

STATE CORPORATION COMMISSION

SOUTHWESTERN BELL TELEPHONE COMPANY

FEB 29 2000

DIRECT TESTIMONY OF CURTIS L. HOPFINGER

DOCKET NUMBER 00-TCGT-571-ARB

Atty. A. Wilson Docket Room

1 Q. PLEASE STATE YOUR NAME, YOUR TITLE AND YOUR BUSINESS
2 ADDRESS.

3 A. My name is Curtis L. Hopfinger. My business address is Four Bell Plaza, Dallas,
4 Texas. My title is Executive Director-Wholesale Regulatory for SBC
5 Telecommunications, Inc.

6 Q. WHAT ARE YOUR RESPONSIBILITIES AS EXECUTIVE DIRECTOR-
7 WHOLESALE REGULATORY?

8 A. I am responsible for supervising and directing the regulatory organization that
9 coordinates and assists in the formulation of regulatory positions pertaining to
10 the provision the wholesale products and other requirements of the Federal
11 Telecommunications Act of 1996 (the Act). This responsibility covers SBC's
12 current wireline territory including Southwestern Bell Telephone Co. (SWBT),
13 Pacific Bell (Pacific), Nevada Bell (Nevada), Southern New England Telephone
14 (SNET) and Ameritech (AIT). Additionally, I am responsible for monitoring any
15 state or federal regulatory rules, regulations and orders that may affect SBC's
16 wholesale operation or may affect any current or future Competitive Local
17 Exchange Carrier (CLEC) interconnection agreements.

18 Q. WHAT IS YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE?

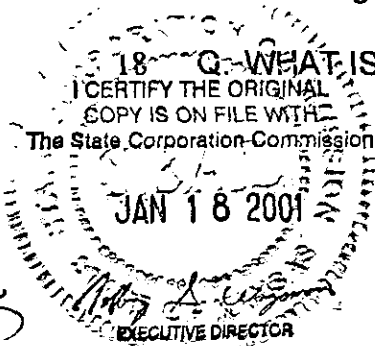


Exhibit No. 30
Date 1-25-01 Case No. 70-99-593
Reporter TL

1 A. I completed a Bachelor's Degree in Management from National Louis University
2 in Evanston, Illinois. I also received a Masters Degree in Business from Webster
3 University in St. Louis, Missouri. I have been employed by SBC for over 29
4 years and have held numerous positions in both state operations and the
5 Company's General Headquarters. My assignments have included positions in
6 SBC's business offices, in SBC's subsidiary companies' state operations working
7 with regulatory agencies, and working in our Company's General Headquarters
8 organizations in both regulatory and costing matters. The majority of my career
9 has been spent working with rate and tariff issues and coordinating regulatory
10 matters with the staffs of the public utility commissions in Missouri, Texas and
11 California. On October 1, 1993, I was appointed Director-Regulatory in Texas.
12 In this position I worked with the Texas Public Utilities Commission on matters
13 pertaining to the implementation of the Act. I was assigned the position of
14 Director-Industry Markets on August 1, 1997, where I was responsible for
15 defining local wholesale marketing positions and representing those positions
16 before regulatory bodies. I was recently appointed to the position of Executive
17 Director-Wholesale Regulatory on February 1, 2000. In this new position I will
18 have a somewhat similar role as my prior position in that I will assist in
19 formulating regulatory positions for the wholesale marketing organization and I
20 will continue to work with regulators to explain and defend those positions.

21 Q. HAVE YOU PREVIOUSLY TESTIFIED IN REGULATORY PROCEEDINGS?

1 A. Yes, I have filed testimony and/or appeared as a witness before the California
2 Public Utility Commission, Texas Public Utility Commission, Illinois Commerce
3 Commission, Connecticut Department of Public Utility Control, Public Utility
4 Commission of Nevada, and the Oklahoma Corporation Commission. In
5 addition, I have represented SBC before the Federal Communications
6 Commission (FCC) and in matters before the Missouri Public Service
7 Commission.

