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SOUTHWESTERN BELL TELEPHONE, L.P. d/b/a
AT&T MISSOURI

CASE NO. TO-2006-0360

SURREBUTTAL TESTIMONY

OF

CAROL CHAPMAN

Dallas, Texas

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1 **I. PURPOSE OF TESTIMONY**

2 **Q: WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

3 A: The purpose of my Surrebuttal Testimony is to respond to new issues raised in Mr.
4 Gillan's Rebuttal Testimony based on AT&T Missouri's discovery responses provided to
5 the CLECs on April 23, 2007. Specifically, my Surrebuttal Testimony responds to
6 Section IV of Mr. Gillan's Rebuttal Testimony, entitled "Analysis of AT&T Data
7 Response."¹

8 **II. GENERAL RESPONSE TO SECTION IV OF MR. GILLAN'S REBUTTAL**
9 **TESTIMONY**

10 **Q: DOES SECTION IV OF MR. GILLAN'S REBUTTAL TESTIMONY RELATE TO**
11 **BUSINESS LINE DISPUTES YOU ADDRESSED IN YOUR REBUTTAL**
12 **TESTIMONY?**

13 A: Yes. I noted four specific Business Line disputes in my Rebuttal Testimony:

- 14 • Business Line Count Dispute 1 – Should the Business Line count include all
15 UNE-L lines or be limited to UNE-L lines used to provide switched service to
16 business end users?
- 17 • Business Line Count Dispute 2 – Should the digital equivalency for digital UNE-
18 L lines be calculated based on the loop's capacity or on the loop's usage?
- 19 • Business Line Count Dispute 3 – Should the Business Line counts supporting the
20 wire center designations rely on the most recent data available to AT&T Missouri
21 at the time of designation or more recent data?

¹ Gillan Rebuttal at pp. 26-28.

- 1 • Business Line Count Dispute 4 – Is the Commission required to follow the
2 requirements established in the FCC’s Business Line definition, or may the
3 Commission opt to adopt the CLECs’ proposed “simple solution”?

4 My previous testimony on each of these four disputes ties directly to the issues raised in
5 Section IV of Mr. Gillan’s Rebuttal Testimony. I will not repeat my arguments here, but
6 incorporate them by reference. All of my discussion below needs to be viewed in the
7 context of the disputes outlined above.

8 **III. BUSINESS LINE COUNT DISPUTES**

9 **Q: FOR THE BUSINESS LINE DISPUTES LISTED ABOVE, DID ANY OF THE**
10 **RECOMMENDATIONS CONTAINED IN MR. GILLAN’S REBUTTAL**
11 **TESTIMONY DIFFER FROM THE RECOMMENDATION IN HIS DIRECT**
12 **TESTIMONY?**

13 A: Yes. As I explained in my Rebuttal Testimony, Mr. Gillan’s Direct Testimony offered
14 two basic proposals for determining the Business Line count. The first proposal was for
15 the Commission to adopt the line counts that AT&T (then SBC) provided to the FCC in
16 December of 2004 (prior to the issuance of the *TRRO*),² rather than determine the correct
17 Business Line count by applying the Business Line rule later adopted by the FCC.³ The
18 second proposal was for the Commission to calculate Business Lines by applying the
19 CLECs’ interpretation of the Business Line rule using more recent data than the data used
20 by AT&T Missouri (*i.e.*, later than December 2003 data).⁴ In his Rebuttal Testimony,

² See, for example, Gillan Direct at p. 17.

³ See, 47 C.F.R. § 51.5 (definition of “Business Line”). I addressed this aspect of Mr. Gillan’s Direct Testimony in my Rebuttal Testimony. Chapman Rebuttal at pp. 39-47.

⁴ See, for example, Gillan Direct at p. 17. I addressed this proposal in my Rebuttal Testimony. Chapman Rebuttal at pp. 11-39.

