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October 25 1999

FILED

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Mr. Dale Hardy Roberts
Secretary
Missouri Public Service Commission
301 W. High Street, Room 530
Jefferson City, MO 65102

Missouri Public Service Commission

RE: Case No TM-2000-219

Dear Mr. Roberts:

Enclosed for filing with the Commission is an original and 14 copies of:

OFFICE OF THE PUBLIC COUNSEL'S MOTION FOR REHEARING

Thank you for bringing this matter to the attention of the Commission.

Very truly yours,

Michael F. Dandino Senior Public Counsel

cc: Attorneys of Record

FILED

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

OCT 25 1999

Missouri Public Service Commission

In the Matter of the application	)	
Southwestern Bell Telephone Company	)	Case No. TM-2000-219
for authority to Transfer Certain Assets to	)	
SBCS Switches, inc.	)	

## OFFICE OF THE PUBLIC COUNSEL'S MOTION FOR REHEARING

COMES NOW the Office of the Public Counsel and, pursuant to Section 386.500, RSMo, respectfully moves the Public Service Commission of the State of Missouri to grant rehearing of its Order Approving Application to Transfer Assets of Southwestern Bell Telephone Company to SBSC Switches, Inc. as the order is unlawful and unreasonable, arbitrary, capricious, in violation of the Commission's rules and its own order in this case resulting in an abuse of discretion and a violation of Public Counsel's right to procedural due process under the Fourteeth Amendment of the U.S. Constitution and Art. I sec. 10 of the Missouri Constitution.

On September 21, 1999, the Commission entered an order in this case directing the Staff to file its recommendations regarding the approval or rejection of the application not later than November 10, 1999. The order further stated: "The Office of the Public Counsel may file its recommendations regarding the Application on the same date."

On October 21, 1999, the Staff of the PSC filed its recommendation with the PSC.

On October 21, 1999, the Commission issued its Order Approving Application to

Transfer Assets, effective on Noveber 2, 1999.

The Commission acted on the application without providing Public Counsel with the opportunity to file its recommendation by November 10, 1999 as the Commission granted in its September 21, 1999 Order.

The Commission acted on the application without providing Public Counsel with a reasonable opportunity to file its comments after the Staff filed its recommendation on October 15, 1999. The Commission acted on the application within six days of the filing of the Staff recommendation depriving Public Counsel of the 10 day period in which to file a response. 4 CSR 240-2.080 (12) The Commission acted without providing proper and sufficient notice to Public Counsel that it would take up and rule on the application without providing Public Counsel with an opportunity to file its recommendation pursuant to prior Commission order and as was reasonable under all the circumstances.

As a result of the Commission's action, the public was deprived of an opportunity to comment and be heard on this matter.

For these reasons, Public Counsel asks the Commission to set aside its order and grant rehearing of this matter.

WHEREFORE, Public Counsel asks the PSC to grant its motion.

Respectfully submitted,

Michael F. Dandino (24590)

CE OF THE PUBLIC COUNSEL

Senior Public Counsel

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed this 25 day	of
O Solution, 1999 to the counsel of record in this case as indicated on	the
attached list	

## **SERVICE LIST FOR TM-2000-219**

General Counsel Missouri Public Service Commission P. O. Box 360 Jefferson City, Missouri 65102 Paul G. Lane/Leo J. Bub/ Anthony K. Conroy/Katherine C. Swaller Southwestern Bell Telephone Company One Bell Center, Room 3518 St. Louis, Missouri 63101