

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

In the Matter of the Determination of Prices,	)	
Terms, and Conditions of Conditioning for	)	Case No. TO-2001-439
xDSL-capable Loops.	)	

**REPLY OF SOUTHWESTERN BELL TELEPHONE COMPANY  
TO IP COMMUNICATIONS OF THE SOUTHWEST'S RESPONSE  
TO COMMISSION ORDER RESCHEDULING ORAL ARGUMENT  
AND FURTHER REQUEST FOR LIMITED SUBSTITUTION OF COUNSEL**

COMES NOW Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company ("SWBT") and for its Reply to the Response to Commission Order Rescheduling Oral Argument and Further Request for Limited Substitution of Counsel ("Response") filed by IP Communications of the Southwest ("IP") states as follows:

1. SWBT regrets that IP's counsel is experiencing medical issues which prevent his attendance at the oral argument that has been rescheduled for May 9, 2002. SWBT wishes Mr. Stueven a speedy and complete recovery.

2. In IP's Response, the request to substitute counsel is again raised. In its Opposition to Request for Limited Substitution of Counsel filed on April 24, 2002, SWBT pointed out that: (1) Missouri Supreme Court Rule 4-3.7 precludes a lawyer from operating in a dual capacity as a witness and as an advocate in a proceeding except for extremely limited circumstances which have not been demonstrated here and (2) Mr. Siegel would have access to Highly Confidential information in his status as an attorney in the case when he was precluded from having such access in his capacity as a witness.


3. IP's Response contains the assertion that SWBT had entered into a "side agreement" which permits Mr. Siegel to review Highly Confidential material in this case. IP Response, p. 2. That is not correct. In response to a request from IP, SWBT proposed a mutual

nondisclosure agreement which would permit limited access to certain categories of cost study information, but only if Mr. Siegel certified that he had no duties at IP related to retail marketing, pricing, procurement, strategic analysis, or planning. A copy of SWBT's letter is attached as Exhibit A. SWBT's records do not reflect that it entered into any such supplemental agreement with IP or that Mr. Siegel certified that he would come within the limitations of the supplemental agreement. Since IP represented that such an agreement had been signed, SWBT attempted to contact IP's counsel to verify the matter, but no response has been received as of the time this pleading has been prepared.

WHEREFORE, for all the foregoing reasons, SWBT respectfully requests the Commission to deny IP's Request for a Limited Substitution of Counsel.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.

BY  /TS  
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VIA FACSIMILE

Exhibit A

July 31, 2001

Southwestern Bell

Mr. David J. Stueven  
Director Regulatory  
IP Communications of the Southwest  
6405 Metcalf, Suite 120  
Overland Park, Kansas 66202

Re: Missouri PSC Case No. TT-2001-439

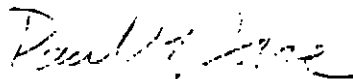
Dear David:

As you know, Southwestern Bell Telephone Company ("SWBT") has serious concerns over the propriety of Howard Siegel becoming a witness in this case after having served as IP Communications' ("IP") attorney in this same proceeding. Under the terms of the standard protective order issued by the Commission in this case, in-house attorneys are permitted to review highly confidential information produced in discovery or included in testimony, but internal witnesses are not permitted to review such material. You have previously advised that Mr. Siegel did review highly confidential information of SWBT in his role as an attorney on behalf of IP.

In a previous conversation, you inquired as to whether SWBT would be willing to enter into an agreement which would permit Mr. Siegel to have access to highly confidential information of SWBT in his role as a witness in this case. I have attached mutual nondisclosure and protective agreements which SWBT is willing to enter into to resolve this matter. I do not know whether Mr. Siegel would come within the scope of this proposed agreement, as it permits only limited personnel to review highly confidential information. Under paragraph 2, IP is required to affirm that the individuals permitted access to the information have no duties related to retail marketing, pricing, procurement or strategic analysis or planning for IP. Mr. Siegel's title is Vice President of External Affairs and Regulatory Policy. If his duties do not extend to the areas of retail marketing, pricing, procurement or strategic analysis or planning, then Mr. Siegel would be covered by the terms of this nondisclosure and protective agreement.

Please advise whether IP wishes to pursue this additional nondisclosure and protective agreement. If not, SWBT will reserve its right to object to Mr. Siegel's involvement in this case as a witness after having reviewed highly confidential information in his role as an attorney for IP.

Very truly yours,

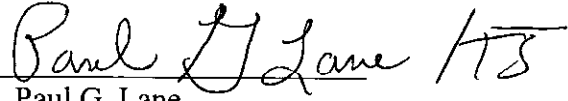


Paul G. Lane

Attachments

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing document were served to all parties on the Service List by first-class, postage prepaid U.S. Mail or hand-delivery on May 1, 2002.



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