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January 24, 2003

Dale Hardy Roberts  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**FILED<sup>3</sup>**

JAN 24 2003

**Re: Case No. IO-2003-0012**

**Missouri Public  
Service Commission**

Dear Mr. Roberts:

Enclosed for filing on behalf of BPS Telephone Company, please find an original and eight (8) copies of a Statement of Position.

Would you please see that this filing is brought to the attention of the appropriate Commission personnel.

I thank you in advance for your cooperation in this matter.

Sincerely yours,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:



Sondra B. Morgan

SBM/lar

Enclosure

cc: Mike Dandino  
Cliff Snodgrass

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>3</sup>

JAN 24 2003

Missouri Public  
Service Commission

In the Matter of BPS Telephone )  
Company's Election to be Regulated )  
under Price Cap Regulation as Provided ) Case No. IO-2003-0012  
in Section 392.245, RSMo 2000. )

STATEMENT OF POSITION  
OF BPS TELEPHONE COMPANY

Comes now BPS Telephone Company ("BPS") and for its Statement of Position relative to the List of Issues in this proceeding states to the Missouri Public Service Commission ("Commission") as follows:

**1. Is Missouri State Discount Telephone ("MSDT") providing basic local telecommunications service in BPS's service area?**

Yes. MSDT provides basic local telecommunications service in BPS's service area in accordance with the definition of basic local telecommunications service found in § 386.020(4), RSMo 2000.

**2. Would the type or level of competition that MSDT provides BPS Telephone Company ("BPS") be a relevant consideration in determining whether BPS is subject to price cap regulation.**

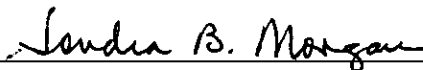
No. Section 392.245.2, RSMo 2000, sets out the requirements to be met by a small incumbent local exchange telecommunications company before it can elect to be regulated under price cap regulation. This statute does not reference any type or level of competition that must be met before the incumbent LEC is eligible to elect price cap regulation. The Commission

addressed the issue of "effective competition" in the Southwestern Bell Telephone Company price cap case<sup>1</sup> where it stated, "If the legislature had intended the conversion to price cap regulation to be contingent on the existence of 'effective competition,' it could have included such language in Section 392.245.2 . . . ." Thus, competition, no matter what the level or type, is simply not a consideration.

**3. Does BPS qualify for price cap regulation under Section 392.245, RSMo 2000?**

Yes, BPS has shown that it meets all of the statutory criteria for election of price cap regulation. BPS is a small incumbent local exchange company, it filed a written notice to the Commission of its election to be regulated under the price cap statute, MSDT is an alternative local exchange telecommunications company, MSDT holds a certificate of service authority to provide basic local telecommunications service in BPS's service area, and MSDT is providing basic local telecommunications service in BPS's service area.

Respectfully submitted,

  
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Attorneys for BPS Telephone Company

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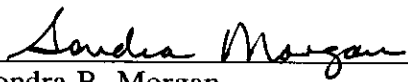
<sup>1</sup>*In the Matter of the Petition of Southwestern Bell Telephone Company for a Determination that it is Subject to Price Cap Regulation Under Section 392.245, RSMo Supp. 1996, 6 Mo. P.S.C. 3d 493, 1997.*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered on this 24<sup>th</sup> day of January, 2003, to the following parties:

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Senior Counsel  
Missouri Public Service Commission  
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Jefferson City, MO 65102

Michael F. Dandino  
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Sondra B. Morgan