

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 13th day
of September, 2005.

In the Matter of the Request of Southwestern Bell)	
Telephone, L.P., d/b/a SBC Missouri, for Competitive)	<u>Case No. TO-2006-0093</u>
Classification Pursuant to Section 392.245.6,)	Tariff File No. YI-2006-0144
RSMo (2005) – 30-day Petition.)	

ORDER GRANTING MOTION TO DECLASSIFY EXHIBITS

Issue Date: September 13, 2005

Effective Date: September 14, 2005

Background:

On August 30, 2005, Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, filed its Petition for Competitive Classification pursuant to Section 392.245.5, RSMo; that petition was assigned Case No. TO-2006-0093. Section 392.245.5, RSMo, provides for an expedited, two-track procedure when a price cap regulated incumbent local exchange company seeks competitive classification for its services within one or more exchanges. The two procedures are designed as a 30-day track and a 60-day track. On September 2, the Commission issued a notice separating the company's request into two cases – this case, TO-2006-0093 for the 30-day track, and Case No. TO-2006-0102, for the 60-day track.

Request for Declassification:

On September 6, Public Counsel filed its Motion to Declassify Certain Exhibits Designated as "Highly Confidential" and Request for Expedited Treatment. Public Counsel requests that the Commission declassify Exhibits A-1 HC, A-2 HC, A-3 HC [*sic*], and

A-4 HC [*sic*]. Public Counsel states that SBC Missouri has not provided an adequate reason to classify as competitive “the maps of the exchanges SBC seeks to classify as competitive, the identity of some of the qualifying competitors and the sources used to identify those competitors, as well as the number of competitors reported as providing service in the affected exchanges.” Public Counsel states that the information should be public so that customers and competitors can identify the exchanges and know the factual basis that SBC Missouri relies upon in its application.

SBC Missouri’s Response:

On September 12, SBC Missouri filed its Response to OPC Declassification Motions, urging the Commission to deny the motions to declassify certain exhibits. SBC Missouri notes that Public Counsel appears to claim that SBC Missouri is attempting to withhold the identity of the exchanges in which it is seeking competitive classification. SBC Missouri, however, states that it has not withheld the names of these exchanges. In fact, SBC Missouri did not classify the maps, Exhibits A-3 and A-4, as Highly Confidential. And even in the exhibits that do contain Highly Confidential information, such as Exhibits A-1 (HC) and A-2 (HC), SBC Missouri did not classify as confidential the portions of those exhibits that specifically identify the exchanges at issue. Moreover, the exchanges in question are specifically identified in the proposed tariffs.

SBC Missouri states that Public Counsel also contends that SBC Missouri has not provided an adequate reason to classify as Highly Confidential “the identity of some of the qualifying competitors and the sources used to identify those competitors, as well as the number of competitors reported as providing service in the affected exchanges.” SBC Missouri counters that it did explain in its Motion for Protective Order that the data SBC Missouri filed to support its petition pertained to specific interconnection and facility

arrangements with its wholesale CLEC customers and the level of competition in specific wire centers. In that motion, SBC Missouri also stated that this private business information cannot be found in any format in any public document and its public disclosure would harm SBC Missouri and other companies' respective business interests. SBC Missouri notes that it was even more specific in its petition, where it explained that the classified information in Exhibits A-1 (HC) and A-2 (HC) was derived from its internal wholesale business records on CLEC service arrangement migrations from UNE-P to CLEC facilities, directory listings for companies providing service using their own facilities, and from CLEC E-911 listing information. Thus, the classified data in A-1 (HC) and A-2 (HC) qualifies for Highly Confidential treatment as it constitutes "information relating directly to specific customers" (i.e., to SBC Missouri wholesale customers).

In addition, SBC Missouri contends that the information supplied in A-1 (HC) and A-2 (HC) also qualifies for Highly Confidential treatment on the basis that it is "market-specific information relating to services offered in competition with others." SBC Missouri states that on the wholesale side, there are now carriers providing wholesale services (such as switching or other facilities) to other carriers for use in the provision of retail services.

Furthermore, SBC Missouri states that it is possible that some CLECs may view the information in Exhibits A-1 (HC) and A-2 (HC) as confidential. SBC Missouri states that in an effort to accord the appropriate confidential treatment to the information pertaining to its wholesale CLEC customers in this proceeding, SBC Missouri filed both a Non-Proprietary version of the exhibits (with the Highly Confidential material redacted so that it could be made available to the public) and a Highly Confidential version.

Discussion:

The Commission notes that Public Counsel errs when it claims that SBC Missouri's Exhibits A-3, A-4, and A-5 were filed as Highly Confidential. These exhibits are in fact filed as public information. Consequently, SBC Missouri has not attempted to classify as confidential the exchanges in which it seeks competitive status but has in fact provided the names of these exchanges in several public documents, including the maps found in Exhibits A-3 and A-4. The names of the exchanges are also shown in the public version of Exhibits A-1 and A-2.

As to whether Exhibits A-1 (HC) and A-2 (HC) should be declassified, the Commission finds Public Counsel's arguments that the information should not be classified as Highly Confidential to be persuasive. Consequently, the Commission will grant Public Counsel's motion to declassify the exhibits.

IT IS THEREFORE ORDERED:

1. That the Office of the Public Counsel's Motion the Motion to Declassify Certain Exhibits Designated as "Highly Confidential" is granted. Exhibits A-1 (HC) and A-2 (HC) shall be declassified and marked as public information, and Exhibits A-3, A-4, and A-5 shall remain public information.

2. That the Commission's Data Center shall have Exhibits A-1 and A-2 designated as public information.

3. That this order shall become effective on September 14, 2005.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Clayton,
and Appling, CC., concur.
Gaw, C., absent.

Ruth, Senior Regulatory Law Judge