8 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

9 A. The purpose of my testimony is to support SWBT's position in the request for
10 arbitration between TCG and SWBT regarding issues that remain in dispute
11 between the companies. The issues I will address are limited to reciprocal
12 compensation and the appropriate treatment for transit and ISP bound traffic. In
13 this testimony I demonstrate that SWBT's position on these unresolved issues
14 should be adopted. I will be addressing certain issues identified by the parties in
15 the matrix filed on February 21, 2000. I will indicate the issue being addressed
16 at the end of each question. Reciprocal Compensation issues will be designated
17 with an "RC" and the issue number.

18 Q. WHAT PRICES SHOULD APPLY TO INTRALATA TOLL CALLS TERMINATED
19 BY THE PARTIES OVER INTERCONNECTION TRUNKS? [RC-1]

20 A. All intraLATA toll traffic terminated by either party should be charged terminating
21 access rates for Message Telephone Service and originating access rates for
22 800/888/877 services. This would include all applicable Carrier Common Line

Charges as set forth in the carriers' approved access tariffs. The approved tariffs in Kansas define the application of intrastate Access charges to toll services and the Act and FCC regulations make clear that reciprocal compensation is applicable to "local" traffic. TCG is attempting to remove the established distinction between access charges for toll traffic and reciprocal compensation for local traffic. Toll traffic, by definition, is not local traffic and it is inappropriate to apply reciprocal compensation rates to such traffic. TCG states in its issue position that each party should "be free to determine local calling areas based on their customers' needs". However, under its proposal it is TCG that is attempting to redefine SWBT's customers' local calling areas. SWBT's local calling areas are as contained in SWBT's approved local tariffs. For purposes of compensation between the two companies, TCG's proposal removes SWBT's local calling boundaries whenever traffic is exchanged between the companies. Additionally, it appears that TCG is attempting to avoid paying SWBT appropriate access charges to terminate intraLATA toll traffic by claiming it is all "local" traffic.

Q. SHOULD A LATA-WIDE RECIPROCAL COMPENSATION RATE BE ESTABLISHED IF TCG'S PROPOSAL FOR NETWORK ARCHITURE IS ADOPTED? [RC-2]

A. A LATA-wide reciprocal compensation rate for all traffic is not appropriate. The rates for the termination of traffic should be based on the type of traffic and method of termination, i.e. transit traffic, local interconnection traffic, access traffic or other. The Act and FCC rules and regulations have drawn clear

1 distinctions between these various types of traffic. This Commission has
2 approved both interconnection agreements and intrastate access tariffs that rely
3 upon these distinctions. TCG's proposal would inappropriately remove these
4 distinctions. This Commission, over many years, has established what
5 constitutes a "local" call. When TCG acts as a facility-based provider of local
6 service, TCG has the ability to define the local calling scope for its customers.
7 However, TCG does not have the right to change the local calling scope of
8 SWBT's customers. As this Commission is aware, anytime SWBT wishes to
9 change the local calling area of its customers due to an exchange boundary
10 change, the offering of extended calling plans, or for any other reason, SWBT
11 must obtain the approval of the Commission. The Commission-approved local
12 exchange boundaries and local calling scopes bind all telecommunications
13 providers, not just TCG. SWBT has binding obligations and requirements to pay
14 access charges to independent telephone companies and other competitive local
15 exchange carriers (CLECs) based on SWBT's local calling scopes. SWBT is
16 also entitled to receive access charges from these other telecommunications
17 providers when SWBT's network is used to carry toll traffic based on these
18 established, and Commission-approved, local calling scopes. The Commission
19 supported the application of such access charges when it determined Digilink,
20 another telecommunications provider seeking to avoid intrastate access charges,
21 could not, of its own accord, avoid access payments by attempting to define its
22 own unique local calling scope. (Docket No. 192,392-U) Likewise in this

1 proceeding the Commission should reaffirm the appropriate application of access
2 charges for the carriage of toll traffic.

