

**BEFORE MISSOURI THE PUBLIC SERVICE COMMISSION**

In the Matter of a Commission Inquiry into     §  
the Possibility of Impairment without     §  
Unbundled Local Circuit Switching When     §  
Serving the Mass Market     §

Case No. TO-2004-0207

**RESPONSE OF BIG RIVER TELEPHONE AND SOCKET TELECOM TO SBC'S  
RESPONSE TO ORDER DIRECTING FILING**

Come Now Big River Telephone Company, LLC and Socket Telecom, LLC ("Missouri CLECs") pursuant to Commission order herein and 4 CSR 240-2.080(15) and for their Response to SBC Missouri's ("SBC's") Response to Order Directing Filing<sup>1</sup> respectfully state to the Commission as follows.

**I. Response to Impairment Issues**

Missouri CLECs respectfully offer the following responses to the impairment issues that the Commission identified in Paragraph 8 of its Order Creating Case and Establishing Initial Filing Deadlines:

- a. The incumbent local exchange carrier's ("ILEC's") proposal for geographically defining the market;

In its Triennial Review Order ("TRO"), the Federal Communications Commission ("FCC") directed state commissions to determine whether competing carriers are impaired without access to unbundled circuit switching for mass market customers. TRO, para. 493.

As directed by the FCC, in order to apply the mass market switching triggers, the Commission must determine the appropriate geographic market areas. In the TRO, the FCC recognized the need to be very specific in market assessments by requiring that each market must be smaller than the entire state.

Consistent with the FCC's TRO, Missouri CLECs believe that the market areas identified by the Commission need to be small enough to ensure that large numbers of mass market consumers are not unintentionally left without alternatives for basic local telephone service. Metropolitan Statistical Areas ("MSAs") are simply too large to make meaningful determinations of impairment.

It is most appropriate that the Commission establish geographic market areas at a wire center level. It is at the wire center, where alternative switching is either available or not. It is at the wire center where competitors are going to be impaired in providing local switching, or not.

- b. The ILEC's proposal for defining the appropriate DS0/DS1 cross-over between the mass market and the enterprise market;

Pursuant to Rule 319(d)(2)(iii)(B)(4), the state commission is to determine the appropriate DS0 cutoff, which the Triennial Review Order defines as the maximum number of DS0 loops below the cross over point "where it makes economic sense for the multi-line customer to be served via a DS1 loop". Above the cutoff level, the multi-line customer is considered to be a part of the enterprise market, while at or below the cutoff the multi-line customer is considered to be a part of the mass market when analyzing impairment for unbundled local switching.

It is most appropriate that the cross over point be established at 12 DS0s. Too low of a cross over point will result in many mass market local telephone service consumers having no viable alternative to the incumbent telephone service provider. The determination of

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<sup>1</sup> To the extent CenturyTel's Response overlaps SBC's Response, Missouri CLECs' positions are the same.

the cross over point for providing service via DS1 is especially critical in rural areas served by Missouri CLECs.

- c. The geographic areas where the ILEC will be challenging impairment based on its response to Nos. 1 and 2;

Missouri CLECs do not believe that SBC has properly defined the market and oppose SBC's request for relief.

- d. The competitor(s) that the ILEC asserts satisfies the impairment triggers for mass market switching in each geographic market;

Missouri CLECs take no position on this issue at this time.

- e. The specific routes where the ILEC will be challenging the finding of impairment for dedicated transport;

SBC has failed to meet its burden for challenging the FCC's national impairment finding for dedicated transport for the routes that SBC identified in its November 12<sup>th</sup> filing.

Specifically, SBC alleges without proper evidentiary support or explanation that the FCC's triggers have been met in the specified routes. SBC's pleading is ambiguous as to the specific relief that it seeks (i.e. SBC has improperly lumped together different types of transport that are subject to different standards under the FCC's order). Therefore, Missouri CLECs respectfully urge the Commission to affirm the FCC's finding that all CLECs are impaired without access to dedicated transport in Missouri.

- f. The identity of the competitor(s) that the ILEC asserts satisfies the impairment triggers for dedicated transport; and

SBC fails to provide proper evidentiary support to establish that competitors satisfy the FCC's impairment triggers in the specified routes. For example, SBC fails to identify carriers for the specified routes. (A general list of carriers that allegedly provide transport in Missouri is

insufficient.) Therefore, the FCC's national impairment finding for dedicated transport applies in Missouri.

- g. The specific customer locations where the ILEC will be challenging the finding of impairment for enterprise loops.

SBC has failed to meet its burden for challenging the FCC's national impairment finding for enterprise loops for the customer locations that SBC identified in its November 12<sup>th</sup> filing. Specifically, SBC alleges without proper evidentiary support that the FCC's triggers have been met in the specified customer locations. SBC's pleading is ambiguous as to the specific relief that it seeks (i.e. SBC has improperly lumped together different types of loops that are subject to different standards under the FCC's order). Additionally, SBC fails to identify carriers for the specified locations. Therefore, Missouri CLECs respectfully urge the Commission to affirm the FCC's finding that all CLECs are impaired without access to enterprise loops in Missouri.

## **II. Response to SBC's Batch Hot Cut Proposal**

Missouri CLECs take no position on this issue at this time.

Missouri CLECs reserve the right to respond to any change in position presented by SBC under the various reservation of rights found throughout SBC's Response. Further, given the high-level perspective offered by the legal conclusions in SBC's Response, Missouri CLECs reserve the right to respond to any more specific arguments that may be presented.

CURTIS, OETTING, HEINZ,  
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/s/ Carl J. Lumley

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**Certificate of Service**

A true and correct copy of the foregoing was served upon the parties identified on the attached service list on this 17th day of November, 2003, by placing same in the U.S. Mail, postage paid.

/s/ Carl J. Lumley

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