

Exhibit No:
Issues: Telephone Specific – Other Telephone Issues
Witness: Craig A. Unruh
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Southwestern Bell Telephone, L.P. d/b/a
Southwestern Bell Telephone Company
Case No: TR-2001-65

SOUTHWESTERN BELL TELEPHONE, L.P.
D/B/A SOUTHWESTERN BELL TELEPHONE COMPANY

CASE NO. TR-2001-65

REBUTTAL TESTIMONY

OF

CRAIG A. UNRUH

St. Louis, MO
August 1, 2002

TABLE OF CONTENTS

1)	INTRODUCTION.....	1
2)	LACK OF CLEC PARTICIPATION REGARDING THE CURRENT SWITCHED ACCESS RATE CAP MECHANISM SUGGESTS CLECS ARE NOT CONCERNED ABOUT THIS MECHANISM BECOMING PERMANENT	2
3)	THE USE OF A MISSOURI USEF TO FUND SWITCHED ACCESS PRICE REDUCTIONS IS UNLAWFUL AND POOR PUBLIC POLICY	4
4)	HIGH SWITCHED ACCESS RATES CHARGED BY MANY ILECS IMPACT THE PLANS OFFERED BY OTHER CARRIERS.....	7
5)	NO PARTY HAS SUGGESTED THAT THE COMMISSION HAS THE AUTHORITY TO REDUCE SWITCHED ACCESS RATES CHARGED BY PRICE CAP REGULATED ILECS.....	8
6)	SUMMARY.....	9

CASE NO. TR-2001-65
SOUTHWESTERN BELL TELEPHONE, L.P.
D/B/A SOUTHWESTERN BELL TELEPHONE COMPANY
REBUTTAL TESTIMONY OF CRAIG A. UNRUH

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Craig A. Unruh and my business address is One SBC Center, Room
3528, St. Louis, Missouri, 63101.

**Q. ARE YOU THE SAME CRAIG A. UNRUH THAT FILED DIRECT
TESTIMONY IN THIS CASE?**

A. Yes.

1) Introduction

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. The purpose of my rebuttal testimony is to respond to the direct testimony of
parties who mistakenly suggest that a Universal Service Fund (USF) could be
used to reduce switched access rates of Incumbent Local Exchange Carriers
(ILECs). I also point out that even though this case was created to investigate the
switched access rate cap placed on Competitive Local Exchange Carriers
(CLECs), it has been marked by an almost complete lack of participation by
CLECs. In addition to my testimony, Mr. David Barch is also submitting detailed
rebuttal testimony on behalf of SWBT in which he addresses other parties' direct
testimony regarding specific cost issues.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Q. WHAT ARE THE MAIN POINTS THE MISSOURI PUBLIC SERVICE COMMISSION (COMMISSION) SHOULD UNDERSTAND ABOUT YOUR REBUTTAL TESTIMONY?

A. The Commission should understand the following points about my testimony:

- Even though this case was established to determine a long-term solution for determining maximum rates for switched access service offered by CLECs, there has been an almost complete lack of CLEC participation so far in this case, leading to the conclusion that CLECs are not concerned about the current switched access rate cap.
- The suggestion by some parties that a Missouri USF could be used to offset any switched access rate reductions in this case is beyond the scope of this case as established by the Commission. In addition, such a proposal is both contrary to state statutes governing Missouri's USF and poor public policy.
- The high switched access rates charged by many ILECs affect the plans offered by other providers in the state.
- No party in direct testimony attempted to argue that the Commission has the authority to reduce the switched access rates offered by price cap regulated carriers, such as SWBT.

2) Lack of CLEC participation regarding the current switched access rate cap mechanism suggests CLECs are not concerned about this mechanism becoming permanent

Q. DID ANY CLECS FILE DIRECT TESTIMONY ATTEMPTING TO ARGUE FOR CHANGES TO THEIR CURRENT CAP ON SWITCHED ACCESS PRICES WHICH WAS ADOPTED BY THE COMMISSION IN CASE NO. TO-99-596?

1 A. No. While AT&T¹ filed direct testimony, this testimony focused on the standard
2 protective order that was issued in this case. AT&T did not make any substantive
3 proposal regarding a permanent solution to cap the switched access rates it is
4 permitted to charge as a CLEC.²

5
6 **Q. WHAT CONCLUSION CAN YOU DRAW FROM THIS APPARENT**
7 **LACK OF CLEC PARTICIPATION?**

8 A. One conclusion that can be reached is that the current switched access rate cap
9 does not disadvantage the CLECs. If the CLECs believed the rate cap caused
10 harm, it is reasonable to assume that CLECs would have filed direct testimony
11 offering evidence of why such an outcome would be not be appropriate in their
12 view.

