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January 24, 2000

**FILED<sup>3</sup>**

JAN 24 2000

Missouri Public  
Service Commission

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

Re: Case No. TA-2000-335

Dear Judge Roberts:

Enclosed for filing with the Missouri Public Service Commission in the above-referenced case is an original and 14 copies of Response of Southwestern Bell Telephone Company to Metromedia Fiber Network Services, Inc.'s Opposition to Application to Intervene.

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/TM".

Anthony K. Conroy

Enclosure

cc: Attorneys of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>3</sup>  
JAN 24 2000

Missouri Public  
Service Commission

In the matter of the Application of Metromedia )  
Fiber Network Services, Inc. for a certificate of )  
service authority to provide Local and )  
Interexchange Telecommunications Service in )  
portions of the State of Missouri and to classify )  
said services and the company as competitive. )

Case No. TA-2000-335

**RESPONSE OF SOUTHWESTERN BELL TELEPHONE COMPANY  
TO METROMEDIA FIBER NETWORK SERVICES, INC.'S  
OPPOSITION TO APPLICATION TO INTERVENE**

COMES NOW Southwestern Bell Telephone Company (SWBT) and for its Response to Metromedia Fiber Network Services, Inc.'s (MFNS') Opposition to SWBT's Application to Intervene in this proceeding, states to the Missouri Public Service Commission (Commission) as follows:

1. On November 18, 1999, MFNS filed its "Application for Certificate of Service Authority and for Competitive Classification" with the Commission. In the first sentence of its application, MFNS stated that it was applying "for authority to provide basic local and interexchange telecommunications service in portions of the State of Missouri and to classify said service and company as competitive."

2. On December 8, 1999, SWBT timely filed its Application to Intervene in this proceeding, pursuant to Commission rules 4 CSR 240-2.060 and 2.075. Pursuant to Commission rule 2.075(2), SWBT stated its interest in the proceeding and the reasons for seeking intervention. SWBT also stated that it did not yet have sufficient information to either support or oppose MFNS' application. Pursuant to Commission rule 2.075(4), SWBT also identified how its interests were different than the general public, and described why granting SWBT intervention would serve the public interest. The Commission has routinely permitted SWBT to intervene in basic local certification proceedings in Missouri.

3. MFNS did not file any opposition to SWBT's Application to Intervene within the time period provided in the Commission's rules. See 4 CSR 240-2.080(12). Nor did MFNS seek leave from the Commission to file its opposition to SWBT's Application to Intervene out of time, when it filed its opposition on January 14, 2000. MFNS has yet to explain why it waited over a month to oppose SWBT's request for intervention.

4. In its late-filed opposition to SWBT's Application to Intervene, MFNS asserts that its request for a certificate of service authority and its request for competitive classification should in effect be bifurcated. MFNS concedes that SWBT should be permitted to intervene in MFNS' "procedural request" to be classified as a competitive telecommunications company, but opposes SWBT's request to intervene in MFNS' "procedural request" for certification. MFNS asserts that "the procedure for certificate of service authority under §392.430 RSMo 1994 does not" contemplate the participation of other telecommunications carriers. The Commission has never approached basic local certification proceedings in the bifurcated manner suggested by MFNS. Furthermore, there is absolutely nothing in §392.430 RSMo that even remotely suggests that potential competitors (and exchange access customers) of new entrants are precluded from participating in the certification process for such new entrants.

5. On December 14, 1999, the Commission issued a Notice of Deficiency relating to MFNS' application. One of the three deficiencies identified by the Commission in its Notice of Deficiency was that MFNS "did not make clear the type of service authority it is requesting." On the same date MFNS late-filed its Opposition to SWBT's intervention request in this case, MFNS also filed a "Petition to Amend Application for Certificate of Service Authority and for Competitive Classification." Unfortunately, it is still not clear what type of service authority MFNS is now requesting. Since the amendments proposed by MFNS remove any request for authority to provide basic local telecommunications service, SWBT believes that MFNS is now seeking authority to provide only non-switched local exchange service in addition to interexchange service in Missouri.

6. To the extent 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 exchange 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.

WHEREFORE, respectfully requests that the Commission enter an Order dismissing BroadSpan's Complaint.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

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**CERTIFICATE OF SERVICE**

Copies of this document were served on the following parties by first-class, postage prepaid, U.S. Mail on January 24, 2000.

  
Anthony K. Conroy

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