

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

SEP 05 2003

Delta Phones, Inc.,

Complainant,

v.

Southwestern Bell Telephone Company,
L.P. d/b/a Southwestern Bell Telephone
Company.

Respondent.

Missouri Public
Service Commission

Case No. TC-2004-0064

SUPPLEMENT TO STAFF REPORT AND RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission and for its supplement to the Staff Report and Recommendation states:

1. During the August 12, 2003 prehearing conference, the regulatory law judge directed the Staff to provide a report by week's end of when it would be able to complete an investigation into this complaint. On August 15, 2003, the Staff filed its Staff Report and Recommendation, wherein the Staff stated it would like the opportunity to read Southwestern Bell Telephone Company's (SWBT) answers to the claims made by Delta Phones, Inc. The Staff estimated that it would complete an investigation by September 30, 2003, but requested that it provide the Commission with "a time of completion of its investigation after SWBT files its answer."

2. SWBT filed its answer on August 27, 2003. Accordingly, the Staff submits this supplement to the Staff's Report and Recommendation to advise the Commission whether it can complete its investigation by the Staff's initial estimate of September 30, 2003. Unfortunately,

the Staff is still delayed in completing its investigation. On August 15, 2003, the Staff sent information requests to Delta Phones and SWBT, requesting information that is imperative to the investigation.¹ The Staff received timely answers from SWBT, however, the Staff is awaiting information and evidence from Delta Phones. Following a death in the family of the person responsible for compiling the responses for Delta Phones, Delta Phones' counsel advised the Staff that it could not provide responses until August 28, 2003. Since the Staff has yet to receive complete responses from Delta Phones, the Staff may need additional time, beyond the September 30, 2003 estimate, to complete its investigation. Delta Phones has indicated to the Staff that it will provide the Staff with the requested information. Until that information is received, however, the Staff is unable to sufficiently investigate Delta Phones' complaint.

3. The Staff initially treated its information requests as informal information gathering under the assumption it would receive timely responses, however, today the Staff resubmitted its information requests to Delta Phones as formal data requests pursuant to 4 CSR 240-2.090(2). If Delta Phones waits twenty days to respond, as allowed for data requests under 4 CSR 240-2.090(2), the Staff will not receive responses until September 25, 2003, and the Staff will not be able to complete its investigation until sometime in October. Once Delta Phones has provided the Staff with complete responses to the requested information, the Staff will be in a better position to advise the Commission as to when the Staff will complete its investigation.

4. In the Staff's Report and Recommendation, the Staff recommended that the Commission direct the parties to follow the agreed upon procedures in the interconnection agreement for billing disputes and nonpayment, or give reason why they should not. Those procedures require undisputed amounts be paid, and disputed amounts be placed into escrow. The parties have not given reason as to why these procedures should not be followed.

¹ The information requests appear in Appendix A to the Staff Report and Recommendation.

Furthermore, as SWBT continues to provide service to Delta Phones, the amount owed by Delta Phones to SWBT continues to increase. For these reasons, the Staff continues to recommend that the parties be directed to follow the agreed upon interconnection agreement terms for billing disputes and nonpayment, by requiring Delta Phones to pay the undisputed amounts and to place the disputed amounts into escrow.

WHEREFORE, the Staff offers this supplement to its Staff Report and Recommendation.

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or e-mailed to all counsel of record this 5th day of September 2003.

