zone rates, volumes will be lower and charges will be higher than what they would have been under average rates.

Had Fidelity, at the point of its decision, been confronted with the probability of continuously escalating gas rates and an underutilized system, that uncertainty may have had a substantial impact on the Fidelity decision to develop the Sullivan gas distribution system. Under today's zone rate proposal, Fidelity has sunk costs and is in a different situation. In a sense, Fidelity could become the victim of a regulatory "bait and switch".

Q. Will a change to zone rates today, besides being inequitable to Fidelity, have any impact on the development of the system?

A. I believe it will. As natural gas becomes less competitive, as a result of rate designs and other factors, market penetration will slow and the development of the Fidelity system will likewise slow.

<u>Zone Rates Will Produce a Perverse End Result</u>

Q. How do you believe zone rates will impact rates actually charged by Missouri Pipeline to its customers?

A. I believe that if the Commission approves zone rates, that those customers in Zone 2, such as Fidelity Natural Gas, will pay more for their natural gas than those customers in Zone 1. However, to the extent that customers in Zone 3 have not yet committed for Missouri Pipeline transportation, their rates for the longest hauls may ultimately be much less than the rate for the haul to Zone 2. This is because the zone approach will make longer hauls uneconomic and ultimately cause Missouri Pipeline to discount the long hauls to obtain the business.

Thus, Laclede, the largest gas distribution company in the state, will receive a rate decrease. Any increase that is actually realized as a result of this case, will fall on the shoulders of three or four small distribution operations including Fidelity Natural Gas. In the end, it probably won't be possible for economic development of LDC properties in Zone 3 under this concept and, if further development is forthcoming on the system, it will require that Missouri Pipeline and Missouri Gas offer rates below the full tariff amount. This means that Missouri Pipeline and Missouri Gas will be further impaired and another unnecessary round of rate increases must take place. This no doubt will push even more of the cost of the system on to those who can least afford it, Fidelity Natural Gas and the other small systems in Zone 2. The net result will be that the middle of the system, Zone 2, will pay the highest rates.

<u>The Zone Proposal is Not Theoretically Sound</u>

Q. In what way does the ability to make this zone calculation lead to in the Staff proposal?

A. In my view, the only reason why the Staff would propose zone rates for a 27 mile long zone is because the system is relatively simple and the calculation can be made. In my view, however, this reasoning is based on a false premise and leads to an inappropriate public policy recommendation.

Q. Why is that?

A. Certainly, there is some basis for the assertion that every customer on every utility system has a somewhat different cost of service. All customers are different distances from points of supply, central offices, and power plants. Houses are different distances from the streets. Laterals, service drops and loops all are different for different customers. These observations leads to the conclusion that the cost of service is different, therefore, the rate should be different.

However, commissions have reviewed these arguments over the years and rejected them because the differences in cost are more apparent than real. This is because customers as a group tend to support each other.

If part of the customers leave, the costs for the remaining customers would be higher. If it happens that the customers with a higher apparent cost of service leave the system, the cost of service for remaining customers goes up. From the other perspective, if a higher cost class of customers is added to a system, costs may go down for all existing customers.

Nowhere in business is it more true than for utilities that if customers don't hang together, they hang separately.

Furthermore, just because a pipeline can be theoretically broken up into different zones based upon artificial manipulations of accounts, there is no reason to believe that these manipulations reflect real differences in cost of service. As noted above, if any one customer leaves, generally all remaining customers suffer regardless of the calculated cost of service of that customer. This has lead commissions to the conclusion that customers benefit from expansion of service and that customers have a common interest and should share common costs.

In this case, there is an assumption that because the gas supply is at the north end of the system, all costs can be related to distance from that point of supply. However, in the future it may be that this system will receive supply from the south (or north) end via an interconnect with the city of Springfield (or Jefferson City). If that's the case, the results of the calculation might flip flop and the presumed economics of the entire process would change.

Q. Have these problems been considered by commissions and resolved in other cases?

A. The FERC, the regulatory authority over most pipeline companies, has extensive experience in pipeline rate design. They have dealt with these problems repeatedly and generally have rejected zone charges for short distances because of the uncertainty it creates and the fact that although calculations can be made, there is no consensus opinion that the calculations reflect the reality of cost incurrence.

Q. Are there any other new matters which have come to light since the prehearing conference in connection with this company's operation?

A. It was noted in the direct testimony that Missouri Pipeline's parent company, Edisto Resources Corp. had entered bankruptcy. There has been action in that proceeding which has been reported by Forbes in the January 18, 1993 issue. In part, Forbes reported, "the holders of Edisto's 103 million of senior notes including Trust Company of the West are trying to help Edisto ram through a quickie, pre-negotiated bankruptcy filing in order to salvage their investment in the Dallas based company. If approved, the plan would give those noteholders about 90 percent of the equity in the reorganized Edisto." (See Schedule No. 3).

This indicates that the company may be 90 percent debt financed rather than the debt financing level proposed in this case. Furthermore, the article goes on to state that other creditors including the U.S. Department of Interior and many other oil and gas production companies may become involved in the proceeding because of abandonment liabilities of Edisto and clean up costs which they may face in the future. Again, the implications of this set of circumstances for this case counsel a conservative approach and suggest that a delay would be appropriate until the facts and circumstances are more fully revealed and understood.

Q. Does this conclude your rebuttal testimony?
A. Yes. It does.

Commission in United's last rate case, TR-85-179. This service has been called optional extended area service (optional EAS). The Commission issued its order in that case on October 21, 1985. In that order United was given until November 28, 1985, to file the new tariffs for the optional service. United filed the tariffs, which became effective on November 28, 1985.

Complainants had filed motions for rehearing of the decision in Case No. TR-85-179 alleging the increase for optional EAS was unjust and unreasonable. The Commission denied the motions. Complainants then filed a Petition For Writ Of Review with the Johnson County Circuit Court seeking to have the Commission decision approving the rate increase reversed. Complainants' petition contains the same allegations and addresses the same issue raised in this complaint.

The Commission has reviewed the cases cited by United in support of its motion. The cases are not on point. The cases involve a lower court's attempt to change a decision in the same case after an appeal was filed. The Commission accepts this as a current statement of the law but has determined the situation presented herein is substantially different. Here, rather than an attempt to have the Commission change its decision in TR-85-179, Complainants are attempting to have the rates set in TR-85-179 changed through the complaint process.

Complaints concerning telephone rates are governed by Section 386.390, R.S.Mo. 1978. That section limits the persons who may file complaints concerning rates to officials of the "city, town, village or county within which the alleged violation occurred." The Commission finds that complainants City of Sibley, The 249 Phone Committee, City of Oak Grove and City of Buckner should be dismissed from this case based upon Section 393.260, R.S.Mo. 1978. The rates complained of apply only to Lake Lotawana customers and so the other complainants are without standing to file a complaint against those rates. Only City of Lake Lotawana and Jackson County may file a complaint concerning the rates in question.

Based upon the above determinations, the Commission will dismiss complainants City of Oak Grove, City of Buckner, City of Sibley and The 249 Phone Committee as complainants in this action. The Commission has determined that City of Lake Lotawana and Jackson County are proper complainants and so their complaints will not be dismissed.

It is, therefore,

ORDERED: 1. That City of Oak Grove, City of Buckner, City of Sibley and The 249 Phone Committee are hereby dismissed as complainants from this case.

ORDERED: 2. That United Telephone Company of Missouri shall file an answer to this complaint within thirty (30) days of the date of this order.

ORDERED: 3. That this order shall become effective on the date hereof.

Steinmeier, Chm., Musgrave, Hendren and Fischer, CC., Concur. Mueller, C., Absent.

In the matter of Continental Telephone Company of Missouri, headquartered in Wentzville, Missouri, for authority to file tariffs increasing rates for local exchange access line service provided to customers in selected exchanges in the Missouri service area of the company.

Case No. TR-85-176
Decided November 15, 1985

Telephone §§1, 11, 12, 20, 24. When considering zone and mileage charges for telephone utilities, REA financing requirements are a factor to be considered along with other factors. Where non-REA factors arguing for such charges are highly persuasive, the Commission will not overrule such charges just to ensure REA funding. Where such charges are clearly inappropriate the Commission will not order them merely to show its independence of the REA.

APPEARANCES:

W.R. England, III, Attorney at Law, Hawkins, Brydon & Swearengen, P.C., P.O. Box 456, Jefferson City, Missouri, 65102, for Continental Telephone Company of Missouri.

Joni K. Ott, Assistant Public Counsel, P.O. Box 7800, Jefferson City, Missouri, 65102, for Office of the Public Counsel and The Public.

Linda K. Malinowski, Assistant General Counsel, P.O. Box 360, Jefferson City, Missouri, 65102, for Staff of the Missouri Public Service Commission.

REPORT AND ORDER

On December 12, 1984, Continental Telephone Company of Missouri (Company or Continental) submitted to this Commission revised tariffs for telephone service rendered in fourteen (14) of its Missouri telephone exchanges. The exchanges affected are: Blue Eye, Branson, Branson West, Cleveland, Fordland, Forsyth, Highlandville, Kimberling City, Mano, Ozark, Peculiar, Reeds Spring, Rockaway Beach and Sparta.

The purpose of the tariff filing was to revise rates in these fourteen (14) exchanges (1) to reflect the fact that as a result of Continental's current construction program in these fourteen (14) exchanges, service

SCHEDULE NO. 1

would be upgraded from one and four-party service to all one-party service; (2) to establish a uniformly flat rate throughout each exchange and thereby eliminate any zone or mileage charges; (3) to achieve a "revenue neutral" position so that while some customers might experience an increase in their individual rates other customers would experience a decrease in their rates and the overall revenue received by Continental under the revised tariffs would be the same as that received under the existing tariffs. The revised tariffs had a proposed effective date of February 1, 1985 although the rates would not go into actual effect in each exchange until the upgrading was completed in that exchange.

