

940101-0001

STATE CORPORATION COMMISSION
JAN 10 1994

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JAN 7 1994
John A. ... Docket Room

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of a Common Depreciation schedule for Small Independent Telephone Companies in Kansas.)
)
) Docket No. 188,681-U
)

SOUTHWESTERN BELL TELEPHONE COMPANY'S PETITION FOR RECONSIDERATION, OR IN THE ALTERNATIVE FOR CLARIFICATION

COMES NOW Southwestern Bell Telephone Company (SWBT) and pursuant to K.S.A. 77-529, K.S.A. 66-118b, and K.A.R. 82-1-235 files its Petition for Reconsideration, or in the Alternative for Clarification, in the above-captioned docket.

I. Making SWBT Subject to Higher Access Charges From All ILECs on a Retroactive Basis is Unfair.

SWBT was a party to the Access Stipulation entered into by all the ILECs in Kansas in 1990. In that Stipulation, SWBT agreed to allow ILECs to file expedited rate cases which would recover increased expenses, including increased depreciation expenses. In fact, SWBT expected that such increases would occur. However, SWBT expected that these increases would evolve as they have in the past, i.e., through the filing of depreciation studies and rate case proceedings.

However, SWBT (and probably the other parties, including the small ILECs) did not anticipate a common depreciation schedule like the one adopted by the Commission in its December 21, 1993 Order.

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It is extremely unlikely that SWBT would have agreed to the Stipulation allowing for expedited rate cases if such a schedule had been contemplated at the time. The common schedule encourages industry-wide increases in depreciation expenses of an unprecedented magnitude. In fact, 31 of the 35 small ILECs in Kansas have already filed for increased depreciation rates to be effective in 1993. Many of those have requested rates that are out of the ranges approved by the Commission, but the Staff has recommended that in those cases the ILECs be given the highest allowable rate within the range, no questions asked.

By making the changes retroactive to January 1, 1993, the Commission's Order has changed the rules during the Stipulation's effective period without allowing SWBT a realistic opportunity to prevent the increased access costs that will likely result from the increase in depreciation rates¹. The fact that the Order is retroactive also allows the ILECs to increase their access charges in 1994 (through expedited rate cases allowed by the Access Stipulation) to recover increased 1993 depreciation expenses. As a result, if SWBT and the ILECs choose to negotiate a new access agreement when the present one expires at the end of 1994, the higher access rates will already be established prior to those negotiations and SWBT's ability to negotiate favorable access costs will be adversely impacted.

In short, SWBT agreed to the present Access Stipulation based

¹ This is especially true because the Order making the schedules retroactive to January 1, 1993 was entered in the final two weeks of 1993.

on certain basic assumptions. The Commission, by making the new common depreciation schedule effective to January 1, 1993, has dramatically changed those assumptions and thereby unfairly changed the basis of SWBT's agreement with the ILECs. On the other hand, if the Commission had made January 1, 1994 the effective date, the ILECs could only seek higher access charges reflecting the ILEC's higher 1994 depreciation costs in 1995. Accordingly, SWBT respectfully requests that the Commission reconsider its Order in this docket and make the effective date of the depreciation schedules January 1, 1994.

II. The Commission Should Order That a Similar Depreciation Simplification Process be Developed for Larger LECs.

The Commission's approval of a simplification process is very timely now, as many state commissions and the FCC are focusing on this vital issue. SWBT is encouraged by and notes with approval the comment in paragraph 22 of the December 21, 1993 Order in which it states that Staff is considering a similar simplification proposal for larger LECs. However, no time frame for this project was identified. SWBT submits that neither the Staff nor any other commentors in this docket identified any substantial reasons why SWBT should not also have this type of regulatory relief. Special treatment for one segment of the Kansas telecommunications industry causes a disadvantage to the other segments of the industry. SWBT's ratepayers deserve to receive the same benefits from reduced regulation and improved efficiency that the smaller ILEC's ratepayers will have as a result of this Order. As the Commission

Accordingly, SWBT requests that the Order be clarified to state that the small ILECs must be prepared to show, upon request from any interested party or the Commission, that a requested rate is appropriate and not simply selected because it is within the ranges on the common schedule.

B. ILECs Will Be Required to Support Rate Requests That Are Outside the Ranges or if More Than One Request is Made in a Year.

The Staff's memorandum of December 3, 1993 provides that if an ILEC requests rates that are outside the ranges, or if an ILEC asks for more than one rate change in a given year, that the ILEC will be required to supply formal depreciation studies as in the past. The December 21 Order finds the Staff's proposal reasonable, but does not explicitly adopt all of its recommendation. This is one recommendation that SWBT submits should be specifically adopted. This rule should be specifically applied to the 18 ILECs that had filed for new rates before the December 21 Order was entered. Many of those rates are out of the ranges, and pursuant to Staff's recommendation, support should be required in the form of traditional depreciation studies. This will be discussed in further detail below.

C. ILECs Should Not Be Allowed to Keep All Depreciation Rates That Are Above the Ranges and Bring All Others to the Top of Their Respective Ranges.

The December 21 Order provides that ILECs are not required to change their rates to bring them into line with the schedule, but may do so if they so choose. This open-ended provision could have the unintended effect of allowing an ILEC to have overall

depreciation rates that are higher than the overall rates reflected by the common schedule. This can occur because several ILECs have depreciation rates that are already above the ranges. To counter this problem, SWBT respectfully requests that the Commission clarify the Order to require any ILEC that seeks to increase any rate that is within the range to also bring any of its present rates that are above the ranges to within their respective ranges. In this way, ILECs may not inflate their depreciation expenses, and therefore their access costs, by retaining their above-the-range rates through the Order's grandfathering provision and raising all other rates to the maximum levels within the ranges.

WHEREFORE, for the reasons stated above, SWBT respectfully requests that the December 21, 1993 Order entered by the Commission in this docket be reconsidered and amended as set forth above, or in the alternative that the Commission issue its Order clarifying the Order as requested above.

Respectfully submitted,



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VERIFICATION

STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

J. M. Connolly, of lawful age, being duly sworn according to law, upon his/her oath, deposes and says:

I am the District Manager-Rate Administration and Industry Relations for the Kansas Division of Southwestern Bell Telephone Company, and as such am authorized on behalf of the Company to make this verification; that I have read the above and foregoing Petition and verify that the information contained therein is true and correct according to the best of my knowledge, information and belief.

J. M. Connolly
J. M. Connolly

Subscribed and sworn to before me this 7 day of January, 1994.



Belinda Joyce Wilson
Notary Public

My Appointment Expires: January 26, 1995

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Petition of Southwestern Bell Telephone Company was mailed this 7th day of January, 1994, to the following:

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