

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
August 15, 2001**

CASE NO: TO-2001-467

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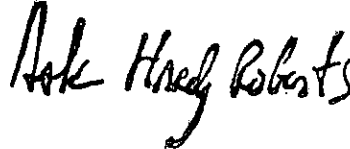
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Bradley R. Kruse

McLeodUSA Telecommunications Services,
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Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive, flowing style.

Dale Hardy Roberts

Secretary/Chief Regulatory Law Judge

Uncertified copies:

To companies providing basic local telecommunications services.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Investigation of the State of Competition) Case No. TO-2001-467
in the Exchanges of Southwestern Bell Telephone Company.)

ORDER DIRECTING FILING
AND NOTICE OF INCOMPLETE SERVICE LIST

It has come to the attention of the Commission that service of its orders in this matter has been incomplete. This notice provides the opportunity for those parties who did not receive the notice of the procedural schedule and other matters in this case to make any objections and request an opportunity to be heard.

On March 13, 2001, the Commission issued an order establishing this case to investigate the status of competition within each Southwestern Bell Telephone Company exchange where an alternative local exchange company (ALEC) was granted certification. Under Subsection 392.245.5, RSMo, the Commission must make this investigation within five years of an ALEC being granted authority. The first ALEC tariff for Southwestern Bell's exchanges was approved on December 31, 1996.

In its order establishing the case, the Commission made Southwestern Bell and 70 ALECs parties. That order was served on Southwestern Bell and the 70 ALECs, as well as every other certificated telephone company in Missouri. The order was also served on the newspapers, state representatives, and county commissions in Southwestern Bell's service territory, and the Board of Alderman of the City of St. Louis.

The Commission has discovered that its Records Department did not add all 70 of the ALECs to the service list it maintains in the official case file. Thus, the Commission's orders during the period of April 30, 2001, to August 14, 2001, were not served on all parties in this case. During that period, the Commission inadvertently mailed its orders only to those parties represented by counsel. In order to correct this mistake, all orders issued in this case are attached to this notice and are now being served on all the parties.

The procedural schedule includes dates for the filing of testimony and the setting of a prehearing conference. If any party did not have the opportunity to participate fully in this case because of a lack of service of a Commission order, that party through its attorney, if required, should file a motion with the Commission stating its objections and requesting remedial action. The motion should be supported by an affidavit stating that the company failed to get proper notice. The motion shall be filed **no later than August 27, 2001**.

The Commission will also direct each of the parties that have filed pleadings (including testimony) in this case, to file a certificate of service with the Commission stating that each filing it has made has been served on **every party** in this case.

IT IS THEREFORE ORDERED:

1. That any party wishing to file an objection or request remedial action from the Commission because of a lack of service shall do so no later than August 27, 2001, in the manner set out above.

2. That no later than August 27, 2001, each party that has made a filing in this case as of the issue date of this order shall file a certificate of service stating that each filing it has made has been served on every party in this case.

3. That this order shall become effective on August 25, 2001.

BY THE COMMISSION

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

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

(S E A L)

Nancy Dippell, Senior Regulatory Law
Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 15th day of August, 2001.

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office in
Jefferson City on the 14th day
of August, 2001.

In the Matter of the Investigation of the State of)
Competition in the Exchanges of Southwestern Bell) **Case No. TO-2001-467**
Telephone Company.)

**ORDER GRANTING MOTIONS TO COMPEL, GRANTING WAIVERS,
AND DENYING MOTION TO EXTEND THE PROCEDURAL SCHEDULE**

This order compels answers to the data requests issued by the Staff of the Missouri Public Service Commission to the alternative local exchange carriers (ALECs). The order also grants Staff a waiver of 4 CSR 240-2.090(8) for each of its motions, denies the Office of the Public Counsel's motion to extend the procedural schedule, and modifies the date for filing surrebuttal testimony.

Motions to Compel

On July 27, 2001, Staff filed a motion to compel the answers to its Data Request No. 2501. On June 13, 2001, Staff served DR 2501 on 70 ALECs. Staff stated that only 18 of the ALECs had "satisfactorily responded" to DR 2501. Staff stated that Allegiance Telecom of Missouri filed an answer but in Staff's opinion it was not adequate. Staff stated that 51 other ALECs listed in Appendix B to the motion did not respond.

On August 7, 2001, Staff filed a second motion to compel answers to data requests. In its motion Staff stated that on June 25, 2001, it served Data Requests

Nos. 2506 through 2514 on the 70 ALECs. Staff stated that "[o]nly 17 of the ALECs . . . satisfactorily responded to these data requests."

Staff stated that only XO Missouri, Inc., objected to DR 2501. Following discussions with Staff, XO Missouri, Inc. answered the data request. MCI WorldCom Communications, Inc., Brooks Fiber Communications of Missouri, Inc., and MCI Metro Access Transmission Services, LLC (collectively referred to as "WorldCom") and TCG St. Louis and TCG Kansas City (collectively referred to as "TCG") filed responses to Staff's motion to compel.

Staff received the joint objections of XO Missouri, Inc., NuVox Communications of Missouri, Inc., Brooks Fiber Communications of Missouri, Inc., MCI WorldCom Communications, Inc., and MCI Metro Access Transmission Services, LLC, to DR 2506, DR 2510, DR 2511, DR 2512, and DR 2513. Staff stated that XO Missouri and MCI WorldCom Communications, Inc., have answered all those DRs except DR 2513. Staff also received the joint objections of AT&T Communications of the Southwest, Inc., TCG Kansas City, Inc., and TCG St. Louis, Inc., to DRs 2506, 2510, 2511, 2512, 2513, and 2514.

Staff stated that 47 ALECs listed in Appendix B to its second motion failed to answer the data requests. Staff stated that Allegiance Telecom of Missouri answered all data requests except DR 2512, that Teligent, Inc., had not answered DR 2507, DR 2508, DR 2509, or DR 2510, and that The Pager Company had not answered DR 2507, DR 2508, DR 2509, DR 2510, DR 2512, or DR 2513. Staff argues that Sprint's answer to DR 2506 was not responsive.

a. DR 2501

Staff's DR 2501 states:

Please use the attached form to supply the number of voice grade equivalent access lines in each SWBT Missouri Exchange in which you offer local exchange service. Please provide the quantity of voice grade equivalent access lines for pure resale, UNE Loop, UNE-P, and full facility based lines in each exchange. Provide data for both residential and business end customers. Also, please provide the date on which you first began providing business and residential service in each exchange.

According to Staff, Allegiance Telecom did not completely answer DR 2501. Allegiance "reported all lines as pure resale." Staff requests that the Commission compel a more complete answer from Allegiance Telecom. Staff argues that when an order for these services is submitted to Southwestern Bell Telephone Company (SWBT), the order must be submitted as a resold line or a UNE Loop, and therefore, Allegiance should have the necessary records available to respond to Staff's data request.

WorldCom and TCG filed responses to Staff's motion to compel. Both WorldCom and TCG stated that they did not maintain the records that Staff requested in the normal course of business. Thus, TCG objected that the answers to the data request would be unduly burdensome to produce on an exchange-by-exchange basis. TCG objected to both the production of these records and to the suggestion by Staff's motion that it was failing to cooperate. WorldCom stated in its response that it would need a reasonable amount of time to produce the information. WorldCom stated that it first became aware that Staff considered the response inadequate when it received the Motion to Compel. TCG and WorldCom each stated that they were working to respond to Staff's requests despite the objections. TCG stated that it was working to respond to Staff's request by August 15, 2001.

Staff argued that the information is not burdensome for the ALECs to provide because the central office codes, known as NXXs or prefixes, along with the NPA, are assigned to an exchange. Staff stated that the exchange can be identified using an index found on the Commission's website, companies can determine in which exchange the NXXs are located. Staff suggested that using this information, the companies should be able to easily produce the answer.

The Commission has reviewed the motion to compel and the two responses to the motion. The Commission finds that the information requested by Staff can be put in an exchange-by-exchange format using the additional information found on the Commission's website. In addition, both TCG and WorldCom state that they are attempting to comply with the data request. Therefore, the Commission determines that DR 2501 is not overly burdensome and the ALECs as listed in Appendix B to Staff's Motion to Compel, should be compelled to answer DR 2501. The objections to DR 2501 are overruled.

b. DR 2506

Staff's DR 2506 states:

For each SWBT Exchange in which you offer service to an end-user, please indicate the number of lines that you have had in service on January 1st of each year since you began to offer service. Count residential and nonresidential customers separately.

The two groups of parties submitting objections to DR 2506 each claimed that the data request is unduly burdensome. Both objections stated that the data request is burdensome because the companies do not maintain the information in the normal course of business or do not maintain the information at all. Staff argues that its requests are not overly burdensome. Staff argues that because no ALEC has been in operation for more than five years, there are a maximum of five "counts" a company will have to provide.

