

LAW OFFICES
BRYDON, SWEARENGEN & ENGLAND
PROFESSIONAL CORPORATION

DAVID V.G. BRYDON
JAMES C. SWEARENGEN
WILLIAM R. ENGLAND, III
JOHNNY K. RICHARDSON
GARY W. DUFFY
PAUL A. BOUDREAU
SONDRA B. MORGAN
CHARLES E. SMARR

312 EAST CAPITOL AVENUE
P.O. BOX 456
JEFFERSON CITY, MISSOURI 65102-0456
TELEPHONE (573) 635-7166
FACSIMILE (573) 635-0427

DEAN L. COOPER
MARK G. ANDERSON
GREGORY C. MITCHELL
BRIAN T. MCCARTNEY
BRIAN K. BOGARD
DIANA C. FARR
JANET E. WHEELER

OF COUNSEL
RICHARD T. CIOTTONE

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 Dave Beier**
- **Fidelity Communications Services I, Inc.**

FILED²
AUG 26 2002
Missouri Public
Service Commission

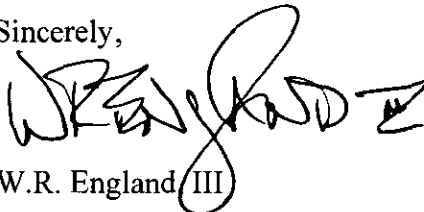
Dear Mr. Roberts:

Enclosed for filing please find an original and eight copies of the direct testimony of Dave Beier on behalf of Fidelity Communications Services I, Inc.

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: David N. Beier
Type of Exhibit: Direct Testimony
Sponsoring Party: Fidelity Communications Services I,
Inc.
Case No.: TC-2002-1077
Date: August 26, 2002

CASE NO. TC-2002-1077

DIRECT TESTIMONY

OF

DAVID N. BEIER

ON

BEHALF OF

FIDELITY COMMUNICATIONS SERVICES I, INC.

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.

VoiceStream Wireless Corporation, et al.,

Respondents.

Case No. TC-2002-1077

County of Franklin

State of Missouri

AFFIDAVIT OF

DAVID N. BEIER

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

David N. Beier

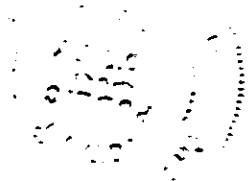
Subscribed and sworn to before me this 21st day of August, 2002.

Christine Stroup

Notary Public

My Commission expires:

CHRISTINE STROUP
Notary Public - Notary Seal
STATE OF MISSOURI
Franklin County
My Commission Expires: June 20, 2004



DIRECT TESTIMONY

1 Q. Please state your name and business address.

2 A. My name is David N. Beier. My business address is 64 North Clark, Sullivan, Missouri
3 63080.

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

5 A. I am employed by Fidelity Communication Services I, Inc., as Vice President-Regulatory.

6 Q. Briefly describe the nature of your duties and responsibilities for Fidelity
7 Communications Services I, Inc.

8 A. I am responsible for all regulatory affairs, tariff matters, compliance reporting and
9 revenue accounting for the Company.

10 Q. Are you authorized to testify on behalf of Fidelity Communications Services I, Inc.?

11 A. Yes.

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

13 A. I obtained a B.S.B.A. degree from St. Louis University with a double major in
14 Accounting and Finance in 1985. Between 1985 and 1991, I worked for Baird, Kurtz &
15 Dobson (BKD), a CPA firm, performing audit, tax and consulting services. I passed the
16 CPA exam in November 1985. While at BKD, I served clients in various industries,
17 including Fidelity Telephone Company. I joined the Accounting Department of Fidelity
18 Telephone Company in December 1991 and performed various accounting, tax and
19 management functions. I left in 1993 for a Controller position with Reliant Care Group, a
20 group of eight nursing homes. In 1995, I moved on to another Controller position at
21 Universal Sewer Supply, a wholesaler of sewing machine parts and supplies. In May
22 1999, I returned to Fidelity Telephone Company as Director of Regulatory. In December
23 2000, I was promoted to my current position, Vice President of Regulatory for Fidelity
24 Communications Services I, Inc., and I hold the same position with its affiliate Fidelity
25 Telephone Company.

1 Q. Please briefly describe Fidelity Communications Services I, Inc. and the nature of its
2 business.

3 A. Fidelity Communications Services I, Inc. (hereinafter sometimes referred to as the
4 "Company") is a Missouri corporation with its principal office and place of business
5 located at 64 North Clark, Sullivan, Missouri 63080. A certificate of corporate good
6 standing, issued by the Missouri Secretary of State, is attached to the Complaint filed in
7 Case No. TC-2002-1077. Fidelity Communications Services I, Inc. provides telephone
8 service to approximately 3000 subscribers that are located within the Missouri exchange
9 of Rolla. The Company operates pursuant to a certificate of service authority issued by
10 the Commission in its Case No. TA-2000-191. Of particular relevance to the instant
11 complaint, Fidelity Communications Services I, Inc. provides competitive basic local
12 telecommunications services, exchange access services and wireless termination
13 services pursuant to tariffs on file with and approved by the Missouri Public Service
14 Commission (Commission).

15 Q. What is the purpose of your testimony?

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

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

24 A. No.

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

27 A. No.

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

3 A. It is my understanding that VoiceStream and Western are providers of commercial
4 mobile radio service (CMRS) (also known as wireless service) within the State of
5 Missouri. It is also my understanding that wireless customers of VoiceStream originate
6 wireless calls which are ultimately terminated to wireline customers which are located in
7 the exchange which our Company serves.

