

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

In the Matter of Southwestern Bell Telephone        )  
Company's Tariff Filing 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 Initiate Business         )  
Customer Winback Promotion                                )

Case No. TT-2002-473  
Tariff No. 200200828

**SOUTHWESTERN BELL TELEPHONE COMPANY'S REPLY TO  
WCOM'S RESPONSE TO SOUTHWESTERN BELL TELEPHONE COMPANY'S  
RESPONSE TO WCOM'S MOTION TO COMPEL SWBT'S DR REPONSES**

COMES NOW, Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company ("SWBT") and, for its Reply to WCOM's Response to Southwestern Bell Telephone Company's Response to WCOM's Motion to Compel SWBT's DR Responses, states as follows:

While SWBT will not repeat all of its arguments why the Commission should deny WCOM's Motion, SWBT is compelled to file this pleading to rebut at least three blatant misrepresentations to the Commission.

1.     WCOM's Reference To Exhibit B Is Incorrect

WCOM states:

Tangible evidence<sup>1</sup> points to the fact that SWBT has in place policies and practices to market and price SWBT promotional offerings in Missouri, including the two winback promotions at issue, that greatly disadvantage all competitors and, therefore, harm competition in Missouri. WCOM Exhibits A and B, attached to WCOM's Data Requests (DRs), respectively, are copies of a winback letter and voice mail script received by a former-SWBT customer within two or three days of migration of the customer's service from SWBT to a competitive local exchange carrier.<sup>2</sup> (Emphasis added).

<sup>1</sup> See WCOM Exhibits A and B, attached to WCOM's DRs.

<sup>2</sup> See WCOM's Response, pages 1-2.

Contrary to WCOM's claim, Exhibit B<sup>3</sup> was not attached to WCOM's DRs, a copy of which is attached hereto as Exhibit 1. Furthermore, Exhibit B was never even referenced in WCOM's DRs. It is wholly inappropriate to contend that Exhibit B justifies these Data Requests when Exhibit B was neither attached to the DRs nor referenced in the DRs.

2. WCOM's References to Exhibit A Are Incorrect.

WCOM is fully cognizant of the fact that Exhibit A was never mailed to end-users in Missouri because SWBT so stated in its Response to DR No. 20 in both cases, copies of which are attached hereto as Exhibit 2.

3. SWBT's Proposed Tariffs Are Not Retention Promotions

WCOM alleges that while SWBT's two tariffs at issue are not labeled retention promotions, they are effectively retention offerings.<sup>4</sup> Nothing can be further from the truth! As each tariff that is at issue in the above-captioned proceeding indicates, the customer must have previously disconnected their local service with SWBT, established service with another local exchange carrier within the SWBT service area, and now wishes to return to service with SWBT. As such, SWBT's proposed tariffs are winback tariffs and are not designed to retain existing

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<sup>3</sup> WCOM alleges: "SWBT is passing customer propriety network information ("CPNI") and/or similar data--SWBT labels it customer disconnection information--between its wholesale and retail operations. The voice mail in WCOM Exhibit B, moreover, was made to an unlisted telephone number, further tangible evidence that SWBT's wholesale arm provides its retailing department prohibited information." *Id.* at 2. As SWBT has repeatedly stated, SWBT's retail marketing department does not receive information from SWBT's wholesale department. See SWBT's Response, pages 4-5. Further, SWBT's retail operation only has SWBT retail information available to it and has no information regarding CLEC connect and/or disconnect information. *Id.* at 5. Moreover, WCOM has failed to present any evidence that SWBT is so doing. WCOM has failed to establish any factual basis for its allegation that the voice mail in WCOM Exhibit B was made to an unlisted telephone number and/or that if it was made to an unlisted telephone number that SWBT's wholesale arm provides its retailing departments prohibited information. As SWBT has explained, SWBT's retail marketing department receives customer disconnect information about SWBT's own retail customers. Thus, if a SWBT customer disconnected service from SWBT, SWBT's own retail organization would have access to that customer record even if the number were unlisted and there would, quite simply, be no need for SWBT's retail organization to garner any information from SWBT's wholesale organization.

<sup>4</sup> See WCOM's Response, p.5.

