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July 29, 1999

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
301 West High Street, Floor 5A
Jefferson City, MO 65101

FILED

JUL 30 1999

Dear Judge Roberts:

Missouri Public
Service Commission

Re: Case No. TO-2000-54

Enclosed for filing with the Commission in the above-referenced case are an original and fourteen (14) copies of Southwestern Bell Telephone Company's Statement of Position.

Also enclosed is an additional copy to be file stamped and returned to us in the enclosed self-addressed, stamped envelope.

Thank you for bringing this matter to the attention of the Commission.

Sincerely,

A handwritten signature in dark ink, appearing to read "K. Swaller", written over a horizontal line.

Enclosures

cc: Parties of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

JUL 30 1999

In the Matter of the Application of DSLnet)
Communications, LLC for Approval of an)
Interconnection Agreement under the)
Telecommunications Act of 1996.)

Missouri Public
Service Commission

Case No. TO-2000-54

**SOUTHWESTERN BELL TELEPHONE COMPANY'S
STATEMENT OF POSITION**

1. On July 26, 1999, DSLnet Communications, LLC (DSLnet) filed its Application for approval of Interconnection Agreement.

2. The Commission has a practice of making Southwestern Bell Telephone Company (Southwestern Bell) a party to such applications whenever it is a party to the underlying agreement.

3. The agreement was arrived at pursuant to Section 252(i) of the Telecommunications Act and is an "MFN" into the Northpoint/Southwestern Bell Interconnection Agreement. The Northpoint agreement is itself an AT&T MFN.

4. In this Statement of Position, Southwestern Bell seeks to draw to the Commission's attention its concern about Section 252(i) agreements premised on the arbitrated SWBT/AT&T agreement and "next generation" MFNs premised upon MFNs into the arbitrated AT&T agreement. The DSLnet agreement submitted in this case was entered into pursuant to Section 252(i) of the Act and is nearly identical to the SWBT/Northpoint Interconnection Agreement and the "first generation" SWBT/AT&T of the Southwest, Inc. (AT&T) Interconnection Agreement. The DSLnet agreement was not negotiated. SWBT signed the agreement only because it is required to do so under the Act and in light of the Commission's decision in TO-98-200 (MCI mediation and arbitration). The underlying SWBT/AT&T agreement was a product of negotiations and arbitrations in Missouri Public Service Commission Case Nos. TO-97-40 and TO-97-67 (the Initial AT&T Arbitration) and Case No. TO-98-115 (the

Second AT&T Arbitration). The Commission Orders in the initial and second AT&T arbitrations are the subject of appeals. Pursuant to the Missouri Public Service Commission's finding in its July 22, 1998 Report and Order in Case No. TO-98-200 (MCI mediation and arbitration), a party adopting an agreement pursuant to Section 252(i) of the Act cannot obtain greater rights than the parties to that agreement. Accordingly, even though this agreement is an MFN into the SWBT/Northpoint agreement, which is itself an AT&T MFN, in the event of any amendment of the underlying SWBT/AT&T agreement, or any administrative, regulatory, legislative or judicial order, rule, opinion or other legal action, (collectively, "legal actions") affecting the underlying SWBT/AT&T arguments or any subsequent agreement between SWBT and AT&T, required by or resulting from such legal actions, which revises or modifies SWBT's rights and/or obligations pertaining to any matter contained in the AT&T interconnection agreements (a subsequent development), the relevant provisions of the SWBT/DSLnet agreement should be deemed automatically modified, amended or conformed to be consistent with such subsequent development.

WHEREFORE, SWBT respectfully requests the Commission to approve the SWBT/DSLnet agreement subject to the position stated herein.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

BY



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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were served to all parties on the attached Service List by first-class postage prepaid, U.S. Mail on July 29, 1999.



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