

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

| | | |
|---|---|----------------------|
| Petition of MCImetro Access Transmission |) | |
| Services, L.L.C., Brooks Fiber Communications |) | |
| of Missouri, Inc., and MCI WorldCom |) | Case No. TO-2002-222 |
| Communications, Inc. for Arbitration of an |) | |
| Interconnection Agreement With Southwestern |) | |
| Bell Telephone Company Under the |) | |
| Telecommunications Act of 1996. |) | |

**SOUTHWESTERN BELL TELEPHONE, L.P.,
d/b/a SOUTHWESTERN BELL TELEPHONE COMPANY'S
REPLY TO WORLDCOM RESPONSE TO ORDER DIRECTING FILING**

Comes now Southwestern Bell Telephone, L.P., d/b/a Southwestern Bell Telephone Company ("SWBT") and, for its Reply to WorldCom's Response to Order Directing Filing ("WCOM's Response"), states as follows:

1. On August 30, 2002, the Missouri Public Service Commission ("Commission") entered its Order Directing Filing requesting the parties to respond to several questions that the Staff of the Missouri Public Service Commission ("Staff") raised in a Status Report that it filed with the Commission on August 9, 2002.

2. On September 13, 2002, MCI WorldCom Communications, Inc. ("MCIWC"), Brooks Fiber Communications of Missouri, Inc. ("Brooks"), and MCImetro Access Transmission Services, LLC (MCImetro), collectively referred to as "WCOM", filed their Response to Order Directing Filing. For the reasons stated below, SWBT agrees with some, but disagrees with many, of the positions that WCOM asserts in its Response to Order Directing Filing.

Explain Why The Language In 9.4.2.6 Is Appropriate To Be Included In The Agreement If 9.5.2.4, Which Is Identical To 9.4.2.6, Was Required To Be Omitted By The Commission?

3. In WCOM's Response, WCOM states: "Staff correctly identifies that Attachment 6, Section 9.4.2.6 should have been ordered deleted by the Commission."¹ At the outset, SWBT notes that nowhere in the Status Report of Staff did Staff indicate that Section 9.4.2.6 in Attachment 6, UNE, should have been deleted. Rather, Staff stated: "Staff requests the Commission direct the companies to explain why the language in 9.4.2.6 is appropriate to be included in the agreement if 9.5.2.4, which is identical to 9.4.2.6, was required to be omitted by the Commission."² SWBT further notes that Staff recommended that the Commission order SWBT's proposed language in 9.4.2.6.³

4. Moreover, as SWBT explained in its Response to Order Directing Filing, 9.4.2.6 is not identical to 9.5.2.4. In the Original DPL, Section 9.4.2.6 stated:

SWBT provides **LIDB Service** as set forth in this Attachment only as such service is used for CLEC's LSP activities on behalf of its **Missouri** local service customers where SWBT is the incumbent local exchange carrier. CLEC agrees that any other use of SWBT's **LIDB** for the provision of **LIDB Service** by CLEC will be pursuant to the terms, conditions, rates, and charges of **SWBT's effective tariffs, as revised, for LIDB Validation Service.** (Emphasis Added).

In the Original DPL, Section 9.5.2.4 stated:

SWBT provides **CNAM Service Query** as set forth in this Attachment only as such service is used for CLEC's LSP activities on behalf of its **Texas [sic--should say Missouri]**⁴ local service customers where SWBT is the incumbent local exchange carrier. CLEC agrees that any other use of SWBT's **Calling Name database** for the provision of **CNAM Service Query** by CLEC will be pursuant to the terms, conditions, rates, and charges of a **separate agreement between the parties.** (Emphasis added).

¹ See WCOM Response to Order Directing Filing, paragraph 3.

² See Status Report of Staff, page 5, paragraph 4.

³ See Substitute Sheet 74, filed by Staff on January 31, 2002; see also Arbitration Order pages 32-34.

⁴ See Substitute Sheet 102, filed by Staff on January 31, 2002, attached hereto as Exhibit A.

5. Thus, Section 9.4.2.6 addresses LIDB service whereas Section 9.5.2.4 addresses CNAM Service Query. It appears that the Commission ordered the deletion of Section 9.5.2.4 on the erroneous belief that it referred to activities outside Missouri. The Commission was apparently not aware that Staff filed substitute sheet 102 on January 31, 2002, to correct the erroneous reference to Texas in Section 9.5.2.4 (see Exhibit A attached hereto). Nevertheless, the Commission ordered Section 9.5.2.4 deleted on the basis that it referred to activities outside the state of Missouri. Specifically, the Commission stated:

Staff also notes that SWBT's proposed language in Sections 9.4.2.6.4, 9.5.2.4, 9.5.2.4.1, and 9.5.2.4.2 refer to activities outside of Missouri and not under the Commission's jurisdiction; Staff recommends the Commission disallow the language in the Agreement. Furthermore, Staff finds WCOM's language in 9.5.1.1.2 to be overly one-sided and recommends against its inclusion into the Agreement. Staff recommends that the Commission order SWBT's proposed language in Attachment 6, Sections 9.0, 9.4.2.6, 9.4.12.6.3, and WCOM's proposed language in Sections 9.3.1, 9.3.1.1, and 9.4.1.1 into this Agreement.

The Commission finds that Staff's position is appropriate and shall be adopted for this Agreement.⁵ (Emphasis added).

Similar language is included on page 34. Specifically, the Commission stated:

Staff also notes that the SWBT's proposed language in Section 9.4.2.6.4, 9.5.2.4, 9.5.2.4.1, and 9.5.2.4.2 refer to activities outside of Missouri and should be stricken from the proposed Amendment. The Commission agrees with Staff's analysis and will adopt the language proposed by Staff. (Emphasis added).⁶

6. Despite the fact that the Commission ordered section 9.5.2.4 to be deleted because it believed that section 9.5.2.4 referred to matters outside the state of Missouri, WCOM now attempts to justify the removal of Section 9.5.2.4 on a different basis. Specifically, WCOM states: "In substance, the Commission addressed both sections, stating that 'SWBT must remove the local use restriction on these (LIDB and CNAM) databases' in order to comply with the FCC Rule 51.309(b). *Arbitration Order, p. 33.*"⁷

⁵ See *Arbitration Order*, page 32.

⁶ See *Arbitration Order*, page 34.

⁷ See WCOM's Response to Order Directing Filing, paragraph 7.

7. SWBT would like the Commission to carefully review page 33 of its Arbitration Order, as the language that WCOM cites is completely taken out of context, conflicts with Staff's recommendation, and is inconsistent with the express terms in the Commission's Arbitration Order.

8. The full text of language on page 33 (which continues on to page 34) of the Commission's Arbitration Order is as follows:

Under 47 C.F.R. 51.309(b), a telecommunications carrier may purchase the use of UNEs from an incumbent exchange carrier to provide exchange access services to itself in order to provide interexchange services to its subscribers. Staff states that given that access to LIDB and CNAM are UNEs, Staff believes that SWBT must remove the local use restriction on these databases. Staff witness Cecil indicated that in this negotiation, the issues regard the exchange of local traffic by local exchange carriers (LEC) or the termination of interexchange tariff by a LEC. Staff does not believe that an interconnection agreement is the proper venue for inclusion of language that allows an interexchange carrier (IXC) access to an ILEC's LIDB/CNAM databases. Staff recommends that the Commission find that SWBT's proposed language in Section 9.4.2.6 and 9.4.2.6.3 is appropriate. Staff does not believe that an interconnection agreement is the proper venue for inclusion of language that allows an interexchange carrier (IXC) access to an ILEC's LIDB/CNAM databases. Staff recommends that the Commission find that SWBT's proposed language in Section 9.4.2.6 and 9.4.2.6.3 is appropriate. Staff also notes that the SWBT's proposed language in Section 9.4.2.6.4, 9.5.2.4, 9.5.2.4.1, and 9.5.2.4.2 refer to activities outside of Missouri and should be stricken from the proposed Amendment. The Commission agrees with Staff's analysis and will adopt the language proposed by Staff.⁸ (Emphasis added).

9. Thus, Staff recognized that WCOM should not be allowed to use either the LIDB (discussed in Section 9.4.2.6) or CNAM (discussed in Section 9.5.2.4) databases in its role as an interexchange carrier. The inclusion of Sections 9.4.2.6 and 9.5.2.4 are provisions to ensure that WCOM uses the databases only in MCImetro's capacity as a local service provider in Missouri; not in its capacity as an IXC. Further, as was explained above, the express terms of the Commission's Arbitration Order reflect that the Commission omitted Section 9.5.2.4 on the basis that it referred to activities outside the State of Missouri when, in fact, that section does not.

10. Finally, SWBT notes that WCOM contends: "Such deletion (the deletion of section

⁸ See Arbitration Order, pages 33-34.

9.4.2.6) is required not only by FCC Rule 51.309(b) as already determined by the Commission, but also to eliminate an impermissible impairment on MCImetro's ability to use combined elements under FCC Rules 51.315(c)-(f) which were reinstated by the Supreme Court after the issuance of the Arbitration Order as discussed below."⁹ As previously explained, contrary to WCOM's assertion, the Commission made no determination that deletion of section 9.4.2.6 is required by FCC Rule 51.309(b); nor would such a determination have been appropriate, since FCC Rule 51.309(b) does not require the deletion of section 9.4.2.6. Moreover, WCOM's argument that the deletion of Section 9.4.2.6 is required to eliminate an impermissible impairment on MCImetro's ability to use combined elements under Rules 51.315(e)-(f) is false. But, even if it were true, any change brought about by the Verizon¹⁰ decisions is a change of law event, which, as discussed below, must be addressed by the change of law provisions in the parties' interconnection agreement. MCImetro is attempting to use its Interconnection Agreement with SWBT, which addresses MCImetro's use of these databases as a local service provider, for IXC purposes in violation of applicable state and federal access tariffs. For these reasons, both section 9.4.2.6 and 9.5.2.4 should be included in the MCImetro/SWBT interconnection agreement because these sections properly limit the use of LIDB/CNAM data to situations where WCOM is the local service provider.¹¹ SWBT respectfully requests the Commission to modify its Arbitration Order to include section 9.5.2.4.

**Explain Why The Revised Language In Issue 30, Attachment 27,
Alternatively Billed Traffic ("ABT") Is Now Acceptable And Technically Feasible**

11. On page 16 of the Commission's Arbitration Order, the Commission indicated that it selected WCOM's proposed Attachment 27, except for sections 2.3.10, 5.3.1, and 6.5.2.4 based on

⁹ See WCOM Response to Order Directing Filing, paragraph 7.

¹⁰ Verizon Communications, Inc. et al. v. Federal Communications Commission, et al., 122 S.Ct. 1646 (May 13, 2002) ("Verizon").

¹¹ Ex. 34, De Bella R., pp. 3-4.

Staff's recommendation to delete these sections as unfeasible. The Commission later amended that sentence to reference sections 2.3.10, 3.1, and 5.2.4.¹² The proposed conformed interconnection agreement between MCImetro and SWBT does not contain sections 2.3.10, 5.3.1 or 6.5.2.4. It does contain Section 3.1, a section of the contract the Commission ordered to be deleted. The parties deleted the contract language previously found at Section 3.1, and, instead of noting "Intentionally Omitted," or word to that effect, the parties chose to replace it with an agreed-upon clause in section 3.1 as follows:

3.0 Description of Services

3.1 Any Alternatively Billed Traffic received by SWBT and billable to MCI end users shall be in EMI industry standard format and will be sent to MCI using the Daily Usage File (DUF).

WCOM's Response to Staff correctly states that the parties mutually agreed to this technically feasible change in the process of conforming the agreement to the Arbitration Order. SWBT agrees that the change is necessary in order to clarify the transmission of DUF records.¹³ However, even with these deletions and changes, Attachment 27 is neither acceptable nor technically feasible.

12. As SWBT explained in its Response to Order Directing Filing, sections 2.3.10, 5.3.1, and 6.5.2.4 were merely examples of Sections that SWBT witness June Burgess identified that were not technically feasible. However, the list Ms. Burgess provided was not exhaustive. Numerous other sections that are contained in Attachment 27 are also either technically infeasible or unacceptable.¹⁴ SWBT's reasons can be summarized into four categories:

a. Sections 2.2.2, 2.3.11, 6.2.4, 7.1.4, 8.2.4, and all of sections 4, 9 and 10 are provisions related to industry standards, daily usage feed ("DUF"), and/or billing. None of

¹² See Order Granting Motion for Correction, TO-2002-222, March 26, 2002.

¹³ See WCOM Response to Order Directing Filing, paragraph 8.

¹⁴ See Exhibit A, attached to SWBT's Response to Order Directing Filing.

these sections, as written, is technically feasible and, therefore, cannot be implemented by SWBT.

b. The introduction, Sections 1.1 through 1.19, 2.3, 2.3.1 through 2.3.7, 3.2, 3.4 and 3.5 are provisions related to facilities or mechanical systems. None of these sections, as written, is technically feasible and, therefore, cannot be implemented by SWBT.

c. Sections 2.0 through 2.5, 2.3.9, 2.3.12, 2.3.13, 2.3.15, 2.3.17, and 2.3.18 are provisions related to traffic that is not Alternatively Billed-Type Traffic. Thus, these sections are outside the scope of ABT and, therefore, cannot be implemented by SWBT.

d. Sections 2.3.8, 2.3.14, 2.3.16, 2.4, 3.3, all of section 5.0, 6.2.2, and all of section 14 are provisions related to business arrangements and call distinctions that are not technically feasible and, therefore, cannot be implemented by SWBT.

13. Thus, the representative samples that SWBT witness Ms. Burgess discussed during the hearing of this matter only scratch the surface of the problems associated with MCImetro's proposed Attachment 27. Even if the Commission approves the proposed, conformed Attachment 27, only a small number of the provisions contained therein can be implemented. SWBT, therefore, respectfully suggests that the Commission should not approve Attachment 27 as proposed by MCImetro.

**Explain What Staff Perceives As An Apparent Conflict Between The
Commission's Arbitration Order And The Supreme Court's Decision In
Verizon Communications, Inc. v. FCC, 122 S.Ct. 1646 (2002)**

14. As the Commission is aware, it issued its Arbitration Order in the above-referenced case on February 28, 2002. Since the Commission issued its Arbitration Order, there have been two major decisions, one released by the United States Supreme Court, Verizon Communications, Inc. et al. v. Federal Communications Commission, et al., 122 S.Ct. 1646 (May 13, 2002) ("Verizon"), and the other released by the United States Court of Appeals for the District of Columbia Circuit,

United States Telecom Association, et al. v. Federal Communications Commission and United States of America, 290 F.3d 415 (D.C. Cir. 2002) ("USTA").

15. Although WCOM would like this Commission to address the Verizon decision, now is not the appropriate time. As SWBT noted in its Response to Order Directing Filing, SWBT does not agree that the Commission's Arbitration Order necessarily conflicts with the Supreme Court's decision in Verizon. However, to the extent that either MCImetro and/or SWBT believe that the proposed, conformed MCImetro/SWBT Interconnection Agreement is not consistent with Verizon, both SWBT and MCImetro agree that the change in law procedures in the proposed, conformed MCImetro/SWBT Interconnection Agreement at Section 18.4 of the General Terms and Conditions would be the appropriate vehicle for any changes.