13
14 **Q. COULD SOMEONE ARGUE THAT THE LACK OF CLEC**
15 **PARTICIPATION IN THIS CASE IS DUE TO FINANCIAL**
16 **DIFFICULTIES CURRENTLY BEING EXPERIENCED BY SOME**
17 **CLECS?**

18 A. While some might attempt to argue that the CLECs' lack of participation may be
19 due to financial difficulties, this has not stopped the CLECs from active
20 participation in other cases where they have attempted or are attempting to gain a

¹ Mr. R. Matthew Kohly filed direct testimony on behalf of AT&T Communications of the Southwest, Inc., TCG Kansas City and TCG St. Louis.

² While Mr. Kohly also suggests that SWBT non-attorney personnel have seen AT&T's cost study results (Kohly direct p 5), this is simply not true. AT&T's cost study results are being treated as Highly

1 regulatory-imposed advantage in the competitive marketplace by limiting the
2 types of tariffs offered by SWBT (e.g., Case No. TT-2002-227 (term discounts)
3 and Case Nos. TT-2002-472 and TT-2002-473 (winbacks)).
4

5 **Q. IN YOUR DIRECT TESTIMONY, YOU INDICATED THAT WHILE**
6 **SWBT BELIEVES THAT CLECS' SWITCHED ACCESS RATES**
7 **SHOULD BE CAPPED AT SWBT'S RATES, SWBT COULD SUPPORT**
8 **THE CURRENT RATE CAP MECHANISM AS A REASONABLE LONG**
9 **TERM SOLUTION. DO OTHER PARTIES AGREE WITH THIS**
10 **POSITION?**

11 A. Yes. Ms. Meisenheimer³ indicates that the cost study results and consideration of
12 economic efficiency and consumer impacts supports the retention of the existing
13 cap mechanism (Meisenheimer direct, p. 11).
14

15 **3) The use of a Missouri USF to fund switched access price reductions is**
16 **unlawful and poor public policy**

17 **Q. A FEW PARTIES SUGGEST THAT A MISSOURI USF COULD BE USED**
18 **TO FUND SWITCHED ACCESS RATE REDUCTIONS.⁴ WOULD THIS**

Confidential and, as such, SWBT's personnel, other than counsel, have not seen Staff's analysis of AT&T's cost results.

³ Ms. Barbara A. Meisenheimer filed direct testimony on behalf of the Office of Public Counsel (OPC).

⁴ See the direct testimony of Mr. William J. Warinner (pp. 21-22) testifying on behalf of Holway Telephone Company, KLM Telephone Company, IAMO Telephone Company and Green Hills Telephone Company; and Mr. Kent Larsen (pp. 17-18) testifying on behalf of The Missouri Independent Telephone Group (MITG).

1 **BE AN APPROPRIATE METHOD TO USE TO OFFSET SWITCHED**
2 **ACCESS PRICE REDUCTIONS OF NON-PRICE CAP ILECS?**

3 A. No. The Missouri statutes pertaining to the creation and use of a Missouri USF
4 are very clear. Section 392.248.2 RSMo 2000 expressly requires that

5 [f]unds from the universal service fund shall only be used:
6 (1) To ensure the provision of reasonably comparable essential local
7 telecommunications service, as that definition may be updated by the
8 commission by rule, throughout the state including high-cost areas, at just,
9 reasonable and affordable rates;
10 (2) To assist low-income customers and disabled customers in obtaining
11 affordable essential telecommunications services; and
12 (3) To pay the reasonable, audited costs of administering the universal
13 service fund.
14

15 The Missouri USF statute does not contemplate that Missouri USF support should
16 be paid to rate of return regulated ILECs in order to permit them to lower their
17 switched access rates.

18

19 **Q. MR. WARINNER SUGGESTS THAT THE COMMISSION COULD FUND**
20 **ACCESS REDUCTIONS BY DEFINING “ESSENTIAL**
21 **TELECOMMUNICATIONS SERVICES” TO INCLUDE EXCHANGE**
22 **ACCESS SERVICES (WARINNER DIRECT, P. 22). DO YOU AGREE?**

23 A. No. Mr. Warinner leaves out the key word “local” from the statutory phrase
24 “essential *local* telecommunications service.”⁵ Local exchange
25 telecommunications service is defined in the statutes as “telecommunications

⁵ Section 392.248.2 (emphasis added).

1 service between points *within an exchange*.⁶ Switched access is clearly not a
2 local service, and the Missouri USF should not be used as a SWBT-funded purse
3 to provide money to small ILECs to reduce their switched access rates.
4

5 **Q. YOU ALSO SUGGEST THAT THE USE OF A HIGH-COST USF TO**
6 **FUND REDUCTIONS IN THE SWITCHED ACCESS PRICES OF NON-**
7 **PRICE CAP ILECS WOULD BE POOR PUBLIC POLICY. PLEASE**
8 **EXPLAIN WHY.**

9 A. Most small ILECs in Missouri have switched access rates that are significantly
10 higher than SWBT's switched access rates. In many cases, small ILECs also have
11 rates for local service that are very low. For example, in Case No. TR-2001-344,
12 the Commission Staff (Staff) submitted late filed Exhibit No. 18 that showed local
13 residential rates in Missouri as low as \$4.00.
14

15 In Case No. TO-98-329 (Missouri USF), the small ILECs presented testimony
16 attempting to create a high-cost USF that would primarily be funded by SWBT
17 with the disbursement of funds being arbitrarily directed to the smaller ILECs.
18

19 In the present case, some small ILECs are again attempting to suggest the creation
20 of a high cost USF that would fund their switched access rate reductions. Rather
21 than proposing a revenue neutral means of rebalancing rates by lowering their
22 high switched access rates and raising their low local rates, these small ILECs

⁶ Section 386.020 (31) (emphasis added).

1 again seek to keep the burden on other carriers by suggesting that USF monies,
2 which are funded by other carriers and their customers, could be used to offset
3 access reductions.

4
5 **4) High switched access rates charged by many ILECs impact the plans offered**
6 **by other carriers**

7 **Q. DO HIGH SWITCHED ACCESS RATES CHARGED BY MANY ILECS**
8 **AND THE CLECS WHO MAY OPERATE IN THEIR EXCHANGES**
9 **AFFECT OTHER CARRIERS?**

10 A. Yes. High switched access rates affect carriers, such as SWBT, who terminate
11 interexchange (e.g., toll) calls to customers who reside in exchanges with high
12 switched access rates. Since SWBT has to pay high terminating switched access
13 rates to these other ILECs for terminating calls to their exchanges, it affects the
14 services and prices for those services that SWBT can offer in the marketplace.

15
16 Even the small ILECs recognize that other ILEC's high terminating access rates
17 affect their incentive to offer expanded rural calling plans. In a recent on-the-
18 record presentation before the Commission in the MCA investigation case⁷,
19 counsel representing small ILECs expressed the view that some small ILECs
20 either have started, or are interested in starting, to offer expanded calling from
21 their exchanges to neighboring SWBT exchanges, however, it was not financially

⁷ Case No. TO-2001-391

1 attractive to offer expanded calling to other neighboring ILEC exchanges because
2 of the terminating access rates that they would have to pay to the neighboring
3 ILEC.⁸
4

5 **5) No party has suggested that the Commission has the authority to reduce**
6 **switched access rates charged by price cap regulated ILECs**

7 **Q. DID ANY PARTY ARGUE THAT THE COMMISSION HAS THE**
8 **AUTHORITY TO REDUCE THE SWITCHED ACCESS RATES**
9 **CHARGED BY PRICE CAP REGULATED ILECS?**

10 A. No. In fact, Mr. Larsen points out that the Commission has authority over the
11 switched access rates charged by rate of return regulated ILECs but that it is
12 questionable whether the switched access rates charged by price cap carriers can
13 be adjusted by the Commission (Larsen direct, p. 15). As I explained in my direct
14 testimony, the price cap statute limits the Commission's authority with respect to
15 the pricing of SWBT's services.⁹ Specifically, I explained that the price cap
16 statute establishes a rate cap on SWBT's switched access rates that is adjusted
17 annually based on the change in an inflation-based index.¹⁰
18

⁸ Case No. TO-2001-391, Transcript of Proceedings, On-The-Record Presentation, July 15, 2002. See pages 141-142 for dialogue between attorney Craig S. Johnson and Commissioner Lumpe and pages 148-149 for dialogue between attorney W. R. England, III and Commissioner Lumpe. Mr. England states, "[s]o we can economically offer a block of time to those customers that want to call into Bell towns, but, quite honestly, we can't do it for Verizon or Sprint or some other small company exchanges, depending on those terminating costs." (pp. 148-149).

⁹ Section 392.245.

¹⁰ Pursuant to Section 392.245, SWBT's maximum switched access prices have been adjusted by the change in CPI-TS, which is a telecommunications-based inflation index.

1 **6) Summary**

2 **Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.**

3 A. I have pointed out that the lack of CLEC participation in this case indicates that
4 CLECs are not concerned with the current switched access rate cap mechanism. I
5 have explained that the concept of using high cost USF monies to support small
6 ILEC switched access rate reductions would be both unlawful and poor public
7 policy. Furthermore, arguments by small ILECs that USF support should be used
8 to lower access rates is nothing more than an attempt to place the burden of small
9 ILEC cost recovery on other carriers rather than small ILEC end user customers. I
10 also explain that high switched access rates impact the services offered by carriers
11 throughout the state. For example, the high terminating switched access rates
12 charged by many ILECs have an impact on the services that SWBT offers in the
13 marketplace. Finally, I note that no party suggested in direct testimony that the
14 Commission has the authority to reduce the switched access rates charged by price
15 cap carriers such as SWBT.

16

17 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

18 A. Yes.