The Commission has considered the motions filed by Staff and the objections of the parties. Subsection 392.245.5, RSMo, requires that within five years, the Commission examine the "state of competition in *each exchange*" (emphasis added) where an ALEC has been certificated. The Commission finds that DR 2506 is not overly burdensome because of the relatively short amount of time that ALECs have been certificated in Missouri. The objections to DR 2506 are overruled. The Commission will direct the parties listed on Appendix B to Staff's Second Motion to Compel to answer each of the data requests presented.

c. DR 2510

Staff's DR 2510 states:

Do you consider your services to be substitutable for those services offered by SWBT and if so, are those services functionally equivalent? If yes, please explain.

The XO Missouri group objected to DR 2510 because it is vague and that it calls for a legal conclusion and opinion. Even though they objected, the XO Missouri group stated that they would attempt to answer the data request. Staff stated that XO Missouri, Inc., and MCI WorldCom Communications have answered DR 2510.

The AT&T group objected to DR 2510 because the terms "substitutable" and "functionally equivalent" are vague and because the question is overly broad and unduly burdensome because it requires a comparison of every service that SWBT offers. Staff responded that the terms come directly from the statutory definition of "effective

competition" and can therefore be interpreted in their plain and ordinary sense under the *Fidelity* case.¹

The Commission has considered the motion filed by Staff and the objections to those data requests. The Commission finds that Staff's DR 2510 is not unduly burdensome, or vague, and it does not require a legal conclusion or legal opinion. The objections to DR 2510 are overruled. The Commission will direct the parties as listed on Appendix B to Staff's Second Motion to Compel to answer DR 2510.

d. DR 2511

Staff's DR 2511 states:

For facilities based CLECs (including those providing service under UNE-P), indicate the book value of your physical plant on a state-wide basis on December 31st for the years 1997, 1998, 1999, and 2000.

The two groups of parties submitting objections to DR 2511 each claimed that the data request is unduly burdensome. Both objections stated that the data request is burdensome because the companies do not maintain the information in the normal course of business or do not maintain the information at all. In addition the AT&T group objects to the relevance of the information. Both the XO Missouri group and the AT&T group indicate they are willing to provide the information each does maintain.

Staff argues that its requests are relevant because a competitive market will attract investment capital. Staff indicates that relevant evidence may be identified by the request if it can show certain investment trends.

¹ *Fidelity Security Life Insurance Co. v. Director of Revenue*, 32 S.W. 2d 527 (Mo. banc 2000).

The Commission has considered the motion filed by Staff and the objections of the parties. Subsection 392.245.5, RSMo, requires that within five years, the Commission examine the "state of competition in each exchange" where an ALEC has been certificated. The Commission finds that DR 2511 is not overly burdensome and is relevant to the examination of investment trends with regard to competition in SWBT's exchanges. The objections to DR 2511 are overruled. The Commission will direct the parties as listed on Appendix B to Staff's Second Motion to Compel to answer each of the data requests presented.

e. DR 2512

Staff's DR 2512 states:

For CLECs, by SWBT exchange, indicate the number of lines per calendar year that you have lost to:

- i. SWBT.
- ii. All other CLECs (combined total),
- iii. Or, if i and ii are unknown, indicate the total.

The two groups of parties submitting objections to DR 2512 claimed that the data request is unduly burdensome. Both objections stated that the data request is burdensome because the companies do not maintain the information in the normal course of business, do not maintain the information by exchange as requested, or do not maintain the information at all. The XO Missouri group indicates it will provide the information that it does maintain.

Staff argues that the index of exchanges by NXX code can be used to easily determine the requested information by each exchange. In addition, the language of the

request itself allows a company to indicate the total lines lost by exchange if the company to which the customer was lost is not known.

The Commission has considered the motion filed by Staff and the objections of the parties. The Commission finds that DR 2512 is not overly burdensome. The objections to DR 2511 are overruled. The Commission will direct the parties as listed on Appendix B to Staff's Second Motion to Compel to answer each of the data requests presented.

f. DR 2513

Staff's DR 2513 states:

By SWBT exchange, for each year since your firm began serving end-users, list the number of complaints for poor or delayed service made against your firm by your end-users and identify the number of those complaints that are unresolved. Provide this information on the annual basis and use December 31st of each year as a cut-off date.

The two groups of parties submitting objections to DR 2513 each claimed that the data request is unduly burdensome. Both objections stated that the data request is burdensome because the companies do not maintain the information in the normal course of business or do not maintain the information at all. In addition, both groups objected to the relevance of the information. Both groups indicated they are will provide the information that each maintains.

Staff argues that its requests are relevant to proving how much competition exists in SWBT exchanges. Staff states that the information in DR 2513 can be linked to competition because in a competitive market the quality of service would be expected to increase and customer complaints would be expected to decrease.

The Commission has considered the motion filed by Staff and the objections of the parties. The Commission finds that DR 2513 is not overly burdensome and is reasonably calculated to produce relevant evidence. The objections to DR 2513 are overruled. The Commission will direct the parties as listed on Appendix B to Staff's Second Motion to Compel to answer each of the data requests presented.

g. DR 2514

Staff's DR 2514 states:

Identify those SWBT exchanges in which your firm does business but considers unprofitable.

The AT&T group objects to DR 2514 because it does not maintain the information by exchange and is therefore unable to produce the requested information. The AT&T group states that it will respond on "a state specific level." Staff argues that the information is not overly burdensome, because the companies must file and maintain tariffs that designate in which exchanges the companies will operate. Staff stated that any difficulty in identifying the appropriate exchanges will be aided by the index of exchanges by NXX code on the Commission's website.

The Commission has considered the motion filed by Staff and the objections of the parties. The Commission finds that DR 2514 is not overly burdensome. The objection to DR 2514 is overruled. The Commission will direct the parties as listed on Appendix B to Staff's Second Motion to Compel to answer each of the data requests presented.

Request for Waiver of 4 CSR 240-2.090(8)

In each of its motion to compel, Staff requested a waiver of the Commission's rule 4 CSR 240-2.090(8). That rule requires that before a party file a motion to compel discovery, it attempt to confer by telephone or in person with opposing counsel. After the person-to-person conference, if the discovery issues are still not resolved, 4 CSR 240-2.090(8) requires that the moving party arrange for a telephone conference with the presiding officer. Staff did not attempt to contact counsel for each party in person, nor did it arrange a telephone conference with the presiding officer.

Staff stated that good cause exists for granting it a waiver of this rule, because of the number of parties involved in the discovery dispute. Staff states that there are 53 ALECs and 41 ALECs are not represented by counsel. Staff also stated that the data requests are not company-specific, and that each company was asked for the same information.

TCG objected to the granting of a waiver in Staff's first Motion to Compel. TCG argued that Staff's counsel did contact its counsel with regard to other discovery disputes, and therefore, it should not have been a burden for Staff to have contacted it with regard to DR 2501. No other objections to the waivers were filed.

The Commission has considered Staff's requests for waivers of rule 4 CSR 240-2.090(8) and finds that because of the numerous parties involved in the discovery dispute, good cause exists to grant the waivers. Therefore, the Commission will grant Staff a waiver of rule 4 CSR 240-2.090(8) with regard to its Motion to Compel and Second Motion to Compel.

Motion to Extend Procedural Schedule

On August 6, 2001, the Office of the Public Counsel filed a motion to extend the procedural schedule by approximately two weeks. Public Counsel stated that it had contacted counsel for all the represented parties and that none had any objections to the extension. Public Counsel noted, however, that Southwestern Bell Telephone Company would not agree to any extension requiring the hearing to continue beyond October 14, 2001.

Public Counsel requests the extension so that it may continue discussions among it, Staff, and SWBT regarding how to obtain the data requested in Staff's data requests. Public Counsel indicates that the extension would be necessary for the parties to incorporate the answers to Staff's data requests in their rebuttal testimony. The Commission extended the date for the filing of rebuttal testimony from August 9, 2001, to August 16, 2001, in order to give time for party responses to and Commission consideration of Public Counsel's motion. The Commission also directed the parties to file responses to Public Counsel's motion no later than August 13, 2001.

A response was filed by SWBT. SWBT stated that it did not object to the procedural schedule as submitted by the Public Counsel. SWBT did request, however, that the Commission maintain the 30-day period between the filing of rebuttal and the filing of surrebuttal testimony.

The Commission has reviewed Public Counsel's motion and the response of SWBT. Because of the Commission's current docket it will deny Public Counsel's motion for extension of the procedural schedule. However, because the date for the filing of

rebuttal testimony has been extended to August 16, 2001, the Commission will also extend the deadline for the filing of surrebuttal testimony.

IT IS THEREFORE ORDERED:

1. That the alternative local exchange companies listed in Appendix B to the Staff of the Missouri Public Service Commission's Motion to Compel filed on July 27, 2001, and attached to this order as Attachment A, shall answer Staff's Data Request No. 2501, no later than August 24, 2001.

2. That the alternative local exchange companies listed in Appendix B to the Staff of the Missouri Public Service Commission's Second Motion to Compel filed on August 7, 2001, and attached to this order as Attachment B, shall answer Staff's Data Requests Nos. 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, and 2514 no later than August 24, 2001.

3. That the objections to Staff's Data Request Nos. 2501, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, and 2514 are overruled.

4. That the Office of the Public Counsel's Motion to Extend Procedural Schedule is denied.

5. That surrebuttal testimony shall be filed no later than 4:00 p.m., September 17, 2001.

6. That Staff's request for a waiver of 4 CSR 240-2.090(8) with regard to its Motion to Compel filed on July 27, 2001, is granted.

7. That Staff's request for a waiver of 4 CSR 240-2.090(8) with regard to its Second Motion to Compel filed on August 6, 2001, is granted.

8. That this order shall become effective on August 24, 2001.

BY THE COMMISSION



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

(SEAL)

Simmons, Ch., Lumpe, and Gaw, CC.,
concur.
Murray, C., absent.

Dippell, Senior Regulatory Law Judge

APPENDIX B

1-800-Reconnex, Inc.

2nd Century Communications, Inc.

AccuTel of Texas, Inc.

Adelphia Business Solutions

Allegiance Telecom of Missouri¹

American Communications Services of K.C., Inc.

BarTel Communications, Inc.

Birch Telecom of Missouri, Inc.

Brooks Fiber Communications of Missouri, Inc.

Buy-Tel Communications, Inc.

Camarato Distributing, Inc.

Central Missouri Telecommunications, Inc.

Cierra Network Systems, Inc.

The Cube

Delta Phones, Inc.

DMJ Communications, Inc.

Gabriel Communications of Missouri, Inc. (now NuVox)

Global Crossing Local Services

Global Crossing Telemanagement, Inc.

HJN Telecom, Inc.

LDD, Inc.

Logix Communications Corporation

Maxcom, Inc.

¹ See paragraph 7 of Staff's Motion.

Max-Tel Communications, Inc.

McLeodUSA

MCImetro Access Transmission Services, LLC

MCI Worldcom Communications, Inc.

Missouri Telecom, Inc.

Mpower Communications Corp.

Net-Tel Communications Corporation

NOW Communications, Inc.

Omniplex Communications Group

The Pager Company

Phones for All

Primary Network Communications (a/k/a Broadspan Communications, Inc., now
Mpower Communications Central Corp.)

QCC, Inc.

Quick-Tel Communications

Quintelco, Inc.

Ren-Tel Communications

Simply Local Services, Inc.

Smoke Signal Communications

Snappy Phone

Southwest Teleconnect

TCG Kansas City

TCG St. Louis

Teligent, Inc.

Tel-Link

TransStar Communications

Universal Telephone

U.S. Telco, Inc.

Winstar Wireless, Inc.

WorkNet Communications, Inc.

APPENDIX B
STAFF'S SECOND MOTION TO COMPEL

2nd Century Communications, Inc.

AccuTel of Texas, Inc.

Adelphia Business Solutions

Allegiance Telecom of Missouri¹

American Communications Services of K.C., Inc.

AT&T Communications of the Southwest, Inc.

Birch Telecom of Missouri, Inc.

Brooks Fiber Communications of Missouri, Inc.

BTI

Camarato Distributing, Inc.

Central Missouri Telecommunications, Inc.

Cierra Network Systems, Inc.

Computer Business Sciences, Inc. (IG2)

The Cube

Delta Phones, Inc.

DMJ Communications, Inc.

EZ Talk Communications, LLC

Gabriel Communications of Missouri, Inc. (now NuVox)

Global Crossing Local Services

Global Crossing Telemanagement, Inc.

KMC Telecom III, Inc.

LDD, Inc.

¹ See paragraph 8 of Staff's Motion.

Logix Communications Corporation

Maxcom, Inc.

Max-Tel Communications, Inc.

MCImetro Access Transmission Services, LLC

MCI Worldcom Communications, Inc.²

McLeodUSA

Missouri Comm South, Inc.

Missouri Telecom, Inc.

Net-Tel Communications Corporation

NOW Communications, Inc.

The Pager Company³

Payroll Advance

Phones for All

Primary Network Communications (a/k/a Broadspan Communications, Inc., now
Mpower Communications Central Corp.)

QCC, Inc.

Quick-Tel Communications

Quintelco, Inc.

Ren-Tel Communications

Simply Local Services, Inc.

