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May 21, 2001

FILED
MAY 21 2001

Missouri Public
Service Commission

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
P.O. Box 360
Jefferson City, Missouri 65102

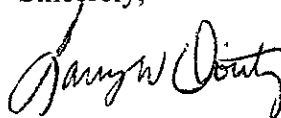
RE: *Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance*, Case No. TA-99-47, Tariff File 200100925

Dear Mr. Roberts:

Enclosed for filing in the above-referenced matter are the original and eight (8) copies of the Response Of Southwestern Bell Long Distance To Staff Filing In Response To Commission Order, filed on behalf of Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance. A copy of the foregoing Response has been hand-delivered or mailed this date to all parties of record.

Thank you for your attention to this matter.

Sincerely,



Larry W. DORITY

/jr

Enclosures

cc: Office of the Public Counsel
Dana K. Joyce, General Counsel
Craig S. Johnson
Kenneth A. Schifman
Carl J. Lumley/Leland B. Curtis
Paul S. DeFord
W.R. England III/Sondra B. Morgan
Mary Ann (Garr) Young
Richard S. Brownlee III
Stephen F. Morris
Mark W. Comley

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³
MAY 21 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)
Interexchange Telecommunications Services)
Within the State of Missouri.)

Case No. TA-99-47
Tariff File 200100925

RESPONSE OF SOUTHWESTERN BELL LONG DISTANCE
TO
STAFF FILING IN RESPONSE TO COMMISSION ORDER

COMES NOW Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance ("Southwestern Bell Long Distance"), by and through its attorneys, and pursuant to 4 CSR 240-2.080(16), files its Response to the Staff Filing In Response To Commission Order submitted in this matter on May 10, 2001. For its Response, Southwestern Bell Long Distance respectfully states as follows:

1. On May 1, 2001, the Commission issued its Order Directing Filing wherein the Staff was directed to file a response to each of the requests for intervention and motions for suspension (hereinafter referred to collectively as the "Motions") filed in this proceeding since the March 7, 2001 filing date of Southwestern Bell Long Distance's Amended Application. In conformance with that Order, the Staff Filing In Response To Commission Order ("Staff Filing") was filed on May 10, 2001.¹

¹As the Staff Filing acknowledged, there have been no requests for intervention filed since the March 7, 2001 date and, accordingly, "no requests for intervention are awaiting a Commission decision in this case." (Staff Filing, p. 3.). As discussed, *infra*, previous requests

2. As reflected in the Staff Filing, Southwestern Bell Long Distance timely filed Responses in opposition to each of the above described Motions, requesting that they be denied for the extensive reasons set forth in the Responses.

3. In reviewing the procedural history of this matter, the Staff Filing correctly notes that the subject application of Southwestern Bell Communications Services, Inc., originally filed under the d/b/a "Southwestern Bell Long Distance" on August 4, 1998, is a companion case to a similar application which Southwestern Bell Communications Services, Inc. filed under the d/b/a "SBC Long Distance" on March 7, 2001 (Case No. TA-2001-475). In fact, a First Amended Application was filed in this case on March 7, 2001, the same filing date as the SBC Long Distance application. The SBC Long Distance application was filed in conformance with the Commission's customs and procedures of requiring separate filings for each d/b/a of an applicant telecommunications company. Indeed, identical tariffs (except for the d/b/a name) have been filed in conjunction with both applications, and virtually identical Orders Directing Filing were issued in both cases, directing the filings to which this responsive pleading is made.

4. Southwestern Bell Communications Services, Inc., a wholly-owned subsidiary of SBC Communications, Inc. and a Section 272 affiliate of Southwestern Bell Telephone Company, has stated in both d/b/a applications that it "will not provide Interexchange Telecommunications Services within Missouri, pursuant to the authority requested [from the Commission], either until authorized to provide in-region interLATA services by the FCC, pursuant to Section 271 of the 1996 Federal Telecommunications Act ("Act"), or until otherwise permitted to do so by federal law."

for intervention were granted in this proceeding pursuant to a September 9, 1998 Commission Order. The only motions for suspension filed since the March 7, 2001 date are two filed by the Missouri Independent Telephone Group ("MITG"), to-wit: Motion to Suspend on March 16, 2001, and Additional Motion to Suspend and/or Reject Tariffs on April 26, 2001.

Accordingly, Southwestern Bell Communications Services, Inc. has requested that both Certificates of Service Authority to provide Interexchange Telecommunications within the state of Missouri be granted expeditiously, conditioned on federal authority to provide in-region interLATA services.

5. By this Commission's Order Granting Motion To Stay, issued on January 12, 1999, this case was stayed until the issuance of the Commission's recommendation to the Federal Communications Commission [regarding Southwestern Bell Telephone Company's Section 271 Application] or until otherwise ordered.² Prior to the Commission's stay of this case, the Commission had granted intervention and participation without intervention status to several parties. Several of those parties had objected to the Commission's conditional approval of the Southwestern Bell Long Distance application, prior to the Commission's opportunity to address the public interest considerations in the context of the Section 271 docket, Case No. TO-99-227 (hereinafter referred to as the "SWBT 271 Proceeding").³

²Order Granting Motion To Stay, Case No. TA-99-47, p. 3. The Commission's Order Granting Motion To Stay was issued primarily in response to the Office of the Public Counsel's Motion To Stay Proceeding, Or In The Alternative, Motion To Dismiss. "There is no need for Public Counsel, Staff, and the other parties to divide their efforts and to stress their resources litigating this application and SWBT's Section 271 application in Case No. TO-99-227 at the same time." OPC Motion, p. 2. Southwestern Bell Long Distance opposed OPC's Motion, fearful that OPC's approach would build into the schedule an unnecessary delay to deal with largely ministerial actions of the Commission and, more importantly, that the approach could result in the ability of Southwestern Bell Long Distance's competitors to attempt to re-litigate issues previously heard in the Section 271 docket. Ultimately, the Commission determined "that the stay of this proceeding pending the Commission's recommendation at the conclusion of Case No. TO-99-227 will not unduly prejudice any party to this action. Therefore, the Commission determines that OPC's motion for stay should be partially granted." Order, p. 2.

³Case No. TO-99-227, *In the Matter of the Application of Southwestern Bell Telephone Company to Provide Notice of Intent to File an Application for Authorization to Provide In-region InterLATA Services Originating in Missouri Pursuant to Section 271 of the Telecommunications Act of 1996.*

6. Now, twenty-eight (28) months after the Order Granting Motion To Stay was issued in this interexchange certificate docket, the Commission has issued its Recommendation to the FCC in support of Southwestern Bell Telephone Company's application for authority to provide in-region interLATA telecommunications service within Missouri, and the SWBT 271 Proceeding has been closed. After what had to be the most thorough analysis of public interest considerations in the history of Missouri telephony – in a proceeding in which all intervenors/participants in this case were parties – the Commission stated:

After extensive hearings and comments, the Commission finds that SWBT has satisfied the requirements of 47 U.S.C. Sec. 271(c) for authority to provide interLATA services in Missouri and that SWBT's entry into the interLATA long-distance market in Missouri is in the public interest.⁴

In discussing the legal context and statutory framework for its extensive review, the Commission stated that it “has conducted these proceedings and reviewed SWBT's Application to provide in-region, interLATA telecommunications services in Missouri in order to fulfill its role under federal law to consult with the FCC pursuant to section 271(d)(2)(B).” *Id.*, p. 10. “With respect to each state within the region, the BOC must show:

that: (1) it satisfies the requirements of either section 271(c)(1)(A), known as “Track A” or 271(c)(1)(B), known as “Track B”; (2) it has “fully implemented the competitive checklist” or that the statements approved by the state under section 252 satisfy the competitive checklist contained in section 271(c)(2)(B); (3) **the requested authorization will be carried out in accordance with the requirements of section 272; and (4) the BOC's entry into in-region, interLATA market is “consistent with the public interest, convenience, and necessity.”** (Emphasis added.) (Citing, Memorandum Opinion and Order, FCC Docket No. 00-217.) *Id.*, p.8.

⁴Order Regarding Recommendation On 271 Application Pursuant To The Telecommunications Act Of 1996 And Approving The Missouri Interconnection Agreement (M2A) (hereinafter referred to as the “271 Order”), p. 6.

7. While acknowledging that the Act does not require the Missouri Commission to make a recommendation to the FCC on either the public interest consequences of SWBT's interLATA entry or SWBT's compliance with the separate affiliate requirements of Section 272, this Commission issued detailed findings of fact and conclusions of law in support of both aspects of SWBT's Application, in Sections V. (The Public Interest) and VI. (Separate Affiliate - Section 272) of its Order. *Id.*, pp. 86-91. As a result, Ordered Paragraphs 4 and 5 provide as follows:

4. That Southwestern Bell Telephone Company's entry into the long distance market in Missouri is in the public interest.

5. That the Missouri Public Service Commission supports Southwestern Bell Telephone Company's application for authority to provide in-region interLATA telecommunications service within Missouri. (Emphasis added.)

Id., p. 92.

8. Southwestern Bell Long Distance has responded to each and every allegation raised in the Motions filed in this proceeding, including clarifications and the filing of substitute tariff sheets in order to address perceived concerns. As a result, and as reflected by the Staff Filing herein, the two concerns raised by the MITG are adequately addressed, and there are no facts or issues remaining that require a further evidentiary hearing to resolve. Indeed, Staff recommends that the Commission deny the motions to suspend [Southwestern Bell Long Distance's tariff].

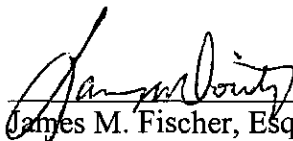
9. The Staff Filing in Case No. TA-2001-475 notes that SBC Communications, Inc., Southwestern Bell Telephone Company and Southwestern Bell Communications Services, Inc. on April 4, 2001, jointly filed with the Federal Communications Commission, pursuant to 47 U.S.C. Sec. 271, an application for authority to provide in-region, interLATA telecommunications in the state of Missouri. The FCC is to issue a decision on the application within 90 days of the date it is made, or July 3, 2001. It is critical to Southwestern Bell Long Distance that it begin to provide

service in Missouri as soon as possible after the FCC issues its decision. Interexchange carrier certifications in Missouri are typically ministerial functions, and prompt approval is particularly appropriate in this case, where Southwestern Bell Communications Services, Inc.'s entry into the Missouri long distance market has been determined to be in the public interest in the SWBT 271 Proceeding. Accordingly, Southwestern Bell Long Distance requests the Commission to exercise its authority to grant the relief requested as soon as possible, but no later than effective July 3, 2001, so that Southwestern Bell Long Distance will be in a position to further the public interest and provide interexchange service in Missouri once the FCC issues its decision.

10. On May 7, 2001, Southwestern Bell Long Distance extended the proposed effective date of its tariff to June 23, 2001, and it will be diligent in its efforts to address any remaining questions or concerns that the Staff may have regarding this tariff, so that Staff may make its recommendation as soon as possible.

WHEREFORE, Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance respectfully prays that the Commission accept this Response to Staff Filing in Response to Commission Order, and that the relief requested in the First Amended Application of Southwestern Bell Long Distance, including approval of its tariff, be granted as expeditiously as possible.

Respectfully submitted,



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Attorneys for Southwestern Bell Communications
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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Response has been hand-delivered or mailed, First Class mail, postage prepaid, this 21st day of May, 2001, to:

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