By orders dated January 31 and May 30, 1985, the Commission suspended the proposed effective date to December 1, 1985, unless otherwise ordered by the Commission, to allow sufficient time to determine if the proposed rates were just and reasonable. A procedural schedule was established for the filing of prefiled testimony and for a hearing of the issues. Company and Staff filed their prepared testimony and exhibits as required by the Commission and Continental notified its customers in these fourteen (14) exchanges of the upgrading of services, the proposed rate revision and the hearing scheduled to begin September 19, 1985. On September 10, 1985 and pursuant to Commission directive, representatives of Continental, the Staff and the Public Counsel participated in a prehearing conference. As a result of said prehearing conference it became apparent that there was only one issue to be resolved in this case. Testimony on that issue was taken on September 19, 1985, and the parties filed briefs in accordance with the briefing schedule.

Findings of Fact

Having considered all the competent and substantial evidence upon the whole record, the Missouri Public Service Commission makes the following findings of fact.

There appears to be no disagreement among the parties as to the reasonableness of Company's decision to upgrade these fourteen (14) exchanges to an all one-party system or as to the Company's decision to finance this construction via a loan obtained through the Rural Electrification Administration (REA). There appears to be no disagreement as to the revenue neutrality of the proposed revision of rates.

The issue in this case centers on whether Company should be allowed, as it proposes, to implement a flat-rate tariff for access to local exchange service throughout each exchange among the fourteen (14) exchanges in question and thereby eliminate any zone or mileage charges or whether to maintain, as Staff proposes, a rate differential between the Base Rate Area (BRA) and Outside the Base Rate Area (OBRA). Under Staff's proposal the mileage rates presently charged in these fourteen (14) exchanges would be eliminated and zone charges would be implemented for OBRA customers to reflect the higher cost of providing local exchange service outside the BRA. Public Counsel supports the rate revision proposed by Company in this case.

In support of its proposed, revised rates Company states that as a condition of obtaining financing from REA it was required to provide tariffs which eliminate mileage and zone charges for the lowest grade of service offered. Since the fourteen (14) exchanges have been, or will be, upgraded to all one-party service, Company is required to submit tariffs which eliminate mileage and zone charges entirely in the fourteen (14) exchanges. Company pointed out that, if the Commission requires zone charges in this case, it will jeopardize the Company's obtaining loan money for one-party upgrades in any exchanges where construction is not completed. Where the construction is incomplete the Company will have to change the one-party system to a combination one-party and four-party system or finance the completion with a more expensive, non-REA loan. In addition, the Company offered testimony which indicated that, if the Commission requires zone charges in this case, REA will not allow any Missouri telephone company to borrow REA funds for one-party upgrades unless the systems to be upgraded have, as an alternative, four-party service without zone and mileage charges.

Company states that the upgrading will benefit all customers in the fourteen (14) exchanges by raising their quality of service through reduced noise on the line, improved accuracy and speed of dialing and improved access of customers to each other because all customers will have one-party service; by eliminating the Company's costs of investigating and solving problems involving party-line complaints; and by the generation of additional revenue through increased toll demands stimulated by access of all the customers to one-party service.

Communities of 1,500 population or less qualify for REA financing. However, REA has provided financing to a company that might serve a community larger than 1,500 population, if that were the only way that people in the rural areas surrounding the town could get service. In the instant case, three (3) exchanges would not be eligible for REA financing, if not for their rural OBRA subscribers. This is because the three (3) exchanges do not meet the rural test under the Rural Electrification Act. Company states that since 51% of the money spent will benefit rural subscribers, all subscriber construction in the three (3) exchanges can be financed with REA funds.

Based on the above considerations, Company feels its proposed flat-rate tariffs are justified since all customers in the fourteen (14) exchanges benefit from the upgrade and from the lower cost of financing the upgrade through a loan sponsored by the REA.

Staff has two (2) major objections to the Company's proposed tariff revision. First, Staff states that the tariffs are inequitable since customers OBRA will experience greater benefits from the upgrade than will BRA customers. BRA customers had one-party service prior to upgrade and the majority of customers OBRA did not have one-party service prior to upgrade. Without zone charges, OBRA customers will pay no more and in some cases less than the BRA customers who will experience less of the upgrade benefit and are less costly to serve.

Second, Staff feels that the REA, by requiring borrowers to have no zone or mileage charges for the lowest level of service in the upgraded exchanges, is engaging in de facto ratemaking in the State of Missouri. Staff states that such de facto ratemaking is beyond the authority of the REA.

The Company responds to these objections of Staff by stating that the REA's loan conditions are not an effort to preempt the Commission's statutory duty to fix rates and frame rate design but are simply a condition of financing. Further, Company disagrees with Staff's charge that the proposed flat-rates are not equitable. Company states that if Staff is trying to recover the cost of service, then its zone charges are too low; if, on the other hand, Staff is trying to send a cost-causer signal, the signal is inappropriate in this situation. Company states that cost-causer signals are useful only where the customer has a choice to go a lesser level of service at a lower cost or reduce his cost by reducing his amount of usage. Since all the fourteen (14) exchanges are, or will be, upgraded to all one-party service, the customers in question have no alternative to the zone charges except termination of service or relocation inside the base rate area.

The Commission has been faced recently with two (2) cases that dealt with zone charges where the company was a borrower from REA. *In the matter of Holway Telephone Company*, 26 Mo.PSC (NS) 654 (1984) and *In the Matter of Le-Ru Telephone Company*, TR-84-132 (1984). In both those cases Staff recommended zone charges to reflect the difference in cost between customers inside and outside the base rate area. In both those cases the Commission concluded that the cost of extending service beyond the BRA is not the determinative consideration. Because the rate increase was so substantial in both

those cases, the Commission determined that any additional charge would be unreasonable.

In the instant case, there is not the problem of a substantial rate increase with the zone charges as an addition to the increase. Therefore the Staff has asked for a clear directive as to Commission policy on zone and mileage charges, given its rulings in Holway and Le-Ru. In its testimony, Staff asked to know whether the Commission disapproves of zone and mileage charges per se or whether the Commission disapproves of zone and mileage charges because of REA requirements. The Commission can only partially answer the question as posed. The Commission is not against zone and mileage charges per se, nor is it in favor of them regardless of the consequences. The REA requirements are a factor to be considered along with other factors. Where the non-REA factors arguing for such charges are highly persuasive, the Commission will not overrule such charges just to ensure REA funding. Where such charges are clearly inappropriate the Commission will not order them merely to show its independence of the REA.

In this instance, the usefulness of such charges as a cost-related signal is suspect since the OBRA customer cannot choose to go to a less expensive level of service. When the upgrading is finished, the fourteen (14) exchanges involved in this case will offer one-party service only. Further, adopting zone charges in this case could jeopardize some of the remainder of Continental's REA financing as well as any one-party upgrades being proposed for REA financing by other companies. In this case, REA financing is less expensive than other sources of financing which can redound to the benefit of all of Continental's telephone customers. It would be imprudent to jeopardize such cost savings to all of Continental's customers. The company has persuaded this Commission that zone charges are inappropriate in this case.

There is no question that the balancing of the respective interests in this case is made more difficult by the REA's policy of the Rural Electrification Administration concerning zone charges. This Commission is not free to evaluate only the arguments concerning the cost justifications and equitable considerations concerning the application of zone charges in this case. Rather, it must also weigh in the balance the threat of REA money being withdrawn entirely from Continental's upgrade program, if the Commission concludes that zone charges are appropriate outside the base rate area for one-party service, unless the Commission also is willing to see Continental retain or re-establish four-party service without zone charges.

The Rural Electrification Administration witness in this case states that REA does not, and does not believe it can, establish rates or rate design within the State of Missouri. While this may be literally true, it is a point of semantics and not substance. The practical effect of the REA policy is that if REA disagrees with a state regulatory commission's local rate design for a local telephone company based on local costs and local considerations, then REA may withdraw future funding or require a redesign of the upgrade plans of local exchange companies to include four-party service without mileage or zone charges. REA's dollars are not provided to the states for the benefit of rural telephone customers unless the states implement the rate design acceptable to REA, which requires that no zone charges be implemented on the lowest grade of service available in a community. This means that the state regulatory agency has the choice of adopting the rate design conditions which REA has prescribed or foregoing federal dollars which the Congress has determined should be made available to the states for the benefit of rural telephone customers.

This Commission believes that the REA should reassess its national policy with regard to zone and mileage charges. State regulatory bodies are in a better position to assess the unique circumstances of each local exchange within their jurisdiction to determine whether or not zone or mileage charges are in the public interest.

Conclusions

The Missouri Public Service Commission has arrived at the following conclusions.

The Company is a public utility subject to the jurisdiction of this Commission pursuant to Chapters 386 and 392, RSMo 1978. The Commission suspended Company's tariffs which are the subject of this proceeding under Section 392.230, RSMo 1978. The burden of proof to show the increased rates are just and reasonable is upon Company. The Commission may consider all facts which in its judgment have any bearing upon a proper determination of the setting of fair and reasonable rates. Based upon the evidence and the findings made above, the Commission has determined that the rates proposed by Company for access to local exchange service in the fourteen (14) exchanges in question are just and reasonable and should be allowed to go into effect.

It is, therefore,

ORDERED: 1. That pursuant to the findings and conclusions made in this Report and Order, the tariffs submitted to the Commission by Continental Telephone Company of Missouri on December 12, 1984, and resubmitted by said Company on September 19, 1985, are approved hereby and may be effective for service rendered on and after November 25, 1985.

ORDERED: 2. That by this Report and Order any objections not ruled upon heretofore are overruled and any outstanding motions are denied.

ORDERED: 3. That this Report and Order shall become effective on the 25th day of November, 1985.

Steinmeier, Chm., Musgrave, Hendren and Fischer, CC., Concur. Mueller, C., dissents with opinion attached.

Dissenting Opinion of
Commissioner Allan G. Mueller

Continental Telephone Company
Case No. TR-85-176

I respectfully dissent from the opinion of the majority of this case. It is my opinion that excessive and unreasonable restrictions placed on Continental by the Rural Electrification Administration (REA) through its loan agreement have inhibited this Commission's ability to reach an unbiased decision in this case.

