

SEP 10 2 56 PM '01

ARKANSAS PUBLIC SERVICE COMMISSION

FILED

IN THE MATTER OF THE APPLICATION OF)
SOUTHWESTERN BELL TELEPHONE)
COMPANY FOR AUTHORIZATION TO)
PROVIDE IN-REGION INTERLATA SERVICES)
PURSUANT TO SECTION 271 OF THE)
TELECOMMUNICATIONS ACT OF 1996 AND)
FOR THE APPROVAL OF THE ARKANSAS)
INTERCONNECTION AGREEMENT)

DOCKET NO. 00-211-U
ORDER NO. 19

ORDER

By this Order the Commission will address the August 2, and August 14, 2001 filings by Southwestern Bell Telephone Company (SWBT) and the Motion to include Arkansas data in an audit of SWBT related to Loop Maintenance Operations System (LMOS) issues in flow-through performance filed by AT&T Communications of the Southwest, Inc. (AT&T) on August 16, 2001.

On August 2, 2001, SWBT filed an A2A Unbundled Network Element (UNE) schedule of prices which revises the entrance facility rates for DS1, DS3, OC3, and OC12 to incorporate changes made by the Kansas Corporation Commission in its Docket No. 97-SCCC-149-GIT. On August 14, 2001, SWBT filed a revised Attachment 6-UNE Pricing Appendix which changes the UNE zones, as defined in SWBTs Local Exchange Tariff, to move Rate Group 3 from UNE Zone 2 (suburban) to UNE Zone 3 (urban). The August 14th filing reclassifies eleven SWBT exchanges into the urban zone with lower UNE rates and requests Commission approval to implement the rate zone revision. SWBT recognized that this Commission has determined that it lacks jurisdiction to set UNE rates and SWBT has indicated that, as a result of that decision, it has elected to adopt UNE

Attachment B

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rates from another state. (See Response Affidavit of Edward K. Allis, p. 5, Transcript filed May 4, 2001, volume I, p. 370).

On August 24, 2001, the General Staff of the Arkansas Public Service Commission (Staff) filed Comments which state that the change in the UNE zone classifications may encourage facilities-based competition in communities outside of Little Rock and recommends approval of SWBT's August 14, 2001 filing. In addressing the changes to the entrance facilities' rates contained in SWBT's August 2, 2001 filing, Staff states that, during the term of the A2A, the potential exists for additional changes in the A2A and absent some public notice, the changes would not necessarily be publicly available and could result in customer discrimination. Staff cites Section 252(h) of the Federal Telecommunications Act of 1996 which requires state commissions to make agreements approved under Section 252(e) available for public inspection and copying. Staff also notes that Section 252(i) of the 1996 Act requires that local exchange carriers make services and network elements approved under that section available to other requesting telecommunications carriers upon the same terms and conditions. Staff therefore recommends that SWBT be required to provide notice to the Commission of any changes in the rates, terms and conditions of the A2A. Staff recommends that the notice be accomplished through a letter filing in Docket No. 86-033-A, referencing this docket. Staff also states that Commission approval of a filing in Docket No. 86-033-A is not necessary.

In addition to addressing the SWBT August filings, Staff's comments state that the Texas Public Utility Commission (TPUC) has approved Version 2.0 of the Business Rules for the T2A and that this Commission has relied on the TPUC review process of the Business Rules and has

indicated a desire to apply those revisions to interconnection agreements in Arkansas. Therefore, Staff recommends that the Commission direct SWBT to file Version 2.0 of the Business Rules, together with any future revisions adopted by the TPUC, in Docket 86-033-A and order that all revisions to the Business Rules be applied to all existing A2As to be effective on the same date that they become effective for the T2A.

On August 23, 2001, SWBT filed its Response to Staff's Comments. In its Response SWBT states that it "does not object to filing in this docket the compliance filing it made in Texas docket (Project 20400) on June 15, 2001, in compliance with the TPUC's Order dated June 1, 2001." SWBT does not object to filing Version 2.0 of the Business Rules in Docket 86-033-A, nor does it object to those revisions having the same effective date as the T2A and being applicable to all existing A2As. SWBT also "supports applying Version 2.0 performance measurements (which were included within that compliance filing) to all existing A2As." However, SWBT objects to filing or implementing revisions for which there is no mutual agreement between the parties and which SWBT has appealed or otherwise challenged. SWBT states that, "[B]y filing its June 15, 2001 Compliance filing in Texas in this docket, SWBT does not wave any of its rights or positions on those issues in either this or the Texas docket."

