

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

In the Matter of Southwestern Bell Telephone)	Case No. TT-2002-472
Company's Tariff Filing to Initiate Residential)	Tariff No. 200200831
Customer Winback Promotion)	

In the Matter of Southwestern Bell Telephone)	Case No. TT-2002-473
Company's Tariff Filing to Initiate Business)	Tariff No. 200200828
Customer Winback Promotion)	

**SOUTHWESTERN BELL TELEPHONE, L.P.,
d/b/a SBC MISSOURI'S RESPONSE TO JOINT APPLICATION FOR REHEARING OF
AT&T COMMUNICATIONS OF THE SOUTHWEST, INC., MCI WORLD COM
COMMUNICATIONS, INC., BROOKS FIBER COMMUNICATION OF MISSOURI,
INC., MCIMETRO ACCESS TRANSMISSION SERVICES, L.L.C., AND NUVOX
COMMUNICATIONS OF MISSOURI, INC. AND TO
OFFICE OF PUBLIC COUNSEL'S MOTION FOR REHEARING**

Comes now, Southwestern Bell Telephone, L.P., d/b/a SBC Missouri ("SBC Missouri") and, for its Response to the Joint Application for Rehearing of AT&T Communications of the Southwest, Inc. ("AT&T"), MCI WorldCom Communications, Inc. ("MCIWC"), Brooks Fiber Communication of Missouri ("Brooks"), MCI metro Access Transmission Services, L.L.C. ("MCI metro"), and NuVox Communications of Missouri ("NuVox") (AT&T, MCIWC, Brooks, MCI metro and NuVox will collectively be referred to as "Joint Applicants"), and to Office of Public Counsel's ("OPC") Motion for Rehearing, states as follows:

1. On December 7, 2002, the Missouri Public Service Commission issued its Report and Order ("Order") in the above-captioned matter. In its Order, the Commission determined that two tariffs submitted by SBC Missouri would not be harmful to competition and comply with Missouri statutes.¹ The Commission further determined that because the tariffs were promotions whose terms had substantially expired while the tariffs were suspended, the tariff

¹ Order, p. 3.

submission would be rejected; however, the Commission indicated that it would approve resubmitted tariffs with new effective dates.

Joint Applicants' Application for Rehearing Should Be Denied Because They Have Raised No New Issues Or Arguments That Justify A Different Decision

2. Joint Applicants seek rehearing of the Commission's Order and request the Commission to reverse its decision and to conclude that there is no factual or legal basis for approval of SBC Missouri's winback tariffs.² Joint Applicants' request should be denied because they have raised no new issues or arguments that justify a different decision.

3. As Joint Applicants admit, SBC Missouri expended time and resources at the hearing and in its brief explaining that its winback discounts were not discriminatory under Sections 392.200.2 and 392.200.3 because SBC Missouri offers its winback discounts to all similarly situated customers.³ Joint Applicants also expended substantial time and resources attempting to prove the converse, that SBC Missouri's winback discounts were discriminatory under Sections 392.200.2 and 392.200.3.⁴ Thereafter, Joint Applicants assert: "Yet, the Commission failed in its Order to make any findings of fact or conclusions of law whatsoever as to whether the winback discounts were discriminatory or whether such discrimination, if found, is unduly or unjustly discriminatory."⁵ Joint Applicants' assertion is contrary to the explicit findings of fact and conclusions of law that the Commission made in its Order. The Commission determined that Section 392.200.2 "means that the Commission has an obligation to review promotional offers made by telecommunications companies to ensure that those offers are consistent with the provisions of statute, including the obligation to ensure the development and

² Joint Application for Rehearing, page 2, paragraph 2.

³ Joint Application for Rehearing, page 2, paragraph 3.

⁴ Id.

