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September 13, 2005

The Honorable Colleen M. Dale
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
Jefferson City, Missouri 65101

Re: Case No. TO-2006-0093

Dear Judge Dale:

Attached for filing with the Missouri Public Service Commission in the above-referenced case is the Highly Confidential ("HC") version and the redacted ("NP") version of Southwestern Bell Telephone, L.P., d/b/a SBC Missouri's Direct Testimony of Craig A. Unruh.

The reasons SBC Missouri classified Exhibits A-1(HC) and A-2(HC) from Mr. Unruh's Testimony (which are the same exhibits that were appended to SBC Missouri's Petition for Competitive Classification) as HC are set out in its Response to OPC Declassification Motions, which SBC Missouri filed in this case on September 12, 2005, and which it incorporates into this letter by reference.

We understand that the Commission has just issued an Order granting OPC's Motions to declassify Exhibits A-1(HC) and A-2(HC). That Order, however, does not become effective until September 14, 2005 (hence our maintaining the original HC classification on the exhibits to Mr. Unruh's testimony). We further understand that since the exhibits being filed today with Mr. Unruh's Direct Testimony are the same as those addressed in the Commission's declassification order, they will also be subject to declassification when the Commission's Order becomes effective tomorrow.

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

Very truly yours,

A handwritten signature in blue ink, appearing to read "Leo J. Bub".

Leo J. Bub

Attachments

cc: Attorneys of Record

Exhibit No.:
Issue: Policy
Witness: Craig A. Unruh
Type of Exhibit: Direct Testimony
Sponsoring Party: Southwestern Bell Telephone, L.P.
d/b/a/ SBC Missouri
Case No.: TO-2006-0093
Date Testimony Prepared: September 13, 2005

SOUTHWESTERN BELL TELEPHONE, L.P. d/b/a
SBC MISSOURI

CASE NO. TO-2006-0093

DIRECT TESTIMONY

OF

CRAIG A. UNRUH

St. Louis, Missouri

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CASE NO. TO-2006-0093
SOUTHWESTERN BELL TELEPHONE, L.P.
D/B/A/ SBC MISSOURI
DIRECT TESTIMONY OF CRAIG A. UNRUH

INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Craig A. Unruh and my business address is One SBC Center, Room
3528, St. Louis, Missouri, 63101.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT POSITION?

A. I am employed by Southwestern Bell Telephone, L.P. d/b/a SBC Missouri (SBC
Missouri) and serve as its Executive Director – Regulatory. I am responsible for
advocating regulatory policy and managing SBC Missouri's regulatory
organization.

**Q. HAVE YOU PREPARED AN EXHIBIT THAT SUMMARIZES YOUR
PROFESSIONAL AND EDUCATIONAL BACKGROUND AND
EXPERIENCE BEFORE THE MISSOURI PUBLIC SERVICE
COMMISSION (COMMISSION)?**

A. Yes. This information is contained in Unruh - Schedule 1.

PURPOSE AND MAIN POINTS OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

1 A. My testimony explains that the 30 day process for competitive classifications is a
2 simple process where the Commission grants competitive classification in the
3 exchanges where the statutory provisions of two or more providers using their
4 own facilities in whole or in part are met. My testimony also presents the
5 evidence that was provided in SBC Missouri's petition demonstrating that the 30
6 day trigger provisions have been met for the exchanges requested by SBC
7 Missouri.

8

9 **Q. WHAT ARE THE MAIN POINTS THE COMMISSION SHOULD**
10 **UNDERSTAND ABOUT YOUR TESTIMONY?**

11 A. The Commission should understand the following points about my testimony and
12 this case in general:

- 13 • SB 237 significantly changed the manner in which the Commission grants
14 competitive classifications.
- 15 • The Commission no longer determines whether "effective competition" exists and
16 is not to review the "extent" of competition or make pricing and service
17 comparisons.
- 18 • The focus of the statute is now on "choice." The law recognizes that as long as
19 there is choice for consumers, the competitive marketplace should be permitted to
20 work.
- 21 • This is a 30 day trigger case where the Commission must grant competitive
22 classifications within 30 days after reviewing whether the statutory requirements
23 have been met. This is meant to be a simple "counting" of providers to ensure

1 that there are at least two providers using their own facilities in whole or in part to
2 provide service to business and/or residential customers in an exchange.