16. As SWBT explained in its Response to Order Directing Filing, since Verizon, both MCImetro and SWBT have exchanged proposed changes to Attachment 6, UNE regarding UNE combinations. However, neither party has found the other party's proposed language acceptable. And, in the interim, on July 21, 2002, MCImetro and its parent company, WorldCom, Inc., filed for Chapter 11 Bankruptcy relief. Both parties are free to negotiate a Verizon type of UNE Amendment, or to operate under the arbitrated contract as previously submitted pending further negotiations and/or bankruptcy developments. In an email response on July 26, 2002, counsel for MCImetro agreed, summing up the procedural posture of the parties as follows:

The [FTA 96 sec.] 252 process for both the Missouri and Texas agreements has been completed. The change in law procedures would be the appropriate vehicle for any changes with regard to UNE Combinations in those agreements.¹⁵

SWBT stands ready to negotiate with MCImetro under change of law, if MCImetro wishes. In the event that the parties are unable to agree upon changes to UNE Attachment 6 post-Verizon, the

¹⁵See E-mail from WCOM Attorney Michael Schneider to SWBT Attorney Tracy Turner, dated July 26, 2002, attached hereto and marked as Exhibit B.

dispute resolution procedures (as defined in Section 9 of the General Terms and Conditions) will come into play, and if necessary, the dispute will be brought to the Commission's attention.

17. Despite the fact that WCOM agreed that the change and law provisions should apply,¹⁶ WCOM now proposes that the Commission adopt language that it has attached to its Response to Order Directing Filing. WCOM's request should be rejected for four reasons. First, WCOM's proposed language is not supported by testimony and evidence in the Arbitration record for Case No. TO-2002-222. Because the Verizon decision was rendered after the Commission's Arbitration Order was issued, it clearly was not placed into evidence in this proceeding, and, therefore, cannot be considered by the Commission. Second, WCOM's proposed language does not properly limit SWBT's combining obligations as determined by the Supreme Court. Third, WCOM's proposed language fails to provide sufficient operational detail to avoid disputes between the parties. Fourth and finally, WCOM's proposal attempts to avoid WCOM's obligation to negotiate a purported change of law provision with SWBT, to use the dispute resolution procedures if the parties are unable to resolve their dispute, and finally, to present the issue to the Commission if, and only if, negotiations and dispute resolution efforts fail. The first, third, and fourth reasons the Commission should reject WCOM's proposed language speak for themselves. However, SWBT presents this brief explanation regarding its second reason, below.

18. WCOM's proposed language does not properly limit SWBT's combining obligations as determined by the Supreme Court. In Verizon, the Supreme Court specified that an incumbent local exchange carrier ("ILEC") must only combine network elements for a competitive local exchange carrier in certain situations: (1) when the requesting carrier is unable to combine network elements; (2) when it would not place the ILEC at a disadvantage in operating its own network; and

¹⁶ Id.

(3) when it would not place other competing carriers at a competitive disadvantage.¹⁷ WCOM's proposed language appears to attempt to track the language in the FCC's Local Interconnection Rules, 47 CFR 51.315(c)-(f) but nowhere references these important limitations and qualifications the Supreme Court placed on those Rules. The Supreme Court did more than just reinstate previously vacated FCC Rules; it also gave guidance to regulators and carriers as to when and how those rules should apply. WCOM's proposed language fails to recognize and apply this guidance. WCOM instead would have the Commission adopt WCOM's one-sided and erroneous interpretation of the Verizon decision, without conducting any hearing or receiving any evidence. Such a request is wholly improper.

19. Further, the parties proposed interconnection agreement does not address the USTA decision, which vacated the FCC's UNE Remand Order and Line Sharing order. This will have a significant impact on the interconnection agreement presented for approval as the UNEs identified by the FCC's orders will be invalidated. That decision has been stayed until January 3, 2002, but will become effective that day subject to the possibility of review and stay by the U.S. Supreme Court. Consistent with its position on the Verizon decision, SWBT believes the parties should follow the change of law provisions in the respective interconnection agreements submitted for approval to incorporate the USTA decision.

