



intervention for the limited purpose of filing initial comments and briefs addressing the federal standard set out below.<sup>2</sup>

When the second interconnection agreement reached in this state was filed with the Commission for approval, MCI again sought to intervene and was again limited by the Commission to participation without intervention:

The Commission will deny MCI's Application to Intervene because MCI can adequately preserve its interests in the interconnection agreement by being granted status as a participant without intervention. The Commission will grant the following entities status as participants without intervention under 4 CSR 240-2.075(5): MCI, Sprint, AT&T, Small Telephone Company Group, and Fidelity. The Commission finds that public interest will be served by their participation in the process. Their participation will be limited to filing comments, making opening statements at the hearing, and filing briefs.<sup>3</sup>

In these proceedings, the Commission gave potential participants approximately two weeks to apply to participate without intervention and an additional week to file comments. It then conducted a hearing about ten days after comments were filed, which was limited to Commission questions only. Staff, OPC and all participants were then permitted to file a brief. This procedure worked well in that it gave all interested entities an opportunity to review the agreement and convey comments, questions or concerns to the Commission. Having been advised of any concerns others may have had with the interconnection agreement, the Commission was then able to present questions it deemed relevant and appropriate to the signatories to the agreement and afforded them an opportunity to respond in an open and public hearing. The Commission also provided the opportunity for interested entities to make further comments or arguments in post-hearing briefs. This procedure was particularly well suited for

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<sup>2</sup> In the Matter of the Application of Southwestern Bell Telephone Company for Approval of Interconnection Agreement Under the Telecommunications Act of 1996 With Communications Cable-Laying Company, d/b/a Dial U.S., Case No. TO-96-440, Order Making Interconnection Agreement Public, Establishing Procedural Schedule, and Granting Participation Without Intervention, issued June 26, 1996 at p. 2.

<sup>3</sup> Order Granting Participation Without Intervention, issued August 16, 1996 in Case No. TO-97-27, p. 2.

the limited period of review allowed under the federal Telecommunications Act<sup>4</sup> and the Commission followed it in many subsequent review proceedings in which other telecommunications companies sought to intervene<sup>5</sup>

Although the Commission's practice and procedural rules no longer provide for participation without intervention, the Commission can still provide a similar opportunity for interested entities to convey comments or concerns to the Commission as it reviews an interconnection agreement for approval. Rule 2.075(6) now allows for the filing of briefs amicus curiae.<sup>6</sup> Such briefing, coupled with a question and answer session or oral argument as deemed necessary by the Commission, should provide for a timely review of interconnection agreements and allow appropriate input from outside entities that are interested in the agreement.

Here, both MCI and NuVox have already been permitted to fully present their positions on the interconnection agreement amendment that is the subject of this proceeding. Even though not yet granted any type of status in this case, MCI and NuVox were both permitted to

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<sup>4</sup> Section 252(e)(4) provides only 90 days for review of a negotiated section 252 agreement:

SCHEDULE FOR DECISION - If the State commission does not act to approve or reject the agreement within 90 days after submission by the parties of an agreement adopted by negotiation under subsection (a) . . . the agreement shall be deemed approved. . . .No state court shall have jurisdiction to review the action of a State commission in approving or rejecting an agreement under this section.

<sup>5</sup> See, Case No. TO-97-94 (U.S. Long Distance Interconnection Agreement); Case No. TO-97-147 (Fast Connections Interconnection Agreement); Case No. TO-97-260 (Intermedia Interconnection Agreement); Case No. TO-98-12 (Western Wireless Interconnection Agreement); Case No. TO-98-29 (Sprint Spectrum Interconnection Agreement); Case No. TO-98-37 (U.S. Cellular Interconnection Agreement); Case No. TO-98-96 (CMT Partners Interconnection Agreement); and Case No. TO-98-156 (ALLTEL Interconnection Agreement). The Commission has, however, permitted intervention in cases in which other carriers alleged that the interconnection agreement would enable a wireless carrier to send them traffic without having first negotiated an agreement for the termination of the traffic. See, Order Granting Intervention, issued November 25, 2003, Case No. TK-2004-0180 (Sprint Spectrum Agreement).

<sup>6</sup> 4 CSR 240-2.075(6) states:

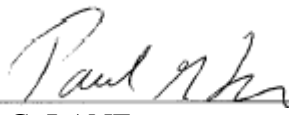
Any person not a party to a case may petition the commission for leave to file a brief as an amicus curiae. The petition for leave must state the petitioner's interest in the matter and explain why an amicus brief is desirable and how the matters asserted are relevant to the determination of the case. The brief may be submitted simultaneously with the petition. Unless otherwise ordered by the commission, the brief must be filed no later than the initial briefs of the parties. If leave to file a brief as an amicus curiae is granted, the brief shall be deemed filed on the date submitted. An amicus curiae may not file a reply brief.

participate in the oral argument held concurrently in this case and in Case No. TO-2004-0584.<sup>7</sup> And they were permitted to file post-argument briefs.<sup>8</sup> The procedure the Commission has employed to date has been consistent with the manner in which it has traditionally obtained comments from third parties in its review of interconnection agreements and there is no need to grant formal intervenor status.

WHEREFORE, SBC Missouri respectfully requests the Commission not to permit intervention by MCI or NuVox and to approve the amendment to the interconnection agreement between Sage Telecom, Inc. and SBC Missouri.

Respectfully submitted,

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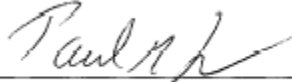
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<sup>7</sup> See, Order Scheduling Oral Argument, issued July 1, 2004 in Case Nos. TO-2004-0576 and TO-2004-0584.

<sup>8</sup> See, Post-Argument Brief of NuVox Communications of Missouri, Inc. and MCImetro Access Transmission Services, L.L.C., filed July 14, 2004 in Case Nos. TO-2004-0576 and TO-2004-0584.

## CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this document was served on all counsel of record by electronic mail on July 19, 2004.



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