The REA controls the purse strings through its general fund policies, which contain restrictive conditions that effectively conflict with this Commission's authority to set rates and regulate telephone service in the State of Missouri. In response to these restrictions, this Commission has opted to implement a rate design for all one-party service in fourteen (14) of Continental's exchanges which:

1) is contrary to the rate design previously approved for Continental's other one hundred twenty (120) exchanges in Missouri and therefore inconsistent with Company's policies, and

2) increases rates significantly for customers in the base rate area (BRA) who already have one-party service and will not have an upgrade of service because of the project.

In regard to point number 2, Continental's four-party local exchange rates outside the base rate area (OBRA) are currently set at a higher rate level than the corresponding one-party base rate area local exchange rate. While it may seem unreasonable that a lower grade of service would be priced higher than a higher grade of service, one must surmise that the reason the Company has proposed and the Commission in the past has approved four-party rates which are higher than the BRA one-party rates because of the higher cost of providing service. Staff testified this was also the reason why the Company has proposed zone and mileage charges on one-party service in its other exchanges, as recently as last year in its Wentzville toll center.

To ignore cost when considering the rate design for telephone service is diametrically opposed to the current pricing trends in the telecommunications industry.

Furthermore, Continental has not justified, as required by law, the elimination of mileage charges for these fourteen (14) exchanges. The cost relationship of outside plant facilities between the BRA and OBRA, which was performed by the Company, justifies an offset in rates between the BRA and OBRA. Rather than dispute the conclusions of its study, the Company prays that the Commission adopt the common one-party rate design so as not to jeopardize the Company's REA funding. These rates are unreasonable and force the customers in the BRA to pay for the upgrade in service for the customer OBRA.

The resulting rate design is a typical example of what happens when the federal bureaucracy dictates a blanket policy requiring all states to follow, in order to obtain their share of the federal dollar. In doing so, they have a total disregard for the effect that this policy would have on the local area. In this case we see REA policy resulting in a minority of the customers located in BRA being burdened with most of the cost for upgrading that portion of a telephone system located OBRA. This is unfair and inequitable.

In this case, the Commission had the opportunity to hear testimony and ask questions of the Company witness Mr. John Arnesen, the assistant administrator of the REA telephone division. In my opinion, Mr. Arnesen did not give a clear, definite answer as to whether or not the telephone company is precluded from receiving REA funds if the state Commission orders one-party service with zone or mileage charges for persons OBRA. All of his yes and no answers had qualifying statements attached which made it unclear to me as to the precise policy of the REA. During several attempts, Ms. Malinowski tried to get Mr. Arnesen to respond with a simple yes or no, however she gave up in vain on page 71 of the transcript. Throughout his testimony and cross-examination, Mr. Arnesen never states unequivocally that the REA will not lend money for a one-party upgrade allowing zone charges.

Mr. Arnesen's rebuttal testimony (Exhibit 6, page 6) states:

> "I suspect company officials might find it difficult to explain to a rural customer why they may have to pay 50%, 100%, and possibly more for one-party service compared to the four-party rate if the cost differential is only 14.6%."

Nowhere in this case does the Staff recommend a 50%, 100%, or more rate increase for one-party service as compared to four-party

service. However, I would challenge Company officials to explain to the 71 BRA customers in the Blue Eye exchange why they must pay 26% more for their existing one-party service, while the 1,241 OBRA customers will only have to pay 4% to receive upgraded one-party service.

Mr. Arnesen (Testimony, page 6) tries to compare zone and mileage charges in an urban-suburban environment using an example of his newly-purchased home in Washington, D.C. He states that he is approximately four airline miles from the central office and is at the edge of the exchange boundary and pays no mileage or zone charges. That may be the case in Washington, D.C. However, let me remind the Commission that Southwestern Bell charges three different rates for premium flat rate service in the St. Louis area. The center zone, which is the City of St. Louis, pays $11.60 per month. The first tier which is the suburb of Webster Groves, pays $12.10 per month and the second tier which is the Kirkwood suburb, pays $12.75 per month. There are also three rates in the metropolitan St. Louis area for standard measured service, two-party measured service, and two-party flat rate service. Standard measured service also has distance and time charges based on mileage in the metropolitan St. Louis area. Therefore, it is not unusual for zone charges in the metropolitan area in the State of Missouri.

Throughout Mr. Arnesen's testimony and cross-examination, he repeatedly points out the possibility of the Commission allowing zone charges for OBRA one-party service if the Company would provide for rural four-party service at a flat rate. In my opinion, this policy of the REA borders on stupidity. By requiring four-party service the Company would be taking a step backwards in telecommunications business. Both the Company and Staff testified as to the advantages of one-party service. These include eliminating party line disputes, eliminating many long distance billing problems, reducing maintenance costs by 41%, reducing field visits and elimination of party line CPE. It appears to me that this policy of the REA states that if you do not do it our way, we're going to punish the Company and the ratepayers.

Finally, the result of this rate design on the Continental customers in these fourteen (14) exchanges is not in the public interest. Is it fair to increase the existing one-party residential customer rates, say in Branson, $2.15, from $8.20 to $10.35 while increasing the existing four-party residential rates in Branson $0.70 from $9.65 to $10.35? Isn't the four-party customer the one who will receive the improved telephone service by the upgrade to one-party service?

Mr. Paul Pederson of Staff testified and no one refuted, that the multiline customers who were being upgraded to one-party service, received the greatest benefits. These benefits included one hundred percent access to the network, elimination of party line disputes, privacy, the elimination of long distance billing problems and toll fraud, the elimination of ringer changes in telephone sets, and provided the customer with options of alarm circuits, usage pricing, data computer circuits, customer premise equipment compatibility and automatic answering devices.

The Company and Public Counsel have argued that there are "shared" benefits such as less noise on the line while dialing, accuracy in dialing, less maintenance and therefore less cost to the Company. Is it logical that the "shared" benefits received by the existing one-party customers within the BRA are worth more ($2.15 increase in rates) than the combined benefits, that is the physical upgrade plus shared benefits received by the four-party customers outside the BRA (only a $.70 increase)? I think not.

Normally, one would suspect in this situation that the majority of the telephone customers would be in the base rate area. However, in this situation we find the exact opposite. In all fourteen (14) exchanges, there are 8,736 customers in the base rate area and 15,007 customers outside the base rate area. The most dramatic example of this is the Blue Eye exchange which has 71 base rate area customers and 1,241 outside the base rate area customers. It seems unfair and inequitable to place the burden of this upgrade of the entire system on the base rate area customers which receive very little benefit. In all but four (4) of the exchanges, the one-party base rate customer will receive a 26% increase in telephone rates while the four-party outside the base rate area customer will receive one-party service or increases ranging from 2% to 7%. Also, in each exchange, if you are outside the base rate area by one-half mile or more and have one-party service, at the present time you will receive a rate reduction. The amount of this reduction will increase as one moves farther away from the base rate area.

The dictates of the REA are the true motivations behind this Commission's decision. No one has offered competent or substantial evidence which would justify the elimination of the current rate design preserving a cost relationship between the OBRA and BRA customers. The evidence is undisputed that an all one-party upgrade is in the public interest. The Company's proposal is not justified or equitable and does not share the cost as the benefits are shared.

EDITOR'S NOTE: An Exchange Area Map, attached to the above dissent, has not been published. If needed it is available in official case files of the Missouri Public Service Commission.

In the matter of the application of M.P.B., Inc., for permission, approval and a certificate of convenience and necessity authorizing it to own, operate, install, reconstruct, control, manage and maintain a sewer system for the public located in an unincorporated area in Jefferson County, Missouri.

In the matter of the application of House Springs Sewer Company, Inc., for permission, approval and a certificate of convenience and necessity authorizing it to own, operate, install, reconstruct, control, manage and maintain a sewer system for the public located in an unincorporated area in Jefferson County, Missouri.

Case Nos. SA-85-103 and SA-85-134
Decided November 15, 1985

Certificate of Convenience and Necessity or Permit §§41, 70.1. Public Utilities §§1, 49. Sewers §§1, 2. Commission favors the watershed approach when certificating a sewer company rather than a piece-meal approach to certificating the same area if supported by evidence that it is necessary for the public convenience and necessity.

APPEARANCES:

Cara L. Detring, Attorney at Law, West First and South Jefferson, Farmington, Missouri, 63640, for M.P.B., Inc.

Willard C. Reine, Attorney at Law, 314 East High Street, Jefferson City, Missouri, 65101, for House Springs Sewer Company, Inc.

Gary W. Duffy, Attorney at Law, Hawkins, Brydon & Swearengen, P.C., P.O. Box 456, Jefferson City, Missouri, 65102, for Intervenors.

Daniel Maher, Assistant Public Counsel, P.O. Box 7800, Jefferson City, Missouri, 65102, for Office of the Public Counsel and The Public.

Linda K. Malinowski, Assistant General Counsel, P.O. Box 360, Jefferson City, Missouri, 65102, for Staff of the Missouri Public Service Commission.

"*Ordered:* 2. That Union Electric Company, upon the closing of the contracts approved herein, be, and hereby is, relieved of its obligations to provide steam to St. Louis under Chapters 386 and 393 of the Revised Statutes of Missouri; and its certificate of convenience and necessity to operate as a heating company shall be considered forfeited as of the date of said closing."

Ordered: 3. That the documents filed by Union Electric Company on June 5, 1984, are in compliance with the Commission's May 4, 1984, report and order in this matter and the sale is therefore approved, contingent upon the contracts being closed within the time period prescribed therein.

Ordered: 4. That this order shall become effective on the date hereof.

Steinmeier, Chm., Musgrave, Mueller and Hendren, CC., Concur and certify compliance with the provisions of Section 536.080, R.S.Mo. 1978. Fischer, C., Not Participating.

In the matter of Holway Telephone Company for authority to file tariffs increasing rates for telephone service provided to customers in the Missouri service area of the company.*

Case No. TR-83-287
Decided June 14, 1984

Telephone §§3, 19, 24, 30. Telephone company on rehearing granted stipulated rate increase. Stipulation was less than Staff would have recommended and was based on 10% financing loan for upgrading. Commission ordered upgrading and so approved rate increase. Dissent criticized company for expensive upgrade for benefit of very few customers where limited service area, no commitment on loan prior to construction and no study of ability of customers to bear cost.

APPEARANCES:

W. R. England, III, Attorney at Law, Post Office Box 456, Jefferson City, Missouri 65102, for Holway Telephone Company.

Darnell W. Pettengill, Assistant Public Counsel, Office of Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of Public Counsel and the public.

Martin C. Rothfelder, Assistant General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

REPORT AND ORDER

On March 11, 1983, Holway Telephone Company (Company) submitted to the Commission revised tariffs designed to increase rates for telephone

*Refer to pages 516 and 573 for other orders in this case.

service provided to customers in Company's certified service area. The Commission, pursuant to Section 392.230, R.S.Mo. 1978, suspended the proposed rates. Company sought interim rates in conjunction with its permanent rate request. The Commission granted Company interim rates effective June 1, 1983.

At the hearing on the matter of permanent rates, the parties introduced a stipulation which resolved all issues except one. Subsequent to the hearing the Commission set another hearing in Skidmore, Missouri, to take customer testimony. Based upon the testimony at the hearing in Skidmore the Commission issued a report and order rejecting the parties' stipulation and making the interim rates the permanent rates. In that order the Commission determined that zone rates should not be charged by Company.

On February 2, 1984, Company filed an application for rehearing in this matter. After reciting what it considered various errors, Company requested that the Commission receive additional testimony concerning the Company's response to the complaints about telephone service testified to at the Skidmore hearing and clarify the order on zone charges. The Commission granted Company's application for rehearing. The Commission granted the rehearing to allow the parties to address all issues in the case, and in particular, to address the complaints of customers and the overall quality of service of Company. The Commission further clarified its order denying zone rates by denying mileage rates. The Commission in its order requested the parties address the possibility of phasing in any rate increase granted.

This matter was reheard on May 11, 1984. The parties adopted a *Hearing Memorandum* prior to the hearing in which all issues were resolved except whether to allow zone rates in the Company's service area. The *Hearing Memorandum* submitted by the parties is as follows.

HEARING MEMORANDUM

The above-captioned matter represents the revised permanent tariff filing of Holway Telephone Company ("Company"), which was filed with the Missouri Public Service Commission ("Commission") on March 11, 1983. The purpose of that revised tariff filing was to implement a general rate increase in charges for local telephone service. On January 24, 1984, the Commission issued its Report and Order disapproving a stipulation and agreement between Company and Staff and ordered that the interim rates which were then in effect be made permanent.

On March 21, 1984, pursuant to an Application for Rehearing which was filed with the Commission by Company, the Commission issued its Order Granting Application for Rehearing.

On April 6, 1984, the Commission issued its Order Setting Hearing. Pursuant to said order, a prehearing conference was convened in the Commission's offices on May 10, 1984, at which time representatives of Company, Staff and Office of Public Counsel ("Public Counsel") appeared at and participated in said conference. As a result of this prehearing conference, the parties submit the following memorandum:

1. *Revenue Deficiency*

The parties agree and stipulate that Company shall be permitted to file permanent telephone tariffs designed to increase its Missouri jurisdictional, gross annual revenues (exclusive of revenue derived from zone charges[1] and gross receipts and franchise taxes) by Fifty-six Thousand Two Hundred and Five 00/100 Dollars ($56,205.00) above those revenues derived from rates currently in effect. Actual rates for various telephone service will be as follows:

A. Local Access Line Rates:

	Rate	
Residence	$16.00	
Business, one-party	28.00	
Key Systems Trunk	42.00	
Total Annual Increase to Revenue		$43,125

B. Service Connection Charges:

Residence		
Service Order	$ 5.00	
Trip	7.75	
Central Office Access	7.50	
Station Handling	4.65	
Premise Wiring	11.40	
Jack	3.50	
Business		
Service Order	$ 7.50	
Trip	7.75	
Central Office Access	7.50	
Station Handling	4.65	
Premise Wiring	16.20	
Jack	3.50	
Total Annual Increase to Revenue		$ 2,795
		2,795

C. Standard Rotary Dial Telephone Instrument Charge:

	$ 1.70	
Total Annual Increase to Revenue		$ 7,913

D. Miscellaneous Equipment Charges:

Class of Service	Rate	
Pushbutton Access	$ 1.75	
Pushbutton Instrument	1.00	
Key Systems	10.50	
Type A-2 Line	1.60	
Type B-3 Line	2.50	
Type C-Expandable	10.50	
Automatic Answer Equipment	7.95	
Automatic Answer Equipment	8.60	
Automatic Answer Equipment	10.25	
Automatic Answer Equipment	14.65	

[1] If the Commission determines that the Company ought to implement zone charges, it is anticipated that the revenues to be received from zone charges will amount to approximately $5,760.00, annually, and will be in addition to the revenue deficiency of $56,205.00 agreed to herein.

Signal Equipment-C/O Switch	1.35	
Compact Telephone	1.10	
Amplifier Handset	1.50	
Decorator Phone	1.85	
Gong	1.35	
Bell	1.35	
Additional Listing	.80	
Non-Pub. #-Res.	1.00	
Mileage for Extension		
First 1/4 Mile	2.40	
Additional 1/4 Mile	1.00	
Total Annual Increase to Revenue		$ 2,372

E. Semi-Public Telephone Rates:

	$42.00	
Total Annual Increase to Revenue		$ 0

The parties further stipulate and agree that the rates specified hereinabove shall become effective for service rendered on and after July 1, 1984. If these rates and other matters herein to which the parties have stipulated and agreed are approved and accepted by the Commission, then Company agrees that, absent extraordinary circumstances, it will not file tariffs designed to increase rates for local access line service prior to July 1, 1985.

2. *Quality of Service*

The prefiled testimony and exhibits of Company and Staff indicate that the quality of telephone service currently being provided by Company exceeds the Commission's standards. Company, nevertheless, agrees to continue its ongoing program designed to maintain this quality of service. Company's current program includes the testing of all new installations to determine battery, loss, noise, and power influence levels at the time of installation; the daily reading of overflow meters to check trunk busy; the routine dialing of all CAMA (1 + DDD) TSPS (0 + DDD) and EAS (extended area service) trunks; and the quarterly, random testing of service quality with a central office analyzer, which automatically places test calls through the office to check the switching path and completion of the call. Company further agrees to comply with all recommendations contained in Staff's prepared testimony filed in this matter.

Staff agrees that, between December 31, 1984, and June 30, 1985, it will reinvestigate the quality of Company's service and file the results of its investigation with the Commission.

3. *Miscellaneous Tariff Matters*

Company agrees to perform a cost study of its actual service connection activities in the State of Missouri. Company further agrees to submit the results of that study to the Commission no later than September 1, 1984.

Company also agrees to establish a reconnection of service charge of $7.50 where service has only been suspended (not actually disconnected). Company further agrees to work with the Staff to draft appropriate tariff language defining when and how service will merely be "suspended."

Company agrees to withdraw its revised tariff insofar as said tariff proposes a $10.00 charge for returned checks.

4. *Depreciation Rates*

The parties agree and stipulate that beginning July 1, 1984, Company shall

Acct. No.	Description	Annual Rate %
207	Rights of Way	2.0
212	Buildings	2.9
221	Central Office Equipment	5.0
231	Station Apparatus	20.0
232	Station Connection (Outside Drop)	5.0
241	Pole Lines	4.5
242.1	Aerial Cable	5.0
242.3	Buried Cable	4.0
243	Aerial Wire	20.0
244	Underground Conduit	2.0
261	Furniture and Office Equipment	4.0
264	Vehicles and Other Work Equipment	15.0

5. *Zone Rates*

The Staff has proposed that Company create and file with the Commission base rate area maps for the two exchanges which it presently serves. In addition, Staff proposes that Company implement, outside of the said base rate areas, zone charges to reflect the fact that there are additional costs associated with serving those customers outside of said base rate area. Company, on the other hand, proposes that a one-party flat rate charge be established for the entire exchange with no additional charge to reflect the additional cost in serving customers outside of the base rate area. For purposes of hearing, the parties further agree that they may present additional supplemental and/or rebuttal testimony relative to this issue either in prepared, written form, or orally at the time of hearing. Public Counsel also proposes a one-party flat rate charge given the unique characteristics of Company. Public Counsel submits that the addition of Staff's proposed $1.60 and $3.20 zone charges to the agreed upon $16.00 one-party flat rate charge and the agreed upon standard instrument rental of $1.70 places the cost of basic service in excess of the means of a significant number of Company ratepayers. Public Counsel also opposes the zone charges proposed by Staff because, as the issue is framed in this case, they would increase Company's revenue requirement from 56,205.00 to $61,956.00.

Witnesses: Company - Hanks, Supplemental Testimony, pp. 4-5; Staff - Pederson, Direct Testimony, pp. 4-9; Gladden, Supplemental Testimony.

6. *Other Matters*

To the extent the parties have stipulated and agreed to certain matters contained herein, said agreements represent a negotiated compromise and none of the parties to this Hearing Memorandum shall be prejudiced or bound by the terms of the agreements contained herein in any future proceeding, or in this proceeding, in the event the Commission does not approve those agreements.

None of the parties to this Hearing Memorandum shall be deemed to have approved or acquiesced in any ratemaking principle or any method of cost of service determination, cost allocation or rate design underlying or supposed to underlie any of the rates or other matters to which the parties have herein stipulated and agreed.

If the Commission so requires, its Staff shall have the right to submit to the Commission an explanation of its rationale for entering into this Hearing Memorandum and to provide the Commission with whatever further explanation the Commission requests. Staff's explanation shall not become a part of the record

in this proceeding and shall not bind or prejudice the Staff in any future proceeding, or in this proceeding, in the event the Commission does not approve and accept those matters to which the parties have stipulated and agreed. It is understood by the parties hereto that any rationale advanced by the Staff in such explanation are [sic] its own, and are [sic] not acquiesced in, or otherwise adopted by such other parties.

In the event the Commission approves and accepts those matters to which the parties have stipulated and agreed herein, the parties waive their right to present oral argument and written briefs, pursuant to Section 536.080(1), RSMo 1978; their right pertaining to the reading of the transcript by the Commission, pursuant to Section 536.080(3), RSMo 1978; and their right to judicial review, pursuant to Section 386.510, RSMo 1978.

This Hearing Memorandum has resulted from extensive negotiations among the signatory parties, and to the extent it contains matters of stipulation and agreement among the parties, those matters are interdependent, and that in the event the Commission does not approve and adopt those matters of stipulation and agreement contained in this Hearing Memorandum in their totality, and in the event the tariffs to which the parties have hereinabove agreed do not become effective for service rendered on and after July 1, 1984, then, under those circumstances, the parties agree that this Hearing Memorandum shall be void and no party shall be bound by any of the agreements contained herein.

EDITOR'S NOTE: Signature lines deleted.

The Commission in dealing with the rate increase requested in this case has become very concerned about the effects of dramatic rate increases on the ability of all persons to afford telephone service. Telephone service has become, especially in rural areas such as that served by Company, a necessity, a lifeline for some persons. The Commission was concerned in this case that Company proceeded with a million dollar upgrading of a system that serves only 630 customers. Upgrading the telephone system was needed, and had been ordered by the Commission. The Commission, though, is concerned as to whether the Company decided to build a system without an evaluation of what type of system was best suited to the number and income level of Company's customers. The Company decided to build a one-party system to Rural Electrification Administration (REA) specifications without having a firm commitment as to the REA interest rate and without determining whether the REA criteria for construction made the project too expensive. It is not clear that there was ever an evaluation of whether using REA financing with its attendant requirements was cost-beneficial. These concerns are expressed here to alert other telephone companies planning to upgrade their systems that they should analyze the ability of their customers to pay for a new system in deciding the type of system to construct. Upgrading of a system to provide better service is only beneficial and justifiable if those persons in a company's service area can afford to pay for the improved service.

At the hearing Company presented two witnesses. Those two witnesses were David D. Cole, Director of Regulatory Affairs, and Harlin F. Hames, Regional Vice President. Cole testified that the Rural Electrification Administration had not signed the loan contract with the Company for the money to pay for the upgrading of Company's system. The loan money had been set aside by REA at a 10 percent interest rate. REA has not signed the contract because of its policy against zone or mileage charges. The Commission in its financing order, Case No. TF-84-84, gave Company permission to finance the construction upgrading the Company's system through REA. The Commission's order in the financing case had a provision which made the Commission's approval of the financing conditional on REA removing its prohibition in the loan contract against zone and mileage charges.

Staff presented testimony of several witnesses concerning the revenue requirement of Company. Staff's basic position is that the rate agreed upon in the *Hearing Memorandum* is less than what Staff would recommend if there were o agreement. Staff made repeated reference to this anomaly and the unusual nature of this case. Staff presented testimony that under traditional regulatory standards Company's revenue requirements were between $132,000 and $144,000, or a 46 percent increase over current rates. This amount is substantially more than requested by Company, which was $81,000, or a 28 percent increase over current rates. The revenue requirement agreed upon among the parties is $56,205, or a 19 percent increase in permanent rates. The agreed-upon revenue requirement, then, is substantially below the amount Staff would traditionally support and less than what Company requested.

Staff also presented evidence concerning the Company's facilities and service to its customers. Staff members have done extensive testing of Company's telephone facilities since the public hearing in January. Staff witnesses testified that Company's service met all required standards and in Staff's opinion adequate or better service is being provided by Company.

Colonel David B. King, II, testified as a public witness. King is a customer of Company. King described the trouble he had being having with the telephone service since the public hearing. King has experienced a humming on his telephone and a clicking when he is talking to other persons, and he has not received calls from persons who have dialed his home phone. King also testified that Company's service complaint records were not complete.

Staff presented evidence concerning the need for zone charges. Any additional revenue generated by the zone charges would be in addition to the revenue agreed upon by the parties in the *Hearing Memorandum*. Staff believes zone rates should be allowed because it costs more to provide service to customers outside the Base Rate Area of the Company and because the Commission should not let REA dictate what rates should be imposed.

The Commission has reviewed the agreement between the parties as set out in the *Hearing Memorandum* and the evidence presented by the parties at the hearing. The Commission is very concerned that the cost of providing service to the number of customers in the Company's service area is so high. This is especially true since there still seem to be some service problems with the system operated by Company. The Commission, though, is aware that the $1 million upgrade which has been completed by the Company was undertaken pursuant to a Commission order. The Commission is also aware that the Staff

has undertaken an extensive investigation concerning Company's quality of service and has found it is adequate. Based upon these considerations, the Commission finds the agreements reached by the parties, as evidenced by the *Hearing Memorandum*, are just and reasonable and the Company should be allowed to file tariffs in accordance therewith.

The Commission considered the question of whether a phase-in of the proposed rate should be ordered. The Commission is of the opinion the customers of Company would be better served by allowing the $16.00 rate to go into effect July 1, 1984, rather than a phase-in of $14.50 on July 1, 1984, and an $18.00 rate January 1, 1985. The Company has agreed to not file for another rate increase prior to July 1, 1985, if the $16.00 rate is approved.

The Commission has reviewed the parties' positions with regard to zone rates. The Commission understands Staff's position but does not feel an additional charge for service is warranted in this case. The Commission does not feel that the cost of extending service beyond the Base Rate Area is the determinative consideration. In this case the rate increase is so substantial that any additional charge would be unreasonable.

Because of the substantial increase in rates approved in this case the Commission, as expressed earlier, is concerned that some customers may have to discontinue telephone service. The Commission feels that some lesser rate class might be established to allow these persons to continue receiving telephone service. To determine if this is a viable alternative, the Commission will ask Company to investigate the possibility of providing some type of message rate which would have a lower monthly access charge. Company should determine the feasibility of such a service and its costs.

Conclusions

The Missouri Public Service Commission has arrived at the following conclusions.

The Company is a public utility subject to the jurisdiction of this Commission pursuant to Chapters 386 and 392, R.S.Mo. 1978. The Company's tariffs which are the subject of this proceeding were suspended pursuant to authority vested in the Commission by Section 392.230, R.S.Mo. 1978, and the burden of proof to show the increased rates are just and reasonable is upon the Company. The Commission may consider all facts which, in its judgment, have any bearing upon a proper determination of the setting of fair and reasonable rates.

This order is being issued pursuant to a rehearing of this matter. The Commission has spent a substantial amount of time weighing the issues involved herein. The Commission originally had ordered that the interim rates be made the permanent rates because of service problems that the customers of Company were experiencing. The Commission, in the rehearing of this case, has heard from a variety of witnesses that Company's service quality is adequate. Based upon this evidence the Commission can only reach the same conclusion. The Commission's primary duty in determining rates is to ensure that the rates are just and reasonable in relation to both the Company and the customers. The Commission, after reviewing the evidence in this case, concludes that the rates adopted by the parties in the *Hearing Memorandum* are just and reasonable and should be implemented.

It is, therefore,

Ordered: 1. That the proposed tariffs filed by Holway Telephone Company in this case are hereby disapproved and the Company is authorized to file in lieu thereof, for approval by this Commission, tariffs designed to increase gross revenues in the amount of $56,205.00, as agreed upon in the *Hearing Memorandum* set out in the findings.

Ordered: 2. That the agreement between the parties, as evidenced by the *Hearing Memorandum* as set out in the findings above, resolves all of the issues with regard to this case except the issue of zone charges. The Commission hereby adopts and approves the agreements as set out in the *Hearing Memorandum* .

Ordered: 3. That the Commission hereby denies the Company permission to adopt zone or mileage charges for its service area.

Ordered: 4. That pursuant to the agreement between the parties, the tariffs to be filed by Holway Telephone Company pursuant to this order shall not go into effect before July 1, 1984.

Ordered: 5. That Holway Telephone Company comply with all agreements entered into pursuant to the *Hearing Memorandum* set out in the findings in this matter.

Ordered: 6. That Company investigate the feasibility and cost of providing a message rate type service at a lower monthly access charge to the customers in its service area. Company should present the study within ninety (90) days of the issuance of this order.

Ordered: 7. That this report and order shall become effective on the date hereof.

Steinmeier, Chm., Musgrave and Fischer, CC., Concur. Mueller and Hendren, CC., Dissent.

DISSENTING OPINION OF COMMISSIONERS MUELLER AND HENDREN

The Company in this case should not be allowed to pass on to the customer expenses incurred in upgrading the telephone system over and above what should have been spent through prudent management. Management, on a previous Commission order issued to a former Company management and ownership, proceeded to upgrade without assessing the requirements of its 630 customers. We believe Company should have first assessed the needs of its small number of customers and their economic status before deciding what type and cost of system to install. The customers of Company have limited toll-free service. There are no doctors or hospitals in the local exchange service area and few businesses. The benefits to be derived from the upgrade should have been weighed against these limitations. The value of the service in relation to cost of the service and the subscriber's ability to pay should have been considered.

Company was not prudent in committing itself to a million dollar upgrade program based on REA specifications without a commitment from REA of a 5 percent loan. Company may have been able to upgrade the system to provide adequate service without REA specification for less cost even though at a higher interest rate. The fact that REA, subsequent to the expenditure, did not provide a 5 percent loan should not be charged to the customers. We question Company's judgment on committing to a loan without knowing the criteria

for obtaining the expected 5 percent interest rate. Should the customer be responsible for management decisions which were based on expectations?

We do concur with the majority on the portion of the stipulation concerning the agreement of Company not to file for an additional rate increase before July 1, 1985.

Taking these factors into account, we respectfully dissent from the majority opinion.

In the matter of the application of Southwestern Bell Mobile Systems, Inc., for authority to operate as a cellular radio telecommunications reseller within the State of Missouri.

Case No. TA-84-163
Decided June 21, 1984

Certificate of Convenience and Necessity or Permit §§7, 12, 66, 93; Telephone §§4, 7. Company given authority to resell cellular mobile telephone service. No hearing required where issue heard in certificate case. Reduced application standards applied.

ORDER GRANTING AUTHORITY

On April 13, 1984, Southwestern Bell Mobile Systems, Inc. (Applicant) filed an application seeking Commission authority to resell cellular radio telecommunica-tions service within the State of Missouri. This application was filed pursuant to Commission order issued February 15, 1984, which required Applicant to obtain Commission authorization before reselling cellular radio service.

The Commission has previously granted authority to certain telephone companies to construct, operate and provide cellular radio telecommunications service within the St. Louis and Kansas City Cellular Geographic Service Areas (CGSA).

Applicant is seeking authority to obtain access numbers and related service wholesale and to market the access numbers and related service retail to the public. The Commission granted authority to St. Louis Cellular Systems, Inc., to provide cellular service within the St. Louis CGSA and to Kansas City SMSA Limited Partnership to provide cellular service within the Kansas City CGSA. St. Louis Cellular Systems, Inc., is a wholly-owned subsidiary of Applicant, as is Kansas City Cellular Systems, Inc., the general partner of Kansas City SMSA Limited Partnership.

Applicant gave notice of its intent to resell cellular service in the cases involving the applications to provide cellular service (TA-84-39 and TA-84-40). No person intervened to protest those proceedings. The Commission determined in those proceedings that a separate application needed to be filed before the Applicant could resell cellular services.

Staff has filed a memorandum concerning the application. Staff recommends the Commission grant the authority sought. Staff indicates that

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

Case No. TR-84-132

In the matter of Le-Ru Telephone Company of Stella, Missouri, for authority to file tariffs increasing rates for telephone service provided to customers in the Missouri service area of the Company.

APPEARANCES: W. R. England, III, Attorney at Law, Post Office Box 456, Jefferson City, Missouri 65102, for Le-Ru Telephone Company.

Joni K. Ott, Assistant Public Counsel, Office of Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of Public Counsel and the public.

Thomas M. Byrne, Assistant General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the Staff of the Missouri Public Service Commission.

REPORT AND ORDER

On January 19, 1984, Le-Ru Telephone Company of Stella, Missouri, submitted to the Commission tariffs reflecting increased rates for telephone service provided to customers in the Missouri service area of the Company. The proposed tariffs have a requested effective date of February 18, 1984, and are designed to produce an increase of 100 percent in charges for telephone service.

By an Order issued on February 10, 1984, the Commission suspended the tariffs until December 17, 1984, and set a schedule of proceedings. On May 23, 1984, the Company filed a letter requesting that the proceedings in Case No. TR-84-132 be rescheduled because the upgrade program was not completed. On June 4, 1984, the Commission issued its Order rescheduling the proceedings in Case No. TR-84-132.

On August 22, 1984, the Commission Staff filed its Motion For An Extension Of Time, stating that because of the workload caused by Case No. ER-84-168, the Staff would not be able to meet its filing deadline. The Commission Staff filed a Motion For A Continuance on August 27, 1984, requesting that the prehearing and hearing be rescheduled to commence on October 2, 1984. By an Order issued on September 6, 1984, the Commission rescheduled the proceedings.

An evidentiary hearing was held on October 3, 1984, wherein the parties presented a Hearing Memorandum including a stipulation and agreement on all the issues except for zone rates. That issue was then tried. The reading of the record by the Commission was not waived by the Office of Public Counsel. Initial briefs were filed by the parties on October 29, 1984, and reply briefs were filed by the parties on November 2, 1984.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

The Hearing Memorand. n presented by the parties includes a stipulation and agreement which is a settlement of all the issues in this case except for zone rates. The Hearing Memorandum is Exhibit 1, which is as follows:

HEARING MEMORANDUM

> The above-captioned matter represents the revised tariff filing of Le-Ru Telephone Company ("Company"), which was filed with the Missouri Public Service Commission ("Commission") on January 19, 1984. The purpose of that revised tariff filing was to implement an increase in certain charges for local telephone service.
>
> On February 10, 1984, the Commission issued its Suspension Order and Notice of Proceedings. By subsequent orders dated June 4, 1984, and September 6, 1984, that schedule was modified. Pursuant to the modified schedule of proceedings, a prehearing conference was convened in the Commission's offices on October 2, 1984, at which time representatives of Company, the Commission Staff ("Staff") and the Office of Public Counsel ("Public Counsel") appeared at and participated in said conference. As a

result of this prehearing conference, the parties submit the following memorandum:

1. Revenue Deficiency

The parties stipulate and agree that Company shall be permitted to file revised telephone tariffs designed to increase gross annual revenues (exclusive of gross receipts and franchise taxes) by Ninety-One Thousand Six Hundred Eight and 00/100 Dollars ($91,608.00) above those revenues derived from rates currently in effect. Actual rates for various telephone services, except local access lines are to be as follows:

A. Service Connection Charges:	Rate
Residence or Business	
Service Order	$ 8.00
Trip	17.00
Central Office Access	17.00
Station Handling	3.00
Premise Wiring	8.00
Jack	5.00

B. Equipment:

Telephone, Standard Rotary	$ 1.30
Telephone, Standard Touch Tone	1.95
Mini-Wall, Touch Tone	3.25
Trendline, Rotary	2.60
Trendline, Touch Tone	3.25
Extension Bell	.65
Horn or Gong	1.95
Gong with Relay	2.30
Key Systems	30% Increase

C. Semi-public Telephone Rate:

1.5 x Business Line Rate

D. Touch Tone Access Line Charge:

Residential and Business $ 2.00

E. Coin Telephone:

1. Rate per local call $ .20
2. Rate per local call billed collect, to credit card or to third party .50

F. Local Access Line Rates:

The parties stipulate and agree that local access line rates shall be determined residually. This residual shall be calculated by deducting from the overall revenue deficiency contained in paragraph 1 the projected annual revenues to be derived from the above-listed rates and any additional revenues to be derived from the zone charges, if such charges are approved by the Commission. The business line rate shall be 1.6 times the residence line rate.

2. Quality of Service

The prefiled testimony and exhibits of the Staff contain several recommendations designed to improve Company's quality of service which already meets or exceeds Commission standards. Company agrees to comply with all of those recommendations, to wit: The dusting of equipment covers in both central offices; eliminating the wiring conditions that exist on the line finder blocks of the main frames; the correction of major cable faults as identified in Staff's testimony; and the marking of EAS and special circuits on the main frame. These items will be completed no later than October 31, 1984.

4. Depreciation Rates

The parties agree and stipulate that beginning January 1, 1985, Company shall begin accruing depreciation expense at the following annual rates:

Acct. No.	Description	Annual Rate %
212	Buildings	2.2
221.1	Central Office Equipment	5.7
221.1T	Central Office Equipment, Toll	6.7
221.2	Central Office Equipment, Electronic	5.0
221.5	Subscriber Carrier	7.7
231.1	Station Apparatus	*
231.2	Station Apparatus, Pay Booth	5.0
231.3	Station Apparatus, Pay Phone	5.0
232	Station Connections, Outside Drop Wire	5.0
232.1	Station Connections, Inside Wiring	10.0
241	Pole Lines	4.0
241.T	Pole Lines, Toll	4.0
242.3	Buried Cable	4.0
242.5	Buried Cable, Toll	4.0
243	Aerial Wire	4.0
261	Furniture and Office Equipment	5.0
264	Vehicle and Work Equipment	10.5

*Amortized over 60 months as authorized in Case No. TO-83-160

5. The Company, as a result of recent plant upgrades, has various options available regarding tax depreciation elections and carry forward balances of investment tax credit generated. In that regard, the Company agrees to engage its tax advisors to research its tax options and prepare a report which summarizes the economic impact of each option available. This research shall be completed and a copy of the report shall be filed with

the Commission at the time the Company filed its 1984 tax return, but, in any event, no later than September, 1985.

6. Zone Rates

The Staff has proposed that Company create and file with the Commission base rate area maps for the two exchanges which it presently serves. Outside these base rate areas, Staff proposes that the Company establish three circular zones of three, six and nine miles, with zone charges of $ .50, $1.00 and $1.50, respectively, to be in addition to local access line rates. The Company, on the other hand, proposes that a one-party flat rate charge be established for the entire exchange. Public Counsel agrees with the Company and opposes zone charges in this case.

Witnesses: Company - Hart (Rebuttal); Staff - Pederson (Direct); Public Counsel - Finder (Rebuttal).

6. Other Matters

To the extent that the parties have stipulated and agreed to certain matters contained herein, said stipulations and agreements represent a negotiated compromise and none of the parties to this Hearing Memorandum shall be prejudiced or bound by the terms of the stipulations and agreements contained herein in any future proceeding, or in this proceeding, in the event the Commission does not approve those stipulations and agreements.

None of the parties to this Hearing Memorandum shall be deemed to have approved or acquiesced in any ratemaking principle or any method of cost of service determination, cost allocation or rate design underlying or supposed to underlie any of the rates or other matters to which the parties have herein stipulated and agreed.

If the Commission so requires, its Staff shall have the right to submit to the Commission an explanation of its rationale for entering into the agreements contained in this Hearing Memorandum and to provide the Commission with whatever further explanation the Commission requests. Staff's explanation shall be solely limited to those matters to which the parties have stipulated and agreed, and said explanation shall not beccme a part of the record in this proceeding and shall not bind or prejudice the Staff in any future proceeding, or in this proceeding, in the event the Commission does not approve and accept those matters to which the parties have stipulated and agreed. It is understood by the parties hereto that any rationale[s] advanced by the Staff in such explanation are its own, and are not acquiesced in, or otherwise adopted by such other parties.

In the event the Commission approves and accepts those matters to which the parties have stipulated and agreed herein, the parties waive their right to present oral argument and written briefs, pursuant to §536.080(1), RSMo 1978; their right pertaining to the reading of the transcript by the Commission, pursuant to §536.080(3), RSMo 1978; and their right to judicial review, pursuant to §386.510, RSMo 1978.

This Hearing Memorandum has resulted from extensive negotiations among the signatory parties, and to the extent it contains matters of stipulation and agreement among the parties, those matters are interdependent, and that in the event the Commission does not approve and adopt those matters of stipulation and agreement contained in this Hearing Memorandum in their totality, then, under those circumstances, the parties agree that this Hearing Memorandum shall be void and no party shall be bound by any of the agreements contained herein.

