

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

|  |   |                       |
|--|---|-----------------------|
| In the Matter of Proposed PSC Rulemaking     | ) |                       |
| 4 CSR 240-2.061 Filing Requirements for      | ) | Case No. TX-2005-0194 |
| Applications for Expanded Local Calling Area | ) |                       |
| Plans Within a Community of Interest.        | ) |                       |

**SOUTHWESTERN BELL TELEPHONE, L.P., D/B/A SBC MISSOURI'S  
COMMENTS REGARDING PROPOSED RULE 4 CSR 240-2.061**

Comes now Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, and, for its  
Comments Regarding Proposed Rule 4 CSR 240-2.061, states as follows:

**Executive Summary**

The Missouri Public Service Commission (“Commission”) should not implement proposed Rule 4 CSR 240-2.061 because, as currently worded, it is unlawful for four reasons. First, this proposed rule violates all telecommunications companies’ due process rights, as guaranteed by Article I, Section 10, of the Missouri Constitution as it does not guarantee a hearing before affecting an individual company’s property rights. Second, the proposed rule violates Section 392.200.9, RSMo. 2000 to the extent it effectively mandates a revision to an exchange boundary without the consent of the affected telephone company or companies.<sup>1</sup> Third, this proposed rule violates Section 392.245.11 for those incumbent local exchange companies subject to price cap regulation as price cap regulation contemplates that price revisions to existing services and the decision whether to offer new services and the price of such services are within the discretion of the price cap regulated company. Finally, this proposed rule is inconsistent with Missouri case law, which uniformly holds the Commission’s authority to regulate does

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<sup>1</sup> All statutory references are to RSMo. 2000 unless specifically noted otherwise.

not include the right to dictate the manner in which a company shall conduct its business.<sup>2</sup>

Beyond the unlawfulness of the proposed rule as written, SBC Missouri does not believe that as a matter of good public policy that the Commission should consider mandating specific calling plans in today's competitive marketplace where there are several different types of service providers offering services to meet customers' expanded calling needs, including incumbent and competitive traditional landline carriers, interexchange carriers, wireless carriers, cable companies providing IP-based voice services, and, in many cases, other providers offering voice services using Voice over Internet Protocol ("VoIP"). For these reasons, SBC Missouri does not believe the Commission should implement proposed Rule 4 CSR 240-2.061. However, if the Commission determines that it can lawfully proceed, and determines that it otherwise desires a formal process for dealing with calling scope issues, SBC Missouri offers the following specific comments.

1. SBC Missouri objects to proposed rule 4 CSR 240-2.061(2)(A), which states that an application may be filed on behalf of: "[a]t least fifteen percent (15%) of the local exchange telecommunications service subscribers within the requesting exchange."

- a. It is unclear how the Missouri Public Service Commission ("Commission") would measure whether at least 15% of the local exchange service subscribers within the requesting exchange actually support the application for expanded local calling plans. It is not clear:
- (1) whether all incumbent and alternative local exchange company

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<sup>2</sup> State v. Public Service Commission, 406 S.W.2d 5, 11 (Mo. 1966); State v. Bonacker, 906 S.W.2d 896, 899 (Mo. App. S.D. 1995); State ex rel. Laclede Gas Company v. Public Service Commission, 600 S.W.2d 222, 228 (Mo. App. W.D. 1980).

subscribers would be counted; (2) how the 15% threshold would be verified; and (3) whether and how the signature requirement would be verified. Each of these issues needs to be addressed in a proposed rule

- b. Furthermore, it is SBC Missouri's position that the threshold should be measured based on subscribers to residential basic local service and that the 15% threshold that is proposed in 4 CSR 240-2.061(2)(A) is too low. Clearly, a 15% threshold does not represent what the majority of the customers in an exchange may desire with regard to their local calling needs. However, a new calling plan would potentially impact all customers in the exchange not only with regard to the calling scopes of the plan itself, but also with regard to the price of the calling plan. It is SBC Missouri's position that a higher threshold is, therefore, required. SBC Missouri believes that at least a 30% threshold of subscribers to residential basic local exchange service is more appropriate as it demonstrates a greater interest level from customers and recognizes that customers are using different types of technology to meet their calling needs.
- c. For these reasons, SBC Missouri suggests that proposed Rule 4 CSR 240-2.061(2)(A) be modified as follows:

