

**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

**SOUTHWESTERN BELL TELEPHONE COMPANY'S  
RESPONSE TO COMMISSION QUESTIONS**

Southwestern Bell Telephone Company<sup>1</sup> respectfully submits the following responses to the three questions identified by the Missouri Public Service Commission during the May 2, 2002 prehearing conference:

1.     **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-2001-438, TO-2001-439, and TO-2001-440? Are there any additional issues that should be included?**

The Commission should limit the scope of this case to unbundled network elements ("UNEs") that were at issue in Case No. TO-2002-222.<sup>2</sup> The Missouri 271 Agreement ("M2A") already provides a complete and attractively priced package of UNEs for CLECs' use in providing local telephone exchange and exchange access services and there is no need at this time to revisit those prices. Southwestern Bell has committed to make these rates (as adjusted by the outcomes of Case Nos. TO-2001-438, TO-2001-439, and TO-2001-440) available under the terms of that agreement until March 6, 2005.

If this case were expanded to include rates not part of Case Nos. TO-2001-438, TO-2001-439 and TO-2001-440, the resulting rates would be higher than those Southwestern Bell agreed to offer in the M2A. Although the rates in the M2A were developed utilizing the TELRIC

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<sup>1</sup> Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company, will be referred to in this pleading as "Southwestern Bell" or "SWBT."

<sup>2</sup> Loops, switching, daily usage feed, local disconnect report, and LIDB rates were at issue in Case No. TO-2002-222.

methodology, further adjustments and voluntary reductions by Southwestern Bell were made resulting in rates below the level required by the proper application of TELRIC. A proper application of TELRIC would result in higher rates than the rates established in the M2A. Nevertheless, CLECs would still be able to avail themselves of the lower rates Southwestern Bell agreed to make available in the M2A.

The attractiveness of the rate levels in the M2A is reflected by the number of CLECs that have opted into them. The appropriateness of these rates was recently affirmed by the Commission in Case No. TO-2001-455, the latest AT&T/SWBT arbitration.<sup>3</sup> The continued attractiveness of the rates in the M2A is evident from the fact that only a small handful of the rates from that agreement were taken to arbitration in Case No. TO-2002-222, the most recent arbitration Southwestern Bell has had with a CLEC.<sup>4</sup>

As the Commission has indicated, the M2A was the product of a lengthy proceeding and close scrutiny and has been found to comply with all the standards applicable to interconnection agreements, including the 14-point checklist of Section 271 of the Telecommunications Act.<sup>5</sup> As the rates in the M2A will remain in effect through March 6, 2005, there is no need at this time to expend the resources of the Commission and the parties examining rates beyond those specifically at issue in Case No. TO-2002-222.

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

There is no need for the Commission to establish a working group for this case. To date, there have been numerous arbitrations and UNE rate proceedings before the Commission, and in

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<sup>3</sup> See, Report and Order, Case No. TO-2001-455, issued June 7, 2001 at pp. 20-21 and 64.

<sup>4</sup> The arbitration in Case No. TO-2002-222 was brought by MCImetro Access Transmission Services, LLC, Brooks Fiber Communications of Missouri, Inc. and MCI WorldCom.

<sup>5</sup> See, Arbitration Order in Case No. TO-2002-222, issued February 28, 2002 at p. 40.

no case was a need for a working group established. Through these types of proceedings in Missouri and other jurisdictions, the parties and their consultants have gained wide experience and are already familiar with nearly all of the models Southwestern Bell employs to identify the cost of providing various UNEs. The designated representatives of the parties to this case should be able, without the establishment of a working group, to handle the matters that routinely arise in these types of cases, such as the development of a procedural schedule, identification of specific issues to be presented to the Commission discovery, and the preparation and completion of a decision point list ("DPL").

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

Under the Act, UNE prices set by state Commissions must be based on cost, which the FCC requires to be determined using the TELRIC standard. The Act also outlines the negotiation process to be followed by an ILEC and a requesting CLEC. Section 252 of the Act details that the ILEC and the requesting CLEC shall negotiate rates, terms and conditions for an interconnection agreement. If these two parties are not able to reach agreement, then the state commission may be asked to hear an arbitration. It is under these negotiations between two parties that rates, terms and conditions for interconnection agreements are established. If an arbitration is brought before the Commission following the Commission's decision in this docket, then the Commission can use its decision in this docket as a benchmark for resolving the arbitration between SWBT and a requesting CLEC. But the Commission may not override the provisions of the Act requiring parties to negotiate and permitting parties to arbitrate issues which cannot be negotiated.

Nor can the results of this proceeding be used to change the prices available under the M2A. SWBT made a voluntary offering available to CLECs through the M2A in order to secure

Section 271 long distance authority, but SWBT did not propose and does not now agree to modify the prices in the M2A to match whatever rates are established in this proceeding.

Respectfully submitted,

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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 May 23, 2002.

  
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