

Mark P. Johnson
816.460.2424
mjohnson@sonnenschein.com

4520 Main Street
Suite 1100
Kansas City, MO 64111
816.460.2400
816.531.7545 fax
www.sonnenschein.com

*Chicago
Kansas City
Los Angeles
New York
San Francisco
Short Hills, N.J.
St. Louis
Washington, D.C.
West Palm Beach*

December 16, 2004

Via Federal Express

Mr. Dale H. Roberts
Executive Secretary
MISSOURI PUBLIC SERVICE COMMISSION
200 Madison Street, Suite 100
Jefferson City, Missouri 65101

RE: Case No. TO-2005-0117

FILED³
DEC 17 2004
Missouri Public
Service Commission

Dear Mr. Roberts:

Enclosed please find the original and eight copies of each of the Request for Withdrawal and the Motion to File Late-Filed Pleading on behalf of Winstar Communications, LLC in the above-referenced case. Please return one "filed" copy of each pleading to me in the enclosed return envelope.

By copy of this letter, I have served a copy of this motion upon all counsel of record via U.S. mail.

If you have any questions, please give me a call.

Very truly yours,


Mark P. Johnson

MPJ/rgr
Encl.

cc: All Parties of Records (w/encl.) (via U.S. mail)

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

Southwestern Bell Telephone, L.P. d/b/a SBC
Missouri's Petition to Amend the Section 251/252
Interconnection Agreements between SBC Missouri
And Various Competitive Local Exchange Carriers.

Southwestern Bell Telephone, L.P. d/b/a
SBC Missouri,

Petitioner,

vs.

1-800-RECONEX, Inc., *et al*,

Respondents.

FILED³

DEC 17 2004

Missouri Public
Service Commission

Case No. TO-2005-0117

REQUEST FOR WITHDRAWAL

Comes now Winstar Communications, LLC ("Winstar") by its undersigned attorneys, and responds to the Commission's Order Establishing Time to Respond, and to SBC's Amended Petition in this docket. Pursuant to 4 CSR 240-2.116 and 2.117, Winstar respectfully requests Commission permission to withdraw from this proceeding. As discussed below, Winstar asserts that this proceeding is not relevant to Winstar and that its participation in this proceeding is a waste of both the Commission's and Winstar's resources.

1. Please direct all correspondence, pleadings, and order herein to the following:

Mark P. Johnson
James M. Kirkland
Sonnenschein Nath & Rosenthal LLP
4520 Main Street, Suite 1100
Kansas City, MO 64111
Telephone: 816.460.2400
Facsimile: 816.531.7545
mjohnson@sonnenschein.com
jkirkland@sonnenschein.com

2. Winstar does not rely upon the UNE platform or UNEs for switching or transport; rather, it purchases nearly all ILEC facilities pursuant to "special access" tariffs. Accordingly, Winstar has no need to negotiate Triennial Review Order-related amendments at this time.


3. In accordance with Notices filed with the Commission on May 4, 2004, and July 30, 2004, Winstar has substantially ceased providing commercial retail local exchange services in the State of Missouri. Winstar anticipates that it will not rely upon UNEs in the future; therefore, it has no stake in this proceeding.

4. SBC's Amended Petition raises claims which are not ripe for adjudication. Winstar did not affirmatively invoke the Commission's jurisdiction in this proceeding. Through the filing of its Amended Petition, SBC seeks to circumvent the mandatory negotiation protocols for execution of Amendments to Interconnection Agreements. Any Amendment to the Interconnection Agreement between Winstar and SBC should be accomplished through good faith negotiations and the effective "change of law" provisions specified in the ICA. To date, no party has initiated good faith negotiations; rather SBC presented its position in the "take it or leave it" form of a "Lawful UNE Amendment." Aside from the lack of good faith negotiation and the fact that Winstar has no need for UNEs in Missouri, SBC's actions are premature, given the uncertain regulatory status of the FCC's Triennial Review proceeding. SBC's actions in this proceeding amount to a "self help" solution for relieving SBC of its existing UNE obligations.

5. Given that Winstar does not provision services using UNEs, Winstar requests the Commission authorize its withdrawal from this proceeding.

WHEREFORE, Winstar Communications, LLC respectfully requests that the Commission dismiss it from participation in the instant proceeding.

Respectfully submitted,



Mark P. Johnson MO # 30740
James M. Kirkland MO # 50794
Sonnenschein Nath & Rosenthal LLP
4520 Main Street, Suite 1100
Kansas City, Missouri 64111
Telephone: (816) 460-2400
Facsimile: (816) 531-7545
Email: mjohnson@sonnenschein.com
jkirkland@sonnenschein.com

and

Joseph M. Sandri, Jr.
Senior Vice President and Regulatory Counsel
Winstar Communications, LLC
1850 M Street, NW - Suite 300
Washington, DC 20036
Telephone: (202) 367-7600

ATTORNEYS FOR
WINSTAR COMMUNICATIONS, LLC

Dated: December 16, 2004

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by First-Class United States mail, postage prepaid, on all parties of record on this 16th day of December, 2004.


Mark P. Johnson

Service List for Case No. TO-2005-0117

Dana K. Joyce
Associate General Counsel
MISSOURI PUBLIC SERVICE COMMISSION
200 Madison Street, Suite 800
P. O. Box 360
Jefferson City, MO 65102

John B. Coffman
OFFICE OF THE PUBLIC COUNSEL
200 Madison Street, Suite 650
P. O. Box 2230
Jefferson City, MO 65102

Marc Poston
MISSOURI PUBLIC SERVICE COMMISSION
200 Madison Street, Suite 800
P. O. Box 360
Jefferson City, MO 65102

Mimi B. MacDonald
SBC MISSOURI
One SBC Center, Room 3520
St. Louis, MO 63101

Andy Horton
1-800-RECONNECT, INC.
2500 Industrial Avenue
Hubbard, OR 97032

Peter K. LaRose
BULLSEYE TELECOM, INC.
25900 Greenfield Road, Suite 330
Oak Park, MI 48237

Geoff Cookman
GRANITE TELECOMMUNICATIONS, LLC
234 Copeland Street
Quincy, MA 02169

Morris F. Stephen
INTERMEDIA COMMUNICATIONS
701 Brazo Street, Sixth Floor
Austin, TX 78701

Greg Rogers
LEVEL 3 COMMUNICATIONS, LLC
1025 Eldorado Boulevard
Broomfield, CO 80021

Scott Kellogg
NOW ACQUISITION CORPORATION
180 N. Wacker, Suite 3
Chicago, IL 60606

Jessica Hancock
PHONE-LINK, INC.
1700 Eastpoint Parkway
Louisville, KY 40223

Susan Mohr
QWEST INTERPRISE AMERICA, INC.
1801 California Street, Suite 4700
Denver, CO 80202

Depp T. Edward
TELCOVE OPERATIONS, INC.
121 Champion Way
Canonsburg, PA 15317

Bill Pereira
WINSTAR COMMUNICATIONS, LLC
520 Broad Street
New York, NJ 07102

Michael J. Shortley, III
GLOBAL CROSSING LOCAL SERVICES, INC.
1080 Pittsford-Victor Road
Pittsford, NY 14534