

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of a Further Investigation of)
the Metropolitan Calling Area Service After) Case. No. TO-2001-391
the Passage and Implementation of the)
Telecommunications Act of 1996.)

SOUTHWESTERN BELL TELEPHONE, L.P.,
d/b/a SOUTHWESTERN BELL TELEPHONE COMPANY'S INITIAL BRIEF

Comes now Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company ("SWBT") and, for its Initial Brief, states as follows:

Executive Summary

SWBT believes that the Missouri Public Service Commission ("Commission") needs to provide the industry with guidance regarding how it would like this case to proceed. As a threshold matter, the Commission needs to notify the industry whether it is interested in exploring the possibility of implementing the Staff of the Missouri Public Service Commission's ("Staff's") Metropolitan Calling Area Plan-2 ("MCA-2") or any other proposals that might be offered by parties in the case.¹ If the Commission is interested in exploring the possibility of implementing Staff's MCA-2 proposal, the industry should conduct additional discussions concerning the method of pricing the service as the parties have not fully explored this issue. Although Staff envisions that if its MCA-2 proposal were implemented, the price that each ILEC's customer pays for MCA-2 service would be the amount its customer currently pays for MCA service plus an additional amount that is required for revenue neutrality if MCA-2 were

¹See T. at 34-35, MacDonald (SWBT). SWBT notes that the Office of Public Counsel ("OPC") agrees that the Commission needs to provide the parties to this docket with guidance regarding whether it is interested in exploring the possibility of implementing MCA-2. (T. 15 and 53-54, Dandino). SWBT's position is also supported by MITG (T. 38-40 and 63-64, Johnson) and Alltel Missouri, Inc. (T. at 51, Dority).

implemented,² Staff's proposal is just one alternative. As numerous parties expressed during the Prehearing Conference that was held on May 29, 2002, and during the On-The-Record Presentation that was held on July 15, 2002, other pricing proposals have yet to be considered. Since, under MCA-2, all MCA-2 subscribers would have the same calling scope, another pricing proposal that could be considered is establishing a uniform price for all MCA-2 subscribers. SWBT strongly believes that if the Commission is interested in exploring the possibility of implementing MCA-2, the Commission should direct the Industry Task Force to hold additional meetings to discuss alternative pricing proposals. Such Industry Task Force meetings would also provide an opportunity to discuss any potential plans being considered by the parties to this docket.

While SWBT does not oppose public hearings, public hearings on MCA-2 or a geographic expansion of the current MCA area are premature until sufficient information on pricing changes is developed so that the public has adequate information on which to comment. If the Commission is interested in exploring the possibility of implementing MCA-2, then local public hearings should not be held until alternative plans and pricing information have been determined, thus providing a basis for meaningful input from the public. Further, regarding the Office of Public Counsel's ("OPC's") request for public hearings in Lexington, Innsbrook (Wright City), Ozark County, Greenwood, and Warrensburg, this request is premature at this time since the proposal to consider geographic expansion of the MCA has not been analyzed by the Industry Task Force.

² While SWBT agrees that revenue neutrality is both necessary and appropriate, SWBT does not believe that Staff's pricing proposal as set forth in the Final Status Report of the Industry Task Force considers all costs and/or revenue impacts that SWBT and the other ILECs would incur and, therefore, does not consider all aspects of revenue neutrality.

The Protective Order in this case should not be amended to allow release of any of the information currently designated as "highly confidential." The information designated "highly confidential" includes "marketing analyses or other market-specific information relating to services offered in competition with others" and is, therefore, highly confidential under the express terms of the Protective Order. Rates, once developed, however, would not be considered highly confidential information and could be shared with the public.

Finally, various parties raised numerous issues during the On-The-Record Presentation that are beyond the scope of this docket. For these reasons, the Commission should refrain from addressing these issues as part of this proceeding.

Argument

I. Outline The Steps That Remain. Are Additional Meetings By The Task Force Necessary, And If So, Clarify The Purpose Of The Meetings?

SWBT believes that if the Commission is interested in exploring the possibility of implementing Staff's MCA-2 proposal or other alternative proposals, the Commission should order the Industry Task Force to conduct additional meetings to discuss specific pricing proposals that may lead the industry to reach a settlement agreement.³ As SWBT indicated at the Prehearing Conference and at the On-The-Record Presentation, the discussions to date have largely focused on the revenue impact of implementing MCA-2 and the development of the Final Status Report of the Industry Task Force.⁴ The parties have not engaged in any significant discussion of specific pricing proposals or any alternative plans that may be proposed.⁵ As indicated above, the Industry Task Force should examine the rebalancing of rates between outer

³ See T. at 30-31 and 112-113, MacDonald (SWBT). SWBT's position is supported by Sprint Communications Company, L.P., and Sprint Missouri, Inc. (T. at 40-41, Creighton Hendricks), as well as Alltel Missouri, Inc. (T. 51, Dority).

