

CURTIS, HEINZ, GARRETT & O'KEEFE, P.C.
Attorneys at Law
130 S. Bemiston, Suite 200
St. Louis, Missouri 63105
(314) 725-8788
(314) 725-8789 (FAX)

FILED²

AUG 10 2004

Missouri Public
Service Commission

Leland B. Curtis
Principal

lcurtis@lawfirmemail.com

August 9, 2004

Secretary of the Commission
Missouri Public Service Commission
200 Madison Street, Suite 100
Jefferson City, Missouri 65101

Via Federal Express
8457 1519 8207

Re: Case No. TO-2005-0035

Dear Secretary of the Commission:

Enclosed please find for filing with your office and original and nine (9) copies of Allegiance Telecom of Missouri, Inc.'s Request to Intervene and Opposition to Proposed Procedural Schedule, in connection with the above-referenced matter. Upon your receipt, please file stamp the extra copy received and return to the undersigned in the enclosed, self-addressed, stamped envelope. Thank you.

Very truly yours,



Leland B. Curtis

LBC:dn
Enclosures
cc. Parties of Record

FILED²
AUG 10 2004

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of the Second Investigation)
into the State of Competition in the Exchanges of)
Southwestern Bell Telephone, L.P., d/b/a)
SBC Missouri.)

Case No. TO-2005-0035

Missouri Public
Service Commission

ALLEGIANCE TELECOM OF MISSOURI, INC.'S
REQUEST TO INTERVENE
AND OPPOSITION TO PROPOSED PROCEDURAL SCHEDULE

COMES NOW Allegiance Telecom of Missouri, Inc. (Allegiance Missouri), pursuant to 4 CSR 240-2.075, and for its Request to Intervene state to the Commission:

1. Allegiance Missouri is a corporation organized under the laws of the State of Delaware and authorized to conduct business in the State of Missouri. In furtherance of the reorganization of Allegiance Telecom, Inc., Debtor-in -Possession (Allegiance Telecom), and its subsidiaries, including Allegiance Telecom of Missouri, Inc., under chapter 11 of the U.S. Bankruptcy Code, the parties agreed that XO Missouri, Inc. ("XO") would acquire substantially all of the assets of Allegiance Telecom. XO and Allegiance Telecom notified the Commission of the transfer of control on February 24, 2004, and the transaction was consummated on June 23, 2004. As a result, Allegiance Missouri became a wholly owned, direct subsidiary of XO. Allegiance Missouri is certificated in Missouri to provide interexchange and non-switched local exchange telecommunications services.¹ On July 21, 2004, XO and Allegiance Missouri filed an Application for Approval of Internal Corporate Reorganization with this Commission, Case No. LD-2005-0027, which case is still pending.

¹ See TA-2000-427 dated March 3, 2000 (interexchange and non switched local exchange telecommunications services) and TA-2000-1 dated October 19, 1999 (local).

2. All communications and pleadings in this case should be directed to:

Carl J. Lumley
Leland B. Curtis
Curtis, Heinz, Garrett & O'Keefe, P.C.
130 S. Berniston, Suite 200
Clayton, Missouri 63105
314-725-8788
314-725-8789 (FAX)
clumley@lawfirmemail.com
lcurtis@lawfirmemail.com

3. On or about July 30, 2004 SBC Missouri filed its Motion to Investigate the State of Competition in SBC Missouri Exchanges.

4. Allegiance Missouri seeks to intervene in this proceeding because the Commission's decision could adversely affect its interests as a provider of telecommunications services in the State.

5. Allegiance Missouri's interests as a telecommunications company are different from those of the general public. Furthermore, Allegiance Missouri's intervention in this proceeding is in the public interest because of its interests in enhancing competition and because of its expertise in the telecommunications industry.

6. Allegiance Missouri opposes SBC's Motion because it is too general and unsupported by testimony. However, Allegiance Missouri cannot now assess any specific requests that may ultimately be made by SBC and must oppose its general requests.

7. In its Motion, SBC asks the Commission to make Allegiance Missouri a party to this case. Rather than waiting for a Commission order, Allegiance Missouri files its intervention in order to be able to advise the Commission that they strongly oppose SBC's proposed procedural schedule.