At least ~~fifteen percent (15%)~~ **thirty percent (30%)** of the subscribers to residential basic local telephone service, **as measured by the combined total number of residential access lines that each local exchange telephone company has indicated in its most recent annual report,** ~~local exchange telecommunications service subscribers~~ within the requesting exchange.

2. SBC Missouri further objects to 4 CSR 240-2.061(2)(B). Under the proposed rule, a governing body of a municipality or school district within the requesting exchange could file an application with the Commission for an expanded local calling area plan. There may be several governing bodies and school districts within an exchange. Apparently, any one of these entities could pursue an expanded calling plan without even demonstrating that customers want and are willing to pay for a plan. The Commission and the industry would then be required to go through this process expending time and money for a cause that might not be supported by the community. In fact, the governing board or school board members might not even represent the majority of the public in the exchange. For example, a portion of a city (City A) exists within the exchange that contains a neighboring city. Presumably under the proposed rule, a few members of a school board in City A could propose a calling plan to the neighboring exchange even though the overwhelming majority of people in City B that live within the exchange do not live within the school district boundaries.

3. Additionally, SBC Missouri believes that if the applicant is seeking a change involving MCA Service, that will make MCA Service a mandatory calling plan for all subscribers within an exchange, the applicant should be required to provide evidence that at least thirty percent (30%) of the subscribers to residential service that do not currently subscribe to MCA Service will subscribe to the mandatory service at a compensatory price. Thus, SBC Missouri proposes that a new section be added to 4 CSR 240-2.061 which would provide as follows:

**If the applicant is seeking a change to MCA Service that will make MCA Service a mandatory calling plan for all residential subscribers within the exchange, the applicant shall provide evidence that at least thirty percent (30%) of the subscribers to residential service, that do**

**not currently subscribe to the MCA Plan, are willing to subscribe to the service at a compensatory price.**

4. SBC Missouri further believes that if the applicant is seeking a change to MCA Service that will add a new exchange(s) to the Plan, that the applicant should be required to provide evidence, not only that the customers want MCA service at a compensatory price, but also that they are willing to change their telephone numbers in order to subscribe. Thus, SBC Missouri proposes that a new section be added to proposed Rule 4 CSR 240-2.061(2) which provides as follows:

**If the applicant is seeking a change to MCA Service that will add a new exchange(s) to the MCA Plan, the applicant shall provide evidence that the customers are willing to change their telephone numbers in order to subscribe to MCA Service.**

5. Further, with regard to 4 CSR 240-2.061(3), SBC Missouri recommends that the rule include a verification that the signatures meet the percentage requirement in 4 CSR 240-2.061(2). Incorporating SBC Missouri's proposed changes mentioned above, with those mentioned in this paragraph, SBC Missouri proposes the following language be added to paragraph (3)(F).

A petition, if initiated by local exchange service subscribers as described in subsection (2)(A) above, which shall include the signatures of **at least thirty percent (30%) of the subscribers to residential basic local exchange telephone service within the affected exchange(s)**~~such subscribers~~, and only one (1) signature per subscriber is allowed.