Mr. Gillan claims to have proposed the use of 2004 data in his Direct Testimony;⁵ however, this is not the case. As I noted in my Rebuttal Testimony, Mr. Gillan did not make a specific proposal regarding the vintage of data for the Business Line counts in his Direct Testimony.⁶ Mr. Gillan's Direct Testimony merely states that if the Commission determines the Business Line count through the application of the Business Line rule, "then it must do so using more current data."⁷

Q: BASED ON HIS REVIEW OF AT&T MISSOURI'S DATA RESPONSES, MR. GILLAN CLAIMS THAT IF THE CLECS' BUSINESS LINE COUNT PROPOSALS ARE ADOPTED, THE "SPFDMOTU" WIRE CENTER (i.e., SPRINGFIELD TUXEDO) BECOMES A TIER 3 OFFICE.⁸ IS THIS CORRECT?

A: No. As I explained in my Direct and Rebuttal Testimony, as of March 11, 2005, the SPFDMOTU wire center qualified as a Tier 1 wire center. This designation was changed to Tier 2 effective December 16, 2005 as required by a commitment made to the FCC in conjunction with the SBC/AT&T merger. In both cases (the original March 11, 2005 *TRRO* list and the list as modified December 16, 2005 per the SBC/AT&T merger commitment), the designation for SPFDMOTU is met solely based on the number of Fiber-based Collocators in the wire center. As a result, the designations for SPFDMOTU should not change regardless of how the Commission rules on Business Line count issues.⁹

⁵ Gillan Rebuttal at p. 26.

⁶ Chapman Rebuttal at pp. 32-33.

⁷ Gillan Direct at p. 17.

⁸ Gillan Rebuttal at nn. 53, 55.

⁹ See, Chapman Direct at pp. 16-19 and Attachments CAC-1 (HC) and CAC-2 (HC) thereto; Chapman Rebuttal at p. 5, PP. 63-73.

1 **Q: WHY DID THE DESIGNATION FOR SPFDMOTU WIRE CENTER CHANGE**
2 **ON DECEMBER 16, 2005?**

3 A: The designation for the SPFDMOTU wire center, along with the designations for four
4 other Missouri wire centers, was changed from a Tier 1 office to a Tier 2 office on
5 December 16, 2005. At the time of the March 11, 2005 designations, AT&T was not
6 affiliated with SBC. As a result, pre-merger AT&T Fiber-based Collocation
7 arrangements were counted, as they should have been, for the wire center designations.
8 These March 11, 2005 designations reflect the application of the FCC's rules.¹⁰
9 However, on December 16, 2005, AT&T Missouri implemented the SBC/AT&T merger
10 commitment by updating the wire center list on a prospective basis (for the duration of
11 the commitment) to exclude the Fiber-based Collocation arrangements of the pre-merger
12 AT&T. Therefore, contrary to Mr. Gillan's Rebuttal testimony, SPFDMOTU is not a
13 Tier 3 wire center under any circumstances. Rather, SPFDMOTU is a Tier 1 wire center
14 under the FCC's rules (and was thus correctly designated as such on March 11, 2005),
15 and on December 16, 2005, the designation was changed to Tier 2 pursuant the terms of
16 AT&T's merger commitment.

17 **Q: WOULD ANY WIRE CENTER DESIGNATIONS CHANGE IF THE CLECS'**
18 **BUSINESS LINE COUNT PROPOSALS ARE ADOPTED?**

19 A: Yes. The only wire center designation that would potentially be impacted if the CLECs'
20 proposals for the Business Line count disputes were adopted is the designation of non-
21 impairment for DS3 Loops in the St. Louis/Ladue (STLSMO21) wire center.¹¹ This
22 designation would be impacted if the Commission were to adopt the CLECs' proposed
23 counting methodology or use the pre-*TRRO* line counts AT&T (then SBC) provided to

¹⁰ *TRRO* at ¶235.

¹¹ Gillan Rebuttal nn. 53 and 55.

