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February 28, 2000

VIA FACSIMILE and UPS

FILED

FEB 29 2000

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
Truman State Office Building, Room 530
301 W. High Street
Jefferson City, Missouri 65101

**Missouri Public
Service Commission**

**Re: In the Matter of the Joint Complaint Modern Telecommunications Co., et al. v.
Southwestern Bell Telephone Company**
Case No.: TC-2000-375

Dear Mr. Roberts:

Enclosed please find an original and fourteen copies of Aerial Communications' Application To Intervene. I have also enclosed an extra copy for file-stamping. Please return this extra copy to me in the enclosed self-addressed, stamped envelope. I am also faxing Aerial's Application to make sure that you receive this as quickly as possible.

Very truly yours,



Rick E. Frawley

REF/ks
Enclosures

cc: Counsel of Record

KC-732572-1

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

FEB 29 2000

MODERN TELECOMMUNICATIONS,)
CO., NORTHEAST MISSOURI RURAL)
TELEPHONE CO., MID-MISSOURI)
TELEPHONE CO., AND MOKAN DIAL, INC.,)

Missouri Public
Service Commission

Complainants,)

v.)

Case No. TC-2000-375

SOUTHWESTERN BELL TELEPHONE)
COMPANY,)

Respondent.)

APPLICATION TO INTERVENE

APT Kansas City, Inc., d/b/a Aerial Communications, hereafter referred to as "Aerial," pursuant to 4 C.S.R. 240-2.075, applies to intervene and become a party to this proceeding. In support thereof, Aerial respectfully states:

1. APT Kansas City, Inc., d/b/a Aerial Communications (hereinafter "Aerial"), is a Delaware corporation authorized to provide wireless telecommunications service within the State of Missouri and is subject to regulation by the Commission.

2. All correspondence, pleadings, orders, decisions and communications regarding this proceeding should be sent to:

Karl Zobrist
Rick E. Frawley
Blackwell Sanders Peper Martin, LLP
2300 Main Street, Suite 1100
P. O. Box 419777
Kansas City, Missouri 64141
Telephone: (816) 983-8000
Facsimile: (816) 983-8080
ATTORNEYS FOR AERIAL

3. On or about December 21, 1999 Complainants filed a Joint Complaint with the Commission requesting an Order directing Respondent to pay designated amounts to compensate Complainants for wireless originated calls transmitted over Respondent's facilities and terminated to Complainants' networks. Aerial is among those wireless carriers identified by Complainants as having originated these calls and which does not have a compensation agreement with Complainants.

4. The wireless traffic attributable to Aerial and described in the Joint Complaint originates and terminates within the same Major Trading Area ("MTA") and is considered intra-MTA traffic.

5. For purposes of 4 C.S.R. to 40-2.075 (2), Aerial states that it is interested in this proceeding because Complainants have alleged that Aerial is among the wireless carriers that has terminated designated volumes of traffic on their networks. In the event that this Commission grants Complainants the relief sought, then Aerial might ultimately be required to indemnify Respondent for traffic attributable to Aerial and for which payment has been made. Aerial opposes the relief sought by Complainants for all the reasons set forth in Respondent's Motion to Dismiss.

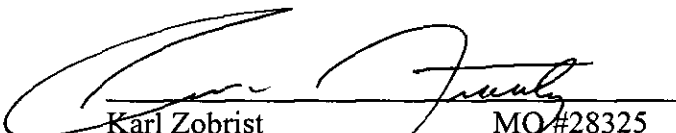
6. Aerial has an interest in this proceeding that is different from that of the general public. Pursuant to the Commission's Order of December 23, 1997 in Case No. TT-97-524, Respondent may be entitled to indemnity from wireless carriers if it makes payments to the Complainants for wireless traffic terminated on Complainants' networks. Aerial is among the wireless carriers that have allegedly terminated calls to Complainants' networks and could be liable to Respondent for a portion of any relief granted to Complainants.

7. Granting the proposed intervention would also serve the public interest. Aerial's presence in this proceeding will aid the Commission, and protect and advance the public interest

in promoting local competition among local exchange carriers (LECs). This suit arises out of Complainants' refusal to negotiate compensation agreements in good faith with wireless carriers for the termination of traffic to Complainants' networks. Rather than negotiate in good faith, Complainants seek to apply their intrastate access rates to local wireless traffic terminated to their networks. This is a clear violation of federal law. See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, CC Docket 96-98 (Aug. 8, 1996). This Commission has already concluded that local wireless traffic is not subject to these charges. See Report and Order, In the Matter of Alma Telephone Co.'s Filing to Revise its Access Service Tariff, Case No. TT-99-428 (Jan. 27, 2000) at 11. Because Aerial is among those wireless carriers being improperly charged for termination of wireless traffic to Complainants' networks, Aerial has an interest that will not and cannot be represented adequately by any other party.

WHEREFORE, Aerial prays that it be permitted to intervene and be made a party hereto with all the rights to have notice of and participate in hearings, to present evidence, to cross-examine witnesses, to file briefs, to participate in arguments and to seek all other proper relief.

Respectfully submitted,



Karl Zobrist

MO #28325

Rick E. Frawley

MO #51529

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(816) 983-8000

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Attorneys for Aerial

CERTIFICATE OF SERVICE

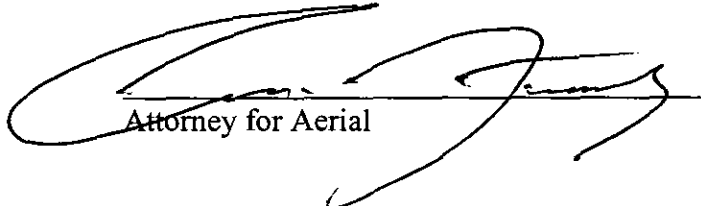
I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid, this 28 day of February, 2000, to:

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