⁵ Id.

preservation of full and fair competition."⁶ Additionally, the Commission determined that Section 392.200.3 has been interpreted to "forbid discrimination in charges for doing a like or contemporaneous service with respect to communication by telephone under the same or substantially the same circumstances and conditions."⁷ The Commission noted that Staff, OPC, and the CLECs argued that SBC Missouri's tariffs violate these statutes because they improperly discriminate between similarly situated customers, i.e. if SBC Missouri waives non-recurring fees for customers returning from service with a CLEC, it must also waive those fees for all new customers.⁸ The Commission explicitly rejected this position finding "[t]his interpretation of the statute is too narrow."⁹ The Commission explained:

...Section 392.200.3, by its clear terms, does not bar the offer of any and all preference or advantage. Instead, it forbids an "undue or unreasonable preference or advantage," or "unreasonable prejudice or disadvantage." This is an important distinction because all promotional offers, by their very nature, offer a preference to certain customers. Those customers that are eligible for and accept a promotional offer get a better deal than those that do not. That is what a promotional offer does.

Missouri statutes recognize that promotional offers are acceptable, if not essential, in a functioning competitive market. Section 392.200.2, RSMo. 2000, indicates that "promotional programs for telecommunications services may be offered by telecommunications companies for periods of time so long as the offer is otherwise consistent with the provisions of this chapter and approved by the commission." Thus, promotional offers are appropriate so long as they do not offer an undue or unreasonable preference or advantage.¹⁰

Thereafter, the Commission explained that the preferences offered by these tariffs are not undue or unreasonable.¹¹ The Commission stated: "[t]hey simply waive certain fees as a reward and incentive for those customers who choose to return to service from Southwestern Bell after

⁶ Order, page 11.

⁷ Id. at pages 11-12, citing State ex. rel. DePaul Hospital v. PSC, 464 S.W.2d 737,738 (Mo. App. 1970).

⁸ Order, page 12.

⁹ Id.

¹⁰ Id. at pages 12-13.

¹¹ Id. at page 13.

trying a competitor."¹² The Commission recognized that such winback offers are very common and well accepted in the competitive interexchange, long-distance, market and that Section 392.200.2 applies to interexchange carriers as much as it does to basic local service providers.¹³ The Commission noted that no party suggests that the statute should absolutely bar such promotional offers for long distance.¹⁴ Finally, the Commission relied on the actions of the Federal Communications Commission ("FCC").¹⁵ Specifically, the Commission noted that the FCC has permitted telecommunications carriers to make winback offers despite the existence of a federal statute that prohibits undue or unreasonable preference in terms very similar to Missouri's statute.¹⁶ The Commission also noted that in its order dealing with winback offers, the FCC determined that: (1) "winback campaigns. . . facilitate and foster competition among carriers"; (2) winback facilitates direct competition on price and other terms, for example, by encouraging carriers to 'out bid' each other for a customer's business"; (3) "such competition is in the best interest of the customer and [we] see no reason to prohibit ILECs from taking part in this practice"; and (4) "because winback campaigns can promote competition and result in lower prices to consumers, we will not condemn such practices absent a showing that they are truly predatory."¹⁷ The Commission concluded that, absent a showing that a particular winback promotional offer is harmful to competition, it would not bar such offers.¹⁸ Further, since the Commission had determined as a matter of fact that SBC Missouri's tariffs are not harmful to competition, they do not violate the provisions of the Missouri statutes.¹⁹ Thus, the Joint

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. at pages 13-14, citing Exhibit, Order on Reconsideration and Petitions for Forbearance, FCC 99-223, Paragraph 66, August 16, 1999.

¹⁸ Id.

¹⁹ Order, page 14.

Applicants' assertion that "the Commission failed in its Order to make any findings of fact or conclusions of law whatsoever as to whether the winback discounts were discriminatory or whether such discrimination, if found, is unduly or unjustly discriminatory"²⁰ is contrary to the explicit findings of fact and conclusion of law of the Commission. Moreover, since Joint Applicants failed to demonstrate that the Commission's Order is unlawful, unjust, or unreasonable, the Joint Applicant's Application for Rehearing should be denied.²¹

4. Joint Applicants assert that the "Commission did not address why it is not unreasonably discriminatory for SWBT to offer the same services to the customers eligible for the winback offer at a lower rate than they offer the same service to customers that are not eligible for the winback promotion."²² The Joint Applicants both misstate the law and the Commission's decision. Section 392.200.2 specifies that a telecommunications company shall charge, demand, collect, or receive the same amount from all customers for doing a like and

²⁰ Joint Application for Rehearing, page 2, paragraph 3.