3 Q. WHEN TCG USES SWBT'S TANDEM TO ORIGINATE OR TERMINATE CALLS
4 TO THIRD PARTIES, SHOULD SWBT BE RESPONSIBLE FOR HANDLING
5 THE COMPENSATION ARRANGEMENTS WITH THE THIRD PARTY
6 CARRIERS? [RC-3]

7 A. No. SWBT is not required to act as a clearinghouse or billing agent for either
8 TCG or the third party. The current SWBT/TCG contract at Paragraph 5.4.3 of
9 the Term and Conditions states "Each Party represents that it shall not send
10 Local Traffic to the other Party that is destined for the network of a third party
11 unless and until such Party has the authority to exchange traffic with the third
12 party." Such authority must include the establishment of a billing relationship
13 between TCG and the third party carrier. There is no reason to change this
14 requirement. SWBT does not handle third party compensation arrangements for
15 transit calls for any CLEC in Kansas. The Act at 251(a) states that "Each
16 telecommunication carrier has the duty ...to establish reciprocal compensation
17 arrangements for the transport and termination of telecommunications."¹
18 (emphasis added) The Act makes it quite clear that each carrier has the
19 responsibility for establishing these compensation arrangements. The Act does
20 not require SWBT, or any other incumbent local exchange carrier (ILEC), to

¹ Telecommunications Act of 1996, Section 251(a)(5)

1 establish these billing arrangements for CLECs. The responsibility to establish
2 these billing arrangements is squarely with TCG, not SWBT. The Commission
3 should not allow TCG to force its obligations under the Act onto SWBT.

4 Q. WHAT IS THE APPROPRIATE TERMINATING COMPENSATION
5 ARRANGEMENT WHEN LOCAL TRAFFIC IS ORIGINATED BY OR
6 TERMINATED TO A TCG CUSTOMER AND TRANSITED BY SWBT? [RC-4]

7 A. All parties that originate traffic which transits SWBT's network for termination to a
8 third party are required to have their own agreement with the third party. As
9 discussed in the previous response, it is inappropriate for SWBT to establish
10 compensation arrangements between TCG and third parties. For local traffic
11 that transits SWBT's network, SWBT will bill the originating carrier the transit rate
12 contained in the originating carrier's interconnection agreement. Also, for local
13 traffic that transits SWBT's network, any "compensation arrangement" between
14 the originating carrier and the terminating carrier would be the responsibility of
15 the two carriers to establish. As discussed earlier, TCG is improperly attempting
16 to make SWBT responsible for establishing billing and compensation
17 arrangements between third party carriers. Neither the Act, nor any FCC rules or
18 regulations, require SWBT to be responsible for establishing these
19 arrangements.

20 Q. WHAT COMPENSATION RATE SHOULD APPLY TO TRAFFIC TERMINATED
21 BY TCG OR SWBT IF TCG'S PROPOSED NETWORK ARCHITECTURE IS
22 NOT ADOPTED? [RC-5]

- 1 A. The parties agree that the rates that apply in a reciprocal compensation
2 arrangement for legitimate local exchange traffic are those that have been
3 determined in the generic cost docket. (Docket No. 97-SCCC-149-GIT) The
4 rates for the termination of intraLATA toll traffic can be found in each party's
5 appropriate Intrastate or Interstate Access Service Tariff. The appropriate
6 applicability of these rates under different interconnection arrangements will be
7 as found in SWBT's Appendix Reciprocal Compensation. If mutually agreed
8 upon by the parties, a bill and keep arrangement will be the basis for
9 compensation for all wireline local traffic. Regardless of the agreed upon
10 reciprocal compensation rate approved in the Interconnection Agreement
11 between SWBT and TCG, no reciprocal compensation should apply to Internet
12 Service Provider (ISP) bound traffic. ISP bound traffic is addressed in more
13 detail in response to "Reciprocal Compensation Issue No. 7". TCG is also
14 inappropriately attempting to charge SWBT "tandem" interconnection rates even
15 though TCG does not provide a tandem function. TCG's tandem compensation
16 proposal is without merit and is addressed at length in response to "Reciprocal
17 Compensation Issue No. 15".
- 18 Q. SHOULD BILL AND KEEP APPLY TO ALL ORIGINATING AND TERMINATING
19 LOCAL TRAFFIC WHENEVER TCG SERVES THE END USER USING
20 UNBUNDLED LOCAL SWITCHING? [RC-6]

1 A. No, local calls made from unbundled local switching (ULS) purchased by TCG
2 should be subject to the same reciprocal compensation that applies to all other
3 local calls.

