

**ANDERECK, EVANS, MILNE, PEACE & JOHNSON, L.L.C.**

TERRY M. EVANS  
ERWIN L. MILNE  
JACK PEACE  
CRAIG S. JOHNSON  
RODRIC A. WIDGER  
GEORGE M. JOHNSON  
BEVERLY J. FIGG  
WILLIAM S. LEWIS  
VICTOR S. SCOTT  
COREY K. HERRON  
MATTHEW M. KROHN  
LANETTE R. GOOCH  
SHAWN BATTAGLER

ATTORNEYS AT LAW  
700 EAST CAPITOL AVENUE  
COL. DARWIN MARMADUKE HOUSE  
P.O. BOX 1438  
JEFFERSON CITY, MISSOURI 65102-1438  
TELEPHONE 573-634-3422  
FAX 573-634-7822

JOSEPH M. PAGE  
LISA C. CHASE  
JUDITH E. KOEHLER  
ANDREW J. SPORLEDER  
JASON A. PAULSMEYER  
BRYAN D. LADE  
CONNIE J. BURROWS  
R. AARON MARTINEZ  
*MARVIN L. SHARP, Of Counsel*

May 21, 2004

EUGENE E. ANDERECK (1923-2004)  
GREGORY C. STOCKARD (1904-1993)  
PHIL HAUCK (1924-1991)

**FILED**

MAY 21 2004

Missouri Public  
Service Commission

Secretary  
Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102

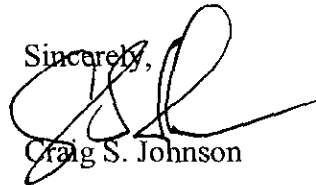
Re: Reply of Northeast and Chariton Valley to SBC  
Case No. TC-2002-57

Dear Secretary:

Enclosed for filing please find an original and eight copies of the Reply of Northeast and Chariton Valley in the above referenced case.

If you have any questions, please contact me at the number listed above.

Sincerely,



Craig S. Johnson

CSJ:lw

Encl.

CC: Office of Public Counsel  
General Counsel, Public Service Commission  
All Parties of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED

MAY 21 2004

Northeast Missouri Rural Telephone Company )  
et al., )  
Petitioners, )  
v. )  
Southwestern Bell Telephone Company, )  
Respondent. )

Missouri Public  
Service Commission

Case No. TC-2002-57

**REPLY OF NORTHEAST AND CHARITON VALLEY**  
**TO SBC**

COMES NOW Petitioners Northeast Missouri Rural Telephone Company (Northeast) and Chariton Valley Telephone Corporation (Chariton), in reply TO SBC'S May 20 Reply to Motion to Show Cause, and in reply to SBC's May 20 Response to Notice/Objection to Stipulation, and set forth the following:

1. **SBC does not indicate it has any basis upon which to oppose the stipulated factors.**

In Chariton and Northeast's show cause motion, they did not challenge the proposition that SBC is entitled to a hearing on the stipulations. However, SBC's request for a hearing must be in good faith. If SBC has no evidence upon which to oppose the stipulated factors, the request for hearing was not made in good faith. While Northeast and Chariton understand why SBC may be interested in further delay of this case, SBC's interest in further delay does not constitute a good faith basis for requesting a hearing.

Chariton and Northeast have presented SBC's own discovery answers indicating SBC has no factual basis to oppose the factors. Nowhere in its Reply or Response does SBC deny that in discovery it told Chariton and Northeast that it had no call detail or traffic studies indicative of what proportions of traffic were interMTA or intraMTA.

Why schedule another hearing if no new evidence is available to be presented? There is nothing wrong with the Commission directing SBC to make a showing that it has a good faith factual or evidentiary basis upon which to oppose the stipulated factors.

**2. SBC requested a stipulation addressing issues previously submitted, and outside the scope of the April 20 hearing.**

More comprehensive stipulations did not materialize after the April 20 hearing because of substantive concerns with the issues SBC included in its draft of such stipulations. Contrary to SBC's suggestion, there was no "lack of interest" on the part of Chariton and Northeast.

The parties in August of 2002 tried and submitted the issue of SBC's liability for this traffic, and also the issue of wireless carrier's liability for this traffic. The stipulation language circulated by SBC on April 21 contained language addressing this unresolved issue.

As the April 20 hearing was solely to consider the proportions of interMTA and intraMTA traffic, it is no surprise the parties were not willing to consider stipulations addressing issues previously tried but unresolved.

WHEREFORE, Petitioners Chariton Valley and Northeast Missouri Rural respectfully request that the Commission enter an Order directing SBC to show cause as to what factual basis it has to request a hearing as to factors agreed to between petitioners and respondents.

**ANDERECK, EVANS, MILNE,  
PEACE & JOHNSON**

By: 

Craig S. Johnson, MO Bar #28179

Bryan D. Lade, MO Bar #55232

Col. Darwin Marmaduke House

700 East Capitol

P.O. Box 1438

Jefferson City, MO 65102

Telephone: 573/634-3422

Facsimile: 573/634-7822

email: [CJohnson@aempb.com](mailto:CJohnson@aempb.com)

email: [BLade@aempb.com](mailto:BLade@aempb.com)

**ATTORNEYS FOR MISSOURI**

**INDEPENDENT TELEPHONE GROUP**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was hand delivered or mailed, U. S. Mail, postage pre-paid, to all counsel of record in the above captioned matter this 21st day of May, 2004, to all attorneys of record in this proceeding.

  
Craig S. Johnson