

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

In the Matter of the Request of Southwestern Bell)	
Telephone, L.P., d/b/a SBC Missouri, for Competitive)	Case No. TO-2006-0102
Classification Pursuant to Section 392.245.6,)	Tariff File No. YI-2006-0145
RSMo (2005) - 60-Day Petition.)	

**SBC MISSOURI'S COMMENTS ON STAFF'S
LATE FILED EXHIBIT 11(HC)**

SBC Missouri,¹ pursuant to the Missouri Public Service Commission's ("Commission's") directive during the hearing,² respectfully submits the following Comments concerning Staff's Late Filed Exhibit 11(HC), which was submitted to the Commission on October 19, 2005.

1. Confirmation of All 51 Residential Exchanges. Without even considering the numerous wireless carriers and VoIP providers utilizing third-party broadband services, the data provided by Staff in Exhibit 11(HC) demonstrates that the 60-day criteria has been met in all 51 of the requested exchanges for residential service. For each requested exchange, Exhibit 11(HC) shows there are multiple CLECs providing service (using commercial agreements or UNE-P) to "2 or more residential customers whose addresses are within the exchange." Nearly 90% of those exchanges have three or more such CLECs, and 75% have five or more.³ Staff's exhibit provides evidence in addition to that provided by SBC Missouri demonstrating compliance with the statutory criteria for competitive classification.

2. Confirmation of All 30 Business Exchanges. The data provided by Staff in Exhibit 11(HC) provides an additional source of information confirming SBC Missouri's evidence and demonstrating that the 60-day criteria has been met in all of the 30 requested exchanges for business

¹ Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, will be referred to in this pleading as "SBC Missouri."

² T. 286-287,

³ See, Late Filed Exhibit 11(HC), Attachments 2-5 through 2-11 (pp. 1-7 of the spreadsheet for 60-day residential exchanges).

service. In all but five⁴ of those exchanges, Exhibit 11(HC) shows that there are multiple CLECs providing service (using commercial agreements or UNE-P) to “2 or more business customers whose addresses are within the exchange” without even considering wireless providers and VoIP providers. Nearly 75% of the 30 exchanges have three or more such CLECs and half have five or more.⁵

With respect to the five exchanges for which Staff could not confirm that there were at least two such CLECs, Staff’s filing does show that there was at least one CLEC in each of those five exchanges providing service (using commercial agreements or UNE-P) to “2 or more business customers whose addresses are within the exchange.”⁶ When considered along with the many wireless carriers providing service in each of these five exchanges (and the many qualifying VoIP providers serving one of those exchanges),⁷ Exhibit 11(HC) also provides an independent source demonstrating that SBC Missouri has met the 60-day criteria in these five exchanges for business service.

3. Exhibit 11(HC) Is Consistent with Staff’s and SBC’s Data. Staff’s late filed exhibit provides an independent source of information verifying the bulk of the evidence previously submitted by SBC Missouri. Where there is a difference between Staff’s information and the evidence submitted by SBC Missouri, the Commission should conclude that SBC Missouri’s information demonstrating that CLECs are providing services in the designated exchanges is accurate and correct. SBC Missouri’s evidence is based on its billing records, and SBC Missouri is in a position to accurately identify the services it is providing to CLECs in each

⁴ These five business exchanges are Archie, Billings, Chaffee, Portage Des Sioux, and Ware.

⁵ See, Late Filed Exhibit 11(HC), Attachments 2-1 through 2-4 (pp. 1-4 of the spreadsheet for 60-day business exchanges).

⁶ See, Late Filed Exhibit 11(HC), Attachments 2-1 and 2-4 (pp. 1 and 4 of the spreadsheet for 60-day business exchanges).

⁷ See, Ex. 3, Unruh Rebuttal, Revised Schedule 2(NP).

exchange. To the extent there are differences in SBC Missouri's data and that produced by Staff, the differences may be related to the question posed by the Staff. Exhibit 11(HC), which consists of a chart for the 60-day business exchanges and a chart for the 60-day residence exchanges, addresses a very specific and narrow question: "Does the CLEC indicate it serves 2 or more [business or residential] customers whose addresses are within the exchange?" Accordingly, these two charts list, for each requested exchange:

- the individual CLECs with commercial agreements;
- the individual CLECs utilizing UNE-P; and
- whether each CLEC "serves 2 or more [business or residential] customers whose addresses are within the exchange," (indicated either through a "yes" or a "no").

A "yes" entry means that the CLEC indicated it serves two or more business or residential customers whose addresses are within the exchange. But a "no" does not mean that the CLEC does not serve any customers within the exchange. Rather, it only means that the CLEC indicated it does not serve two or more business or residential customers in the exchange. As discussed at the hearing, a CLEC may serve only one large multi-line business customer in an exchange. In that situation, the CLEC would answer Staff's question in Exhibit 11(HC) with a "no." Thus, any "no" responses by CLECs listed in Exhibit 11(HC) do not contradict evidence previously supplied by SBC Missouri and Staff showing these CLECs as providing service in an exchange.

SBC Missouri would also note its disagreement with any claim that the 60-day criteria requires a competitor to have two or more customers in an exchange before it can be counted. That is not the statutory standard. Section 392.245.5 states that:

Each telecommunications service offered to business customers, other than exchange access service, of an incumbent local exchange telecommunications company regulated under this section shall be classified as competitive in any exchange in which at least two non-affiliated entities in addition to the incumbent local exchange

company are providing basic local telecommunications service to business customers within the exchange.⁸

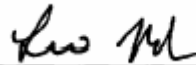
Thus, even if two CLECs had only one customer apiece in a particular exchange, the ILEC would qualify for competitive classification in that exchange because two “non-affiliated entities” are providing service “to customers within the exchange.”

Moreover, the Commission should be aware that Exhibit 11(HC) reflects only CLECs providing service using a commercial agreement or UNE-P. It does not reflect CLECs providing service using UNE-L (i.e., the CLEC’s own switch and loops from SBC Missouri). The Commission should note that in three of the five exchanges listed in Exhibit 11(HC) in which Staff determined that only one CLEC was “serving 2 or more business customers in an exchange,” one or more CLECs are also providing service using UNE-L. The presence of UNE-L competitors is not reflected in Exhibit 11(HC), but these three exchanges are included in the group of 15 exchanges for which Staff has recommended competitive classification for business services under the 30-day criteria.⁹

Respectfully submitted,

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⁸ Section 392.245.5 RSMo (2005) (emphasis added).

⁹ The three exchanges Staff found qualify for competitive classification for business services under the 30-day criteria are: Archie, Billings and Chaffee. Ex. 6, Van Eschen Rebuttal, p. 10.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were served to all parties by e-mail on October 21, 2005.



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