

Ken Judd
Senior Counsel

Southwestern Bell Wireless
1300 Winchester, 1st Floor
St. Louis, Missouri 63131
Phone 314 984-2010
Fax 314 984-2050



September 16, 2000

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
Jefferson City, Missouri 65101

FILED²

SEP 18 2000

Missouri Public
Service Commission

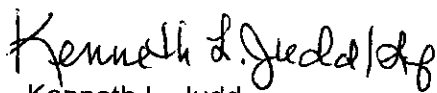
RE: Case No. TO-2000-374

Dear Judge Roberts:

Enclosed herewith for filing in the above-referenced case please find an original and 8 copies of the Brief of Southwestern Bell Wireless Inc.

Please file stamp the extra copy and return in the enclosed, self-addressed, postage prepaid envelope to the undersigned for our records. Thank you for your attention to this matter.

Sincerely,


Kenneth L. Judd

Attachments

CC: Parties of Record

FILED²

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

SEP 18 2000

Missouri Public
Service Commission

In the Matter of the North American Numbering)
Plan Administrator's Petition for Approval of NPA)
Relief Plan for the 314 and 816 Area Codes.)

Case No. TO-2000-374

**BRIEF OF
SOUTHWESTERN BELL WIRELESS INC.**

Southwestern Bell Wireless, Inc. (SWBW) files this Brief in support of a retroactive all-services overlay for the 314/636 area codes and an all-services overlay for the 816 area code. SWBW believes that these forms of relief are the best forms of relief for both the St. Louis and Kansas City areas in that no existing customers will undergo a telephone number change. Additionally, the all-services overlay will create a consistent ten-digit dialing pattern for the overlaid areas, which will likely reduce customer confusion. Once the overlays are in place, future relief can occur without incident in that no telephone numbers will change and no dialing patterns will change. However, if the Commission decides against a retroactive overlay approach for the 314/636 area codes, SWBW also supports an all-services overlay over the 314 area. Also, given that the FCC has consistently taken the position that technology specific overlays are unreasonably discriminatory and would unduly inhibit competition, this Commission should not even consider a "wireless overlay" as a method of back-up relief. Finally, SWBW submits that the primary issue before the Commission is to relieve eventual area code exhaust in the 314 and 816 area codes. Once a relief plan is in place, it would then be appropriate for the Commission to focus on any available means within the Commission to focus on any available means within its FCC-delegated authority to conserve numbering resources.

I. An all services overlay should be adopted for the 314/816 NPAs.

The Commission should adopt an all services overlay for both the 314/636 (retroactive) and 816 NPAs. ¹The overlay option, whether retroactive or not, is the best long-term solution for both the St. Louis and Kansas City areas. No existing customers will be required to undergo telephone number changes and a consistent ten-digit dialing pattern will exist in the overlaid areas. Additionally, once such overlays are in place, future relief, if necessary, can more likely be implemented without incident in that no customer's wireless phone numbers will change and no dialing patterns will change (Exhibit 8, p. 2, l. 20-24).

A retroactive overlay for the 314/636 areas would present a variety of advantages, which advantages the PCS Staff recognizes. A retroactive overlay involving these NPAs would (a) postpone the need for a third area code in the St. Louis Metropolitan area, (b) more efficiently utilize scarce numbering resources in that the resources of two NPAs will be exhausted before a third NPA is implemented, (c) elongate the effectiveness of the North American Numbering Plan by reducing the number of NPAs put into service and (d) reunite the communities of interest of the 636 and 314 areas. (Transcript, p. 385, l. 15-19, p. 386, l. 7-16, p. 388, l.1-6)

A prospective, all services overlay for the 816 NPA, as is recommended by the industry, will also result in advantages that strongly support this Commission's adoption of this form of relief for the area. The benefits of an overlay outweigh the benefits of a split from a customer's perspective. Customers would avoid (1) having to change their ten-digit telephone numbers, (2) the expense of changing business cards and collateral, business checks, stationary, advertisement, etc. and (3) having to learn new telephone numbers of family members, friends,

¹ In the event the Commission does not adopt a retroactive overlay for the 314/636 areas, SWBW supports an all services overlay for the 314 area.

medical personnel, business associates, etc. (Exhibit 15, p. 10, l. 4-9). All of these advantages also apply to the retroactive overlay recommended for the 314/636 NPAs.

Retroactive and perspective all services overlay will also promote consistent ten-digit dialing patterns. Customer confusion will be reduced when ten-digit dialing is required due to overlays. For example, some local calls in the 314/636 areas currently require ten-digit dialing to be completed, while other calls within these areas only require seven-digit dialing (Exhibit 12, p. 4, l. 9-10), leading to customer confusion as to what dialing pattern is required to make local calls. If this Commission adopts overlays as the industry has recommended, all local calls dialed within the 314/636 and 816 geographical areas must be made via ten-digit dialing to be completed (Exhibit 15, p. 4, l. 17-20). As all parties and the Commission are no doubt aware, ten-digit dialing is becoming more and more common around the country.

II. The Commission Should Not Consider a Wireless-Only Overlay as a Potential Form of Back-up Relief.

As the OPC recognizes, to date the FCC has not delegated to any state the authority to implement a wireless only overlay. (Transcript, p. 220, 221, l. 24-25, 1-2). The OPC also acknowledges that the FCC's most recent position regarding any technology-specific overlays is that they would be unreasonably discriminatory and would inhibit competition. In fact, the OPC admits that the only reason it even raised the issue of a wireless-only overlay in direct testimony was "just to remind the Commission not to forget about this as some type of an option ... in the future." (Transcript, p. 238, 239, l. 11-13, 24-25, 1-3).

Although it appears clear in the record of this proceeding that the FCC has not changed its position against technology-specific overlays and that there is no indication that it will change its position, SWBW reiterates that a wireless-only overlay would provide insufficient relief. Despite recognized growth in the use of wireless phones in recent years, the wireless industry's

total needs in the 314 and 816 NPAs has been in the range of 1.5 to 2 NXXs per month, an insubstantial demand upon the state's NXX resources. Therefore, to create a wireless only NPA would not result in any significant relief for either area code and would also be a waste of valuable NPA resources. (Exhibit 8, p. 4, l. 2-18). Additionally, the wireless industry, and ultimately wireless customers, would incur substantial costs in terms of handset reprogramming, changing business cards, letterhead, etc. and other major inconveniences, despite the fact that the wireless industry uses its numbering resources at least as efficiently as any other industry segment while utilizing only relatively small amounts of NXXs per month. (Transcript, p. 5, l. 6-10).

III. The Commission's Current, Primary Focus Should Continue to Be a Relief Plan, After Which It Can Fully Evaluate and Exercise Its FCC-Delegated Authority.

In its July 20 NRO Order, the FCC delegated additional authority to several state Commissions, including the Missouri Commission, to pursue optimization strategies for preserving numbering resources. For example, the FCC delegated authority to the Missouri Commission to initiate number pooling in the 314 area code (July 20 NRO Order at ¶ 35) and to conduct number use audits consistent with the Commission's prior NRO Order (July 20 NRO Order ¶ 60). In its initial NRO Order *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200, DA 00-104 (rel. March 31, 2000) ("March 31 NRO Order"), the FCC emphasized that number optimization is not a substitute for timely area code relief: For example, Paragraph 20 of the July 20 NRO Order states:

The grants of authority herein are not intended to allow the state commissions to engage in number conservation measures to the exclusion of, or as a substitute for, unavoidable and timely area code relief. Although we are giving the state commissions tools that may help to prolong the lives of existing area codes, the state commissions continue to bear the obligation of implementing area code relief when necessary, and

we expect the state commissions to fulfill this obligation in a timely manner. Under no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for want of numbering resources. For consumers to benefit from the competition envisioned by the 1996 Act, it is imperative that competitors in the telecommunications marketplace face as few barriers to entry as possible.

Based on the FCC's direction in this Order and others, SWBW believes that the primary issue before the Commission in this docket has not changed; specifically, how to relieve eventual (and perhaps imminent) area code exhaust in the 314 and 816 area codes. Once a relief plan and the necessary steps for its eventual implementation are in place, the Commission will be in a better position to turn its full attention to evaluating any available means within its FCC-delegated authority to conserve the numbering resources that are already in place. However, it would be premature for the Commission to lose focus on the immediate need for NPA relief in pursuit of developing number optimization solutions that will not replace such need for area code relief, even if they might possibly delay it.

