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July 14, 2000

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

FILED³

JUL 14 2000

Missouri Public
Service Commission

**Re: Southwestern Bell Telephone Company,
Case No. TO-2000-667**

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case, please find the original and 8 copies of the **Office of the Public Counsel's Reply to Suggestions Regarding Limitation of Issues and Proposed Procedural Schedules**. I have on this date mailed, faxed, and/or hand-delivered the appropriate number of copies to all counsel of record. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Very truly yours,

Michael F. Dandino
Senior Public Counsel

MFD:kh

cc: Counsel of Record

Enclosure

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³
JUL 14 2000

In the matter of the investigation into the)
effective availability for resale of)
Southwestern Bell Telephone Company's)
Local Plus Service by interexchange)
companies and facilities-based competitive)
local exchange companies.)

Case No. TO-2000-667

Missouri Public
Service Commission

OFFICE OF THE PUBLIC COUNSEL'S REPLY TO
SUGGESTIONS REGARDING LIMITATION OF ISSUES AND PROPOSED
PROCEDURAL SCHEDULES

Comes now the Office of the Public Counsel (Public Counsel) and states as its Reply to the Suggestions Regarding Limitation of Issues and the proposals filed for a procedural schedule:

1. In TT-2000-255, the issue arose whether or not Southwestern Bell Telephone Company (SWBT) is complying in full with the PSC order originally authorizing Local Plus that SWBT must make Local Plus available for resale to IXC's and CLECs. As that case involved a promotional tariff, the PSC deferred a ruling on that issue and created this case. The focus should concentrate on:

- (1) Is SWBT complying with the PSC order to make Local Plus available to IXC's and CLECs for resale?
- (2) Is SWBT creating any obstacles to making Local Plus available to IXC's and CLECs?
- (3) If there is not compliance, why not?

(4) If there is not compliance or if SWBT is creating obstacles to making Local Plus effectively available for resale, what action should the PSC take?

(5) Intervenors' issues add a new issue: Is SWBT creating obstacles related to resale of Local Plus which affects the STCG and MITG LECs.

2. Public Counsel recognizes that the Small Telephone Company Group and the Missouri Independent Telephone Group have raised valid concerns about the impact the resale of Local Plus will have on their right to compensation in absence of clear ground rules on how and in what manner compensation obligations and arrangements will be defined and enforced. These companies have raised the question of tracking traffic and establishing compensation before, but to date a clear solution has not been forthcoming. Some companies have resorted to self-help to bring these issues to the forefront resulting in complaint cases. (See, TC-2000-325, et. al; TT-2000-268; and the newly filed case – SWBT's Complaint Against Mid-Missouri Telephone Company Concerning Its Plan to Disconnect the LEC-to-LEC Common Trunk Groups and Request to an Order Prohibiting Mid-Missouri from Disrupting Customer Traffic, TC-2001-20 (filed July 11, 2000)). While these compensation issues should be and must be resolved, this case may not be the best forum if the focus here is on SWBT's actions in compliance with or violation of the letter or spirit of the Commission's Local Plus Order.

The issues raised by Small Telephone Company Group and Missouri Independent Telephone Group are another page of a continuing story of how Third-Party originated traffic (CLEC, wireless) carried over SWBT and other ILECs networks terminated in STCG and MITG exchanges is or is not compensated. Local Plus is only one service and

a small part of the total story. It appears that TO-99-593, Signaling and Protocol, may be the most appropriate vehicle to resolve the total problem and get a definitive answer.

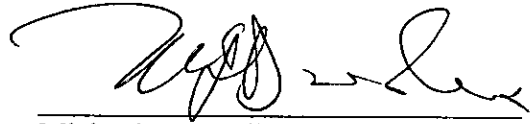
3. However, despite the focus of this case, Public Counsel is reluctant to limit a party's ability to present its issues for resolution. Public Counsel believes that the litigants have the right to raise all relevant and material issues in any case so that the PSC may consider the issues and hesitates to support any limitation of issues which a party reasonably submits is an issue. The PSC should err on being too inclusive rather than exclusive. The PSC may not find the issue ripe for decision or necessary for the decision and decline to rule on the issue, but at least a litigant is entitled to reasonably present its theory of the case, the issues it believes are relevant and material, and the evidence in support of the positions. The Commission should not unduly restrict the issues tried so that a party can be heard.

4. Public Counsel concurs and supports the Joint Procedural Schedule Proposed by ALLTEL communications, Inc. and AT&T Communications of the Southwest, Inc. filed July 7, 2000.

5. Public Counsel's absence from the June 27, 2000 prehearing was inadvertent in that undersigned counsel did not note in the order setting the prehearing that the prehearing location was moved from the usual Truman Building location and did not discover the error until after the prehearing had commenced. By the time counsel would have arrived at the Secretary of State's Center, the prehearing would have adjourned. Counsel apologizes to the Commission and the law judge.

Respectfully submitted,

Office of the Public Counsel

A handwritten signature in black ink, appearing to read "Michael F. Dandino", written over a horizontal line.

By:

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, faxed or hand-delivered, this 14th day of July, 2000 to the following parties of record:

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A handwritten signature, likely of Paul DeFord, is written over a horizontal line.