- 3 • Lack of confirmation from Staff that a company is a 30 day trigger company is
4 not sufficient reason to reject SBC Missouri's request for that exchange. SBC
5 Missouri presented evidence that it meets the criteria that must be considered.
6 • From a legal and practical standpoint, all exchanges that meet the 30 day criteria,
7 whether they were identified in SBC Missouri's 30 day request, 60 day request, or
8 not specifically identified, should be granted a competitive classification in the
9 present 30 day case.

10

11 **Q. WHAT IS THE PURPOSE OF THIS CASE?**

12 A. SBC Missouri seeks a competitive classification, under the provisions of Section
13 392.245.5 RSMo, for the 28 residential exchanges and for the 51 business
14 exchanges that it specifically identified in its Petition plus any additional
15 residential and/or business exchanges that meet the statutory criteria for the 30
16 day process, including those identified by Staff. This statutory provision provides
17 for a 30 day period in which the Commission is to grant the petition where the
18 criteria spelled out in 392.245.5 are met in the requested exchanges.

19

1 STATUTORY CRITERIA FOR OBTAINING A COMPETITIVE

2 CLASSIFICATION UNDER THE 30 DAY PROCESS

3 Q. WHAT ARE THE CRITERIA SPELLED OUT IN 392.245.5 FOR
4 OBTAINING A COMPETITIVE CLASSIFICATION UNDER THE 30 DAY
5 PROCESS?

6 A. The 30-day track establishes a competitive “trigger” that focuses solely on the
7 number of carriers providing “basic local telecommunications service” within an
8 exchange. Under the 30-day track, the Commission must classify the ILEC’s
9 services (business, residential, or both), as competitive in any exchange in which
10 at least two other carriers are also providing such basic local telecommunications
11 services within an exchange:

Each telecommunications service offered to business
customers, other than exchange access service, of an incumbent
local exchange telecommunications company regulated under
this section shall be classified as competitive in any exchange
in which at least two non-affiliated entities in addition to the
incumbent local exchange company are providing basic local
telecommunications service to business customers within the
exchange. Each telecommunications service offered to
residential customers, other than exchange access service, of an
incumbent local exchange telecommunications company
regulated under this section shall be classified as competitive in
an exchange in which at least two non-affiliated entities in
addition to the incumbent local exchange company are
providing basic local telecommunications service to residential
customers within the exchange...¹

For the purpose of the 30-day investigation, the statute requires a commercial
mobile radio service (“CMRS” or “wireless”) provider to be considered an entity

¹ Section 392.245.5 RSMo (2005), (emphasis added).

1 providing “basic local telecommunications services.”² It also requires the
2 Commission to recognize as a “basic local telecommunications service provider”
3 any entity providing “local voice”³ service “in whole or in part” over facilities in
4 which it or one of its affiliates has an ownership interest.⁴

5
6 As one can see, the focus is on ensuring the customer has a choice of service
7 providers. The intent is clear. The legislature created a simplified manner for
8 obtaining a competitive classification – one which requires the Commission to
9 grant a competitive classification once the statutory criteria have been satisfied.

10

11 **Q. HOW DOES SB 237 CHANGE THE PROCESS FOR GAINING**
12 **COMPETITIVE CLASSIFICATIONS?**

13 A. SB 237 was overwhelmingly passed by both the Missouri Senate and House of
14 Representatives⁵, was signed by the Governor and became law on August 28,
15 2005. SB 237 reinforces the legislature’s intent to allow full and fair competition
16 to function instead of regulation where specific and objective criteria are met.
17 Among other things, SB 237 creates a simplified manner in which competitive
18 classifications are to be gained. As explained above, the 30 day process simply
19 requires a count of providers using their own facilities in whole or in part. As
20 long as there are two providers that meet the statutory requirements, then a

² Section 392.245(1) RSMo (2005) (however, only one such non-affiliated provider will be counted as providing basic local telecommunications service within an exchange).

³ Section 392.245.5(3) RSMo (2005) defines “local voice service” as meaning “[r]egardless of the technology used...two-way voice service capable of receiving calls from a provider of basic local telecommunications services as defined by subdivision (4) of section 386.020, RSMo.

