

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the matter of Southwestern Bell Telephone Company )  
tariff introducing "Caller ID Service", a new service. ) Case No. TR-93-123  
)

APPEARANCES

Alfred G. Richter, Vice President and General Counsel, Joseph F. Jedlicka, III and Ann Meuleman, Attorneys, Southwestern Bell Telephone Company, 100 North Tucker Boulevard, Room 630, St. Louis, Missouri 63101, for Southwestern Bell Telephone Company.

James C. Stroo, Attorney at Law, GTE Operations, 1000 GTE Drive, Wentzville, Missouri 63385, for GTE North Incorporated, GTE Missouri, GTE of Eastern Missouri, and GTE Systems of Missouri.

Thomas A. Grimaldi, Senior Attorney, United Telephone Company of Missouri, 5454 West 110th Street, Overland Park, Kansas 66211, for United Telephone Company of Missouri.

Gloria Salinas, Attorney at Law, AT&T Communications of the Southwest, Inc., 8911 Capitol of Texas Highway, Suite 1100, Austin, Texas 78759,

and

Paul S. DeFord, Lathrop & Norquist, 2345 Grand Avenue, Suite 2600, Kansas City, Missouri 64108-2684, for AT&T Communications of the Southwest, Inc.

Leland B. Curtis and Carl J. Lumley, Curtis, Oetting, Heinz, Garrett & Soule, P.C., 130 South Bemiston, Suite 200, Clayton, Missouri 63105,

and

Edward J. Cadieux, Senior Attorney, MCI Telecommunications Corporation, 100 South Fourth Street, Suite 200, St. Louis, Missouri 63102, for MCI Telecommunications Corporation.

Steven Z. Routburg, Attorney at Law, 12300 Olive Boulevard, Suite 310, St. Louis, Missouri 63141, for American Civil Liberties Union of Eastern Missouri Fund.

Richard S. Brownlee, III, and Donald C. Otto, Hendren and Andrae, 235 East High Street, Post Office Box 1069, Jefferson City, Missouri 65102, for Board of Police Commissioners of Kansas City, Missouri.

Anna Kathryn Lingo, Tyler & Lingo, 1104-A East Broadway, Columbia, Missouri 65201, for Missouri Coalition Against Domestic Violence.

Nancy A. Beardsley, Crews, Waits, Brownlee, Beardsley & Berger, 401 West 89th Street, Kansas City, Missouri, for Hope House.

Denise V. Phillips, Legal Aid of Western Missouri, 1005 Grand Avenue, Suite 600, Kansas City, Missouri 64016, for Domestic Violence Network and NEWHOUSE.

David J. Newburger, Newburger & Vossmeier, One Metropolitan Square, Suite 2400, St. Louis, Missouri 63102, for Missouri Association of the Deaf and Missouri Council for the Blind.

Randy Bakewell, Assistant Public Counsel, Office of Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the public.

Linda K. Gardner, Deputy General Counsel, and David Woodsmall, Assistant General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the staff of the Missouri Public Service Commission.

HEARING EXAMINER: Cecil I. Wright.

### REPORT AND ORDER

On August 27, 1992, Southwestern Bell Telephone Company (SWB) submitted a proposed tariff designed to implement Caller ID, a new service. The effective date on the tariff was January 31, 1993. On October 9, 1992 the Commission issued an order suspending the new service tariff for sixty days, until April 1, 1993, pursuant to Section 392.220.4, R.S.Mo. (Supp. 1992), and setting the matter for a prehearing conference. On November 20, 1992 the Commission issued an order granting intervention to GTE North Incorporated, GTE Missouri, GTE Systems of Missouri and GTE of Eastern Missouri (collectively, GTE); United Telephone Company of Missouri (United); Missouri Coalition Against Domestic Violence; AT&T Communications of the Southwest, Inc. (AT&T); American Civil Liberties Union of Eastern Missouri Fund (ACLU); Victim Service Council; Hope House; MCI Telecommunications Corporation (MCI); NEWHOUSE; Domestic Violence Network; and Board of Police Commissioners of Kansas City, Missouri, and establishing a procedural schedule. Victim Service Council subsequently withdrew its intervention. The hearings in this matter were held as scheduled on February 1 and 2, 1993, the matter has been briefed and is now before the Commission for decision.

### Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

Caller ID is a new service which SWB proposes to offer for the first time in Missouri. No other local exchange company (LEC) offers Caller ID. The technology utilized in providing the service allows the receiver of a call to have displayed, with the purchase of the proper equipment, the telephone number from which the call is originating. Since this is a new service, it would only be available, initially, in certain SWB exchanges. Where available, the receiving telephone customer will be able to display the telephone number from which the call originated unless the call is blocked, is from outside of the area where Caller ID is available, is made from a cellular phone, is operator assisted, is made using a credit card, is made from a party line, or is the second call received using Call Waiting. Blocked calls will be indicated as "anonymous" and out-of-area calls will be so indicated. Caller ID service will only be available for long distance calls and between companies when the necessary facilities are installed.

SWB proposes to offer Caller ID service throughout its service territory as the facilities become available. SWB proposes to offer the service for a service charge of \$7.75 and a monthly charge of \$6.50 for residential customers and a service charge of \$14.50 and a monthly charge of \$8.50 for business customers. SWB proposes that free per-call blocking be available when Caller ID service is available and free per-line blocking be available to federal, state and local law enforcement agencies, and private, nonprofit, tax-exempt, domestic violence intervention agencies, their staffs and volunteers for lines over which their official business is conducted. At the hearing, SWB modified its proposed tariff by removing the Public Service Commission from the

screening process of who may receive per-line blocking. SWB now proposes that its employees will register and screen these people as part of the Caller ID offering. SWB proposes to offer Caller ID only to individual and multiline residence and business lines and not party line, PBX Trunk, Centrex, Plexar or public and semipublic telephone services.

Although SWB's proposed tariff has several provisions with which one or more parties disagree, the basic disagreement concerning the offering of Caller ID service is whether the service should be offered, and if so, what blocking options should be made available. The Domestic Violence Intervenor (Domestic Violence Network, Hope House, Missouri Coalition Against Domestic Violence and NEWHOUSE) and the Board of Police Commissioners of Kansas City, Missouri (Board) oppose any offering of Caller ID, while the Disabilities Interest Intervenor (Missouri Association of the Deaf and Missouri Council for the Blind) support Caller ID service without any blocking options. AT&T, United and GTE support SWB's tariff as proposed while the ACLU supports the offering of Caller ID service with free per-line blocking and Public Counsel supports the offering of Caller ID service with free per-line blocking and per-call unblocking. Staff recommends that per-line blocking be available at a minimum charge.

Since the Domestic Violence Intervenor and the Board of Police Commissioners of Kansas City, Missouri oppose the offering of any Caller ID service, the Commission must address this question first. If the Commission finds that the service should not be offered, discussion relating to blocking options is unnecessary.

There seems to be no dispute that the Commission, through its regulatory authority of the operations of SWB, has the authority to prevent a new service from being offered. The statutes, though, provide no clear statutory standard to guide the Commission in determining whether a service should be

prohibited. Clearly the Commission could refuse to approve a service which violated a provision of law or Commission rules. No party has argued that Caller ID violates Missouri or federal statutes or Commission rules. Without a specific statutory standard the Commission must decide this question based upon the general public interest and what it finds to be just and reasonable.

The Domestic Violence Intervenor's take the position that Caller ID puts a certain segment of the general public at risk and that the risk outweighs any benefit or other considerations of public interest. The evidence introduced by the Domestic Violence Intervenor's focused on the plight of persons, mostly women, who live in abusive situations and how Caller ID service might be used by the abuser to control the victim or to impede the victim's ability or willingness to seek help.

The evidence indicated that Caller ID service could be purchased by the abuser and be used to monitor the incoming telephone calls of the victim. There was also evidence that general availability of Caller ID service may inhibit the victim from seeking help, knowing that her telephone number may be displayed on the telephone equipment of the person called. Also, some evidence indicated that Caller ID could put agencies' staff and volunteers at risk when trying to contact the victim since Caller ID would allow the abuser to monitor all calls and learn the numbers of those calling.

