

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

In the Matter of the Application of MultiBand, Inc.    )  
For a Certificate of Service Authority to Provide        )  
Shared Tenant Services in the State of Missouri.        )        Case No. ZA-2006-0346

**AT&T MISSOURI'S REPLY**

In its reply, MultiBand, Inc. completely dismisses its own failure to comply with the Missouri Public Service Commission law. MultiBand never once addresses its continued and unlawful provision of telecommunications services without a grant of authority from the Commission or why it should be permitted to collaterally attack the Commission's order finding that AT&T Missouri has an interest in this proceeding justifying its intervention.

Instead, MultiBand attempts to focus the Commission's attention on AT&T Missouri,<sup>1</sup> claiming that AT&T Missouri seeks "to impose discriminatory burdens upon MultiBand not imposed on other STS certificate applicants," to "secure bargaining advantage over MultiBand,"<sup>2</sup> and to "drive MultiBand out of the limited competition it provides."<sup>3</sup>

MultiBand's claims are misplaced. In this proceeding, MultiBand has sought certification as a shared tenant services ("STS") provider, which requires the Commission to consider whether certification is in the public interest. Contrary to MultiBand's claims, this public interest determination does not merely require the Commission to find that "enhanced telecommunication competition is in the public interest,"<sup>4</sup> but whether it is in the public interest to grant certification to this specific competitor. In making that public interest determination, the

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<sup>1</sup> Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri will be referred to in this pleading as "AT&T Missouri." It previously conducted business as "SBC Missouri."

<sup>2</sup> MultiBand Reply, p. 1.

<sup>3</sup> MultiBand Reply, p. 3.

<sup>4</sup> MultiBand Reply, p. 3.

Commission must determine whether a carrier that has and continues to provide telecommunications services without approval of the Commission and through the unlawful use of AT&T Missouri's facilities is entitled to certification.

The absurdness of MultiBand's claims that AT&T Missouri seeks to discriminate against MultiBand or to "squench competition"<sup>5</sup> is readily apparent from the facts. As the Commission is aware, there are dozens of competitive telecommunications providers (STS providers and CLECs alike) providing telecommunications service in competition with AT&T Missouri. Since November, 2000, AT&T Missouri has generally had no reason to intervene in Commission certification proceedings and has not done so. Here, AT&T Missouri would not have intervened had MultiBand followed the law (like other carriers) by first seeking Commission certification before providing service, and either using its own facilities to provide service or making appropriate arrangements for use of AT&T Missouri or another carrier's facilities.

AT&T Missouri could have taken steps to prevent MultiBand's continued unlawful use of AT&T Missouri's facilities, which would have resulted in disruption of service to MultiBand's customers. But AT&T Missouri refrained from doing so, subject to MultiBand's agreement to seek certification and an interconnection agreement. AT&T Missouri previously indicated that it was not opposed to the Commission's granting STS certification to MultiBand, as long as that grant is conditioned on MultiBand's securing an appropriate agreement with AT&T Missouri if MultiBand wishes to continue using AT&T Missouri's facilities.

Contrary to MultiBand's assertions, the facts here show no attempt to drive it out of business. Rather, they demonstrate that AT&T Missouri has provided MultiBand with a reasonable period to secure Commission certification and make the necessary arrangements for the continued use of AT&T Missouri's facilities in an attempt to avoid disruption to MultiBand's

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<sup>5</sup> MultiBand Reply, p. 4.

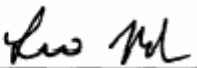
customers. To the extent that AT&T Missouri has “changed its tune,” it has done so only as a result of MultiBand’s decision to focus its efforts on having AT&T Missouri dismissed from this proceeding rather than on making appropriate arrangements to rectify the unlawful use of AT&T Missouri’s facilities, which continues to occur.

The Commission needs to address the issue of MultiBand’s unlawful use of AT&T Missouri’s facilities in this proceeding as a failure to do so creates a substantial risk that MultiBand will not follow through on its obligations leaving AT&T Missouri no realistic choice other than to prevent the continued unlawful use of its facilities through self-help.

WHEREFORE, AT&T Missouri respectfully requests the Commission to deny MultiBand’s Motion for Determination on the Pleadings and Motion to Dismiss Intervenor.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.  
D/B/A AT&T MISSOURI

BY  \_\_\_\_\_

PAUL G. LANE #27011

LEO J. BUB #34326

ROBERT J. GRYZMALA #32454

Attorneys for AT&T Missouri

One AT&T Center, Room 3518

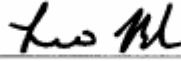
St. Louis, Missouri 63101

314-235-2508 (Telephone)/314-247-0014(Facsimile)

[leo.bub@att.com](mailto:leo.bub@att.com)

## **CERTIFICATE OF SERVICE**

Copies of this document were served on the following parties by e-mail on June 27, 2006.



Leo J. Bub

General Counsel  
William Haas  
Missouri Public Service Commission  
PO Box 360  
Jefferson City, MO 65102  
[william.haas@psc.mo.gov](mailto:william.haas@psc.mo.gov)  
[general.counsel@psc.mo.gov](mailto:general.counsel@psc.mo.gov)

William Steinmeier  
Mary Ann (Garr) Young  
William D. Steinmeier, P.C.  
P.O. Box 104595  
Jefferson City, MO 65110  
[myoung0654@aol.com](mailto:myoung0654@aol.com)  
[wds@wdspe.com](mailto:wds@wdspe.com)

Public Counsel  
Lewis Mills  
Office of the Public Counsel  
PO Box 7800  
Jefferson City, MO 65102  
[lewis.mills@ded.mo.gov](mailto:lewis.mills@ded.mo.gov)  
[opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov)