



3. On November 20, 1998, SWBT notified the Commission that it intended to use intrastate depreciation rates that were in parity with those approved by the FCC. On December 23, 1998, the Commission approved use of the rates except for the two disputed accounts. The Commission ordered that the existing approved intrastate rates for the disputed accounts be used until the new rates could be determined. Further review of the rates for the disputed accounts would take place in the KUSF Cost Docket, 98-SWBT-677-MIS.

4. On January 6, 1999, SWBT filed a Petition for Review of the December 22, 1998 Order. SWBT argued that a review of SWBT's depreciation rates should take place in this docket rather than the KUSF Cost Docket.

5. On January 28, 1999, the Commission issued an Order on Reconsideration. The Commission ordered that consideration of the depreciation rates for the two disputed accounts be handled in this docket. The Order contained a procedural schedule providing for the filing of direct testimony.

6. The parties waived the technical hearing in this matter and agreed to the Commission deciding this matter based upon the prefiled testimony and briefs. Both parties filed their briefs on April 30, 1999.

7. SWBT's argued that Commission scrutiny of SWBT's depreciation rates is unjustified in the price cap regulatory environment. SWBT stated that price cap regulation has broken the link between costs and the rates consumers pay. SWBT argued that election of intrastate rates in parity with rates approved by the FCC is a business decision SWBT should be allowed to make.

8. Staff argued that the two disputed accounts are not supported by SWBT's own data. Staff identified the potential impact on the KUSF as justification for the Commission's

examination of SWBT's depreciation rates. Staff argued that the Commission will necessarily have to make a proper determination of depreciation expense when the Commission makes a periodic review of the costs associated with providing local service. Staff pointed out that depreciation expense is SWBT's largest expense of doing business in Kansas.

### Findings and Conclusions

9. The Kansas Telecommunications Act of 1996 states that, "Carriers that elect price cap regulation shall be exempt from rate base, rate of return and earnings regulation." K.S.A. 66-2005 (b). Clearly a carrier, like SWBT, that has elected price cap regulation has more flexibility in its business decisions. This flexibility necessarily includes decisions about what depreciation rates the carrier uses for general purposes.

10. While SWBT does have greater flexibility in its business decisions, the Kansas Telecommunications Act of 1996 requires Commission review of costs associated with providing local service for the purpose of adjusting the KUSF. The statute states:

The commission shall periodically review the KUSF to determine if the costs of qualified telecommunications public utilities, telecommunications carriers and wireless telecommunications service providers to provide local service justify modification of the KUSF. If the commission determines that any changes are needed, the commission shall modify the KUSF accordingly. K.S.A. 66-2008 (d).

The Commission is currently reviewing SWBT's costs of providing local service in Docket No. 98-SWBT-677-GIT. Depreciation is SWBT's largest expense in providing local service and will necessarily be reviewed by the Commission.

11. Commission scrutiny of the intrastate depreciation rates SWBT uses for general intrastate purposes is no longer warranted to the degree it was prior to SWBT's election of price cap regulation and approval of its price cap plan. SWBT's depreciation rates are not reflected in the prices under price cap regulation and a modification of the depreciation rates does not alter

the rates charged to consumers. SWBT is free, for price cap purposes, to adopt intrastate depreciation rates in parity with those rates approved by the FCC. However, Staff will continue to participate in the triennial review of SWBT's rates and SWBT is still required to file its intrastate depreciation rates with the Executive Director on an annual basis.

12. Nothing in this order should be interpreted as acceptance of SWBT's depreciation rates in the context of the KUSF. The Commission will fully analyze the depreciation rates used to determine the cost of local service in its review of the KUSF and may use different depreciation rates if warranted. The Commission may take administrative notice of the pleadings in this proceeding when determining the appropriate depreciation rates to be used in other proceedings.

THE COMMISSION, THEREFORE, ORDERS THAT:

A. SWBT may use, for general purposes, intrastate depreciation rates that are in parity with the interstate rates approved by the FCC.

B. STAFF shall continue to participate in the triennial meeting on depreciation rates between SWBT and FCC.

C. SWBT shall continue to file its depreciation rates with the Executive Director for the Commission.

D. The Commission retains its authority to review SWBT's depreciation rates for KUSF and other purposes and will use different depreciation rates when necessary.

E. The parties have fifteen days, plus three days if service of this Order is by mail, from the date of this Order in which to petition the Commission for reconsideration of any matter decided in this Order.

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

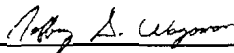
BY THE COMMISSION IT IS SO ORDERED.

Wine, Chr.; Claus, Corn.; Moline, Corn.

ORDER MAILED

Dated:           AUG 02 1999          

AUG 02 1999

  
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JEFFREY S. WAGAMAN  
EXECUTIVE DIRECTOR