4 The TCG proposal is also not truly "Bill and Keep". TCG's proposal allows for
5 TCG to recover its costs from SWBT for 100% of the local traffic that is
6 terminated at TCG's switch, but only allows SWBT to recover costs for the
7 termination of traffic if the call is originated from a TCG facilities-based switch.
8 SWBT incurs the same costs to terminate local calls regardless of the method
9 TCG uses to serve its end users. If TCG truly wants a bill and keep
10 compensation arrangement, calls originated from TCG's switch, as well as calls
11 originated via unbundled network elements (UNEs), should be included in the
12 proposal.

13 Additionally, if the TCG proposal were adopted, a call originating from unbundled
14 switching that is connected to a customer served by another CLEC, would
15 obligate SWBT to pay the third party CLEC reciprocal compensation to terminate
16 the call. The TCG proposal would allow TCG to avoid paying reciprocal
17 compensation on calls to any other LEC or CLEC. Under TCG's proposal even
18 though it was TCG's end user that called the third party carrier, it would be
19 SWBT that would be liable to pay reciprocal compensation to the carrier serving
20 the end-user receiving the call. This is an unreasonable outcome since SWBT
21 will receive no compensation from TCG with which to pay the charges due the
22 other carrier.

1 Q. SHOULD THE PARTIES BE COMPENSATED FOR THE TERMINATION OF
2 ISP/ESP BOUND TRAFFIC? [RC-7]

3 A. No. The FCC has concluded that ISP bound traffic is non-local, interstate traffic.

4 As the FCC recently confirmed:

5 [S]ection 251(b)(5) of the Act and our rules promulgated pursuant to
6 that provision concern inter-carrier compensation for interconnected
7 local telecommunications traffic. We conclude in this Declaratory
8 Ruling, however, that ISP-bound traffic is non-local interstate traffic.
9 Thus, the reciprocal compensation requirements of sections 251 (b)(5)
10 of the Act and Section 51, Subpart H (Reciprocal Compensation for
11 Transport and Termination of Local Telecommunications Traffic) of the
12 Commission's rules do not govern inter-carrier compensation for this
13 traffic.²

14 ISP traffic should be subject to the same treatment as all other interstate traffic
15 on a meet-point-billing basis. Under the FCC's ESP exemption, which restricts
16 the billing of access charges, the compensation arrangement becomes a defacto
17 bill and keep arrangement. Should the Commission wish to investigate the
18 appropriate treatment of ISP bound traffic, SWBT would recommend that such
19 an issue not be addressed in the limited context of this arbitration. SWBT would
20 recommend such an investigation be handled in a generic docket and applicable
21 to all carriers.

22 Q. IF THE KANSAS COMMISSION WISHES TO ADDRESS THE ISP BOUND
23 TRAFFIC ISSUE IN THIS PROCEEDING, WHAT IS SWBT'S POSITION? [RC-7]

² Declaratory Ruling in CC Docket No. 98-98 and Notice of Proposed Rulemaking CC Docket No. 99-68, *Implementation of the Local Compensation Provisions in the Telecommunications Act of 1996*, 14 FCC Rcd 3689 at par. 26, n. 87.

1 A. Again, SWBT feels it is more appropriate to address this issue in a generic
2 proceeding that affords all affected parties an opportunity to participate. It
3 should also be recognized that the FCC and the Courts continue to consider this
4 issue and the outcome of those proceedings could affect any decision made
5 prior to those proceedings being finalized. However, if the Commission wishes
6 to consider this issue in this arbitration, SWBT's position is as follows:

- 7 • Internet bound traffic is non-local, interstate traffic and should not be
8 subject to local reciprocal compensation arrangements. This Commission
9 and its staff have repeatedly recognized ISP traffic as non-local, interstate
10 traffic. In Docket No. 98-GIMT-712-GIT, the testimony of Commission
11 Staff witness Sandra Reams states "Staff agrees with . . . the FCC
12 decision that Internet MOUs are interstate . . ." (Bottom of page 11). In
13 Docket No. 00-SWBT-282-IAT, the Commission's January 13, 2000, order
14 states at Paragraph 4 "the agreement treats internet traffic as interstate
15 and not properly the subject of reciprocal compensation. Staff states that
16 this position does not appear to violate Section 252(e) or any federal or
17 state rule or regulation." Additionally, in its January 13, 2000, order in
18 Docket No. 00-H&BT-505-TAR, the Commission was investigating the
19 provision of service by H&B Communications, "for use in connection to an
20 Internet Service Provider ("ISP"), or other Enhanced Service Provider
21 ("ESP")." The order states, at Paragraph 4 "Staff believes that this filing is
22 interstate in nature. Therefore, this filing should not have been made with

