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December 23, 2003

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

**FILED**

**DEC 23 2003**

Re: Case No. TT-2004-0245  
Tariff No. JI-2004-0654

**Missouri Public  
Service Commission**

Dear Judge Roberts:

Please find enclosed for filing in the referenced matter the original and five copies of AT&T Communications of the Southwest, Inc.'s Motion to Suspend, Response to Order Directing Filing and Application to Intervene.

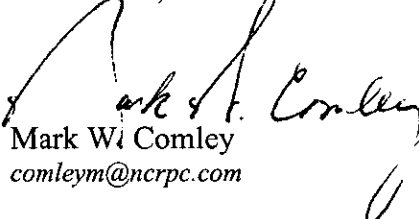
Would you please bring this filing to the attention of the appropriate Commission personnel.

Please contact me if you have any questions regarding this filing. Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:

  
Mark W. Comley  
comleym@ncrpc.com

MWC:ab  
Enclosure

cc: Office of Public Counsel  
General Counsel's Office  
Rebecca B. DeCook  
R. Matthew Kohly  
Paul G. Lane

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

**FILED**  
**DEC 23 2003**

**Missouri Public  
Service Commission**

In the Matter of Southwestern Bell                     )  
Telephone, L.P., d/b/a SBC Missouri's                 )  
Proposed Tariff Revisions Restricting                )  
Commingling of Unbundled Network                   )  
Elements with Wholesale Facilities and                )  
Services.    )

**Case No. TT-2004-0245**  
**Tariff No. JI-2004-0654**

**AT&T COMMUNICATIONS OF THE SOUTHWEST, INC'S  
MOTION TO SUSPEND, RESPONSE TO ORDER DIRECTING FILING AND  
APPLICATION TO INTERVENE**

COMES NOW AT&T Communications of the Southwest, Inc. ("AT&T") pursuant to section 386.400, Section 392.200, 392.220 and 392.230 RSMo.2000, 4 CSR 240-2.065, and 4 CSR 240-2.075, and respectfully submits its Motion to Suspend, Response to Order Directing Filing, and Application to Intervene. In support of its request, AT&T states as follows:

1. AT&T is a competitive local and interexchange telecommunications company duly incorporated and existing under and by virtue of the laws of the State of Delaware, authorized to do business in the State of Missouri as a foreign corporation. AT&T's principal Missouri offices are located at 101 W. McCarty, Ste. 216, Jefferson City, MO 65101. AT&T has been granted authority to provide local exchange service and basic local exchange service in portions of Missouri, as well as intrastate, interexchange telecommunications services throughout Missouri under authority granted and tariffs approved by the Commission. AT&T is also an authorized provider of interstate interexchange telecommunications services under the oversight and jurisdiction of the Federal Communications Commission.

2. All communications and pleadings in this case should be directed to:

Rebecca B. DeCook    Colorado #014590  
1875 Lawrence Street, Ste. 1575  
Denver, CO 80202  
(303) 298-6357; FAX: (303) 298-6301  
[decook@att.com](mailto:decook@att.com)

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601 Monroe Street, Suite 301  
P.O. Box 537  
Jefferson City, MO 65102  
(573) 634-2266; FAX: (573) 636-3306  
[comleym@ncrpc.com](mailto:comleym@ncrpc.com)

3.     Southwestern Bell Telephone, L.P. d/b/a SBC Missouri ("SBC") is a Texas limited partnership and is a public utility subject to the jurisdiction of the Commission that provides certain telecommunications service in its service area within the State of Missouri under authority granted and tariffs approved by the Commission. It has offices at One Bell Center, St. Louis, Missouri, 63101.

4.     On or about November 12, 2003, SBC filed its proposed tariff to add language restricting the commingling of unbundled network elements with wholesale access facilities and services. The tariff had a proposed effective date of December 12, 2003. A copy of the proposed tariff is attached as Exhibit A. On December 5, 2003, MCImetro Access Transmission Services, LLC ("MCImetro") filed a Motion to Suspend or Reject Proposed Tariff Sheets. On December 8, 2003, SBC filed a response to MCImetro. On December 10, 2003, the Commission issued an *Order Directing Filing* that suspended the proposed tariff and directed the Staff of the Missouri Public Service Commission ("Staff") to file a response and recommendation no later than December 16, 2003 and directing other interested parties to file any responses by December 23, 2003. On December 22, 2003, SBC filed a Reply of SBC Missouri to Staff's Response and Recommendation.