IV. Conclusion

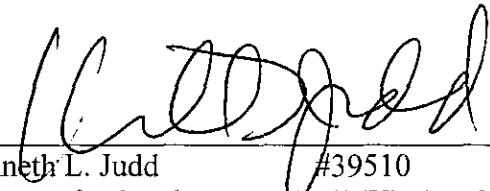
First, the Commission should implement a retroactive all-services overlay for the 314/636 area codes and an all-services overlay for the 816 area code. In the event the Commission decides against a retroactive all-services overlay for the 314/636 area codes, the Commission should implement an all-services overlay for the 314 area code. As the evidence in this proceeding strongly supports, these overlay options are the most efficient and beneficial relief plans for purposes of best serving the interests of both the public and the industry. Second, given the FCC's consistent and current position against technology-specific overlays, as well as the OPC's admission that it only raised the issue as a "reminder" of a future, possible option, the Commission should not even consider a wireless-only overlay, an inefficient form of relief, as a

possible form of back-up relief. Finally, once the Commission has established relief plans for the 314 and 816 area codes, it will be in a better position to fully exercise its FCC-delegated authority to evaluate various numbering optimization plans.

Respectfully submitted,

SOUTHWESTERN BELL WIRELESS INC.

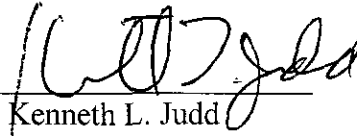
BY



Kenneth L. Judd #39510
Attorney for Southwestern Bell Wireless Inc.
13075 Manchester Road, 100N
St. Louis, Missouri 63131
314-984-2010 (Telephone)
314-984-2050 (Fax)

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by first-class, postage prepaid, U.S. Mail on September 18, 2000.


Kenneth L. Judd

JULIE KARDIS
MISSOURI PUBLIC SERVICE
COMMISSION
200 MADISON STREET, SUITE 100
JEFFERSON CITY, MO 65101

JAMES F. MAUZE, ESQ.
THOMAS E. PULLIAM, ESQ.
112 S. HANLEY ROAD
ST. LOUIS, MO 63105-3418

MICHAEL F. DANDINO
OFFICE OF THE PUBLIC COUNSEL
200 MADISON STREET, SUITE 650
JEFFERSON CITY, MO 65101

PETER MIRAKIAN III, ESQ.
SPENCER, FANE, BRITT & BROWNE
1000 WALNUT ST., STE. 1400
KANSAS CITY, MO 64106-2140

CRAIG S. JOHNSON
ANDERECK, EVANS, MILNE, PEACE,
JOHNSON, L.L.C.
301 E. MCCARTY STREET
P.O. BOX 1438
JEFFERSON CITY, MO 65102

LINDA K. GARDNER, ESQ.
SPRINT MISSOURI, INC.
5454 W. 110TH ST. 10TH FL.
OVERLAND PARK, KS 66211

CURTIS, OETTING, HEINZ, GARRETT
& SOULE PC
CARL J. LUMLEY, ESQ.
130 SOUTH BEMISTON, STE. 200
CLAYTON, MO 63105

MARK W. COMLEY, ESQ.
NEWMAN, COMLEY & RUTH, P.C.
601 MONROE ST., STE. 301
JEFFERSON CITY, MO 65102

JAMES M. FISCHER
LARRY W. DORITY, ESQ.
FISCHER & DORITY, P.C.
101 WEST McCARTY ST., STE. 215
JEFFERSON CITY, MO 65101

PAUL S. DeFORD, ESQ.
LATHROP & GAGE, L.C.
2345 GRAND BLVD., STE. 2500
KANSAS CITY, MO 64108

MIMI MacDONALD
SOUTHWESTERN BELL TELEPHONE
COMPANY
ONE BELL CENTER, ROOM 3520
ST. LOUIS, MO 63101

EDWARD J. CADIEUX/CAROL KEITH
GABRIEL COMMUNICATIONS, INC.
16090 SWINGLEY RIDGE ROAD
SUITE 500
CHESTERFIELD, MO 63006

KEVIN K. ZARLING
AT&T COMMUNICATIONS
919 CONGRESS, SUITE 1500
AUSTIN, TX 78701

LEO S. ADAMS/CHERYL TRITT/
KIMBERLY WHEELER
MORRISON & FOERSTER LLP
2000 PENNSYLVANIA AVE., STE. 5500
WASHINGTON, DC 20006

W.R. ENGLAND, III
BRYDON, SWEARENGEN, ENGLAND
P.O. BOX 456
JEFFERSON CITY, MO 65102-0456

JAMES, ROHFLING
BRASIL, ROHFLING, P.C.
6390 LINDELL BLVD.
ST. LOUIS, MO 63108