The Board of Police Commissioners of Kansas City, Missouri opposes Caller ID service because of the increased risk it believes could be created for police departments. If Caller ID is offered, police undercover investigations would have to be conducted from "safe phones" since any call from another telephone might reveal that the person is an undercover policeman. The Board witness also testified that Caller ID could affect the latchkey child watch program if children were told not to answer "anonymous" calls and the police department lines all had per-line blocking. The Board argues that these circumstances

render Caller ID against the public interest. In addition, the Board contended that Caller ID would be used as a reason not to provide 911 emergency service to communities.

Counterpoised to those opposed to Caller ID are the Disabilities Interest Intervenors. These intervenors support Caller ID without any blocking options. The Disabilities Interest Intervenors witnesses testified that Caller ID would reduce barriers for persons with limited mobility and for those who are hearing-impaired. Caller ID will aid those with certain disabilities to increase their ability to communicate with persons calling them. The recording of the telephone number of the caller allows certain disabled persons a greater opportunity to communicate by telephone since when they are unable to answer the telephone, they have a record of where the call originated and can return the call. In addition, they can record the numbers from which harassing calls originate. The Disabilities Interest Intervenors support new technology and argue that the use of Caller ID may lead to other technologies or adaptations which will even further remove barriers for the disabled.

SWB and the other telecommunications companies which are parties support Caller ID, citing numerous benefits to the general public. The primary benefit is that Caller ID service will provide the called party with the telephone number from which the call originated. This information, SWB's evidence indicates, is important enough that approximately nine percent of SWB's customers will take the service. SWB contends that customers want this additional option for their telephones so they can have additional information in deciding whether to answer the call. Caller ID also provides an information retention service so that subscribers can learn what calls they have received and the time of the calls.

SWB also contends that Caller ID could help reduce the number of harassing or annoying telephone calls. With Caller ID, the subscriber can either

call the person back or ignore calls from that number in the future. Caller ID can also aid in emergency operations where a calling person is too agitated or is unable to give the address where the emergency has occurred.

The Commission must weigh the benefits of Caller ID versus the potential for increased harm from the use of the service to find where the public interest lies and to find what is just and reasonable. There is no compromise that will satisfy all parties. If Caller ID is rejected, persons with disabilities lose another tool for removing barriers to leading a normal life and persons wishing the additional information provided by Caller ID must do without that information. If Caller ID is allowed in any manner, certain persons may be at increased risk and may be further isolated in abusive relationships.

The Commission, upon weighing these concerns, finds that, overall, the public interest will best be served by allowing Caller ID service. New technology is a benefit to society and persons are always seeking additional options, especially with regard to telecommunications services. The Commission cannot really choose between the two interest groups represented here and does not find that either has a superior interest. The Commission, though, in balancing the interests of all the parties finds that the evidence indicates that there is sufficient interest and benefit in Caller ID service that it should be offered together with appropriate blocking options.

Nine percent of SWB customers are projected to subscribe to the service. This percentage clearly indicates sufficient desire for the service to allow its introduction. In addition, Caller ID provides certain benefits which support the finding that the offering of the service is in the public interest. Some of these benefits are: (1) Caller ID allows a customer to make a more informed decision about answering calls; (2) Caller ID improves message taking capability concerning calls; (3) Caller ID aids hearing-impaired customers in deciding whether they should answer a call by Text Telephone; (4) Caller ID helps

deter harassing and annoying or unwanted calls; (5) Caller ID could aid parents who must leave their children at home by allowing the parent to instruct the children to only answer calls from certain numbers; and (6) Caller ID could aid in emergency situations where the caller does not know or is too excited to give the location. Law enforcement agencies with latchkey programs could advertise a number for the program and keep that line unblocked. In addition, there was no evidence Caller ID would be substituted for 911 service.

Several parties raised the issue of the calling party's privacy versus the called party's privacy in arguing for or against Caller ID and blocking options. SWB investigated these privacy concerns before it proposed the service and attempted to balance those concerns by proposing Caller ID with per-call blocking. The Commission finds that Caller ID does not violate the calling party's right to privacy nor does the called party's right to privacy dictate it be offered. The fact that current technology allows a person to make a call without revealing the telephone number from which the call is being made does not create a right to privacy for the calling party. Historically, an operator intervened in most calls and identification of the calling party was a matter of course. The advance in technology has not created a new right to privacy that would be violated by this service and, as technology advances, the methods by which telephone communications are transmitted may further erode the anonymity of both parties.

