

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

Application of Southwestern Bell Telephone	)	
Company to Provide Notice of Intent to File an	)	
Application for Authorization to Provide In-Region	)	Case No. TO-99-227
InterLATA Services Originating in Missouri	)	
Pursuant to Section 271 of the Telecommunications	)	
Act of 1996.	)	

**SBC MISSOURI'S COMPLIANCE FILING TO UPDATE ATTACHMENT 17 OF THE  
MISSOURI 271 INTERCONNECTION AGREEMENT**

COMES NOW Southwestern Bell Telephone, L.P., d/b/a SBC Missouri ("SBC Missouri"), and pursuant to the Commission's December 2, 2004 Order Regarding Motion to Update Attachment 17 of the Missouri 271 Interconnection Agreement ("Order"), hereby files an updated Attachment 17 of the Missouri 271 Agreement ("M2A"). SBC Missouri also provides herein certain additional information, as directed by the Order. More specifically, SBC Missouri states as follows:

1. The Commission's Order directed that "no later than December 17, 2004, [SBC Missouri] shall file an updated version of Attachment 17 of the M2A as described herein." Order, p. 21. In describing the required filing, the Commission concluded that with one exception (i.e., the addition of certain disposition codes in Appendix 2 of the Performance Measurements), the modifications to Attachment 17 of the M2A described by SBC Missouri in its May 16, 2003, Status Report and Proposed Order, and contained in Exhibit A thereto, including updated versions of Appendix 1, Appendix 2, and Appendix 3, should be incorporated into Attachment 17 of the M2A. Id., p. 18.

2. In accordance with the Order, SBC Missouri attaches hereto (as Exhibit A) an updated version of Attachment 17 which, except in the case of Appendix 2 of the Performance Measurements portion of Attachment 17, includes the modifications that were presented in

Exhibit A of SBC Missouri's May 16, 2003 Status Report and Proposed Order. Appendix 2 of Exhibit A remains unchanged from Appendix 2 of SBC Missouri's Commission-approved Version 1.7 Performance Measurements, and does not include any of the disposition codes to which CLECs had objected. The updated version of Attachment 17 will be the basis for payment of Tier 2 assessments to the state beginning with SBC Missouri's December 2004 performance results which will be reported on January 20, 2005.

3. SBC Texas, SBC Missouri and the other SBC Southwest ILECs have long used the disposition codes about which the CLECs complained to the Commission.<sup>1</sup> The source of their objection stems from an AT&T pleading submitted to the Texas Public Utility Commission ("Texas Commission") over two years ago in which AT&T complained about SBC Texas' inclusion of these codes within its Version 3.0 performance measures.<sup>2</sup> SBC Texas promptly refuted AT&T's criticisms in Texas.<sup>3</sup> The Texas Commission has since declined to issue any order addressing AT&T's complaint, and there has been no indication that it will do so in the future.<sup>4</sup> That is because, as SBC Texas explained to the Texas Commission, SBC Texas had

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<sup>1</sup> The codes to which CLECs had objected including in Appendix 2 are 1315, 1327, 1328, 1329, 1340, 1356, 1374 and 1375. See, Amended Proposed Order of AT&T Communications of the Southwest, Inc., NuVox Communications of Missouri, Inc., XO Missouri, Inc., MCI WorldCom Communications, Inc., and MCI WorldCom Network Services, Inc., at p. 9, n. 1 (filed June 4, 2003). These codes have been in use since at least before December, 2002, and in the case of code 1328, since at least before August, 2001.

<sup>2</sup> Section 271 Compliance Monitoring of Southwestern Bell Telephone Company of Texas, Project No. 20400, AT&T Communications of Texas, L. P.'s Responses to Southwestern Bell Telephone Company's Motion for Reconsideration and Southwestern Bell Telephone Company's Compliance Filing for the 2002 Performance Measurement Review, at pp. 14-15 (filed November 8, 2002) (in which AT&T asserts that "SWBT should be directed to strike the following codes from Appendix 2 in its compliance filing and to cease relying on those codes to exclude data from the performance measures: 1315, 1327, 1328, 1329, 1340, 1356, 1374 and 1375.").

<sup>3</sup> Section 271 Compliance Monitoring of Southwestern Bell Telephone Company of Texas, Project No. 20400, Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company's Reply to CLEC's Responses to SWBT's Motion for Reconsideration, at pp. 2-4 (November 14, 2002).

<sup>4</sup> Section 271 Compliance Monitoring of Southwestern Bell Telephone Company of Texas, Project No. 20400, Order No. 47 Ruling on Motions for Reconsideration of Order No. 45, at p. 5 (March 5, 2003) (wherein no discussion of the matter appears and the order states that "[a]ll other relief not expressly granted herein is denied.").

agreed in PM workshops that Appendix Two would be updated to reflect exclusion codes then in use (including those to which AT&T's counsel later objected in Texas and Missouri), and that any proposed modifications or additions thereafter would be presented for agreement or approval at a PM review (or by mutual consent of all parties prior to such a review). In the meantime, each of the SBC Southwest ILECs that has implemented the Version 3.0 performance measures has continued to use these codes - without any CLEC criticism. Under these circumstances, SBC Missouri likewise intends to continue use of the codes. If the Commission intends a different result, SBC Missouri would request that an evidentiary hearing be scheduled in order to consider the issue.

4. The Commission also concluded in its Order that SBC Missouri's proposed revisions to page iii of the Table of Contents to the General Terms and Conditions, page 40 of the General Terms and Conditions, and page 22 of Attachment 17 should be incorporated into the M2A. Order, p. 18. So that the Commission has these M2A revisions available to it, SBC Missouri attaches hereto (as Exhibit B) updated versions of page iii of the Table of Contents to the General Terms and Conditions of the M2A and page 40 of the General Terms and Conditions of the M2A. The updated version of page 22 of Attachment 17 is included within Exhibit A

5. The Commission also determined that the K-Table within Attachment 17 should not be updated pending the final outcome of the appeal of the Texas Commission's decision modifying the K-Table. Id., p. 16.<sup>5</sup> The Commission directed that "no later than December 17, 2004, [SBC Missouri] shall notify the Commission of the status of the Federal Court decision

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<sup>5</sup> The Federal Court case is styled as Southwestern Bell Telephone, L.P. d/b/a SBC Texas v. Public Utilities Commission of Texas; Rebecca Klein, in her official capacity as Chairman of the Public Utility Commission; Brett A. Perlman, in his official capacity as Commissioner of the Public Utility Commission; and Julie C. Parsley, in her official capacity as Commissioner of the Public Utility Commission, Civil Action No. SA-03-CA-249-FB (W. D. Tx., San Antonio Division).

and its impact on this case.” Id., p. 21. The Commission also stated that, if appropriate, it may reexamine the issue based on Missouri-specific data. Id., p. 17.

6. SBC Missouri advises the Commission that on October 13, 2004, SBC Texas filed a Motion to Alter or Modify the Judgment entered by the Federal District Court on September 30, 2004 (“Motion”). As of this writing, the Court has not ruled on SBC Texas’ Motion. In order to stay the judgment pending the Court’s ruling on SBC Texas’ Motion, SBC Texas also filed with the Court an Unopposed Motion to Stay the Judgment together with an Unopposed Order (which was signed on October 18, 2004). The parties to the appeal have briefed SBC Texas’ Motion, and there have been no further orders from the Court. SBC Missouri will monitor the progress of this appeal, and will notify the Commission within ten days of its becoming final. At that time, SBC Missouri will also describe the impact, if any, on this case.

7. In its Order, the Commission also directed, with respect to Performance Measure 13, that SBC Missouri “shall notify the Commission of a final audit in the State of Texas with regard to Performance Measure 13 within ten days of the audit’s completion.” Id. The Commission further concluded that SBC Missouri should provide information “on how the results of the audit would have impacted Missouri CLECs.” Id., p. 17.

8. SBC Missouri advises the Commission that on November 25, 2002, Hewlett-Packard Company (“HP”) released its Final Report of the Audit of Southwestern Bell Telephone of Texas PM 13 Flow-through and Repair Metrics Data (“Final Report”), a copy of which is attached hereto (as Exhibit C).<sup>6</sup> The Final Report conveys the results of HP’s audit of prior restatements and consequent remedy recalculations (Final Report, pp. 47-61), both of which activities had been undertaken by SBC Missouri as well as SBC Texas. On February 13, 2004,

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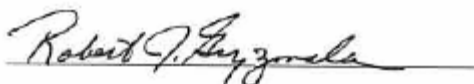
<sup>6</sup> On December 11, 2002, Hewlett-Packard Company issued a letter correcting its November 25, 2002, report in one respect, a copy of which letter is attached hereto (as Exhibit D).

the Texas Commission ordered SBC Texas to restate PM 13 data to include “P” orders (i.e., PIC change orders) and Hunt Group orders, and directed that HP should perform additional audit work to, among other things, verify the accuracy of this restatement.<sup>7</sup> This restatement was completed on November 20, 2004, and, as a result, SBC Missouri is preparing to pay additional liquidated damages to Missouri CLECs. It is anticipated that these payments (in the form of bill credits) will be made within the next few weeks. HP has not commenced any actual audit work related to this restatement, as no definitive audit agreement relative to that work has as yet been executed.

WHEREFORE, SBC Missouri respectfully submits the foregoing information and exhibits in accordance with the Commission’s Order Regarding Motion to Update Attachment 17 of the Missouri 271 Interconnection Agreement.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.

BY 

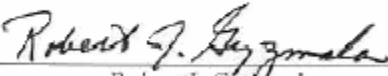
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<sup>7</sup> Section 271 Compliance Monitoring of Southwestern Bell Telephone Company of Texas, Project No. 20400, Order No. 48 (February 13, 2004).

## **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing document were served to all parties on the Service List by electronic mail and/or U.S. mail on the 17th day of December, 2004.

  
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