6. SBC Missouri notes that the proposed rule, as currently worded, does not require the applicant to advise the Commission of the competitive alternatives that are available to the community of interest to satisfy their calling needs and why those competitive alternatives do not meet the community of interests needs. Thus, SBC

Missouri proposes that the Commission include a new provision in proposed rule 4 CSR 240-2.061(3)(G), which would provide as follows:

**(G) The competitive alternatives that are available to the community of interest to satisfy their calling needs and why those competitive alternatives do not meet the community of interest's needs.**

7. Additionally, SBC Missouri notes that proposed Rule 4 CSR 240-2.061 does not take into account the substantial private costs estimates that telecommunications companies could incur as a result of the proposed rule. Specifically, telecommunications companies would incur costs to evaluate the proposed calling plan, including the logistics of implementing the calling plan, as well as a proposed price for the calling plan. Additionally, telecommunications carriers would incur systems costs to change their databases and billing systems to reflect new calling plans. Without an actual proposed calling plan, it is difficult to discern what the actual private cost estimate would be. However, SBC Missouri's private cost estimate would be far in excess of the under \$500 private cost estimate provided by the Commission.

8. SBC Missouri objects to proposed rule 4 CSR 240-2.061(5), which provides:

The Commission will provide notice of the filing of the application to all incumbent local exchange telecommunications companies in the affected areas and to all alternative local exchange telecommunications companies except those companies only providing prepaid local telecommunications service. The filing of the application will initiate an Electronic Filing and Information System (EFIS) notification to all interexchange telecommunications carriers. All notifications shall include instructions on how to obtain a copy of the application.

As written, the Commission is only required to provide notice of the filing of the application to incumbent local exchange companies in the affected areas and alternative local exchange telecommunications companies, other than those that only provide

prepaid service. However, this proposed rule should include a requirement to provide notice to prepaid local telecommunications service, as well as to interexchange carriers, because these carriers will also be impacted by calling scope changes. SBC Missouri notes that wireless carriers and VoIP providers would be impacted as well, but the Commission may not be in a position to provide notice to these providers. Thus, SBC Missouri recommends that following modification to proposed rule 4 CSR 240-2.061(5):

The Commission **shall** ~~will~~ provide notice of the filing of the application to all incumbent and alternative local exchange telecommunications companies ~~except those companies only providing prepaid local telecommunications service,~~ **and all interexchange carriers in the affected areas.** The filing of the application will initiate an Electronic Filing and Information System (EFIS) notification to all ~~interexchange telecommunications~~ carriers. All notifications shall include instructions on how to obtain a copy of the application.

9. SBC Missouri objects to proposed rule 4 CSR 240-2.061(6) which provides:

Any incumbent local exchange telecommunications company serving any exchange proposed to be affected by the application shall automatically be made a party to the case.

All carriers, and not just incumbent local exchange carriers, serving exchanges which are proposed to be affected by the application, should be made party to the case because they will be impacted by calling scope plan changes. For these reasons, SBC Missouri proposes that 4 CSR 240-2.061(6) be modified as follows:

**All incumbent and alternative local exchange telecommunications companies and interexchange companies provider service in** ~~Any incumbent local exchange telecommunications company serving any~~ exchange proposed to be affected by the application shall automatically be made a party to the case.

10. SBC Missouri objects to 4 CSR 240-2.061(7), which provides: “[w]ithin sixty (60) days after the filing of the application, the commission shall convene a

conference of the parties. The purpose of the conference is to discuss, at a minimum, the application and determine if any modifications should be made to the application.” The sixty day time constraint in this proposed rule could be too constrictive. Specifically, in that limited timeframe, telecommunications companies might not have had sufficient time to evaluate the most economical way to implement a proposed plan. As such, the conference may not be productive. SBC Missouri proposes that the Commission shall not convene a conference of the parties earlier than one hundred and twenty (120) days after the filing of the application. Typically, calling plan changes, such as the ones presently pending in several cases involving various changes to MCA service, can be rather complicated to evaluate and it would be more productive to ensure companies have an adequate opportunity to review various impacts and to consider several alternative solutions. Thus, SBC Missouri proposes that 4 CSR 240-2.061(7) be modified as follows:

No sooner than ~~sixty (60)~~ **one hundred and twenty (120)** days after the filing of the application, the commission shall convene a conference of the parties. The purpose of the conference is to discuss, at a minimum, the application and determine if any modifications should be made to the application.

11. SBC Missouri objects to proposed rule 4 CSR 240-2.061(11) which states: “Within ninety (90) days after the filing in section (9) above, any telecommunications carrier directly affected by the proposal, shall file illustrative tariff sheets to implement the applicant’s proposal.” It is premature and inappropriate for the Commission to require telecommunications carriers directly affected by the proposal to file illustrative tariffs before it makes a determination and issues an order concerning the objections that were filed in response to final recommendations. For these reasons, incorporating SBC



Missouri's proposed changes with those it proposes now, SBC Missouri recommends that a new section be added to this proposed rule that would precede paragraph 10 and would provide as follows:

**Upon receipt of the application and any objections to the application as proposed, the Commission shall issue an order in which it indicates: (a) whether the application is supported by at least thirty percent (30%) of the subscribers to residential basic local telephone service, as measured by the combined total number of residential access lines that each local exchange telephone company has indicated in its most recent annual report; and (b) whether to proceed to hearing based on a finding that there is sufficient evidence that there are no competitive alternatives available to the community of interest to satisfy their calling needs.**

12. SBC Missouri further objects to proposed Rule 4 CSR 240-2.061(11) in that it requires any telecommunications provider, that is directly affected by the proposal, to file illustrative tariff sheets to implement the applicant's proposal. Telecommunications providers that are directly affected by the proposal should not be required to file illustrative tariff sheets to implement the applicant's proposal. Rather, telecommunications providers should be allowed to file illustrative tariffs that it believes would offer a proposed calling plan solution to meet the petitioner's alleged calling needs. Thus, SBC Missouri proposes that 4 CSR 240-2.061(11) be modified as follows:

**Within ninety (90) days after the filing in section (9) above, any telecommunications carrier directly affected by the proposal shall file illustrative tariff sheets to implement the applicant's proposal that offer a proposed calling plan solution to the petitioner's alleged calling needs.**

13. SBC Missouri objects to proposed rule 4 CSR 240-2.061(12), which states as follows:

**The illustrative tariff sheets shall identify all rate adjustment(s) necessary to implement the applicant's proposal. The company shall simultaneously file supporting documentation if it proposes to increase or establish new**

rates designed to maintain revenue neutrality, including the recovery of any new costs associated with implementing the proposal.

For the reasons stated in paragraph 12 above, telecommunications carriers directly affected by the proposal should be permitted to offer a proposed calling plan solution to the meet the petitioner's alleged calling needs. Thus, SBC Missouri proposes that proposed rule 4 CSR 240-2.061(12) be modified as follows:

The illustrative tariff sheets shall identify **the rate of the proposed plan.** ~~all rate adjustment(s) necessary to implement the applicant's proposal.~~ The company shall simultaneously file supporting documentation if it proposes to increase or establish new rates designed to maintain revenue neutrality, including the recovery of any new costs associated with implementing the proposal.

14. SBC Missouri objects to proposed rule 4 CSR 240-2.061(13), which provides: "[t]he Commission may hold public hearings and/or meetings in locations affected by the application." SBC Missouri believes that, if the Commission finds that the petitioner has satisfied the requirements of the rule such that further evaluation is appropriate, then public hearings should be mandatory. Not only do customers need the opportunity to understand the potential changes to their calling scopes and rates, but the Commission must be able to judge the need for the expanded calling scope based on comments from the public. Quite simply, in order for the Commission to determine whether a proposed calling plan is in the public interest, the Commission must hear from the public. Thus, SBC Missouri proposes that 4 CSR 240-2.061(13) be modified as follows:

**If the commission determines that the petitioner has satisfied the requirements of the rule such that further evaluation is appropriate,** [t]he commission ~~shall may~~ hold public hearings and/or meetings in locations affected by the application.

15. SBC Missouri objects to 4 CSR 240-2.061(14), which provides: “[a]fter receipt of the illustrative tariffs in section (12) above, the commission may hold a hearing or other appropriate proceeding. The parties will provide evidence to assist the commission in its findings.” SBC Missouri contends that, before adopting any revised local calling scope plan, the Commission must hold a hearing in order to meet the due process requirements of the United States and Missouri Constitutions.

- a. The hearings of administrative agencies must be conducted consistently with fundamental principles of due process.<sup>3</sup> One component of this due process requirement is that parties be afforded a full and fair hearing at a meaningful time and in a meaningful manner.<sup>4</sup> Section 386.420 also guarantees all parties to a Commission proceeding, the right to be heard and to introduce evidence.<sup>5</sup>
- b. Another component of the due process requirement is that parties be allowed to cross-examine witnesses.<sup>6</sup> The purpose of cross-examination is to sift, modify, or explain what has been said, to develop new or old facts in a view favorable to the examiner, and to test the correctness of the information from the witness with an eye to discrediting the accuracy or truthfulness of the witness.<sup>7</sup> When the evidence is critical to the issues

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<sup>3</sup> State ex. rel. James M. Fischer, Public Counsel for the State of Missouri, v. Public Service Commission of Missouri, et al., 645 S.W.2d 39, 43 (Mo. App. W.D. 1982); State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission of Missouri, et al., 562 S.W.2d 688, 693 (Mo. App. 1978).

<sup>4</sup> State ex. rel. James M. Fischer, Public Counsel for the State of Missouri, v. Public Service Commission of Missouri, et al., 645 S.W.2d 39, 43 (Mo. App. W.D. 1982).

<sup>5</sup> State ex. rel. James M. Fischer, Public Counsel for the State of Missouri, v. Public Service Commission of Missouri, et al., 645 S.W.2d 39, 42 (Mo. App. W.D. 1982).

<sup>6</sup> State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission of Missouri, et al., 562 S.W.2d 688, 693 (Mo. App. 1978).

<sup>7</sup> Id.

and necessary to sustain a proponent's burden or proof, cross-examination is essential to testing the reliability of evidence.<sup>8</sup>

- c. The right to cross-examination is explicitly set forth in Section 536.070.2 which provides that in any contested case:

Each party shall have the right to call and cross-examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not the subject of the direct examination, to impeach any witness regardless of which party first called him to testify, and to rebut the evidence against him.

- d. Thus, if the Commission were to establish any expanded local calling area plan within a community of interest, it must afford all parties their due process rights by conducting a hearing.
- e. Finally, the second sentence of proposed Rule 4 CSR 240-2.061(14) should be modified to reflect that parties “may” provide evidence to assist the Commission in its findings.
- f. For these reasons, SBC Missouri proposes that 4 CSR 240-2.061(14) be modified as follows:

After receipt of the illustrative tariff sheets in section (12) above, the commission ~~shall~~ **may** hold a hearing ~~or other appropriate proceeding~~. The parties ~~may~~ **will** provide evidence to assist the commission in its findings.

- 16. SBC Missouri objects to 4 CSR 240-2.061(15), which provides:

The commission, in its findings, will determine whether the proposed calling plan is just, reasonable, affordable, and in the public interest. In making these determinations, the commission will consider evidence on the competitive implications, revenue impacts, and company and social costs of implementing the proposed expanded calling plans balanced against the objectives of the community of interest. The commission will

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<sup>8</sup> Id.

also weight any costs against benefits to the community of interest when making its determination.

Specifically, nowhere in proposed rule 4 CSR 240-2.061 is the Commission required to consider competitive offerings which may meet the community of interest's needs without the need to order an additional expanded local area calling plan. SBC Missouri, therefore, proposes that proposed Rule 4 CSR 240-2.061(15) be modified as follows:

The commission, in its findings, ~~will~~ **shall** determine whether the proposed calling plan is just, reasonable, affordable, and in the public interest. In making these determinations, the commission ~~will~~ **shall** consider **whether competitive offerings currently exist that may meet the community of interest's needs without the necessity of ordering an additional expanded local area calling plan. Additionally, the commission shall consider** evidence on the competitive implications, revenue impacts, and company and social costs of implementing the proposed expanded calling plans balanced against the objectives of the community of interest. The commission will also weigh any costs against benefits to the community of interest when making its determination.

