

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Determination of Prices,)	
Terms, and Conditions of Line Splitting and)	Case No. TO-2001-440
Line Sharing.)	

**SBC MISSOURI'S SUBMISSION OF ITS POST-TRIENNIAL REVIEW ORDER
M2A LINE SHARING APPENDIX**

Southwestern Bell Telephone L.P., d/b/a SBC Missouri ("SBC Missouri"), in accordance with its September 10, 2003, Initial Comments filed in this case, submits to the Missouri Public Service Commission ("Commission") its revised Line Sharing Appendix that it has prepared to conform to the Federal Communications Commission's ("FCC's") Triennial Review Order.¹ For the following reasons, SBC Missouri requests that the Commission adopt its proposed Post-Triennial Review Order Line Sharing Appendix as the line sharing terms and conditions to replace and supersede the interim line sharing terms and conditions currently offered in connection with the Optional Line Sharing Appendix to the M2A.

On May 15, 2003, the Commission issued an Order in this case directing that "within 20 days of the Federal Communications Commission's ["FCC's"] issuance of its Triennial Review Order, the parties shall file briefs regarding the impact of that order on this case." On August 21, 2003, the FCC released its Triennial Review Order.

In its Triennial Review Order and new implementing rules, the FCC found that the High Frequency Portion of the Loop ("HFPL") is not an unbundled network element, but established certain transitional mechanisms to phase-out the HFPL.² In particular, the FCC

¹ In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01-338, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147 (FCC 03-36), rel. August 21, 2003 ("Triennial Review Order").

² 47 C.F.R. Section 51.319(a)(1)(i).

“grandfathered” existing line sharing arrangements in place prior to the effective date of its Triennial Review Order. The FCC also established a three-year “transition” for any new end-user customers to whom a CLEC begins providing xDSL-based service via the HFPL on or after the effective date of the Triennial Review Order (i.e., October 2, 2003) and before the date that is one year plus one day after its effective date (i.e., October 3, 2004).

In its Initial Comments filed September 10, 2003, regarding the impact of the Triennial Review Order, SBC Missouri noted that it was currently in the process of developing a Line Sharing Appendix consistent with the Triennial Review Order. SBC Missouri committed to file the appendix within 30 days after the effective date of the Triennial Review Order (assuming it was not stayed or enjoined).

The Post-Triennial Review Order Line Sharing Appendix attached hereto as Attachment 1 meets SBC Missouri’s commitment.³ The appendix provides for the grandfathering of line sharing arrangements in place prior to the effective date of the Triennial Review Order, a transitional period for new end-user customers specified in the Triennial Review Order, and also otherwise conforms to the FCC’s Triennial Review Order.⁴ Upon

³ SBC Missouri also provides for the convenience of the parties Attachment 2 hereto, a red-lined version of Attachment 1, which indicates changes that were made to the appendix filed on May 1, 2001, as Schedule 1 attached to the Direct Testimony of Carol A. Chapman. SBC Missouri notes as well that the changes it has made to provisions regarding HFPL provisioning intervals (Section 7.3 and subsections within), while not prompted by the Triennial Review Order, reflect shorter provisioning intervals in some cases and clarity as to the applicable interval in other cases.

⁴ By its submitting the provisions of the appendix to the Commission or making such provisions available to CLECs, SBC Missouri does not waive, but instead expressly reserves, all of its rights, remedies, and arguments with respect to the United States Court of Appeals for the District of Columbia Circuit’s decision in *United States Telecom Association, et al. (“USTA Decision”),* 290 F.3d 415 (D.C. Cir. 2002), the FCC’s Triennial Review Order, and any other federal or state regulatory, legislative or judicial action(s) (“Government Actions”) which relate to the matters addressed in the attached provisions, including, but not limited to, its intervening law rights and any legal or equitable rights of review and remedies (including agency reconsideration and court review). Accordingly, SBC Missouri reserves the right to withdraw, revise or otherwise modify its proposed provisions consistent with the Government Actions and the right to seek deletions, modifications and/or additions to the provisions prior to the provisions being incorporated into an approved and effective interconnection agreement between the parties. Following the date that these provisions are approved or are deemed to have been approved by the Commission and become effective between the parties, either party may exercise any rights it may have at

approval by the Commission, SBC Missouri is prepared to offer the appendix to any Missouri CLEC that currently has line sharing terms and conditions in its M2A interconnection agreement with SBC Missouri or that may wish to incorporate line sharing provisions into its M2A interconnection agreement with SBC Missouri to begin providing xDSL-based services to new end-user customers prior to October 3, 2004. SBC Missouri urges the Commission to adopt its Post-Triennial Review Order Line Sharing Appendix as part of the M2A (to replace and supersede the existing interim line sharing terms and conditions in the M2A), and to next complete the second phase of this case so as to adopt final rates for line sharing to be incorporated into the M2A.⁵

