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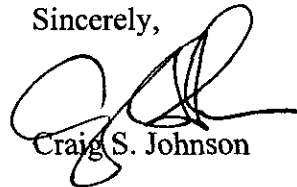
Re: TA-99-47

Dear Mr. Roberts:

Enclosed please find an original and eight (8) copies of MITG Reply to Southwestern Bell Long Distance's Response. A copy of this letter and its enclosures have been sent to all counsel of record.

Thank you for seeing this filed.

Sincerely,



Craig S. Johnson

CSJ:tr

Enc.

cc:

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BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

FILED²

MAY 10 2001

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 Inter-)
exchange Telecommunications Service)
within the State of Missouri.)

Case No. TA-99-47
(Tariff File 200100925)

MITG REPLY to SOUTHWESTERN BELL LONG DISTANCE'S Response

Comes now the MITG and makes this Reply to the May 7 Response of Applicant to MITG's additional Motion to Suspend:

1. MITG did not posit its Additional Motion to Suspend merely for purposes of delay. Applicant's tariff will result in lower toll rates for customers in SWB urban service areas than provided to customers in rural areas. MITG has extensively litigated the toll rate averaging requirement against AT&T. MITG intends to litigate to the extent necessary to assure that rate averaging laws are enforced. The interests of rural customers in averaged toll rates in parity with urban toll rates are the interests MITG desires to protect. AT&T was placed at a competitive disadvantage when SWB was allowed to confine its intraLATA toll service to SWB service areas. AT&T has a motivation to exit rural high cost exchanges. Applicant's most recent tariff modification is clearly intended to extend the SBC family's competitive advantage to the interLATA market. If approved, this would create even more incentive for IXCs to remove themselves from rural exchanges.

2. MITG does have standing. MITG had sufficient standing to litigate, and has litigated, the rate averaging issue with AT&T before the Commission, and before the

Cole County Circuit Court. As stated by the FCC, the requirement that IXC's average their rates "redounds" to the benefit of rural ratepayers, and assures that there is parity of service and rates between rural and urban toll ratepayers. If IXC's are allowed to "de-average" toll rates, the rural ratepayers in higher cost rural exchanges will pay higher toll rates. MITG companies serve rural ratepayers, and MITG has standing to protect the interests of rural subscribers in MITG exchanges.

3. MITG does not seek to treat Applicant differently than any other IXC. MITG seeks to enforce rate averaging requirements against SWB affiliates just as MITG sought to enforce rate averaging requirements against AT&T. The rate averaging requirement has nothing to do with Applicant's status as a dominant or non-dominant RBOC affiliate. The rate averaging requirement has nothing to do with the bundling or lack of bundling of Customer Premise Equipment (CPE) with interexchange services. The rate averaging requirement has nothing to do with the presence or absence of the carrier of last resort (COLR) obligation. The existence of rate deaveraging in Sprint's "Intercity Telecommunications Service" promotional tariff offering does not constitute the justification of deaveraging in Applicant's permanent tariff.

4. Applicant proposes to modify its tariff by substituting a sheet indicating "Unless otherwise indicated in this Tariff, Service is available where facilities permit throughout the geographic area served by Southwestern Bell Telephone Company". MITG opposes this proposed substitute tariff sheet for the following reasons:

a. 47 USC 254 (g) requires Applicant to charge rates to subscribers that are in rural and high cost areas that are no higher than rates charged to subscribers in urban

areas, and in providing interstate toll services to provide services in each State at rates not higher than rates in any other state.

b. It is the intent of the Telecommunications Act of 1996, in granting an RBOC affiliate interLATA authority, to bring the competitive benefits of such in-region interLATA authority to all customers in the in-region states, not just those of the RBOC. 47 USC 271(b)(1). It was not the intent of the Act to bring the benefits of SWB's entry into the interLATA toll market only to customer residing in SWB service areas, but to all Missourians. Applicant's recent request to limit its tariffs solely to SWB service areas is in violation of the spirit and intent of the Act.

c. Applicant has requested statewide interLATA authority from the Missouri Commission. It would be inconsistent to grant a statewide certificate but permit Applicant to tariff services only in SWB service areas.

d. There is no demonstrated facilities justification for limiting Applicant's tariff to SWB service areas. Applicant has stated that it does not have its own facilities. Applicant has stated it will purchase/utilize the facilities of an underlying IXC operating within the state of Missouri. Applicant stated that that underlying carrier is not SWB. That being the case there would be no actual limitation of the underlying facilities to SWB service areas only. There is no demonstration that the facilities of the underlying IXC are confined only to SWB service areas.

e. Although the MITG is not privy to the orders, certificates, or tariffs in use in Texas, Oklahoma, and Kansas by SBC's interLATA affiliate operating in those states, it is the understanding of counsel for MITG that in those states the SBC interLATA toll affiliate's services are, or soon will be, available statewide, both to customers in SWB

service areas and to customers of other LECs in higher cost service areas. The same should pertain in Missouri.

f. It is also counsel for MITG's understanding that the SBC affiliate(s) providing service in Texas, Kansas, and Oklahoma is providing interstate service. Under the language of 47 USC 254(g), the rates charged in Missouri can be no higher than those charged in those other states. Conversely, the rates charged in those other states can be no higher than those charged in Missouri. Based upon Applicant's proposal to only provide service in SWBT exchanges, it appears Applicant now proposes to offer different rates in Missouri than are offered in other states. MITG believes there will be a legitimate issue as to compliance with 47 USC 254(g) in this regard.

5. In its affidavits filed with the FCC in support of Missouri interLATA authority, SBC has stated that "Approval of the 271 Application will further benefit **Missouri consumers** by allowing SBC to compete in the interLATA long distance market....opening the interLATA long distance market to **full** competition will benefit consumers in Missouri.....Missouri customers will not have **full** choice in obtaining their telecommunications services until SWBT and its affiliates are granted freedom to compete in the interLATA market." See Affidavit of Tom Hughes, paragraphs 10 and 36 which can be found at the SBC web site (SBC.com).

In its brief in support of being granted in-region interLATA authority, SBC makes several references to allowing consumers in Missouri to reap the benefits of SWB interLATA toll services as done or being done in other states, and that SWB's entry into the interLATA services market in Missouri promotes the public interest of the entire state.

It is clear that SBC is suggesting to the FCC that its entry into the interLATA markets would benefit all Missouri customers statewide. The Missouri Commission should not countenance SBC's effort to limit the interLATA competitive benefits to local service customers of SWB Telephone Company.

6. The legal and/or factual issues raised herein justify suspension and hearing to resolve these matters.

ANDERECK, EVANS, MILNE,
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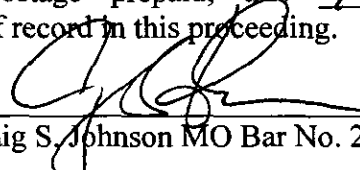
By 

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ATTORNEYS FOR MITG

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and accurate copy of the foregoing was mailed, via U.S. Mail, postage prepaid, this 10 day of May, 2001, to all attorneys of record in this proceeding.


Craig S. Johnson MO Bar No. 28179