²¹ Joint Applicants' claim that the Commission "failed to find or conclude whether SWBT's proposed residential and business winback discounts would charge different rates for doing a like or contemporaneous service to customers similarly situated" (Joint Application for Rehearing, page 2, paragraph 4a) is contrary to the Commission's explicit findings in its Order. Specifically, the Commission determined that the preferences offered by these tariffs are not undue or unreasonable; they simply waive certain fees as a reward and incentive for those customers who choose to return to service from SBC Missouri after trying a competitor. (Order, page 13). In other words, SBC Missouri's winback discounts do not charge different rates for doing a like and contemporaneous service under the same or substantially the same circumstances and conditions. Joint Applicants' claim that the Commission failed to define a promotional program and failed to identify what period of time is appropriate for a promotional program (Joint Applicant's Application for Rehearing, page 2, paragraph 4b) is simply a red herring. No party raised this as an issue for the List of Issues and it was not an issue addressed by any party during briefing. It, quite simply, was not an issue presented to the Commission for determination. Joint Applicant's claims that the Commission failed to find or conclude: (1) whether SBC Missouri's winback discounts would promote diversity in the supply of telecommunications service and products in Missouri (Joint Applicant's Application for Rehearing, page 3, paragraph 4c); (2) whether SBC Missouri's winback discounts would allow full and fair competition to function as a substitute for regulation (Joint Applicants' Application for Rehearing, page 3, paragraph 4d); and (3) whether SBC Missouri's winback discounts would be in the public interest (Joint Applicant's Application for Rehearing, page 3, paragraph 4e) are erroneous. The Commission explicitly found that SBC Missouri's tariffs do not violate the provisions of Missouri's statutes (Order, p. 14). Thus, SBC Missouri's winback tariffs promote diversity in the supply of telecommunications services and products throughout the state of Missouri, allow full and fair competition to function as a substitute for regulation when consistent with the protection of ratepayers and are otherwise consistent with the public interest.

²² Joint Application for Rehearing, page 3, paragraph 6. OPC makes a similar claim in its Motion for Rehearing, page 4, paragraph 7. The same analysis, therefore, applies to OPC's argument and it should be rejected for the same reasons.

contemporaneous service with respect to telecommunications under the same or substantially the same circumstances and conditions. Thus, it is not enough that the services are the same, they must also be provided under the same or substantially the same circumstances or conditions. As SBC Missouri has repeatedly explained, service to new customers is not provided under the same or substantially the same circumstances or conditions as service to winback customers. New customers, typically, have not previously received service from SBC Missouri at the same residence or business in SBC Missouri's service territory. All winback customers, on the other hand, have previously received service from SBC Missouri at the same residence or business in SBC Missouri's service territory. Thus, service provided to winback customers is not provided under the same or substantially the same circumstances or conditions as service provided to a new customer. The Commission recognized this when it determined that SBC Missouri's winback tariffs "simply waive certain fees as a reward and incentive for those customers who choose to return to service from Southwestern Bell after trying a competitor."²³ Further, and contrary to the Joint Applicants' assertion, the Commission determined that the preferences in these tariffs are not undue or unreasonable and do not violate the applicable statutes.²⁴ Thus, since Joint Applicants failed to demonstrate that the Commission's Order is unlawful, unjust, or unreasonable, the Joint Applicant's Application for Rehearing should be denied.

5. Joint Applicants also contend: "the Commission ignored the fundamental nature of the local exchange market."²⁵ Again, Joint Applicants' contention is not supported by the record. The Commission discussed the status of competition in Missouri.²⁶ The Commission

²³ Order, page 13.

²⁴ Id.

