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In the Matter of an Investigation for the )  
Purpose of Clarifying and Determining Certain )  
Aspects Surrounding the Provisioning of Metro- ) Case No. TO-99-483  
politan Calling Area Service After the Passage )  
and Implementation of the Telecommunications )  
Act of 1996. )

On December 30, 1999, Staff of the Missouri Public Service Commission (Staff) filed a Motion to Compel Data Requests. Staff stated that no party had responded to Data Requests 2, 4, and 7, and some of the parties had failed to respond to Data Requests 3, 5, 6, 8, 9, 10 and 11. On January 6, 2000, MoKan Dial, Inc., and Choctaw Telephone Company filed a response to Staff's motion stating that they had responded on November 5, 1999; however, the companies stated that they did not have the data requested or did not have the data available in the format requested. The companies stated that it was possible to provide some of the data in the format requested if the companies had additional time to assimilate the data.

On January 11, 2000, ALLTEL Missouri, Inc., Cass County Telephone Company, Lathrop Telephone Company, and Orchard Farm Telephone Company (collectively referred to as "ALLTEL") filed a response to Staff's motion. ALLTEL stated that they responded to

Staff's data requests and had indicated in that response that the data requested was not available. ALLTEL stated that it would work with Staff to develop sample data based on historical information if given sufficient time to respond to such a request.

On April 21, 2000, the Staff filed a motion requesting that it be allowed to file Supplemental Direct Testimony of William L. Voight and the Supplemental Testimony of Amonia L. Moore. Staff also filed the supplemental testimony and served copies on each of the parties on that same date.

Staff stated in its motion that it was unable to include the information contained in the supplemental testimony in its direct testimony because the information was not made available to Staff until April 20, 2000. Staff stated that it had attempted to obtain the information by serving Data Requests 1-11 on the parties on October 6, 1999, by filing a Motion to Compel Answers to Data Requests on December 30, 1999, and by submitting an additional data request to the parties on January 7, 2000. Staff stated that this supplemental testimony has been submitted with sufficient time remaining before the evidentiary hearing for the parties to respond.

On April 25, 2000, Southwestern Bell Telephone Company (SWBT) filed a response to Staff's motion. SWBT stated in its response that it had no objection to Staff's motion, but requested that the parties be allowed to submit additional rebuttal testimony out of time, in response to Staff's supplemental direct testimony. SWBT stated that the parties should be allowed until May 9, 2000, to file supplemental

rebuttal testimony. Staff filed a response in support of SWBT's request. No other responses to Staff's motion were received.

The Commission finds that because of the delays in receiving information necessary to presenting Staff's case, Staff's motion to file supplemental direct testimony should be granted. In addition, the Commission will allow the other parties to the proceeding to file supplemental rebuttal testimony addressing the content of Staff's supplemental direct testimony as ordered below. Because Staff has been allowed to supplement its direct testimony Staff's motion to compel is now moot.

On March 10, 2000, Southwestern Bell Telephone Company (SWBT) filed a Motion to Compel requesting that NEXTLINK Missouri, Inc. (NextLink) be compelled to answer SWBT's Data Request No. 2. SWBT stated that Nextlink had objected to Data Request No. 2 based on relevance. SWBT argues that Nextlink's answer is relevant to Nextlink's claim found in the Rebuttal Testimony of Carol P. Pomponio, page 5, lines 10-12, that "CLECs' ability to offer facilities based service in the optional tiers of the MCA is being crippled by the anti-competitive and discriminatory practices of SWBT."

On March 20, 2000, Nextlink filed a response to the motion to compel. Nextlink argues that the number of customers a particular CLEC has is irrelevant. Nextlink states that "[t]he requested information is collateral and not probative of the issue [presented in this case], and therefore warrants exclusion."

The Commission finds that Nextlink's response to SWBT's Data Request No. 2 is relevant to the issues raised in Nextlink's rebuttal

testimony. Therefore, the Commission will direct Nextlink to answer Data Request No. 2.

**IT IS THEREFORE ORDERED:**

1. That the Staff of the Missouri Public Service Commission is granted leave to file the Supplemental Direct Testimony of William L. Voight and the Supplemental Direct Testimony of Amonia L. Moore.

2. That the parties may file Supplemental Surrebuttal Testimony responding to the Supplemental Direct Testimony of William L. Voight and the Supplemental Direct Testimony of Amonia L. Moore on or before 10:00 a.m., May 11, 2000.

3. That Southwestern Bell Telephone Company's motion to compel NEXTLINK Missouri, Inc., to answer Data Request No. 2 is granted. NEXTLINK Missouri, Inc. shall answer SWBT's Data Request No. 2 no later than May 11, 2000.

4. That this order shall become effective on May 11, 2000.

**BY THE COMMISSION**



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

( S E A L )

Lumpe, Ch., Crumpton, Drainer,  
Murray, and Schemenauer, CC., concur.

Dippell, Senior Regulatory Law Judge