Respectfully submitted,

/s/ Thomas M. Byrne
Thomas M. Byrne
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Missouri Public Service Commission
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Attorney for THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION

/s/ Joni K. Ott
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314/635-7166
Attorneys for LE-RU TELEPHONE COMPANY

Dated this 3 day of October, 1984.

The one remaining issue to be decided by the Commission is whether the Company should implement zone rates. The Commission Staff supported zone rates on the basis of the difference in cost of service between inside the base rate area customers and outside the base rate area customers.

Though the Company presently has $ .70 per quarter-mile mileage charges for its outside the base rate area customers, it proposed that a one-party flat rate charge be established for the entire exchange. The Company requested a rate increase in this case because of the cost of upgrading its system from one- and four-party service to all one-party service. This upgrade was financed entirely by a two (2) percent per annum interest rate loan made available to the Company by the Rural Electrification Administration. One of the conditions of the loan required the Company to

> ... seek and use its diligent best efforts to obtain all necessary regulatory body approvals for a tariff which ... does not include mileage or zone charges for one-party service ...

The Company also opposes zone charges because a large percentage of its customers reside outside the base rate area.

The Office of Public Counsel presented testimony which allegedly rebutted the Staff's on cost of service differences between inside the base rate area customers and outside the base rate area customers. Public Counsel argued that there is no competent and substantial evidence to support zone charges and therefore, implementing zone charges would be discriminatory.

The Commission, having considered all of the evidence, determines that the Company should not be permitted to establish zone or mileage rates for its service area. The Commission understands the Staff's position but is of the opinion that cost of extending service beyond the base rate area is not the determinative consideration. In this case, the rate increase is so substantial that the Commission finds a one-party flat rate charge should be established for the entire exchange without any zone or mileage rates.

Conclusions

The Missouri Public Service Commission has arrived at the following conclusions.

Le-Ru Telephone Company is a public utility subject to the jurisdiction of this Commission pursuant to Chapters 386 and 392, R.S.Mo. 1978. The Company's proposed tariffs were suspended pursuant to the authority vested in this Commission by Section 392.230, R.S.Mo. 1978.

For ratemaking purposes, the Commission may accept a stipulated settlement on any contested matter submitted by the parties. The Commission determines that the stipulation and agreement contained in the Hearing Memorandum is reasonable and proper and should be accepted.

The Commission, after notice and hearing, may order a change in any rate, charge or rental, and it may determine and prescribe the lawful rate, charge or rental, or regulations or practices affecting said rate, charge or rental thereafter to be observed. Section 392.230, R.S.MO. 1978.

The Commission may consider all facts which, in its judgment, have any bearing upon a proper determination of the price to be charged. Section 392.240, R.S.Mo. 1978.

Based upon the Commission's findings herein, the tariffs filed by Le-Ru Telephone Company in Case No. TR-84-132 should be disallowed and Le-Ru Telephone Company should be authorized to file revised tariffs in conformance with the findings of this Report And Order.

It is, therefore,

ORDERED: 1. That the Hearing Memorandum entered into by the Le-Ru Telephone Company, the Staff of the Missouri Public Service Commission and the Office of Public Counsel as set forth herein is hereby accepted and adopted in disposition of all matters except zone rates in this case.

ORDERED: 2. That the Staff's proposal to establish zone or mileage rates for Le-Ru Telephone Company's service area be, and hereby is, denied.

ORDERED: 3. That for the purpose of implementing the Hearing Memorandum entered into in this proceeding, the proposed tariffs submitted by Le-Ru Telephone

Company on January 19, 1984, be, and the same are, hereby disapproved and the Company is authorized to file in lieu thereof, for approval of this Commission, tariffs designed to comply with the Hearing Memorandum as set forth herein.

ORDERED: 4. That all objections and motions which have not been ruled upon be, and hereby are, overruled and denied. Exhibits 6, 10 and 11 are received into evidence.

ORDERED: 5. That this Report And Order shall become effective on the 5th day of December, 1984.

BY THE COMMISSION

Harvey G. Hubbs

Harvey G. Hubbs
Secretary

(S E A L)

Steinmeier, Chm., Musgrave, Mueller, Hendren, and Fischer, CC., Concur and certify compliance with the provisions of Section 536.080, R.S.Mo. 1978.

Dated at Jefferson City, Missouri, on this 20th day of November, 1984.

ORDERED: 4. That Commission Staff shall prepare a list of refundees as required by this order and file that list with the Commission within thirty (30) days of the date this order is issued. The list shall be served on all parties.

ORDERED: 5. That any party shall have ten (10) days after the filing date of the list to object to the list filed by Staff pursuant to Ordered 3 and request a true-up hearing.

ORDERED: 6. That if no true-up hearing is requested, the Commission will issue an order approving the list and setting a date for the refund.

ORDERED: 7. That Exhibit 19 is received into the record.

ORDERED: 8. That all objections not specifically ruled upon are hereby overruled and all motions not specifically ruled upon are hereby denied.

ORDERED: 9. That West Elm Place Corporation shall seek refunds from the Internal Revenue Service for taxes paid on connections fees from 1976 through 1983 and any refunds made by the IRS shall be distributed in the same manner as described in this order.

ORDERED: 10. That this report and order shall become effective on the 21st day of July, 1986.

Musgrave, Hendren and Fischer, CC., Concur and certify compliance with the provisions of Section 536.080, R.S.Mo. 1978. Steinmeier, Chm., and Mueller, C., Not Participating.

EDITOR'S NOTE: The following glossary of acronyms used in the telecommunications industry might prove to be useful in reading the subsequent order.

GLOSSARY

(CCLC) Carrier common line charge
(CPE) Customer premises equipment
(EAS) Extended area services
(FG-A) Feature Group A
(FG-B) Feature Group B
(FG-D) Feature Group D
(interLATA) Between LATAs
(intraLATA) Within LATAs
(INWATS) Inward wide area telephone service
(IXC) Interexchange carriers
(LATA) Local access and transport area
(LECs) Local exchange carriers

(MTS) Message telecommunications service
(NTS) Non-traffic sensitive
(OCCs) Other common carriers
(PIU) Percentage of interstate use
(SLU) Subscriber line usage
(SPF) Subscriber plant factor
(STS) Shared tenant services
(STSF) State Telephone Support Fund
(TCA) Terminating Compensation Agreement
(WATS) Wide area telephone service

In the matter of the investigation into WATS resale by hotels/motels.*

In the matter of the investigation into WATS resale applications for certificates of public convenience and necessity.

In the matter of the investigation into the reasonableness of permitting competition in the intraLATA telecommunications market in Missouri.

In the matter of the Missouri interLATA access charge and intraLATA toll pool.

Case Nos. TO-84-222, TO-84-223, TC-85-126, and TO-85-130
Decided July 24, 1986

Certificate of Convenience and Necessity or Permit §§1, 27, 66. Public Utilities §§1, 46. Telephone §§1, 4. Applicants in the intraLATA toll market must comply with Commission policy contained in Case No. TX-85-10, published by the Secretary of State at 10 Mo. Reg. 1048 (1985). That policy requires submission of: (1) information sufficient to demonstrate financial ability to provide the proposed services; (2) a brief description of where and what type of service is proposed; and (3) demonstrate willingness and ability to comply with all terms and conditions the Commission may lawfully impose, and applicable Commission rules and regulations.

Public Utilities §§1, 46. Telephone §1. Authorization of intraLATA toll competition will result in new and improved services, lower prices and faster responses to customers' needs which will benefit the public.

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*This order contains changes approved by the Commission September 17, 1986. The September 17 order is printed on page 604. The September 17 order denies a rehearing in this case but does make some modifications in the original Report and Order.

according to Part 67 of the Separations Manual as suggested by the MITG. SWB claims that the Separations Manual procedure can result in overloading of costs on toll charges and irrational pricing which cannot be sustained in this competitive market.

Staff first argues that SWB is incorrect in its interpretation of Section 392.240, and that a proper reading of the Public Service Commission Act reveals that the Commission retains jurisdiction to determine the appropriate division of interLATA revenues, regardless of the positions of the LECs on this issue.

Staff points out that Section 392.230, grants the Commission the authority to determine the propriety of any schedule filed by a telephone company ". . . stating a new individual joint rate, rental or charge, or any new individual or joint regulation or practice affecting any rate, rental or charge . . . ". Staff concludes that the express language of this statute unavoidably conflicts with SWB's interpretation of Section 392.240.

Staff supports AT&T's position concerning the continued pooling of the CCLC. Staff agrees with AT&T that total elimination of the interLATA pool will produce significant pressure for interLATA carriers to geographically deaverage toll. Staff notes that the CCLC portion of the interstate access charge continues to be pooled on a mandatory basis. Staff does not believe sufficient evidence has been adduced to justify the complete and immediate elimination of the interLATA pool.

If the Commission does determine that the pool should be eliminated in its entirety, sufficient time should be allowed to provide for the filing of individual access tariffs by the independent companies. Staff is of the opinion that SWB's estimate that the pool could be replaced in a matter of two to four weeks, constitutes a grossly optimistic exaggeration. Staff further believes that if the pool is eliminated, independent companies' access charges should initially be set to maintain current interLATA revenues for each company thus maintaining a revenue neutral position.

The MITG believes that the interLATA access pool must be eliminated for many of the same reasons enumerated by SWB. The MITG does, however, believe that independent companies will need sufficient time to develop and file individual access charge tariffs.

AT&T argues that prior to the elimination of the interLATA pool, the Commission should give careful consideration to the potential effect on interexchange carriers.

The manner in which access charges are recovered is of great importance to AT&T. In Missouri, such charges constitute more than

two-thirds of AT&T's total costs of providing service. Because of the magnitude of those charges and because they are uniform throughout Missouri, it is relatively easy for AT&T to charge the same rates for its services in West Plains as it charges for similar services in St. Louis. However, if access charge rate levels in West Plains suddenly become significantly greater than those in St. Louis, the same order of magnitude that made it relatively easy for AT&T to average long distance rates in the past would make it very difficult for it to do so in the future. When two-thirds of a firm's costs vary significantly between two locations, it is very difficult to charge the same rates in those locations. This is especially true in a market where one's competitors may choose not to serve the high-cost areas.

