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Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102-0360

Re: Case No. TC-2003-0547; *Birch Telecom of Missouri, Inc., AT&T Communications of the Southwest, Inc., TCG Kansas City, Inc., and TCG St. Louis, Inc. v. Southwestern Bell Telephone, L.P. d/b/a SBC Missouri*

Dear Judge Roberts:

This responds to correspondence from AT&T Communications of the Southwest, Inc., TCG Kansas City, Inc., and TCG St. Louis, Inc. (collectively the "AT&T companies") dated July 18, 2003, in which they declined to participate in voluntary mediation. SBC Missouri understands that participation in the mediation process is entirely voluntary, and that if the AT&T companies do not want to mediate this complaint, that is their choice. Normally, SBC Missouri would not file a response to a party's decision to not participate in mediation. In this situation, however, where the AT&T companies have suggested that it is somehow SBC Missouri's fault that they will not agree to participate in mediation, SBC Missouri is compelled to file a response which accurately describes SBC Missouri's willingness to participate in the mediation process.

The Commission issued a Notice of Complaint in this case on June 11, 2003. In its Notice of Complaint, the Commission indicated that SBC Missouri "may file a written request that the complaint be referred to a neutral third-party mediator for voluntary mediation of the complaint." SBC Missouri filed its Request for Mediation in this case on June 30, 2003. On July 1, 2003, the Commission issued its Order Directing Filing, in which it directed the complainants in this case (Birch Telecom of Missouri, Inc., AT&T Communications of the Southwest, Inc., TCG Kansas City, Inc., and TCG St. Louis, Inc.) to "file a pleading no later than July 14, 2003, indicating whether they are willing to submit to voluntary mediation."

Complainants did not comply with the Commission's Order Directing Filing. Instead, on July 14, 2003, Texas counsel for the AT&T companies submitted a letter to the Commission indicating that they would only agree to voluntary mediation if they could participate in a mediation already scheduled for July 22, 2003, between SBC Missouri and two CLECs, NuVox and XO. Counsel for the other complainant, Birch, filed no response to the Commission's July 1, 2003 Order Directing Filing.

On July 17, 2003, SBC Missouri responded to the correspondence from Texas counsel for the AT&T companies. A copy of SBC Missouri's response is attached hereto as Exhibit 1. In its Response, SBC Missouri expressed its support of the mediation process, and its continued willingness to meet with the complainants, either in a mediation conference or in a less formal setting, to discuss the issues raised in complainants' complaint. However, as SBC Missouri described in its response, SBC Missouri was not willing to agree to have the AT&T companies join a mediation in another case that was already scheduled for just one week later.

As SBC Missouri pointed out in its July 17, 2003, response to the AT&T companies, SBC Missouri did not object to a separate mediation between SBC and the AT&T companies. Moreover, SBC Missouri did not object to a subsequent joint mediation session, which could also include other CLECs, provided the other carriers agreed to the joint mediation. However, given the practical difficulties of preparing for a mediation, and adding additional parties at the last minute to a mediation that was scheduled several weeks earlier, SBC Missouri indicated to the AT&T companies that it would not agree to their demand to be included in the mediation session scheduled for July 22, 2003. On July 18, 2003, the AT&T companies filed another letter with the Commission, indicating that the AT&T companies were withdrawing from mediation in this case.

In summary, while the complainants have the right to decide whether or not to participate in voluntary mediation, SBC Missouri submits this response to clarify its rationale for declining to agree to the AT&T companies' demand to be included in a previously scheduled mediation session with other companies.

Sincerely,



Anthony K. Conroy

Attachment

cc: Counsel of Record