



Rebecca B. DeCook
Senior Attorney

Room 1575
1875 Lawrence Street
Denver, CO 80202
303 298-6357

September 16, 2002

Secretary of the Commission
Missouri Public Service Commission
200 Madison, Ste. 100
Jefferson City, MO 65101

FILED²
SEP 16 2002
Missouri Public
Service Commission

Re: Case Nos. TT-2002-472/TT-2002-473

Dear Secretary of the Commission

Attached please find for filing with your office an original and nine (9) copies of AT&T Communications of the Southwest, Inc.'s Response to SWBT's Motion to Strike. Should you have any questions, please feel to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Rebecca DeCook" with a small mark to the right.

Rebecca DeCook.
Senior Attorney

FILED²

SEP 16 2002

Missouri Public Service Commission

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of Southwestern Bell Telephone Company's Tariff to Initiate Residential Customer Winback Promotion) Case No. TT-2002-472
Tariff No. 200200831

In the Matter of Southwestern Bell Telephone Company's Tariff Filing to Extend Business Customer Winback Promotions.) Case No. TT-2002-473
Tariff No. 200200828

RESPONSE TO SWBT'S MOTION TO STRIKE

Comes now AT&T Communications of the Southwest, Inc. ("AT&T") and for its Response to SWBT's Motion to Strike states to the Commission:


1. On August 29, 2002, Southwestern Bell Telephone Company ("SWBT") filed a Motion to Strike portions of the rebuttal testimony of AT&T's witness R. Matthew Kohly as well as portions of other interveners' testimony. The Certificate of Service attached to the Motion indicates that counsel for AT&T was served via electronic mail on August 28, 2002. However, counsel for AT&T has yet to receive any electronic mail or hard copy of that Motion to Strike from SWBT. AT&T learned of SWBT's Motion for the first time on September 4, 2002 and obtained a copy from the Commission's Data Center on September 5, 2002. According to the Commission's Data Center, SWBT's Motion was filed on August 29, 2002. As AT&T was not properly served, AT&T requests a variance from 4 CSR 240-2.080(16), which limits the reply period to ten days from the date of filing. AT&T is filing this response within 10 days of the date that AT&T learned of the filing.

2. In its pleading, SWBT seeks to strike the rebuttal testimony of R. Matthew Kohly beginning on page 19, line 12 and concluding on page 21, line 17. As is clear from SWBT's own motion, this testimony addresses the totality of SWBT's winback and retention efforts (SWBT Motion, pg. 4).
3. In its own Motion, SWBT states that the Commission suspended the tariffs in question "to determine whether [the tariffs] will have an adverse effect on competition." (SWBT Motion, p. 1). AT&T's testimony is responsive to that issue and specifically responds to the Direct Testimony of SWBT's Witness Thomas F. Hughes and John Regan Jr. that purports to show that its tariffs would not harm competition (i.e. Hughes Direct, p. 6-12; Regan Direct, p. 4-10). The impact of these tariffs is properly determined by considering the context and totality of SWBT's winback efforts.
4. The Commission has already ruled "the question of SWBT's practices regarding winback tariffs in general is relevant to a determination of whether those particular tariffs will be harmful to competition." (Order Regarding Motion to Compel, p. 16). The Commission has also already ruled that "winback and retention policies and practices are so closely related that discovery of information about SWBT's retention policies and practices are reasonably calculated to lead to the discovery of admissible evidence." (Id.).
5. The portions of testimony SWBT seeks to strike generally set forth the context of SWBT's proposed tariffs as they apply to the local market and describes SWBT's winback policies and practices. This information is certainly within the bounds of relevance as established by prior Commission Orders.

6. SWBT also complains that a portion of the rebuttal testimony it seeks to strike involves hearsay at pages 20 line 1-8. That testimony specifically describes a customer's experience in the local market and SWBT's portrayal of competitors in that market which a customer encountered when purchasing service from SWBT. This is clearly relevant to the context and practice used by SWBT in the local market and is clearly admissible. SWBT's objection seems to go to the weight of evidence rather than the admissibility of the evidence. As to the fact that Mr. Kohly is relating the experiences of a customer purchasing service from SWBT, AT&T is certainly willing to make that customer (who is an AT&T employee) available for cross-examination at the hearing.

WHEREFORE, AT&T requests that the Commission deny SWBT's Motion to Strike.

Respectfully submitted,


Rebecca B. DeCook CO# 14590
1875 Lawrence St., Suite, 1575
Denver, CO 80202
(303) 298-6557
(303) 298-6301
decook@att.com

J. Steve Weber MO #20037
101 W. McCarty, Ste. 216
Jefferson City, MO 65101
(573) 635-5198
(573) 635-9442
jsweber@att.com

Certificate of Service

A true and correct copy of the foregoing document was mailed this 16th day of September, 2002, by placing same in the U.S. Mail postage paid to the persons listed on the attached list.

Rebecca DeCook (NE)

Office of Public Counsel
P.O. Box 7800
Jefferson City, Missouri 65102

Paul G. Lane
General Attorney-Missouri
Southwestern Bell Telephone Company
One Bell Center, Room 3520
St. Louis, MO 63101-1976

Office of General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Rebecca DeCook
AT&T
1875 Lawrence Street, Suite 1575
Denver, CO 80202

Stephen F. Morris
WorldCom Communications
701 Brazos, Suite 600
Austin, TX 78701

Steve Weber
101 W. McCarty Street
Jefferson City, MO 65101