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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 11th
day of July, 1997.

Petition of Southwestern Bell)
Telephone Company for a)
Determination that it is Subject) CASE NO. TO-97-397
to Price Cap Regulation Under)
Section 392.245 RSMo (1996).)

ORDER REGARDING MOTION TO STRIKE AND FOR
RETURN OF CONFIDENTIAL INFORMATION

This case involves a petition filed by Southwestern Bell Telephone Company (SWBT) for a determination that it is subject to price cap regulation. On June 20, 1997, SWBT filed a motion to strike the testimony filed on behalf of MCI Telecommunications Corporation (MCI) and MCImetro Access Transmission Services (MCImetro), and require the return of information it considers to be confidential.¹ MCI, MCImetro and OPC filed timely written responses to SWBT's motion. In addition, all parties were invited to argue orally their positions on SWBT's motion prior to the commencement of the hearing on the merits of SWBT's price cap petition, which was held on June 30.

In essence, SWBT claims that certain confidential information contained in monthly financial reports, obtained by OPC, was improperly given to MCI in response to a data request. The confidential information was subsequently incorporated in the testimony of MCI and MCImetro witness

¹SWBT filed an earlier motion to strike on June 12, 1997, requesting that certain testimony filed on behalf of MCI, MCImetro and the Office of the Public Counsel (OPC) be stricken. The underlying basis for the earlier motion is different from the current motion, and the earlier motion was granted in part in an order issued on June 27, 1997. Based upon the Commission's ruling, the portion of SWBT's June 30th motion which seeks to strike the testimony of MCI and MCImetro is now essentially moot.

Lane Kollen, and filed under seal with a proprietary designation. In its written response and during oral argument, OPC contends that it had a right to provide the disputed information to MCI pursuant to a data request subject to the Commission's protective order, citing to section 386.380, RSMo 1994. At the hearing a discussion ensued as to the interpretation and meaning of various statutory provisions, including section 386.480, RSMo 1994. The Commission finds that briefing of the legal aspects of this dispute is warranted. Thus, the Commission will direct the parties to address the legal aspects of this dispute in their briefs, including, but not limited to, a discussion of any appellate authority interpreting sections 386.380 and 386.480, RSMo 1994, as well as Chapter 610 RSMo. The Commission will also expand the page limits for initial briefs from 30 pages to 35 pages, and reply briefs from 15 pages to 20 pages.

An inquiry was also made at the hearing regarding who saw or had access to the confidential information. Based upon the information provided by counsel for the parties, the Commission finds that it is necessary and appropriate to order that no further dissemination of this information take place. No one who has not already seen the information should have access to the information, regardless of whether that individual has signed or will sign a nondisclosure agreement under the Commission's protective order. Further, counsel who were present at the hearing are directed to locate all existing copies of the information and maintain those copies, with access restricted to those particular attorneys. In the case of Sprint Communications Company, L.P., which was not present at the hearing, copies of the information should be located and maintained by that party's counsel of record. These steps are necessary to help maintain the status quo pending the Commission's determination on the merits of the issue.

IT IS THEREFORE ORDERED:

1. That the parties are directed to address in their briefs the legal aspects of the provision of Southwestern Bell Telephone Company's monthly financial reports to MCI Telecommunications Corporation and MCImetro Access Transmission Services by the Office of the Public Counsel.

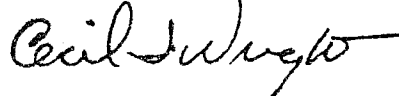
2. That the page limit for initial briefs is expanded from 30 pages to 35 pages, and for reply briefs from 15 pages to 20 pages.

3. That no further dissemination of Southwestern Bell Telephone Company's monthly financial reports shall take place. No one who has not already seen this information shall have access to it, regardless of whether that individual has signed or will sign a nondisclosure agreement pursuant to the Commission's protective order.

4. That counsel who were present at the hearing on June 30, 1997 shall take steps to ensure that all existing copies of Southwestern Bell Telephone Company's monthly financial reports are located, gathered together and maintained, with access restricted to those particular attorneys. In the case of Sprint Communications Company, L.P., which was not present at the hearing, copies of the information should be located and maintained by that party's counsel of record.

5. That this order shall become effective on the date hereof.

BY THE COMMISSION



Cecil I. Wright
Executive Secretary

(S E A L)

Zobrist, Chm., Crumpton,
Lumpe, Murray and Drainer,
CC., Concur.

ALJ: Bensavage