20. Finally, as SWBT notes in its Response to Order Directing Filing, not only should the Verizon decision and the USTA decision be addressed by the change of law provisions, each party inserted reservation of rights language on the last page of the General Terms and Conditions, as deemed appropriate by that party. Thus, at this time, there is no need for the Commission to address either the Verizon decision or the USTA decision; rather, the Commission should allow the proposed, conformed Interconnection Agreement between MCImetro and SWBT go into effect, as

¹⁷ See Verizon Communications, Inc. v. FCC, 535 U.S. _____, 122 S.Ct. 1646, 152 L.Ed. 701, 754 (May 13, 2002).

amended by changes recommended in SWBT's Response to Order Directing Filing and in this Reply.

Other Issues Raised In The Status Report Of Staff

21. As the Commission is aware, the Staff also identified exceptions to the Commission's Arbitration Order. The first exception identified by Staff is Attachment 6, UNE, Section 8.2.1.5. Specifically, in paragraph 4 of the Status Report of Staff, Staff notes that: "the Commission ordered SWBT's proposed language, as follows (the bolded language represents the exceptions as it is the only language from ordered section 8.2.1.5 that is included in the proposed agreement):

8.2.1.5 - Multiplexing - an option ordered in conjunction with dedicated transport which converts a circuit from higher to lower bandwidth, or from digital to voice grade. Multiplexing is only available when ordered at the same time as UDT entrance facility and/or interoffice transport. **Multiplexing/demultiplexing allows the conversion of higher capacity facilities to lower capacity facilities and vice versa.**"

With regard to Attachment 6, UNE, Section 8.2.1.5, the Commission clearly ordered the multiplexing itself was not a "standalone" UNE, although multiplexing can be ordered in conjunction with Interoffice Transport, and thus has line items in the UNE Price Schedule. WCOM and SWBT attempted to clarify the Commission's Award by inserting a definition of multiplexing found in other contracts, including the M2A. The parties apparently misunderstood each other as to whether the multiplexing definition was in addition to, or in replacement of, other clarifying material and definitions. Since the point is relatively minor and non-substantive in nature, SWBT withdraws its request for additional clarifying language, and agrees with WCOM that the following single sentence is sufficient:

8.2.1.5 Multiplexing/demultiplexing allows the conversion of higher capacity facilities to lower capacity facilities and vice versa.

The conformed contract as submitted contains that sentence only, and thus can be shown by agreement.

22. In paragraph 4 of the Status Report of Staff, Staff notes that: "The Commission ordered the following language as Section 14.2 (the bolded language, as ordered by the Commission, was not included in the proposed agreement):

SWBT will, except as provided elsewhere in Section 14, provide combinations of network elements to CLEC consistent with SWBT's obligations in this Agreement at the applicable charges set forth in this Agreement. For preexisting combined elements, where no manual work is required by SWBT in order to establish connections between the requested elements at the central office, an outside plant location, or the customer premises, **SWBT will not apply a Central Office Access Charge but** will apply all other recurring and nonrecurring charges applicable to the elements included in the combination, and the electronic service order charge. The pre-existing combined elements referred to in the preceding sentence include all orders included within the definition of "Contiguous Network Interconnection of Network Elements" in Attachment 7, section 6.12 and 6.12.

On page 4, Staff also states: "this charge was specifically addressed in Issue 45 where the Commission determined the parties agree there should not be a charge. (*Arbitration Order*, page 22.)" SWBT agrees with WCOM that the parties mutually agreed to this change in the process of eliminating references to the involved charge (which charge was rejected by the Commission).¹⁸

¹⁸ See WCOM Response to Order Directing Filing, page 5.

23. On page 4 of the Status Report of Staff, Staff also states that the Commission "ordered the following unbolded language for section 9.4.4.1.12 (for the proposed agreement, the bolded language was added by the companies to the Commission's ordered language).