In sum, SBC Missouri respectfully requests that the Commission (a) adopt its proposed Post-Triennial Review Order Line Sharing Appendix for purposes of the M2A to replace and supersede the existing interim line sharing terms and conditions set forth in the Optional Line Sharing Appendix to the M2A, (b) finalize Phase One of this case, so as to establish the M2A terms and conditions for line sharing and line splitting,⁶ and (c) complete Phase Two of this case, so as to set the M2A prices for line sharing arrangements.

law or under the intervening law clause of the parties' interconnection agreement(s) with respect to any intervening law/change in law event which impacts the agreement(s).

⁵ At this time, the appendix does not propose specific line sharing rates in view of the procedural posture of this case; rather, it merely provides for certain terms and conditions that relate to pricing.

⁶ SBC Missouri submitted its proposed line splitting language in its Initial Comments filed herein on September 10, 2003 and would propose that its proposed line splitting language be incorporated into CLECs' existing M2As as an optional attachment to Attachment 25: xDSL.

Respectfully submitted,

Southwestern Bell Telephone, L.P.,
d/b/a SBC Missouri

BY 

PAUL G. LANE #27011

LEO J. BUB #34326

ROBERT J. GRYZMALA #32454

MIMI B. MACDONALD #37606

Attorneys for SBC Missouri
One SBC Center, Room 3516
St. Louis, Missouri 63101
314-235-6060 (Telephone)
314-247-0014 (Facsimile)
robert.gryzmala@sbc.com

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this document was served on all counsel of record by electronic mail on November 3, 2003.


Robert J. Gryzmala

DAN JOYCE
GENERAL COUNSEL
MISSOURI PUBLIC SERVICE
COMMISSION
P. O. BOX 360
JEFFERSON CITY, MO 65102

MICHAEL DANDINO
OFFICE OF THE PUBLIC COUNSEL
P.O. BOX 7800
JEFFERSON CITY, MO 65102

PAUL GARDNER
GOLLER, GARDNER & FEATHER
131 EAST HIGH STREET
JEFFERSON CITY, MO 65101

LISA CREIGHTON HENDRICKS
SPRINT
6450 SPRINT PARKWAY.
KSOPHN0212-2A253
OVERLAND PARK, KS 66251

PAUL S. DEFORD
LATHROP & GAGE, L.C.
2345 GRAND BOULEVARD
SUITE 2800
KANSAS CITY, MO 64108

DAVID J. STUEVEN
IP COMMUNICATIONS CORP.
6405 METCALF, SUITE 120
OVERLAND PARK, KS 66202

CARL LUMLEY
CURTIS, OETTING, HEINZ, GARRETT & SOULE, P.C.
130 SOUTH BEMISTON, STE. 200
CLAYTON, MO 63105

MARY ANN (GARR) YOUNG
WILLIAM D. STEINMEIER P.C.
2301 TOWER DRIVE
P.O. BOX 104595
JEFFERSON CITY, MO 65110-4595

MARK COMLEY/CATHLEEN MARTIN
NEWMAN, COMLEY & RUTH, P.C.
601 MONROE STREET, SUITE 301
P.O. BOX 537
JEFFERSON CITY, MO 65102

CAROL KEITH
NUVOX COMMUNICATIONS OF
MISSOURI
16090 SWINGLEY RIDGE ROAD
SUITE 500
CHESTERFIELD, MO 63017

MICHELLE S. BOURIANOFF
KEVIN ZARLING
AT&T COMMUNICATIONS
919 CONGRESS, SUITE 900
AUSTIN, TX 78701

STEPHEN F. MORRIS
WORLDCOM COMMUNICATIONS
701 BRAZOS, SUITE 600
AUSTIN, TX 78701

SHELDON K. STOCK/JASON L. ROSS
GREENSFELDER, HEMKER & GALE, P.C.
10 S. BROADWAY, SUITE 2000
ST. LOUIS, MO 63102-1774