SWBT customers. WCOM's propensity to directly mislead the Commission should not be countenanced.

As SWBT indicated above, it will not repeat all of its arguments why the Commission should deny WCOM's Motion, as SWBT believes that it effectively addressed WCOM's Motion in SWBT's Response. What it all boils down to is that the Commission established these two cases: "to allow the Commission an opportunity to determine whether it [the tariff at issue in this proceeding] will also have an adverse effect on competition."<sup>5</sup> The Commission did not open these case to investigate SWBT's marketing, pricing, or operational practices. WCOM is merely on a fishing expedition to examine SWBT's marketing, pricing, and operational practices related to its winback and/or retention activities not only in Missouri but also in other states and by affiliates. As such, WCOM's DRs are overbroad, unduly burdensome, irrelevant, not calculated to lead to the discovery of admissible evidence, and beyond the permissible scope of the Missouri Rules of Civil Procedure and the Practice and Procedure Rules. For these reasons, WCOM's Motion to Compel SWBT's DR Responses should be denied.


WHEREFORE, Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company, prays the Commission denies WCOM's Motion to Compel SWBT's DR Responses, and grant any further and additional relief this Commission deems just and proper.

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<sup>5</sup> See Order Further Suspending Tariff and Directing Notice, dated April 18, 2002, in Case No. TT-2002-472 and Order Further Suspending Tariff and Directing Notice, dated April 18, 2002, in Case No. TT-2002-473.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.

By:   
PAUL G. LANE #27011  
LEO J. BUB #34326  
ANTHONY K. CONROY #35199  
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**CERTIFICATE OF SERVICE**

Copies of this document were served on the following parties by e-mail and first-class, postage prepaid, U.S. Mail or via hand-delivery on August 7, 2002.

  
Mimi B. MacDonald

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DENVER, CO 80202

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

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

MCI WORLDCOM COMMUNICATIONS, INC.,  
BROOKS FIBER COMMUNICATIONS OF MISSOURI, INC.  
MCImetro ACCESS TRANSMISSIONS SERVICES, LLC  
DATA REQUESTS DIRECTED TO  
SOUTHWESTERN BELL TELEPHONE COMPANY

COME NOW MCI WorldCom Communications, Inc., Brooks Fiber Communications of Missouri, Inc., and MCImetro Access Transmission Services, LLC ("WorldCom"), and propound the following Data Requests upon Southwestern Bell Telephone Company ("SWBT") in connection with the above-styled proceeding.

**INSTRUCTIONS**

1. SWBT's responses to the following Data Requests (DRs) should be served upon WorldCom within 20 calendar days after SWBT's receipt of the DRs. These DRs are continuing in nature, and a supplement to the original answer should be filed as soon as possible if a change or modification to an answer is necessary.
2. Please answer these DRs under oath or stipulate in writing that each specific DR response can be treated as if it were filed under oath.
3. Please copy each question immediately before the answer and respond to each question separately and in the order that it is asked. The numbers of the answers should correspond to the numbers of the questions being answered. To the extent that any document falls within the scope of multiple requests, multiple productions are not necessary; one production referencing the multiple requests is sufficient.

4. Please identify at the end of each answer the person(s) most knowledgeable about the response and the person(s) responsible for the preparation of each response. Please indicate which person(s) will sponsor each answer when and if testimony is filed by your company.

5. A request for documents includes any and all documents within your custody or control. A document is deemed within your custody or control if you have possession of the document or have the right to secure such document from another person having possession thereof. Requested documents should be produced as they are kept in the usual course of business or should be organized and labeled to correspond to the questions in this request.

6. A request for "all documents" or "any documents" contemplates a complete production of materials relating to the referenced subject matter but is not intended to seek a duplicative or cumulative production of documents. To the extent that the production of one set of documents is fully responsive to the information requested, WorldCom does not seek and SWBT need not produce other sets of documents that also address the same matters.

7. In the event that any requested information is considered confidential, please mark and produce the document pursuant to a Protective Order issued in this case.

8. If you claim a privilege, or otherwise decline to produce any document responsive to the questions in this request, in addition to any procedure required by law to preserve the objection or privilege, please provide a statement, within five (5) days of serving your substantive responses to these DRs, setting forth as to each:

- (a) The type of document involved;
- (b) The date appearing on the document, or if no date appears, the date on which the document was prepared;
- (c) The name of the person(s) to whom the document was addressed;
- (d) The name of the person(s) who signed the document or, if not signed, the name of the person(s) who prepared it; and
- (e) The specific ground(s) upon which the claim of privilege rests.

9. If any request includes specific instruction as to the manner in which a response is to be made to that request, then those specific instructions supersede the general ones listed in this section to the extent that they conflict or overlap.

10. For any information that you claim is unavailable, state why it is unavailable. If you cannot respond to the request precisely as it is stated, provide any information that is available which would respond to that request at a level of detail different from that specified herein.

11. Any DR stated in the singular also shall require a response in the plural, and any DR stated in the plural shall require a response in the singular.

12. For each response to a DR, state fully any exceptions that apply.

13. Please make service on WorldCom to the following:

Carl J. Lumley  
130 S. Bemiston, Suite 200  
Clayton, Missouri 63105  
314-725-8789 (fax)

and

Patricia Ana Garcia Escobedo  
WorldCom  
701 Brazos, Suite 600  
Austin, Texas 78701

## DEFINITIONS

For purposes of these data requests, the terms set forth below shall have the following meanings:

1. "Affiliate" means an entity owned in whole or in part, directly or indirectly, by the SBC holding company that is authorized to provide telecommunications services in any state in the United States or by the Federal Communications Commission and includes the incumbent local exchange carriers Southwestern Bell Telephone Company (SWBT), Ameritech, Pacific Bell Telephone Company (PacBell), Nevada Bell, and Southern New England Telephone Company (SNET), as well as SBC Telecom and Advanced Services, Inc.
2. "Change Notice" is defined in Data Request No. 3.
3. "Communication" means, without limitation, correspondence, e-mail, statements, agreements, contracts, discussions, conversations, speeches, meetings, remarks, questions, answers, panel discussions and symposia, whether written or oral. The term includes, without limitation, both communications that are face-to-face and those that are transmitted by documents or by media such as intercoms, telephones, computer transmission, television, or radio.
4. "Competitor" means a provider of local exchange service other than Southwestern Bell Telephone Company or an affiliate.
5. "Concerning" means relating to, pertaining to, referring to, describing, evidencing, or constituting and shall include all facts, events, circumstances, documents, information or communications which contain, show, relate, mention, refer or pertain in any way, directly or indirectly to, or are in any legal, logical or factual way connected with, a request for information, and include documents

underlying, supporting, now or previously attached or appended to or used in the preparation of any document called for by such request.

6. "Customer" means any person, firm, partnership, corporation, or other entity that subscribes to service from SWBT, any affiliate, or SBC.

7. "Department" means every SWBT, affiliate, and/or SBC division, organization, entity, person, or any other organizational breakdown used to define division of employment, job, or work functions.

8. "Document" or "Documents" mean(s) any written, recorded or graphic matter, however produced or reproduced, on any medium of any description in your actual or constructive possession, custody, or control, or of which you have knowledge, upon which intelligence or information is recorded or from which intelligence or information can be retrieved; and every copy of such writing or record where the original is not in your possession, custody, or control.

9. "End user" means an individual, association, corporation, government agency, or other entity that subscribes to service and does not resell the service to others or use the service as an input to provide a service to others.

10. "Identify," when used in connection with an act, shall mean to state a description of the act, including the place, date, and time of its occurrence, and the identity of the person, persons, or entities that engaged in and/or witnessed the act.

11. "Identify," when used with reference to a document, shall mean to state the type of document (e.g., book, magazine, article, circular, ledger, letter, memoranda, chart, computer run information, microfilm, etc.), its present location and custodian, a description of its form, title, author/addresser, addressee,

indicated or blind copies, subject matter, volume and page number or other means of general identification, approximate size and number of pages, any attachments or appendices, and the date on which it was made or prepared.

12. "Identify," when used with reference to a person, shall mean to state the full name; present business address; job description or function of that person during the time period indicated by these requests for information; the relationship, if any, of that person to your company including title; and the person's supervisor.

13. "Notice" means any communication whether written, oral, or electronic.

14. "Person" means any natural person, firm, corporation, association, partnership, or other organization or form of legal entity.

15. "Retention" means a promotional offer or discount that is available to existing SWBT customers that have an offer from another service provider available to them and/or are considering switching their service to a competitor.

16. "Service provider" means a provider of local exchange service.

17. "SBC" means SBC Communications Inc. and all of SBC's subsidiaries, including Ameritech, Nevada Bell, Pacific Bell, SBC Telecom, SNET, Southwestern Bell, and Advanced Solutions, Inc.

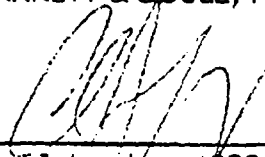
18. "Time" shall mean a breakdown into the nearest applicable minutes, hours, and/or days.

19. "You," "your," "company," "your company," "the company," or "SWBT" as used herein refer to Southwestern Bell Telephone Company and includes all officers, agents, attorneys, employees, representatives, or consultants of SWBT.

20. "Winback" means a promotional offer or discount that is available to

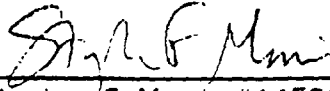
former SWBT customers that voluntarily terminated their service and subscribe to the services of a competitor.

CURTIS, OETTING, HEINZ,  
GARRETT & SOULE, P.C.



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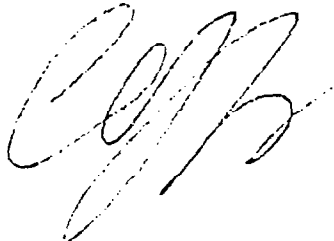
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Attorneys for Brooks Fiber Communications of Missouri, Inc.,  
MCImetro Access Transmission Services, LLC, and  
MCI WorldCom Communications, Inc.

**Certificate of Service**

A true and correct copy of the foregoing was faxed this 17 day of May, 2002, to:

Paul G. Lane  
General Attorney-Missouri  
Southwestern Bell Telephone Company  
One Bell Center, Room 3520  
St. Louis, Missouri 63101-1976  
(314) 247-0014 (FAX)



Missouri Case No. TT-2002-473  
MCI Worldcom  
Request No. 1  
RFI No. 20  
Page 1 of 1

Q. STATE WHETHER THE WINBACK LETTER ATTACHED AS EXHIBIT A HAS BEEN MAILED TO END USERS IN MISSOURI IN EITHER THE ATTACHED FORMAT OR IN A SIMILAR FORMAT. IF THE WINBACK LETTER HAS BEEN SENT TO MISSOURI END USERS, EXPLAIN ANY DIFFERENCES IN THE RATES, TERMS, OR CONDITIONS FOR SERVICE OR RETURN-CALL TELEPHONE NUMBER.

A. Without waiving SWBT's objections to this data request, the winback letter attached as Exhibit A has not been mailed to end-users in Missouri with respect to the tariffs that are at issue in TT-2002-473.

Responsible Person: Lynn Majek  
Associate Director-Toll Offer Dev.  
SBC Management Services, Inc.  
530 McCullough, Room 6-C-03  
San Antonio, TX 78215

- Q. STATE WHETHER THE WINBACK LETTER ATTACHED AS EXHIBIT A HAS BEEN MAILED TO END USERS IN MISSOURI IN EITHER THE ATTACHED FORMAT OR IN A SIMILAR FORMAT. IF THE WINBACK LETTER HAS BEEN SENT TO MISSOURI END USERS, EXPLAIN ANY DIFFERENCES IN THE RATES, TERMS, OR CONDITIONS FOR SERVICE OR RETURN-CALL TELEPHONE NUMBER.
- A. Without waiving SWBT's objections to this data request, the winback letter attached as Exhibit A has not been mailed to end-users in Missouri with respect to the tariff that is at issue in TT-2002-472.

Responsible Person: Sam G. Maropis  
Associate Director-Product Management  
Ameritech Corporate  
112 E. Pecan Street, Room 3-R-04  
San Antonio, TX 78205