

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Brian J. Moline, Chair
 Robert E. Krehbiel
 Michael C. Moffet

In the Matter of the Application of Southwestern)
Bell Telephone, L.P. Filing a Price Cap Plan to)
Basket 1 and Basket 3 API Summary Calculations) Docket No. 05-SWBT-152-MIS
Report for the October 1, 2004, Annual Price Cap)
Demand Updates.)

ORDER

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

1. On December 17, 1997 in Docket No. 98-SWBT-380-GIT, Southwestern Bell Telephone, L.P., then known as Southwestern Bell Telephone Company (SWBT), filed its application for approval of its regulatory reform plan, including election of price cap regulation. On September 2, 1998, the Commission issued an order approving SWBT's application with certain modifications and conditions.
2. In accordance with K.S.A. 66-2005(h) and (j), price caps for the local basket (Basket One) are to be adjusted annually after December 31, 1999, and the price caps for the miscellaneous service basket (Basket Three) are to be adjusted annually after December 31, 1997.
3. On August 27, 2004, SWBT filed its 2004 annual price cap refresh.
4. On August 31, 2004, the Citizens' Utility Ratepayer Board (CURB) filed a petition to intervene in the proceeding and a motion for a Protective Order. The Commission granted CURB's petition and motion on September 14, 2004.

5. On September 13, 2004, Commission Staff (Staff) filed a memorandum recommending Commission approval of SWBT's 2004 proposed "refresh" as filed. Staff's memorandum indicated that SWBT's application meets the criteria and requirements established by the Kansas Telecommunications Act of 1996, K.S.A. 66-2005(f)-(k). Staff's memorandum indicated further that the annual refresh updates existing quantities and adjusts the Price Cap Index (PCI) for inflation and productivity factors. Staff's memorandum also explained that according to the final phase of the Stipulation and Agreement of Docket No. 01-GIMT-082-GIT, SWBT's "headroom" – the difference between the Actual Price Index (API) and the PCI, providing SWBT with pricing flexibility – would decrease in Basket One and slightly increase in Basket Three.

6. CURB has informed Staff that CURB's intervention is more germane to rate changes. Staff indicated that the tariff filing was made on September 10, 2004, contains those rate changes and will require a different memo and order.

7. The Commission finds and concludes that Staff's review of SWBT's application is reasonable and thorough. Consequently, the Commission concludes that SWBT's application should be approved with an effective date of October 1, 2004.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Southwestern Bell Telephone Company's application for approval of the update to its price cap plan is hereby approved with an effective date of October 1, 2004.

B. Any party may file a petition for reconsideration of this order within fifteen days of the date this order is served. If service is by mail, service is complete upon mailing and three days may be added to the above time frame.

C. The Commission retains jurisdiction over the subject matter and the parties for the purpose of issuing such further order, or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Moline, Chr.; Krehbiel, Com.; Moffet, Com.

Dated: SEP 21 2004

ORDER MAILED

SEP 21 2004

 Executive
Director

Susan K. Duffy
Executive Director

RLL: ks