



Martha S. Hogerty
Public Counsel

State of Missouri

Bob Holden
Governor

Office of the Public Counsel
Governor Office Bldg. Suite 650
P. O. Box 7800
Jefferson City, Missouri 65102

Telephone: 573-751-4857
Facsimile: 573-751-5562
Relay Missouri
1-800-735-2966 TDD
1-800-735-2466 Voice

September 18, 2001

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED

SEP 18 2001

**Missouri Public
Service Commission**

**Re: Southwestern Bell Telephone Company,
Case No. TO-2001-467**

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case, please find the original and 8 copies of the **Statement of Position of the Office of the Public Counsel**. I have on this date mailed, faxed, and/or hand-delivered the appropriate number of copies to parties of record. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Very truly yours,

Michael F. Dandino
Senior Public Counsel

MFD:kh

cc: Counsel of Record

Enclosure

SEP 18 2001

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Missouri Public
Service Commission

In the Matter of the Investigation of the)
State of Competition in the Exchanges of)
Southwestern Bell Telephone Company)

Case No. TO-2001-467

STATEMENT OF POSITIONS OF THE OFFICE OF THE PUBLIC COUNSEL

COMES NOW the Office of Public Counsel states to the Missouri Public Service Commission its positions in this case as follows:

1. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's core business switched services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: None. Public Counsel does not believe that the evidence demonstrates that there is effective competition for this SWBT service in any of the SWBT exchanges.
(Meisenheimer Rebuttal, 16-20; surrebuttal 11-13)

2. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's business line related services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: None. Public Counsel does not believe that the evidence demonstrates that there is effective competition for this SWBT service in any of the SWBT exchanges.
(Meisenheimer Rebuttal, 16-20; (Meisenheimer Surrebuttal, 11-13)

3. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's high capacity exchange access line services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: No position, but Public Counsel reserves the right to brief this issue based upon all the evidence adduced at the hearing.

4. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's Plexar services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: None. Public Counsel does not believe that the evidence demonstrates that there is effective competition for this SWBT service in any of the SWBT exchanges. (Meisenheimer Rebuttal, 16-20)

5. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's intraLATA private line/dedicated services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: No position, but Public Counsel reserves the right to brief this issue based upon all the evidence adduced at the hearing.

6. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's residential access line services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: None. Public Counsel does not believe that the evidence demonstrates that there is effective competition for this SWBT service in any of the SWBT exchanges. (Meisenheimer Rebuttal, 11-20; (Meisenheimer Surrebuttal, 2-4)

7. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's residential access line related services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: None. Public Counsel does not believe that the evidence demonstrates that there is effective competition for this SWBT service in any of the SWBT exchanges. (Meisenheimer Surrebuttal, 2-3; Rebuttal 11-20)

8. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's IntraLATA toll services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: There is effective competition for some of SWBT's long distance service offerings. For per-minute offerings, these services may be subject to effective competition sufficient to contain the prices charged to customers and, therefore, may be classified as competitive. Public Counsel does not believe that the evidence demonstrates that there is effective competition for SWBT flat rate toll service in any of the SWBT exchanges. (Meisenheimer Surrebuttal, 7-9)

9. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's Local Plus services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: None. Public Counsel does not believe that the evidence demonstrates that there is effective competition for this SWBT service in any of the SWBT exchanges. Public Counsel does not agree that flat-rated, unlimited use toll offerings should receive a competitive classification. Allowing a competitive status absent effective competition for

these services opens the door for SWBT to increase the price to the detriment of current and potential subscribers. (Meisenheimer Surrebuttal, 7-9; 15-16)

10. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's Optional Metropolitan Calling Area (MCA) services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: None. Public Counsel does not believe that the evidence demonstrates that there is effective competition for this SWBT service in any of the SWBT exchanges. Public Counsel does not agree that flat-rated, unlimited use toll offerings should receive a competitive classification. Allowing a competitive status absent effective competition for these services opens the door for SWBT to increase the price to the detriment of current and potential subscribers. (Meisenheimer Surrebuttal, 7-9; 16-17)

11. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's Wide Area Telecommunications Services (WATS) and 800 services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: Public Counsel does not oppose this service receiving a competitive classification.

in any of the SWBT exchanges. (Meisenheimer surrebuttal, 9)

12. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's special access services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: No position, but Public Counsel reserves the right to brief this issue based upon all the evidence adduced at the hearing.

13. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's switched access services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: None. Public Counsel does not believe that the evidence demonstrates that there is effective competition for this SWBT service in any of the SWBT exchanges.
(Meisenheimer Surrebuttal, 14)

14. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's Common Channel Signaling/Signaling System 7 (SS7) services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: No position, but Public Counsel reserves the right to brief this issue based upon all the evidence adduced at the hearing.

15. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's Line Information Database (LIDB) services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: No position, but Public Counsel reserves the right to brief this issue based upon all the evidence adduced at the hearing.

16. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's directory assistance (DA) services be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: None. Public Counsel does not believe that the evidence demonstrates that there is effective competition for this SWBT service in any of the SWBT exchanges.
(Meisenheimer Rebuttal, 22; (Meisenheimer surrebuttal, 15)

17. In which Southwestern Bell Telephone Company exchanges, if any, should Southwestern Bell's operator services (OS) be classified as competitive pursuant to Section 392.245.5 RSMo. 2000?

OPC: None. Public Counsel does not believe that the evidence demonstrates that there is effective competition for this SWBT service in any of the SWBT exchanges. (Meisenheimer Rebuttal, 22; (Meisenheimer Surrebuttal, 15)

18. In each exchange served by SWBT, which if any alternative local exchange telecommunications company has been certified under Section 392.455 and has provided basic local telecommunications service in that exchange for at least five years (or if none, what is the longest period of time that a certified alternative local exchange company has provided basic local telecommunications service in that exchange)?

OPC: Public Counsel states that SWBT has not presented affirmative evidence that any local exchange company has BOTH been certified under Section 392.455 AND has PROVIDED basic local telecommunications service in any SWBT exchange for 5 years or any defined period. Both of these requisites must be present. Section 392.245.5, RSMo. The filing and approval of a tariff alone is not substantial and competent evidence that the CLEC is actually providing service. The date of the approval of a tariff is not substantial and competent evidence of the date that the CLEC started providing service and does not indicate whether such service is still being provided by that CLEC in a particular exchange. (Meisenheimer Rebuttal, 8-9)

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: 

Michael F. Dandino (24590)

Senior Public Counsel

P.O. Box 7800

Jefferson City, MO 65102

(573) 751-4857

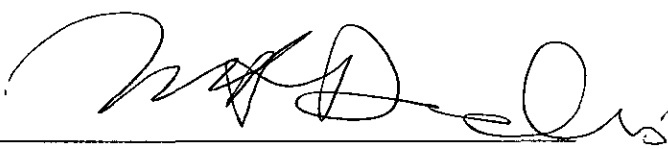
(573) 751-5559

Fax (573) 751-5562

email: mdandino@mail.state.mo.us

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 18th day of September 2001.



Service List
Case No. TO-2001-467
September 18, 2001

General Counsel
Missouri Public Service Commission
P. O. Box 360
Jefferson City MO 65102

Sheldon K. Stock
Greensfelder, Hemker & Gale, P.C.
10 South Broadway, Suite 2000
St. Louis MO 63102-1774

David J. Stueven
IP Communications Corporation
6405 Metcalf, Suite 1202
Overland Park KS 66202

Paul S. DeFord
Lathrop & Gage
2345 Grand Boulevard, Suite 2500
Kansas City, MO 64108

Paul Hudson
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NE Suite 300
Washington DC 20007-5116

Carol Keith
NuVox Communications of Missouri, Inc.
16090 Swingley Ridge Road
Chesterfield, MO 63006

Lisa Creighton Hendricks
Sprint Communications Company, L.P.
5454 West 110th Street
Overland Park KS 66211

Bradley R. Kruse
McLeodUSA Telecommunications Svcs.
6400 C Street, P. O. Box 3177
Cedar Rapids, IA 52406-3177

Thomas R. Parker
Verizon
601 Monroe Street, Suite 304
Jefferson City MO 65101

Lisa Cole Chase
Andereck, Evans, Milne, Peace & Baumhoer
301 E. McCarty
P. O. Box 1438
Jefferson City, MO 65102

Paul G. Lane/Anthony Conroy/
Southwestern Bell Telephone Company
One Bell Center, Room 3520
St. Louis, MO 63101-1976

Kevin K. Zarling
AT&T Communications
919 Congress, Suite 900
Austin, TX 78701

Carl J. Lumley
Curtis, Oetting, Heinz, Garrett & Soule
130 S. Bemiston, Suite 200
Clayton, MO 63105

Mary Ann Young
William D. Steinmeier, P.C.
2031 Tower Drive
P. O. Box 104595
Jefferson City MO 65110-4595

Paul H. Gardner
Goller, Gardner & Feather
131 East High Street
Jefferson City MO 65101

Stephen F. Morris
MCI WorldCom Communications, Inc.
701 Brazos, Suite 600
Austin, TX 78701

Morton J. Posner
Regulatory Counsel
Allegiance Telecom, Inc.
1150 Connecticut Avenue, NW, Suite 205
Washington DC 20036