5. AT&T agrees with MCImetro and requests that the proposed tariff sheets be rejected or, alternatively, suspended for further review. AT&T believes the proposed tariff sheets are unreasonable, unjust, and illegal as they contain provisions that would unlawfully restrict AT&T's ability to exercise its rights under the FCC's rules to commingle network elements and wholesale facilities and services. First, and most fundamentally, by unilaterally imposing conditions on commingling rights, the proposed tariff revisions plainly fail to comply with the Commission's *Triennial Review Order* and the FCC's rules that permit commingling, 47 C.F.R. § 51.309, and sections 201, 202 and 251(c)(3) of the 1996 Act (47 U.S.C. §§ 201 & 202). Additionally, the proposed tariffs contain provisions found in footnotes that would permit SBC to unilaterally eliminate its commingling obligations based upon its own interpretation of external events without submitting a tariff cancellation or tariff revision to the Commission for approval. Such a proposed automatic termination clause violates Section 392.220 and 4 CSR 240-3.545 regarding tariff changes.

6. The FCC's rules regarding commingling state that, "an incumbent LEC shall permit a requesting telecommunications carrier to commingle an unbundled network element or a combination of unbundled network elements with wholesale services obtained from an incumbent LEC." 47 C.F.R. § 51.309. In adopting that rule, the Commission expressly held that any "restriction on commingling would constitute an 'unjust and unreasonable practice' under 201 of the Act, as well as an 'undue and unreasonable prejudice or advantage' under section 202 of the Act," and also "would be inconsistent with the nondiscrimination requirements of section 251(c)(3) [of the Act]."<sup>1</sup>

7. SBC's proposed tariffs contain just such unlawful restrictions on commingling. SBC's proposed tariff revisions restrict commingling in instances where an existing

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<sup>1</sup> See also *Triennial Review Order* ¶ 581.

interconnection agreement does not address commingling. *See SBC P.S.C. Mo. No. 36, Access Services Tariff, Section 5, Sheet 1.01, Section 5.1.1* (limiting commingling “to the extent provided by and subject to the terms and conditions of the requesting telecommunications carrier’s interconnection agreement with the Telephone Company”). Where an interconnection agreement does not expressly impose commingling restrictions on the use of network elements available under the agreement (as is often the case),<sup>2</sup> the incumbent LEC has no authority to restrict or delay those carriers’ rights to commingle. Yet, SBC’s proposed tariff revisions would unilaterally and immediately impose such delays, in direct violation of the Commission’s rules (47 C.F.R. § 51.309) and the 1996 Act (47 U.S.C. §§ 201, 202, and 251(c)(3)).

8. In the Staff Response and Recommendation, the Staff of the Missouri Public Service Commission (“Staff”) stated, “The Staff believes interconnection agreement amendments would be necessary only for interconnection agreements that specifically prohibit commingling. Interconnection agreements may also contain applicable change of law provisions that could require amendments to the agreement. The Staff also believes interconnection agreement amendments would not be necessary if the interconnection agreement does not specifically prohibit commingling.”<sup>3</sup> Although AT&T agrees with the Staff’s conclusion regarding CLECs ability to commingle, SBC’s proposed tariff language does not support its application in the manner Staff suggests, and Staff provides no analysis or basis to support such a conclusion. Indeed, SBC itself disagrees with Staff’s interpretation.<sup>4</sup> Instead, SBC takes the position that CLECs and ILECs must negotiate revisions to the terms and conditions of the

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<sup>2</sup> Many interconnection agreements are silent on the issue of commingling, because SBC and other incumbent LECs *unilaterally* imposed commingling restrictions when the Commission authorized such restrictions, without any formal amendment to interconnection agreements. Other existing interconnection agreements provide that the LEC may impose whatever use restrictions are reflected in the Commission’s rules. Here, too, the competitive carrier has an immediate right to commingle under the new rules, and SBC has no authority to condition that right on the re-negotiation and modification of interconnection agreements.

<sup>3</sup> Staff Response and Recommendation, pg. 2.

<sup>4</sup> Reply of SBC Missouri to Staff’s Response and Recommendation, pg. 2.

interconnection agreements before a carrier may commingle. Given Staff's and SBC's disagreement over the issue of when a modification to existing interconnection agreements is required, it is unclear to AT&T whether Staff supports SBC's tariff filing or not.

9. Ironically, in opposing Staff's interpretation that the proposed tariffs only require renegotiation of an existing interconnection agreement in instances where an interconnection agreement specifically prohibits commingling, SBC complains of Staff's attempt to impose commingling obligations via a tariff. SBC also provides a cite to a recent court decision and quotes a portion of that decision, stating that the, "tariff procedure short circuits negotiations, making hash of the statutory requirement that forbids requests for arbitration until 135 days after the local phone company is asked to negotiate an interconnection agreement."<sup>5</sup> SBC is essentially complaining of its own actions as SBC is attempting use the tariff process to impose restrictions on commingling such as requiring carriers to request negotiations to address commingling issues whether such negotiations are necessary or not.

10. In addition to unlawful restrictions, SBC's proposed tariffs contain provisions that would permit SBC to terminate its commingling obligations in the event that SBC believes the FCC or a court vacates, stays, remands, reconsiders, or rejects the portion of the Triennial Review Order requiring ILECs to permit commingling. Under provisions contained in the proposed tariffs, SBC could unilaterally terminate its commingling obligations solely based upon SBC's own interpretation of a decision issued by the FCC or a court; irrespective of whether that decision was further appealable or stayed. SBC's proposed automatic termination provisions also conflict with the applicable change in law provisions found in the interconnection agreement between AT&T and SBC. Section 3.0 provides that in the event any legally binding legislative,

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<sup>5</sup> Reply of SBC Missouri to Staff's Response and Recommendation, pg 3 citing *Wisconsin Bell, Inc. v. Bie* 340 F.3d 441, 445 (7th Cir 2003).

regulatory, and judicial or other legal action affects any terms of the agreement between AT&T and SBC, either party may, on thirty days written notice require that the affected terms be renegotiated. SBC's proposed tariff modifications would circumvent this process by immediately permitting SBC to unilaterally terminate its commingling obligations, regardless of whether the court or legal action is final. Such an automatic termination provision is unreasonable and contrary to the public interest. It would be far better to require SBC to submit to Commission approval to effectuate any changes to SBC's commingling obligations rather than have SBC unilaterally eliminate those obligations.

11. Staff attempted to address this issue in its Response to Order Directing Filing stating, "Staff believes a federal regulation or judicial decision must clearly eliminate SBC's commingling obligation before SBC could no longer permit commingling." What is clear to one party with a motive may be unclear to another party and certainly such a provision regarding the degree of clarity of the regulation or judicial decision is not found in the proposed tariff language. More importantly, Staff fails to address the instance where the federal regulation or judicial decision regarding commingling obligations is further appealed, stayed or overturned. Under the proposed tariff language, AT&T believes SBC could be able to terminate its commingling obligations even when the decision upon which SBC relies is stayed or even overturned.

12. SBC's proposed automatic termination clause is similar to a "morphing clause" contained in a tariff submitted by SBC in Case No. TT-98-351, *In the Matter of Southwestern Bell Telephone Company's Tariff Revisions Designed to Introduce a LATA-wide Extended Area Service (EAS) Called Local Plus, and A One-Way COS Plan*. That clause created a situation where SBC could unilaterally change or withdraw the tariff at issue in that proceeding based

upon its own interpretation of state and federal law.<sup>6</sup> It was Staff's position that such a "morphing clause" was inappropriate and should not be approved<sup>7</sup>. While that tariff was rejected for several other reasons making the issue surrounding the "morphing clause" moot, the Commission did find that in order for a company to withdraw a tariff, "[a company] must follow Commission procedures, including obtaining approval for discontinuance of the service."<sup>8</sup> It should be noted that when SBC did withdraw Local Plus, it did file a tariff requesting approval to do so. Similar procedures must be followed in this instance as well and SBC must be required to obtain Commission approval prior to terminating or modifying its commingling obligations.

13. Lastly, SBC's primary argument in support of the proposed tariffs is that the FCC permitted similar tariffs to become effective at the interstate level. However, the process at the FCC is quite different from the tariff approval process at the state level, and nothing that occurred at the FCC can limit AT&T's rights before this Commission. At the FCC, a tariff filed under the FCC's streamline tariffing process - such as the SBC tariff in question - is presumed lawful, and anyone opposing the tariff bears the burden of convincing the FCC to suspend or reject the tariff. Moreover, the FCC's standard for determining whether to act is whether upon a cursory review, the tariff appears patently unlawful. The FCC's decision not to take affirmative action to suspend or reject a tariff therefore is by no means a final determination of the tariff's validity. Parties thus may file a petition for reconsideration or seek review of the bureau decision by the full Commission through an application for review. Further, after the tariff is permitted to go into effect, parties retain the right to file complaints under section 208 of the Communications Act, 47 U.S.C. § 208, challenging the validity of the tariff under the federal

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<sup>6</sup> Case No. TO-98-351, In the Matter of Southwestern Bell Telephone Company's Tariff Revisions Designed to Introduce a LATA-wide Extended Area Service (EAS) Called Local Plus, and A One-Way COS Plan, Report and Order, October 4, 2000, pg. 28, found at <http://www.psc.state.mo.us/orders/09178351.html>

<sup>7</sup> Ibid., pg. 29.

