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SETTING PREHEARING AND HEARING DATES

BroadSpan's application asks the Commission to approve BroadSpan's "Most Favored Nation" adoption of an agreement already in place between SWBT and Birch Telecom of Missouri (Birch Agreement). BroadSpan asks that the Commission allow it to adopt certain specific provisions of the Birch agreement. Should the Commission reject BroadSpan's request to adopt only certain provisions of the Birch Agreement, BroadSpan asks that the Commission approve BroadSpan's

adoption of the Birch Agreement in its entirety pursuant to Section 252(i) of the Telecommunications Act of 1996 (the Act).

SWBT urges the Commission to reject BroadSpan's petition because it contends that BroadSpan can only exercise its rights under Section 252(i) of the Act after both parties have agreed to the relevant language in the agreement and the parties jointly prepare the amendment to the agreement.

The Commission has considered the pleadings and finds that SWBT will be granted leave to intervene in the instant action as it is a necessary and indispensable party to the agreement. Furthermore, in accordance with Section 252(i) of the Act, the Commission finds that BroadSpan will not be permitted to select only certain provisions of the Birch Agreement to adopt. Accordingly, in all further proceedings, this action will be considered as BroadSpan seeking approval to adopt the entire Birch Agreement.

Section 252(e)(4) of the Act provides that if the Commission has not approved an agreement within 90 days after submission, the agreement shall be deemed approved. Therefore, the Commission will proceed with this case expeditiously. The Commission finds that a hearing may be necessary to resolve the issues in this case and therefore will schedule a hearing date.

An early prehearing conference should also be scheduled to afford the parties the opportunity to discuss, define, and possibly resolve the issues presented.

THEREFORE, IT IS ORDERED:

1. That Southwestern Bell Telephone Company is granted intervention.

2. That a prehearing conference will be held on January 15, 1999 at 10:00 a.m. at the Commission's offices on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

3. That the Commission shall conduct a hearing on January 29, 1999 in Room 520B of the Commission's offices on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

4. That anyone with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days before the prehearing or hearing at one of the following numbers: Consumer Services Hotline - 1-800-392-4211 or TDD Hotline - 1-800-829-7541.

5. That this order shall be effective on December 29, 1998.

BY THE COMMISSION

(S E A L)



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Anji Gandhi, Regulatory Law Judge,
by delegation of authority pursuant
to 4 CSR 240-2.120(1) (November 30,
1995) and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 29th day of December, 1998.

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION