

**BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION**

Southwestern Bell Telephone, L.P., d/b/a SBC Missouri's )  
Petition for Compulsory Arbitration of Unresolved Issues ) Case No. TO-2005-0336  
for a Successor Interconnection Agreement to the )  
Missouri 271 Agreement ("M2A") )

**MCI's RESPONSE TO SBC MISSOURI'S MOTION FOR CORRECTION AND  
CLARIFICATION AND APPLICATION FOR REHEARING**

COMES NOW MCImetro Access Transmission Services, LLC (MCI), pursuant to 4 CSR 240-2.080(15) and for its Response to SBC Missouri's Motion for Correction and Clarification and Application for Rehearing states to the Commission:

1. SBC's introductory and closing complaints about the manner in which the Commission reached its decision ignore the facts and the express contents of the Commission's Order. The Commission stated that it "adopts the Final Arbitrator's Report as its decision on each unresolved issue, except as that Report is expressly modified [in this Order]. The Final Arbitrator's Report is incorporated into this Order by reference." (Arbitration Order, p. 9). Such action is entirely consistent with rule 4 CSR 240-36.040(24), and such adoption is not inconsistent with the Commission's statement that its "proceedings on the Arbitrator's Report, consequently, are not in the nature of an appeal or review. It is, instead, an original proceeding." Moreover, by such action the Commission expressly indicated that it had considered and rejected, by and large, all of SBC's 90-some-odd issues (with subparts).<sup>1</sup> Even when the Commission did not change the results in the Report, the fact that it discussed an issue further in its Order in and of itself modified the Report, as stated by the Commission.

2. Given the number of issues involved in this proceeding, SBC's generic statements about the "balance" of the resolution of the issues and application of the law really are meaningless. But to

---

<sup>1</sup> SBC asserts that its 240+ page Comments focused on the most critical matters to SBC. (Motion, p. 9). Perhaps not.

the extent SBC suggests that somehow it was entitled to win as many issues as it lost (or have an equal number of pages devoted to its issues), obviously such an assertion does not comport with the law. Rather, SBC's fate in this proceeding was determined by the many unsound positions that it put forth.

3. In its Motion for Correction, SBC appears to argue that the Commission should change its Arbitration Order even though the results are correct. Given the volume of issues in this case, one would think that "corrections of the correct" would not warrant argument, much less Commission time and effort. SBC could have presented this point of "correction" at oral argument - indeed the oral argument was extended into an extra day solely to allow parties (in particular SBC) to say essentially anything and everything they wanted to say. Clearly, SBC said plenty that it was not "asked" to say by anyone. Having forfeited the opportunity at oral argument, SBC has nonetheless now made its record by pleading and the matter should be considered closed.

4. Regarding 271 elements, SBC does nothing more than reiterate its prior unsuccessful arguments. MCI and the other parties have responded at length to these points and MCI simply refers the Commission to prior materials rather than burden the Commission with further repetition. At least in part because of these materials, the Commission has already reached the correct decision.

5. No clarification is needed regarding interim pricing for 271 elements. If the parties do not resolve the issue of permanent rates in a reasonable period of time, then the parties can seek to have the issue resolved for them. But any approach other than the one adopted by the Commission would include the unacceptable and inappropriate risk that at some point there would be no prices for elements that SBC purports to offer in order to retain 271 authority.<sup>2</sup>

---

<sup>2</sup> The Commission has not extended UNE-P. UNE-P is a combination of 251 elements, not a combination of 251 and 271 elements.

6. Regarding VOIP traffic, the Commission correctly determined that IP-PSTN traffic should not be subject to access charges, consistent with current FCC requirements concerning enhanced services that involve a net protocol change. IP-PSTN traffic is not IXC traffic. The Commission's decision is not at odds with rulings regarding PSTN-IP-PSTN traffic, as the FCC has itself made different determinations regarding such traffic.

7. The Commission should quickly reject SBC's unfounded motion to avoid delaying the preparation and submission of conforming interconnection agreements.

WHEREFORE, MCI urges the Commission to reject SBC Missouri's Motion for Correction and Clarification and Application for Rehearing, so that the parties can complete the process of preparing and submitting conforming interconnection agreements.

Respectfully submitted,

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

/s/ Carl J. Lumley

---

Carl J. Lumley, #32869  
Leland B. Curtis, #20550  
130 S. Bemiston, Suite 200  
Clayton, MO 63105  
(314) 725-8788  
(314) 725-8789 (FAX)  
[clumley@lawfirmemail.com](mailto:clumley@lawfirmemail.com)  
[lcurtis@lawfirmemail.com](mailto:lcurtis@lawfirmemail.com)

**CERTIFICATE OF SERVICE**

A true and correct copy of the forgoing was mailed this 22th day of July, 2005, by email or by placing same in the U.S. Mail postage paid, to the persons listed on the attached service list.

/s/ Carl J. Lumley

---

<p>Dana K. Joyce General Counsel Missouri Public Service Commission P.O. Box 360 Jefferson City, Missouri 65102 gencounsel@psc.mo.gov</p> <p>Lewis Mills Office of Public Counsel P.O. Box 2230 Jefferson City, Missouri 65102 opcservice@ded.mo.gov</p> <p>Nathan Williams Missouri Public Service Commission P.O. Box 360 200 Madison, Suite 800 Jefferson City, MO 65102 Nathan.Williams@psc.mo.gov</p> <p>Mark Comley 601 Monroe Street, Suite 301 P.O. Box 537 Jefferson City, MO 65102-0537 comleyM@ncrpc.com</p> <p>Legal Department Southwestern Bell Telephone Co., L.P. d/b/a SBC Missouri One Bell Center, Room 3520 St. Louis, Missouri 63101 mm8972@momail.sbc.com</p>	<p>Brett D. Leopold Sprint 6450 Sprint Parkway Mail Stop KSOPHN0212-2A218 Overland Park, KS 66251 Brett.D.Leopold@mail.sprint.com</p> <p>Karl Zobrist Mark Johnson Sonnenschein, Nath &amp; Rosenthal, LLC 4520 Main Street, Suite 1100 Kansas City, MO 64111 kzobrist@sonnenschein.com mjohnson@sonnenschein.com</p> <p>Adam Kupetsky Wiltel Local Network, LLC One Technology Center TC-151 Tulsa, OK 74103 adam.kupetsky@wiltel.com</p> <p>Kevin Thompson, Deputy Chief Regulatory Law Judge and Arbitrator Missouri Public Service Commission P.O. Box 360 Jefferson City, Missouri 65102 Kevin.thompson@psc.mo.gov</p> <p>Bill Magness 98 San Jacinto Blvd., Ste 1400 Austin, TX 78701 bmagness@phonelaw.com</p>
---	---

<p>Stephen F. Morris  MC WorldCom Communications, Inc.  MCImetro Access Transmission Services, LLC  701 Brazos, Suite 600  Austin, TX 78701  stephen.morris@mci.com</p>	<p>Christopher W. Savage  Cole, Raywid &amp; Braverman, LLP  1919 Penn Ave., N.W., Suite 200  Washington, D.C. 20006  chris.savage@crblaw.com</p>
<p>Michelle Bourianoff  AT&amp;T Communications of the Southwest, Inc.  919 Congress Ave., Suite 900  Austin, TX 78701-2444  mbourianoff@att.com</p>	<p>Kevin Zarling  AT&amp;T Communications of the Southwest, Inc.  919 Congress Ave., Suite 900  Austin, TX 78701-2444  kzarling@att.com</p>