The Commission finds that Caller ID will better balance the separate interests of the calling and called party. A calling party knows the number he/she has called; it is only logical that a called party be offered the opportunity to know the number from which the call is being made. The Commission does not believe either has a superior right to protect that information. Those who do not wish to have their numbers revealed may utilize blocking. Those who



are not interested in learning the number of the calling party need not take Caller ID service.

Public Counsel and other parties have contended that Caller ID is unnecessary because other technology can provide the same or similar service. Other services offered by SWB such as Call Trace, Call Return, Priority Call and Call Block offer options similar to Caller ID or meet one of the benefits of Caller ID. The Commission finds that the availability of similar services is not determinative of whether Caller ID should be offered. These other services are not exactly the same as Caller ID and do not provide exactly the same services. In addition, persons may purchase answering machines, which provide many services similar to Caller ID. These machines, though, will not display the telephone number of the caller at the time the telephone is ringing or provide the number unless volunteered by the caller. Providing customers with additional options is in the public interest and Caller ID is a separate service from these other services.

In finding that Caller ID should be offered, the Commission is cognizant that there may be legitimate reasons why some telephone numbers or some calls should be blocked. SWB has recognized this in its proposed tariff. SWB proposes that free per-call blocking be available and that free per-line blocking be available to law enforcement agencies and domestic violence agencies.

SWB has conducted an analysis of the issues raised by the public concerning Caller ID. This analysis focused mainly on the expression of a desire for this type of service and the privacy concerns of both the called and calling party. SWB's analysis showed that a large enough percentage of customers expressed a desire for Caller ID so that SWB could profitably offer the service. These customers expressed a desire to know the telephone number from which the call is being made. In addition, SWB found that on select occasions, customers wanted the ability to prevent their telephone number from being displayed. SWB

attempted to balance these expressed desires by proposing Caller ID with per-call blocking.

SWB also recognized the concern expressed by domestic violence agencies and law enforcement agencies who deal with emergency situations in which the safety of the called party and the caller may be at risk. To meet the needs of these agencies SWB proposed to allow these agencies and their staffs and volunteers free per-line blocking.

The Commission finds that SWB's analysis properly balances the interests of customers for the service and provides the proper balance of privacy for the calling party. As stated earlier, there are occasions when blocking of calls is a legitimate need. The evidence from SWB's trial of Caller ID in Oklahoma indicates that these occasions are infrequent, as only 1/20th of one percent of calls were blocked in the highest month during that trial.

The Commission believes that consumers who have a need to block certain calls or feel they must block all of their calls will learn how to use the per-call blocking option. The dialing of the code (\*67) will allow these customers to prevent their number from being displayed. There are also telephones available which can be programmed to dial the code automatically and thereby give the customer blocking on each call.

Although there was evidence that some customers want per-line blocking and some of the parties supported per-line blocking in some form, the Commission finds that the options for blocking in SWB's tariffs meet the need for a blocking option to be offered with Caller ID service. A customer might choose per-line blocking and then want to unblock some calls. The only technology available to unblock calls uses the same dialing code (\*67) for per-call blocking. The confusion this would create is unnecessary. In addition, per-line blocking would reduce the value of Caller ID service. The evidence is that customers discontinue Caller ID service because of the number of calls for which

the numbers are not displayed. If the service is in the public interest, it should be provided in a manner that allows it to be utilized to its maximum benefit. Per-line blocking would detract substantially from the service and the Commission finds insufficient evidence to require more blocking options than those proposed by SWB.

The needs of law enforcement agencies and domestic violence agencies can be met with the free per-line blocking for their staffs and volunteers. SWB's tariff, especially as modified at the hearing, will allow these agencies to contact SWB for per-line blocking and obtain the needed blocking by merely registering with SWB. The Commission expects SWB will work with these agencies to develop a system that will provide the blocking service efficiently and quickly so that those needing the per-line blocking can obtain the service. Staff should review SWB's procedures, once in place, to ensure they are appropriate and accomplish their goal.

