

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of a Commission Inquiry into)	
the Possibility of Impairment without)	Case No. TO-2004-0207
Unbundled Local Circuit Switching When)	
Serving the Mass Market)	

**AMERITEL MISSOURI, INC.'s RESPONSE TO SBC'S RESPONSE TO ORDER
DIRECTING FILING AND MOTION TO ACCEPT OUT OF TIME**

Comes now Ameritel Missouri, Inc. (Ameritel), pursuant to the Commission's Order Creating Case and Establishing Initial Filing Deadlines and 4 CSR 240-2.080(15), and for its Response to SBC Missouri's (SBC's) Response to Order Directing Filing¹ filed herein on November 10, 2003 (hereafter SBC's Response), and for its Motion to Accept Out of Time, respectfully states to the Commission as follows:

I. Response to Impairment Issues

Ameritel respectfully offers the following responses to the impairment issues that the Commission identified in Paragraph 8 of its Order Creating Case and Establishing Initial Filing Deadlines:

A. The incumbent local exchange carrier's (ILECs) proposal for geographically defining the market:

In its Triennial Review Order (TRO), the Federal Communications Commission (FCC) directed state commissions to determine whether competing carriers are impaired without access to unbundled circuit switching for mass market customers. (TRO, para. 493). In ordering State Commissions to determine appropriate

¹ To the extent CenturyTel's Response filed herein on November 12, 2003, overlaps SBC's Response, Ameritel's responses are the same.

geographic market areas, the FCC recognized the need to be very specific in market assessments, requiring that each market must be smaller than the entire state.

The market areas identified by the Commission need to be small enough to ensure that large numbers of mass market consumers are not unintentionally left without basic local telephone service alternatives. Ameritel believes that Metropolitan Statistical Areas (MSAs) are simply too large for the Commission to use to make meaningful determinations of impairment.

Ameritel believes it is most appropriate that the Commission establish geographic market areas at a Common Language Location Identifier (CLLI) level. Most CLLI levels for purposes of providing services to the mass market are switching locations. These geographical locations within an MSA are where alternative switching is either available or not. It is at the CLLI level where competitors will be impaired in providing local switching .

B. The ILECs proposal for defining the appropriate DS0/DS1 cross-over between the mass market and the enterprise market;

Rule 319(d)(2)(iii)(B)(4) provides for the state Commission to determine the appropriate DS0 cutoff, defined in the TRO as the maximum number of DS0 loops below the cross-over point “where it makes economic sense for the multi-line customer to be served via a DS1 loop.” When analyzing impairment for unbundled local switching, the multi-line customer is considered to be part of the enterprise market above the cutoff level.. The multi-line customer is considered to be a part of the mass market at or below the cutoff level .

A crossover point of 12 DS0s is most appropriate.. A cross-over point that is set too low will result in many mass market local telephone service consumers having

no viable alternative to the incumbent telephone service provider. Determination of an appropriate crossover point for providing service via DS1 is especially critical in rural areas of Missouri served by CLECs such as Ameritel.

C. The geographic areas where the ILEC will be challenging impairment based on its response to Nos. 1 and 2;

Ameritel does not believe that SBC has properly defined the market and opposes SBC's request for relief.

D. The competitor(s) that the ILEC asserts satisfies the impairment triggers for mass market switching in each geographic market;

Ameritel takes no position on this issue at this time.

E. The specific routes where the ILEC will be challenging the finding of impairment for dedicated transport;

SBC has failed to meet its burden for challenging the FCC's national impairment finding for dedicated transport for the routes that were identified in SBC's Response, SBC does not provide sufficient explanation or support for its allegation that the FCC's triggers have been met in the specified routes. SBC's Response is ambiguous as to what specific relief it seeks. For example, SBC's Response combines different types of transport that are subject to different standards under the TRO. Ameritel respectfully urges the Commission to affirm the TRO's finding of impairment to all Missouri CLECs without access to dedicated transport in Missouri.

F. The identity of the competitor(s) that the ILEC asserts satisfies the impairment triggers for dedicated transport; and

SBC's Response does not provide support for the allegation that it has competitors which satisfy the FCC's impairment triggers in the specified routes. The general list of carriers attached to SBC's Response that allegedly provide transport in

Missouri is insufficient because it fails to identify carriers for the specified routes. Ameritel submits that the FCC's national impairment finding for dedicated transport in Missouri should be affirmed by the Commission.

G. The specific customer locations where the ILEC will be challenging the finding of impairment for enterprise loops;

SBC's Response fails to meet its burden for challenging the FCC's national impairment finding for enterprise loops for the customer locations identified therein. SBC's allegation that the FCC's triggers have been met in the specified customer locations is without proper evidentiary support. SBC's Response is ambiguous as to the specific relief that it seeks. For example, once again SBC improperly combines different types of loops that are subject to different standards under the TRO. Also, SBC fails to identify carriers for the specified locations. Therefore, Ameritel respectfully urges the Commission to affirm the FCC's finding that all CLECs are impaired without access to enterprise loops in Missouri.

II. Response to SBC's Batch Hot Cut Proposal

Ameritel takes no position on this issue at this time.

III. Motion to Accept Out of Time

Ameritel Missouri, Inc., was not served with a copy of either SBC's Response nor CenturyTel's Response, and was not aware of the filings in time to respond by the date set by the Commission. Ameritel Missouri, Inc., would not have been served with the documents even if SBC and CenturyTel had made full service on all CLECs the Commission has made parties to the case because Ameritel was not included on the Commission's service list for this case (another separately certificated CLEC with a similar name, Ameritel, Your Phone Company was on that list). After taking steps to to

review the case file on the Commission's Electronic Filing and Information System, Ameritel prepared a response as soon it was possible for Ameritel personnel and undersigned counsel to coordinate and complete the filing. Ameritel apologizes for the delay and requests this Response be accepted out of time. It is Ameritel Missouri's understanding that another CLEC was granted an extension of time to this date, and seeks similar consideration.

As a certificated CLEC providing service on a UNE-P basis primarily to prepaid service customers, it is vitally interested in the determinations to be made by the Missouri Public Service Commission ("Commission") in this docket and believes it can provide a valuable perspective distinct from others the Commission may hear in this proceeding. Ameritel Missouri would appreciate the Commission's consideration of these initial comments on some of the important issues the Commission will consider in this case even though they were filed out of time.

CONCLUSION

WHEREFORE, Ameritel Missouri, Inc., respectfully urges the Commission to adopt Common Language Location Identifier (CLLI) to geographically define the market, establish the crossover point of 12 DS0's, affirm the TRO's findings of impairment, and accept this Response out of time.

Ameritel reserves the right to respond to any change in position presented by SBC under the reservations of rights found throughout SBC's Response. Ameritel also reserves the right to respond to any more specific arguments that SBC may present.

Respectfully submitted,

/s/ Mary Ann (Garr) Young
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this document has been hand delivered, transmitted by facsimile, emailed, or mailed, postage prepaid, this 21st day of November 2003, to the parties identified on the Commission's service list for this case

/s/ Mary Ann (Garr) Young
Mary Ann (Garr) Young