

Paul G. Lane
General Counsel-
Missouri

Southwestern Bell Telephone
One Bell Center, Room 3520
St. Louis, Missouri 63101
Phone 314 235-4300
Fax 314 247-0014



February 8, 2000

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
301 West High Street, Floor 5A
Jefferson City, Missouri 65101

FILED²

FEB 8 2000

Missouri Public
Service Commission

Re: Case No. TO-2000-322

Dear Judge Roberts:

Enclosed, for filing in the above-captioned case, are an original and fourteen copies of Response of Southwestern Bell Telephone Company to Covad's Motion for Order Compelling Compliance with the Commission's Order and for Sanctions.

Thank you for bringing this matter to the attention of the Commission.

Very truly yours,

Paul G. Lane /tm

Paul G. Lane

Enclosures

cc: Attorneys of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²
FEB 8 2000

Missouri Public
Service Commission

In the Matter of the Petition of DIECA)
Communications, Inc. d/b/a Covad)
Communications Company for Arbitration)
of Interconnection Rates, Terms, Conditions)
and Related Arrangements with Southwestern)
Bell Telephone Company.)

Case No. TO-2000-322

**RESPONSE OF SOUTHWESTERN BELL TELEPHONE COMPANY
TO COVAD'S MOTION FOR ORDER COMPELLING COMPLIANCE
WITH THE COMMISSION'S ORDER AND FOR SANCTIONS**

COMES NOW Southwestern Bell Telephone Company ("SWBT") and for its
Response to DIECA Communications Inc., d/b/a Covad Communications Company's
("Covad's") Motion for Order Compelling Compliance with the Commission's Order and
for Sanctions, pleads as follows:

1. Covad's motion is typical of its tactics in this case. It seeks to portray
SWBT as not in compliance with this Commission's rules and orders without justification
to do so. SWBT has devoted substantial resources to comply with the Commission's
order concerning discovery in this case, and has fully responded to the questions which
Covad asked. Covad's attempt to paint SWBT as non-compliant is wholly inappropriate.

2. More to the point, with regard to the specific data requests at issue in this
case, it is clear that Covad's position is simply unfounded. Covad paints with a broad
brush, but fails to identify either the specific requests at issue or SWBT's response.
Unlike Covad, SWBT will provide that information to the Commission herein. There
are only four data requests which had any discussion of retail xDSL issues. SWBT fully
responded to each of these requests. The Commission should note that, unlike other data

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requests submitted by Covad¹, those four were specifically addressed to SWBT's practices. SWBT will demonstrate that there is no basis in law or in fact for Covad's Motion.

A. Data Request No. 13:

The data request and SWBT's response are attached, as Exhibit A. As the Commission will note, the question asks what conditioning SWBT will undertake in order to satisfy a request for its retail ADSL service and/or retail ISDN service. SWBT advised that, as of January 12, 2000, it no longer offers retail ADSL service. Nevertheless, SWBT fully explained the parameters under which it provided conditioning on loops during the time it did provide such retail services. Moreover, in response to Covad's claim that information on SWBT's retail affiliate, SBC Advanced Solutions, Inc. ("ASI"), should also be provided, SWBT advised Covad's counsel that it disagreed, but that, in any event, ASI followed the same conditioning parameters as stated in response to Data Request No. 13 for SWBT. Covad's Motion for Sanctions, however, fails to even discuss this matter. The additional information that was orally provided to Covad's counsel on February 7, 2000, is contained in SWBT's Second Supplement to Data Request No. 13, and is attached hereto, as Exhibit B.

B. Data Request No. 14:

The data request and SWBT's response are attached as Exhibit C. As the Commission will note, the question asks how SWBT plans to recover any costs associated with line conditioning in order to provide retail services. SWBT's answer states that it no longer provides retail ADSL service. SWBT's answer additionally

¹ Other data requests sought information concerning SBC Communications. Those four sought only information concerning SWBT.

advises that when it did provide retail service in Missouri, customers were subject to a one-time conditioning charge in the amount of \$900.00. Again, also in response to a claim by Covad's counsel on February 7, 2000, that the request also applied to ASI, SWBT advised it disagreed, but nonetheless stated that ASI assesses the same \$900.00 one-time charge on its retail customers as reflected in SWBT's answer to Data Request No. 14. Again, Covad fails to discuss this development in its Motion for Sanctions. The additional information that was orally provided to Covad's counsel on February 7, 2000, is contained in SWBT's Second Supplement to Data Request No. 14, and is attached hereto, as Exhibit D.

C. Data Request No. 31:

The data request and SWBT's response are attached as Exhibit E. As the Commission will note, the question asks whether SWBT is currently analyzing the possibility of expanding the variety of xDSL service types it will make available on a retail basis. SWBT's answer states that SWBT is no longer a provider of retail xDSL services. SWBT additionally advises that its parent company ("SBC Communications") has publicly announced a major initiative to expand SBC capabilities with broadband services, including the announcement that it intends to offer HDSL services which feature minimum 1.5mbps upstream and downstream connections, but that such services will not be provided by SWBT. Again, although not included within the request, Covad's counsel on February 7, 2000, asserted that SWBT must provide additional information on whether ASI planned any additional varieties of xDSL services. SWBT advised Covad's counsel that it disagreed, but would consult with ASI to determine whether any additional response on ASI's part would be provided. Without waiting for a

response, Covad filed its Motion for Sanctions, again without discussing this development.

The response which SWBT would have provided to that new, additional, oral request on February 7, 2000, is attached as Exhibit F. As the Commission will note, there is no retail service other than HDSL which ASI is currently analyzing or planning to provide in Missouri.

D. Data Request No. 32:

The data request and SWBT's response are attached as Exhibit G. As the Commission will note, the question asks whether SWBT is currently analyzing the possibility of expanding the range of customers it can reach with its retail DSL service offerings. SWBT states that it is no longer a provider of retail DSL services. SWBT further explains that its parent company ("SBC Communications") announced a major initiative to expand the availability of broadband services, specifically stating that it plans to make DSL service available to approximately 80% of SBC's customers throughout SBC's entire territory. This initiative will require the build-out of SWBT's network. SWBT referred Covad to its response to Data Request No. 1, produced in reference to the Commission's order, which provides a full description and multiple documents concerning that network build-out, which goes by the name of Project Pronto. The information has been provided. Covad's counsel was advised of this. Again, Covad fails to discuss the specifics of this or any other of the data requests it seeks to place at issue.

3. Covad also attempts to paint SWBT as acting improperly in producing documents that were redacted. The fact that certain information is redacted in no way indicates that SWBT did not fully respond to Covad's discovery requests. As Covad well

knows, but chose not to discuss in its motion, the material which SWBT provided contains financial analysis and discussion of Pacific Bell and other non-SWBT companies (that was non-responsive to the question, which dealt only with SWBT) and is extremely sensitive marketing information. Other redacted information concerns highly confidential purchase orders and pricing data on equipment that is not the subject of the data request. Provision of redacted documents which limit the information to that requested is a normal practice in discovery. Indeed, in the only document which Covad has produced to SWBT in this case, Covad redacted the information to limit the response to Missouri. See Exhibit H, attached.

4. As noted previously, SWBT has gone beyond any normal requirements of discovery in connection with this case in general and with this series of data requests in particular. SWBT has provided more than 9,000 pages of documents to Covad in discovery, including highly confidential documents that have been made available to counsel and expert witnesses in Kansas City (for Covad's convenience) on three separate occasions (on one occasion, Covad failed to appear) and an additional occasion in St. Louis. With regard to this particular series of data requests, SWBT provided overnight delivery of the responses to all of the questions (without the highly confidential documents) to four separate locations for the convenience of Covad and its counsel. SWBT did know the volume of the documents because it worked to identify and locate responsive documents through February 4, the date set by the Commission to respond.

5. Covad's position is particularly galling given that Covad has not complied with the legitimate requests of SWBT. SWBT previously submitted Data Request No. 5 which seeks documents concerning workpapers or other documents relied upon by Covad

in support of its positions concerning loop conditioning and qualification. See Exhibit I. Although Covad promised to provide documents at the time it filed its testimony on January 7th (See, Exhibit H, page 1 of 2), it failed to do so and has not produced those documents to date.

6. SWBT infrequently finds itself in a discovery dispute with other parties in other dockets before this Commission. On those rare occasions when a discovery dispute occurs, it is typically resolved amicably between the parties. In those extremely rare situations in which the Commission has issued an order, SWBT has complied, as it has done here. All of the data requests were fully answered as to SWBT. Moreover, SWBT provided all the information requested concerning its retail affiliate, even though the data request did not address ASI's practices.

In summary, the Motion for Sanctions filed by Covad is wholly without merit. Covad's failure to identify the specific data requests submitted and the specific answers given is instructive. Covad did not do so because SWBT clearly answered the questions which Covad submitted and clearly went beyond what was required in providing additional information in responding to those requests.

WHEREFORE, for all the foregoing reasons, SWBT respectfully requests the Commission to deny Covad's Motion.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

By Paul G. Lane /tm

PAUL G. LANE #27011

LEO J. BUB #34326

ANTHONY K. CONROY #35199

MIMI B. MACDONALD #37606

Attorneys for Southwestern Bell Telephone Company

One Bell Center, Room 3520

St. Louis, Missouri 63101

(314) 235-4300 (Telephone)

(314) 247-0014 (Facsimile)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were served to all parties on the Service List by Facsimile and by Airborne Express on February 8, 2000.

Paul G. Lane /tm
Paul G. Lane

WILLIAM HAAS
MISSOURI PUBLIC SERVICE COMMISSISON
301 WEST HIGH STREET, SUITE 530
JEFFERSON CITY, MO 65102

LISA C. CREIGHTON
MARK P. JOHNSON
SONNENSCHN, NATH & ROSENTHAL
4520 MAIN STREET, SUITE 1100
KANSAS CITY, MO 64111

CHRISTOPHER GOODPASTOR
c/o SONNENSCHN, NATH & ROSENTHAL
4520 MAIN STREET, SUITE 1100
KANSAS CITY, MO 64111

Q: PLEASE DESCRIBE EACH TYPE OF LINE CONDITIONING (E.G., REMOVING LOAD COILS OR BRIDGE TAP, ADDING OR REMOVING REPEATERS, REARRANGING OUTSIDE PLANT FACILITIES) THAT SWBT WILL UNDERTAKE (IN ANY CIRCUMSTANCE) IN ORDER TO SATISFY A REQUEST FOR ITS RETAIL ADSL SERVICE AND/OR RETAIL ISDN SERVICE. IF SWBT CLAIMS THAT IT WILL ONLY CONDITION LINES IN ORDER TO PROVIDE ITS OWN RETAIL ADSL AND/OR ISDN SERVICES IN LIMITED CASES, PLEASE PROVIDE A COMPLETE DESCRIPTION OF EACH SUCH LIMITATION.

A: SWBT no longer provides retail ADSL service as that service is now provided in Missouri by SBC Advanced Services, Inc. (ASI) effective January 12, 2000. When SWBT provided retail ADSL service, the following applied: For ADSL Service from 0kft to 12.0kft, SWBT removed Load Coils (LCs), repeaters, or Bridge Taps (BT) to achieve low speed.

For ADSL service from 12.0kft to 17.5kft, SWBT did not remove LCs, repeaters, or BT to achieve any speed unless directed by the customer. In some situations, outside plant

rearrangement (to move a POTS service only) could be an alternative (if available) in order to satisfy an ADSL request.

For loops greater than 17.5, SWBT did not deploy ADSL service.

For ISDN deployment, SWBT will (if necessary) place repeaters, remove load coils, or remove bridge tap to satisfy an ISDN request.

Line conditioning is available to CLECs upon their request for any loop regardless of loop length. For loops greater than 12.0kft, SWBT will apply applicable charges for line conditioning to the CLECs (if requested by the CLECs) just as it did to the retail customer.

Responsible Person: Larry Wren
Three Bell Plaza, Room 710.C2
Dallas, TX 75202

Q: PLEASE DESCRIBE EACH TYPE OF LINE CONDITIONING (E.G., REMOVING LOAD COILS OR BRIDGE TAP, ADDING OR REMOVING REPEATERS, REARRANGING OUTSIDE PLANT FACILITIES) THAT SWBT WILL UNDERTAKE (IN ANY CIRCUMSTANCE) IN ORDER TO SATISFY A REQUEST FOR ITS RETAIL ADSL SERVICE AND/OR RETAIL ISDN SERVICE. IF SWBT CLAIMS THAT IT WILL ONLY CONDITION LINES IN ORDER TO PROVIDE ITS OWN RETAIL ADSL AND/OR ISDN SERVICES IN LIMITED CASES, PLEASE PROVIDE A COMPLETE DESCRIPTION OF EACH SUCH LIMITATION.

A: ASI currently offers conditioning of loops for ADSL retail services under the same parameters as set forth in the relevant portions of SWBT's response to Data Request No. 13 (0 - 12kft - line conditioning provided; 12 - 17.5kft - no ADSL service).

Responsible Person: Eric Boyer
530 McCullough, 8-T-20
San Antonio, TX

EXHIBIT B

Q: FOR EACH TYPE OF LINE CONDITIONING (E.G., REARRANGING OUTSIDE PLANT FACILITIES) THAT SWBT MIGHT CHOOSE TO PERFORM IN ORDER TO SATISFY A REQUEST FOR ITS RETAIL ADSL SERVICE AND/OR RETAIL ISDN SERVICE, PLEASE DESCRIBE SPECIFICALLY HOW SWBT PLANS TO RECOVER ANY COST ASSOCIATED WITH THAT ACTIVITY. PLEASE ALSO PROVIDE A CITATION TO ANY LANGUAGE IN SWBT'S RETAIL TARIFF(S) THAT SUPPORTS ITS PROPOSED METHOD OF COST RECOVERY.

A: SWBT no longer provides retail ADSL service in Missouri, as that service is provided by SBC Advanced Solutions, Inc. During the time SWBT did provide ADSL services in Missouri, customers requiring line conditioning, specifically the removal of load coils, removal of bridge tap or the removal of repeaters, were subject to a one time charge in the amount of \$900.00. This charge applied to the removal of any or all of the conditions described above. This price was documented in SWBT's F.C.C No 73 tariff, Section 14.7.4 (B).

As stated in F.C.C No 73 tariff, Section 14.7.3 (A) (2), page

14-199:

Line conditioning is available and may be required if the facility will not accommodate ADSL service. This may include, but is not limited to, the removal of load coils, bridge tap and/or repeaters. A nonrecurring charge will apply per line that requires conditioning. SWBT does not warrant that line conditioning will permit the provision of ADSL service.

Responsible Person: Tom Maxwell
530 McCullough, 7-P-04
San Antonio, TX 78215

FOR EACH TYPE OF LINE CONDITIONING (E.G., REARRANGING OUTSIDE PLANT FACILITIES) THAT SWBT MIGHT CHOOSE TO PERFORM IN ORDER TO SATISFY A REQUEST FOR ITS RETAIL ADSL SERVICE AND/OR RETAIL ISDN SERVICE, PLEASE DESCRIBE SPECIFICALLY HOW SWBT PLANS TO RECOVER ANY COST ASSOCIATED WITH THAT ACTIVITY. PLEASE ALSO PROVIDE A CITATION TO ANY LANGUAGE IN SWBT'S RETAIL TARIFF(S) THAT SUPPORTS ITS PROPOSED METHOD OF COST RECOVERY.

A: ASI's current charge to a retail ADSL customer that may request line conditioning is at the same level as set forth in SWBT's response to Data Request No. 14.

Responsible Person: Eric Boyer
530 McCullough, 8-T-20
San Antonio, TX

EXHIBIT D

Q: IS SWBT CURRENTLY ANALYZING THE POSSIBILITY OR DOES IT HAVE ANY PLANS REGARDING EXPANDING THE VARIETY OF XDSL SERVICE TYPES IT WILL MAKE AVAILABLE ON A RETAIL BASIS? IF SO, PLEASE PROVIDE A COPY OF ALL DOCUMENTATION RELATING TO SWBT'S PLANNING EFFORT.

