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

In the Matter of a Commission Inquiry into	)	
the Possibility of Impairment without	) Case No. TO-2004-020	Case No. TO-2004-0207
Unbundled Local Circuit Switching When	)	
Serving the Mass Market.	)	

## SBC MISSOURI'S PHASE I POSITION STATEMENT

SBC Missouri, <sup>1</sup> pursuant to the Missouri Public Service Commission's ("Commission's") December 1, 2003 <u>Order Establishing Procedural Schedule</u>, respectfully submits SBC Missouri's position on the Phase I issues:

Issue 1 For purposes of examining whether there is "non-impairment" in the provision of unbundled local switching to service mass market customers, what are the relevant geographic markets within the state of Missouri?

SBC Missouri Position: The Commission should use Metropolitan Statistical Areas ("MSAs") to define the geographic markets for the purpose of the mass market switching analysis.<sup>2</sup> MSAs best meet the FCC's criteria<sup>3</sup> for a geographic market because the evidence demonstrates that CLECs are actually serving Missouri mass market customers throughout the MSA;<sup>4</sup> there is little variation across the MSAs in factors that might substantively affect a competitor's ability to serve mass market customers;<sup>5</sup> and where CLECs have entered an MSA using their own switches, they have the ability to use them to serve mass market customers in most, if not all, of the MSA if they choose.<sup>6</sup>

<sup>&</sup>lt;sup>1</sup> Southwestern Bell Telephone, L.P. d/b/a SBC Missouri, will be referred to in this pleading as "SBC Missouri."

<sup>&</sup>lt;sup>2</sup> Fleming Direct, pp. 5-10; Tardiff Direct, pp. 7-22, Rebuttal p. 7.

<sup>&</sup>lt;sup>3</sup> 47 CFR Section 51.319(d)(2)(i).

<sup>&</sup>lt;sup>4</sup> Fleming Direct, pp. 10-19.

<sup>&</sup>lt;sup>5</sup> Fleming Direct, pp. 20-24.

<sup>&</sup>lt;sup>6</sup> Fleming Direct, pp. 11-19, Rebuttal, pp. 42-43; Tardiff Direct, pp. 21-24.

For purposes of the 47 CFR 51.319(d)(2)(iii)(B)(3) Analysis, how many DS0 lines must be supplied to a multi-line DS0 customer before that customer is considered to be an enterprise customer rather than a mass market customer?

SBC Missouri Position: The Commission should adopt a DS0 cutoff of four DS0s, meaning that a customer with four or more DS0s at a location would be part of the enterprise market, while a customer with three or fewer DS0s would be in the mass market. This cutoff, which is the default cutoff the FCC uses for density Zone 1 in the top 50 MSAs, best satisfies the FCC's criteria, which requires the Commission to take into account the point at which the increased revenue opportunity at a single location is sufficient to overcome impairment and the point at which multi-lined end-users could be served in an economic fashion by higher capacity loops and a carrier's own switching. The parties that advocate a higher cutoff point make several errors in their analysis, including the failure to consider the increased revenue opportunities that come with providing service over a DS1 loop, which, under the FCC's rules, are a critical part of the analysis.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P. D/B/A SBC MISSOURI

BY_ Kw M	
PAUL G. LANE	#27011
LEO J. BUB	#34326
ROBERT J. GRYZMALA	A #32454
MIMI B. MACDONALD	#37606

Attorneys for SBC Missouri One SBC Center, Room 3518 St. Louis, Missouri 63101

314-235-2508 (Telephone)/314-247-0014(Facsimile) leo.bub@sbc.com

<sup>&</sup>lt;sup>7</sup> Fleming Direct, p. 27.

<sup>&</sup>lt;sup>8</sup> 47 CFR Section 51.319(d)(2)(iii)(B)(4).

<sup>&</sup>lt;sup>9</sup> Fleming Direct, pp. 27-34.

<sup>&</sup>lt;sup>10</sup> Fleming Rebuttal, pp. 3, 18-36.