The issue of the effect that Caller ID service will have on non-published number service was raised. Customers taking the nonpublished number service expect that their telephone number will not be released by SWB through its printed directory or operator assistance. The nonpublished number service, though, does not include the shielding of the customer's telephone number when making a call. The nonpublished number customers must choose to shield their numbers when they make calls, as must any other customer. The evidence indicates that Caller ID service does not affect the subscription rate of nonpublished number service and that a significant portion of Caller ID subscribers are also nonpublished number subscribers. Since the nonpublished number service does not include the expectation that a customer number will be shielded when making a call, the Commission finds that no special option need be offered to those customers as part of Caller ID.

Missouri statutes require that the Commission find the service is adequate and just and reasonable and by implication in the public interest. The evidence in this proceeding is sufficient to find that Caller ID is in the public interest and is adequate, just and reasonable. Legitimate concerns have been expressed concerning Caller ID, but the Commission finds that SWB's blocking options are reasonable and provide an appropriate balance between the interests expressed by the parties.

Many other states have addressed the issues raised by Caller ID and have resolved those issues in a variety of ways. Some states allowed the service with no blocking. SWB witness Regal testified to some of the results of that action in New Jersey. Two states have prevented the offering of Caller ID service for legal reasons. As stated earlier, no statutory prohibition has been raised by the parties in this case.

Staff witness Van Eschen testified that his research showed that fifteen states require some form of free per-line blocking for all customers while twenty-four states, plus the District of Columbia, do not offer free per-line blocking to all customers. The states which border Missouri adjacent to the two large metropolitan areas have approved Caller ID with free per-call blocking. The other states bordering Missouri have also approved Caller ID with similar blocking options. Based upon the continuum of responses to the service, the Commission finds there is no clear mandate for determining the appropriate method of providing the service. The Commission, though, believes that consistency between Missouri and bordering states is important, especially around the large metropolitan areas. The Commission's decision in this case establishes that consistency.

Issues were raised by the parties concerning the use businesses might make of the telephone numbers displayed. SWB has a "Secondary Data Use Code of Conduct" which encourages businesses to voluntarily restrict their use of

telephone numbers obtained through Caller ID and to not reuse or resell the numbers without the customers' consent. Staff recommends that businesses who violate the code should have their Caller ID service terminated and that the guidelines in the code be placed in SWB's tariff.

The Commission is concerned about the unwarranted use of the information received through Caller ID by businesses. The Commission agrees with Staff that businesses who are found to have violated the guidelines of the code should have the service terminated. To ensure business customers are aware of those guidelines, SWB should place them in its tariff. The guidelines to be placed in the tariff should include those listed in Exhibit 34, pages 16-17.

SWB proposes to exclude Caller ID from PBX Trunk, Centrex and Plexar services. SWB's main reason is that it does not believe there is sufficient demand for the service from these customers to warrant the additional expense of providing the service to them. The Commission considers this a business decision of SWB and therefore will not require SWB to provide Caller ID to these services. The Commission, though, would expect SWB to investigate more fully the demand for Caller ID by these services and the cost associated with providing the service and file the appropriate tariff if the demand is sufficient to warrant the service.

Public Counsel has expressed strong support for Anonymous Call Rejection (ACR) as an option to be provided with Caller ID service. Public Counsel only supported ACR if free per-line blocking is required. SWB, though, did not include ACR in its tariff and the Commission does not find the option to be a necessary component of the service and in this case will not order that option be included in Caller ID service. Also, the Commission has not approved free per-line blocking. If SWB files a tariff proposing ACR the Commission will consider whether ACR is appropriate.

To ensure the public is made aware of the use of Caller ID and the per-call blocking option, SWB will need to engage in a customer education program. SWB witness Hollingsworth describes the education program that SWB expects to engage in to ensure customers understand Caller ID. The Commission considers the program described in Exhibit 17, pages 11-13 to be the minimum customer education required. In addition, SWB will be required to make a separate mailing sixty days prior to the implementation of Caller ID in an exchange, and SWB should include a description of Caller ID service in its directories. The Commission will not order additional bill inserts since SWB's program includes an annual bill insert concerning the service and advertisements.

