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December 4, 1998

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
301 West High Street, Floor 5A
Jefferson City, Missouri 65101

FILED

DEC 4 1998

Missouri Public
Service Commission

Re: Case No. TO-99-227

Dear Judge Roberts:

Enclosed for filing with the Commission in the above-referenced case is an original and 14 copies of Response Of Southwestern Bell Telephone Company To The Staff Of The Missouri Public Service Commission's Motion To Consolidate Or In The Alternative To Reject Filing, MCI Telecommunications Corporation's Motion To Reject Filing Or Require Service, And AT&T Communications Of The Southwest, Inc., TCG St. Louis, Inc. and TCG Kansas City, Inc.'s Application To Intervene And Motion For Entry Of Procedural Schedule.

Thank you for bringing this matter to the attention of the Commission.

Very truly yours,

A handwritten signature in cursive script that reads "Anthony K. Conroy".

Anthony K. Conroy

Enclosure

cc: Attorneys of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

DEC 4 1998

Application of Southwestern Bell Telephone)
Company to Provide Notice of Intent to File an)
Application for Authorization to Provide In-Region)
InterLATA Services Originating in Missouri)
Pursuant to Section 271 of the Telecommunications)
Act of 1996.)

Missouri Public
Service Commission
Case No. TO-99-227

**RESPONSE OF SOUTHWESTERN BELL TELEPHONE COMPANY
TO THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION'S
MOTION TO CONSOLIDATE OR IN THE ALTERNATIVE TO REJECT FILING,
MCI TELECOMMUNICATIONS CORPORATION'S MOTION TO REJECT FILING
OR REQUIRE SERVICE, AND AT&T COMMUNICATIONS OF THE SOUTHWEST,
INC., TCG ST. LOUIS, INC. AND TCG KANSAS CITY, INC'S APPLICATION TO
INTERVENE AND MOTION FOR ENTRY OF PROCEDURAL SCHEDULE**

COMES NOW Southwestern Bell Telephone Company (SWBT) and files its Response to the Staff (Staff) of the Missouri Public Service Commission's (Commission's) Motion to Consolidate or in the Alternative to Reject Filing (Staff's Motion to Consolidate), MCI Telecommunications Corporation's (MCI's) Motion to Reject Filing or Require Service, and AT&T Communications of the Southwest, Inc.'s (AT&T's) Application to Intervene and Motion for Entry of Procedural Schedule (Application).

1. SWBT's Response to Staff's Motion to Consolidate

In its Motion to Consolidate, Staff urges the Commission to consolidate this case with Case No. TO-97-56, in which MCI asked the Commission to require SWBT to provide the Commission 90 days advance notification before SWBT filed an application for authority to provide in-region, interLATA services in Missouri with the FCC. SWBT did not object to MCI's Motion for Advance Notice in Case No. TO-97-56, and approximately 14 months ago, on September 25, 1997, the Commission issued an Order granting MCI's Motion for Advance Notice but extended the advance notification to 120 days.

SWBT filed its Application to Provide Notice of Intent to File an Application for Authorization to Provide In-Region, InterLATA Services Originating in Missouri Pursuant to Section 271 of the Telecommunications Act of 1996 (Application) on November 20, 1998. Staff, and the Office of Public Counsel were served with a copy of SWBT's Application on November 20, 1998. SWBT did not understand the Commission's Order granting MCI's Motion for Advance Notice to require SWBT to make its filing in TO-97-56. Rather, the Commission directed SWBT to "advise this Commission and the parties to this case, by means of an appropriate pleading, 120 days before it files its application with the FCC."

SWBT believes that its Application, filed on November 20, 1998, is an "appropriate" pleading by which SWBT is providing 120 days advance notice to the Commission that it intends to file an application with the FCC for authority to provide in-region, interLATA services originating in Missouri. Nor did SWBT understand the Commission's Order to require it to provide the several thousand pages of its November 20, 1998 Application to all parties to Case No. TO-97-56. SWBT did, however, make the multi-volume set of materials comprising its 271 Application available to all companies which requested it. AT&T received a copy on November 24, 1998, while a copy was served on MCI via UPS on November 24, 1998. SWBT also sent copies of its Application via UPS to Sprint on November 24 and to Birch Telecom (a non-party to the case) on November 30, 1998. In response to the various motions filed in this case, SWBT hereby certifies to the Commission that as of December 2, 1998, it has served, by overnight delivery service, copies of its November 20, 1998, Application to counsel for all parties of record in Case No. TO-97-56.

Given that SWBT has fully complied with Staff's interpretation of the Commission's Order granting MCI's Motion for Advance Notice in Case No. TO-97-56, SWBT agrees with Staff that Case No. TO-97-56 may now be consolidated into Case No. TO-99-227. Alternatively, the Commission may now appropriately close Case No. TO-97-56 and address SWBT's Application in this proceeding.

Finally, SWBT categorically denies Staff's assertion that "[B]y filing this Section 271 application as a new case, with a new case number, SWBT has attempted to circumvent the intent of the Commission's September 25, 1997 Order." The intent of the Commission's Order in Case No. TO-97-56 was for SWBT to provide 120 days advance notice to the Commission of its intent to file an application for authority to provide in-region, interLATA services originating in Missouri with the FCC. SWBT's November 20, 1998, Application did exactly that. SWBT's November 20, 1998, Application received extensive media attention. Several entities requested copies of SWBT's November 20, 1998 Application, and SWBT immediately provided copies of its Application to such requesting parties. The remaining parties of record in Case No. TO-97-56 who did not contact SWBT were served with a copy of SWBT's Application no later than December 2, 1998. Furthermore, as requested by SWBT and as ordered by the Commission in Case No. TO-97-56, SWBT anticipates that the Commission will join as a party to this case all certificated basic local exchange telecommunications providers, and all entities that have applied for such certification as of November 20, 1998.

SWBT respectfully requests that the Commission grant Staff's Motion to Consolidate and either consolidate Case No. TO-97-56 into Case No. TO-99-227 or simply close Case No.

TO-97-56. SWBT respectfully requests that the Commission deny Staff's alternative motion to reject SWBT's November 20, 1998 Application.

2. SWBT's Response to MCI's Motion to Reject Filing or Require Service

In its Motion, MCI requests that the Commission reject SWBT's November 20, 1998, Application because MCI did not receive SWBT's filing until after 2:00 p.m. on November 25, 1998 (i.e., five days after this voluminous pleading was filed with the Commission.

Alternatively, MCI asks the Commission to require SWBT to certify that it has served its filing on all parties to Case No. TO-97-56 and order that the 120 day advance notice period will not commence until such certification is filed.

SWBT cannot ascertain from MCI's Motion which counsel for MCI claims to have made "multiple requests" for a copy of SWBT's November 20, 1998 filing. Counsel for SWBT received one request from MCI for a copy of SWBT's Application and SWBT served MCI with such copy, by UPS delivery, on Tuesday, November 24, 1998. Counsel for SWBT is unaware of any counsel for MCI "reminding" SWBT of an obligation to serve the parties to Case No. TO-97-56 with a copy of SWBT's November 20, 1998 Application in Case No. TO-99-227. Nevertheless, as described above, SWBT has now certified to the Commission that as of December 2, 1998, it has served all parties to Case No. TO-97-56 with a copy of SWBT's November 20, 1998, Application.

SWBT respectfully requests that the Commission deny MCI's Motion to Reject SWBT's November 20, 1998 Application. SWBT respectfully suggests to the Commission that MCI's alternative motion to require SWBT to serve its November 20, 1998, Application on all parties

to Case No. TO-97-56 is moot, as SWBT has already done so and as described above certified to the Commission such service.

3. SWBT's Response to AT&T's Application to Intervene and Motion for Entry of Procedural Schedule

In its Application to Intervene and Motion for Entry of Procedural Schedule, AT&T claims that as of November 24, 1998, it has not yet been provided with a copy of SWBT's November 20, 1998 Application. AT&T is apparently attempting to mislead the Commission. SWBT provided a copy of its November 20, 1998, Application in Case No. TO-99-227 to a representative of AT&T on November 24, 1998. Furthermore, the Commission should be very circumspect of AT&T's claims that SWBT's "tactics" have "delayed" AT&T's opportunity to review SWBT's November 20, 1998 Application. As described above, AT&T received a copy of SWBT's Application on November 24, 1998. Furthermore, AT&T has participated in very similar parallel proceedings involving SWBT in other states, (as AT&T itself acknowledges) and will obviously have no difficulty presenting its views in this case.

With respect to the procedural schedule proposed by AT&T, SWBT would point out that AT&T's proposal appears to be designed to favor the opponents of SWBT, including AT&T. For instance, AT&T proposes that SWBT not be permitted to file surrebuttal testimony in response to AT&T's rebuttal testimony. This proposal violates the most basic principles of fair play and due process. Nor does AT&T's proposal permit the Commission to do justice to the task at hand. The Commission will clearly be in a better position to assess the merits of SWBT's

entry into the long distance market if the Commission is informed by SWBT's response to objections raised by various parties.¹

Counsel for the Commission Staff has advised SWBT that Staff proposes the following procedural schedule in this case:

January 12, 1999	Rebuttal Testimony Due
January 26, 1999	Surrebuttal Testimony of SWBT Due
February 1-2, 1999	Prehearing Conference
February 3, 1999	Hearing Memorandum Due
February 8-12, 1999	Hearing Dates (expedited transcripts requested)
February 26, 1999	Initial Briefs Due
March 9, 1999	Reply Briefs Due
March 19, 1999	Commission Order Issued
March 29, 1999	Effective Date of Commission Order

Counsel for Staff has authorized SWBT to present Staff's proposed schedule to the Commission. SWBT has reviewed Staff's proposed procedural schedule and agrees that it is appropriate for this case. SWBT would encourage the Commission to adopt Staff's proposed procedural schedule, or in the alternative, schedule an early prehearing conference as soon as possible with a view to adopting a similar procedural schedule as quickly as possible.

Respectfully submitted,
SOUTHWESTERN BELL TELEPHONE COMPANY

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¹AT&T can not legitimately contend that SWBT is intending to sandbag the process through surrebuttal testimony given its extremely detailed and voluminous testimony in support of its Application.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served, first class mail postage prepaid, to all parties on the Service List on December 4, 1998.



Anthony K. Conroy

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