⁴ Id. at 31 and 113, MacDonald (SWBT).

⁵ Id. at 31 and 113-114, MacDonald (SWBT).

tier exchanges and inner tier exchanges because, if adopted, all MCA-2 subscribers (both those located in the mandatory tiers as well as the optional tiers) would have the same calling scope.⁶

SWBT also believes the Commission should require pricing proposals to consider the cross-elastic impacts of changing MCA service from a two-way calling plan to a one-way calling plan on other services.⁷ Customers may no longer wish to subscribe to MCA service and/or may subscribe to other services in place of MCA service (e.g. 800 service).⁸ These impacts were not considered in the Final Status Report of the Industry Task Force.⁹

Finally, SWBT believes that the Commission must allow ILECs full recovery of all lost revenue and implementation costs.¹⁰

II. Should Local Public Hearings Regarding The MCA-2 Be Held, And If So, Where Should The Local Public Hearings Be Held And At What Stage Of The Process?

SWBT does not oppose public hearings regarding Staff's proposed MCA-2 plan, but notes that any public hearings are premature until sufficient information on pricing changes is developed so that the public has adequate information to permit meaningful comments.¹¹ SWBT's position is generally supported by the industry.¹² If the Commission is interested in exploring the possibility of implementing MCA-2 or making other changes to the MCA plan, then local public hearings should not be held until alternative plans and pricing information have been developed so that the public can have meaningful input.¹³

⁶ Id. at 31 and 114, MacDonald (SWBT).

⁷ Id.

⁸ Id.

⁹ Id. at 114, MacDonald (SWBT).

¹⁰ Id. at 31-32 and 114, MacDonald (SWBT).

¹¹ Id. at 35-36, MacDonald (SWBT).

¹² See T. at 20-22, Lumley on behalf of XO Missouri, Inc., NuVox Communication of Missouri, Inc., MCI WorldCom Communications, Inc., Intermedia Communications, Inc., MCI WorldCom Network Services, Inc., and MCI Metro Access Transmission Services, L.L.C.; see also T. at 28-30, England on behalf of Cass County Telephone Company, Lathrop Telephone Company, Orchard Farm Telephone Company, and Spectra Communications, L.L.C.; see also T. 45-49, Creighton Hendricks on behalf of Sprint Communications Company, L.P. and Sprint Missouri, Inc.; see also T. at 51, Dority on behalf of Alltel Missouri, Inc.

¹³ Id. at 36, MacDonald (SWBT).

Regarding the OPC's request for public hearings concerning the possibility of adding Lexington, Innsbrook (Wright City), Ozark County, Greenwood, and Warrensburg¹⁴ to the MCA, this request is premature.¹⁵ The Industry Task Force did not examine the potential for expanding the MCA beyond the current geographic boundaries.¹⁶ Although the Task Force acknowledged some demand for such expansion, the Task Force recommended to the Commission that prior to consideration of such expansion, the Commission should determine the feasibility of implementing MCA-2.¹⁷ Even if the Commission is interested in pursuing geographic expansion of the current MCA apart from Staff's MCA-2 proposal, it is not appropriate to conduct public hearings at this time since there are no pricing proposals to discuss with the public, as noted by Commissioner Lumpe and others during the On-The-Record Presentation.¹⁸ Therefore, it is not appropriate to have public hearings on expansion until the Commission indicates its desire to investigate geographic expansion and the issue has been more fully developed by the parties.¹⁹

III. Should The Protective Order In This Case Be Amended To Allow Release Of Some Or All Of The Information Currently Designated As "Highly Confidential," Such As The Pricing Effects For Implementing The MCA-2?

The Protective Order in this case should not be amended to allow release of any of the information currently designated as "Highly Confidential."²⁰ The information designated "Highly Confidential" includes estimates of each ILEC's toll revenue reduction, terminating access expense reduction, terminating access revenue reduction, originating access revenue reduction, implementation costs, and subscription data in an effort to determine the monthly

¹⁴ See T. at 17, 19-20, Dandino (OPC).

¹⁵ See T. at 36, MacDonald (SWBT).

¹⁶ See T. at 36, MacDonald (SWBT); see also The Final Status Report of the MCA Task Force, pages 17-18.

¹⁷ Id.

¹⁸ T. at 137, Lumpe; see also T. at 26-28, Voight (Staff); see also T. at 36, MacDonald (SWBT).

¹⁹ T. at 36, MacDonald (SWBT).

²⁰ T. at 62 and 115, MacDonald (SWBT).

impact per customer if MCA-2 were implemented.²¹ As such, this information is "marketing analyses or other market-specific information relating to services offered in competition with others" and is Highly Confidential under the express terms of the Protective Order.²²

If the Commission is interested in exploring the possibility of implementing Staff's MCA-2 proposal, SWBT, as well as other industry participants, will propose prices for MCA-2 service and those prices will not be considered Highly Confidential.²³ However, the cost and/or demand data underlying those price proposals may well be Highly Confidential.²⁴

IV. Has The Industry Task Force Accomplished Its Goal Of Investigating Issues Relating To Pricing Of MCA Service And The Effect Of An Expanded MCA On Pricing?

The Industry Task Force did a very good job putting together the Final Status Report.²⁵ However, the Industry Task Force did not fully achieve the goal of examining the pricing of MCA service and the effect of an expanded MCA on pricing because, as explained above, the Industry Task Force considered the costs for implementing MCA-2 but not pricing proposals.²⁶ Before the Industry Task Force can fully achieve its goals of investigating issues related to pricing MCA service and the effect of an expanded MCA on pricing, the Industry Task Force needs guidance from the Commission regarding whether it is interested in exploring the possibility of implementing Staff's MCA-2 proposal or any other MCA plan which may be put forth by industry participants.

²¹ Id.

²² Id.

²³ Id. at 115, MacDonald (SWBT)

²⁴ Id.

²⁵ Id. at 116, MacDonald (SWBT).

²⁶ Id.

V. Is The Local Exchange Routing Guide The Appropriate Mechanism To Identify MCA Codes?

The Local Exchange Routing Guide ("LERG") is the appropriate mechanism to identify MCA-NXX codes both now and in the future.²⁷ This is required by the Commission's Report and Order in Case No. TO-99-483, September 7, 2000, paragraph 13. Specifically, paragraph 13 provides in pertinent part: "the Metropolitan Calling Area NXX Codes shall be identified using the Local Exchange Routing Guide." Id.

IV. What Other Issues Should The Commission Consider As Part Of This Docket?

At the On-The-Record Presentation, numerous issues were raised by various parties to this docket as well as by the Administrative Law Judge and the Commissioners. SWBT addressed the issues that it believes are pertinent at the Prehearing Conference, in its Comments following the May 29, 2002 Prehearing Conference,²⁸ and at the On-The-Record Presentation. However, to the extent that any party raises issues in their Initial Brief that SWBT has not addressed, SWBT reserves the right to respond to such issues in its Reply Brief.

At the outset, SWBT notes that other issues may be beyond the scope of this case. In its Report and Order, Case No. TO-99-483, September 7, 2000, the Commission indicated that it would establish an Industry Task Force to consider additional issues surrounding the MCA service in the St. Louis, Kansas City, and Springfield metropolitan exchanges. The Commission established this case and ordered the Staff to establish a Task Force.²⁹ The Commission further ordered the Task Force to report back to the Commission with its activities and recommendations.³⁰ Specifically, the Commission instructed the Task Force to investigate issues

²⁷ Id.

²⁸ See Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company's Comments Following the May 29, 2002 Prehearing Conference, filed June 10, 2002.

²⁹ Order Establishing New Case And Creating An Industry Task Force, Case No. TO-2001-391, January 18, 2001.

³⁰ Id.

related to pricing of MCA service, the effects of an expanded MCA on pricing, and whether the LERG is the appropriate mechanism to identify the MCA NXX codes in the future.³¹ Finally, the Commission asked the Task Force to bring to the Commission's attention any other issues it identifies which may impact MCA service and its continued viability in the future.³²

Conclusion


In summary, the Commission needs to provide the industry with guidance regarding how it would like this case to proceed. If the Commission is interested in exploring the possibility of implementing MCA-2, the Commission should order the Industry Task Force to hold additional meetings to discuss pricing proposals for MCA-2 service. Further, the Commission should direct any party that desires to present an alternative MCA plan to do so at such Industry Task Force Meetings. Until such meetings have occurred, public hearings are premature as there is insufficient information with which to present to the public. The Protective Order in this case should not be modified to require public disclosure of Highly Confidential data, but the Commission should recognize that pricing proposals are not themselves Highly Confidential and can be discussed with the public after they are developed. Finally, SWBT reserves the right to comment on additional issues raised by parties in their Initial Briefs.

³¹ Id.

³² Id.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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