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January 31, 2000

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

FILED²

JAN 31 2000

Missouri Public
Service Commission

Re: Case No. TC-2000-401

Dear Judge Roberts:

Enclosed for filing with the Commission in the above-referenced case is an original and 14 copies of Southwestern Bell Telephone Company's Response to Goodman and Seneca's Motion to Dismiss.

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

Very truly yours,

Leo J. Bub / TM

Leo J. Bub

Enclosure

cc: Attorneys of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²
JAN 31 2000

Southwestern Bell Telephone Company's)
Complaint Against Goodman and Seneca)
Telephone Companies and Request for an)
Order Prohibiting Them from Cutting Off)
Southwestern Bell's 800 MaxiMizer Traffic.)

Case No. TC-2000-401 Missouri Public
Service Commission

**SOUTHWESTERN BELL TELEPHONE COMPANY'S
RESPONSE TO GOODMAN AND SENECA'S MOTION TO DISMISS**

Southwestern Bell Telephone Company opposes Goodman and Seneca Telephone
Companies' Motion to Dismiss Complaint and respectfully states:

1. Goodman and Seneca claim that the Complaint fails to state facts upon which relief can be granted claiming that the Commission's discussions of Feature Group C/Feature Group D (FGC/FGD) in its June 10, 1999 Report and Order in TO-99-254, et al. (the Primary Toll Carrier (PTC) Plan case) focused only on "traffic terminating to SCs" like Goodman and Seneca. Since the MaxiMizer 800 traffic which Goodman and Seneca cut off originates from Goodman and Seneca customers (and terminates to Southwestern Bell customers who, on a reverse billing bases, pay the toll charges on those calls), Goodman and Seneca claim that the language in the Commission's Order does not prohibit them from cutting off this traffic. (Motion to Dismiss, pp. 1-3).

2. Contrary to Goodman and Seneca's assertions, the Report and Order is not that narrow. As Goodman and Seneca are aware, a few small LECs advocated the complete conversion of the LEC-to-LEC network from FGC based signaling to FGD based signaling. Based on its review of the evidence, the Commission declined to do so. After setting out five separate bases for its decision, the Commission stated:

Finally, there is little concrete evidence about the cost of converting the LEC-to-LEC network to FGD, but what evidence there is certainly suggests that the cost

will be great. The Commission will not order the industry to embark on a massive project to convert to another standard at an unknown cost, to achieve uncertain benefits and possibly cause tangible harm to customers trying to place call. (Report and Order, pp. 11-12).¹

Goodman and Seneca's unilaterally cutting off calls from its exchanges to Southwestern Bell MaxiMizer 800 customers and attempting to force the conversion of this traffic to FGD violates this section of the Commission's Report and Order. By making its portion of the LEC-to-LEC network unavailable to Southwestern Bell, Goodman and Seneca have implemented actions the Commission refused it permission to undertake.

3. Goodman and Seneca also appear to rely on language from the Final Report of the PTC Technical Committee from the prior PTC case (TO-97-217) to support its actions. While Southwestern Bell agrees that the former secondary carriers are no longer required to obtain their PTC's consent before making certain changes to their network, this flexibility they now have in managing their networks does not give them the right to unilaterally cut off traffic or established connections with other carriers. As the examples in the passage from the Technical Report Goodman and Seneca quote make clear, the network changes contemplated by the Technical Committee were for things like replacing a traditional switch with a host/remote arrangement, creating or eliminating an access tandem, or determining the location for a carrier's interconnection point with the LEC-to-LEC network.

4. In addition to having jurisdiction to entertain this Complaint as a violation of a Commission Order, the Commission also has jurisdiction to hear this Complaint under Section 392.240(3) RSMo (1994) which states:

¹ The pages for the Report and Order are from the hard copy decision published by the Commission. Southwestern Bell's previous reference to pages 7 and 8 (which were also used by Goodman and Seneca) were from the version of the decision published on the Commission's website at <http://www.ecodov.state.mo.us/psc4/orders4/06109254.htm>.

Whenever the commission, after hearing had upon its own motion or upon complaint, shall find that a physical connection can reasonably be made between the lines of two or more telecommunications companies whose facilities can be made to form a continuous link of communication by the construction and maintenance of suitable connections for the transfer of messages or conversations, and that public convenience and necessity will be subserved thereby . . . the commission may, by its order, require that such connection be made . . . and the telecommunications be transmitted over such connection under such rules and regulations as the commission may establish and prescribe through lines and joint rates, tolls and charges to be made and to be used, observed and enforced in the future. . . .

Here, there is no question that the connection that existed between Goodman and Seneca's exchanges and Southwestern Bell for the carriage of calls to Southwestern Bell MaxiMizer 800 customers was fully operational until Goodman and Seneca unilaterally and without prior notice disconnected the circuit. This connection had been carrying MaxiMizer 800 calls and served the public convenience and necessity. Under this statute, Goodman and Seneca should be required to reconnect and maintain the connection.

5. Goodman and Seneca also assert that it cannot continue to allow calls to Southwestern Bell MaxiMizer 800 customers to originate in its exchanges on a "no CIC" basis that existed under the PTC Plan because they will not be able to distinguish one carrier's traffic from another's for the purpose of assessing its access charges. (Goodman and Seneca Motion to Dismiss, p. 6).

6. Goodman and Seneca are mistaken in their assertion. By the very nature of 800 service, the carrier whose customer dialed the 800 call (here Goodman and Seneca) will know the identity of the carrier responsible for paying originating access charges on the call. When an 800 call is made, the carrier on the originating side sends an electronic query to the regional 800 database to determine the identity of the 800 service provider and to translate that 800 number into a POTS number (plain old telephone number). When Southwestern Bell is the 800 service

provider, the 800 database query response will inform Goodman and Seneca that it is a LEC-carried call and, through the POTS number, direct Goodman and Seneca to route the call to Southwestern Bell for completion. On these types of LEC-carried calls, the POTS number identifies who the 800 carrier Goodman and Seneca have been using that POTS destination number inside the Category 11 0101-25 record it creates that forms the basis for its billing of originating access to Southwestern Bell.

There has been no change to this established 800 service procedure as a result of the termination of the PTC Plan. Goodman and Seneca continue to perform these database queries on 800 calls and receive the same information from the 800 database. And there is no discrimination against IXC's in permitting calls to Southwestern Bell's (and other LECs') 800 customers to continue to flow over the LEC-to-LEC network using FGC. By definition, FGD access is equivalent to FGC access. And in any event, Goodman and Seneca's raising these issues simply demonstrates the existence of disputed facts. They do not constitute any ground for dismissal based on a failure to state facts upon which relief can be granted

WHEREFORE, Southwestern Bell respectfully requests the Commission to deny Goodman and Seneca's Motion to Dismiss.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

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CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by first-class, postage prepaid, U.S. Mail on January 31, 2000.

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