

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

Mid-Missouri Telephone Company,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. TC-2002-190
	)	
Southwestern Bell Telephone Company,	)	
	)	
Respondent.	)	

**SOUTHWESTERN BELL TELEPHONE COMPANY'S  
RESPONSE TO STAFF'S SECOND REPORT  
ON ITS INVESTIGATION**

Southwestern Bell Telephone Company<sup>1</sup> respectfully submits this response to Staff of the Missouri Public Service Commission's Second Report on its investigation of Mid-Missouri Telephone Company's Complaint against Southwestern Bell and Southwestern Bell's Motion for Access to Data:

1.     The Impasse Over Data Needs to be Resolved. Southwestern Bell concurs with Staff that the "impasse over Mid-Missouri's classification of Schedules 3-10 of the Jones Direct Testimony as Highly Confidential ("HC") will need to be resolved."<sup>2</sup> As Staff indicated, if it is to properly investigate this matter, it will need to discuss the data Mid-Missouri has produced (as well as any underlying data Mid-Missouri may have) with technical and regulatory representatives of Southwestern Bell who are familiar with Southwestern Bell's network, how other carriers interconnect, and how traffic is routed through the network. Only through such an open exchange can it be determined whether a problem even exists, and if so, what the magnitude, cause and solution to the problem is.

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<sup>1</sup> Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company, will be referred to in this pleading as "Southwestern Bell" or "SWBT."  
<sup>2</sup> Staff Second Report, pp. 5-6.

2. Southwestern Bell also appreciates Staff's support in helping Southwestern Bell secure access to this data by its technical and regulatory employees. As Staff appropriately recognizes, Southwestern Bell can neither defend this case nor address Mid-Missouri's concerns without the involvement of its regulatory and technical personnel.

3. Southwestern Bell's Position Has Been Consistent. Southwestern Bell, however, takes issue with Staff's statement that "SWBT has not taken a consistent position with regard to the confidentiality of the information Mid-Missouri has classified as highly confidential."<sup>3</sup> Southwestern Bell has consistently asserted its position that its internal regulatory and technical employees should have access to data pertaining to traffic that transited Southwestern Bell's network and terminated in a Mid-Missouri exchange. The information which Mid-Missouri claims is Highly Confidential was provided by Southwestern Bell in connection with the underlying call. The information may be Highly Confidential as to the originating carrier (not Mid-Missouri which terminated the call) but is not Highly Confidential as to the carriers along the call path, who are provided this information by the originating carrier in order to permit the call to be completed and the appropriate parties to be billed. It is simply absurd for Mid-Missouri to contend the information is Highly Confidential as to Southwestern Bell when the information at issue was given to Mid-Missouri by Southwestern Bell.

4. With respect to the statement in its Motion for Access to Data that "Mid-Missouri's claim that the information is HC lacks merit," Southwestern Bell's intent was to challenge Mid-Missouri's position that since it recorded that information on its switches, that information was only Mid-Missouri's HC information and that only Mid-Missouri employees should have access to it. Southwestern Bell's position is clear when the statement is viewed in context:

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<sup>3</sup> Staff Second Report, p. 6.

Mid-Missouri's claim that the information is HC lacks merit. Mid-Missouri is not the originator of the call -- it claims that SWBT, Verizon, Sprint or others are the originators. If SWBT is the company providing the originating service, and if the information is highly confidential, it is SWBT's confidential information. If Verizon or Sprint is the originator, the information may be highly confidential, but it is information which SWBT is entitled to have as the transiting carrier -- the call can't be completed if SWBT is not permitted to know the originating carrier or the number of the called customer.<sup>4</sup>

5. Staff is correct that Southwestern Bell does not challenge the confidential nature of the data nor is it asking to generally declassify the data, which would allow third-parties (i.e., those other than the person making the telephone call, the originating carrier and any other carrier on the call path) to see it. Rather, to the extent a Southwestern Bell customer originated the call, it is Southwestern Bell's HC data and Southwestern Bell may view its own data. To the extent another carrier's customer originated the call, it is not HC as to Southwestern Bell as that same information was given to Southwestern Bell and to Mid-Missouri by the originating carrier.

6. It is the joint activity of Southwestern Bell and Mid-Missouri and the nature of the data itself that gives rise to Southwestern Bell's expectation and belief that its internal technical and regulatory experts should be given access to the information, even though it is classified as HC. For example, when a Sprint-Missouri customer in Warrensburg makes a 1+ dialed toll call to a Mid-Missouri customer in Pilot Grove, that call reaches its destination through the joint effort of Southwestern Bell and Mid-Missouri. After receiving the call from Sprint-Missouri, Southwestern Bell then carries the call to its meet-point with Mid-Missouri. There, Southwestern Bell hands the call to Mid-Missouri, which carries and terminates the call to an end-user in its Pilot Grove exchange. Since Sprint-Missouri has no facilities that connect directly to Mid-Missouri, Sprint-Missouri completes its calls to Mid-Missouri through the collaboration of Southwestern Bell and

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<sup>4</sup> SWBT Motion for Access to Data, filed March 18, 2002 at p. 2 (emphasis in original).

Mid-Missouri in providing meet-point billed<sup>5</sup> access services. Sprint-Missouri pays Southwestern Bell for transiting and Mid-Missouri for terminating the Sprint-Missouri end user's call.

7. In order to handle these types of calls, call-related information is made available by the originating carrier (e.g., Sprint-Missouri) to all carriers on the call path. This information is necessary for them to correctly route the calls and bill access charges to the originating carrier on such calls. While this call-related information would be HC as to other parties, it would not be HC as to the originating carrier and any connecting carrier on the call path (i.e., the transiting carrier and the terminating carrier).

8. It is not unusual for HC data to be viewable by more than one party's internal experts. For example, in access rate proceedings, specific information pertaining to access services supplied by a LEC (e.g., Southwestern Bell) to an interexchange service provider (e.g., AT&T) would not be considered HC to that access provider or to its carrier customer purchasing those services, and that data would be viewable by internal experts of both companies. But that same data would be considered HC to other companies involved in the proceeding, and that information would be viewable only by those companies' attorneys and outside experts. Similarly, information pertaining to an end-user's bill in a particular proceeding would not be considered HC as to either the providing carrier or the end-user customer, but would be considered HC to all other parties in the case.

9. The Commission should also note that while Mid-Missouri in this case is claiming that the traffic at issue should be blocked, Mid-Missouri is also asking the Commission to order Southwestern Bell to pay terminating access charges on this traffic as if Southwestern Bell were

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<sup>5</sup> Meet-point billing is the method specified in both Southwestern Bell and Mid-Missouri's access tariffs for billing jointly-provided access services under which each bills the originating carrier for the portion of its facilities used.

Mid-Missouri's access customer with respect to this traffic.<sup>6</sup> While Southwestern Bell vehemently disagrees that it is Mid-Missouri's "customer" and should be financially responsible for this traffic (as it was originated by other carriers), Southwestern Bell at a minimum should have the right for its internal technical and regulatory personnel to see the usage information upon which such charges are based.

10. As Southwestern Bell has consistently urged in its prior pleadings, the Commission should resolve this matter by finding that the data is not HC as to Southwestern Bell.

11. Specific Southwestern Bell Employees that Need Access to the Data. In the event the Commission rules that the data is HC as to Southwestern Bell, but modifies the Protective Order in some way that allows certain Southwestern Bell employees to review it, Southwestern Bell would need its technical network personnel, as well as its regulatory personnel, to have access to the data. As Staff correctly notes in its Second Report, Southwestern Bell on May 15, 2002, filed the nondisclosure affidavits of Thomas F. Hughes, Timothy M. Judge and Alan G. Kern. These individuals are members of Southwestern Bell's regulatory staff. Southwestern Bell filed their nondisclosure affidavits so that they would be able to see any information Mid-Missouri produced to Southwestern Bell during discovery that was marked as Proprietary ("P"). Under the P classification, internal company employees are permitted to view such classified information upon signing of a nondisclosure affidavit. While these employees certainly would need access to the data at issue which Mid-Missouri claims supports its complaint, Southwestern Bell would also need a limited group of its network technicians to also be permitted access to Mid-Missouri's data.

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<sup>6</sup> See, Mid-Missouri's Complaint, Motion for Southwestern Bell Telephone Company to Show Cause, Request for Investigation, Injunction, Mandamus, Case No. TC-2002-190, filed October 16, 2001, at p. 6, subpara. (f).

12. The Commission can be assured that Southwestern Bell does not wish to be in violation of any Commission Order and would certainly perform additional blocking if found to be needed. However, Southwestern Bell has double-checked the work it performed to implement the prior blocking order and believes the blocking it has in place is appropriate. Normally, when a traffic routing issues occasionally arises, it is handled on a carrier-to-carrier basis through cooperative interaction between each company's technical employees. Southwestern Bell continues to believe that the issues Mid-Missouri is raising here can and should be addressed in this fashion. Mid-Missouri has refused to follow normal industry practice and now seeks to prevent Southwestern Bell from investigating and resolving the dispute. Southwestern Bell believes Mid-Missouri is abusing the regulatory system with its position, and urges the Commission not to countenance such tactics. Perhaps during a Staff-led investigation, Mid-Missouri will be willing to work cooperatively with Southwestern Bell and share data pertaining to the traffic that terminates over their interconnected facilities so that the concerns Mid-Missouri has raised can be addressed and resolved.

Respectfully submitted,

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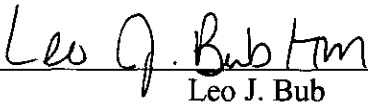
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**CERTIFICATE OF SERVICE**

Copies of this document were served on the following parties by first-class, postage prepaid, U.S. Mail or hand-delivery on June 17, 2002.

  
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