Translation Type - A code in the Signaling Control Point (SCCP) of the SS7 signaling message. Translation Types are used for routing LIDB queries. Signal Transfer Points (STPs) use Translation Types to identify the routing table used to route a LIDB query. Currently, all LIDB queries against the same exchange and Translation Type are routed to the same LIDB. LIDB and/or CNAM Queries against the same exchange and translation type will route to the same LIDB **and/or CNAM Database on non-ported numbers. Queries for the same telephone number and translation type will route to the same LIDB and/or CNAM Database for ported telephone numbers.**"

The language in bold was previously contained in a subsequent section (i.e., Section 9.4.4.1.12.1 of Attachment 6, UNE) which addressed CNAM separately. SWBT agrees with MCImetro that the parties mutually agreed to combine the section with what was section 9.4.4.1.12.1 and in the process also agreed to remove redundant language.

Wherefore, SWBT prays the Commission approve the proposed, conformed interconnection agreements between: (1) Brooks Fiber Communications of Missouri, Inc. and SWBT; and (2) MCI WorldCom Communications, Inc. and SWBT, which are adoptions of the M2A by Brooks Fiber Communication of Missouri, Inc. and MCI WorldCom Communications, Inc., with the exception of Attachment 18 which was arbitrated/negotiated. SWBT also prays the Commission approve the proposed, conformed interconnection agreement between MCImetro and SWBT, as amended and reflected in SWBT's Response to WCOM's Response to Order Directing Filing and in this Reply, together with any additional and further relief the Commission deems just and proper.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.

BY Mimi MacDonald /ta

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CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on this 23rd day of September, 2002.

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Mimi B. MacDonald

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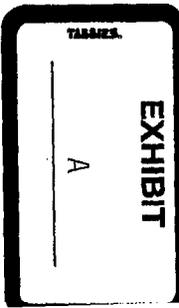
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Staff's Evaluation of
MISSOURI TO-2002-222
Joint Decision Point List (DPL)

| DPL Issue # | WCOM & SWBT Witnesses | Attachment | Section | Issue | WCOM Position | SWBT Position | Staff's Evaluation (Bold represents language or changes proposed by Staff) |
|-------------|-----------------------|------------|---------|-------|--|--|--|
| 17 | | | | | <p>will not be required to develop an allocation factor.</p> <p>9.5.2.4.2 SWBT will notify CLEC of any divergence of rates no later than the effective date of the divergence. Within 10 days after receipt of notice CLEC will advise SWBT whether CLEC elects to pay the higher rate (e.g., assume all queries are LSP or non-LSP driven, whichever is higher) or elects to develop an allocation factor. CLEC will provide its factor and SWBT will accept and apply the factor as soon as technically feasible but in no event later than 90 days after CLEC notifies SWBT of its intent to develop a factor. A true-up will occur for the period of time required for implementation of the allocation factor, but in no event to exceed 90 days.</p> <p>WCOM's proposed language: (M2A language)</p> <p>9.4.2.1 SWBT will provide CLEC access to Validation information whenever CLEC initiates a query from an SSP for Validation information available in SWBT's LIDB.</p> | <p><u>rates established in the relevant States in their incumbent region(s) and an analysis of comparative usage of each state's LIDB and/or CNAM information.</u></p> <p><u>9.5.2.4 SWBT provides CNAM Service Query as set forth in this Attachment only as such service is used for CLEC's LSP activities on behalf of its Texas Missouri local service customers where SWBT is the incumbent local exchange carrier. CLEC agrees that any other use of SWBT's Calling Name database for the provision of CNAM Service Query by CLEC will be pursuant to the terms, conditions, rates, and charges of a separate agreement between the Parties.</u></p> <p><u>9.5.2.4.1 Both Parties understand and agree that when CLEC uses a single OPC to originate Queries to SBC-12STATE's LIDB, neither Party can identify</u></p> | |