Smoke Signal Communications

Snappy Phone

Southwest Teleconnect

² See paragraph 6 of Staff's Motion.

³ See paragraph 10 of Staff's Motion.

Sprint Communications Company, L.P.⁴

TCG Kansas City

TCG St. Louis

Tel Com Plus

Teligent, Inc.⁵

Tel-Link

Universal Telephone

U.S. Telco, Inc.

Winstar Wireless, Inc.

WorkNet Communications, Inc.

XO Missouri, Inc.⁶

⁴ See paragraph 11 of Staff's Motion.

⁵ See paragraph 9 of Staff's Motion.

⁶ See paragraph 6 of Staff's Motion.

On August 6, 2001, the Public Counsel filed a request for an extension of the procedural schedule by approximately two weeks in order to allow time for incorporation of the data request answers that Staff seeks to compel. Under the procedural schedule, rebuttal testimony was due to be filed on August 9, 2001. On August 7, 2001, Staff filed its second motion to compel the answers to data requests. Staff also requested that it be granted a waiver of the Commission's rule 4 CSR 240-2.090(8) regarding conference with opposing parties during discovery disputes. On August 8, 2001, the Commission extended the date for the filing of rebuttal testimony to August 16, 2001.

Because of the quickly approaching procedural dates, the Commission has determined that the time for responses to Public Counsel's August 6th and Staff's August 7th motions should be shortened. Therefore, the Commission will direct that any party wishing to file a response to these motions shall do so no later than August 13, 2001.

IT IS THEREFORE ORDERED:

1. That any response to Staff's Second Motion to Compel and the Office of the Public Counsel's Motion for Extension of Time shall be filed no later than 4:00 p.m. on August 13, 2001.
2. That this order shall become effective on August 13, 2001.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Nancy Dippell, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 10th day of August, 2001.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Investigation of the)
State of Competition in the Exchanges of) Case No. TO-2001-467
Southwestern Bell Telephone Company.)

ORDER ADOPTING PROCEDURAL SCHEDULE, GRANTING
INTERVENTIONS, AND GRANTING ENTRIES OF APPEARANCE

On April 2, 2001, the Staff of the Missouri Public Service Commission filed a proposed procedural schedule as directed by the Commission. On April 12, 2001, Southwestern Bell Telephone Company responded favorably to the procedural schedule. No other responses were received. The Commission has reviewed the proposed schedule and finds the dates appropriate for this case. Therefore, The Commission will set the procedural schedule as ordered below.

GTE Midwest Incorporated, d/b/a Verizon Midwest (Verizon), filed an application to intervene on March 19, 2001. Verizon states that it has an interest in the Commission's decision because it is an incumbent basic local exchange carrier that provides service in a franchised territory in which an alternative local exchange carrier is providing service. Verizon argues that no other party will adequately protect its interests in this matter.

The Missouri Independent Telephone Company Group (MITG) of Local Exchange Companies¹ filed an application to intervene on March 28, 2001.

¹ The MITG consists of Alma, Chariton Valley, Choctaw, Mid-Missouri, Modern, MoKan Dial, and Northeast Missouri Rural Telephone Companies.

MITG states that its members have an interest in this proceeding because one or more of the members may elect to become price cap companies under Section 392.245, RSMo. Therefore, MITG states that it is interested in the determination of when effective competition exists. MITG states its interests are different from those of the general public.

On March 23, 2001, Fidelity Communication Services III, Inc. (Fidelity), filed an application to intervene. Fidelity states that it has an interest in this proceeding because it will compete with SWBT as both a facilities-based and a resale provider. Fidelity states that it has an interest that is different from that of the general public and that no other party will adequately represent its interest. Fidelity believes that its intervention is in the public interest because its expertise and experience as a telecommunications provider will aid the Commission in resolving the issues.

IP Communications Corporation, d/b/a IP Communications Corporation of the Southwest (IP), filed a motion to intervene on April 2, 2001. IP stated that it is concerned that the issues being decided in this case may adversely affect IP and its customers, and therefore, it should be allowed to intervene. IP states that its interest is different from that of the general public and that its intervention is in the public interest because of its "different perspective." IP states that no other party will adequately protect its interests.

The Commission received no objections or responses to any of the requests to intervene. The Commission has reviewed the applications and motion to intervene and finds that they are in substantial compliance with Commission rules regarding intervention and that Verizon, MITG, Fidelity,

and IP each have an interest in this matter which is different from that of the general public. The Commission concludes that the requests for intervention should be granted.