⁴ Section 392.245.5(2) RSMo (2005).

1 competitive classification is granted. Prior to SB 237, the Commission was
2 required to determine if “effective competition” existed in the exchange. This led
3 to a service-by-service analysis where the Commission examined the “extent” of
4 competition, made pricing comparisons and assessed service comparability. The
5 process established by SB 237, however, simply requires the Commission to
6 determine if choice is available in the exchange. The new law recognizes that as
7 long as customers have the ability to choose an alternative provider of voice
8 service other than the ILEC, customers are better served by letting competitive
9 forces manage the marketplace. Once customers have choice, the law makes clear
10 that competitive classification must be granted.

11
12 **SBC MISSOURI’S REQUEST FOR COMPETITIVE CLASSIFICATION MEETS**
13 **THE SIMPLIFIED 30 DAY PROCESS CRITERIA**

14 **Q. WHAT IS SBC MISSOURI SEEKING IN THIS CASE?**

15 A. SBC Missouri seeks a competitive classification for the 28 residential exchanges
16 and for the 51 business exchanges (out of 160 total exchanges) plus any additional
17 residential and/or business exchanges that meet the statutory criteria under the 30
18 day trigger process, including those identified by Staff. I have attached the
19 following exhibits which identify the exchanges where SBC Missouri seeks a
20 competitive classification under the 30 day criteria plus information regarding the
21 competitors that meet the 30 day criteria:
22

⁵ The Senate voted 29 to 3 and the House of Representatives voted 155 to 3 in favor of SB 237.

Exhibit A-1(HC), which identifies the SBC Missouri exchanges in which at least two non-affiliated entities are providing basic local telecommunications service to business customers; the names of two entities providing such service in each exchange; and the method through which SBC Missouri confirmed those carriers' provision of such service in each exchange.

Exhibit A-2(HC), which identifies the SBC Missouri exchanges in which at least two non-affiliated entities are providing basic local telecommunications service to residential customers; the names of two entities providing such service in each exchange; and the method through which SBC Missouri confirmed those carriers' provision of such service in each exchange.

Exhibit A-3, which is a map geographically depicting the exchanges identified in Exhibit A-1(HC).

Exhibit A-4, which is a map geographically depicting the exchanges identified in Exhibit A-2(HC).

Exhibit A-5, which provides information depicting competitor's switching and interconnection information obtained from the Local Exchange Routing Guide (LERG).

These are duplicates of the exhibits, including the same exhibit names, that were included in SBC Missouri's petition.

Q. PLEASE DESCRIBE HOW SBC MISSOURI IDENTIFIED THE VARIOUS TRIGGER COMPANIES FOR EACH EXCHANGE.

A. SBC Missouri identified the 30 day trigger companies through:

- Contacting the company by phone - SBC Missouri, in cases where it could not find published information confirming a company's provision of business or residence services in a particular exchange, directly contacted the company by telephone and inquired whether it provided business service, residence service, or both in a particular exchange.

- 1 • Let'sTalk.com - A publicly available website that lists, for any Zip Code
2 entered, the wireless carriers providing service in that area and various
3 wireless rate plans offered by each carrier. There is at least one provider
4 of wireless service in each exchange served by SBC Missouri.
- 5 • CLEC Annual Reports filed with the Commission - The Commission
6 requires every certificated CLEC offering local service in Missouri to file
7 a report each year specifically quantifying the amount of business and
8 residence service it is actually providing in each exchange served. The
9 Commission's report requires CLECs to separately state for residential
10 and business customers the voice grade equivalent lines it provides using
11 the pure resale, UNE-L, UNE-P, and full facility-based methods of
12 provisioning service. While many CLECs file this report with the
13 Commission on a Highly Confidential basis, other CLECs do not request
14 such protection and file their report on a Non-Proprietary basis. To the
15 extent SBC Missouri was able to locate such Non-Proprietary CLEC
16 Annual Reports, SBC Missouri utilized that data to help identify CLECs
17 providing business service, residential service or both in an exchange.
- 18 • Migrations from UNE-P to CLEC facilities - When a CLEC migrates from
19 UNE-P (under which a CLEC purchases switching and loop elements
20 from an incumbent LEC) to a CLEC's own facilities, SBC Missouri's
21 internal business records reflect the disconnection of a particular CLEC
22 customer's loop from SBC Missouri's switch. For the purpose of these
23 exhibits, SBC Missouri included UNE-L CLECs that ported UNE-P

1 customer telephone numbers to the UNE-L provider's switch (i.e., CLECs
2 migrating a telephone number and a loop); and CLECs utilizing only
3 Local Number Portability (i.e., CLECs migrating a telephone number
4 without an associated UNE loop or switch port). Using the LERG, SBC
5 Missouri validated that each CLEC had NPA-NXXs for each exchange
6 identified.

