



May 21, 2002

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
Jefferson City, Missouri 65102

Via Express Delivery

Re: TO-2002-397; Response to Notice Regarding Filings

Dear Mr. Roberts:

Please find enclosed for filing an original and nine (9) copies of the responses of IP Communications of the Southwest ("IP") to the Notice Regarding Filings in the above-referenced proceeding. Please stamp the extra copy filed and return in the self-addressed, stamped envelope.

Thank you for your attention to this matter. If you have any questions, do not hesitate to contact me at (913) 831-1013.

Sincerely,

David J. Stueven by permission 9/18/02

David J. Stueven
Director, Regulatory
IP Communications of the Southwest

Enclosures

cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Determination of prices of)
Certain Unbundled Network Elements) Case No. TO-2002-397

RESPONSE TO NOTICE REGARDING FILINGS

COMES NOW IP Communications of the Southwest ("IP"), by and through its undersigned counsel, and for its Response to Notice Regarding Filings, states as follows:

Procedural Background

1. On May 3, 2002, the Regulatory Law Judge ("RLJ") issued a Notice Regarding Filings seeking comment on three questions. Responses to the Notice are due no later than May 23, 2002. Reply briefs are due no later than May 28, 2002.

Response to Question 1

2. The first question presented by the RLJ is as follows:

What is the appropriate scope of this case? Should the scope be limited to a review of the unbundled network elements that were at issue in Case No. TO-2002-222, or should it also include all pricing issues that are not part of Case Nos. TO-2002-438, TO-2002-439, and TO-2002-440? Are there any additional issues that should be included?

3. From IP's perspective, this proceeding provides an opportunity to update Southwestern Bell Telephone Company's unbundled network element

("UNE") rates for all UNEs not being addressed in 438, 439, or 440. Across the country state commissions are updating LINE rates that were prepared before or just as the competitive framework was being created. Because the scope of this proceeding is considerably broad given that it already is designed to, at a minimum, address all rates at issue in TO-2002-222, the Commission has an opportunity to conclude its review of UNE rates without causing a dramatic additional drain on Commission resources.

4. More importantly, a review of LINE rates is likely to have important impacts on competition. State-by-state as older UNE rates are reviewed, those older rates are consistently found to be too high. As a result, those excessive rates are being reduced to more precisely comply with the Federal Communications Commission's ("FCC") pricing rules, which were recently upheld by the United States Supreme Court. Because UNE rates in Missouri have historically been at the higher end of the spectrum, it is likely the trend of state commissions finding that their existing LINE rates are too high will be true in Missouri. As a result, it is of paramount importance that the broader UNE review move forward so Missouri competitors and Missouri consumers are not left behind and the intent of the FTA is implemented.

Response to Question 2

5. The second question presented by the RLJ is as follows:

Should a working group be established? If so, give guidance on the group's purpose.

6. IP must qualify this answer based on what the intent, expectations and role of such a "working group" will be. IP has concerns that a "working group" with its own mandate outside of the context of the procedural scope of a regulatory proceeding designed to set rates in a timely period will delay the process rather than enhance it. On the other hand and consistent with P's beliefs that the UNE price review should more directly be under the direct jurisdiction of an RLJ (possibly with delegated authority), if such a "working group" is focused on understanding cost studies that will be presented and the "working group" remains under the auspices of a complete procedural schedule that would include all steps from discovery through the hearing on the merits, then IP would support the use of a "working group".

Response to Question 3

7. The third question presented by the RU is as follows:

How should the results of this case be used? Should the case be used only as a benchmark for future proceedings?

8. The results of this case should be used in a manner similar to what the Commission ruled in TO-2002-439. The results from this proceeding should be available to requesting carriers to amend their respective interconnection agreements, whether the M2A or otherwise. With regard to the M2A, it should be without question that if the Commission determines that particular rates in the M2A exceed the Total Element Long Run Incremental Cost ("TELRIC"), then SWBT would be required to make available to competitors such rate revisions if

SWBT's M2A or future iterations of the M2A will be able to support SWBT's continued interLATA relief.

9. Similarly, other interconnection agreements would fail to be in compliance with both Section 251 and 271 of the FTA of requesting carriers are not given an opportunity to amend their interconnection agreement to correct what may be determined by the Commission to be excessive rates if the results of this proceeding show certain of those older rates to be in excess of TELRIC.

WHEREFORE, IP Communications of the Southwest respectfully requests that the Missouri Public Service Commission issue an order consistent with IP's response herein.

Respectfully submitted,


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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown below this 23rd day of May 2002.

