Missouri Public Service Commission

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MISSOURI
PUBLIC SERVICE COMMISSION

Mr. David L. Rauch
Executive Secretary
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. [redacted]

Dear Mr. Rauch:

Enclosed for filing in the above-captioned case are an original and fourteen (14) conformed copies of a **STIPULATION AND AGREEMENT**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely,

Thomas R Schwarz, Jr.

Thomas R. Schwarz, Jr.
Senior Counsel
314-751-5239

TRS/bss
Enclosures

cc: Counsel of Record

**BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Investigation)
into Southwestern Bell Telephone) Case No. TO-94-184
Company's Affiliate Transactions)

STIPULATION AND AGREEMENT

I. Background

This docket arose as a result of the Commission's finding that in the two most recent Southwestern Bell Telephone Company (SWBT) rate cases the records were insufficient for the Commission to determine if adjustments to SWBT's revenue requirement for certain affiliate transactions were necessary or the amounts of such adjustments. The parties[1] disputed the appropriate standards (FCC or otherwise) for affiliate transactions; the existence of data to gauge compliance with, or violation of, such standards; and the documentation necessary to support that data.[2]

Procedurally, the Commission opened this docket in its Report and Order of December 17, 1993, in Docket TC-93-224. Pursuant to subsequent orders in this docket the Staff of the Commission (the Staff) filed a copy of a Joint FCC/Five State Report of SWBT affiliate transactions; each party filed a statement of the

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[1] "Parties" refers to SWBT, Office of the Public Counsel (OPC), and the Staff. Although other parties intervened only MICPA has taken an active role.

[2] In Staff's Comments filed on May 31, 1994, in which SWBT agrees, it was stated that because of the prevalence of parent company cost allocations in Missouri utilities, focusing the docket only on SWBT would unduly limit the scope of the issues under examination. The examination of procedures used by other utility groups to allocate parent company costs could provide a more systematic review which could lead to a generic policy for issues posed by the affiliate transactions of all regulated utilities.

proposed scope of this docket; the Staff and SWBT filed a joint report of the parties on August 24, 1994; the parties filed position statements on October 21, 1994; and the Commission subsequently ordered this filing, with a Hearing Memorandum and suggested procedural schedule to be filed on March 3, 1995.

A number of developments since the inception of this docket may affect the further proceedings of this docket. The Commission, SWBT and OPC settled the issues appealed in Docket TC-93-224 in August, 1994. By the terms of the settlement the signatories foreswore initiation of general review of SWBT rates until 1998, with no rate or complaint case to be filed until January 1, 1999. Also currently pending is FCC action on proposed amendments to its affiliate transaction rules for common carriers. There is also a complete review of all nonstructural safeguards underway, including the affiliate transaction rules, in response to the Ninth Circuit Court's remand to the FCC of the Computer Inquiry III proceeding. In addition to complying with the Missouri Rules, SWBT must comply with any changes to the current rules which the FCC eventually adopts. Finally, the Commission on Informational Technology has recommended adoption of legislation to change the structure and regulation of the telecommunications industry in Missouri. Each of these intervening events can and will have an impact on the position of the parties, and implementation of Commission policies, on affiliate transactions.

The parties have agreed on a number of SWBT-specific pre-audit procedures for affiliate transactions, but substantially disagree

over the standards by which affiliate transactions will be judged. In this filing the parties will set out the pre-audit procedures on which they agree, and note disputed items. Each party will more fully explain its position on the disputed issues in the Hearing Memorandum to be filed on March 3, 1995.

II. Items of Agreement

The parties have agreed that a structure for a pre-audit conference should contain the following items:

1. Copies of all affiliate purchases and sales contracts for the test period will be provided. These purchase and sales contracts will be indexed by year and by affiliate company.

2. Reports containing the revenue and/or expense of purchases from and sales to affiliates, by affiliate, for the test period will be provided.

3. Review of existing FCC affiliate transaction rules with emphasis on any significant changes since the last audit with the opportunity for direct interview by Staff of SWBT subject matter experts. This review will include an overview of what constitutes audit compliance of sales of services to affiliates. Purchases of services from affiliates will be outlined by type of affiliate: i.e., cost allocation, prevailing price, etc.