From: Michael Schneider [mailto:Michael.Schneider@wcom.com]
Sent: Friday, July 26, 2002 12:39 PM
To: TURNER, TRACY N (Legal)
Cc: ORRICK, MICHAEL (SWBT); nancy.weiss@wcom.com; MITCHELL, CARLA M (AIT); kathy.jespersen@wcom.com; todd.stein@wcom.com; stephen.morris@wcom.com; 'Freddie Herrera' (E-mail); Jason Wakefield (E-mail); Paul R Collins (E-mail)
Subject: RE: MCImetro - SBC - Missouri, Texas and Michigan - UNE Combinations in Pending Contracts

Tracy,

We have discussed your proposal below and decline your offer of a multi-state negotiating session on the subject of UNE Combinations.

The 252 process for both the Missouri and Texas agreements has been completed. The change in law procedures would be the appropriate vehicle for any changes with regard to UNE Combinations in those agreements. Also, as you know, 252 negotiations in Michigan are ongoing.

With that said, we would be glad to look at the language containing meaningful operational details that SBC would propose for UNE Combinations in the change in law process, instead of "parroting" the FCC rules.

Thanks.

Michael Schneider
LPP
972.729.6790
972.729.6927 fax

-----Original Message-----

From: TURNER, TRACY N (Legal) [mailto:tt6209@sbc.com]
Sent: Thursday, July 18, 2002 6:06 PM
To: 'michael.schneider@wcom.com'; 'todd.stein@wcom.com'; 'stephen.morris@wcom.com'
Cc: ORRICK, MICHAEL (SWBT); 'nancy.weiss@wcom.com'; MITCHELL, CARLA M (AIT); 'kathy.jespersen@wcom.com'
Subject: MCImetro - SBC - Missouri, Texas and Michigan - UNE Combinations in Pending Contracts

July 18, 2002

Michael,

As we discussed today, I am writing in response to your email message of Monday, July 15, 2002.

SBC-Southwestern Bell would like to negotiate further on the subject of UNE Combinations, somewhat along the lines of your attached contract documents, but we cannot agree to those changes in the Missouri contract without more dialogue and much greater contractual detail.

The UNE Combinations contract edits you proposed on Monday (7/15/02) were the first SBC-SWBT has seen from MCImetro. SBC-Ameritech also received contract proposals regarding UNE Combinations from the MCImetro negotiating team for Michigan, also on Monday (7/15/02). These proposals appear to be attempting to track the language in the FCC's Local Interconnection Rules, 47 CFR 51.315© - (f), now reinstated by the U.S. Supreme Court ruling in Verizon v. FCC, 122 S. Ct. 1646 (May 13, 2002). In the last couple of weeks, SBC-SWBT forwarded its proposal for a post-Verizon v. FCC UNE Combinations section in the Texas contract. That proposal was rejected without counter-proposals or further negotiation, and now sits before the Texas PUC for decision.

SBC believes that our ILEC - CLEC Interconnection Agreements should do more than "parrot" FCC Rules, and should contain meaningful operational details. SBC also believes that the U.S. Supreme Court in Verizon v. FCC did more than just reinstate previously vacated FCC Rules. The Court also gave guidance to regulators and carriers as to when and how those rules should apply. SBC believes that our contracts should conform fully to the existing state of the law, at least until the FCC issues new Rules or Orders on the subject.

I propose that our companies convene a multi-state negotiating session on the subject of UNE Combinations, and consider the various proposals we have now traded back and forth. A joint session covering multiple states would be more efficient and hopefully more fruitful, especially if business and technical subject matter experts joined the call. Toward that end, I have copied each side's negotiating teams for Missouri, Michigan, and Texas, and encourage everyone to consider who at SBC and MCIWorldcom could best deal with these topics and negotiations.

SBC today filed comments at the FCC objecting to the industry's unbundling and combining requirements post-Verizon v. FCC. SBC reserves the right to continue its regulatory positions before courts and commissions on UNE Combinations, but without waiving those positions, is willing to move forward with the negotiations on these subjects under change of law principles.

Feel free to call if you have questions or need further information.