

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
February 9, 2000**

CASE NO: TA-2000-335

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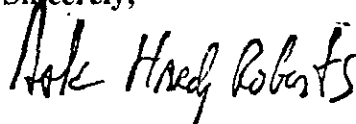
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Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

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

In the Matter of the Application of)	
Metromedia Fiber Network Services, Inc.)	
for a Certificate of Service Authority to)	
Provide Local and Interexchange)	<u>Case No. TA-2000-335</u>
Telecommunications Service in Portions of)	
the State of Missouri and to Classify said)	
Services and the Company as Competitive)	

ORDER ALLOWING WITHDRAWAL

Metromedia Fiber Network Services, Inc. (MFNS) applied to the Missouri Public Service Commission (Commission) on November 18, 1999, for a certificate of service authority to provide telecommunications services.

The Commission issued a Notice of Deficiency on December 14, 1999, because MFNS' application did not contain a clear and concise statement of the relief it was requesting, due to, *inter alia*, a failure by MFNS to make clear what kind of telecommunications services it was requesting. On January 14, 2000, MFNS filed its petition to amend its application for a certificate of service authority and for competitive classification. MFNS stated, *inter alia*, that it sought to provide local exchange telecommunications services. The petition to amend filed by MFNS was granted on January 28, 2000, insofar as the type of service authority MFNS seeks.

The Commission issued a Notice of Applications for Certificates of Service Authority and Opportunity to Intervene on November 23,

1999, directing parties wishing to intervene to file their requests on the intrastate interexchange portion of the application by November 24, 1999, and on the basic local portion of the application by December 23, 1999¹.

Southwestern Bell Telephone Company (SWBT) filed a timely application to intervene in the basic local portion of MFNS' application on December 8, 1999, which was granted on January 28, 2000.

Commission Rule 4 CSR 240-2.080(12) states, "Parties shall be allowed ten (10) days from the date of filing in which to respond to any motion or other pleading unless otherwise ordered by the commission." Thus, MFNS' opposition to SWBT's intervention, which was filed on January 14, 2000, was overruled on January 28, 2000, since the opposition was filed out of time.

On January 24, 2000, SWBT filed its response to MFNS' opposition to SWBT's intervention. The document stated, *inter alia*, that SWBT was still unclear what type of service authority MFNS was requesting. SWBT stated that since MFNS had amended its pleading to remove any request for authority to provide basic local telecommunications service, SWBT stated that it now believed that MFNS was seeking authority to provide only non-switched local exchange service in addition to interexchange service in Missouri.

¹ Both types of notices were issued due to the unclear application originally filed. The petition to correct its application removed MFNS' request for a certificate for basic local service.

SWBT also stated that

[t]o the extent [that] MFNS now appears to have clarified that it is not seeking authority to provide basic local telecommunications service in Missouri and is only seeking authority to provide interexchange and non-switched local telecommunications services, SWBT will withdraw its intervention application in this case. However, if MFNS still seeks basic local certification, SWBT believes it should be permitted to intervene, as described in its December 8, 1999 Application to Intervene.

SWBT, in the same pleading, concluded with a prayer for relief which consisted only of the following: "WHEREFORE, (sic) respectfully requests that the Commission enter an Order dismissing BroadSpan's Complaint (sic)." Thus, it is not clear what SWBT intended to accomplish by filing this pleading.

On January 31, 2000, MFNS filed an amended Exhibit B to its Application. Also on the same date, MFNS sent a letter to the Commission in which it stated, *inter alia*, that MFNS was requesting authority ". . . to provide local exchange telecommunications service and interexchange telecommunications service and [does] not request authority to provide basic local telecommunications service. . . ." (Emphasis in the original.) MFNS added that it understood that since it was not seeking service authority to provide basic local telecommunications service, that SWBT would withdraw its request for intervention.

Commission Rule 4 CSR 240-2.060(1)(E) states that all applications shall contain a ". . . clear and concise statement of the relief requested. . . ." SWBT's response, filed on January 24, 2000, to MFNS' opposition to SWBT's application to intervene did not contain a clear and concise statement of the relief requested by SWBT.

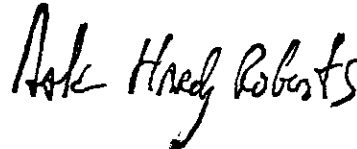
However, the Commission will construe SWBT's pleading as a motion to allow it to withdraw as an intervenor. The motion will be granted.

IT IS THEREFORE ORDERED:

1. That Southwestern Bell Telephone Company shall be allowed to withdraw as an intervenor in this proceeding.

2. That this order shall become effective on February 22, 2000.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Bill Hopkins, Senior Regulatory Law Judge,
by delegation of authority pursuant to
4 CSR 240-2.120(1) (November 30, 1995)
and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 9th day of February, 2000.

**STATE OF MISSOURI
OFFICE OF THE PUBLIC SERVICE COMMISSION**

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 9th day of FEBRUARY 2000.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

