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November 20, 2001

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P. O. Box 360
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FILED³

NOV 20 2001

RE: Case No. TO-2001-467

Missouri Public
Service Commission

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of the **REPLY BRIEF OF STAFF**.

This filing has been mailed or hand-delivered this date to all parties of record.

Thank you for your attention to this matter.

Sincerely yours,

William K. Haas

William K. Haas
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WKH:sw
Enclosure
cc: Parties of Record

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

FILED³
NOV 20 2001

In the Matter of the Investigation of the)
State of Competition in the Exchanges of)
Southwestern Bell Telephone Company)

Case No. TO-2001-467

Missouri Public
Service Commission

REPLY BRIEF OF STAFF

In its Initial Brief, the Staff anticipated and addressed the majority of the other parties' arguments. In this Reply Brief, the Staff will respond to certain arguments presented in the Initial Brief of Southwestern Bell Telephone Company (SWBT). The Staff's responses will use the headings appearing in SWBT's Initial Brief.

C. Application of the "Effective Competition" Factors to the Current Competitive Landscape in Missouri

SWBT states that "[t]here are facilities-based CLECs [competitive local exchange carriers] serving more than 80 % of SWBT's exchanges in Missouri." (SWBT Initial Brief, p. 12).

However, SWBT's definition of "facilities-based" CLECs includes those CLECs that are providing service via the unbundled network element platform, i.e., where the CLECs are purchasing from SWBT all the elements used to provide service. (Hughes, Tr. 352). Using this definition, a facilities-based CLEC need not own any facilities.

SWBT argues, "If SWBT attempted to raise pricing levels above market-based levels, customers would not pay for the service." (SWBT Initial Brief, p. 21). This argument assumes that effective competition exists. But where it does not, the customer would pay the monopoly price or go without the service.

Issue 3: In which Southwestern Bell Telephone Company exchanges, if any, should SWBT's high capacity exchange access line services be classified as competitive pursuant to § 392.245.5 RSMo 2000?

SWBT summarizes certain Staff testimony where Staff explains its opinion that effective competition for high capacity lines does not exist in out-state areas. (SWBT Initial Brief, pp. 37-38). While SWBT correctly summarizes the Staff testimony (Voight Rebuttal Testimony, Exh. 18, p. 18), the Staff also notes that § 392.200.8 RSMo grants SWBT the ability to have individual case bases pricing for its nonswitched high capacity service. (Voight Rebuttal Testimony, Exh. 18, p. 54).

Issue 13: In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's switched access services be classified as competitive pursuant to § 392.245.5 RSMo 2000?

SWBT requests that its switched access services be classified as competitive in all exchanges subject to the same conditions applicable to CLEC provision of switched access service, i.e., switched access should remain subject to price caps, but SWBT would have the same authority as CLECs do today to restructure rates under that cap. (SWBT Initial Brief, p. 68).

Although SWBT noted in its direct testimony that CLECs may restructure switched access rates so that the aggregate is no greater than the incumbent LEC's switched access rates, it was not until surrebuttal testimony that SWBT requested that it be granted the same flexibility to restructure its switched access rates. (Douglas Direct Testimony, Exh. 7 NP, pp. 19-20; Douglas Surrebuttal Testimony, Exh. 8, pp. 3-4).

While it is true that no party made a motion to strike this surrebuttal testimony,¹ or requested an additional round of testimony, the Commission should give little weight to this new

¹ Commission Rule 4 CSR 240-2.130(7)(A) provides that direct testimony shall include all testimony explaining the party's entire case-in-chief. Commission Rule 4 CSR 240-2.130(8) further provides that no party


proposal because it was made too late to be addressed in other parties' responsive testimony. During cross-examination, AT&T's witness expressed concern that SWBT would try to restructure transport and make up for any reduction in transport rates through an increase in another rate element or through the introduction of a residual interconnection charge. (Kohly, Tr. 819-20).

CONCLUSION

In closing, the Staff requests that the Commission adopt its positions in the Report and Order in this case.

Respectfully submitted,

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shall be permitted to supplement prepared direct testimony unless ordered by the presiding officer or the Commission.

Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 20th day of November, 2001.

Wm K Haas

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