17. SBC Missouri objects to 4 CSR 240-2.061(16), which provides: "[t]he Commission may modify the proposed rates, terms or conditions in its decision on the application." This proposed provision is beyond the jurisdiction of the Commission.

- a. If the Commission were to modify or alter a calling scope, without the agreement of the affected telecommunications companies, it would violate Section 392.200.9, which provides:

This act shall not be construed to prohibit the Commission, upon determining that it is in the public interest, from altering local exchange boundaries, provided that the incumbent local exchange telecommunications company or companies serving each exchange for which the boundaries are altered provide notice to the Commission that the companies approve of the alteration of exchange boundaries.

The Commission has interpreted Section 392.200.9 to require two conditions for the borders of an exchange to be changed.<sup>9</sup> First, the Commission may change local exchange boundaries only if the ILEC doing business in the exchange for which the boundaries are changed approves of the change; and, second, the Commission must then make a finding that changing the borders of the exchange is in the public interest.<sup>10</sup>

b. If the commission implemented an expanded area calling plan, the Commission would effectively alter exchange boundaries. Unless the ILECs doing business in the exchange for which the boundaries are changed approve of the change and the Commission makes a finding that changing the borders of the exchange is in the public interest, it would be unlawful under Section 392.200.9 for the Commission to implement any expanded local calling plan.

c. Further, it would be unlawful for the Commission to modify or alter a price cap companies' calling plans under Section 392.245.11, which provides in pertinent part:

The maximum allowable prices for nonbasic telecommunications services of a large, incumbent local exchange telecommunications company regulated under this section shall not be changed until January 1, 1999, or on an exchange-by-exchange basis, until an alternative local exchange telecommunications company is certified and providing basic local service in such exchange, whichever is earlier. Thereafter, the maximum allowable prices for nonbasic telecommunications service of an incumbent local exchange telecommunications company may be annually increased by up to eight percent for each of the following twelve-month periods upon providing notice to the commission and filing tariffs establishing the rates for such services in such exchanges at such maximum allowable prices. This subsection shall not preclude an

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<sup>9</sup> Order Dismissing Complaint, The Wood Family v. Sprint and Southwestern Bell, TC-2002-399, July 30, 2002, p. 2.

<sup>10</sup> Id.

incumbent local exchange company from proposing new telecommunications services and establishing prices for such new services. An incumbent local exchange telecommunications company may change the rates for its services, consistent with the provisions of section 392.200, but not to exceed the maximum allowable prices, by filing tariffs which shall be approved by the commission within thirty days, provided that any such rate is not in excess of the maximum allowable price established for such service under this section. (Emphasis added).

- d. On September 16, 1997, SBC Missouri became subject to price cap regulation.<sup>11</sup> The express terms of Section 392.245.11 provide that an ILEC, such as SBC Missouri, not the Commission, may propose new telecommunications services and establish prices for such services.
- e. At the current time, SBC Missouri does not propose to offer additional extended area calling plans as competitive alternatives are available to meet the needs of consumers. Further, if SBC Missouri were to propose to offer additional extended area calling plans, it is SBC Missouri's right, not the petitioner or the Commission's right, to set a price for the service. As worded, this rule is unlawful under Section 392.245.11.
- f. Finally, it would be unlawful for the Commission to modify or alter SBC Missouri's calling scopes or service offerings under existing case law. Missouri courts have consistently held that the Commission's authority to regulate does not include the right to dictate the manner in which the company shall conduct its business.<sup>12</sup> Specifically, the regulatory power of the Commission does not clothe the Commission with general powers

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<sup>11</sup> See Report and Order, Case No. TO-97-397, September 16, 1997, p. 29.