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

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

19 Q. How does wireless-originated traffic terminate to your Company's exchange?

20 A. The wireless originated traffic is terminated to our exchange over common trunk groups
21 owned by SWBT which directly connect to the facilities of our affiliate, Fidelity Telephone
22 Company, which, in turn, connects to the facilities of our Company. SWBT commingles
23 this wireless originated traffic with other wireline interexchange (i.e., toll) traffic also
24 destined for termination to the Company's exchange. Because all of this traffic comes to
25 us over a common trunk group, our Company is unable to distinguish the wireless-
26 originated traffic from other interexchange traffic that is terminated to us. We are also
27 unable to unilaterally prevent or block wireless-originated traffic from terminating to our

1 facilities even in those circumstances where wireless carriers refuse or otherwise fail to
2 pay for the terminating service which our Company provides.

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

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

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

12 A. On November 23, 2002, the Company implemented, with the approval of the Missouri
13 Commission, a "wireless termination service tariff" which contains rates, terms and
14 conditions for the termination of intraMTA wireless-originated traffic delivered to our
15 Company via the transit services or facilities of an intermediate LEC such as SWBT.
16 That tariff is currently on file with and approved by the Commission and applies in the
17 absence of an agreement negotiated pursuant to the Telecommunications Act of 1996.

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

20 A. No.

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

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

26 Q. How do you know that VoiceStream has terminated wireless-originated traffic to your
27 exchange?

1 A. Each month we receive from SWBT a cellular transiting usage summary report (CTUSR)
2 which identifies, by carrier, the CMRS providers who have transited wireless originated
3 traffic over SWBT's facilities for termination to our exchange. The CTUSRs we have
4 received from SWBT since November 23, 2001 (when our wireless service tariff became
5 effective) indicate that VoiceStream has terminated traffic to our Company. The specific
6 amounts of traffic are shown on the copies of CTUSRs which are attached to this
7 testimony as Schedule No. 1. These CTUSRs are for the period of time November 5,
8 2001 through June 4, 2002, which is the most recent period for which SWBT has hard
9 copies of this information.

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

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

15 Q. Has VoiceStream paid you for any of the traffic terminated to your Company's
16 exchange?

17 A. No.

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

19 A. Yes, we have sent bills to VoiceStream for this traffic. For purposes of those billings we
20 have assumed that 95% of the traffic is intraMTA and applied our wireless termination
21 service tariff rate, and we have assumed that 5% of the traffic is interMTA and applied
22 our intrastate access rates. We estimated this 5% interMTA factor based upon certain
23 existing interconnection agreements having interMTA factors ranging from 1% to 10%,
24 and taking an approximate midpoint. It was necessary to estimate the amount because
25 none of the carriers have provided actual data.

26 Q. What is the status of VoiceStream's payments with respect to your Company?

27 A. As of the date of the filing of the Complaint, VoiceStream has an outstanding and unpaid

1 amount as shown on Exhibit 15 (HC) attached thereto. This amount remains
2 outstanding and unpaid and will increase as wireless traffic continues to be terminated to
3 our Company.

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

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

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

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

13 Q. Do any of the amounts due and owing from VoiceStream include any late payment or
14 other charges?

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

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

23 A. SWBT is included in this Complaint because we believe they have some responsibility
24 for this traffic being terminated to us and, perhaps, for VoiceStream's failure to pay.
25 When the Commission approved SWBT's revision to its own wireless interconnection
26 tariff in Case No. TT-97-524, it did so with the specific condition that SWBT would
27 remain secondarily liable to third party LECs for traffic sent to them by wireless carriers

1 and for which they receive no payment. The specific language in the Commission's
2 order is as follows:

3
4 In the event a wireless carrier refuses to pay a third-party LEC for such
5 termination and the wireless carrier does not have a reciprocal
6 compensation agreement with the third-party LEC, SWBT will remain
7 secondarily liable to the third-party LEC for the termination of this traffic,
8 but will be entitled to indemnification from the wireless carrier upon
9 payment of the loss. *In the matter of SWBT's tariff filing to revise its*
10 *wireless carrier Interconnection Service Tariff*, PSC Mo. No. 40, Case No.
11 *TT-97-524*, Report & Order, December 23, 1997.
12

13 It is also our understanding that in SWBT's interconnection agreements with CMRS
14 providers, including the interconnection agreements with VoiceStream, there is a
15 provision which requires CMRS providers to enter into their own agreements with third
16 party providers, such as our Company, for traffic which they send through SWBT's
17 facilities for termination to that third party provider. In the event, however, that the
18 CMRS provider sends traffic through SWBT's transiting network to a third party provider
19 with whom the CMRS carrier does not have a traffic interexchange agreement, then the
20 CMRS provider has agreed to indemnify SWBT for any termination charges rendered by
21 a third party provider for such traffic. Accordingly, in this case where VoiceStream has
22 knowingly sent traffic to our Company and has failed to establish an agreement or pay
23 for traffic they terminate to our Company pursuant to our approved tariffs, we believe
24 that it is appropriate to hold SWBT responsible for payment of such terminating charges
25 since 1) SWBT is responsible for the traffic being terminated to us in contravention of its
26 tariff or interconnection agreement with VoiceStream and 2) SWBT has a right of
27 indemnification from VoiceStream such that SWBT would be reimbursed for any charges
28 it is required to pay to us.

29 Q. Does that complete your direct testimony?

30 A. Yes, it does.

CASE NO. TC-2002-1077

Schedule No. 1

HIGHLY CONFIDENTIAL

Direct Testimony of Dave Beier
on behalf of Fidelity Communications Services I, Inc.

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