<sup>8</sup> Ibid. pg. 30.

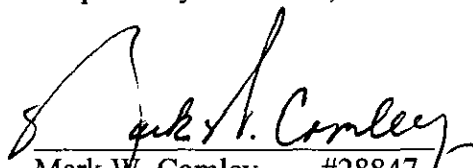


Act. Thus, the FCC's decision not to suspend or reject a tariff - i.e., its decision not to act - cannot be seen as a final determination of the validity of the tariff. In contrast to the process before the FCC, Section 392.230.3 RSMo. permits the Commission to suspend proposed tariffs so that the propriety of the proposed tariff can be determined prior to the tariff becoming effective. In this type of proceeding, the burden of proof is on the party filing the tariff. This is the process that should be followed in Missouri; especially given the fact that the FCC's actions cannot be seen as final.

14. AT&T is a purchaser of SBC's access services and unbundled network elements as well as a competitor of SBC. As a wholesale customer and competitor, AT&T has an interest in this proceeding that is different from that of the general public. AT&T may be adversely affected by the tariff proposed by SBC. Therefore, a decision on this matter will affect its interest as a provider of telecommunications services in Missouri. Further, AT&T's participation in this proceeding is in the public interest because of AT&T's expertise in the telecommunications industry. At this time, AT&T is opposed to the proposed tariff but is unsure of the position it will take on specific issues that might arise in this proceeding.

WHEREFORE, AT&T respectfully requests the Commission to grant this Motion.

Respectfully submitted,

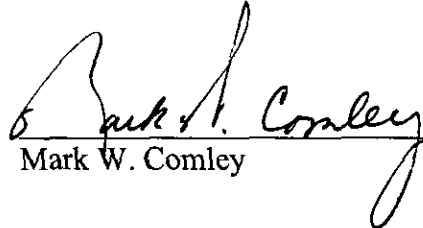


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**Certificate of Service**

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 23rd day of December, 2003, to General Counsel's Office at [gencounsel@psc.state.mo.us](mailto:gencounsel@psc.state.mo.us); Office of Public Counsel at [opcservice@ded.state.mo.us](mailto:opcservice@ded.state.mo.us); and Paul G. Lane, Southwestern Bell Telephone Company, at [paul.lane@sbc.com](mailto:paul.lane@sbc.com).

  
Mark W. Comley



Jason Olson  
Director – Regulatory

SBC Communications Inc.  
One SBC Center  
Suite 3530  
St. Louis, MO 63101

November 12, 2003

The Honorable Dale Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, Missouri 65102

Dear Judge Roberts:

Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, proposes to revise P.S.C. Mo.-  
No. 36, Access Services Tariff.

SBC Missouri is proposing to add commingling language consistent with the Federal Communication Commission's *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, CC Docket No. 01-338, FCC 03-36, para. 582 (released Aug. 21, 2003) (*Triennial Review Order*).

With this tariff filing, SBC Missouri introduces definitions for Commingling and Unbundled Network Elements (UNEs). SBC Missouri sets forth ordering conditions for a requesting telecommunications carrier to commingle an UNE or a combination of UNEs with wholesale services obtained from this tariff. Also, SBC Missouri defines the procedure for converting customers that have commingled UNE(s) and/or UNE Combination(s) with wholesale services obtained under this tariff to a comparable service in the event the Federal Communications Commission (FCC) or a court vacates, stays, remands, reconsiders, or rejects the portion of the Triennial Review Order requiring Incumbent Local Exchange Carriers to permit commingling.

Similar tariff language was added to SBC's Tariff F.C.C. No. 73. The FCC allowed SBC's tariff filing to become effective on October 23, 2003 over the objections of the Joint Petitioners<sup>1</sup> and WorldCom, Inc. d/b/a MCI. In its Public Notice, the FCC stated:

Pursuant to authority delegated under section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, the Pricing Policy Division of the

<sup>1</sup> AT&T Corp., Birch Telecom, Inc., Bridgecom International, Inc., Broadview Networks, Inc., Choice One Communications, Inc., CoreComm, Newco, Inc., Eschelon Telecom, Inc., Focal Communications Corporation, Global Crossing North America, Inc., McGraw Communications, Inc., RCN Telecom Services, Inc., RCN Telecom Services of Illinois, LLC, XO Communications, Inc.

Wireline Competition Bureau has reviewed the petitions to reject or to suspend and investigate the tariff transmittals listed in this Report.

We conclude that the parties filing the petitions against the tariff transmittals listed in this Report have not presented compelling arguments that these transmittals are so patently unlawful as to require rejection. Similarly, we conclude the parties have not presented issues regarding the transmittals that raise significant questions of lawfulness that require investigation of the tariff transmittals listed in this Report.

Accordingly, the petitions to reject or suspend and investigate the following tariff transmittals are denied, and the transmittals will, or have, become effective on the date specified below. Applications for review and petitions for reconsideration of these decisions may be filed within 30 days from the date of this public notice in accordance with sections 1.115 and 1.106 of the Commission's Rules, 47 C.F.R. §§ 1.115, 1.106.

The proposed tariff changes are reflected on the attached tariff sheets with issued and effective dates of November 12, 2003, and December 12, 2003 respectively.

Please refer any questions on this matter to Jason Olson on 314-235-6922.

Very truly yours,

/s/ Jason Olson

I certify that a copy of the foregoing, including attachments, is being hand delivered to the Office of Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, this 12th day of November, 2003.

Tammy Morris

Attachment

No Supplement to this  
tariff will be issued  
except for the purpose  
of canceling this tariff.

Access Services Tariff  
Section 2  
6th Revised Sheet 61  
Replacing 5th Revised Sheet 61

## ACCESS SERVICES

## 2. GENERAL REGULATIONS-(Continued)

## 2.6 Definitions-(Continued)

Coin Station

Denotes a location where Telephone Company equipment is provided in a public or semi-public place where Telephone Company customers can originate telephonic communications and pay the applicable charges by inserting coins into the equipment.

(AT)

Commingling(1)

Commingling means the connecting, attaching or otherwise linking of an unbundled network element, or a combination of unbundled network elements, to one or more facilities or services that a requesting telecommunications carrier has obtained at wholesale from the Telephone Company, or the combining of an unbundled network element, or a combination of unbundled network elements with one or more such facilities or services. Commingling means the act of commingling.

(AT)

Common Channel Signaling (CCS)

Denotes a high speed packet switched communications network which is separate (out of band) from the public packet switched and message networks. Its purpose is to carry addressed signaling messages for individual trunk circuits and/or data base related services between Signaling Points in the CCS network.

(MT)

(AT)

- (1) In the event the Federal Communications Commission or a court, pursuant to any regulatory or judicial review of the Commission's *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, CC Docket No. 01-338, FCC 03-36, para. 582 (released Aug. 21, 2003) (*Triennial Review Order*), vacates, stays, remands, reconsiders, or rejects the portion of the Triennial Review Order requiring ILECs to permit commingling, the terms and conditions of this tariff authorizing commingling, which are identified with a footnote, shall cease to be effective as of the effective date of the Commission order or the issuance of the court's mandate. In that event, the Telephone Company will provide customers that have commingled UNE(s) and/or UNE Combination(s) with wholesale services obtained under this Tariff written notice that, within 30 days, customers must either convert such UNE(s) or UNE Combination(s) to a comparable service, or disconnect such UNE(s) and/or UNE Combination(s) from those wholesale services. Failure to provide the Telephone Company instructions to convert or disconnect such UNE(s) and/or UNE Combination(s) within 30 days, as described above, shall be deemed authorization to convert the UNE(s) and/or UNE Combination(s) to comparable access services at month-to-month rates.

(AT)

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Issued: November 12, 2003

Effective: December 12, 2003

By CINDY BRINKLEY, President-SBC Missouri  
Southwestern Bell Telephone, L.P., d/b/a SBC Missouri  
St. Louis, Missouri

No Supplement to this  
tariff will be issued  
except for the purpose  
of canceling this tariff.

