

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

In the Matter of the Determination of Prices,)	
Terms, and Conditions of Certain Unbundled)	Case No. TO-2001-438
Network Elements.)	

**SOUTHWESTERN BELL TELEPHONE COMPANY'S
APPLICATION FOR RECONSIDERATION AND/OR REHEARING
OF REVISED UNE COSTS AND RATES**

Having just completed revising and rerunning its studies, Southwestern Bell Telephone Company¹ has found that the impact of various input changes mandated by the Missouri Public Service Commission's August 6, 2002 Report and Order has unequivocally brought certain Unbundled Network Elements ("UNEs") rates so far below a compensatory level that reexamination by the Commission is necessary.

At the time the Commission issued its Report and Order requiring changes to Southwestern Bell's cost study inputs, it did so in a vacuum. At that time, the impact on specific rates was unknown and could not be determined until after very time-consuming cost study revisions were made and the studies rerun and checked for accuracy.

When Southwestern Bell filed its initial Application for Reconsideration in this case on August 15, 2002, it too was operating in a vacuum. While still in the early stages of analyzing the Report and Order's impact, Southwestern Bell was only able to focus on four general areas it believed would have such a significant impact on the rates that revisions would be necessary to ensure proper application of Total Element Long Run Incremental Cost ("TELRIC") principles. It explained that if certain input changes were not revised, the rates established would be

¹ Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company, will be referred to in this pleading as "Southwestern Bell" or "SWBT."

substantially below those required by a proper application of the TELRIC methodology.

Southwestern Bell has appended as Attachment 1 a spreadsheet which provides the costs that result from the Commission mandated cost inputs and the resultant rates which are also based upon the Commission mandated cost inputs.²

Now that Southwestern Bell has fully revised and rerun the studies, it has calculated the exact impact on the specific costs of and prices for the individual rate elements. These results, which are displayed on the spreadsheet appended as Attachment 2, confirm that the rates produced by the Commission-mandated input changes fall substantially below what an appropriate application of TELRIC would require and that the mandated input changes were unlawful, unjust and unreasonable. And many of the rates have been driven so artificially low (several have been driven to zero) that it is obvious under TELRIC -- or any other costing standard -- that Southwestern Bell's opportunity to recover its costs in providing these UNEs is being denied.

A wholesale arrangement in which the wholesaler loses money with every sale is not just, reasonable or sustainable. Accordingly, Southwestern Bell respectfully requests the Commission to reexamine the overall compensatory nature of the rates that have resulted from the cost study input changes it required. In particular, in addition to the revisions to depreciation rates and cost of capital (which Southwestern Bell previously discussed in its August 15, 2002 Application for Rehearing), Southwestern Bell would ask the Commission to reexamine the dramatic impact of the mandated two percent fallout and the 90 percent fiber fill assumptions, as further described below:

² Attachment 1HC contains both highly confidential cost information and prices; Attachment 1NP masks the highly confidential cost information but shows prices.

Impact of 2% Fallout Percentage on Rates for Feature Activation and Electronic UNE-P Migration.

The Report and Order's mandated use of a two percent fallout percentage grossly misapplies TELRIC in assuming that non-recurring costs should be based on a hypothetical network in which all processes are automated and virtually no manual labor is required. As a direct result of this improper assumption, non-recurring rates for various elements have been driven so low that there is no question that the resulting rates are non-compensatory. As noted on Attachment 2, non-recurring rates for feature activation per analog port type (a category consisting of 16 individual elements) have been reduced 100% from the rates Southwestern Bell proposed so that the ordered rates now stand at zero.³ The non-recurring rate for activating call trace has been reduced 77% to (from a combined \$2.69 connect and disconnect charge to a \$0.30 connect and a \$0.30 disconnect charge).⁴ And the non-recurring rate for electronic UNE-P migration (POTS) has been reduced 87% (from \$8.52 to \$1.09).⁵

The non-recurring rates Southwestern Bell originally proposed for these elements were based on costs that reflect activities that are directly observable and measurable, and that must be performed on actual networks to provision actual facilities. As now seen from the revised rates, use of an unrealistically low fallout percentage for handling such complex orders inappropriately precludes recovery of non-recurring costs that Southwestern Bell must reasonably incur in provisioning these UNEs.

Any reduction to the 16¢ non-recurring charges Southwestern Bell proposed for Feature Activation per Analog Port Type is particularly inappropriate. As proposed, those rates were

³ See, Attachment 2, lines 100-116.

⁴ Id., lines 123-124.

⁵ Id., line 408.

understated in that they did not include Southwestern Bell's cost for computer processing because at the time, Southwestern Bell was not able to identify and quantify these costs.⁶ All that was being sought was the cost of manually handling the orders that fell out of the mechanical process. With respect to these elements, Southwestern Bell at the very least should be permitted to submit revised rates that include computer-processing costs when it has the ability to identify them.

In advocating a two percent fallout rate, the Joint Sponsors claimed that the Commission should use a fallout rate for a hypothetical automated network in which virtually no manual labor is required. At no time, however, did they dispute that the fallout rates Southwestern Bell reported in its studies represent actual work that must be performed today. And because the systems upon which the Joint Sponsors base their claims do not exist, nor will they exist in the foreseeable future, costs for performing this work will continue to be incurred in provisioning the requested elements. Simply assuming an unrealistic fallout percentage does not make these costs go away. Rather, it leads to an under recovery by the wholesale provider.

Guidance should be taken from the FCC's making clear that incumbents are entitled under the FCC's UNE methodology to recover their actual costs of performing the non-recurring

⁶ See, Exhibit 12HC, Makarewicz Direct, Schedule TJM6, p. 3 ("Data processing costs should include the Centralized Processing Unit (CPU) costs associated with the mechanical translations of an order via the MARCH System. However, because these costs cannot be readily identified at this time, they are not included in the study.")

activities associated with conditioning a loop.⁷ There is no logical distinction in allowing incumbents to recover non-recurring loop conditioning charges and allowing incumbents to recover the reasonable costs of performing other non-recurring activities required to provision UNEs. In order to develop appropriate compensable rates, the Commission should reexamine these non-recurring charges to ensure that they are appropriately based on the activity reasonably required to provision each UNE.

Impact of Fiber Fill Factor on Transport Rates

The 90% fiber fill factor the Commission ordered as an input to Southwestern Bell's TELRIC studies for interoffice transport has resulted in inappropriate reductions to Southwestern Bell's proposed recurring rates between 28 and 59%, and to proposed non-recurring rates of up to 47%,⁸ bringing them well below compensatory levels.

A 90% fill level is not only well in excess of existing levels; it is beyond the reach of a hypothetical optimally efficient company. In the real world, no carrier can achieve such high fill rates. Today's network fill factors reflect the incentives each carrier has to reduce costs in a competitive environment, while providing sufficient capacity to meet demand and comply with

⁷ See, e.g., FCC Local Competition Order:

As discussed above, some modification of incumbent LEC facilities, such as loop conditioning, is encompassed within the duty imposed by Section 251(c)(3). The requesting carrier would, however, bear the cost of compensating the incumbent LEC for such conditioning. Local Competition Order, CC Docket No. 96-98, August 8, 1996, at para. 382

See, also, FCC UNE Remand Order:

We agreed that networks built today normally should not require voice transmission enhancing devices on loops of 18,000 feet or shorter. Nevertheless, the devices are sometimes present on such loops and, the incumbent LEC may incur costs in removing them. Thus, under our rules, the incumbent LEC should be able to charge for conditioning such loops. Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No. 99-98, November 5, 1999 at para. 193.

⁸ See, Attachment 2, lines 207-289.

regulatory requirements. There can be no doubt since the adoption of price caps (in 1991 on the federal level and 1997 on the state level), Southwestern Bell and other LECs have had strong incentives to achieve as efficient network rates as possible. The growing financial pressures to which Southwestern Bell and other LECs are subject have only heightened their incentives to increase efficiency in anyway possible, including by maximizing fill rates consistent with the need to provide sufficient capacity to meet demand and comply with regulatory requirements such as carrier of last resort obligations.

No credible evidence was presented that a hypothetical, most efficient network will achieve fill rates any different than actual observable fill rates Southwestern Bell originally proposed, and certainly not an arbitrary number such as 90%. And the use of the existing fill rates in today's network as TELRIC inputs would actually be a conservative approach, given that the growing intermodal competition is likely to reduce, not increase, fill rates (i.e., as intermodal competitors such as wireless, cable telephone and voice over Internet continue to add customers, fill factors for incumbent LECs will decline as they continue to lose access lines).

The Commission should recognize that the Joint Sponsors' arbitrary proposal to increase cost study fill rates beyond the actual real world network fill factors is simply an outcome-oriented tool for decreasing UNE prices. Moreover, it is inconsistent with the only guidance the FCC has provided on this issue in the Local Competition Order that cost studies should reflect "a

reasonable projection of the actual total usage of the element.”⁹ To prevent the imposition of such clearly non-compensatory rates, the Commission should reexamine the rates that have resulted from requiring such unrealistic fill factors. On review, the Commission should apply forward-looking projections of fill based on current network fill rates as Southwestern Bell initially proposed.

WHEREFORE, Southwestern Bell requests the Commission to reconsider, or in the alternative rehear, the rates that have been produced from the Commission-ordered cost inputs as it is now clear that those rates are substantially below what is required by a proper application of the TELRIC methodology.

Respectfully submitted,

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⁹ Local Competition Order, para. 682 (emphasis added).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were served to all parties on the Service List by e-mail on September 20, 2002.



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