- 7 • E-911 Listings - The appearance of a CLEC's customer in the E-911
8 database reflects the CLEC's provision of service in an exchange utilizing
9 its own switching.
- 10 • Directory Listings for companies providing service using their own
11 facilities - starting with CLECs listed in the LERG as having switching
12 facilities. SBC Missouri cross-referenced those CLECs in the directory
13 listing database to confirm that the NPA-NXXs assigned to them for SBC
14 Missouri exchanges (or ported by them from another carrier) were actually
15 being used by them to serve customers.

16
17 **Q. WHICH COMPANIES DID SBC MISSOURI EXCLUDE FROM THE 30**
18 **DAY TRIGGER REVIEW?**

19 A. SBC Missouri excluded Cingular since the statute requires the trigger
20 company to be a non-affiliated entity. SBC Missouri also excluded the
21 AT&T companies from its review. While AT&T remains a competitor of
22 SBC Missouri's, SBC Missouri chose to exclude the AT&T companies

1 from its analysis to avoid issues that parties might raise given the pending
2 acquisition of AT&T by SBC Communications.
3

4 **Q. DOES SBC MISSOURI'S REQUEST FOR COMPETITIVE**
5 **CLASSIFICATION IN THE IDENTIFIED EXCHANGES MEET THE 30**
6 **DAY STATUTORY CRITERIA?**

7 A. Yes. The Commission should grant a competitive classification in all the
8 requested exchanges no later than September 29, 2005 (i.e., within 30 days of the
9 request). In addition, as requested by SBC Missouri in its Petition (para. 21) and
10 pursuant to the requirements of the statute, the Commission should also grant
11 competitive classification in those exchanges where the Commission's records or
12 its inquiries of regulated providers indicates the statutory criteria have been met.
13

14 **Q. PLEASE ELABORATE ON YOUR COMMENT THAT, PURSUANT TO**
15 **SECTION 392.245.5, THE COMMISSION SHOULD USE ITS OWN**
16 **RECORDS AND INQUIRIES OF REGULATED PROVIDERS IN**
17 **IDENTIFYING COMPETITION FOR COMPETITIVE**
18 **CLASSIFICATION CASES.**

19 A. Since passage of SB 237, the law now requires the Commission to maintain and
20 consider its own records and make inquiries of regulated providers when
21 considering competitive classification requests. SB 237 requires the Commission
22 to go beyond the data that carriers provide it in the ordinary course of business
23 and pro-actively seek other necessary and appropriate data from competitors it

1 regulates. SBC Missouri's petition directs the Commission's attention to several
2 pieces of information that are contained in the Commission's records that would
3 be helpful in fulfilling this statutory obligation. While the Commission should
4 review these cited sources of information, it should not limit its investigation to
5 this data alone since the statute requires a pro-active gathering of relevant
6 information from the companies it regulates.

7

8 **Q. WHAT IF THE COMMISSION FINDS THAT ANY OF THE REQUESTED**
9 **EXCHANGES DO NOT MEET THE 30 DAY TRIGGER CRITERIA?**

10 A. While I believe that all of the requested exchanges meet the 30 day criteria, I
11 would request that the Commission grant a competitive classification in Case No.
12 TO-2006-0102 (SBC Missouri's 60 day case) for any exchanges the Commission
13 determines does not meet the 30 day criteria. Case No. TO-2006-0102 is the case
14 created by the Commission when it split SBC Missouri's competitive
15 classification petition into two separate cases – the present case, and a new case
16 dealing with the exchanges requested by SBC Missouri for a competitive
17 classification under the 60 day process established by SB 237.

18

19 **OBJECTIONS TO SBC MISSOURI'S 30 DAY REQUEST ARE MISGUIDED**

20 **Q. HAVE YOU PREPARED SOME RESPONSES TO THE OBJECTIONS**
21 **AND TESTIMONY ALREADY FILED IN THE CASE?**

22 A. Yes, I have some limited response to Staff's objections and Mr. Van Eschen's
23 testimony, both of which were filed yesterday. Given the short amount of time to

1 respond to the objections and the fact that Staff may be modifying its
2 recommendations based on anticipated feedback from certain CLECs, I may have
3 additional rebuttal testimony to present at the hearing as anticipated in the
4 Commission's Order establishing the procedural schedule for this case.
5 Additionally, Mr. Van Eschen includes several pages of testimony pertaining to
6 SBC Missouri's 60 day case (TO-2006-0102) which I will not address in this
7 testimony.

8

9 **Q. MR. VAN ESCHEN SUGGESTS THAT SBC MISSOURI'S REQUEST**
10 **SHOULD BE DENIED IN ANY EXCHANGE WHERE STAFF HAS BEEN**
11 **UNABLE TO CONFIRM THAT A TRIGGER COMPANY IDENTIFIED**
12 **BY SBC MISSOURI IS PROVIDING SERVICE IN THE EXCHANGE (P.**
13 **14-17). DO YOU AGREE WITH THIS POSITION?**

14 A. No. Staff indicates that it has been unable to confirm a 30 day trigger company in
15 certain exchanges because they have not heard back from the 30 day trigger
16 company in question.⁶ The fact that a company has not responded to Staff's
17 questions is not a reason to deny SBC Missouri's request. SBC Missouri has
18 presented evidence that the trigger company is providing service in the exchange
19 and that evidence is a sufficient basis to grant competitive classification. Staff has
20 not sought additional information or verification from SBC Missouri of any of the
21 evidence it presented in the Petition.

22

1 **Q. DO YOU AGREE GENERALLY WITH STAFF’S STANDARDS FOR ITS**
2 **RECOMMENDATIONS?**

3 A. No. Staff essentially ignored the evidence SBC Missouri utilized to support its
4 Petition, except for the identification of the exchanges where SBC Missouri seeks
5 competitive classification and the CLECs which SBC Missouri identified as
6 serving those exchanges. Unless Staff could “independently” verify competition
7 based on annual reports and calls to selected CLECs, Staff did not recommend
8 competitive classification. Staff should have included an evaluation of SBC
9 Missouri’s evidence in its recommendation.

10

11 **Q. IS IT APPROPRIATE TO EVALUATE COMPETITIVE**
12 **CLASSIFICATION BASED ONLY ON ANNUAL REPORTS AND CALLS**
13 **TO SELECTED CLECS?**

14 A. No. As Staff noted, the use of annual reports can be problematic as the annual
15 reports may be dated and may not reflect new exchanges where CLEC may now
16 be serving. Also, as Staff indicated, there can be compliance issues with CLECs
17 accurately filing annual reports. In addition, making SBC Missouri’s competitive
18 classification dependent on whether CLECs cooperate in response to Staff is not
19 consistent with the statute nor a fair way to evaluate whether SBC Missouri meets
20 the statutory criteria.

21

⁶ Based on Staff’s testimony, it appears they are waiting on responses from Big River, Birch, NuVox, and Sprint.

1 **Q. STAFF RECOMMENDS APPROVAL OF ONE RESIDENTIAL**
2 **EXCHANGE⁷ AND NINE BUSINESS EXCHANGES⁸ IN SBC**
3 **MISSOURI'S 60 DAY CASE (TO-2006-0102) BASED ON STAFF'S**
4 **DETERMINATION THAT THESE 10 EXCHANGES MEET THE 30 DAY**
5 **STATUTORY CRITERIA (P. 26-27). SHOULD THESE EXCHANGES BE**
6 **APPROVED IN SBC MISSOURI'S PRESENT 30 DAY CASE?**

7 A. Yes. SBC Missouri did not identify these exchanges for 30 day approval because
8 it was not aware of the existence of competition from companies using their own
9 facilities in whole or in part in those exchanges. Staff, which has access to
10 information such as annual reports which are not available to SBC Missouri, has
11 now identified these additional exchanges as meeting the statute. In its Petition,
12 SBC Missouri requested that the Commission grant a competitive classification
13 for any exchange that meets the 30 day criteria based upon the Commission's own
14 investigation as required by the statute. Since the Commission is now aware that
15 these 10 exchanges meet the 30 day criteria, it should grant a competitive
16 classification in this 30 day case. Not only does the statute require this result, so
17 does good administrative practice. It would be a waste of resources to require
18 SBC Missouri to file another Petition under the 30 day process when the
19 information to determine that the statutory requirements have been met is already
20 in the case.

