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**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 16th
day of December, 1997.

In the Matter of the Investigation by the Staff)
of the Missouri Public Service Commission into) Case No. TO-98-216
the Overearnings of Northeast Missouri Rural)
Telephone Company.)

**ORDER ESTABLISHING AND GIVING NOTICE OF CASE, GRANTING
INTERVENTION, AND SCHEDULING PREHEARING CONFERENCE**

On November 21, 1997, the Staff of the Missouri Public Service Commission (Staff) filed a pleading entitled "Motion to Open Docket" with the Commission in which it requested the Commission to open a docket to consider the Stipulation and Agreement (Agreement) reached between Staff, the Office of Public Counsel (OPC), Northeast Missouri Rural Telephone Company (NMRTC) and AT&T Communications of the Southwest, Inc. (AT&T), that was filed with Staff's motion.

In its motion, Staff alleged that it had initiated an overearnings investigation of NMRTC in May of 1997, and that Staff, AT&T, OPC, NMRTC and Southwestern Bell Telephone Company (SWBT) discussed Staff's preliminary per book earnings analysis. These discussions resulted in the nonunanimous Agreement proposed by Staff, AT&T, OPC and NMRTC, which would reduce NMRTC's revenues by approximately \$222,595.00 annually. Under the proposed Agreement, NMRTC's charges for Originating CCL, Terminating CCL, Local Transport, Local Switching, Directory Assistance and other parts of access would be lowered and its IntraLATA and InterLATA rates would be equalized. NMRTC has not filed tariff sheets to implement the proposed rate

reductions. Should the Commission approve the Agreement, NMRTC would be directed to file conforming tariff sheets.

SWBT filed an application to intervene and request for hearing on December 2. SWBT stated that, as the primary toll carrier for NMRTC, SWBT is responsible for a significant percentage of NMRTC's annual revenues and SWBT is NMRTC's largest intrastate access services customer. SWBT alleged that its interests could not be represented by any other party to the docket. SWBT stated that it opposes the proposed Agreement because of the proposed rate design under which NMRTC seeks to reduce its level of earnings. SWBT requested a hearing on all rate design issues associated with the proposed rate design changes.

On December 12, NMRTC filed suggestions in opposition to SWBT's application to intervene. NMRTC alleged that SWBT's dispute with the proposed rate reductions was not factual in nature. In NMRTC's view, SWBT has presented a mere policy issue of whether the Commission should allow rate reductions designed to achieve parity of rates for interLATA and intraLATA access charges. NMRTC pointed out that numerous companies already have parity between their interLATA and intraLATA access rates, and that an evidentiary hearing would be costly and would be unlikely to develop any pertinent facts beyond those already developed in the Commission's recent COS and PTC Plan hearings in Case Nos. TW-97-333 and TO-97-217, respectively. NMRTC requested denial of SWBT's application to intervene and approval of the Agreement without a hearing.

The Commission finds that Staff's motion to open a docket to address the proposed Agreement should be granted, and that the scope of the docket should be the same as for any case involving an overearnings investigation.

The Commission further finds that SWBT's application is in substantial compliance with Commission rules regarding intervention and that SWBT has an interest in this matter which is different from that of the general public. The Commission finds that SWBT's request for intervention should be granted.

The Commission finds that interested persons should receive notice of the case. The Commission's Records Department should send a copy of this order to the county commissioners of Adair County, Clark County, Knox County, Linn County, Macon County, Putnam County, Scotland County, Schuyler County and Sullivan County, Missouri. The Records Department should also send a copy of this order to the mayor of every city located in these nine counties. The Commission's Information Officer should send a copy of this order to the members of the General Assembly who represent NMRTC's service areas, and to the publisher of each newspaper in NMRTC's service areas, as listed in the *Official Manual of the State of Missouri*.

Any party who wishes to intervene must file a written Application to Intervene within 20 days and address it to the Secretary of the Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102. Copies of any Application to Intervene must be sent to:

Roger W. Steiner
Attorney for the Staff of the
Missouri Public Service
Commission
Post Office Box 360
Jefferson City, MO 65102

Paul G. Lane
Leo J. Bub
Anthony K. Conroy
Diana J. Harter
Southwestern Bell Telephone
Company
100 North Tucker Boulevard
Room 630
St. Louis, MO 63101-1976

Although SWBT did not file its request for hearing within five days after the proposed Agreement was filed, the filing deadline of 4 CSR 240-2.115(3) did not apply at the time the proposed Agreement was

filed because there was no contested case pending. SWBT's application for hearing was timely, and the Agreement is not unanimous. NMRTC's argument that no hearing is necessary because of the facts adduced in other recent hearings of the Commission is not persuasive. The COS and PTC Plan hearings did not involve recalculation of access charges. See Case Nos. TW-97-333 and TO-97-217. Moreover, there may be parties interested in the issue presented by SWBT in this case who were not parties to the COS and PTC Plan dockets, and these parties should be given an opportunity to participate. For these reasons, the Commission finds that there are facts in dispute and SWBT's request for a hearing should be granted.

The Commission finds that it should schedule a hearing and that it should also schedule a prehearing conference to follow the deadline for intervention so that the parties who have requested and been granted permission to intervene can identify the issues in dispute and develop a proposed procedural schedule. The parties should be prepared to discuss the facts and stipulate to those facts which are not in dispute. The parties shall then file a recommended procedural schedule no later than January 12, 1998.

IT IS THEREFORE ORDERED:

1. That the Motion to Open Docket filed by the Missouri Public Service Commission's Staff on November 21, 1997, is granted.
2. That the Commission's Records Department and Information Officer shall send notice as described in this order.
3. That the application for intervention filed by Southwestern Bell Telephone Company is granted.
4. That parties wishing to intervene shall file an application to intervene no later than January 2, 1998.

5. That the application for hearing filed by Southwestern Bell Telephone Company is granted.

6. That a prehearing conference is set in this matter for January 5, 1998, at 10:00 a.m. in the Commission's hearing room on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

7. That an evidentiary hearing is set in this matter for April 20-22, 1998, in the Commission's hearing room on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. The hearing shall begin at 9:30 a.m. on April 20, 1998, and at 8:30 a.m. on each of the following days of the hearing.

8. That any persons with special needs as addressed by the Americans With Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the prehearing at one of the following numbers: Consumer Services Hotline - 1-800-392-4211, or TDD Hotline - 1-800-829-7541.

9. That the parties shall file a proposed procedural schedule no later than January 12, 1998.

10. That this order shall become effective on December 16, 1997.

BY THE COMMISSION

A handwritten signature in cursive script that reads "Dale Hardy Roberts".

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Randles, Regulatory Law Judge