

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

COMES NOW, Southwestern Bell Telephone, L.P., d/b/a SBC Missouri (“SBC Missouri”) and for its Response to the Motion of MCI Metro Access Transmission Services, LLC to Reopen Case, Certify Record and Modify Protective Order and for Expedited Relief (“MCI’s Motion”) states as follows.

2. MCI's Motion is extraordinarily late in the day and should be denied on that basis. MCI's Motion is in response to the FCC's Order and Notice of Proposed Rulemaking issued on August 20, 2004.<sup>1</sup> As MCI admits, the FCC Order contemplates that initial comments were to be submitted to the FCC by October 4, 2004, with reply comments due October 19, 2004. (MCI's Motion, para. 4).

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3. While MCI makes the wholly unsupported assertion that it “filed this pleading as soon as possible under the circumstances” (MCI’s Motion, para. 13), MCI has provided absolutely no explanation for its failure to act in the six weeks since the FCC released its Order and Notice of Proposed Rulemaking. Granting MCI’s Motion at this late date would be wholly inappropriate since the time for filing initial comments to the FCC has already past. The record generated by the Commission in this case could be utilized, if at all, only in reply comments that are due on October 19, 2004. No party to the FCC proceeding would have the opportunity to respond, rebut or take issue with claims made for the first time in the reply cycle before the FCC. Under these circumstances, it would be inappropriate to grant MCI’s Motion, as it is beyond the time for filing initial comments and could result in parties not having the opportunity to respond to assertions made for the first time in reply comments before the FCC.

4. MCI seeks to substitute the FCC’s protective order for the Missouri standard protective order. But MCI provides no analysis of the differences between the two processes, or how any differences between the two will be resolved. Under these circumstances, it would be inappropriate to grant MCI’s petition.

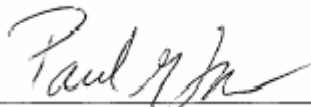
5. SBC Missouri notes that the Commission has already responded to the FCC’s request for information concerning state proceedings conducted in response to the FCC’s Triennial Review Order (“TRO”). On October 4, 2004, the Commission filed its comments in WC Docket No. 04-313 and CC Docket No. 01-338 with the FCC. The Commission appropriately noted that the supporting evidence and documentation provided in this case was “highly confidential and subject to MoPSC protective orders.” (Comments at p.1). The FCC has been fully apprised of the Missouri PSC’s proceedings concerning the now vacated TRO rules. Based on the current status, all parties will have the opportunity to file reply comments as

appropriate. It is neither necessary nor appropriate to modify the protective order at this late date.

WHEREFORE, for all the foregoing reasons, SBC Missouri respectfully requests the Commission to deny MCI's Motion and for such other and further relief as is appropriate.

Respectfully submitted,

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

BY: 

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

Attorneys for Southwestern Bell Telephone, L.P.  
d/b/a SBC Missouri  
One SBC Center, Room 3520  
St. Louis, Missouri 63101  
314-235-4300 (Telephone)/314-247-0014 (Facsimile)  
[pl6594@momail.sbc.com](mailto:pl6594@momail.sbc.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served to all parties by e-mail on October 7, 2004.

  
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Paul G. Lane

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

KENNETH A. SCHIFMAN  
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

CATHERINE BOONE  
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  
JASON WAKEFIELD  
SMITH, MAJCHER & MUDGE, L.L.P.  
816 CONGRESS AVENUE, SUITE 1270  
AUSTIN, TEXAS 78701

PUBLIC COUNSEL  
JOHN B. COFFMAN  
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

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

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

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

WILLIAM D. STEINMEIER  
MARY ANN (GARR) YOUNG  
WILLIAM D. STEINMEIER, P.C.  
P.O. BOX 104595  
JEFFERSON CITY, MO 65110

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

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