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November 17, 1999

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
301 West High Street, Floor 5A  
Jefferson City, Missouri 65101

**FILED**

NOV 18 1999

**Missouri Public  
Service Commission**

Re: Case No. TO-2000-261

Dear Judge Roberts:

Enclosed for filing with the Missouri Public Service Commission in the above-referenced case is an original and 14 copies of Opposition of Southwestern Bell Telephone Company to MCImetro Access Transmission Services, LLC's, Brooks Fiber Communications, Inc.'s and MCI WorldCom Communications, Inc.'s Untimely Application for Participation Without Intervention.

Please stamp "Filed" on the extra copy and return the copy to me in the enclosed self-addressed, stamped envelope.

Thank you for bringing this matter to the attention of the Commission.

Very truly yours,

A handwritten signature in cursive script that reads "Anthony K. Conroy".

Anthony K. Conroy

Enclosure

cc: Attorneys of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED

NOV 18 1999

Missouri Public  
Service Commission

In the Matter of the Application of SBC )  
Advanced Solutions, Inc., for Approval of )  
its Interconnection Agreement with )  
Southwestern Bell Telephone Company )  
Under 47 U.S.C. Section 252(a)(1) and (i). )

Case No. TO-2000-261

**OPPOSITION OF SOUTHWESTERN BELL TELEPHONE COMPANY  
TO MCIMETRO ACCESS TRANSMISSION SERVICES, LLC'S,  
BROOKS FIBER COMMUNICATIONS OF MISSOURI, INC.'S, AND  
MCI WORLDCOM COMMUNICATIONS, INC.'S UNTIMELY  
APPLICATION FOR PARTICIPATION WITHOUT INTERVENTION**

COMES NOW Southwestern Bell Telephone Company (SWBT) and for its Opposition to MCImetro Access Transmission Services, Inc.'s (MCImetro's), Brooks Fiber Communications of Missouri, Inc.'s (Brooks'), and MCI WorldCom Communications, Inc.'s (MCIWC's) untimely Application for Participation Without Intervention, states to the Missouri Public Service Commission (Commission) as follows:

1. On September 30, 1999, SBC Advanced Solutions, Inc. (SBC-ASI) filed its Application for Approval of its interconnection agreement with SWBT. SBC-ASI's Application is substantially identical to nearly all of the applications which have been filed with the Commission since 1996, seeking approval of an interconnection agreement negotiated pursuant to the federal Telecommunications Act of 1996 (the Act).

2. On October 7, 1999, the Commission issued its Order and Notice in this case, which provided:

- That the Records Department of the Commission should send notice of SBC-ASI's application to all interexchange and local exchange telecommunications companies;
- That any party wishing to request a hearing or to participate without intervention in this matter was required to file an application no later than October 27, 1999;

- That the Staff of the Commission should file a memorandum advising either approval or rejection of this agreement and giving the reasons therefore no later than December 9, 1999; and
- Making SWBT (as the other party to the interconnection agreement) a party to this case.

3. No party filed a request for a hearing or application to participate without intervention in this case within the time permitted by the Commission.

4. On November 8, 1999, (nearly two weeks after the October 27, 1999, deadline established by the Commission in its October 7, 1999, Order and Notice) MCImetro, Brooks and MCIWC filed their joint Application for Participation Without Intervention. In their joint application, MCImetro, Brooks and MCIWC did not attempt to describe any underlying facts explaining why, had they been exercising reasonable diligence, they could not have filed their application to participate without intervention in a timely manner. Nor did MCImetro, Brooks and MCIWC claim they did not receive the Commission's October 7, 1999, Order and Notice establishing the October 27, 1999, filing deadline in this case. Instead, MCImetro, Brooks and MCIWC summarily stated only that "[T]hey were unaware of the deadline due to personnel absence."

5. The Commission should deny MCImetro's, Brooks' and MCIWC's joint Application to Participate Without Intervention in this proceeding since their stated cause for late-filing is not "good cause" and would only further delay this proceeding. The Commission has recently denied a similar request for late-filed intervention by these same entities in SBC-ASI's local exchange certification proceeding, a proceeding in which there was no time deadline established by the federal Telecommunications Act of 1996 within which the Commission was required to act. See, Order Denying Application to Intervene, Case No. TA-2000-260 (November 16, 1999). In the case of an application for approval of an interconnection agreement, however, the federal Act requires the Commission to either approve or reject the

SBC-ASI interconnection agreement within 90 days of the date it was filed (September 30, 1999) or it is deemed approved. See Section 252(e)(4). The Commission did not accept MCImetro's, Brooks' and MCIWC's reason for attempting to intervene after the Commission-established deadline in SBC-ASI's certification proceeding, and it should likewise reject their belated attempt to participate without intervention in this case, where the approval clock has been ticking since September 30, 1999.

6. Finally, it is extremely difficult to see how MCImetro's, Brooks' and MCIWC's participation in this case would assist the Commission to either approve or reject the interconnection agreement between SWBT and SBC-ASI in a timely manner. Under the Act, the Commission's review of this and all other interconnection agreements negotiated pursuant to the Act is limited to the following:

#### §252(e) APPROVAL BY STATE COMMISSION

- (1) APPROVAL REQUIRED. --Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies.
- (2) GROUNDS FOR REJECTION. --The State commission may only reject --
  - (A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that --
    - (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
    - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity; ---

MCImetro, Brooks and MCIWC cannot and do not claim that the interconnection agreement between SWBT and SBC-ASI discriminates against them, or that implementation of the

**CERTIFICATE OF SERVICE**

Copies of this document were served on the following parties by first-class, postage prepaid, U.S. Mail on November 18, 1999.

  
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Anthony K. Conroy

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agreement is not consistent with the public interest, convenience, and necessity. Beginning in 1996 with the case in which SWBT and Dial U.S. sought Commission approval of the first interconnection agreement negotiated pursuant to the federal Act (Case No. TO-96-440), the Commission has approved every interconnection agreement to which SWBT was a party under this federal standard, and MCImetro, Brooks and MCIWC have offered no reason why the Commission should not do likewise here.

WHEREFORE, SWBT respectfully requests that the Commission deny MCImetro's, Brooks', and MCIWC's late-filed joint Application for Participation Without Intervention in this proceeding, and expeditiously approve the interconnection agreement between SWBT and SBC-ASI under the appropriate standard of review, described above.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

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