

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

BPS Telephone Company, Cass County Telephone)
Citizens Telephone Company of Higginsville,)
Mo., Inc., Craw-Kan Telephone Cooperative, Inc.,)
Fidelity Communications Services I, Inc., Fidelity)
Telephone Company, Grand River Mutual)
Telephone Corporation, Green Hills Telephone)
Corporation, Holway Telephone Company, Iamo)
Telephone Company, Kingdom Telephone)
Company, K.L.M. Telephone Company, Lathrop)
Telephone Company and Mark Twain Rural)
Telephone Company,)

Case No. TC-2002-1077

Petitioners,)

vs.)

VoiceStream Wireless Corporation, Western)
Wireless Corporation and Southwestern Bell)
Telephone Company,)

Respondents.)

**SOUTHWESTERN BELL TELEPHONE COMPANY'S
RESPONSE TO VOICESTREAM AND WESTERN WIRELESS'
MOTION TO CANCEL HEARING**

Southwestern Bell Telephone Company¹ is generally opposed to canceling the hearing currently scheduled for October 17 and 18, 2002, and submitting the case for decision by the Missouri Public Service Commission based on the pleadings.

Complainants' claim against Southwestern Bell is materially different from their claim against VoiceStream Wireless Corporation ("VoiceStream") and Western Wireless Corporation ("Western Wireless"). Given the status of the pleadings and prefiled testimony, it appears that Complainants' dispute with VoiceStream and Western Wireless turns on a legal issue (i.e., the lawfulness of Complainants' Wireless Termination Service Tariffs) and that the underlying facts are essentially undisputed (i.e., VoiceStream and Western Wireless sent their customers' traffic to Complainants for termination, Complainants terminated that traffic in their exchanges

¹ Southwestern Bell Telephone Company, L.P., d/b/a Southwestern Bell Telephone Company, will be referred to in this pleading as "Southwestern Bell" or "SWBT."

pursuant to their Wireless Termination Service Tariffs, and VoiceStream and Western Wireless have declined to pay Complainants' tariff charges associated with that traffic).

Complainants' claim against Southwestern Bell, however, is based on their theory that Southwestern Bell should be "secondarily" liable for other carriers' traffic merely because it transited Southwestern Bell's network. As the Commission is aware, Southwestern Bell vigorously contests this claim. Southwestern Bell has conducted discovery in this case and plans to use the results during cross-examination of Complainants' witnesses. Southwestern Bell believes that the facts it would elicit during cross-examination would be material to its defense.

In an effort to conserve Commission resources by alleviating a need for hearing, Southwestern Bell is currently exploring the possibility of entering into a factual stipulation with Complainants' counsel that may alleviate the need for Southwestern Bell's cross-examination of Complainants' witnesses. If such a satisfactory stipulation can be reached and all of the documents enumerated in paragraph 2 of Complainants' September 30, 2002 Response to Motion to Cancel Hearing² are admitted into evidence, Southwestern Bell no longer would be opposed to Respondents' Motion.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

BY



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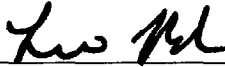
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² See, Response of Petitioners to Respondents' Motion to Cancel Hearing and For Commission to Decide Complaint on the Pleadings, filed September 30, 2002, at p. 2.

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on October 4, 2002.



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