The Commission received requests for leave to appear from nonresident attorneys: Michael C. Sloan and Paul B. Hudson on behalf of Allegiance Telecom of Missouri, Inc.; Bradley R. Kruse on behalf of McLeodUSA Telecommunications Services, Inc.; Stephen D. Minnis on behalf of Sprint Telecommunications Company, L.P.; and Stephen F. Morris on behalf of Brooks Fiber Communications of Missouri, Inc., MCI Metro Access Transmission Services, LLC, and MCI WorldCom Communications, Inc. Mary Ann (Garr) Young has entered her appearance as local counsel simultaneously with Mr. Sloan, Mr. Hudson, and Mr. Kruse's requests. Paul H. Gardner entered his appearance as local counsel simultaneously with Mr. Minnis' request. Carl J. Lumley entered his appearance as local counsel simultaneously with Mr. Morris' request. In addition, the requests are in substantial compliance with Commission rule 4 CSR 240-2.040(C). Therefore, the Commission will grant leave for Mr. Sloan, Mr. Hudson, Mr. Kruse, Mr. Minnis, and Mr. Morris to appear.

IT IS THEREFORE ORDERED:

1. That the following procedural schedule is adopted for this case:

Direct testimony by SWBT	-	June 28, 2001 4:00 p.m.
Rebuttal testimony	-	August 9, 2001 4:00 p.m.
Prehearing conference	-	August 24, 2001 10:00 a.m.

Surrebuttal testimony	-	September 11, 2001 4:00 p.m.
Proposed list of issues and order of witnesses	-	September 14, 2001 4:00 p.m.
Statements of position	-	September 18, 2001 4:00 p.m.
Hearing	-	September 24-28, 2001 8:30 a.m.

The prehearing conference and the evidentiary hearing will be held in the Commission's offices in the Governor Office Building, Room 310, 200 Madison Street, Jefferson City, Missouri, a building that meets accessibility standards required by the Americans with Disabilities Act. If any person needs additional accommodations to participate in this hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or 1-800-829-7541 (TDD) prior to the hearing.

2. That the application to intervene of GTE Midwest Incorporated, d/b/a Verizon Midwest, is granted.

3. That the application to intervene of The Missouri Independent Telephone Company Group is granted.

4. That the application to intervene of Fidelity Communication Services III, Inc., is granted.

5. That the motion to intervene of IP Communications Corporation, d/b/a IP Communications of the Southwest, is granted.

6. That the petition for leave to appear of Michael C. Sloan on behalf of Allegiance Telecom of Missouri, Inc., is granted.

7. That the petition for leave to appear of Paul B. Hudson on behalf of Allegiance Telecom of Missouri, Inc., is granted.

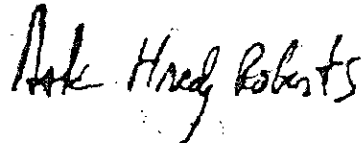
8. That the petition for leave to appear of Bradley R. Kruse on behalf of McLeodUSA Telecommunications Services, Inc., is granted.

9. That the petition for leave to appear of Stephen D. Minnis on behalf of Sprint Communications Company, L.P., is granted.

10. That the request for leave to appear of Stephen F. Morris on behalf of Brooks Fiber Communications of Missouri, Inc., MCImetro Access Transmission Services, LLC, and MCI WorldCom Communications, Inc., is granted.

11. That this order shall become effective on May 10, 2001.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Nancy Dippell, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 30th day of April, 2001.

OF THE STATE OF MISSOURI

In the Matter of the Investigation of the State of)
Competition in the Exchanges of Southwestern Bell) **Case No. TO-2001-467**
Telephone Company.)

ORDER EXTENDING PROCEDURAL SCHEDULE

On August 6, 2001, the Office of the Public Counsel filed a Motion to Extend Procedural Schedule, requesting that the Commission extend the procedural schedule for two weeks. Public Counsel proposes to extend the time to file rebuttal testimony from August 9, 2001, to August 23, 2001; to extend the deadline for filing of surrebuttal testimony from September 11, 2001, to September 25, 2001; and reschedule the hearing dates from September 24-28, 2001, to October 9-12, 2001.

Public Counsel notes that it has contacted counsel of record concerning this proposed extension and the following parties have advised Public Counsel that they do not object to the requested modification of the procedural schedule: McLeodUSA Telecommunications Services, Inc.; IP Communications Corporation, d/b/a IP Communications Corporation of the Southwest; NuVox Communications of Missouri, Inc.; AT&T Communications of the Southwest, Inc.; Allegiance Telecom of Missouri; WorldCom, Inc.; XO Missouri, Inc.; Mpower Communications Corporation; Sprint Communications Company, L.P.; SWBT; and the Commission Staff. However, counsel for SWBT indicated that if the hearing dates were postponed past October 12, 2001, counsel would have significant scheduling problems.