1 the KCC, but rather the FCC.” These Kansas Commission opinions are
2 fully consistent with the FCC’s rulings that Internet traffic is interstate in
3 nature. Thus, the reciprocal compensation requirements of the Act are
4 not applicable to ISP bound traffic.

- 5 • If the Commission determines that some form of compensation
6 arrangement on ISP traffic should be considered, the appropriate method
7 should be “meet-point-billing”. Meet-point-billing is the established
8 method of compensation between carriers for the provision of interstate
9 traffic. By exempting ISP traffic from the access charge regime and
10 setting up a recovery mechanism from ISPs and end users, the FCC
11 rejected inter-carrier compensation as a method of recovery for ISP traffic.
12 Absent the exemption, the recovery mechanism would have been an
13 inter-carrier one, i.e., both the originating and terminating carriers would
14 have collected access charges from the ISP, just as they do so today on
15 other jointly-provided access traffic. However, the FCC rejected this
16 approach and by applying a meet-point-billing arrangement it will result in
17 a defacto “bill and keep” arrangement.
- 18 • Finally, in any consideration of compensation for internet bound traffic, the
19 Commission should determine whether the revenues CLECs are entitled
20 to receive from ISPs for providing access to those ISPs recover their
21 appropriate costs for providing such access service. SWBT believes that
22 CLECs are being, or could reasonably be, adequately compensated for

1 such service from exactly the source of revenue that the FCC provided for
2 in the access charge exemption. The fundamental question the
3 Commission should answer, if it chooses to address this issue in this
4 proceeding, is the following: If revenues from the ISPs were sufficient to
5 compensate the ILECs for their cost of providing access to ISPs before
6 the Act, then why is it that those same revenues are not sufficient to
7 compensate the CLEC for their cost of providing that access? The only
8 possible answer to this question is that those revenues are economically
9 sufficient. To allow CLECs compensation beyond that provided for in the
10 access charge exemption would incent inefficient competition.

11 Q. IF TCG'S PROPOSAL ON TRANSIT CALLS IS ACCEPTED, SHOULD TCG BE
12 ALLOWED TO ESTABLISH A DIRECT RELATIONSHIP WITH THIRD PARTY
13 LECS FOR TRANSIT TRAFFIC ON 60 DAYS NOTICE TO SWBT? [RC-8]

14 A. As stated earlier, TCG must establish a relationship with all parties that originate
15 traffic which transits SWBT's network for termination to a third party. TCG and
16 the third party are required to have their own agreement. It is inappropriate for
17 TCG to arbitrarily elect to modify the compensation basis for transit traffic. All
18 parties originating traffic that transits SWBT's network and terminates to a third
19 party must establish their own agreement, however the agreement with SWBT
20 should not be subject to modification on a 60 day notice basis. SWBT does not
21 dispute the arrangement TCG describes where the originating party has the
22 responsibility for compensation to the third party carrier where TCG transits

1 traffic over one party's network for termination to that third party carrier. What
2 SWBT objects to is TCG's request to be able to arbitrarily change the
3 interconnection agreement on 60 days notice.

4 Q. ON LONG DISTANCE CALLS ORIGINATING OR TERMINATING TO TCG
5 CUSTOMERS, SHOULD TCG RECEIVE THE SWITCHED ACCESS RATE
6 ELEMENT OF THE TRANSPORT INTERCONNECTION CHARGE? [RC-11]

7 A. SWBT believes access charges, as contained in the company's approved
8 access tariffs, should apply to long distance calls that are originated by or
9 terminated to end user customers. SWBT believes access charges should be
10 applied in accordance with the approved tariffs. It is not appropriate to modify
11 the terms, conditions or rates of these Access tariffs in a CLEC's interconnection
12 agreement.