Public Counsel has recommended that the liability waiver provision in SWB's proposed tariff be eliminated. The liability provision in the proposed Caller ID tariffs, Section 43, paragraph 43.1.5, references SWB's General Exchange Tariff liability restriction language. Mo. P.S.C. No. 35, Section 17, paragraph 17.8. The general liability language in paragraph 17.8 includes, *inter alia*, a limitation on liability for any mistakes, omissions, errors or deficits in transmission. The language added by Section 43, paragraph 43.1.5 limits SWB's liability "by the transmission to a Caller ID customer of a telephone number which the calling party has requested to be omitted from the telephone directory or has requested not to be disclosed to any person."

The Commission finds that the liability limitation provisions in the proposed Caller ID tariff are reasonable. These are the general liability provisions in SWB's tariff and should apply to this new service. The additional language proposed in the Caller ID tariff appears only to recognize the limited expectations of unpublished number customers.

### Conclusions of Law

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Commission has jurisdiction over the offering of a service by a regulated public telecommunications utility pursuant to the provisions of Chapters 386 and 392, R.S.Mo. (Supp. 1992). New services are specifically cited in Section 392.220.4. There are no specific standards established in these statutes for considering whether a new service should be rejected or authorized. Section 392.200, R.S.Mo. (Supp. 1992), requires only that telecommunications companies should provide such instrumentalities and facilities that shall be adequate and in all respects just and reasonable. Section 392.470 authorizes the Commission to place conditions on the provisioning of telecommunications services that are necessary and in the public interest. Most of the other provisions of the statutes address the setting of rates and even Section 392.530, the general purpose section, provides little guidance. Section 392.530(3), though, does seem to indicate that new services should be encouraged. The underlying mandate from the case law in the regulation of public utilities is the service of the public interest. *State ex rel. Kansas City v. PSC*, 257 S.W. 462, 463 (Mo. banc 1923); *May Department Store Co. v. Union Electric Light & Power Co.*, 107 S.W.2d 41, 56-57 (Mo. 1937).

The determination of the public interest is not always a clear task and as in this case, where legitimate competing concerns are raised, that determination is further complicated. The Commission believes, though, that the statutes indicate a preference for the offering of new telecommunications technology through new services to customers. These services should not be rejected unless they are unlawful or clearly violate the public interest or are not just and reasonable.

Constitutional arguments concerning the privacy rights of the calling and called parties have been raised by GTE. The Commission is not prepared in this order to resolve these privacy issues. No party has cited the Commission to any statute which prevents the offering of Caller ID. Since Caller ID appears not to be unlawful in Missouri, the Commission is left with a consideration of the public interest in determining whether and how Caller ID shall be provided.

The Commission has found that Caller ID does not violate the public interest. The concerns of some do not outweigh the need for the service by others. In addition, the statutes seem to encourage new services and a sufficient percentage of SWB customers have indicated an interest to authorize the service. The blocking options provided will address many of the safety concerns of the domestic violence and law enforcement agencies and the offering of Caller ID will provide additional information to the called party. Based upon its findings, the Commission will authorize SWB to provide Caller ID with the options as proposed, under the conditions described in this order.

**IT IS THEREFORE ORDERED:**

1. That the proposed tariff filed by Southwestern Bell Telephone Company to provide Caller ID service be hereby rejected and the company is hereby authorized to file tariffs in lieu thereof consistent with this Report And Order for service on and after April 1, 1993.

2. That Southwestern Bell Telephone Company shall provide notice and information concerning Caller ID service as described in this Report And Order.



3. That this Report And Order shall become effective on the 1st day of April, 1993.

BY THE COMMISSION

*Brent Stewart*

Brent Stewart  
Executive Secretary

(S E A L)

McClure, Chm., Rauch and Kincheloe,  
CC., concur;  
Mueller, C., dissents;  
Perkins, C., dissents with separate  
opinion to follow;  
certify compliance with the provisions  
of Section 536.080, R.S.Mo. 1986.

Dated at Jefferson City, Missouri,  
on this 18th day of March, 1993.