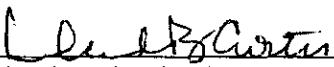
8. In its Motion, SBC sets forth a specific proposed schedule for this case. Even though it expresses the need to make more than 40 other entities parties to the case, it apparently seeks to exclude them from expressing their views on the schedule. This is contrary to due process. All parties have a right to participate in the discussions regarding a case schedule.

9. Allegiance Missouri specifically objects to SBC's proposed schedule because: (1) it does not afford at least 30 days notice and opportunity to intervene to interested parties (4 CSR 240-2.075); and (2) the proposed time periods between rounds of testimony are much too compressed to allow adequate opportunity for discovery (including resolution of the inevitable motions to compel that arise from discovery disputes) and then the further opportunity to analyze the data obtained by discovery and prepare testimony regarding such data and analysis.

10. Allegiance Missouri urges the Commission not to set any schedule at this time. Rather, a prehearing scheduling conference should be set a reasonable time after the conclusion of a full 30-day intervention period, so that all interested parties can fairly participate in the development of the schedule.

WHEREFORE, Allegiance Telecom of Missouri, Inc., respectfully requests the Commission to issue its order granting its Request to Intervene, denying SBC's proposed schedule, and setting appropriate dates for an intervention deadline and prehearing conference.

CURTIS, HEINZ,
GARRETT & O'KEEFE, P.C.


Leland B. Curtis, #20550
Carl J. Lumley, #32869

130 S. Bemiston, Suite 200
Clayton, Missouri 63105
(314) 725-8788
(314) 725-8789 (FAX)
clumley@lawfirmemail.com
lcurtis@lawfirmemail.com

Attorneys for Allegiance Telecom of Missouri, Inc.

Certificate of Service

A true and correct copy of the foregoing was served upon the parties identified on the attached service list on this 9th day of August, 2004, either by e-mail or by placing same in the U.S. Mail, postage paid.



Dana K Joyce
P.O. Box 360
200 Madison Street, Suite 800
Jefferson City, MO 65102

Sheldon K. Stock, Esq.
Greensfelder, Hemker & Gale
10 S. Broadway, Suite 2000
St. Louis, MO 63102

James M. Fischer
Larry Dority
Fischer & Dority, P.C.
101 Madison, Suite 400
Jefferson City, MO 65101

Kenneth A. Schiffman
Sprint Communications
6450 Sprint Parkway, Bldg. 14
Mail Stop: KSOPHN0212-2A253
Overland Park, KS 66251

Legal Department
Davidson Telecom, LLC
19003 Hodestone Mews Court
Davidson, NC 28036

Legal Department
KMC Telecom III, LLC
KMC Telecom V, LLC
1755 North Brown Road
Lawrenceville, GA 30043

Legal Department
Navigator Telecommunications
8525 Riverwood Park Drive
North Little Rock, AR 72113

Legal Department
CD Telecommunications
607 State Highway 165, Suite 5
Branson, MO 65616

John B Coffman
P.O. Box 2230
200 Madison Street, Suite 640
Jefferson City, MO 65102

William D. Steinmeier
Mary Ann (Garr) Young
William D. Steinmeier, P.C.
P.O. Box 104595
Jefferson City, MO 65110

Charles Brent Stewart
Stewart & Keevil, LLC
4603 John Garry Drive, #11
Columbia, MO 65203

Michelle Krezek
Level 3 Communications, LLC
1025 Eldorado Blvd.
Broomfield, CO 8021

Legal Department
Global Crossing Telemanagement
180 South Clinton Ave.
Rochester, NY 14646-0700

Legal Department
Missouri Telecom, Inc.
515 E. Cleveland St., Suite C
Monette, MO 65707

Legal Department
Excel Telecommunications
4550 Excel Way
Addison, TX 75001

Leo J Bub
SBC Missouri
One SBC Center, Room 3520
St. Louis, MO 63101

Rose M. Mulvany
Birch Telecom of Missouri
2020 Baltimore Ave.
Kansas City, MO 64108

Mark W. Comley
Newman, Comley & Ruth, P.C.
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, MO 65102

Legal Department
Charter Fiberlink-MO LLC
12444 Powers Court Dr., Suite 100
St. Louis, MO 63101

Wendy Moser
Qwest Communications Corp.
1801 California, 47th Floor
Denver, CO 80202

Legal Department
Vartec Telecom, Inc.
1600 Viceroy Drive
Dallas, TX 75203

Legal Department
Winstar Wireless
1615 L Street NW, Suite 1260
Washington, D.C. 20036