<sup>12</sup> State v. Public Service Commission, 406 S.W.2d 5, 11 (Mo. 1966); State v. Bonacker, 906 S.W.2d 896, 899 (Mo. App. S.D. 1995); State ex re. Laclede Gas Company v. Public Service Commission, 600 S.W.2d 222, 228 (Mo. App. W.D. 1980).

of company management incidental to ownership.<sup>13</sup> The utility retains the lawful right to manage its own affairs and conduct business as it may choose, as long as it performs its legal duty, complies with lawful regulation, and does no harm to public welfare.<sup>14</sup> Thus, it is SBC Missouri's decision, not the Petitioner's or the Commission's, whether to offer any extended area calling plan. SBC Missouri, quite simply, has not made any decision at this time to offer any additional extended area calling plans. For all of these reasons, this proposed rule, as currently worded, is unlawful.

- g. Since 4 CSR 240-2.061(16) is unlawful, SBC Missouri proposes that it be deleted in its entirety. If the Commission finds that it can lawfully proceed, SBC Missouri recommends that proposed Rule 4 CSR 240-2.061(16) be modified as follows:

[t]he commission may modify the proposed rates, terms, or conditions, in its decision on the application **provided: (1) that the incumbent local exchange telecommunications company or companies serving each exchange for which the boundaries are altered provide notice to the Commission that the companies approve of the alteration of exchange boundaries; and (2) any incumbent local exchange telecommunications company that is regulated under Section 392.245 is allowed to set the terms, conditions, and price for the proposed expanded local calling plan.**

18. Finally, in an earlier draft of this rule, there was a provision which provided that: “[a]ll applications shall be filed by a Missouri licensed attorney and shall comply with the filing requirements of 4 CSR 240-2.060.” That provision was

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<sup>13</sup> State ex re. Laclede Gas Company v. Public Service Commission, 600 S.W.2d 222, 228 (Mo. App. W.D. 1980); State v. Public Service Commission of Missouri, 343 S.W.2d 177, 182 (Mo. App. 1960).

<sup>14</sup> State v. Public Service Commission of Missouri, 343 S.W.2d 177, 182 (Mo. App. 1960).



eliminated from proposed rule 4 CSR 240-2.061. It is SBC Missouri's position that this deleted provision should be incorporated into 4 CSR 240-2.061, as such representation is required by Sections 484.010 and 484.020, RSMo. For these reasons, SBC Missouri recommends that this provision be included in the proposed rule.

Wherefore, SBC Missouri prays that the Commission consider its Comments and eliminate or modify the proposed rule as outlined in SBC Missouri's Comments, together with any further and/or additional relief the Commission deems just and proper.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.

By: 

PAUL G. LANE #27011

LEO J. BUB #34326

ROBERT J. GRYZMALA #32454

MIMI B. MACDONALD #37606

Attorneys for Southwestern Bell Telephone,  
L.P., d/b/a SBC Missouri  
One SBC Center, Room 3510  
St. Louis, Missouri 63101  
314-235-4094 (Telephone)/314-247-0014 (Fax)  
[mimi.macdonald@sbc.com](mailto:mimi.macdonald@sbc.com) (E-Mail)

### **CERTIFICATE OF SERVICE**

Copies of this document were served on all counsel of record by e-mail on May 13, 2005.

  
Mimi B. MacDonald

Dan Joyce  
General Counsel  
Missouri Public Service Commission  
PO Box 360  
Jefferson City, Mo 65102  
[d.joyce@psc.mo.gov](mailto:d.joyce@psc.mo.gov)

Michael F. Dandino  
Public Counsel  
Office of the Public Counsel  
PO Box 7800  
Jefferson City, MO 65102  
[mike.dandino@ded.mo.gov](mailto:mike.dandino@ded.mo.gov)

[gencounsel@psc.mo.gov](mailto:gencounsel@psc.mo.gov)

[opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov)