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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

PREHEARING CONFERENCE

October 4, 2002
Jefferson City, Missouri
Volume 2

In the Matter of the Joint)
Application of Northeast Missouri)
Rural Telephone Company and Modern) Case
Telecommunications Company for) No. TM-2002-465
Approval to Merge Modern)
Telecommunications Company and)
Northeast Missouri Rural Telephone)
Company.)

BEFORE:

KEVIN A. THOMPSON, Presiding,
DEPUTY CHIEF REGULATORY LAW JUDGE.

REPORTED BY:

KRISTAL R. MURPHY, CSR, RPR, CCR
ASSOCIATED COURT REPORTERS

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21 FOR: Staff of the Missouri Public Service
22 Commission.

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P R O C E E D I N G S

(Written Entries of Appearance filed.)

JUDGE THOMPSON: Good morning. My name is Kevin Thompson. I am the Regulatory Law Judge assigned to preside over this matter, which is, "In the Matter of the Joint Application of Northeast Missouri Rural Telephone Company and Modern Telecommunications Company for Approval to Merge Modern Telecommunications Company and Northeast Missouri Rural Telephone Company," Case No. TM-2002-465.

We'll take entries of appearance at this time. Why don't we begin with the Company's representative?

MR. JOHNSON: Thank you, your Honor. Craig Johnson, Andereck, Evans, Milne, Peace & Johnson, 700 East Capitol, Post Office Box 1438, Jefferson City, Missouri, 65102, appearing for Northeast Missouri Rural Telephone Company and Modern Telecommunications Company.

JUDGE THOMPSON: Thank you, Mr. Johnson. Staff?

MR. SNODGRASS: Yes. Good morning, Judge. Cliff Snodgrass representing the interests of the Staff of the Missouri Public Service

1 Commission. I think I have formally appeared earlier
2 in this case, but for the record, my business address
3 is Governor Office Building, Suite 800, 200 Madison
4 Street, P.O. Box 360, Jefferson City, Missouri,
5 65102-0360.

6 JUDGE THOMPSON: Thank you.
7 Intervenor Southwestern Bell?

8 MR. DORITY: Thank you, Judge.

9 Larry W. DORITY, Fischer & DORITY, P.C. Our
10 address is 101 Madison, Suite 400, Jefferson City,
11 Missouri, 65101, appearing on behalf of the Intervenor
12 Southwestern Bell Telephone, L.P., d/b/a Southwestern
13 Bell Telephone Company.

14 JUDGE THOMPSON: Thank you, Mr. DORITY.
15 Intervenor AT&T?

16 MR. COMLEY: Yes, your Honor.

17 Let the record reflect the entry of
18 appearance of Mark W. Comley, Newman, Comley & Ruth,
19 601 Monroe Street, Suite 301, Jefferson City,
20 Missouri, 65101, appearing on behalf of AT&T
21 Communications of the Southwest, Inc.

22 JUDGE THOMPSON: Thank you.

23 I set this prehearing conference upon
24 learning that evidently there is no longer an active
25 controversy in this case, and that, consequently,

1 there may be no need to go forward with the
2 evidentiary hearing that's scheduled for next week.

3 Would someone like to report to me on the
4 status of the case and let me know whether that
5 possibility is true?

6 MR. SNODGRASS: I think -- Judge, if I can
7 speak for the parties here, I think we have
8 substantial agreement on this case. I think that the
9 Intervenors may not be signing onto a Stip, but may be
10 indicating they have no objection to the Stipulation.

11 I believe, as far as I know, the Applicant,
12 Staff, and OPC are working on a final version of a
13 Stip to submit to you and the Commission, and I think
14 that would probably take a few days to finish up. But
15 I don't believe this is an active controversy at this
16 time, speaking for the Staff.

17 JUDGE THOMPSON: Very well. In view of your
18 report, it would be my intention, then, to go ahead
19 and cancel the two days that we have scheduled for a
20 hearing next week.

21 Does anybody have any response to that?

22 Mr. Johnson.

23 MR. JOHNSON: My only concern is that if the
24 Stipulation doesn't get reduced to a signed and
25 executed stipulation, if we lose the hearing date,

1 since this merger is scheduled to be effective
2 January 1, there are other approvals externally to the
3 Commission that we're having to contend with as well
4 as this proceeding. That would be my concern, that I
5 would prefer that you wait until the Stipulation is
6 filed before cancelling the hearing date.

7 JUDGE THOMPSON: Okay. I think you
8 certainly raise a good point.

9 I will go ahead, then, and wait until the
10 Stipulation is filed.

11 Really, the practical issue involved with
12 that is that the Commissioners like to know whether or
13 not they have to wade through all of the testimony
14 prior to the hearing date. And I can tell them that
15 most likely they don't have to, but they're going to
16 get jittery.

17 MR. JOHNSON: If I might, your Honor, it
18 became apparent, I think, that there was going to be a
19 lack of controversy between the parties about two
20 weeks ago, and I suggested in lieu of trying to do the
21 Stipulation at the last minute that we come down here
22 and pre-admit the testimony. And I'll frankly admit
23 that I wasn't thinking about or concerned about the
24 Commissioners' burden of reading stuff before a
25 hearing.

1 JUDGE THOMPSON: See, I have to work with
2 them so I have to consider that.

3 MR. JOHNSON: I can see that you would.

4 Even if we do get the Stipulation executed,
5 is it possible the Commissioners still might have a
6 question? It's been my experience in the past that
7 sometimes Stipulations don't eliminate Commission
8 inquiry that would need to be made. That would be
9 another reason for preserving at least the first day
10 of the hearing so that if that is the case, we can be
11 notified and I can bring my witness and make him
12 available.

13 JUDGE THOMPSON: Well -- and that's a good
14 point as well.

15 I do not know whether they're going to have
16 any questions in this case or not. On the face of it,
17 I think it is one where they are perhaps less likely
18 to have questions than in other cases. Since it's a
19 merger of companies that are -- one is already wholly
20 owned by the other anyway, there is no need for them
21 to be concerned about consumer customers.

22 I understand the Intervenors are also
23 customers in a sense, and -- and -- but I don't know
24 that the Commissioners are as concerned with the
25 issues that brought the Intervenors in the case as the

1 Intervenor are. I guess they figure you guys are big
2 boys and you can protect your own interests and they
3 don't really have to worry about you.

4 But I don't know. I can't say they don't
5 have questions. I just think it's not that likely.

6 And, frankly, were there not a Stipulation
7 in the works, it was my intention then to inquire of
8 the parties at this prehearing on the record as to
9 each of these issues and what degree of controversy
10 remains. And, frankly, it looks as though there is
11 only one or two issues where there was ever any real
12 controversy here. Is that correct?

13 MR. SNODGRASS: That's my perception, Judge.
14 I think you're accurate from Staff's point of view.

15 MR. JOHNSON: When you say "ever," there's
16 been --

17 JUDGE THOMPSON: Maybe that's too broad a
18 statement.

19 MR. JOHNSON: When you go back to the
20 beginning, there's been lots of things that have been
21 worked out and resolved. I think when you look at the
22 testimony, it's probably true that at most you could
23 identify one or two issues that might be disputed, but
24 I'm not sure that's an accurate description of the
25 testimony either.

1 But I'd be happy to try to answer any
2 questions about any matters that appear to be
3 unresolved based upon the testimony.

4 JUDGE THOMPSON: Do we have any idea when we
5 might see the Stipulation and Agreement?

6 MR. JOHNSON: I brought one today, but I
7 found out that there's some more draft-- drafting that
8 is going to be done to it.

9 JUDGE THOMPSON: Okay.

10 MR. JOHNSON: I was hoping we could all sign
11 it today and file it, and then AT&T and Bell on the
12 record could say they weren't going to oppose it, and
13 we could all just go home.

14 JUDGE THOMPSON: That would have been nice.

15 MR. JOHNSON: Public Counsel said they were
16 going to sign off on what we had thus far, but they
17 are not present either, so apparently that won't
18 happen.

19 JUDGE THOMPSON: Well, it looks like we're
20 lurching toward settlement. I just had the Laclede
21 rate case. It took four -- four stages to get that
22 one settled, but we got there in the end.

23 MR. JOHNSON: Was it easier than a hearing?

24 JUDGE THOMPSON: It was a lot easier than a
25 hearing. It was.

1 MR. JOHNSON: Okay. That makes me happy.

2 JUDGE THOMPSON: And they had questions on
3 that one too, so we got to do a nice on-the-record.

4 I will wait with gleeful anticipation, then,
5 to hear from the parties. I will inform the
6 Commissioners that probably they don't have to read
7 all of that stuff, but that there is no guarantees in
8 the world of the law.

9 You know the answer to every legal question
10 is maybe. Right? So maybe.

11 Hey, you guys have a great weekend. Thanks
12 for coming down today.

13 We will adjourn the prehearing conference at
14 this time.

15 WHEREUPON, the on-the-record portion of the
16 prehearing conference was concluded.

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