1 the FCC in December of 2004. The parties' dispute on the appropriate vintage of data
2 does not impact this designation. For all of the reasons outlined in my Direct and
3 Rebuttal Testimony, and in this Surrebuttal Testimony, AT&T Missouri's Business Line
4 counts should be adopted, and the Commission should confirm that STLMO21 is a non-
5 impaired wire center for DS3 Loops.

6 **Q: MR. GILLAN CLAIMS THAT THE DATA THAT AT&T MISSOURI**
7 **PROVIDED TO THE FCC IN DECEMBER OF 2004 CAN BE USED TO**
8 **DETERMINE IMPAIRMENT.¹² DO YOU AGREE?**

9 A: Yes. The data supporting the Business Line counts used by AT&T Missouri is the same
10 data that was used for the line counts AT&T Missouri provided the FCC in December of
11 2004. Although the data is the same, the line counts were later adjusted -- as required by
12 the FCC's Business Line rule,¹³ -- to reflect the digital equivalency calculation. All of
13 the data that AT&T Missouri used for the December 2004 filing (the data it later used for
14 the Business Line counts supporting its wire center designations) is captured and reported
15 for other regulatory purposes. While AT&T Missouri has to perform additional steps in
16 order to calculate the total number of Business Lines in a wire center (*e.g.*, separating the
17 data by wire center, applying digital equivalency calculations for UNE-L lines), the use
18 of this data helps to ensure accuracy and consistency.

¹² Gillan Direct at p. 27.

¹³ 47 C.F.R. § 51.5 (definition of "Business Line").

Q: MR. GILLAN COMPARES THE ACTUAL LINE COUNTS PROVIDED TO THE FCC IN DECEMBER OF 2004 WITH THE BUSINESS LINE COUNTS THAT AT&T MISSOURI TABULATED AFTER THE ISSUANCE OF THE *TRRO*.¹⁴ ARE HIS COMPARISONS RELEVANT TO THE COMMISSION'S DETERMINATION?

A: No. AT&T Missouri acknowledges that the line counts that were provided to the FCC in December of 2004 (prior to the issuance of the *TRRO*) are lower than the Business Line counts that are compliant with the requirements of the Business Line definition established by the FCC in the *TRRO*. The sole reason for this difference is the fact that AT&T (then SBC) was not aware that the FCC intended the Business Line count to include calculations for digital equivalency for UNEs. Obviously, the application of the digital equivalency calculation did increase the number. This is precisely why AT&T (then SBC) informed the FCC of this difference *prior to the effective date of the TRRO*.¹⁵ AT&T made sure that the FCC was fully aware of the difference so that the FCC could instruct AT&T to revert back to the original line counts if it wished to do so. The FCC did not then do so, nor has it done so at any time over the last two-plus years since the *TRRO* became effective.

Q: HAS THE FCC SINCE PROVIDED ANY AFFIRMATIVE INDICATION THAT AT&T'S APPROACH IS CORRECT?

A: Yes. The FCC discussed this very point in its September 2005 brief filed with the D.C. Circuit Court of Appeals in the appeal of the *TRRO*. In this filing, the FCC stated:

“The Commission’s [Business Line] test requires ILECs to count business lines on a voice grade equivalent basis. In other words, a DS1 loop counts as 24 business lines, not one. *See* 47 C.F.R. § 51.5 (definition of “business line”). Two weeks after the Commission issued the *Order*, SBC and BellSouth submitted letters to the Commission indicating that the business line counts they adduced

¹⁴ Gillan Rebuttal at p. 27.

¹⁵ Chapman Rebuttal, Attachment CAC-2.

1 before the Commission ruled failed to count UNE business lines in that
2 manner.”¹⁶ (emphasis added).

3 The key points conveyed by the FCC’s brief are abundantly clear. First, six months after
4 the TRRO became effective, the FCC confirmed that its Business Line rule requires the
5 application of digital equivalency calculations. Second, the FCC recognized that the line
6 counts provided it in December of 2004 did not account for digital equivalency for UNE
7 lines. One could hardly ask for a more plain statement from the FCC that the December,
8 2004 line counts -- the same line counts Mr. Gillan recommends using -- *do not comply*
9 with the requirements of the FCC’s rule.

