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December 17, 2001

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED²

DEC 17 2001

**Re: Southwestern Bell Telephone Company,
Case No. TO-2002-185**

Missouri Public
Service Commission

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case, please find the original and 8 copies of the **Office of the Public Counsel's Comments**. I have on this date mailed, faxed, and/or hand-delivered the appropriate number of copies to parties of record. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Very truly yours,

Michael F. Dandino
Senior Public Counsel

MFD:kh

cc: Counsel of Record

Enclosure

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

DEC 17 2001

In the Matter of the Application of Southwestern)
Bell Telephone Company to transfer property)
And ownership of stock pursuant to Section) Case No. TO-2002-185
392.800, RSMo.)
)

Missouri Public
Service Commission

OFFICE OF THE PUBLIC COUNSEL'S COMMENTS

COMES NOW the Office of the Public Counsel and respectfully suggests the following as its comments on the issues requested to be addressed by the PSC regarding this application.

1. Public Counsel suggests that SBC's ability to sell or dispose of assets of SWBT Missouri and SWBT, a Texas Limited partnership should be the same under the provisions of Section 386.250 (2) (7), RSMo related to supervision over all telecommunications facilities, telecommunication facilities and telecommunication companies. Section 386.320.1 gives the PSC general supervision over all telephone companies with the power to keep informed about their general condition, capitalization, franchises, and "the manner in which their lines and property are owned, leased, controlled, or operated, not only with respect to adequacy, security, and accomondation offered by their services, but also with respect to their compliance with all the provisions of law, orders and decisions of the Commission and charter and franchise requirements." If SWBT, Texas becomes certified as a telecommunications company doing business in the

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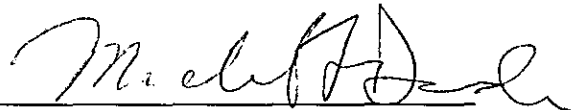
disposition of its property or its stock should be subject to the Missouri PSC under these statutes.

2. The PSC should have the same oversight over the ability of both SWBT Missouri and SWBT Texas to sell or dispose of its assets used in the operation of the Missouri ILEC operations under the statutes set out above.
3. Public Counsel's concern lies with the exception the Commission carved out of its oversight jurisdiction over the transfer of stock between two holding companies that are not telecommunications companies with a certificate operating in Missouri. See, *In the Matter of the Merger of SBC Communications, Inc. and Ameritech Corporation, Case No. TM-99-76*. This debate over the PSC's jurisdiction again was raised in *In the matter of the Joint Application of Claricom Networks, Inc., Claricom Holdings, Inc., Staples, Inc, Stacom Holdings, LLC, and Platinum Equity, LLC for approval of the transfer of stock in Claricom Holdings, Inc. to Stacom Holdings, Inc.) Case No. TM-2001-669*. Once again in the instant case, the same issue becomes a mater of debate: whether or not this commission will have authority over a transfer of stock that transfer the control of the Missouri telecommunications company via a series of transactions among foreign holding corporations created for the express purpose of transferring stock ownership and control. It is not a key question for the immediate transaction here, but it could become an issue on a future transaction. However, if the PSC adopts Public Counsel's position in this case as it suggested in the Clarion Case and in the SBC/Ameritech merger case, there would be no difference in oversight.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

BY:



Michael F. Dandino (Bar No. 24590)

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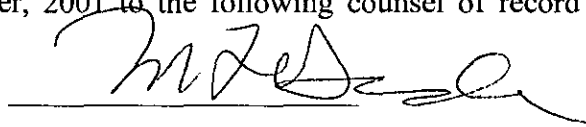
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed or hand delivered this 17th day of December, 2001 to the following counsel of record on the attached service list:



Service List

Case No. TO-2002-185

December 17, 2001

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