The Commission concurs with the reasoning in Staff's Comments, the Commission also understands SWBT's reluctance to file contested revisions to Version 2.0 of the Business Rules or the Performance Measurements. In the Consultation Report issued December 21, 2000, this Commission acknowledged that there are aspects of compliance with the Section 271 checklist which are regional in nature and, therefore, the Commission indicated a willingness to await the

outcome of an ongoing Texas review. (Consultation Report issued December 21, 2000 at p. 9). This Commission also noted that the operational support system functions employed in Arkansas are the same as those employed in other states. (*Id* at 17).

While the Commission agrees that SWBT should not, and will not, be required to waive any objections it may have to the Business Rules or Performance Measurements adopted by the TPUC as a result of a filing with this Commission, this Commission also believes that a uniform application of the Business Rules and Performance Measurements is appropriate on a regional basis. Therefore, changes in the Business Rules or Performance Measurements which are adopted by the TPUC should be filed with this Commission, as recommended by Staff, to be effective concurrently with the dates the changes become effective and applicable to the T2A. If SWBT challenges changes to the Business Rules or Performance Measurements before the TPUC and the changes are allowed to take effect pending a review, appeal or other disposition of the issue, SWBT should file those changes with this Commission and make the changes applicable to the A2As. If, on the other hand, the application of any proposed changes is stayed by the TPUC pending review or appeal, such a stay should be applicable to the application of the changes to the A2A. SWBT will not be assumed to have waived any objections to such changes as a result of filing such changes with this Commission.

On August 16, 2001, AT&T filed a request to include Arkansas data in a TPUC audit which will address issues related to the quality of SWBT's Loop Maintenance Operations System (LMOS) and SWBT's assessment of performance. The TPUC has indicated that it will include data from sister states upon requests by a state commission. On August 22, 2001, SWBT responded to AT&T's

Motion arguing that SWBT has engaged Ernst & Young to perform an audit of the LMOS system in conjunction with SWBT's application for interLATA authority in Arkansas. In essence, SWBT argues that inclusion of Arkansas data in the TPUC review is unnecessary and duplicative. SWBT indicates that, "if the Commission should determine that it is appropriate to review Arkansas data in conjunction with the Texas audit, SWBT will comply provided the Texas audit is not utilized as a means to delay SWBT's pending Joint Application at the FCC." On August 23, 2001, Staff filed its Response to AT&T's Motion. Staff states that it has participated in the TPUC's last six month review of SWBT's business rules and performance measures and that Staff continues to participate in these reviews. Staff states that it would help Staff's participation if Arkansas data were included in the upcoming audit. The Commission finds that it is in the public interest to include Arkansas data in the TPUC review.

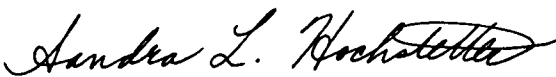
It is therefore ordered, that:

1. SWBT shall file Version 2.0 of the Business Rules and Performance Measurements, together with any future revisions made effective by the TPUC, with this Commission in Docket 86-033-A;
2. Revisions of the Business Rules and Performance Measurements filed this Commission shall have the same effective date as the T2A;
3. SWBT shall provide notice of any changes in the rates, terms and conditions of the A2A through a filing in Docket No. 86-033-A;
4. The General Staff will notify the TPUC that Arkansas desires that Arkansas-specific data be included in the upcoming Texas review; and

5. To the extent this Commission has jurisdiction to approve the SWBT filing of August 14, 2001, the filing is approved.

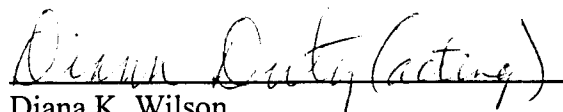
BY ORDER OF THE COMMISSION.

This 18 day of September, 2001

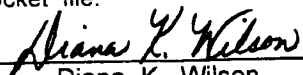

Sandra L. Hochstetter, Chairman


Betty C. Dickey, Commissioner


Lavenski R. Smith, Commissioner


Diana K. Wilson
Secretary of the Commission

I hereby certify that the following order issued by the Arkansas Public Service Commission has been served on all parties of record this date by U.S. mail with postage prepaid, using the address of each party as indicated in the official docket file.


Diana K. Wilson
Secretary of the Commission
Date 9-18-01