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August 26, 1998

FILED

AUG 26 1998

Missouri Public  
Service Commission

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

Re: Case No. TA-99-47

Dear Judge Roberts:

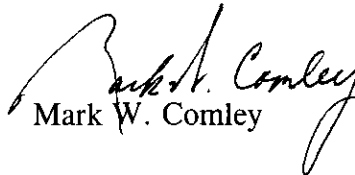
Enclosed for filing in the referenced matter please find the original and fourteen copies of an Application to Intervene.

Thank you very much for your attention.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:

  
Mark W. Comley

MWC:ab

Enclosure

cc: Office of Public Counsel  
James M. Fischer  
Michael J. Ensrud

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED  
AUG 26 1998

Missouri Public  
Service Commission

In the matter of the application of )  
Southwestern Bell Communications Services, )  
Inc., d/b/a Southwestern Bell Long Distance )  
for a Certificate of Service Authority to )  
provide Interexchange Telecommunications )  
Services within the State of Missouri )

Case No. TA-99-47

APPLICATION TO INTERVENE

COMES NOW COMPTel-MO and for its Application to Intervene states the following to the  
Commission:

1. COMPTel-MO is a Missouri not-for-profit corporation, the members of which are  
several interexchange telecommunications companies who provide interexchange services to  
customers in the State of Missouri. The members of COMPTel-MO are identified on Appendix A.

2. All communications and pleadings in this docket should be directed to:

Michael J. Ensrud  
COMPTel-MO  
6950 West 56th Street  
Mission, KS 66202

Mark W. Comley  
Newman, Comley & Ruth P.C.  
601 Monroe Street, Suite 301  
P.O. Box 537  
Jefferson City, MO 65102-0537

3. On or about August 4, 1998, Southwestern Bell Communications Services, Inc., an  
affiliate of Southwestern Bell Telephone Company, filed an application for a certificate of service  
authority to provide intrastate interexchange telecommunications services. Thereafter the  
Commission issued an order which provided for filing of interventions no later than August 26,

1998. This request for intervention is timely.

4. COMPTel-MO seeks to appear in this proceeding because the Commission's decision herein will directly affect the interests of COMPTel-MO members as competitive providers of intrastate interexchange telecommunications services.

5. COMPTel-MO is opposed to the application for several reasons, including, but not limited to the following:

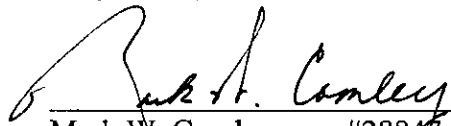
- a. As an affiliate of Southwestern Bell Telephone Company, (SWBT) the applicant is subject to the provisions of §271 of the Federal Telecommunications Act of 1996 (the Act). This application has been filed in advance of any determination by this Commission or by the Federal Communications Commission that SWBT has complied with the "competitive checklist" of that section of the law. The application is premature.
- b. SWBT has challenged the validity of §271 before the federal courts, and a district court decision that upheld the law is presently on appeal. If SWBT should prevail on appeal, and the "conditional certificate" requested in this application is granted without active inquiry, the Commission will have lost what may be the **only** opportunity to fully examine whether granting a certificate would serve the public interest. COMPTel-MO contends that grant of the certificate would not be in the public interest unless the applicant could demonstrate, at a minimum, compliance with the requirements of §271. Whether or not §271 is upheld at the federal level, it sets out reasonable and important minimal conditions which, at the state level, should be complied with before a SWBT affiliate can be granted a certificate of interexchange service authority. Premature entry into the long distance market by SWBT affiliates would not serve the public interest and would disrupt the course of competition in not only the interexchange market but also the basic local and local exchange markets.
- c. The applicant invites the Commission to treat this application with the less stringent scrutiny it gives to other applications for interexchange authority. COMPTel-MO submits that SWBT and its affiliates collectively hold a unique position in the industry in that they are simultaneously exclusive providers of wholesale services and suppliers of competitive retail services. The Commission has ample justification to conclude that the application is beyond the ordinary, "garden variety" application for certification. The Commission must give the application its most careful and thorough review.

- d. The applicant also requests a "conditional certificate" to which COMPTel-MO is opposed. This type of certificate, which has seen some utilization in applications for local and basic local authority, would not be appropriate for this case and should be denied.

6. COMPTel-MO's interests, as an association of companies, are different from those of the general public. Furthermore, COMPTel-MO's appearance in this proceeding is in the public interest because of COMPTel-MO's interests in enhancing competition, and because of its representative experience in the telecommunications industry.

WHEREFORE, COMPTel-MO respectfully requests the Commission to issue its order allowing COMPTel-MO to intervene in this proceeding.

Respectfully submitted,

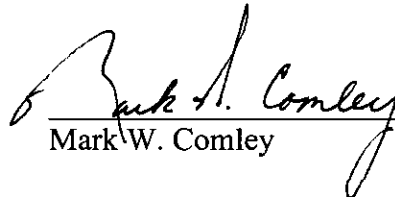
  
Mark W. Comley #28847  
NEWMAN, COMLEY & RUTH P.C.  
601 Monroe Street, Suite 301  
P.O. Box 537  
Jefferson City, Missouri 65102-0537  
(573) 634-2266

Attorneys for COMPTel-MO

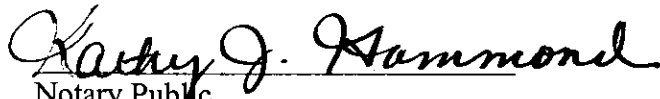
ATTORNEY VERIFICATION

STATE OF MISSOURI     )  
                                  ) ss.  
COUNTY OF COLE     )

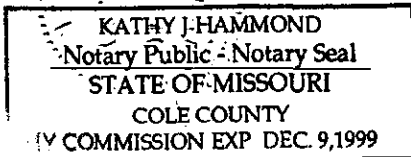
I, Mark W. Comley, being first duly sworn, do hereby certify, depose and state that I am the attorney for COMPTel-MO which seeks intervention in the above captioned proceeding before the Missouri Public Service Commission; that I have read the above and foregoing Application to Intervene and the allegations therein contained are true and correct to the best of my knowledge, information and belief; and I further state that I am authorized to verify the foregoing application by the above said applicant.

  
\_\_\_\_\_  
Mark W. Comley

Subscribed and sworn to before me, a Notary Public, this 26th day of August, 1998.

  
\_\_\_\_\_  
Kathy J. Hammond  
Notary Public

My Commission expires:

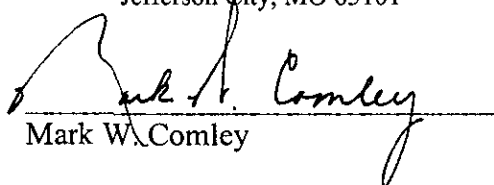


Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, on this 26th day of August, 1998, to:

Office of Public Counsel  
P.O. Box 7800  
Jefferson City, MO 65102-7800

James M. Fischer  
101 West McCarty Street, Suite 215  
Jefferson City, MO 65101

  
\_\_\_\_\_  
Mark W. Comley

APPENDIX A

Membership of COMPTel-MO

CGI

McLeod USA

LDD, Inc.

WorldCom, Inc.

Valu-Line of St. Joseph, Inc.