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State of Missouri

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September 9, 1999

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED
SEP 9 1999
Missouri Public
Service Commission

RE: Case Nos. TO-99-615 and TO-2000-16

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case, please find the original and 14 copies of Public Counsel's **Motion to Compel Answers to Data Requests**. I have also on this date mailed, faxed, and/or hand-delivered the appropriate number of copies to all counsel of record. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Very truly yours,

Michael F. Dandino
Senior Public Counsel

MFD:kh

cc: Counsel of Record

Enclosure

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

In the matter of the request of AT&T)
Communications of the Southwest, Inc. to)
terminate carrier of last resort obligations.)

Case No. TO-99-615

In the matter of the Motion to Establish a)
Docket Investigating the IntraLATA Toll)
Service Provisioning Practices of Missouri)
Interexchange Carriers, Public Utility or)
Common Carrier Duties of Interexchange)
Carriers, Motion to Show Cause, Request)
for Emergency Hearing, and Alternative)
Petition for Suspension and Modification.)

Case No. TO-2000-16

FILED
SEP 9 1999
Missouri Public
Service Commission

**MOTION TO COMPEL ANSWERS
TO DATA REQUESTS**

COMES NOW the Office of the Public Counsel (Public Counsel) and respectfully asks the Public Service Commission to make and enter its order directing Southwestern Bell to answer Public Counsel's First Set of Data Requests Nos. 7 and 8.

1. Public Counsel served the data requests to the Company via fax on July 16, 1999.
2. On July 22, 1999, Southwestern Bell objected to Data Requests 7 and 8.
3. A copy of Data Requests 7 and 8 are attached hereto as Exhibit A.
4. A copy of Southwestern Bell's objection to the data requests are attached as Exhibit B.
5. Public Counsel's right to propound data requests to a utility is not conditioned upon (1) the existence of an open case and (2) whether or not the utility is a party to a case.

Section 386.450, RSMo. provides statutory authority for Public Counsel to issue data requests. This Commission has recognized that Public Counsel by statute has authority to

investigate utilities and to review any utility records whether or not a case is opened. See, "Order Compelling Answers to Data Requests," "In the matter of Public Counsel audit and investigation of the Raytown Water Company regarding the reasonableness of its current rates and its compliance with past Commission order," Case No. WO-94-192.

Data Request No. 7

These cases (TO-99-615 and TO-2000-16) relate to the consequences for consumers of the implementation of 1+ intraLATA presubscription pursuant to the Commission's order. In some respects, Public Counsel, as the representative of customers and the public, has an interest in determining if customers are complaining or having problems with the implementation of 1+ presubscription, what these complaints are or what is the nature of the complaints. Public Counsel is also entitled to review and copy written customer complaints and Company records memorializing these complaints. Customer complaints about 1+ presubscription could certainly lead to admissible evidence related to IXC practices and the public interest of maintaining an interLATA carrier of last resort.

ILECs have a unique and longstanding relationship with customers and serve as a point of contact for customers to voice a complaint or seek redress of problems concerning any aspect of telephone service, whether or not the ILEC offers the specific service or product or has control over the situation. Customer complaints to ILECs provide a source of data to measure consumer interest problems and concerns. To deny Public Counsel access to this customer complaint data would severely restrict Public Counsel's statutory investigatory authority and ability to adequately represent the consumer and the public.

Data Request 7 is not burdensome since it requests existing documents and memos.

Data Request No. 8

Public Counsel's request for written training materials, FAQs, and scripts for the Company's customer service representatives related to 1+ presubscription is reasonable and within the scope of the Company documents and records Public Counsel may request pursuant to 386.456 RSMo.

This information is relevant to assist Public Counsel investigate the scope of any customer complaints, the type of information provided to customers for 1+ presubscription and whether such information disseminated to the public by the ILEC--the customer's first point of contact for telephone information--is the source of customer confusion and complaints and whether corrective action is warranted.

Public Counsel's Authority to Issue Data Requests

Public Counsel's right to propound data requests is not limited by Section 386.450 to the pendency of any type of Commission proceeding. See, Order Compelling Answers to data Requests, Case No. WO-94-192.

Section 386.710(2), RSMo. further provides that Public Counsel may represent and protect the interests of the public in "any proceeding" and to that end has "all powers necessary or proper to carry out" that duty. Section 386.710(4). Cases TO-99-615 and TO-2000-16 are proceedings before the PSC and Public Counsel's issuance of data requests in connection with these proceedings is proper.

The Commission's authority to obtain information from public utilities is not limited to contested case proceedings. Public Counsel's access to information is co-extensive with that of

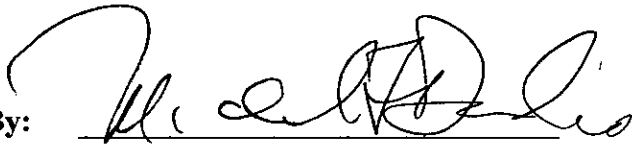
the Commission. Section 386.450 RSMo. See, "Order Granting Public Counsel's Motion to Compel Answers to Data Requests Presented to AmerenUE and to Missouri Gas Energy and Sustaining Certain Objections," In the matter of 4 CSR 240-40.016 Proposed Rule - Gas Utilities, Marketing Affiliate Transactions, Case No. GX-99-445 (August 3, 1999).

Conclusion

For the foregoing reasons, Public Counsel has the statutory authority to submit these data requests and has presented good cause to the PSC in support of its Motion to compel the Company to respond to Data Requests 7 and 8. Therefore, Public Counsel requests the Commission to order and direct that those data requests be answered in full within 5 days of this order.

Respectfully submitted,

Office of the Public Counsel

By: 

Michael F. Dandino (24590)
Senior Public Counsel
301 West High Street, Box 7800
Jefferson City, MO 65102
Telephone: (573) 751-5559
Facsimile: (573) 751-5562

CERTIFICATE OF SERVICE

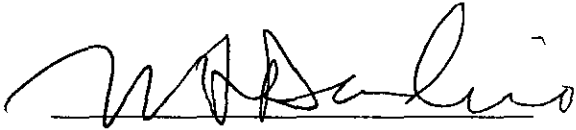
I hereby certify that a true and correct copy of the foregoing was mailed, faxed or hand-delivered, this 9th day of September, 1999 to the following parties of record:

General Counsel
Missouri Public Service Commission
P. O. Box 360
Jefferson City, Missouri 65102

Leo J. Bub
Southwestern Bell Telephone Company
One Bell Center, Room 5518
St. Louis, Missouri 63101

Craig S. Johnson
Andereck, Evans, Milne, Peace & Baumhoer
P. O. Box 1438
Jefferson City, Missouri 65102

Paul S. DeFord
Lathrop & Gage LC
2345 Grand Boulevard, Suite 2500
Kansas City, Missouri 64108-2684

A handwritten signature in black ink, appearing to read "Leo J. Bub", is written over a horizontal line.

FILE COPY
No. 1

SOUTHWESTERN BELL TELEPHONE COMPANY

Case Nos.: TO-99-615 and TO-2000-16

PUBLIC COUNSEL DATA REQUEST

REQUESTED FROM: Paul Lane

DATE REQUESTED: July 16, 1999

INFORMATION REQUESTED: Please identify all telecommunications carriers that have advised your company that they will provide intraLATA toll service to residential customers in your company territory. If possible, please identify the exchanges the carrier will serve or is willing to serve.

REQUESTED BY: Michael F. Dandino, Esq.

INFORMATION PROVIDED: _____

The information provided to the Office of the Public Counsel in response to the above information request is accurate and complete, and contains no material misrepresentations or omissions based upon present facts know to the undersigned. The undersigned agrees to immediately inform the Office of the Public Counsel if any matters are discovered which would materially affect the accuracy or completeness of the information provided in response to the above information.

Date Received: _____

Signed By: _____

Title: _____

SOUTHWESTERN BELL TELEPHONE COMPANY

Case Nos.: TO-99-615 and TO-2000-16

PUBLIC COUNSEL DATA REQUEST

REQUESTED FROM: Paul Lane

DATE REQUESTED: July 16, 1999

INFORMATION REQUESTED: Please identify all telecommunications carriers that have advised your company that they will provide intraLATA toll service to business customers in your company territory. If possible, please identify the exchanges the carrier will serve or is willing to serve

REQUESTED BY: Michael F. Dandino, Esq.

INFORMATION PROVIDED: _____

The information provided to the Office of the Public Counsel in response to the above information request is accurate and complete, and contains no material misrepresentations or omissions based upon present facts know to the undersigned. The undersigned agrees to immediately inform the Office of the Public Counsel if any matters are discovered which would materially affect the accuracy or completeness of the information provided in response to the above information.

Date Received: _____ **Signed By:** _____

Title: _____

SOUTHWESTERN BELL TELEPHONE COMPANY

Case No.: TO-99-615 and TO-2000-16

PUBLIC COUNSEL DATA REQUEST

REQUESTED FROM: Paul Lane

DATE REQUESTED: July 16, 1999

INFORMATION REQUESTED: Please identify all telecommunications carriers that have requested not to be identified as providing intraLATA toll service in your company's service territory or have advised your company that it will not provide intraLATA toll service. Please provide this information by exchange, if possible.

REQUESTED BY: Michael F. Dandino, Esq.

INFORMATION PROVIDED: _____

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Date Received: _____

Signed By: _____

Title: _____

SOUTHWESTERN BELL TELEPHONE COMPANY

Case Nos.: TO-99-615 and TO-2000-16

PUBLIC COUNSEL DATA REQUEST

REQUESTED FROM: Paul Lane

DATE REQUESTED: July 16, 1999

INFORMATION REQUESTED: Please provide the percentage of your customers who have AT&T as their interLATA provider. If that percentage is not readily available, please provide your best estimate of that percentage and identify it as an estimate.

REQUESTED BY: Michael F. Dandino, Esq.

INFORMATION PROVIDED: _____

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Date Received: _____

Signed By: _____

Title: _____

SOUTHWESTERN BELL TELEPHONE COMPANY

Case Nos.: TO-99-615 and TO-2000-16

PUBLIC COUNSEL DATA REQUEST

REQUESTED FROM: Paul Lane

DATE REQUESTED: July 16, 1999

INFORMATION REQUESTED: Please provide the percentage of your customers who have MCI as their interLATA provider. If that percentage is not readily available, please provide your best estimate of that percentage and identify it as an estimate

REQUESTED BY: Michael F. Dandino, Esq.

INFORMATION PROVIDED: _____

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Date Received: _____ **Signed By:** _____

Title: _____

SOUTHWESTERN BELL TELEPHONE COMPANY

Case No.: TO-99-615 and TO-2000-16

PUBLIC COUNSEL DATA REQUEST

REQUESTED FROM: Paul Lane

DATE REQUESTED: July 16, 1999

INFORMATION REQUESTED: Please provide the percentage of your customers who have selected Sprint Long Distance as their interLATA provider. If that percentage is not readily available, please provide your best estimate of that percentage and identify it as an estimate.

REQUESTED BY: Michael F. Dandino, Esq.

INFORMATION PROVIDED: _____

The information provided to the Office of the Public Counsel in response to the above information request is accurate and complete, and contains no material misrepresentations or omissions based upon present facts know to the undersigned. The undersigned agrees to immediately inform the Office of the Public Counsel if any matters are discovered which would materially affect the accuracy or completeness of the information provided in response to the above information.

Date Received: _____ **Signed By:** _____

Title: _____

SOUTHWESTERN BELL TELEPHONE COMPANY

Case Nos.: TO-99-615 and TO-2000-16

PUBLIC COUNSEL DATA REQUEST

REQUESTED FROM: Paul Lane

DATE REQUESTED: July 16, 1999

INFORMATION REQUESTED: Please provide the number of customer complaints received by your company concerning the implementation of intraLATA 1+ presubscription in your service area. Please identify the nature of the complaints and, if written or memorialized in writing by the company, please provide a copy.

REQUESTED BY: Michael F. Dandino, Esq.

INFORMATION PROVIDED: _____

The information provided to the Office of the Public Counsel in response to the above information request is accurate and complete, and contains no material misrepresentations or omissions based upon present facts known to the undersigned. The undersigned agrees to immediately inform the Office of the Public Counsel if any matters are discovered which would materially affect the accuracy or completeness of the information provided in response to the above information.

Date Received: _____ **Signed By:** _____

Title: _____

SOUTHWESTERN BELL TELEPHONE COMPANY

Case No.: TO-99-615 and TO-2000-16

PUBLIC COUNSEL DATA REQUEST

REQUESTED FROM: Paul Lane

DATE REQUESTED: July 16, 1999

INFORMATION REQUESTED: Please describe the training, instructions and information your company has provided your customer service representatives to answer customer inquiries about the intraLATA toll carrier (1+ presubscription) process and assist customers to resolve problems with the presubscription process. If written manuals, instructions, frequently asked questions, scripts, talking points and other guides were provided, please provide a copy of such materials.

REQUESTED BY: Michael F. Dandino, Esq.

INFORMATION PROVIDED: _____

The information provided to the Office of the Public Counsel in response to the above information request is accurate and complete, and contains no material misrepresentations or omissions based upon present facts know to the undersigned. The undersigned agrees to immediately inform the Office of the Public Counsel if any matters are discovered which would materially affect the accuracy or completeness of the information provided in response to the above information.

Date Received: _____

Signed By: _____

Title: _____

Leo J. Bub
Senior Counsel

Southwestern Bell Telephone
One Bell Center
Room 5518
St. Louis, Missouri 63101
Phone 314 255-2508
Fax 314 247-0014

VIA FACSIMILE



July 22, 1999

FILE COPY

Mr. Michael Dandino
Office of the Public Counsel
301 W. High, Suite 250
Jefferson City, Missouri 65101

Re: Discovery Requests - Case Nos. TO-99-615 and TO-00-16

Dear Mike:

I am writing concerning the Data Request Nos. 1-8 you sent to us on July 16, 1999. At this point, Southwestern Bell is not a party to either Case No. TO-99-615 or Case No. TO-00-16. We therefore do not believe that it is appropriate to seek discovery from us in those cases.

But we would like to let you know that we do intend to intervene in both of these cases as a party and would be willing to treat your Data Requests as received by us upon our being granted party status (so you will not need to worry about reissuing them to us). And in the meantime, I will forward the DRs to our people to begin working so that there is no added delay in providing answers to you once we are granted intervention in these cases.

In reviewing the specific Data Requests, we do not have any problem with providing answers to DR Nos. 1-6 after we have been made a party to these cases. We do, however, have objections to DR Nos. 7 and 8. While I am not aware of receiving the types of complaints you describe in DR No. 7, we would nevertheless believe that this information would have no relevance to the issues raised in Case Nos. TO-99-615 and TO-00-16, or lead to the discovery of information that would be relevant in those cases. Likewise, we believe our service rep training materials and other information requested in DR No. 8 would be irrelevant in these cases.

If you have questions or would like to discuss the way we propose to handle these Data Requests or our objections, please call me at your convenience.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Leo J. Bub".

Leo J. Bub

JUL 27 1999

Exhibit B