Thus, according to AT&T, the termination of the access charge pool would place pressures on the IXCs to geographically deaverage rates in Missouri. However, this pressure could be eased through two measures: the continued pooling of the CCLC access charge rate element; and, the prompt phase down of the CCLC rate element to a level more closely related to cost.

In addition to making it difficult for IXCs to continue averaging toll rates, the termination of the interLATA access charge pool could have a negative impact upon the spread of competition in Missouri. Today, if a long distance carrier wishes to expand its network to provide originating service in additional areas, that carrier's access costs per minute will not increase. However, if all LECs impose company-specific and widely divergent access charge rates, a tremendous incentive would be created for long distance carriers to offer service only in the low cost areas. This would be particularly true if long distance carriers were denied the authority to geographically deaverage rates in order to reflect differences in access charge rate levels.

AT&T further notes its concern over the proposals in this docket to set access charge rates. AT&T asserts that access charge rate levels should be set in LEC rate cases or in a consolidated access pricing docket in which all interested parties have had a full opportunity to investigate the costs of providing access services and a full opportunity to be heard.

6. *Commission Findings*

Upon review of the record presented herein, the Commission finds that a greater degree of competition exists in Missouri's interLATA toll market than exists in the intraLATA toll market. This is partially due to the fact that competition in the interLATA toll market has been officially sanctioned for some eighteen months. The number of providers of interLATA toll has increased steadily since MCI and GTE Sprint were first authorized to compete with AT&T in Missouri's interLATA toll market.

The Commission has previously found herein in its section analyzing the proposed intraLATA toll pool replacement mechanisms, that pooling must end so as to position the industry to better deal with developing competition. The Commission finds, based upon the testimony of SWB and MITG witnesses, that a bill and keep system with meet point billing is currently feasible and could be utilized in Missouri. The Commission is of the opinion that since pooling is not desirable in a competitive market and the local exchange companies are presently capable of implementing a bill and keep system, the interLATA access pool should be eliminated as soon as practicable.

The Commission has considered the arguments of AT&T and Staff concerning the potential effect on IXCs of elimination of the pool and in particular the CCLC portion of the pool. While the Commission would expect access charges to vary from company to company, the Commission cannot find from this record that geographic deaveraging of toll rates must necessarily follow. The Commission is of the opinion that for the present, geographic deaveraging of toll rates should be prohibited and the effect of the system of access charges should be documented and examined.

The Commission further finds that with regard to the initial filing of access tariffs, the LECs should submit tariffs designed to maintain current interLATA revenues for each company thus maintaining a revenue neutral position. The Commission believes that tariffs of this sort could be developed relatively quickly and would provide the smoothest transition from a pooling to a nonpooling environment.

AT&T has raised what it has referred to as the "Double SPF" issue. It appears LECs in Missouri are in fact assigning a greater level of NTS costs per minute to the interLATA access charge pool than they are assigning to the intraLATA tool pool. LECs are apparently adding an interLATA SPF to each company's historical intrastate SPF. The effect of this seems to allow recovery of more than 100% of assignable NTS costs. The Commission finds this practice to be unreasonable and is of the opinion that when meet point billing is implemented, NTS costs should be allocated such that one minute of interLATA access recovers the same amount as one minute of intraLATA access.

Since the Commission has previously addressed issues concerning NTS cost shifts and the CPE phase down, no further discussion of those matters will be included here.

The Commission is of the opinion that within the next six months, each LEC shall file for Commission approval its interLATA access tariffs. Upon completion of the filing of the aforementioned tariffs, the interLATA access pool will be eliminated. The Commission is also of the opinion that if any further disputes arise or any further direction is needed, the Commission should be notified immediately so that the matters can be resolved and the plan to eliminate the pool can move forward.

Conclusions

The Missouri Public Service Commission has arrived at the following conclusions:

IntraLATA toll competition should be authorized for resellers and facilities-based carriers. The Commission has found fifteen (15) resellers qualified and able to provide intraLATA and intrastate interLATA toll services. No facilities-based carriers have submitted applications for intraLATA toll authority in this docket. The Commission rejected SWB's 15% range of rates pricing flexibility plan but has stated that volume discounts and other pricing flexibility or specialized calling plans may be available to LECs in the future. The Commission also determined that hotels or motels that provide intrastate interLATA and intraLATA toll services to guests or tenants are not subject to the Commission's jurisdiction.

The Commission has further determined that the interLATA access pool should be eliminated and replaced by a bill and keep system as soon as practicable.

Since no intervention deadline was scheduled in Case No. TC-85-126, the Commission finds that all parties who participated in that docket shall be considered to be intervenors.

It is, therefore,

ORDERED: 1. That Case Nos. TA-84-142, TA-84-162, TA-84-197, TA-84-145, TA-84-151, TA-84-152, TA-84-157, TA-84-194 and TA-84-185 shall be dismissed.

ORDERED: 2. That Allnet Communications Services, Inc., 100 South Wacker Drive, Seventh Floor, Chicago, Illinois 60606 be, and hereby is, granted a certificate of public convenience and necessity to provide intrastate interLATA and intraLATA toll telecommunications services in Missouri.

ORDERED: 3. That Com-Link 21, Inc., 900 Walnut, 4th Floor, St. Louis, Missouri 63102 be, and hereby is, granted a certificate of public convenience and necessity to provide intrastate interLATA and intraLATA toll telecommunications services in Missouri.

ORDERED: 4. That Eddie D. Robertson, d/b/a Contact America, 511 Washington Street, Chillicothe, Missouri 64601 be, and hereby is, granted a certificate

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the matter of the application of Intercon Gas Inc., a corporation, et al., for an order and certificate of convenience and necessity authorizing it to construct, install, acquire, own, operate, control, manage and maintain a natural gas pipeline and related facilities and to transport natural gas in portions of Jefferson, Franklin, Crawford, Washington and Phelps Counties, Missouri.	Case No. GA-90-280 (Consolidated with Cases: GA-90-276, GA-91-81, GA-91-82)

JOINT RECOMMENDATION

Comes now Missouri Pipeline Company ("MPC"), Missouri Gas Company, the Staff of the Missouri Public Service Commission, Laclede Gas Company, the Office of the Public Counsel, the City of Union, the City of Washington, the City of St. Clair, the Rolla Municipal Utilities, and the County of Franklin, Missouri, all hereinafter referred to as the "Consenting Parties," and for their joint recommendation to the Missouri Public Service Commission in the above-captioned cause ("Joint Recommendation") hereby state as follows:

1. The Consenting Parties are parties to Case No. GA-90-280 (Consolidated), hereinafter referred to as the "Proceeding".

2. There is an issue pending in the Proceeding relating to whether it would be appropriate to establish zone transportation rates in the MPC service area which would result from the approval by the Missouri Public Service Commission

("Commission") of the Application filed by MPC in the Proceeding ("New MPC Service Area").

3. The Consenting Parties, in an effort to settle among themselves the issue set out in paragraph 2, above, and present a joint recommendation on said issue to this Commission hereby consent, agree, and recommend as follows:

a. The MPC transportation rates established by the Commission in this Proceeding in the New MPC Service Area shall be the same as the transportation rates currently charged by MPC in its current service area.

b. The transportation rates referred to in subparagraph a, above, may be applied uniformly throughout the New MPC Service Area.

c. The issue as to whether or not zone rates are appropriate in the New MPC Service Area may be readdressed by the Consenting Parties in the rate proceeding to be filed with this Commission by MPC on or before January 1, 1992.

4. The agreements and recommendations of the Consenting Parties contained in this Joint Recommendation shall not bind or prejudice in any manner the positions of any other party to the Proceeding as to the issue or issues addressed herein.

5. The terms of this Joint Recommendation shall not in any manner bind or prejudice any of the Consenting Parties in any other proceeding.

6. None of the Consenting Parties shall be deemed to have approved or acquiesced in any ratemaking principle or any

method of cost determination or cost allocation underlying or allegedly underlying this Joint Recommendation.

Respectfully submitted,

STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION

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ahead earnings. There's no need to chase it. But if it weakens, it's worth a close look.

Unwelcome creditors

LAST SUMMER FORBES reported that Edisto Resources Corp., the $346 million (sales) oil and gas producer, was on the verge of going bust (*Sept. 14, 1992*). Now the holders of Edisto's $103 million of senior notes, including Trust Co. of the West, are trying to help Edisto ram through a quickie, prenegotiated bankruptcy filing in order to salvage their investment in the Dallas-based company. If approved, the plan would give those noteholders about 90% of the equity in the reorganized Edisto. As for Edisto's nearly 26 million current common shares, they still trade on the American Stock Exchange; recent price, 25 cents.

But some unwelcome creditors may gum up the reorganization. The U.S. Interior Department's Minerals Management Service wants to know who will pay to plug and abandon Edisto's depleting wells in the Gulf of Mexico. The agency may file a claim for an estimated $7.5 million. Other oil companies that sold leases to Edisto may well file claims against Edisto, too, to protect themselves against future cleanup cost bills.

The magnitude of Edisto's plugging liabilities is unclear. But the example of the recent bankruptcy case of Alliance Operating Corp., another independent producer, suggests the cost could be heavy. Texaco and Amoco, the prior leaseholders on some of Alliance's offshore production sites, may have to chip in $5 million apiece to cover their share of the cleanup of just one site. All told, Interior's Minerals Management Service claimed about $20 million to cover Alliance's 17 offshore sites. Edisto has stakes in at least 40 leases.

Bottom line: Avoid Edisto's Amex-traded common stock like the plague. One consultant who looked at the company warns that the cleanup costs will almost certainly wipe out any of the remaining value of the company's existing equity. Anyone who wants to invest should wait until the reorganization plan has been made final.

–JAMES R. NORMAN

SCHEDULE NO. 3