²⁵ Joint Application for Rehearing, page 4, paragraph 7. OPC similarly states that "the Commission failed to take into consideration the dominant market position of SWBT as the incumbent LEC when it determined that the proposed tariffs would not be harmful to competition." (Motion for Rehearing, page 2, paragraph 2). For the reasons that Joint Applicants' contention is erroneous, so is OPC's.

²⁶ Order, pages 6-7.

explicitly found that the CLECs are able to compete to keep their customers by offering lower rates or better service and that this fosters healthy competition.²⁷ Further, the Commission repeatedly determined that SBC Missouri's winback tariffs are not harmful to but rather foster competition.²⁸ Thus, Joint Applicants' contention that the Commission ignored the fundamental nature of the local exchange market is erroneous. Since Joint Applicants failed to demonstrate that the Commission's Order is unlawful, unjust, or unreasonable, the Joint Applicants' Application for Rehearing should be denied.

6. Finally, Joint Applicants argue "the Commission failed to consider or address the substantial amount of evidence which tends to show that SWBT's business practices that will be used in connection with the winback discounts will place SWBT in a uniquely and unfairly advantageous position with respect to its CLEC competition."²⁹ As the Commission is aware, in its Order Regarding List of Issues, dated August 2002, it held that issue number 3 (Should the Commission commence an investigation regarding SWBT's winback and retention practices, including but not limited to SWBT's use of CPNI and wholesale disconnect information?) was beyond the scope of this case, which was established to consider whether to approve two particular tariffs offered by SBC Missouri. The Commission advised Joint Applicants that to the extent that they contend SBC Missouri's winback practices and procedures or unlawful, the appropriate forum to raise such concerns would be in a complaint against SBC Missouri as

²⁷ Id. at page 9.

²⁸ Order, pages 3, 9, and 14.

²⁹ Joint Application for Rehearing, page 4, paragraph 8.

permitted by Section 386.330, RSMo. 2000 and 4 CSR 240-2.070.³⁰ This is yet another attempt by the Joint Applicants to raise issues the Commission has determined were beyond the scope of this docket. The Commission's decision is supported by substantial and competent evidence that demonstrates that the tariffs are lawful and appropriate. Thus, since Joint Applicants failed to demonstrate that the Commission's Order is unlawful, unjust, or unreasonable, the Joint Applicant's Application for Rehearing should be denied.

**OPC's Application for Rehearing Should Be Denied Because
It Has Raised No New Issues Or Arguments That Justify A Different Decision**

7. OPC contends that the "decision in this case is inconsistent and contrary to the reasoning and decision reached by the PSC in Case NO. TT-2002-108 where the Commission rejected two promotional tariffs that had been submitted by Southwestern Bell as unjust and unreasonable."³¹ OPC also contends: "the evidence in this case is stronger that the local market is not as robust and effective local service competition does not exist, with few exceptions, in the SWBT exchanges."³² OPC's contentions are not supported by the evidence. As the Commission is aware, in Case No. TT-2002-108, SBC Missouri proposed two tariffs.³³ One was a Business Metropolitan Calling Area Service promotion and the other was a proposed new, optional business offering called CompleteLinksm.³⁴ Both of those proposed offerings included term

³⁰ Order Regarding List of Issues, Case Nos. TT-2002-472 and TT-2002-473, August 22, 2002, page 3. Despite the Commission's advice that to the extent that they disagree with SBC Missouri's winback practices and procedures, the appropriate forum to raise such concerns would be in a complaint against SBC Missouri as permitted by Section 386.330, RSMo. 2000, and 4 CSR 240-2.070, Joint Applicants once again request the Commission to "open an investigation into the predatory and anti-competitive business practices of SWBT in the CLEC market and, pending such investigation, mandate a minimum thirty (30) day waiting period after a customer changes carriers before SWBT makes an affirmative winback efforts" (Joint Application for Rehearing, page 5, paragraph 10). Again, the Commission should deny Joint Applicants requested relief as the Commission has repeatedly advised Joint Applicants of the appropriate forum to raise such concerns if they so desire.

