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November 21, 2001

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED³
NOV 21 2001

Re: Southwestern Bell Telephone Company
Case No. TO-2001-467

Missouri Public
Service Commission

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case, please find the original and 8 copies of the **Reply Brief of the Office of the Public Counsel**. I have on this date mailed, faxed, and/or hand-delivered the appropriate number of copies to parties of record. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Very truly yours,

Michael F. Dandino
Michael F. Dandino *by OEm*
Senior Public Counsel

MFD:kh

cc: Counsel of Record

Enclosure

FILED³

NOV 21 2001

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Public
Service Commission

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

Case No. TO-2001-467

REPLY BRIEF OF THE OFFICE OF THE PUBLIC COUNSEL

SWBT calls this case the "next step" in the evolution of full and fair competition in Missouri's local telecommunications market. (SWBT Initial Brief, 1) However, that market has been crawling along and certainly is not ready to run. The status of competition can hardly be considered in the "toddler" stage. SWBT's concept of the "next step" is a quantum leap and far beyond the current level of competition in SWBT's exchanges. Notwithstanding SWBT's spin, the realities of competition is that competition in SWBT's exchanges has not yet matured to "effective competition." It certainly has not reached that required standard for all its services in each exchange. Until competition has developed to "effective competition" this Commission needs to keep SWBT under the oversight of price cap regulation. It is only though that means that competition will have an opportunity to grow and reach a stage where it can serve as a counter-balance to SWBT and its market power. Unleashing SWBT to a deregulated status without first achieving effective competition is detrimental to consumers; consumers would be denied the protection of the regulatory agency and at the same time would be denied the benefits of competition.

Public Counsel believes that SWBT's brief has not raised any significant or material issues that Public Counsel's initial brief has not addressed. SWBT cannot avoid the import of the investigation into the status of competition in the local exchange market

that Public Counsel witness Meisenheimer conducted and reported in her testimony. Her look behind the numbers presents the best evidence is this case of the status of competition and presents facts uncontroverted by any party. The briefs of the Staff and the CLEC parties also highlight her testimony and her data and findings. This is credible and persuasive evidence and should guide the PSC to the proper findings that it is premature to grant SWBT competitive status for all of its services in all SWBT exchanges, except as identified by Public Counsel in its testimony and initial brief.

For the foregoing reasons, Public Counsel asks the Commission to adopt its recommendations in this case.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: 

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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 ^{21st} ~~9th~~ day of November 2001.

M. F. Driscoll

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