

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

In the Matter of an Amendment)	
Superseding Certain 251/252 Matters)	Case No. TO-2004-0584
between Southwestern Bell Telephone,)	
L.P., and Sage Telecom, Inc.)	

**RESPONSE OF SBC MISSOURI TO STAFF'S
RECOMMENDATION**

COMES NOW Southwestern Bell Telephone, L.P., d/b/a SBC Missouri ("SBC Missouri") and for its Response to Staff's Recommendation filed on July 16, 2004, states as follows:

1. This case was established after SBC Missouri and Sage Telecom, Inc. ("Sage") submitted an Amendment to their existing interconnection agreement to the Missouri Public Service Commission ("Commission") for approval pursuant to Section 252(e) of the Telecommunications Act of 1996 ("the Act") on May 4, 2004. On May 6, 2004, the Commission opened Case No. TO-2004-0576 in order to consider an investigation into the Private Commercial Agreement between SBC Missouri and Sage. On July 1, 2004, the Commission issued an Order scheduling oral argument in both Case Nos. TO-2004-0584 and TO-2004-0576. At the conclusion of the oral argument on July 8, 2004, the Commission directed the participants to submit briefs.

2. On July 13, 2004, SBC Missouri submitted its Brief in Case Nos. TO-2004-0584 and TO-2004-0576 in response to the directive issued at the oral argument ("SBC Missouri's Brief"). Rather than reiterate all of the arguments advanced in its Brief, SBC Missouri respectfully requests the Commission to consider its Brief in response to Staff's

Recommendation in this case. SBC Missouri will, however, briefly respond to the points raised in Staff's Recommendation.

3. Staff initially argues that the Commission should reject the Amendment on the basis that it is incomplete, as it does not include all of the terms contained in the Private Commercial Agreement which is the subject of Case No. TO-2004-0576. Contrary to Staff's position, however, the Amendment submitted by SBC Missouri and Sage does include all of the terms and conditions related to matters covered by Sections 251(b) or (c) of the Act, which are the only matters which require Commission approval pursuant to Section 252(e) of the Act.


4. Staff next contends the Commission should reject the Amendment on the basis that it is contrary to the public interest and is discriminatory. The basis of Staff's contention is that any party opting into the Amendment would be required to accept the terms of the Private Commercial Agreement. Staff's argument is misguided. A CLEC seeking to exercise its rights under Section 252(i) would be permitted to opt into the Amendment and its underlying interconnection agreement (the Missouri 271 Interconnection Agreement or M2A) without being a party to or accepting the terms of the Private Commercial Agreement. As SBC Missouri has explained, paragraph 6.6 of the Amendment provides the only reference to the Private Commercial Agreement. That paragraph provides that the Amendment shall immediately become null and void in the event the Private Commercial Agreement is determined to be inoperative in Missouri. A replacement mechanism is provided to ensure the continued availability of services in the event the Amendment becomes null and void. If the Private Commercial Agreement becomes inoperative in Missouri, the Amendment will become null and void for Sage and for any CLEC which has opted into the Amendment pursuant to Section 252(i). Both Sage and any CLEC opting into the underlying interconnection agreement and the

Amendment will have the same options for a replacement mechanism in the event the Amendment becomes null and void. Accordingly, there is no basis to the claim that the Amendment should not be approved because it is discriminatory or contrary to the public interest.

WHEREFORE, for all the foregoing reasons, SBC Missouri respectfully requests the Commission to either approve the Amendment or allow it to go into effect by passage of 90 days from filing as provided in Section 252(e) of the Act.

Respectfully submitted,

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D/B/A SBC MISSOURI

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this document was served on all counsel of record by electronic mail on July 21, 2004.



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