A: No. Pursuant to the FCC's Merger Conditions, SWBT is no longer the provider of retail xDSL services. As of January 12, 2000, retail DSL services in Missouri are being provided by the structurally separate advanced services affiliate, ASI. SWBT states that its parent, SBC Communications Inc., has publicly announced a major initiative to expand SBC capabilities with broadband services, including the announcement that it intends to offer HDSL services which will feature minimum 1.5 Mbps upstream and downstream connections. However, such retail services will not be provided by SWBT. (See Pronto Press Release dated October 18, 1999.)

EXHIBIT E

MO PSC Case No. MO-2000-322
Data Request No. 1
First Set of Requests
Covad
Page 2 of 2
First Supplement

Responsible Person: Lee Culver
530 McCullough, 6-Q-06
San Antonio, TX 78215

Q: IS SWBT CURRENTLY ANALYZING THE POSSIBILITY OR DOES IT HAVE ANY PLANS REGARDING EXPANDING THE VARIETY OF XDSL SERVICE TYPES IT WILL MAKE AVAILABLE ON A RETAIL BASIS? IF SO, PLEASE PROVIDE A COPY OF ALL DOCUMENTATION RELATING TO SWBT'S PLANNING EFFORT.

A: ASI is not currently planning to offer any xDSL service types other than those identified in SWBT's response to Data Request No. 31.

Responsible Person: Lee Culver
530 McCullough, 6-Q-06
San Antonio, TX

EXHIBIT F

Q: IS SWBT CURRENTLY ANALYZING THE POSSIBILITY OF DOES IT HAVE ANY PLANS TO EXPAND THE RANGE OF CUSTOMERS IT CAN REACH WITH ITS RETAIL DSL SERVICE TYPES OFFERINGS? IF SO, PLEASE PROVIDE A COPY OF ALL DOCUMENTATION RELATING TO SWBT'S PLANNING EFFORT.

A: No. Pursuant to the FCC's Merger Conditions, SWBT is no longer the provider of retail DSL services. As of January 12, 2000, retail DSL services in Missouri are being provided by the structurally separate advanced services affiliate, ASI. SWBT submits that its parent, SBC Communications Inc., announced a major initiative to expand the availability of broadband services, stating that it plans to make DSL services available to approximately 80% of SBC's customers throughout the entire SBC territory. However, SWBT will not be the provider of such retail DSL services. (See Pronto Press Release dated October 18, 1999.) See also information provided in response to DR No. 1.

MO PSC Case No. TO-2000-322

Data Request No. 2

First Set of Requests

Covad

Page 2 of 2

First Supplement

Responsible Person: Lee Culver

530 McCullough, 6-Q-06

San Antonio, TX 78215



2330 Central Expressway Santa Clara, CA 95050
W > www.covad.com

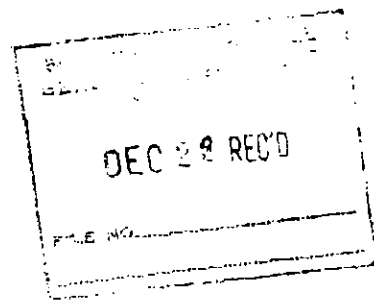
T > 408.844.7500
F > 408.844.7501

Mr. Ison

December 22, 1999

VIA FEDERAL EXPRESS

Katherine C. Swaller
Senior Counsel
Southwestern Bell Telephone
One Bell Center, Room 3536
St. Louis, Missouri 63101



Re: **Case No. TO-2000-322, Covad's Responses to SWBT's First Set of Data Requests**

Dear Ms. Swaller,

I have enclosed the document responsive to SWBT's Data Request No. 1. Please note that cities irrelevant to this proceeding have been redacted from the document.

Covad's response to Data Request No. 3 includes references to documents that are copyrighted and cannot be produced to SWBT, however, those documents are readily available in the open market.

In addition, Covad also identifies the Texas Arbitration Award and Covad's testimony in that arbitration as relevant to some of the Data Requests. SWBT, however, should already have copies of those documents in its possession.

Finally, Covad's witnesses have not completed their testimony, the documents they will rely upon will be provided to SWBT at the time the testimony is filed.

