

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

Staff of the Missouri Public Service Commission,	)	
	)	
	)	
Complainant,	)	
	)	Case No. TC-2002-1076
v.	)	
	)	
BPS Telephone Company	)	
	)	
Respondent.	)	

**SBC MISSOURI'S  
APPLICATION TO INTERVENE**

SBC Missouri,<sup>1</sup> pursuant to Section 386.420 RSMo (2000) and 4 CSR 240-2.075, respectfully seeks to intervene in this proceeding. In support of its application, SBC Missouri states:

1. SBC Missouri is a “local exchange telecommunications company” and a “public utility,” and is duly authorized to provide “telecommunications service” within the State of Missouri as each of those phrases are defined in Section 386.020 RSMo (2000).<sup>2</sup> SBC Missouri’s principal Missouri office is located at One SBC Center, 35<sup>th</sup> Floor, St. Louis, Missouri 63101.

2. All correspondence, pleadings, orders, decisions and communications regarding this proceeding should be sent to:

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Robert J. Gryzmala  
Mimi B. MacDonald  
Attorneys for Southwestern Bell Telephone, L.P.  
One SBC Center, Room 3518  
St. Louis, Missouri 63101

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<sup>1</sup> Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, will be referred to in this pleading as “SBC Missouri.”

<sup>2</sup> All statutory cites are to the Missouri Revised Statutes.

3. This case arose from a May 15, 2002, filing made by the Missouri Public Service Commission's ("Commission's") Staff seeking Authority to File an Excessive Earnings Complaint Against BPS Telephone Company. Since that filing, there has been a considerable amount of litigation, both before the Commission and the Cole County Circuit Court, concerning the possible status of BPS as a price cap company and the Commission's jurisdiction to proceed with an earnings investigation against BPS. On September 2, 2004, the Commission issued an Order in which it established a procedural schedule for this overearnings case that would culminate in an evidentiary hearing January 24-26, 2005.

4. SBC Missouri seeks to intervene in this proceeding because its interests differ from those of the general public. SBC Missouri is one of BPS' largest access service customers (if not the largest customer). SBC Missouri's interests as an access customer of BPS may be adversely affected by a final order arising from this case. No other party to this proceeding will adequately protect SBC Missouri's interest.

5. SBC Missouri has not taken a position on BPS' possible status as a price cap company under Section 392.245 RSMo (2000). This Application is not to be interpreted as SBC Missouri's having taken a position either in favor of or against such a determination by the Commission.

6. SBC Missouri's purpose in filing its Application to Intervene at this point is to secure its participation in BPS' overearnings case in the event it goes forward. SBC Missouri had not sought intervention earlier due to the protracted litigation surrounding BPS' possible status as a price cap company and the Commission's jurisdiction to entertain an overearnings complaint against BPS. But in light of the Commission's September 2, 2004 Order, it appears that the Commission is now going forward with this case.

7. Granting SBC Missouri's Application to Intervene at this point in the proceeding will not harm the interests of any party to the case. SBC Missouri will fully accede to the procedural schedule proposed by the parties and adopted by the Commission. SBC Missouri expects that its participation will be limited to the rate design portion of this case.

8. Granting of this intervention will also be in the public interest because SBC Missouri will bring to this proceeding its expertise in the areas being investigated and its experience as a telecommunications provider.

WHEREFORE, SBC Missouri respectfully requests the Commission to grant this Application to Intervene.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, LP

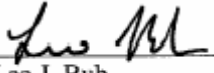
BY  \_\_\_\_\_

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**CERTIFICATE OF SERVICE**

Copies of this document were served on the following parties by e-mail on October 4, 2004.

  
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Leo J. Bub

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