³¹ Motion for Rehearing, page 2, paragraph 3.

³² Id. at page 3, paragraph 3.

³³ Ex. 5, Hughes S., p. 18.

³⁴ Id. at pp. 18-19.

components.³⁵ The proposed CompleteLink tariff also included retention and winback provisions.³⁶ Unlike the CompleteLink tariff, SBC Missouri's winback and win tariffs do not include retention or term components.³⁷ Thus, the tariffs at issue in this proceeding are substantially different than those that were at issue in Case No. TT-2002-108.³⁸ The Commission recognized this in its Order, stating

these tariffs are not part of a term agreement. That is an important distinction because in rejecting Southwestern Bell's tariffs in TT-2002-108, the Commission expressed great concern that the combination of term discounts with winback provisions would permit Southwestern Bell to take back the CLEC's customers and then lock them up in a long-term contract, precluding any attempt by the CLEC to reclaim those customers through further competition. Because these tariffs do not include a term agreement, the CLECs are free to compete to take back their lost customers.³⁹

Moreover, OPC's contention that the "local market is not as robust and effective local competition does not exist, with few exceptions, in the SWBT exchanges"⁴⁰, is not supported by any competent evidence. SBC Missouri presented substantial evidence that even since the Commission issued its opinion in Case No. TT-2002-108, CLECs have continued to gain access

³⁵ Id. at p. 19.

³⁶ Id.

³⁷ Id. OPC also argues that the Commission failed to note that SBC Missouri's winback promotions can be combined with other promotions. (Motion for Rehearing, page 3, paragraph 5). Specifically, OPC argues that the winback can be overlaid on a term or long-term contract that would circumvent the prior decision and impose the exact harm the PSC is wary of. Id. OPC's arguments ignore the fact that since the Commission issued its Report and Order in In the Matter of Southwestern Bell Telephone Company's Tariff Filing to Initiate a Business MCA Promotion, et al., Case No. TT-2002-108, December 18, 2001, the Commission had the opportunity to evaluate SWBT's and the CLECs' term agreements when it issued its Report and Order in In the Matter of Southwestern Bell Telephone Company's Proposed Revisions to PSC Mo. No. 26, Long Distance Message Telecommunications Service Tariff, Case No. TT-2002-227, June 27, 2002. The uncontroverted evidence is that nearly all of the local exchange customers of the CLECs whose tariffs were suspended were under a term agreement with the CLEC. Id. at 14. Moreover, the Commission determined that a customer locked up by a term contract with a CLEC is just as securely removed from the marketplace as that customer would be if it signed a term contract offered by SBC Missouri. Id. at 15. In fact, because the percentage of CLEC customers signed to term agreements is much greater than the percentage of SBC Missouri customers signed to term agreements, there are more customer lines out of the market because they are tied to a CLEC's contract than because they are tied to a SBC Missouri contract. Id. Thus, there is absolutely no evidence that SBC Missouri has or will tie up customers in a long term contracts that will in any way preclude the CLECs from effectively competing.

³⁸ Ex. 5, Hughes S., p. 19.

³⁹ Order, pages 8-9.

⁴⁰ Motion for Rehearing, page 3, paragraph 3.

lines and SBC Missouri has continued to lose access lines. OPC also ignores the evidence which established that competition continued to flourish even when SBC Missouri had substantially the same tariffs in effect during the period August 2000 through April 2002. Since OPC failed to demonstrate that the Commission's Order is unlawful, unjust, or unreasonable, OPC's Motion for Rehearing should be denied.

8. OPC next notes that the Commission found that winback tariffs are targeted directly at the customers of the CLECs and are potentially damaging to those competing companies.⁴¹ OPC concludes that when the Commission evaluated the effect of these winback tariffs, it failed to consider the relevant and material evidence.⁴² The Commission should summarily dismiss OPC's claim because OPC failed to identify any relevant and material evidence that the Commission did not consider. Moreover, it is evident from the thorough and extensive opinion that the Commission issued that it did consider all relevant and material evidence.⁴³ Further, it is OPC that is failing to consider relevant and material evidence as it ignores the substantial evidence that CLECs continued to expand and make inroads into the market during the time SBC Missouri had substantially similar waivers of non-recurring charges in effect.

