

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)	<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 DIRECTING NOTICE, ESTABLISHING
PROCEDURAL SCHEDULE, RESERVING HEARING DATE,
AND GRANTING PROTECTIVE ORDER

Issue Date: September 2, 2005

Effective Date: September 2, 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. In its application, SBC Missouri requests that the Commission:

- (1) Within 30 days, classify the business services in SBC Missouri's exchanges identified in Exhibit A-1 (HC), and the residential services in SBC Missouri's exchanges identified in Exhibit A-2 (HC), as competitive, resulting in competitive status for an additional:

51 of 160 exchanges for business services; and

28 of 160 exchanges for residential services.

- (2) Within 60 days, classify the business services in SBC Missouri's exchanges identified in Exhibit B-1 (HC), and the residential services in SBC Missouri's exchanges identified in Exhibit B-2 (HC), as competitive, resulting in competitive status for an additional:

26 exchanges for business services; and

49 exchanges for residential services.

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. By notice issued September 2, 2005, the Commission notified the parties that this case, TO-2006-0093, would address the portions of the petition regarding the 30-day track. A new case, TO-2006-0102, has been opened to address the portions of the petition pertaining to the 60-day track. The 30-day track, which will be addressed in this case, TO-2006-0093, requires that the Commission make a determination within thirty days as to “whether the requisite number of entities are providing basic local telecommunications service . . . in an exchange and if so, shall approve tariffs designating all such business or residential services other than exchange access service, as competitive. . . .” Because of the need to proceed expeditiously, the Commission will issue notice, set a procedural schedule, and reserve a date for a hearing if one should become necessary, as set out below.

The Commission also notes that on August 30, 2005, SBC Missouri filed its Motion for Protective Order. SBC Missouri states that it has filed pleadings and supporting data containing highly confidential information pertaining to interconnection, facility arrangements, and the level of competition in specific wire centers. Moreover, SBC Missouri anticipates that Staff may seek more detailed information from SBC Missouri and the carriers with whom it competes, and that Staff may provide that information to the Commission. Such information could include data relating to specific retail or wholesale customers and other market-specific information relating to services offered in competition with others. SBC states that a Protective Order is needed because the 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.

The Commission has previously recognized the need to protect confidential information, and the issuance of protective orders has helped to minimize disputes in past cases. Therefore, the Commission concludes that a protective order shall be granted.

In addition, if a hearing becomes necessary, the following procedures will apply:

(A) The Commission will require all parties to prefile testimony as defined in 4 CSR 240-2.130. All parties shall comply with this rule, including the requirement that testimony be filed on line-numbered pages. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing. The parties will be allowed to present rebuttal witnesses at the hearing.

(B) The Commission will direct that the transcript be expedited and submitted within one business day of the hearing.

(C) Because much of the evidence will have been filed before the hearing, the Commission will require pretrial briefs that address all the issues in dispute and all the relevant prefiled testimony. Because of the expedited nature of the hearing, no post-trial briefs will be allowed. The Commission will allow the opportunity for closing arguments at the end of the hearing.

(D) The parties shall file with their briefs a list of the witnesses it expects to call and the order in which they shall be called.

(E) All parties are required to bring an adequate number of copies of exhibits that they intend to offer into evidence at the hearing. If an exhibit has been prefiled, and served on the other parties, only one copy of the exhibit is necessary for the court reporter.

If an exhibit has not been prefiled, the party offering it should bring, in addition to the copy for the court reporter, copies for the five Commissioners, the Regulatory Law Judge, and all counsel.

(F) All parties must file proposed findings of fact, including citations to prefiled testimony and other evidence available. The parties are encouraged to also file proposed conclusions of law.

IT IS THEREFORE ORDERED:

1. That the Data Center of the Missouri Public Service Commission shall send notice of this application to all certificated competitive local exchange carriers and to all incumbent local exchange carriers in the state of Missouri.

2. That the Public Information Office of the Missouri Public Service Commission shall provide notice of the application to the members of the General Assembly and to the news media.

3. That any party wishing to intervene in this matter must file an application no later than September 7, 2005, with:

Colleen M. Dale, Secretary
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102-0360

and send copies to:

Leo J. Bub, Esq.
Southwestern Bell Telephone, L.P., d/b/a SBC Missouri
One SBC Center, Room 3520
St. Louis, Missouri 63101

and to:

Office of the Public Counsel
Post Office Box 2230
Jefferson City, Missouri 65102-2230

4. That the Staff of the Missouri Public Service Commission shall file a recommendation or any objections to the petition no later than September 12, 2005.

5. That the Office of the Public Counsel and any other interested party shall file any objections or recommendations regarding the petition on September 12, 2005.

6. That if an objection is filed the following other procedural dates will apply:

Testimony – all parties	September 13, 2005
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Pretrial Briefs, List of Witnesses, and Proposed Findings of Fact	September 14, 2005
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7. That the parties are hereby notified that if any party opposes the petition, a hearing will be set for September 16, 2005, beginning at 8:30 a.m., in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. The Governor Office Building meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in the hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 prior to the hearing.

8. That the parties shall comply with the procedural requirements set out in the body of this order.

9. That the protective order attached to this order (Attachment A) is adopted.

10. That this order shall become effective on September 2, 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)

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

Dated at Jefferson City, Missouri,
on this 2nd day of September, 2005.