13 Q. WHAT IS THE APPROPRIATE COMPENSATION RATE FOR INTRALATA 8YY
14 TRAFFIC? [RC-12]

15 A. All intraLATA toll traffic should be treated the same. That is, appropriate Access
16 charges should apply to all intraLATA toll traffic, including 8YY traffic. The
17 application of appropriate Access charges on intraLATA toll traffic has been
18 discussed previously in this testimony and will not be restated in this response.
19 The interconnection agreement being considered in this docket is not a vehicle
20 to determine the appropriate application of Access charges. The parties'
21 applicable Access tariffs govern all access traffic, including 8YY traffic.

1 Q. IF TCG USES SWBT'S NETWORK (TRANSIT CALL) TO ORIGINATE A CALL
2 TO A THIRD PARTY CELLULAR CUSTOMER, WHAT IS TCG'S OBLIGATION
3 TO BILL AND COLLECT ITS CUSTOMERS UNDER A CALLING PARTY PAYS
4 ARRANGEMENT? [RC-13]

5 A. As stated earlier, TCG is required to establish compensation arrangements with
6 all third party carriers, including cellular carriers, before using SWBT's network to
7 complete transit calls to the third party carrier. SWBT will bill TCG the
8 appropriate transiting rate as established in the interconnection agreement. TCG
9 must indemnify SWBT against any and all charges levied by any third party
10 carriers when SWBT acts as a transit carrier. Because SWBT will not block local
11 traffic when one local carrier sends SWBT traffic to transit its network to a third
12 party carrier, SWBT must be assured it is not responsible for any charges levied
13 by the third party. In its role as a transit provider, SWBT must be indemnified
14 because it receives no revenue from the originating end-user and any charges
15 levied to terminate traffic by the third party must be the responsibility of the
16 originating carrier. For all toll traffic, the appropriate Access tariffs will govern
17 any applicable rates or charges.

18 Q. SHOULD TCG BE ALLOWED TO CHARGE THE TANDEM RATE TO SWBT
19 FOR CALLS ORIGINATED ON THE SWBT NETWORK AND TERMINATED ON
20 TCG'S NETWORK? [RC-15]

21 A. No. TCG does not provide a tandem routed function to SWBT, and, therefore,
22 TCG is not entitled to tandem routed compensation. TCG's tandem routed

1 proposal is an inappropriate attempt by TCG to reap an unjust windfall. TCG has
2 not included its rationale for why it should receive tandem routed compensation
3 in its position statement. However, the payment of tandem rates to TCG would
4 result in overcompensation for the termination of traffic. TCG is not entitled to
5 tandem-routed compensation on calls when tandem functions are not provided.
6 TCG has not provided any evidence that it provides a tandem routed function to
7 SWBT. SWBT believes that TCG may be basing its incorrect assumption that it
8 is entitled to tandem rate compensation on a misinterpretation the FCC's rules.
9 After TCG has provided its rationale for why it believes it should receive tandem
10 rate compensation, SWBT is confident it will be able to demonstrate to the
11 Commission why such rationale is flawed. SWBT witness Robert Jayroe, in
12 response to Network Architecture Issue 1.1, also addresses this issue.

13 Q. MUST SWBT, AT TCG'S SOLE DISCRETION, BE REQUIRED TO RECEIVE
14 TRANSIT TRAFFIC SERVICES FROM TCG? [RC-16]

15 A. No. TCG is attempting to require SWBT to accept transit traffic from TCG that
16 originates from a third party carrier and deny SWBT any rights to arrange a direct
17 interconnection agreement with the third party carrier. SWBT wishes to
18 interconnect with all carriers within the LATA that want to exchange traffic with
19 SWBT. TCG has no right to interject itself in SWBT's efforts to establish
20 interconnection arrangements that do not require TCG to transit traffic. SWBT
21 will not be required to subscribe to the transiting service TCG proposes in order

1 to exchange traffic with other carriers. TCG cannot use this arbitration to affect
2 the manner in which SWBT interconnects with other carriers.

3 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

4 A. Yes. However, if TCG raises additional issues, I would request to supplement
5 this testimony.