⁴¹ Motion for Rehearing, page 3, paragraph 4.

⁴² Id.

⁴³ For example, the Commission properly determined that SBC Missouri's winback promotions did not include a term agreement. (Opinion, pages 8-9). Because these tariffs do not include a term agreement, the CLECs are free to compete to take back their lost customers. Id. at 9. Further, these tariffs are limited enough that they cannot be said to constitute any sort of predatory pricing, or cutthroat competition. Id. at 9. SBC Missouri's tariffs merely waive the non-recurring charges and it is unlikely that any CLEC customer will choose to switch to SBC Missouri simply because they will not incur a cost to do so. Id. Therefore, CLECs are able to compete to keep their customers by offering lower rates or better service. Id. That fosters healthy competition. Id. Moreover, if a customer incurred a nonrecurring charge to return to SBC Missouri, that might actually discourage customers from switching service providers and thereby limit competition. Id. The Commission, therefore, determined that SBC Missouri's tariffs will not harm the necessary competitive market. Id.

9. OPC's claim that the Commission also erroneously and improperly applied "predatory pricing" as the sole standard to determine whether or not there was harm to competition⁴⁴ is belied by the record. The Commission noted that the FCC would bar the use of winback offers by an ILEC only if it could be shown that the winback offer was predatory.⁴⁵ The Commission further noted that this is similar to the Commission's previously stated resolve to forbid promotional offers that would be harmful to competition.⁴⁶ Thus, the Commission's standard is whether a particular winback offer is harmful to competition.⁴⁷ The Commission determined that SBC Missouri's winback offers would not be harmful to competition because they only waive the nonrecurring charges associated with reestablishing service with SBC Missouri.⁴⁸ Because it is unlikely that any customer will choose to switch to SBC Missouri simply because they will not incur a cost to do so, CLECs are able to compete to keep their customers by offering lower rates and better service.⁴⁹ This fosters healthy competition.⁵⁰ Moreover, if SBC Missouri were not able to waive non-recurring charges when a customer returns to SBC Missouri for service, that might actually discourage customers from switching providers and, therefore, limit competition.⁵¹ The Commission's findings are supported by the record and OPC's claims to the contrary should be dismissed.

10. OPC's argument that the PSC has a duty to regulate full and fair competition in such a way to protect ratepayers and to otherwise operate consistent with the public interest⁵² is contrary to the express wording of the statute. Section 392.185(6) provides: "The provisions of

⁴⁴ Motion for Rehearing, page 4, paragraph 6.

⁴⁵ Order, page 14.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id. at page 9.

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Id.

⁵² Motion for Rehearing, page 5, paragraph 9.

this chapter shall be construed to: . . . (6) allow full and fair competition to function as a substitute for regulation when consistent with the protection of ratepayers and otherwise consistent with the public interest." In other words, the Commission has the duty to allow full and fair competition to serve as a substitute for regulation so long as it is consistent with the protection of ratepayers and consistent with the public interest. Moreover, as indicated repeatedly in this pleading, based on competent and substantial evidence, the Commission determined that SBC Missouri's tariffs were in the public interest and consistent with the protection of ratepayers because the CLECs are able to keep their customers by offering lower rates and/or better service which fosters healthy competition.⁵³ Thus, OPC's erroneous interpretation of Section 392.185(6) should be dismissed and its request for rehearing should be denied.

11. Next OPC claims that the Commission improperly reverses the burden of making the necessary showing from those who propose discriminatory treatment to those who oppose the discriminatory treatment.⁵⁴ OPC contends that SBC Missouri must demonstrate that it does not inhibit and restrain effective competition.⁵⁵ OPC overlooks the fact that SBC Missouri did make such a showing. As indicated in paragraph 4 above, SBC Missouri presented substantial evidence that it does not charge a different amount for customers for doing a like and contemporaneous service with respect to telecommunications under the same or substantially the same circumstances or conditions. Moreover, SBC Missouri presented substantial and competent evidence that there was absolutely no anticompetitive effect when SBC Missouri's prior winback tariffs were in effect. The evidence was uncontroverted that the CLECs continue

⁵³ Order, page 9.

⁵⁴ Motion for Rehearing, page 6, paragraph 12.

⁵⁵ Id.

to compete effectively in Missouri and, in fact, experienced dramatic growth during the 20 month period from August, 2000-April, 2002, when SBC Missouri previously had winback tariffs in effect. CLEC access lines increased from a minimum of 179,708 in July, 2000, to a minimum of 332,146 in April, 2002.⁵⁶ On the other hand, from August 2000, to May, 2002, SBC Missouri's access line total actually declined by 179,582 or 6.8 percent.⁵⁷ In June and July, 2002, SBC Missouri lost another 32,500 retail lines.⁵⁸ Thus, there is unassailable proof that SBC Missouri's past winback and win promotions did not have any anticompetitive effect on the local telecommunications market in Missouri as CLECs continued to expand their service base while similar tariffs were previously in effect. Thus, despite OPC's contentions to the contrary, SBC Missouri did prove that its winback tariffs would not inhibit and restrain effective competition.

12. Finally, OPC contends that the Order fails to give OPC and the parties at least a 10-day period prior to the effective date of the order to file its motion for rehearing.⁵⁹ OPC filed its motion for rehearing on December 6, 2002 prior to the effective date of the Order. Further, OPC did not file a supplemental motion for rehearing on or before December 13, 2002. No further action need be taken by the Commission.

Wherefore Southwestern Bell Telephone, L.P., d/b/a SBC Missouri, prays the Commission denies Joint Applicants' Joint Application for Rehearing and OPC's Motion for Rehearing, together with any additional and/or further relief the Commission deems just and proper.

⁵⁶ *Id.* at p. 7.

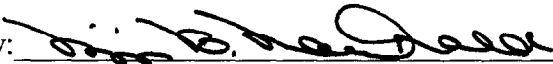
⁵⁷ Ex. 2, Regan D., p. 5; Ex. 4, Hughes D., p. 6.

⁵⁸ Ex. 3, Regan S., p. 3.

⁵⁹ Motion for Rehearing, page 6.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE, L.P.,
d/b/a SBC Missouri

By: 
PAUL G. LANE #27011
LEO J. BUB #34326
ANTHONY K. CONROY #35199
MIMI B. MACDONALD #37606

Attorneys for Southwestern Bell Telephone, L.P.,
d/b/a SBC Missouri
One SBC Center, Room 3510
St. Louis, Missouri 63101
314-235-4094 (Telephone)
314-247-0014 (Facsimile)
mimi.macdonald@sbc.com

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on December 16, 2002.


Mimi B. MacDonald

DAN JOYCE
MISSOURI PUBLIC SERVICE COMMISSION
PO BOX 360
JEFFERSON CITY, MO 65102

MICHAEL F. DANDINO
OFFICE OF THE PUBLIC COUNSEL
PO BOX 7800
JEFFERSON CITY, MO 65102

CARL LUMLEY
CURTIS, OETTING, HEINZ, GARRETT &
SOULE, P.C.
130 S. BEMISTON, SUITE 200
CLAYTON, MO 63105
J. STEVE WEBER
AT&T COMMUNICATIONS
OF THE SOUTHWEST
101 WEST MCCARTY, SUITE 216
JEFFERSON CITY, MO 65101

STEPHEN F. MORRIS
WORLD COM COMMUNICATIONS
701 BRAZOS, SUITE 600
AUSTIN, TX 78701

REBECCA B. DECOOK
AT&T COMMUNICATIONS
OF THE SOUTHWEST
1875 LAWRENCE ST., STE. 1575
DENVER, CO 80202