The Commission notes that the August 9, 2001, deadline for filing of rebuttal testimony is imminent. Thus, the Commission will extend the deadline for filing of rebuttal testimony to August 16, 2001, while it reviews and considers the Motion to Extend Procedural Schedule. The remaining procedural dates are unchanged.

IT IS THEREFORE ORDERED:

1. That the deadline for filing of rebuttal testimony is extended from August 9, 2001, to August 16, 2001.
2. That this order shall become effective on August 16, 2001.

BY THE COMMISSION



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

(S E A L)

Vicky Ruth, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 8th day of August, 2001.

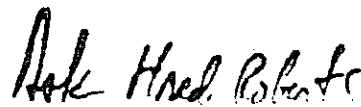
**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Investigation of the State of Competition) Case No. TO-2001-467
in the Exchanges of Southwestern Bell Telephone Company.)

NOTICE OF CORRECTION

In Ordered Paragraph 1 of the Order Granting Leave to Withdraw as Counsel and Granting Entries of Appearance issued June 15, 2001, the company name "OX Missouri, Inc." is corrected to read "XO Missouri, Inc."

BY THE COMMISSION



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

(S E A L)

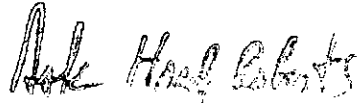
Dated at Jefferson City, Missouri,
on this 18th day of June, 2000.

Dippell, Senior Regulatory Law Judge

2. That the request of Cathleen A. Martin for leave to withdraw as counsel for XO Missouri, Inc., is granted.

3. That this order shall become effective on August 17, 2001.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Nancy Dippell, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 7th day of August, 2001.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Investigation of the State of Competition) Case No. TO-2001-467
in the Exchanges of Southwestern Bell Telephone Company.)

ORDER GRANTING LEAVE TO WITHDRAW AS COUNSEL
AND GRANTING ENTRIES OF APPEARANCE

On May 4, 2001, Lisa Creighton Hendricks entered her appearance in this case as counsel for Sprint Communications Company, L.P. (Sprint). Subsequently, Stephen D. Minnis requested leave to withdraw as counsel for Sprint pursuant to Commission rule 4 CSR 240-2.040. The Commission finds that the entry of appearance and the request for leave to withdraw are in compliance with the Commission's rules and should be granted.

On May 17, 2001, Cathleen Martin entered her appearance on behalf of XO Missouri, Inc. f/k/a NEXTLINK Missouri, Inc. The Commission finds the entry of appearance is in compliance with the Commission's rules and therefore should be granted.

IT IS THEREFORE ORDERED:

1. That the following entries of appearance as counsel are granted:

On behalf of Sprint Communications, L.P.:

Lisa Creighton Hendricks, Esq.
5454 West 110th Street
Overland Park, Kansas 66211

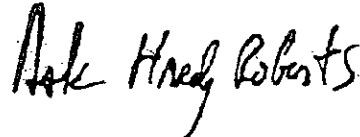
On behalf of OX Missouri, Inc.:

Cathleen A. Martin, Esq.
Newman, Comley & Ruth, P.C.
601 Monroe Street, Suite 301
Post Office Box 537
Jefferson City, Missouri 65102-0537

2. That the request of Stephen D. Minnis for leave to withdraw as counsel for Sprint Communications Company, L.P., is granted.

3. That this order shall become effective on June 25, 2001.

BY THE COMMISSION



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

(S E A L)

Nancy Dippell, Senior Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

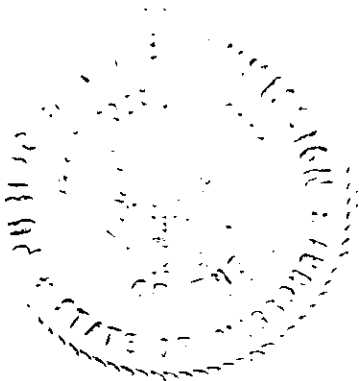
Dated at Jefferson City, Missouri,
on this 15th day of June, 2001.

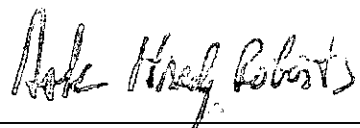
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 15th day of August 2001.





Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge