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September 4, 1997

Mr. Cecil I. Wright
Executive Secretary
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Case No. TO-98-21

Dear Mr. Wright:

Enclosed for filing in the above-captioned case are an original and fourteen (14) conformed copies of **THE STAFF'S SUGGESTIONS IN OPPOSITION TO SOUTHWESTERN BELL'S MOTION TO DISMISS AND OPPOSITION TO APPLICATION TO INTERVENE.**

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Marc Poston

Marc Poston
Assistant General Counsel
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MP/bsl

Enclosures

cc: Counsel of Record

FILED
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3. On August 25, 1997, SWBT filed a Motion to Dismiss and Opposition to Application to Intervene. In its Motion, SWBT stated that on July 3, 1997 the United States Court of Appeals for the 8th Circuit had vacated FCC Rule 51.303 and the FCC's policy statements requiring that certain carriers file preexisting agreements with State Commissions for approval.³ SWBT also stated that if the Commission decided that preexisting agreements should be submitted for approval it opposed MCI's Application to Intervene because the Commission's regular practice for review of interconnection agreements is to grant participation without intervention.

4. The Staff agrees with SWBT that Iowa Utilities Board v. FCC allows this Commission, not the FCC, to determine whether certain interconnection agreements must be filed for Commission approval. The Court of Appeals for the 8th Circuit specifically stated that, "section 2(b) forecloses the ability of the Commission [FCC] to determine which interconnection agreements must be submitted for state commission approval"⁴ This Commission has traditionally not required that telecommunications carriers file preexisting agreements for approval; however, the Staff believes that the Commission should require that these agreements be filed. As the traditionally monopolistic local telephone industry opens to competition, it will be beneficial to Missourians if preexisting interconnection agreements between incumbent companies are subject to the same regulatory scrutiny as new agreements between competitive companies and incumbents. Making such agreements open to public scrutiny and subject to Commission approval insures that secret monopoly-to-monopoly agreements are not, and can not become, a barrier to entry and operation.

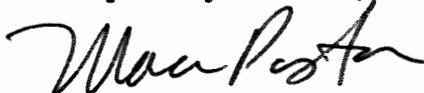
³ See Iowa Utilities Board v. FCC, 1997 U.S. App. LEXIS 18, 183 (8th Cir., July 18, 1997).

⁴ 1997 U.S. App. LEXIS 18, 183 at *53-54 (8th Cir., July 18, 1997).

5. If the Commission determines that preexisting agreements should be submitted for its approval, the Staff agrees with SWBT that MCI should be granted participation without intervention, consistent with other interconnection reviews.

WHEREFORE, the Staff respectfully requests that the Commission deny SWBT's Motion to Dismiss and grant MCI participation without intervention.

Respectfully submitted,



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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 4th day of September, 1997.



Service List
Case No. TO-98-21
Revised: September 4, 1997

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