

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

In the Matter of the Determination of Prices                    )  
of Certain Unbundled Network Elements.                    )      Case No. TO-2002-397

**AT&T MISSOURI'S RESPONSE TO ORDER  
DIRECTING FILING**

AT&T Missouri,<sup>1</sup> pursuant to the Missouri Public Service Commission's ("Commission's") December 30, 2005, Order Directing Filing respectfully states that no outstanding issues remain in this case and that it may be closed.

1.     The Commission established this case to review rates for the Unbundled Network Elements ("UNEs") that were at issue in an arbitration brought by the MCI companies in Case No. TO-2000-222 (i.e., loops, switching, daily usage feed, local disconnect report and LIDB rates).<sup>2</sup> As the Commission indicated in its December 30, 2005 Order Directing Filing, this case has been held in abeyance pending resolution of the Federal Communication Commission's ("FCC's") Triennial Review proceeding. The Commission correctly perceived that FCC action would materially impact the threshold issue of whether the elements from Case No. TO-2002-222 were even appropriate for a pricing review as UNEs.

2.     Much has transpired while this case has been in abeyance. The FCC issued its Triennial Review Order;<sup>3</sup> the D.C. Circuit Court of Appeals reversed and remanded portions of

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<sup>1</sup> Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri will be referred to in this pleading at "AT&T Missouri." It previously conducted business as "SBC Missouri."

<sup>2</sup> Case No. TO-2000-222 was an interconnection agreement arbitration the MCI companies brought in 2001 under Section 252(b)(1) of the Act.

<sup>3</sup> In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket 01-33; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 CC Docket No. 96-98; and Deployment of Wireline Services Offer Advanced Telecommunications Capacity, CC Docket No. 98-147; Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, released August 21, 2003 ("Triennial Review Order").

that Order to the FCC;<sup>4</sup> and the FCC issued its Triennial Review Remand Order, in which it issued definitive rulings concerning the availability of certain network elements from incumbent LECs as UNEs.<sup>5</sup> But more importantly for the purposes of this case, the Missouri 271 Agreement (“M2A”), under which MCI and most Missouri CLECs operated, has been replaced with comprehensive successor interconnection agreements that have been approved by the Commission and are now in effect, subject to appeal.

3. The M2A successor agreements resulted from negotiations between AT&T Missouri and several groups of CLECs that were conducted pursuant to Section 251(c)(1) of the federal Telecommunications Act (“the Act”), and the Commission’s arbitration under Section 252(b) of the Act of issues those parties could not resolve in negotiations. As ordered by the Commission in its Final Arbitration Order,<sup>6</sup> the parties incorporated the Commission’s decisions on these open issues into the respective successor interconnection agreements corresponding to the individual CLECs (or group of CLECs) that sought arbitration and raised the issues. These successor interconnection agreements are comprehensive agreements that provide rates, terms and conditions for all appropriate UNEs that must be made available under the Act for CLECs’

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<sup>4</sup> USTA v. FCC, 359 F.3d 554, (D.C. Cir.) (“USTA II”), cert. denied, 125 S.Ct. 313 (2004).

<sup>5</sup> Order on Remand, *Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, 20 FCC Rcd. 2533 (2005) (“*Triennial Review Remand Order*”), Petitions for Review Pending, *Covad Communications Co., et al. v. FCC, et al.*, Nos. 05-1095, et al. (D.C. Cir. Ct.).

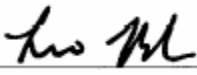
<sup>6</sup> Southwestern Bell Telephone, L.P., d/b/a SBC Missouri’s Petition for Compulsory Arbitration of Unresolved Issues for a Successor Interconnection Agreement to the Missouri 271 Agreement (“M2A”), Case No. TO-2005-0336, Final Arbitration Report, issued June 21, 2005 at p. 11.

use in providing service. These comprehensive agreements were approved by the Commission<sup>7</sup> and have terms of three years and 90 days from each agreement's effective date.<sup>8</sup>

With these successor agreements now in place, AT&T Missouri sees no remaining issues that need to be addressed in this case. Accordingly, there is no need for it to remain open.

Respectfully submitted,

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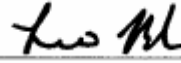
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<sup>7</sup> See Case No. TK-2006-0036 (Approving SBC Missouri Generic Successor Interconnection Agreement); Case No. TK-2006-0042 (approving Navigator Successor Interconnection Agreement); Case No. TK-2006-0044 (approving Sprint Successor Interconnection Agreement); Case No. TK-2006-0046 (approving WiTel Successor Interconnection Agreement); Case No. TK-2006-0047 (approving Charter Communications Successor Interconnection Agreement); Case No. TK-2006-0049 (approving CLEC Coalition Successor Interconnection Agreement); and Case No. TK-2006-0050 (approving MCI Successor Interconnection Agreement).

<sup>8</sup> The Missouri CLECs that did not seek arbitration entered into written Memoranda Of Understanding, filed with the Commission, under which they agreed to adopt one of the Commission-approved M2A successor interconnection agreements pursuant to Section 252(i) of the Act or that they would be deemed to have selected the first arbitrated agreement approved by the Commission. Following the Commission's approval of the arbitrated agreements, nearly all of the non arbitrating Missouri CLECs adopted a specific successor agreement. The few that did not have been assigned the Sprint Agreement, pursuant to the Memorandum of Understanding, as that was the first one approved by the Commission. Those CLECs, however, remain free to adopt another successor agreement under Section 252(i) if they would choose to do so.

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were served to all parties on the Service List by e-mail on January 17, 2006.



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