

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Southwestern Bell Telephone,)	
L.P. d/b/a SBC Missouri's Proposed Revision)	Case No. TT-2004-0542
to its PSC MO. NO. 36 Access Services)	Tariff No. JI-2004-1159
)	

**SBC MISSOURI'S OPPOSITION TO AT&T'S MOTION TO SUSPEND AND
REQUEST FOR INTERVENTION**

Southwestern Bell Telephone Company, L. P., d/b/a SBC Missouri ("SBC Missouri") opposes the Motion to Suspend and Request for Intervention of AT&T Communications of the Southwest, Inc. ("AT&T"). As explained in greater detail below, AT&T has not demonstrated, as is required by the Commission's Rule 240-2.075 (4 CSR 240-2.075), that its interests will be adversely affected by the Commission's approval of SBC Missouri's proposed tariff revisions or that the proposed tariff revisions are either unjust or unreasonable. In fact, SBC Missouri's proposed tariff creates a more balanced and fair method of identifying the jurisdiction of interexchange calls and reduces the ability of carriers to misallocate minutes to the interstate jurisdiction where the rate they pay to SBC Missouri to terminate their traffic is less. Thus, consistent with Commission Staff's recommendation that SBC Missouri's proposed revisions be approved, the Commission should deny both AT&T's Motion to Suspend and its Request for Intervention.

1. On March 25, 2004, SBC Missouri filed with the Commission proposed revisions to its intrastate access services tariff. The purpose of these revisions is to ensure that SBC Missouri is properly compensated for intrastate calls under its switched access services tariff (i.e., those long distance calls which both originate and terminate

within Missouri). Among other things, the proposed revisions provide a methodology for calculating the percent of interstate usage (“PIU”) to account for “non-CPN” instances, that is, instances where a carrier passing a call to SBC Missouri does not identify the point of origin of the call by providing the calling party number (“CPN”) associated with the call.¹ The revisions also propose a process under which the carrier customer’s call detail records may be audited by an independent auditor.

2. SBC Missouri’s proposed access tariff revisions are a reasonable approach to identifying the PIU associated with non-CPN calls so that carriers are billed the proper amount of intrastate access charges. Under the current PIU “self-reporting” mechanism, the difference between intrastate and interstate access charges provides a significant incentive for carriers to under-report intrastate minutes of use (“MOU”) associated with non-CPN calls, because charges for a call reported as an interstate call are billed at the much lower interstate access charge rate. As a result, SBC Missouri is deprived of revenues for intrastate access services which it provides to interexchange carriers (“IXCs”).

3. SBC Missouri’s proposed tariff revisions eliminate the ability to game the appropriate assessment of intrastate access charges. The revisions provide that when the PIU for termination of non-CPN calls exceeds 10%, the “intrastate percentage” of such calls will be that of “the minutes . . . where jurisdiction can be determined,” i.e., the PIU of calls where CPN is provided is used as a surrogate for non-CPN calls. Section 2.3.13(A)(2) (emphasis added). While the Federal Communications Commission (“FCC”) has identified some limited instances in which CPN cannot or need not be

¹ CPN typically is used to identify the jurisdictional nature of a call for purposes of assessing either intrastate or interstate access charges.

passed (47 CFR 64.1601(d)), AT&T does not claim (a) that calls for which CPN is truly not available actually account for more than 10% of all of its own or any other IXC's minutes passed to SBC Missouri or (b) that AT&T's non-CPN calls actually have a PIU exceeding that of CPN calls.² Thus, AT&T has provided no substantive basis on which to criticize the 10% threshold relied on in the tariff's revisions.

4. Moreover, SBC Missouri's proposed tariff revisions provide a reasonable and balanced audit process to resolve any disputes over the customer's filed PIU. This process allows SBC Missouri to require the access customer to provide call detail records, which are then audited and compared by an independent auditor to the projected PIU provided by the access customer. Importantly, no previously billed access charges are adjusted unless "the composite PIU determined by the auditor for all access services subject to audit varies from the composite reported PIU for those access services." Section 2.3.13(G)(2).

5. Further, SBC Missouri is responsible for paying all costs associated with the independent audit unless "a customer is found to have over-stated the PIU by three (3) percentage points or more," in which case the access customer is responsible for reimbursement of these costs to SBC Missouri. Section 2.3.13(D)(1)(a). Additionally, the audited access customer is permitted to contest the results of the audit by means of "a neutral arbitrator mutually agreed upon by [SBC Missouri] and the customer." Section 2.3.13(H). AT&T does not challenge any of these audit processes.

² Nor would approving SBC Missouri's proposed tariff revisions require identification of CPN in situations beyond those specified in FCC Rule 64.1601(d) or fail to acknowledge the rule's exemptions, as AT&T claims without elaboration. AT&T Motion, p. 4. The revisions merely provide a methodology to assess the PIU associated with unidentified traffic.

6. AT&T misreads the proposed revisions when it claims that “SBC will arbitrarily assume a PIU factor of 50%” when “a review of call detail records cannot be performed or does not result in a conclusion that the customer’s PIU are reasonable and statistically valid.” AT&T Motion, p. 5 (emphasis added). Rather, SBC Missouri’s proposed tariff revisions designate a 50% factor only when the access customer “fails to comply with the requirement to make best efforts to finalize and sign” within 30 days the proprietary agreement regarding the call detail records and other information to be audited (Section 2.3.13(D)); if the auditor determines that the customer has provided insufficient “worksheets and backup documentation” or if the customer “does not provide the call detail records,” (Section 2.3.13(D)(2)); or if the audit review “could not be performed” or “does not result in a conclusion that the customer’s PIU are reasonable and statistically valid” because of findings made pursuant to Section 2.3.13(D)(2) (regarding the customer’s duty to maintain call detail records) (Section 2.3.13(F)(2)).³ Given that the independent auditor “must be a licensed and Certified Public Accountant with no direct or indirect financial interest (in the outcome of the audit) and must be associated with an accounting firm not affiliated with [SBC Missouri] or the customer,” Section 2.3.13(D), and that AT&T takes no issue with this language, AT&T has no basis to suggest that any arbitrary assumption will be made by SBC Missouri.

7. The Commission’s Staff has reviewed SBC Missouri’s proposed tariff revisions, and recommends that they be approved. As is shown above, the revisions provide a fair and reasonable methodology for calculating the PIU associated with


³ Assuming a carrier customer provides the requisite call detail data, an audit result serves as the adjusted PIU for the next two quarters and shall be the PIU applied for bill adjustments. Section 2.3.13(G).

unidentified traffic, and help ensure that proper billing of applicable intrastate access charges takes place. Additionally, the revisions also propose an audit methodology whose substantive provisions AT&T does not challenge. AT&T has not shown either that its legitimate interests will be adversely affected by the Commission's approval of SBC Missouri's proposed tariff revisions or that the proposed tariff revisions are other than just or reasonable.

In sum, SBC Missouri respectfully submits that the Commission should deny AT&T's Motion to Suspend And Request for Intervention, and that it should issue an Order approving SBC Missouri's proposed access service tariff revisions.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.

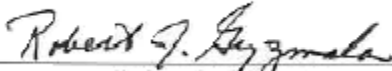
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CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of this document were served on all counsel of record by electronic mail on April 21, 2004.


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