21

⁷ Joplin.

⁸ Archie, Ash Grove, Billings, Boonville, Carthage, Cedar Hill, Farley, Marshall, and Mexico.

1 **Q. STAFF IDENTIFIED SIX EXCHANGES WHERE IT HAS CONFIRMED**
2 **THAT THE 30 DAY CRITERIA ARE MET FOR BUSINESS SERVICE⁹,**
3 **HOWEVER, STAFF INDICATES THAT SINCE SBC MISSOURI DID**
4 **NOT ASK FOR THESE SIX EXCHANGES TO BE COMPETITIVELY**
5 **CLASSIFIED, THEN THE COMMISSION SHOULD NOT GRANT A**
6 **COMPETITIVE CLASSIFICATION IN THIS CASE (P. 13). PLEASE**
7 **COMMENT.**

8 A. First, I want to point out that SBC Missouri's petition did request a competitive
9 classification for three of the six exchanges identified by Staff. The Moberly, St.
10 Clair and Union exchanges were identified in SBC Missouri's 60 day request.
11 Regardless, though, the Commission should grant a competitive classification for
12 these six exchanges in the 30 day case because the 30 day statutory criteria have
13 been met. The statute makes clear that the Commission is to review its own
14 records and make inquiries as necessary and appropriate of regulated providers to
15 determine where there are voice providers. SBC Missouri requested the
16 Commission to grant a competitive classification for any exchange where its own
17 investigation identified that a competitive classification should be granted.¹⁰
18 Moreover, from a practical standpoint, the Commission should grant a
19 competitive classification for these exchanges since the Commission now knows
20 that they meet the 30 day criteria, rather than requiring a new case to be filed
21 which would be a waste of the Commission's and other parties' time and
22 resources.

⁹ Chaffee, Linn, Moberly, Montgomery City, St. Clair, and Union.

1

2 **Q. STAFF RAISES A CONCERN THAT SEMO HAS NOT BEEN GRANTED**
3 **ANY TYPE OF CERTIFICATE OF SERVICE AUTHORITY TO**
4 **PROVIDE BASIC LOCAL TELECOMMUNICATIONS SERVICE (P. 15)**
5 **POSSIBLY IMPLYING THAT SEMO COULD NOT BE COUNTED AS A**
6 **30 DAY TRIGGER COMPANY. PLEASE COMMENT.**

7 A. Whether or not a company is certificated to provide basic local
8 telecommunications service is not relevant under the statute for determining
9 whether or not to grant a competitive classification. Section 392.245.5(2) makes
10 clear that any entity providing local voice service in whole or in part over its own,
11 or its affiliates, facilities is to be considered a basic local service provider
12 regardless of whether or not the entity is subject to regulation by the Commission.
13 There is no requirement that the competitor be certificated by the Commission.

14

15 **Q. STAFF GOES ON TO STATE THAT SEMO MAY BE CONTRACTING**
16 **WITH A CLEC FOR THE PROVISION OF VOICE SERVICE AND**
17 **INDICATES THAT THE EXCHANGES SERVED BY SEMO WOULD**
18 **QUALIFY PROVIDED THE CLEC SEMO HAS CONTRACTED WITH IS**
19 **PROVIDING SERVICE ON A FULL FACILITY-BASIS OR BY USING**
20 **UNE-L (P. 15). PLEASE COMMENT.**

21 A. Whether SEMO is providing service using its own loops and a CLEC's switching
22 functions or a CLEC is providing service using its own switching functions and

¹⁰ See SBC Missouri's petition, para. 21.

