

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

MAY 28 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Petition for Declaratory Ruling by)
the Inmate Calling Services)
Providers Task Force)

RM-8181
AAD 96-39

DOCKET FILE COPY ORIGINAL

REPLY OF SOUTHWESTERN BELL TELEPHONE COMPANY

Southwestern Bell Telephone Company (SWBT) hereby files its Reply to the Oppositions of MCI and The Inmate Calling Services Providers Task Force (Task Force). SWBT has petitioned the Commission to waive compliance with the terms of the February 20, 1996, Declaratory Ruling (Order) in this matter, until the Commission has released its rules in the proceeding on payphone issues required by the Telecommunications Act of 1996 (Act). MCI and the Task Force have failed to show why SWBT's requested relief should not be granted.

MCI assumes that the regulations ultimately adopted by the Commission will be identical to the Order, but this may or may not be the case. As SWBT's Petition for Waiver pointed out, once the Commission has considered the full record which will be created as part of the payphone rulemaking, new facts may come to light which will, in some

No. of Copies rec'd
List ABCDE

029
CCB

significant manner, change the conclusions adopted in the Order, which was based upon a very small and very dated record.¹

MCI also fails to respond to SWBT's argument that the Order will, in effect, require SWBT to file a revision to its CAM on or about July 3, 1996, an inconsistency with Section 402 of the Act, which allows carriers to make CAM filings annually. Clearly, to avoid a requirement contrary to the Act, the Commission should waive compliance with the Order until the payphone regulations have been issued.

The Task Force argues that SWBT has failed to satisfy "the well-established waiver standard for CPE."² SWBT, however, is not seeking a waiver of the Order's conclusion that inmate payphones should be treated as Customer Premises Equipment (CPE). Thus, SWBT does not need to satisfy the CPE waiver standard. All SWBT seeks is a waiver of enforcement of the Order until the Commission has issued its new payphone regulations. If the new regulations reach the same conclusion as the Order regarding inmate payphones, then the new regulations can so state. If a different conclusion is reached, then requiring compliance with the Order will force SWBT to take actions inconsistent with specific Commission Rules. Thus, SWBT need satisfy only the "good cause" standard of Section 1.3 of the Commission's Rules. SWBT has clearly shown good cause for the granting of the requested waiver, because the Order in this matter is at odds with the Act's statutory scheme

¹ Only 10 parties filed Comments and only four filed Replies. Moreover, the pleading cycle had been closed for three years prior to the entry of the Order.

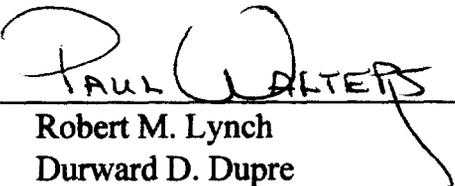
² Task Force Opposition at 2.

and constitutes a piecemeal approach to what is intended to be a unified regulatory structure.

Therefore, for the reasons discussed above, SWBT requests the Commission to waive compliance with the terms of the February 20, 1996, Order until the Commission has released its rules and regulations growing out of the proceeding on payphone issues required by the Telecommunications Act of 1996.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

By 
Robert M. Lynch
Durward D. Dupre
J. Paul Walters, Jr.

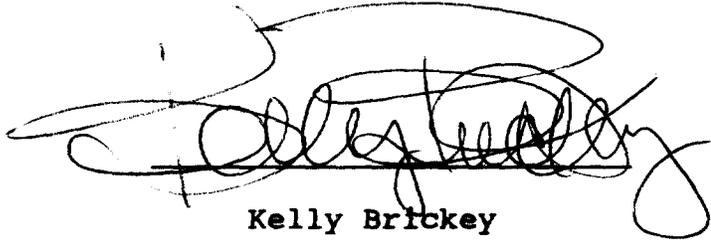
Attorneys for
Southwestern Bell Telephone Company

One Bell Center, Room 3520
St. Louis, Missouri 63101
(314) 235-2507

May 28, 1996

CERTIFICATE OF SERVICE

I, Kelly Brickey, hereby certify that the foregoing "Comments of Southwestern Bell Telephone Company", have been served May 28, 1996 to the Parties of Record.

A handwritten signature in black ink, appearing to read "Kelly Brickey", is written over a horizontal line. The signature is stylized and somewhat cursive.

Kelly Brickey

May 28, 1996

ALBERT H KRAMER
DAVID B JEPPSEN
DICKSTEIN SHAPIRO & MORIN LLP
ATTORNEYS FOR THE INMATE
CALLING SERVICES PROVIDERS
TASK FORCE
2101 L STREET NW
WASHINGTON DC 20037-1526

ITS INC
1919 M STREET NW
ROOM 246
WASHINGTON DC 20036

FLOYD S KEENE
MICHAEL S PABIAN
AMERITECH OPERATING COMPANIES
2000 WEST AMERITECH CENTER DR
ROOM 4H76
HOFFMAN ESTATES IL 60196-1025

DONALD F EVANS
DIRECTOR FEDERAL REGULATORY
AFFAIRS
MCI COMMUNICATIONS CORP
1801 PENNSYLVANIA AVE NW
WASHINGTON DC 20006

ROBERT MCKENNA
U S WEST COMMUNICATIONS INC
1020 19TH STREET N W
SUITE 700
WASHINGTON DC 20036

WILLIAM J BALCERSKI
NYNEX
120 BLOOMINGDALE ROAD
WHITE PLAINS NY 10605

EUGENE J BALDRATE
DIRECTOR-FEDERAL REGULATORY
SOUTHERN NEW ENGLAND TELEPHONE
227 CHURCH STREET
NEW HAVEN CONNECTICUT 06510

WILLIAM B BARFIELD
THOMPSON T RAWLS III
BELLSOUTH TELECOMMUNICATIONS INC
1155 PEACHTREE ST NE STE 1700
ATLANTA GEORGIA 30309-3610

JAMES P TUTHILL
MARIBETH R EVANS
PACIFIC BELL/NEVADA BELL
2600 CAMINO RAMON ROOM 2W802
SAN RAMON CALIFORINA 94583

JAMES L WURTZ
PACIFIC BELL/NEVADA BELL
1275 PENNSYLVANIA AVE NW
WASHINGTON DC 20004

RANDOLPH J MAY
SUTHERLAND ASBILL & BRENNAN
ATTORNEY FOR CAPITAL NETWORK
SYSTEM INC AND ADVANCED
TECHNOLOGIES CELLULAR TELECOMM
1275 PENNSYLVANIA AVE NW
WASHINGTON DC 20004-2404

LINDA KENT
ASSOCIATE GENERAL COUNSEL
USTA
1401 H STREET NW STE 600
WASHINGTON DC 20005-2136