

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
May 31, 2001**

**CASE NO: TO-2000-667**

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**Enclosed find certified copy of an ORDER in the above-numbered case(s).**

Sincerely,



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 31st  
day of May, 2001.

In the Matter of the Investigation into the Effective       )  
Availability for Resale of Southwestern Bell Telephone    )  
Company's Local Plus Services by Interexchange           )  
Companies and Facilities-Based Competitive Local         )  
Exchange Companies    )

**Case No. TO-2000-667**

**ORDER DENYING APPLICATION FOR REHEARING**

On May 1, 2001, the Commission issued a Report and Order with an effective date of May 11. On May 10, Southwestern Bell Telephone Company (SWBT) filed an application for rehearing. The Staff of the Commission filed a response to SWBT's application for rehearing on May 17. On May 21, ALLTEL Communications, Inc. filed its response to SWBT's application. Both Staff and ALLTEL urge the Commission to deny the application for rehearing. SWBT filed a reply to Staff's and ALLTEL's responses on May 29.

For the most part, the arguments raised by SWBT in its application for rehearing simply restate the arguments that were previously presented to the Commission and rejected in the Report and Order. The Commission will not again address those arguments. The one new argument raised by SWBT is its assertion that, rather than order SWBT to resell its Local Plus service to its competitors who provide switching service through unbundled network elements or through their own facilities, the Commission

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should order SWBT to perform an imputation test to determine that its Local Plus service is not priced below its cost.

SWBT was ordered to make its Local Plus service available for purchase to "IXCs and CLECs on both a resale and unbundled network element basis" in the Commission's Report and Order in Case No. TT-98-351, issued on September 17, 1998. In its Report and Order in this case, the Commission found that SWBT has not fulfilled its obligation to make Local Plus available for resale by all of its competitors. As a result, those companies seeking to compete against SWBT in the Basic Local Service market through the use of their own facilities, or through the use of unbundled network elements, have been placed at a competitive disadvantage. That disadvantage has continued for nearly three years. To permit SWBT to avoid its obligation to resell Local Plus to these competitors while conducting an imputation test would simply perpetuate SWBT's competitive advantage.

If SWBT wishes to proceed with an imputation test it may certainly do so. SWBT may then present those results to the Commission, along with a revised tariff for Local Plus. If SWBT can establish that its Local Plus service is not priced below its cost, the Commission will then reconsider its requirement that SWBT permit resale of Local Plus by its competitors who provide switching service through unbundled network elements or through their own facilities

Section 386.500, RSMO (2000), provides that the Commission shall grant an application for rehearing if "in its judgment sufficient reason therefor be made to appear." In the judgment of the Commission, SWBT failed to establish sufficient reason to grant its Application for Rehearing.

**IT IS THEREFORE ORDERED:**

1. That Southwestern Bell Telephone Company's Application for Rehearing is denied.
2. That this order shall become effective on May 31, 2001.

**BY THE COMMISSION**



**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**

(SEAL)

Lumpe, Ch., Simmons and Gaw, CC., concur  
Murray, C., dissents

Woodruff, Senior Regulatory Law Judge

Attest: Secretary:

*Wendy F. L. Jace*

Date Circulated

*5-25*

*7D-2002-662*  
CASE NO.

Lampie, Chair

*JS*

~~President, Fire Chiefs~~

*CM ND*

Murray, Commissioner

*KS*

Simmons, Commissioner

Gaw, Commissioner

Agenda Date

*5-31*

Action taken:

*3-1 AA*

Must Vote Not Later Than

## STATE OF MISSOURI

### OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,

Missouri, this 31<sup>st</sup> day of May 2001.

*Dale Hardy Roberts*

Dale Hardy Roberts

Secretary/Chief Regulatory Law Judge