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July 18, 2002

Secretary of the Public Service Commission  
Missouri Public Service Commission  
200 Madison Street, Suite 100  
P.O. Box 360  
Jefferson City, Missouri 65102

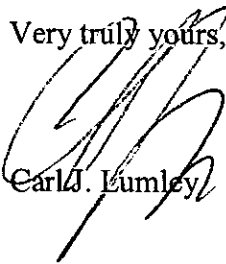
**Via Federal Express**  
**833736654504**

Re: Case No. TO-2001-439

Dear Secretary of the Commission:

Enclosed please find for filing with the Commission an original and nine (9) copies of Response of XO Missouri, Inc., MCI metro Access Transmission Services, LLC, Brooks Fiber Communications of Missouri, Inc., and MCI WorldCom Communications, Inc. to Southwestern Bell Telephone Company's Motion for Approval of Changes to the M2A. Upon your receipt, please file stamp the extra copy received and return to the undersigned in the enclosed, self-addressed, stamped envelope. If you have any questions, please do not hesitate to contact us.

Very truly yours,



Carl J. Lumley

CJL:dn

Enclosures

cc. Parties of Record (W/Enclosure)

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of the Determination of Prices, )  
Terms, and Conditions of Conditioning for ) Case No. TO-2001-439  
xDSL-capable Loops. )

**RESPONSE OF XO MISSOURI, INC.,  
MCI metro ACCESS TRANSMISSION SERVICES, LLC,  
BROOKS FIBER COMMUNICATIONS OF MISSOURI AND  
MCI WORLD COM COMMUNICATIONS, INC.  
TO SOUTHWESTERN BELL TELEPHONE COMPANY'S  
MOTION FOR APPROVAL OF CHANGES TO THE M2A**

COME NOW XO MISSOURI, INC. (“XO”), MCImetro Access Transmission Services, LLC (MCImetro), Brooks Fiber Communications of Missouri, Inc. (Brooks) and MCI WorldCom Communications, Inc. (MCI WorldCom), and for their Response to Southwestern Bell Telephone Company’s (SWBT’s) Motion for Approval of Changes to the M2A state to the Commission:

1. SWBT's proposed changes in some instances go beyond incorporation of the Commission's February 28, 2002 Report and Order. There is no basis for such over-reaching. In other instances, SWBT has failed to address provisions of the Report and Order. The Commission should require and limit changes to the M2A in this context to a complete incorporation of the provisions of its Report and Order, no more and no less.

2. Specifically, in Section 11.4 of Attachment 25, SWBT has deleted language that currently requires it to make “clean loops” (i.e. loops that do not require conditioning) available to CLECs on a non-discriminatory basis, as well as language that prohibits SWBT from giving its affiliates preferential access to “clean loops”. An examination of Section 6.2 demonstrates that provisioning intervals are greater for loops that require conditioning than for loops that are “clean”. While the Report and Order imposes a conditioning charge on all ordered xDSL loops, it did not

require that conditioning activities or longer provisioning intervals will apply to all loops. SWBT should remain obligated to provision clean xDSL loops on a non-discriminatory basis.

3. The Commission did not in any way suggest in the Report and Order that SWBT should be released from its obligation under the M2A (and the Telecommunications Act) to make clean loops available on a non-discriminatory basis. The Commission should reject SWBT's effort to eliminate this particular language under the guise of compliance with the Report and Order.

4. The language that should not be deleted regarding non-discriminatory provisioning of loops is encircled on Exhibit 1 hereto.

5. The language in SWBT's proposed documents should also be clarified in Section 11.4 to reflect that the conditioning charges on loops in excess of 17,500 feet are only applicable (and conditioning will accordingly be provided) when such conditioning is requested and provided. The charges should apply to loops "provisioned" rather than "ordered" (this requires changes in several places). Further, the following language should be inserted immediately after the rate table on page 20 of 22: "Upon CLEC request, SWBT will remove load coils, excessive bridged tap, and repeaters located beyond 17,500 feet of the serving central office." Similar language already introduces the first rate table.<sup>1</sup> Further, the language "that require the specific conditioning listed" should be retained in the text at the bottom of page 20 of 22 for the same reason. It is clear from the Commission's Report and Order that these charges only apply when conditioning is requested and provided, and not to all loops as currently stated in SWBT's proposed documents.

6. Furthermore, to be consistent with the Commission's decision on Issue 2.c., a provision needs to be added at the end of Section 11.4 to the effect: "Per-occurrence conditioning

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<sup>1</sup> It would also be appropriate to add a definition of "excessive bridged tap" in this language, to wit: "any segment greater than 2500 feet in length".

charges shall not apply in the event SWBT has provided manual (or other means represented as fully complete and accurate) loop make-up information that indicated that conditioning would not be required on the loop.” Per-occurrence charges should not apply if SWBT provides incorrect information within the parameters set by the Commission's Report and Order.

7. At the end of Section 11.4, the application of the rates should be limited to “after September 30, 2001 or the effective date of this agreement” (i.e. the words “on or” should be deleted and the existing limitation against affecting periods prior to the effective date of the agreement should be retained) to properly limit the true-up period to six months prior to the effective date of the Report and Order (March 30, 2002). The Commission did not revise the true-up provisions of the M2A in its Report and Order.

8. In the rate table on page 20 of 22, the \$8.41 rate should be labeled as “xDSL capable loop provisioned” (see para. 5 supra) and the following footnote should be added to the \$8.41 rate: “As of April 1, 2005, this rate will be reduced to \$6.23 to reflect that there will be no further recovery of the cost of removing load coils on loops up to 17,500 feet, absent further direction by the Commission to the contrary.” Such change is required by the Commission’s Report and Order (see page 52).

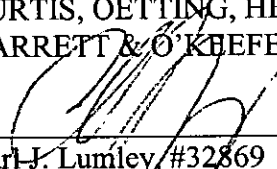
9. In the new language proposed by SWBT for Section 10.1 of Interim Appendix HFPL, the Commission should require deletion of the second sentence as redundant to the first sentence. The second sentence also improperly includes the words “or subloop”. The Commission has not made a determination that the same charge should be imposed on subloops as is to be imposed on full loops. The second sentence also improperly refers to “ordered” loops rather than “provisioned” loops (see para. 5 supra).

10. In each of the foregoing instances, SWBT has proposed changes that go beyond and/or fail to accurately reflect the decisions made in the Commission's Report and Order. The Commission should deny SWBT's Motion and require SWBT to refile proposed documents that include all of the revisions identified herein.

WHEREFORE, XO Missouri, Inc., MCImetro Access Transmission Services, LLC, Brooks Fiber Communications of Missouri, Inc. and MCI WorldCom Communications, Inc., request the Commission to deny SWBT's Motion and require SWBT to refile its proposed documents after making the changes identified herein, so that the M2A is revised in full compliance with the Report and Order in this proceeding.

Respectfully Submitted,

CURTIS, OETTING, HEINZ,  
GARRETT & O'KEEFE, P.C.



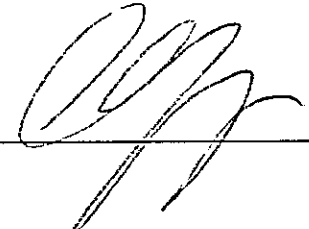
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Brooks Fiber Communications of Missouri, Inc. and MCI WorldCom  
Communications, Inc.

**CERTIFICATE OF SERVICE BY MAIL**

A true and correct copy of the foregoing was served upon the parties identified in the attached service list on this 18 day of July, 2002, by placing same in a postage paid envelope and depositing in the U.S. Mail.



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4-wire Analog (w/o test)	\$ 0.63	\$ 25.38	\$ 17.73
2-wire Digital (w/o test)	\$ 0.31	\$ 19.96	\$ 12.69

xDSL Cross Connect Charge – Shielded:

2-wire xDSL	\$ 0.80	\$ 19.96	\$ 12.69
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Note: There is no requirement that a CLEC order shielded cross-connects. Shielded cross-connects are only available for 2-wire xDSL loops used to provision PSD #5.

SWBT's rates for cross-connects above are final and are not interim or subject to retroactive true-up.

## 11.4 SWBT's rate for Loop Conditioning.

SWBT will make "clean loops" xDSL capable loops available for all xDSL services and use by all xDSL providers. When a CLEC orders an xDSL loop, SWBT will charge the CLEC a non-recurring conditioning charge per xDSL capable loop ordered, whether or not conditioning of the loop is required, for all loops up to 17,500 feet from the service central office.<sup>7</sup> For loops greater than 17,500 feet from the serving central office, conditioning charges to remove load coils, excessive bridged tap or repeaters located beyond 17,500 feet from the serving central office will apply in addition to the non recurring conditioning charge assessed on all xDSL loops ordered by the CLEC. <sup>8</sup>charge assessed on all xDSL capable loops looped by the CLEC. make available for use on a nondiscriminatory basis loops that do not need conditioning. If no "clean loops" are available for use, then the conditioning charges stated below apply. SWBT's retail and/or advanced services affiliate shall not be given preferential access to clean loops, nor shall such clean loops be reserved exclusively for ADSL services.

The conditioning charges, listed below, are ~~interim and~~ are applicable to every xDSL capable loop ordered by the CLEC. ~~that is greater than 12,000 feet in length~~

<sup>7</sup> The rates are pursuant to the Missouri Public Service Commission's Order in Case No. TO-2001-439.

<sup>8</sup> Id.