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August 17, 1999

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

AUG 18 1999

Missouri Public
Service Commission

Re: Case No. TO-2000-6

Dear Judge Roberts:

Enclosed for filing with the Missouri Public Service Commission in the above-referenced case is an original and 14 copies of Southwestern Bell Telephone Company's Statement Of Position.

Please stamp "Filed" on the extra copy and return the copy to me in the enclosed self-addressed, stamped envelope.

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

AUG 18 1999

**Missouri Public
Service Commission**

In the Matter of the Application of Birch)
Telecom of Missouri, Inc., for Approval)
of Interconnection Agreement under the)
Telecommunications Act of 1996.) Case No. TO-2000-6

**SOUTHWESTERN BELL TELEPHONE COMPANY'S
STATEMENT OF POSITION**

1. On July 2, 1999, Birch Telecom of Missouri, Inc. (Birch) filed its Application for Approval of Interconnection Agreement under the Telecommunications Act of 1996. On July 12, 1999, the Commission issued its Order Directing Notice and Making Southwestern Bell Telephone Company (SWBT) a party.

2. The interconnection agreement which is the subject of Birch's application was arrived at pursuant to Section 252(i) of the Telecommunications Act and is an "MFN" into the SWBT/AT&T of the Southwest, Inc. (AT&T) Missouri interconnection agreement.

3. In this Statement of Position, SWBT seeks to draw to the Missouri Public Service Commission's (Commission's) attention its concern about Section 252(i) agreements premised on the arbitrated SWBT/AT&T agreement. When approved, the SWBT/Birch agreement submitted in this case will replace in its entirety the arbitrated interconnection agreement between SWBT and Birch which was submitted to the Commission on May 26, 1998, and deemed approved by the Commission on June 25, 1998. The new SWBT/Birch interconnection agreement submitted herein was entered into pursuant to Section 252(i) of the Act and is nearly identical to the SWBT/AT&T interconnection agreement. This Birch agreement was not negotiated. SWBT signed the agreement only because it is required to do so under the Act and in light of the Commission's decision in TO-98-200 (MCI mediation and arbitration). The underlying SWBT/AT&T agreement was a product of negotiations and arbitrations in Commission Case Nos. TO-97-40 and TO-97-67 (the Initial

AT&T Arbitration) and Case No. TO-98-115 (the Second AT&T Arbitration). The Commission Orders in the Initial and Second AT&T Arbitrations are the subject of appeals.

4. Pursuant to the Commission's finding in its July 22, 1998 Report and Order in Case No. TO-98-200 (MCI mediation and arbitration), a party adopting an agreement pursuant to Section 252(i) of the Act cannot obtain greater rights than the parties to that agreement. Accordingly, even though the SWBT/Birch agreement is an MFN into the SWBT/AT&T agreement, in the event of any amendment of the underlying SWBT/AT&T agreement, or any administrative, regulatory, legislative or judicial order, rule, opinion or other legal action, (collectively, "legal actions") affecting the underlying SWBT/AT&T arguments or any subsequent agreement between SWBT and AT&T, required by or resulting from such legal actions, which revises or modifies SWBT's rights and/or obligations pertaining to any matter contained in the AT&T interconnection agreement (a subsequent development), the relevant provisions of the SWBT/Birch agreement should be deemed automatically modified, amended or conformed to be consistent with such subsequent development.

WHEREFORE, SWBT respectfully requests the Commission to approve the SWBT/Birch agreement subject to the position stated herein.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

BY Anthony Klamay

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CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by first-class, postage prepaid, U.S. Mail on August 17, 1999.

Anthony K. Conroy

Anthony K. Conroy

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