Access Services Tariff  
Section 2  
2nd Revised Sheet 61.01  
Replacing 1st Revised Sheet 61.01

## ACCESS SERVICES

### 2. GENERAL REGULATIONS-(Continued)

#### 2.6 Definitions-(Continued)

(MT)

##### Common Line

Denotes a line, trunk, pay telephone line or other facility provided under the General and/or Local Exchange Service Tariffs of the Telephone Company, terminated on a central office switch and which may be used to make and receive exchange service calls, intrastate message service calls or interstate message service calls no matter if the customer causes the line, trunk or facility to be arranged to prohibit any type of calls to be made or received. A common line-residence is a line or trunk provided under the residence regulations of the General and/or Local Exchange Service Tariffs. A common line business is a line provided under the business regulations of the General and/or Local Exchange Service Tariffs.

##### Communications System

Denotes channels and other facilities which are capable, when not connected to the Telecommunications Network, of two-way communications between customer-provided terminal equipment.

##### Connecting Facility Assignment (CFA)

A code that identifies the Exchange Company carrier system and channel to (AT) be used from a Wide Band Analog or a High Capacity Facility.

(MT)

##### Customer

Denotes any Interexchange Carrier, Local Exchange Carrier, or Enhanced Service Provider which subscribes to the services offered under this Tariff to provide intrastate telecommunication services or telecommunication related services for hire.

##### Customer Carrier Name Abbreviation (CCNA)

Denotes a three alpha character code that identifies the Access customer submitting the Access Order and receiving confirmation of the Order.

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Issued: November 12, 2003

Effective: December 12, 2003

By CINDY BRINKLEY, President-SBC Missouri  
Southwestern Bell Telephone, L.P., d/b/a SBC Missouri  
St. Louis, Missouri

No Supplement to this  
tariff will be issued  
except for the purpose  
of canceling this tariff.

Access Services Tariff  
Section 2  
4th Revised Sheet 74  
Replacing 3rd Revised Sheet 74

ACCESS SERVICES

2. GENERAL REGULATIONS-(Continued)

2.6 Definitions-(Continued)

Trunk Group

Denotes a set of trunks which are traffic engineered as a unit for the establishment of connections between switching systems in which all of the communications paths are interchangeable.

Trunk Side Connection

Denotes the connection of a transmission path to the trunk side of a local exchange switching system.

Two-Wire to Four-Wire Conversion

Denotes an arrangement which converts a four-wire transmission path to a two-wire transmission path to allow a four-wire facility to terminate in a two-wire entity.

(AT) Unbundled Network Elements (UNEs)(1)

(AT) Denotes the network elements the Telephone Company is required to provide on an unbundled basis pursuant to Section 251(c)(3) of the Communications Act of 1934, as amended.

(MT)

(AT) (1) In the event the Federal Communications Commission or a court, pursuant to any regulatory or judicial review of the Commission's *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, CC Docket No. 01-338, FCC 03-36, para. 582 (released Aug. 21, 2003) (*Triennial Review Order*), vacates, stays, remands, reconsiders, or rejects the portion of the Triennial Review Order requiring ILECs to permit commingling, the terms and conditions of this tariff authorizing commingling, which are identified with a footnote, shall cease to be effective as of the effective date of the Commission order or the issuance of the court's mandate. In that event, the Telephone Company will provide customers that have commingled UNE(s) and/or UNE Combination(s) with wholesale services obtained under this Tariff written notice that, within 30 days, customers must either convert such UNE(s) or UNE Combination(s) to a comparable service, or disconnect such UNE(s) and/or UNE Combination(s) from those wholesale services. Failure to provide the Telephone Company instructions to convert or disconnect such UNE(s) and/or UNE Combination(s) within 30 days, as described above, shall be deemed authorization to convert the UNE(s) and/or UNE Combination(s) to comparable access services at month-to-month rates.

Issued: November 12, 2003

Effective: December 12, 2003

By CINDY BRINKLEY, President-SBC Missouri  
Southwestern Bell Telephone, L.P., d/b/a SBC Missouri  
St. Louis, Missouri

No Supplement to this  
tariff will be issued  
except for the purpose  
of canceling this tariff.

Access Services Tariff  
Section 2  
5th Revised Sheet 75  
Replacing 4th Revised Sheet 75

## ACCESS SERVICES

### 2. GENERAL REGULATIONS-(Continued)

#### 2.6 Definitions-(Continued)

(MT)

##### Uniform Service Order Code (USOC)

Denotes a three or five character alphabetic, numeric or an alphanumeric code that identifies a specific item of service or equipment. Uniform Service Order Codes are used in the Telephone Company billing system to generate recurring rates and nonrecurring charges.

##### V & H Coordinates Method

Denotes a method of computing air line miles between two points by utilizing an established formula which is based on the vertical (V) and horizontal (H) coordinates of the two points.

##### WATS Access Line (WAL)

Denotes a dedicated connection between a customer designated premises and the WATS serving office. The WAL was formerly referred to as a Special Access Line (SAL) and/or a Dedicated Access Line (DAL).

(MT)

##### WATS Access Line Service

Denotes a line side connection that combines Switched Access Service with a dedicated Special Access connection between an end user premises and the WATS serving office.

##### WATS Serving Office

Denotes a Telephone Company designated end office where switching, screening and/or recording functions are performed in connection with the closed-end of WATS Access Line Service.

##### Wire Center

Denotes a building in which one or more central offices, used for the provision of Telephone Exchange Services, are located.

(MT)

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Issued: November 12, 2003

Effective: December 12, 2003

By CINDY BRINKLEY, President-SBC Missouri  
Southwestern Bell Telephone, L.P., d/b/a SBC Missouri  
St. Louis, Missouri



No Supplement to this  
tariff will be issued  
except for the purpose  
of canceling this tariff.

Access Services Tariff  
Section 2  
2nd Revised Sheet 76  
Replacing 1st Revised Sheet 76

ACCESS SERVICES

2. GENERAL REGULATIONS-(Continued)

(AT) 2.6 Definitions-(Continued)

(MT) X.25 Protocol

Denotes the interface between user data terminal equipment and packet switching data circuit terminating equipment, as specified by the International Telephone and Telegraph Consultative Committee (CCITT) recommendation.

800 Number Portability Access Service (NPAS)

Denotes the ability to determine interexchange carrier identification based on the subscriber's selection of the carrier using all ten digits of the dialed 800 number. Allows an 800 subscriber to change its interexchange carrier without changing its 800 number.

800 Service Provider

Denotes the entity that offers 800 access services to 800 subscribers.

800 Subscriber

Denotes a customer that has arranged with an 800 Service Provider for 800 service and has been assigned an 800 number.

900 Access Service Screening Office

(MT)

An end office or access tandem that performs the customer identification function required to provide 900 Access Service to all customers.

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Southwestern Bell Telephone, L.P., d/b/a SBC Missouri  
St. Louis, Missouri

No Supplement to this  
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except for the purpose  
of canceling this tariff.

Access Services Tariff  
Section 5  
3rd Revised Sheet 1.01  
Replacing 2nd Revised Sheet 1.01

## ACCESS SERVICES

### 5. ORDERING FOR SWITCHED AND SPECIAL ACCESS SERVICE-(Continued)

#### 5.1 General-(Continued)

(MT)  
(AT)

##### 5.1.1 Ordering Conditions-(Continued)

Except as provided below, the Telephone Company shall permit a requesting telecommunications carrier to commingle an unbundled network element or a combination of unbundled network elements with wholesale services obtained from the Telephone Company, to the extent provided by and subject to the terms and conditions of the requesting telecommunications carrier's interconnection agreement with the Telephone Company (or, if applicable, of the Telephone Company intrastate tariffs).(1)

The Telephone Company need not provide access to (1) an unbundled DS1 loop in combination, or commingled, with a dedicated DS1 transport or dedicated DS3 transport facility or service, or to an unbundled DS3 loop in combination, or commingled, with a dedicated DS3 transport facility or service, or (2) an unbundled dedicated DS1 transport facility in combination, or commingled, with an unbundled DS1 loop or a DS1 channel termination service, or to an unbundled dedicated DS3 transport facility in combination, or commingled, with an unbundled DS1 loop or a DS1 channel termination service, or to an unbundled DS3 loop or a DS3 channel termination service, unless the requesting telecommunications carrier certifies that all of the following conditions are met.(1)

- (1) In the event the Federal Communications Commission or a court, pursuant to any regulatory or judicial review of the Commission's *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, CC Docket No. 01-338, FCC 03-36, para. 582 (released Aug. 21, 2003) (*Triennial Review Order*), vacates, stays, remands, reconsiders, or rejects the portion of the Triennial Review Order requiring ILECs to permit commingling, the terms and conditions of this tariff authorizing commingling, which are identified with a footnote, shall cease to be effective as of the effective date of the Commission order or the issuance of the court's mandate. In that event, the Telephone Company will provide customers that have commingled UNE(s) and/or UNE Combination(s) with wholesale services obtained under this Tariff written notice that, within 30 days, customers must either convert such UNE(s) or UNE Combination(s) to a comparable service, or disconnect such UNE(s) and/or UNE Combination(s) from those wholesale services. Failure to provide the Telephone Company instructions to convert or disconnect such UNE(s) and/or UNE Combination(s) within 30 days, as described above, shall be deemed authorization to convert the UNE(s) and/or UNE Combination(s) to comparable access services at month-to-month rates.

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Access Services Tariff  
Section 5  
Original Sheet 1.02

## ACCESS SERVICES

### 5. ORDERING FOR SWITCHED AND SPECIAL ACCESS SERVICE-(Continued)

#### 5.1 General-(Continued)

##### 5.1.1 Ordering Conditions-(Continued)

- (1) The requesting telecommunications carrier has received state certification to provide local voice service in the area being served or, in the absence of a state certification requirement, has complied with registration, tariffing, filing fee, or other regulatory requirements applicable to the provision of local voice service in that area.
- (2) The following criteria are satisfied for each combined circuit, including each DS1 circuit, each DS1 enhanced extended link, and each DS1-equivalent circuit on a DS3 enhanced extended link:
  - (i) Each circuit to be provided to each end user customer will be assigned a local number prior to the provision of service over that circuit;
  - (ii) Each DS1-equivalent circuit on a DS3 enhanced extended link must have its own local number assignment, so that each DS3 must have at least 28 local voice numbers assigned to it;
  - (iii) Each circuit to be provided to each end user customer will have 911 or E911 capability prior to the provision of service over that circuit;
  - (iv) Each circuit to be provided to each end user customer will terminate in a collocation arrangement that meets the requirements detailed below;
  - (v) Each circuit to be provided to each end user customer will be served by an interconnection trunk that meets the requirements detailed below;
  - (vi) For each 24 DS1 enhanced extended links or other facilities having equivalent capacity, the requesting telecommunications carrier will have at least one active DS1 local service interconnection trunk that meets the requirements detailed below; and
  - (vii) Each circuit to be provided to each end user customer will be served by a switch capable of switching local voice traffic.

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Access Services Tariff  
Section 5  
Original Sheet 1.03

ACCESS SERVICES

5. ORDERING FOR SWITCHED AND SPECIAL ACCESS SERVICE-(Continued)

5.1 General-(Continued)

5.1.1 Ordering Conditions-(Continued)

(2) (Continued)

A collocation arrangement meets the requirements in (iv) above if it is:

- (1) Established pursuant to section 251(c)(6) of the Act and located at the Telephone Company's premises within the same LATA as the customer's premises, when the Telephone Company is not the collocater; and
- (2) Located at a third party's premises within the same LATA as the customer's premises, when the Telephone Company is the collocater.

An interconnection trunk meets the requirements of (v) and (vi) above in this certification if the requesting telecommunications carrier will transmit the calling party's number in connection with calls exchanged over the trunk and the trunk is located in the same LATA as the customer premises served by the EEL.(1)

- (1) In the event the Federal Communications Commission or a court, pursuant to any regulatory or judicial review of the Commission's *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, CC Docket No. 01-338, FCC 03-36, para. 582 (released Aug. 21, 2003) (*Triennial Review Order*), vacates, stays, remands, reconsiders, or rejects the portion of the Triennial Review Order requiring ILECs to permit commingling, the terms and conditions of this tariff authorizing commingling, which are identified with a footnote, shall cease to be effective as of the effective date of the Commission order or the issuance of the court's mandate. In that event, the Telephone Company will provide customers that have commingled UNE(s) and/or UNE Combination(s) with wholesale services obtained under this Tariff written notice that, within 30 days, customers must either convert such UNE(s) or UNE Combination(s) to a comparable service, or disconnect such UNE(s) and/or UNE Combination(s) from those wholesale services. Failure to provide the Telephone Company instructions to convert or disconnect such UNE(s) and/or UNE Combination(s) within 30 days, as described above, shall be deemed authorization to convert the UNE(s) and/or UNE Combination(s) to comparable access services at month-to-month rates.

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Access Services Tariff  
Section 5  
Original Sheet 1.04

ACCESS SERVICES

(MT) 5. ORDERING FOR SWITCHED AND SPECIAL ACCESS SERVICE-(Continued)

5.1 General-(Continued)

5.1.2 Provision of Other Services

- A. Testing Service, Additional Labor, Telecommunications Service Priority and Special Facilities Routing shall be ordered with an Access Order or as set forth in Paragraph 5.1.2, B., following. The rates and charges for these services, as set forth in other sections of this Tariff, will apply in addition to the ordering charges set forth in this section and the rates and charges for the Access Service with which they are associated.

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