

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

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

**ORDER DENYING MOTION FOR LOCAL PUBLIC HEARING**

Issue Date: September 22, 2005

Effective Date: September 22, 2005

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, 2005, 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.

On September 6, 2005, the Office of the Public Counsel filed a Request for Public Hearing and Request for Expedited Treatment. Public Counsel asks the Commission to schedule "one or more public hearings at locations within the SBC service area reasonably convenient for the public to attend to make comments on the requests for competitive status. . . ."

On September 9, 2005, SBC Missouri filed its Comments Concerning OPC Request for Public Hearings and Notice of Facilities. SBC Missouri suggests that it would be inappropriate for the Commission to schedule public hearings in this proceeding as Section 392.245.5, RSMo (2005), under which SBC Missouri's petition was filed, does not contemplate holding public hearings as part of the Commission's 30-day proceeding in which it is to make the required statutory determinations. Instead, SBC Missouri states, the statute simply calls for the Commission to count the number of competitors providing service in an exchange and not for the Commission to make a determination of public interest. SBC Missouri also states that it is clear from the limited period provided by the statute for the Commission to complete its review (30 days) that public hearings were not intended by the Legislature to be held.

The Commission has reviewed the request of Public Counsel and SBC Missouri's response. The Commission finds that while public comment is generally an aid to the Commission in its proceedings, the Commission in making its determination in this case cannot consider public favor or opposition to the current application. Pursuant to statute, the Commission must determine "whether the requisite number of entities are providing basic local telecommunications service to business or residential customers, or both, in an exchange. . . ." <sup>1</sup> Thus, the Commission finds that public comment in favor of or opposition to the application would serve no purpose in the current proceeding because the Commission may only determine if the requisite number of competitors are providing service and, if so, the tariffs "shall [be] approve[d]." <sup>2</sup> Therefore, the Commission will deny

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<sup>1</sup> Subsection 392.245.5, RSMo (2005).

<sup>2</sup> *Id.*

Public Counsel's request for a local public hearing. The Commission does find, however, that every attempt should be made to inform the public of the matter. Therefore, the Commission will direct its Public Information Office to send a second notice of SBC Missouri's application specifically to the local news media serving the exchanges in which the company seeks competitive classification in this case.

**IT IS THEREFORE ORDERED:**

1. That the Office of the Public Counsel's Request for Public Hearing is denied.
2. That the Commission's Public Information Office shall send further notice of this application to the news media serving the exchanges in which Southwestern Bell Telephone, L.P, d/b/a SBC Missouri, seeks competitive classification.
3. That this order shall become effective on September 22, 2005.

**BY THE COMMISSION**



Colleen M. Dale  
Secretary

( S E A L )

Vicky Ruth, Senior Regulatory Law Judge,  
by delegation of authority pursuant  
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 22nd day of September, 2005.