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October 12, 1999

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
301 West High Street, Floor 5A
Jefferson City, Missouri 65101

Re: Case No. TT-99-428, et al.

Dear Judge Roberts:

Enclosed for filing with the Missouri Public Service Commission in the above-referenced case is an original and 14 copies of Southwestern Bell Telephone Company's Motion To Compel Response To Data Request.

Thank you for bringing this matter to the attention of the Commission.

Very truly yours,

A handwritten signature in cursive script that reads "Paul G. Lane".

Paul G Lane

Enclosure

cc: Attorneys of Record

FILED²

OCT 12 1999

Missouri Public
Service Commission

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

FILED²

OCT 12 1999

Missouri Public
Service Commission

In the Matter of Alma Telephone Company's Filing to)
Revise its Access Service Tariff, PSC Mo. No. 2.)

Case No. TT-99-428, et al.

**SOUTHWESTERN BELL TELEPHONE COMPANY'S
MOTION TO COMPEL RESPONSE TO DATA REQUEST**

Southwestern Bell Telephone Company moves the Missouri Public Service Commission to compel the Small Telephone Company Group (STCG) to provide the cover letters and any other correspondence it has withheld concerning the two Cellular Audit Reports provided in response to Southwestern Bell's Data Request (DR) No. 1. In support of its Motion, Southwestern Bell states:

1. On September 30, 1999 Southwestern Bell served the following Data Request on STCG by facsimile:

Data Request No. 1:

In 1998/1999 an audit team consisting of Frederick & Warinner and representatives from various small Missouri LECs conducted a review of SWBT's cellular transiting usage summary reporting (CTUSR) process, and the cellular minutes from the period of 1-1-91 to 2-5-98 that were the subject of the retroactive portion of the settlement agreement with the Small Telephone Companies Group and others. Please provide a copy of the audit report(s) and any other findings, conclusions or recommendations that resulted from this review.

2. STCG did not object to this Data Request.

3. On October 7, 1999 STCG voluntarily produced the requested Cellular Audit Reports by sending them via overnight mail. Southwestern Bell received the reports during the afternoon of October 8, 1999. A copy of STCG's October 7, 1999 letter transmitting this DR answer to Southwestern Bell is appended as Attachment 1 (the Audit Reports themselves are not attached as they have been designated Highly Confidential by STCG).

4. But when Southwestern Bell reviewed the Audit Reports, it noticed that they were neither dated nor signed, as is customarily done. This irregularity led Southwestern Bell to believe that part of the Audit Reports had been withheld.

5. Southwestern Bell's counsel telephoned STCG's counsel shortly after Southwestern Bell became aware that the Audit Reports might be incomplete to inquire if there were cover letters or any other part of the reports that were not produced.

6. STCG's counsel acknowledged that STCG did not produce the cover letters from the two Audit Reports:

- (1) A December 3, 1998 letter from Phyllis Callahan of Frederick & Warinner to Ken Matzdorff of Cass County Telephone Company transmitting the Missouri Cellular Minute Review Report - Phase I; and
- (2) A March 12, 1999 letter Ms. Callahan to Mr. Matzdorff transmitting the Missouri Cellular Minute Review Report - Phase II.

7. STCG's counsel orally indicated that STCG withheld the two cover letters because they believed them to be "privileged" in that the consultant retained by the Audit Team recommended how they should address wireless traffic. When Southwestern Bell's counsel challenged this claim of privilege, STCG's counsel stated that STCG would not voluntarily produce the cover letters and that Southwestern Bell would have to file a Motion to Compel if it wanted them.

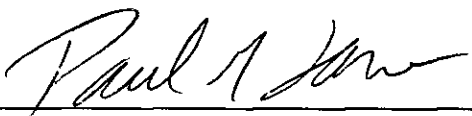
8. The cover letters to the Audit Reports are responsive to Southwestern Bell DR No. 1 in that they contain "findings, conclusions or recommendations" resulting from the Audit Team's review of Southwestern Bell's CTUSR (cellular transiting usage summary report). The cover letters being sought are relevant because the CTUSR has been specifically called into questions by a party to this case. (See, Surrebuttal Testimony of Donald D. Stowell, p. 4). MMG's tariff which is at issue in this case seeks to hold Southwestern Bell responsible for wireless originated traffic which transits Southwestern Bell's network in part on the basis that the CTUSR Reports provided by Southwestern Bell are inadequate. As STCG has not objected to

DR No. 1 and the cover letters being sought are responsive to DR No. 1, STCG should be compelled to produce them.

WHEREFORE, Southwestern Bell respectfully requests the Commission to compel STCG to provide the cover letters and any other correspondence it withheld from the Cellular Audit Reports produced in Response to Southwestern Bell's Data Request No. 1.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

BY 

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October 7, 1999

Mr. Leo Bubb
Southwestern Bell Telephone Co.
One Bell Center, 36th Floor
St. Louis, MO 63101

Re: Case No. TT-99-428 Alma et al.

Dear Leo:

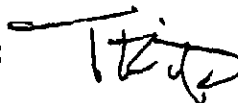
In response to your data request to the Small Telephone Company Group issued in the above-referenced matter, enclosed please find a copy of the Missouri Cellular Minute Review Report-Phase I and Missouri Cellular Minute Review Report-Phase II. Please note that these reports have been marked highly confidential as they were performed in accordance with our privileged settlement agreement regarding terminating cellular usage. In addition, although we are providing this information voluntarily, we do not necessarily agree that it is relevant to the above-referenced matter and therefore, reserve any and all objections that may be inappropriate to its admission into the record in the above-referenced matter.

If after your review of the attached you have any questions regarding the report or the conditions under which they are being disclosed, please give me a call at your convenience.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:



Trip England

TE/lar
Enclosure

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by hand on October 12, 1999.



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