4. Review with staff auditors the following sections of the Cost Allocation Manual:

   a. Sections IV - Chart of affiliates

   b. Sections V - Transactions with affiliates

5. Review any significant operational changes to the purchases or sale of services to affiliates since the last audit.

6. Provide copies of any SWBT compliance reviews of purchases from affiliates conducted during the test period. SWBT agrees to perform and provide compliance reviews for its transactions with Southwestern Bell Communications (SBC).

7. Provide copies of any SWBT internal audits of affiliate transactions conducted during the test period. SWBT affiliate services group will coordinate with the SBC internal audit group to schedule timely audits of SBC and Yellow Pages prior to the next complaint case.

8. Provide the cost/price worksheets for sales of services to affiliates only for the test period. These worksheets will include incremental unit cost, fully distributed cost and price for each billing element.

9. Respond to specific questions concerning tariff sales or prevailing price sales to affiliates, with the understanding that affiliated companies receive tariffed and prevailing price services under the same terms and conditions as similar non-affiliated companies.

10. Present to staff auditors an overview of the audit trail for the purchases from the major affiliates (SBC, Yellow Pages, Telecom, Mobile Systems). The audit trail for the major affiliates will include time reporting, as appropriate, cost allocation, prevailing price review, etc.

11. Present to staff auditors an overview of sales to the major affiliates. The audit trail will include a cost studies overview, pricing, billing, etc.

12. Answer any remaining instant audit trail process questions that Staff Auditors may have.

The Staff, SWBT, and OPC have agreed to convene a pre-audit conference on affiliated transactions in June, 1997, to permit analysis of how the process works. The pre-audit conference will also permit the Staff and OPC to address concerns with the data, and documentation of data, that SWBT provides so that problems might be resolved to provide appropriate test year records for any future SWBT rate case. There will be no actual affiliate transaction audit in 1997. The parties agree that the Commission should use this docket to resolve SWBT-specific questions regarding affiliate transactions.

III. Items of Difference

The parties disagree on the appropriate standard by which affiliate transactions will be measured. SWBT avers that the current FCC standards are adequate to insure that its affiliate transactions are proper and that no subsidy flows from SWBT to its affiliates. The Staff and OPC contend that the proposed amendments to the FCC affiliate transaction rules must be adopted and enforced to secure adequate protection for regulated ratepayers.[3]

SWBT avers that Commission enunciation of appropriate affiliate transactions standards is a general statement of policy affecting the rights of, and procedures applicable to, all utilities or at least all local exchange telephone companies, and should be made in compliance with the provisions of Chapter 536, RSMo, through a rulemaking or a generic docket. SWBT believes that the Commission cannot lawfully develop and apply unique affiliate transaction standards to SWBT alone. Such standards should not be applicable to SWBT, particularly if such standards differ from the Commission's current rules in regard to such transactions.

The Staff avers that review of affiliate transactions must begin with an inquiry into the reasonableness of entering the particular transaction in the first place, preferably by reference to a bid process. SWBT believes that the items of agreement address the SWBT issues involved in this docket and that any

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[3] Staff has suggested audit of regulated/deregulated services is also necessary to protect ratepayers.

remaining questions Staff has must be addressed in a generic docket or rulemaking.

The Staff avers that SWBT's audit trail of FDC studies in support of sales by SWBT to affiliate transactions is not sufficient to permit the conclusion that all SWBT costs for the relevant time period have been considered in the studies, and all property costs included. Without adequate data on this issue, computation of adjustments, if needed, is not possible in a rate case. SWBT avers that the cost studies are adequate and that Staff will have ample opportunity to assess the adequacy of the studies in the 1997 pre-audit meeting.

IV. Conclusion

If the Commission does not close this docket then the Staff, OPC, and SWBT will address their differences in more detail in the Hearing Memorandum to be filed in this docket on March 3, 1995.

Respectfully submitted,

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