1 SEMO's loops, the 30 day criteria are met and competitive classification should
2 be granted in the exchanges where SBC Missouri has identified SEMO as a 30
3 day trigger company.¹¹

4

5 **Q. STAFF'S TESTIMONY RECOMMENDS AGAINST A COMPETITIVE**
6 **CLASSIFICATION IN THE FULTON EXCHANGE FOR BUSINESS**
7 **SERVICES BECAUSE STAFF HAD CONTACTED SOCKET AND**
8 **SOCKET INDICATED THAT IT ONLY PROVIDED SERVICE TO AN**
9 **INTERNET SERVICE PROVIDER (ISP) IN FULTON (P. 17) AND**
10 **STAFF'S POSITION IS THAT SERVICE TO AN ISP DOES NOT MEET**
11 **THE 30 DAY CRITERIA (P. 11). DO YOU HAVE ADDITIONAL**
12 **EVIDENCE THAT SOCKET IS PROVIDING VOICE SERVICE TO NON-**
13 **ISP BUSINESSES IN FULTON?**

14 **A.** Yes. I have attached a news release issued by Socket last month which includes a
15 quote from the President of a community healthcare company speaking to the fact
16 that Socket provides voice services to the company (Unruh – Schedule 2). Based
17 on this additional information, it is my understanding that Staff again contacted
18 Socket and that Socket has now confirmed that it is providing voice service in
19 Fulton. It is my understanding that Staff plans to modify its recommendations to
20 include Fulton. Whether Staff modifies its recommendation or not, the evidence
21 establishes that the statutory criteria have been met and competitive classification
22 should be granted.

¹¹ Advance, Bell City, Delta, Pocahontas-New Wells, and Wyatt.

1

2 **Q. MR. VAN ESCHEN DISCUSSES STAFF’S VIEW THAT THERE**
3 **SHOULD BE A MINIMUM THRESHOLD FOR QUALIFYING AS A 30**
4 **DAY TRIGGER COMPANY. SPECIFICALLY, STAFF BELIEVES THAT**
5 **LINES SERVED ON A FULL FACILITY BASIS OR LINES SERVED BY**
6 **A CLEC THAT USES ITS OWN SWITCH AND PURCHASES**
7 **UNBUNDLED NETWORK ELEMENT LOOPS (UNE-L) IS THE**
8 **MINIMUM THRESHOLD TO MEET THE 30 DAY STATUTORY**
9 **CRITERIA THAT A COMPANY MUST USE ITS OWN FACILITIES IN**
10 **WHOLE OR IN PART TO BE COUNTED AS A 30 DAY TRIGGER**
11 **COMPANY (P. 7-8). DO YOU AGREE WITH THIS POSITION?**

12 A. No. Staff’s position is inconsistent with the statute. As explained more fully in
13 SBC Missouri’s petition, the statute defines telecommunications facilities in broad
14 terms and would not be limited to companies using UNE-L. The statutory criteria
15 would include, for example, companies which use their own loops and another
16 carrier’s switching functions. In the present case, at this time there do not appear
17 to be any exchanges where Staff’s minimum threshold concept creates a dispute
18 regarding this issue so the Commission does not need to address Staff’s minimum
19 threshold concept in this case.

20

21 **Q. HAVE YOU HAD THE OPPORTUNITY TO FULLY CONSIDER ALL OF**
22 **STAFF’S RECOMMENDATIONS.**

1 A. I am still evaluating Staff's proposal and reserve the right to provide additional
2 comments at the hearing.
3

4 **SUMMARY**

5 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

6 A. My testimony has explained that SB 237 significantly alters the manner in which
7 competitive classification requests are to be reviewed. The legislature has created
8 a defined and simplified approach where the Commission is to grant a competitive
9 classification where there are at least two alternative providers, one of which may
10 be a wireless provider, which use their own facilities in whole or in part to
11 provide service in the exchange. The Commission is not to determine whether
12 there is "effective competition" or examine the "extent" of competition, make
13 pricing comparisons, or assess service comparability as it did under the old
14 statutory framework. The process now focuses on "choice" where the
15 Commission now simply has to confirm that there are at least two providers in the
16 exchange that meet the 30 day statutory criteria. The exchanges requested by
17 SBC Missouri meet these criteria and the Commission should grant a competitive
18 classification for these exchanges by September 29, 2005 (i.e., within 30 days of
19 the request).
20

21 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

22 A. Yes, it does.