10 **Q: MR. GILLAN PROPOSES THAT IF THE COMMISSION DOES NOT USE THE**
11 **LINE COUNTS AT&T (THEN SBC) PROVIDED TO THE FCC IN DECEMBER**
12 **OF 2004, THE COMMISSION SHOULD CALCULATE BUSINESS LINE**
13 **COUNTS USING DATA FROM DECEMBER OF 2004.¹⁷ DOES THE USE OF**
14 **DATA FROM DECEMBER OF 2004 CHANGE THE RESULTING WIRE**
15 **CENTER DESIGNATIONS?**

16 **A:** No. If the Business Lines are counted using the methodology required by the FCC’s rule
17 (as discussed in my Direct and Rebuttal Testimony), the use of the 2004 data proposed by
18 the CLECs does not result in *any* changes to the wire center designations. In any event,
19 as I explained in my Direct and Rebuttal Testimony, the December 2004 line count data
20 was not available to AT&T Missouri on March 11, 2005. As a result, AT&T Missouri
21 *could not* have used this information to determine the March 11, 2005 wire center
22 designations.

¹⁶ Covad Communications Company v. FCC, No. 05-1095, (D.C. Cir.), Brief for Respondents FCC and United States of America, September 9, 2005, at p. 75.

¹⁷ Gillan Rebuttal at p. 28.

IV. FIBER-BASED COLLOCATOR DISPUTES

Q: MR. GILLAN REFERENCES INSPECTIONS THAT OCCURRED AFTER MARCH 11, 2005.¹⁸ DID AT&T MISSOURI RELY ON ANY DATA OBTAINED DURING THESE WIRE CENTER INSPECTIONS THAT WAS NOT AVAILABLE ON MARCH 11, 2005?

A: No. AT&T Missouri conducted additional wire center inspections during 2005, after the effective date of the *TRRO*, as part of the review process prior to the FCC's approval of the SBC/AT&T merger. However, for purposes of the wire center designations at issue here, AT&T Missouri only relied upon Fiber-based Collocation arrangements that existed as of March 11, 2005. In other words, if AT&T Missouri inspected a wire center in August, 2005, and found a Fiber-based Collocator that was not present as of March 11, 2005, AT&T Missouri *did not count that Fiber-based Collocator for purposes of the wire center designations at issue in this proceeding.*

Q: WHAT FIBER-BASED COLLOCATORS WERE COUNTED WHEN AT&T MISSOURI MODIFIED ITS WIRE CENTER DESIGNATIONS ON DECEMBER 16, 2005 IN ACCORDANCE WITH ITS MERGER COMMITMENT?

A: The December 16, 2005 list is merely a modification of the March 11, 2005 *TRRO* compliant wire center designations. Only Fiber-based Collocators that were in place as of March 11, 2005 were counted. The December 16, 2005 modified list merely reflects the impact of the removal of pre-merger AT&T Fiber-based Collocation arrangements.

V. CONCLUSIONS

Q: HOW SHOULD THE COMMISSION RESOLVE THESE ISSUES?

A: The Commission should reject the CLECs' proposal to use the line counts that AT&T (then SBC) provided to the FCC in December of 2004. The FCC has recognized that

¹⁸ Gillan Rebuttal at p. 28.

1 these line counts do not meet the digital equivalency requirements of its Business Line
2 rule. The Commission should also reject the CLECs' proposal that the Business Line
3 counts be based on data that was not available to AT&T Missouri on March 11, 2005, the
4 effective date of the *TRRO*. The Commission should rule that AT&T Missouri properly
5 designated SPFDMOTU as a Tier 1 wire center on March 11, 2005 (and properly re-
6 designated this wire center as a Tier 2 wire center on December 16, 2005 on a
7 prospective basis in accordance with its merger commitment). The Commission should
8 further rule that AT&T Missouri has properly designated STLMO21 as non-impaired
9 for DS3 loops.

10 **Q: DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

11 **A:** Yes.