## **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing document was served to all parties by e-mail on January 20, 2004.

Leo J. Bub

NATHAN WILLIAMS MISSOURI PUBLIC SERVICE COMMISSION PO BOX 360 JEFFERSON CITY, MO 65102

LISA CREIGHTON HENDRICKS SPRINT MISSOURI, INC. 6450 SPRINT PARKWAY, BLDG. 14 MAIL STOP KSOPHN0212-2A253 OVERLAND PARK, KANSAS 66251

CARL J. LUMLEY LELAND B. CURTIS CURTIS OETTING HEINZ GARRETT & SOULE, P.C. 130 S. BEMISTON, SUITE 200 ST. LOUIS, MO 63105

WILLIAM J. COBB, III COVAD COMMUNICATIONS COMPANY 1100 CONGRESS AVENUE, SUITE 1100 AUSTIN, TEXAS 78701

JAMES M. FISCHER LARRY DORITY FISCHER & DORITY, PC 101 MADISON, SUITE 400 JEFFERSON CITY, MO 65101

KATHERINE K. MUDGE SMITH, MAJCHER & MUDGE, L.L.P. 816 CONGRESS AVENUE, SUITE 1270 AUSTIN, TEXAS 78701 MICHAEL DANDINO OFFICE OF THE PUBLIC COUNSEL PO BOX 7800 JEFFERSON CITY, MO 65102

REBECCA B. DECOOK AT&T COMMUNICATIONS OF THE SOUTHWESTS, INC. 1875 LAWRENCE STREET, SUITE 1575 DENVER, CO 80202

STEPHEN F. MORRIS MCI TELECOMMUNICATIONS CORP. 701 BRAZOS, SUITE 600 AUSTIN, TX 78701

SHELDON K. STOCK JASON L. ROSS GREENSFELDER, HEMKER & GALE, PC 10 SOUTH BROADWAY, SUITE 2000 ST. LOUIS, MO 63102

CHARLES BRENT STEWART STEWART & KEEVIL, LLC 4603 JOHN GARRY DRIVE, SUITE 11 COLUMBIA, MO 65203

MICHELLE KREZEK LEVEL 3 COMMUNICATIONS L.L.C. 1025 ELDORADO BLVD. BROOMFIELD, CO 80021 CAROL KEITH NUVOX COMMUNICATIONS 16090 SWINGLEY RIDGE ROAD, SUITE 500 CHESTERFIELD, MO 63017

DAVID WOODSMALL XSPEDIUS COMMUNICATIONS 555 WINGHAVEN BLVD, SUITE 300 O'FALLON, MO 63366

MARK W. COMLEY NEWMAN, COMLEY & RUTH P.C. 601 MONROE STREET, SUITE 301 PO BOX 537 JEFFERSON CITY, MO 65102

BILL MAGNES VALERIE KIRK CASEY & GENTZ, L.L.P. 919 CONGRESS AVENUE, SUITE 1060 AUSTIN, TEXAS 78701

WILLIAM H. COURTER MCLEODUSA TELECOMMUNICATIONS SERVICES, INC. 6400 C STREET SW PO BOX 3177 CEDAR RAPIDS, IA 52406-3177 WILLIAM D. STEINMEIER MARY ANN (GARR) YOUNG WILLIAM D. STEINMEIER, P.C. P.O. BOX 104595 JEFFERSON CITY, MO 65110

CHARLES GERKIN ALLEGIANCE TELECOM, INC. 1919 M STREET, NW SUITE 420 WASHINGTON, DC 20036

PATRICK R. COWLISHAW KATHLEEN LAVALLE JACKSON WALKER L.L.P. 901 MAIN STREET, SUITE 6000 DALLAS, TX 75202

ROSE M. MULVANY BIRCH TELECOM OF MISSOURI, INC. 2020 BALTIMORE AVE. KANSAS CITY, MO 64108

MICHAEL T. MANLEY BLAKE & UHLIG, P.A. 753 STATE AVE., SUITE 475 KANSAS CITY, KS 66101