

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

In the Matter of a Request for the Modification )	
Of the Kansas City Metropolitan Calling Area Plan )	Case No. TO-2005-0144
To Make the Greenwood Exchange Part of the )	
Mandatory MCA Tier 2 )	

**SOUTHWESTERN BELL TELEPHONE, L.P., D/B/A SBC MISSOURI'S  
RESPONSE TO THE MISSOURI PUBLIC SERVICE COMMISSION'S  
ORDER DIRECTING FILINGS DATED MAY 5, 2005**

Comes now Southwestern Bell Telephone, L.P., d/b/a SBC Missouri ("SBC Missouri") and, for its Response to the Missouri Public Service Commission's Order Directing Filings dated May 5, 2005, states as follows:

1. On May 5, 2005, the Missouri Public Service Commission ("Commission") entered its Order Directing Filings ("Order"), requiring any telecommunications carrier affected by the Office of Public Counsel's ("OPC") proposal to file illustrative tariff sheets no later than July 28, 2005.

2. At the outset, SBC Missouri notes that it would be unlawful for the Commission to modify or alter the existing Metropolitan Calling Area ("MCA") Plan because such action would: (1) violate SBC Missouri's due process rights, as guaranteed by Article I, Section 10 of the Missouri Constitution; (2) violate Section 392.200.9, RSMo. 2000; (3) violate Section 392.245.11; and (4) be inconsistent with Missouri case law, which uniformly holds that the Commission's authority to regulate does not include the right to dictate the manner in which the company shall conduct its business. These substantive issues are more thoroughly set forth in SBC Missouri's Reply to the Office of the Public Counsel's Final Recommendation, dated May 10, 2005. Rather than addressing these issues again in this pleading, SBC Missouri incorporates the arguments set forth in that pleading as if fully set forth herein.

3. Further, even if the Commission had the legal authority to proceed, which it does not, it should not do so. What this case essentially boils down to is one community's desire to have MCA service for "free" or "almost free." If the Commission were to grant OPC's proposal, it is SBC Missouri's position that it would mark the beginning of the end of MCA Service since every other community that is contained within an MCA would similarly propose that it be offered the service for "free" or "almost free." Constituents of Greenwood have been eligible participants in the MCA Plan since the inception of the plan. If its constituents do not want to pay for MCA Service, they have competitive alternatives, including wireless service, available to them.

4. For all of these reasons, SBC Missouri reiterates its request that the Commission dismiss OPC's request for expansion of the MCA Plan. If the Commission finds that it can lawfully impose the expanded MCA service sought by OPC, it should not do so until it conducts a hearing at which OPC has put forth evidence not only that customers want mandatory MCA Service in Greenwood, but also that all customers, including those that do not currently subscribe to MCA service, are willing to pay a compensatory price for this service, having been advised of the competitive alternatives that are available to them.

5. Pursuant to the Commission's May 5, 2005 Order Directing Filings, SBC Missouri files the following Illustrative Tariff Sheets, attached hereto and marked as Exhibit A. As noted above, in complying with the Order, SBC Missouri does not waive its position that the Commission may not lawfully impose OPC's proposal. Moreover, in complying with the Order, SBC Missouri does not waive its argument that the prices set forth in the attached Illustrative Tariffs are not compensatory.

Wherefore, Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, prays that the Commission dismisses this Case. If, contrary to SBC Missouri's position, the Commission

determines that it has the authority to proceed, the Commission should conduct an evidentiary hearing to determine, among other issues, whether customers want mandatory MCA Service in Greenwood and whether all customers, including those that do not currently subscribe to MCA Service, are willing to pay a compensatory price for this service, having been advised of the competitive alternatives that are available to them.

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.

One SBC Center, Room 3510

St. Louis, Missouri 63101

314-235-4094 (Telephone)/314-247-0014 (Facsimile)

[mimi.macdonald@sbc.com](mailto:mimi.macdonald@sbc.com) (E-Mail)

## **CERTIFICATE OF SERVICE**

Copies of this document were served on the following parties via e-mail on July 28, 2005.

  
Mimi B. MacDonald

Dana K Joyce  
Missouri Public Service Commission  
P.O. Box 360  
200 Madison Street, Suite 800  
Jefferson City, MO 65102  
[GenCounsel@psc.mo.gov](mailto:GenCounsel@psc.mo.gov)

John B. Coffman  
Office of the Public Counsel  
200 Madison Street, Suite 650  
P O Box 2230  
Jefferson City, MO 65102  
[opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov)

Bryan Lade  
Missouri Independent Telephone Company Group  
P.O. Box 1438  
700 E. Capitol Ave.  
Jefferson City MO 65102-1438  
[blade@aempb.com](mailto:blade@aempb.com)

Larry Dority  
CenturyTel of Missouri LLC  
Spectra Communications Group, LLC  
d/b/a CenturyTel  
101 Madison, Suite 400  
Jefferson City, MO 65101  
[lwdority@sprintmail.com](mailto:lwdority@sprintmail.com)

Lisa Chase  
MoKan Dial, Inc.  
700 E. Capitol  
P. O. Box 1438  
Jefferson City, MO 65102-1438  
[lisachase@aempb.com](mailto:lisachase@aempb.com)

Brian McCartney  
Cass County Telephone Company  
Lathrop Telephone Company  
312 East Capitol Avenue  
P. O. Box 456  
Jefferson City, MO 65102  
[bmccartney@brydonlaw.com](mailto:bmccartney@brydonlaw.com)