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August 26, 2002

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

Re: **Case No. TC-2002-1077**
- **Direct Testimony of Lisa Winberry**
- **BPS Telephone Company**

FILED²
AUG 26 2002
Missouri Public
Service Commission

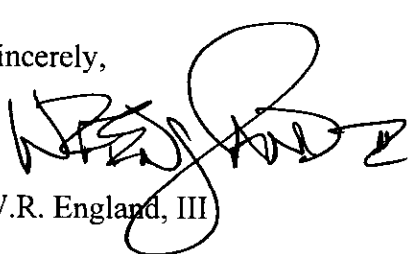
Dear Mr. Roberts:

Enclosed for filing please find an original and eight copies of the direct testimony of Lisa Winberry on behalf of BPS Telephone Company.

Please note that Schedule No. 1 has been designated "highly confidential" because it contains information relating directly to specific customers and market specific information relating to services offered in competition with others. Accordingly, it is being provided in a separate envelope.

Please see that this filing is brought to the attention of the appropriate Commission personnel. If there are any questions regarding this filing, please give me a call. I thank you in advance for your attention to and cooperation in this matter.

Sincerely,


W.R. England, III

WRE/da
Enclosures
cc: Parties of Record

Exhibit No.:
Issue: Terminating Wireless Traffic
Witness: Lisa Winberry
Type of Exhibit: Direct Testimony
Sponsoring Party: BPS Telephone Company
Case No.: TC-2002-1077
Date: August 26, 2002

CASE NO. TC-2002-1077

DIRECT TESTIMONY

OF

LISA WINBERRY

ON

BEHALF OF

BPS TELEPHONE COMPANY

FILED²
AUG 26 2002
**Missouri Public
Service Commission**

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

BPS Telephone Company, et al.,)

Petitioners,)

v.)

Case No. TC-2002-1077

VoiceStream Wireless Corporation, et al.,)

Respondents.)

County of Stoddard)
State of Missouri)

AFFIDAVIT OF

Lisa Winberry

Lisa Winberry, being first duly sworn, deposes and says that he/she is the witness who sponsors the accompanying testimony entitled "Direct Testimony of Lisa Winberry"; that said testimony and schedules attached thereto was prepared by him/her and/or under his/her direction and supervision; that if inquiries were made as to the facts in said testimony and schedules, he/she would respond as therein set forth; and that the aforesaid testimony and schedules are true and correct to the best of his/her knowledge, information and belief.

Lisa Winberry

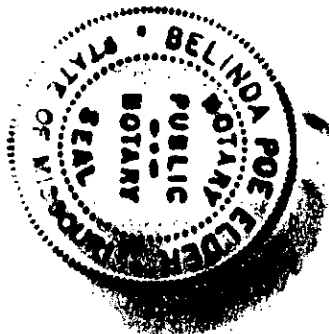
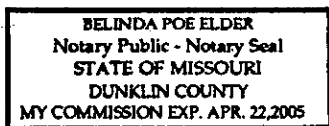
Lisa Winberry

Subscribed and sworn to before me this 5th day of August 2002.

Belinda Poe Elder
Notary Public

My Commission expires:

4-22-05



DIRECT TESTIMONY

1 Q. Please state your name and business address.

2 A. My name is Lisa Winberry and my business address is BPS Telephone
3 Company, 120 Stewart Street, Bernie Missouri, 63822.

4 Q. By whom are you employed and in what capacity?

5 A. I am employed by BPS Telephone Company as General Manager.

6 Q. Briefly describe the nature of your duties and responsibilities for BPS Telephone
7 Company.

8 A. I am responsible for overseeing the daily operations of BPS Telephone Company
9 and ensuring compliance with our state and federal regulatory requirements.

10 Q. Are you authorized to testify on behalf of BPS Telephone Company?

11 A. Yes.

12 Q. Please briefly describe your education and work background.

13 A. I have completed secondary educational courses in business and accounting
14 through Arkansas State University, Southeast State Missouri University and
15 Oakland City University. I have been in management with BPS Telephone
16 Company since 1994 and previously worked for a Business Industry Forms
17 Company serving as an Auditor and Facilitator of company policies and
18 procedures.

19 Q. Please briefly describe BPS Telephone Company and the nature of its business.

20 A. BPS Telephone Company (hereinafter sometimes referred to as the "Company")
21 is a Missouri corporation with its principal office and place of business located at
22 120 Stewart Street, Bernie, MO 63822. A certificate of corporate good standing,
23 issued by the Missouri Secretary of State, is attached to the Complaint filed in
24 Case No. TC-2002-1077. BPS Telephone Company provides telephone service
25 to approximately 3900 subscribers that are located within the following Missouri

1 exchange(s): Bernie, Parma and Steele. The Company operates pursuant to a
2 certificate of public convenience and necessity issued by the Commission in its
3 Case No. TM-95-135. Of particular relevance to the instant complaint, BPS
4 Telephone Company provides basic local telecommunications services,
5 exchange access services and wireless termination services pursuant to tariffs
6 on file with and approved by the Missouri Public Service Commission
7 (Commission).

8 Q. What is the purpose of your testimony?

9 A. The purpose of my testimony is to support our Company's complaint against
10 VoiceStream Wireless Corporation (VoiceStream), Western Wireless Corporation
11 (Western) and Southwestern Bell Telephone Company (SWBT) for their failure to
12 pay terminating compensation on wireless originated traffic which they are
13 responsible for causing to terminate in the exchanges served by our Company.

14 Q. Are there any pending actions or final unsatisfied judgments or decisions issued
15 against your Company from any state or federal agency or Court within three
16 years of the date of the filing of the instant Complaint which involved customer
17 service or rates?

18 A. Yes. On August 6, 2002, the Staff of the Commission filed a complaint regarding
19 the earnings of BPS Telephone Company (Case No. TC-2002-1076).

20 Q. Are either your Company's annual report to the Commission or its assessment
21 fee overdue?

22 A. No.

23 Q. Please state your understanding of the nature of Respondents', VoiceStream and
24 Western, business.

25 A. It is my understanding that VoiceStream and Western are providers of
26 commercial mobile radio service (CMRS) (also known as wireless service) within
27 the State of Missouri. It is also my understanding that wireless customers of

1 VoiceStream and Western originate wireless calls which are ultimately
2 terminated to wireline customers which are located in exchanges which our
3 Company serves.

4 Q. What is your understanding of the nature of SWBT's business?

5 A. It is my understanding that SWBT is a telecommunications company providing
6 basic local telecommunications services, basic interexchange
7 telecommunications services and exchange access services in various parts of
8 the state of Missouri. In addition, SWBT offers what it calls a "transit" service to
9 CMRS providers, such as VoiceStream and Western, which allow those CMRS
10 providers to terminate wireless-originated traffic to exchanges served by our
11 Company without directly connecting to our Company's local network. It is also
12 my understanding that SWBT provides these transit services or facilities pursuant
13 to either its intrastate wireless interconnection tariff or an interconnection
14 agreement entered into between SWBT and CMRS providers such as
15 VoiceStream and Western.

16 Q. How does wireless-originated traffic terminate to your Company's exchanges?

17 A. The wireless originated traffic is terminated to our exchanges over common trunk
18 groups owned by SWBT which directly connect to the Company's facilities.
19 SWBT commingles this wireless originated traffic with other wireline
20 interexchange (i.e., toll) traffic also destined for termination to the Company's
21 exchanges. Because all of this traffic comes to us over a common trunk group,
22 our Company is unable to distinguish the wireless-originated traffic from other
23 interexchange traffic that is terminated to us. We are also unable to unilaterally
24 prevent or block wireless-originated traffic from terminating to our facilities even
25 in those circumstances where wireless carriers refuse or otherwise fail to pay for
26 the terminating service which our Company provides.

27 Q. Please describe the terminating services which your Company provides.

1 A. After the traffic is delivered by SWBT to our facilities, it is transported over
2 wire/cable facilities which we own to our central office where the traffic is
3 switched and directed to the individual customers to whom the traffic is destined.
4 In addition to the switch, we own distribution facilities which carry the calls
5 throughout our exchanges where it is ultimately terminated over the cable pair or
6 loop which serves each individual customer's residence or place of business.

7 Q. How are you compensated for wireless-originated traffic which terminates to your
8 exchange?

9 A. On February 19, 2001, the Missouri Commission approved, in its Case No. TT-
10 2001-139 et al., a "wireless termination service tariff" which contains rates, terms
11 and conditions for the termination of intraMTA wireless-originated traffic delivered
12 to our Company via the transit services or facilities of an intermediate LEC such
13 as SWBT. That tariff is currently on file with and approved by the Commission
14 and applies in the absence of an agreement negotiated pursuant to the
15 Telecommunications Act of 1996.

16 Q. Does VoiceStream or Western have an agreement with your Company to
17 terminate or otherwise exchange intraMTA traffic?

18 A. No.

19 Q. Are there other tariffs which may apply to this wireless-originated traffic?

20 A. Yes. To the extent that VoiceStream and Western terminate interMTA wireless
21 traffic to our Company, our intrastate access tariff would apply. Again, the rates,
22 terms and conditions of our access service are contained in tariffs which are on
23 file with and approved by the Commission.

24 Q. How do you know that VoiceStream and Western have terminated wireless-
25 originated traffic to your exchanges?

26 A. Each month we receive from SWBT a cellular transiting usage summary report
27 (CTUSR) which identifies, by carrier, the CMRS providers who have transited

1 wireless originated traffic over SWBT's facilities for termination to our exchanges.
2 The CTUSRs we have received from SWBT since February 19, 2001 (when our
3 wireless service tariff became effective) indicate that VoiceStream and Western
4 have terminated traffic to our Company. The specific amounts of traffic are
5 shown on the copies of CTUSRs which are attached to this testimony as
6 Schedule No. 1. These CTUSRs are for the period of time February 5, 2001
7 through June 4, 2002, which is the most recent period for which SWBT has hard
8 copies of this information.

9 Q. Do the CTUSRs you receive from SWBT distinguish between interMTA and
10 intraMTA wireless originated traffic?

11 A. No. The CTUSRs we receive from SWBT just tell us, in total, for each month, the
12 amount of traffic a particular CMRS provider has terminated to our exchanges.
13 These reports do not distinguish between inter- and intraMTA traffic.

14 Q. Have VoiceStream and Western paid you for any of the traffic terminated to your
15 Company's exchanges?

16 A. BPS Telephone Company has not received any payment for traffic terminated in
17 our Company's exchanges.

18 Q. Have you sent bills to VoiceStream and Western Wireless for this traffic?

19 A. Yes, we have sent bills to VoiceStream and Western Wireless for this traffic. For
20 purposes of those billings we have assumed that all traffic is intraMTA and
21 applied our wireless termination service tariff rate. If it can be determined that
22 some of this traffic is interMTA, we believe it would be appropriate to charge for
23 this interMTA traffic based on our intrastate access rates.

24 Q. What is the status of VoiceStream's and Western's payments with respect to
25 your Company?

26 A. As of the date of the filing of the Complaint, VoiceStream and Western have
27 outstanding and unpaid amounts as shown on Exhibits 15 (HC) and 16 (HC)

1 attached thereto. These amounts remain outstanding and unpaid and will
2 increase as wireless traffic continues to be terminated to our Company.

3 Q. Are other wireless carriers paying you for traffic they terminate to your Company?

4 A. Yes. Most, if not all, of the major wireless carriers that terminate traffic to us, as
5 shown by the CTUSRs, are paying for that traffic pursuant to our wireless
6 termination service tariff. VoiceStream and Western are the only major wireless
7 carriers that I am aware of that are not paying our wireless termination tariff rate
8 for traffic they terminate to us.

9 Q. Prior to filing this complaint, did you attempt to resolve this dispute with
10 VoiceStream or Western?

11 A. Yes. Our counsel contacted representatives for VoiceStream and Western on
12 several occasions in an attempt to resolve this matter short of filing a complaint
13 case. However, those efforts were unsuccessful and, as a result, we were forced
14 to file this Complaint.

15 Q. Do any of the amounts due and owing from VoiceStream and Western Wireless
16 include any late payment or other charges?

17 A. No. Although our tariff permits the imposition of late fees, and the recovery of
18 reasonable attorneys fees in the event of nonpayment, I have not included those
19 charges in the amounts due and owing. As part of this Complaint, however, we
20 are asking the Commission to reaffirm the provisions of our tariff which would
21 allow us to assess late payment fees on these amounts as well as seek recovery
22 of reasonable attorneys fees which we have incurred in pursuing these unpaid
23 amounts.

24 Q. You have also filed a complaint against SWBT. Why are you including SWBT in
25 this Complaint?

26 A. SWBT is included in this Complaint because we believe they have some
27 responsibility for this traffic being terminated to us and, perhaps, for

1 VoiceStream's and Western's failure to pay. When the Commission approved
2 SWBT's revision to its own wireless interconnection tariff in Case No. TT-97-524,
3 it did so with the specific condition that SWBT would remain secondarily liable to
4 third party LECs for traffic sent to them by wireless carriers and for which they
5 receive no payment. The specific language in the Commission's order is as
6 follows:

7
8 In the event a wireless carrier refuses to pay a third-party LEC for
9 such termination and the wireless carrier does not have a reciprocal
10 compensation agreement with the third-party LEC, SWBT will
11 remain secondarily liable to the third-party LEC for the termination
12 of this traffic, but will be entitled to indemnification from the wireless
13 carrier upon payment of the loss. *In the matter of SWBT's tariff*
14 *filing to revise its wireless carrier Interconnection Service Tariff,*
15 *PSC Mo. No. 40, Case No. TT-97-524, Report & Order, December*
16 *23, 1997.*
17

18 It is also our understanding that in SWBT's interconnection agreements with
19 CMRS providers, including the interconnection agreements with VoiceStream
20 and Western, there is a provision which requires CMRS providers to enter into
21 their own agreements with third party providers, such as our Company, for traffic
22 which they send through SWBT's facilities for termination to that third party
23 provider. In the event, however, that the CMRS provider sends traffic through
24 SWBT's transiting network to a third party provider with whom the CMRS carrier
25 does not have a traffic interexchange agreement, then the CMRS provider has
26 agreed to indemnify SWBT for any termination charges rendered by a third party
27 provider for such traffic. Accordingly, in this case where VoiceStream and
28 Western have knowingly sent traffic to our Company and have failed to establish
29 an agreement or pay for traffic they terminate to our Company pursuant to our
30 approved tariffs, we believe that it is appropriate to hold SWBT responsible for
31 payment of such terminating charges since 1) SWBT is responsible for the traffic

1 being terminated to us in contravention of its tariff or interconnection agreement
2 with VoiceStream and Western and 2) SWBT has a right of indemnification from
3 VoiceStream and Western such that SWBT would be reimbursed for any charges
4 it is required to pay to us.

5 Q. Does that complete your direct testimony?

6 A. Yes, it does.

CASE NO. TC-2002-1077

Schedule No. 1

HIGHLY CONFIDENTIAL

Direct Testimony of Lisa Winberry
on behalf of BPS Telephone Company

FILED UNDER SEAL