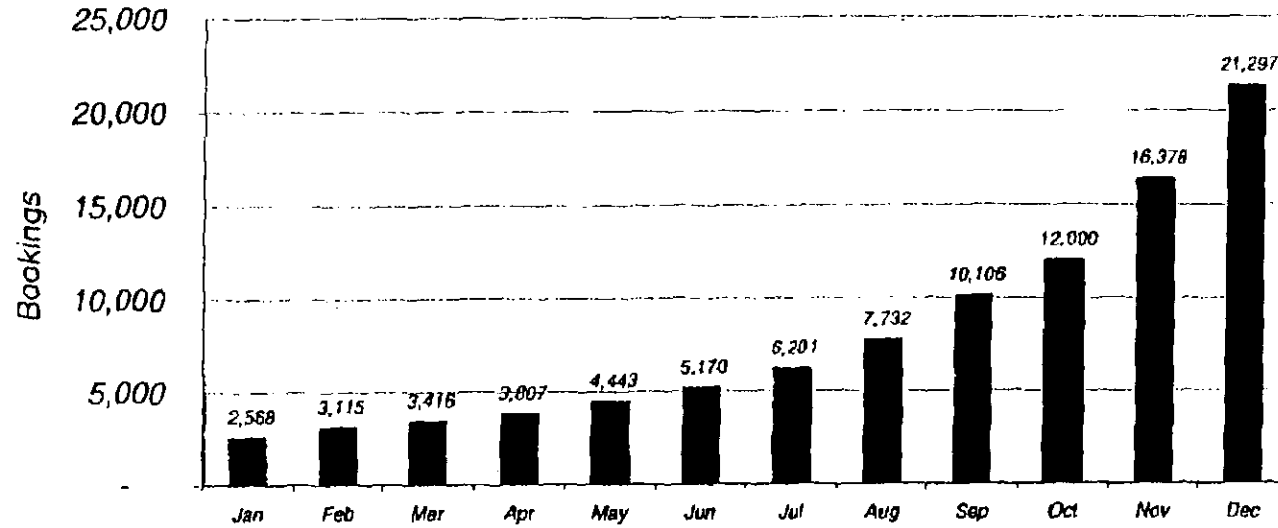
If you should have any questions, please contact me.

Very truly yours,

Laura A. Ison
Laura A. Ison
Counsel *by CA*

enclosure

cc: Lisa Creighton



SWBT Cities

Kansas City

St. Louis

Total Forecasted Bookings												
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total 2000
12	19	28	42	64	98	149	228	349	444	651	869	2,954
9	18	33	63	119	226	431	824	1,579	2,269	4,057	6,284	15,914

REDACTED

SWBT DATA REQUEST NO. 5

Information Requested:

Please provide all documents (including e-mails) and associated work papers that support any activity times that COVAD believes are representative of work required for loop conditioning and qualification in SWBT's network.

Requested by: David Osborn

Information Provided:

To the extent that responsive documents currently exist, Covad will produce such documents. Covad further responds that it may subsequently determine, as a result of its ongoing analysis, that additional documents are responsive. Covad also identifies the Texas Arbitration Award and Covad's testimony in that arbitration as relevant to this Data Request. SWBT, however, should already have copies of those documents in its possession.

SWBT DATA REQUEST NO. 6

Information Requested:

Please provide COVAD's estimate of the time required to perform each potential step (e.g. load coil, bridge tap or repeater removal) to condition a loop for DSL capability and any time and motion studies or other documents (including e-mails) to support such estimates.

Requested by: David Osborn

Information Provided:

Covad has yet to receive SWBT's full document production and therefore has not had an opportunity to factor in those documents in formulating a response to this Data Request.

SWBT DATA REQUEST NO. 7

Information Requested:

Please provide all cost support, including all work papers and any and all documents (including e-mails) that relate to what COVAD believes are the TELRIC costs for unbundled loops, unbundled cross connects, and loop qualification and conditioning for DSL capable loops in Missouri or any State COVAD believes is representative of Missouri.

Requested by: David Osborn

Information Provided:

To the extent that responsive documents currently exist, Covad will produce such documents. Covad further responds that it may subsequently determine, as a result of its ongoing analysis, that additional documents are responsive. Covad also identifies the Texas Arbitration Award and Covad's testimony in that arbitration as relevant to this Data Request. SWBT, however, should already have copies of those documents in its possession.