Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Southwestern Bell Telephone Company — Transmittal No. 2174

Revisions to Tariff F.C.C. No. 68

ORDER

Adopted: May 21, 1992; Released: May 22, 1992

By the Chief, Common Carrier Bureau:

1. On February 25, 1992, Southwestern Bell Telephone Company (SWB) filed Transmittal No. 2174 to provide the state of Missouri with Intelligent Multifunction Multiplexer Service in two of SWB's central offices. Intelligent Multifunction Multiplexing provides both digital and voice multiplexing capability. Transmittal 2174 Description and Justification at 2. The service provides automatic preprogrammed rerouting and customer initiated, or controlled, rerouting of DS1 and DS0 level circuits. *Id.* SWB proposes to price these two services on an individual case basis (ICB). SWB currently provides six other multifunction multiplexers to Missouri at ICB prices. Transmittal 2174 is unopposed. It is scheduled to become effective on May 25, 1992.

2. In its *ICB Order* the Commission stated that DS3 facilities should be offered by local exchange carriers (LECs) at generally available rates.[1] The Order also stated that "carriers that continue to file ICB rates for DS3 service must justify the use of such rates."[2] The Commission reasoned that once a LEC gains sufficient experience with a service to develop averaged rates, it must do so. In the *ICB Reconsideration Order* the Commission stated: "Our conclusion in the *ICB Order* that LECs must justify all departures from general rates is not... limited to DS3s or DS3-equivalents. We accordingly expect that future LEC ICB filings for any service will explain the justification for offering a particular service on an ICB basis."[3]

3. Since the adoption of the *ICB Order* and the *ICB Reconsideration Order,* the Bureau has required a LEC to provide a service at general rates instead of on an ICB basis, once that carrier provides enough facilities to be able to average their costs. It has made no difference that only one customer received the ICB-priced services.[4]

4. This SWB transmittal provides two multifunction multiplexers in Missouri to a single customer, at ICB rates. SWB currently provides six other multifunction multiplexers to the same customer at ICB prices. We believe that SWB's offering this number of facilities in one study area gives it more than enough experience to develop a general, averaged rate for multifunction multiplexer service in Missouri, which rate would be available to all potential multifunction multiplexer customers in that state. Moreover, SWB has made no effort to justify its use of ICB pricing, as required by the *ICB Order* and *ICB Reconsideration Order.* The supporting materials filed with the transmittal contain no assertion that SWB lacks sufficient experience to develop a general rate. Therefore, we conclude that SWB's Transmittal 2174 violates the standard adopted in the *ICB Order* and *ICB Reconsideration Order.* Accordingly, the transmittal is patently unlawful and must be rejected.

5. Therefore, IT IS ORDERED that Southwestern Bell Telephone Company's Tariff F.C.C. No. 68, Transmittal No. 2174 IS REJECTED.

6. IT IS FURTHER ORDERED that Southwestern Bell Telephone Company SHALL ISSUE revisions to the tariff no later than five business days from the release of this Order removing the rejected material from its tariff. These revisions shall be scheduled to become effective on one day's notice.

7. IT IS FURTHER ORDERED that Special Permission No. 92-340 IS ASSIGNED and Sections 61.58 and 61.59 of the Commissions Rules, 47 C.F.R. §§ 61.58, 61.59, ARE WAIVED for the purposes of issuing the above revisions.

FEDERAL COMMUNICATIONS COMMISSION

Cheryl A. Tritt
Chief, Common Carrier Bureau

[1] Local Exchange Carriers' Individual Case Basis DS3 Service Offering, CC Docket No. 88-136, GTE Telephone Operating Companies, CC Docket No. 89-305, 4 FCC Rcd 8634 (1989) (*ICB Order); on recon.* 5 FCC Rcd 4842 (1990) (*ICB Reconsideration Order).*

[2] *ICB Order,* 4 FCC Rcd at 8642 (para. 68).

[3] *ICB Reconsideration Order,* 5 FCC Rcd at 4846 (para. 38).

[4] *See* Contel Telephone Companies, 6 FCC Rcd 3468 (1991).