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November 3, 1999

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
301 West High Street, Floor 5A  
Jefferson City, MO 65101

FILED<sup>2</sup>

NOV 04 1999

Missouri Public  
Service Commission

Dear Judge Roberts:

Re: Case No. <sup>TO-</sup>~~TX~~-2000-307

Enclosed for filing with the Commission in the above-referenced case are an original and fourteen (14) copies of Southwestern Bell Telephone Company's Statement of Position.

Also enclosed is an additional copy to be file stamped and returned to us in the enclosed self-addressed, stamped envelope.

Thank you for bringing this matter to the attention of the Commission.

Sincerely,

A handwritten signature in cursive script, appearing to read "K. Swaller".

Enclosures

cc: Parties of Record

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

**FILED<sup>2</sup>**

NOV 04 1999

Missouri Public  
Service Commission

In the Matter of the Application of KMC Telecom                     )  
III, Inc. (Missouri) for Approval of an Interconnection        )  
Agreement under the Telecommunications Act of 1996.            )      Case No. TO-2000-307

**SOUTHWESTERN BELL TELEPHONE COMPANY'S  
STATEMENT OF POSITION**

1. On October 29, 1999, KMC Telecom III, Inc. (Missouri) ("KMC") filed its Application for approval of Interconnection Agreement.
2. The Commission has a practice of making Southwestern Bell Telephone Company ("SWBT") a party to such applications whenever it is a party to the underlying agreement.
3. The agreement was arrived at pursuant to Section 252(i) of the Telecommunications Act and is an "MFN" into the MCI Telecommunications Corporation and its affiliates including MCImetro Access Transmission Services, Inc. ("MCIIm")/SWBT Interconnection Agreement. The MCIIm agreement is itself an AT&T MFN.
4. In this Statement of Position, SWBT seeks to draw to the Commission's attention to its concern about Section 252(i) agreements premised on the arbitrated SWBT/AT&T agreement and "next generation" MFNs premised upon MFNs into the arbitrated AT&T agreement. The KMC agreement submitted in this case was entered into pursuant to Section 252(i) of the Act and is nearly identical to the SWBT/MCIIm Interconnection Agreement and the "first generation" SWBT/AT&T of the Southwest, Inc. (AT&T) Interconnection Agreement. The KMC agreement was not negotiated. SWBT signed the agreement only because it is required to do so under the Act and in light of the Commission's decision in TO-98-200 (MCI mediation and arbitration). The underlying SWBT/AT&T agreement was a product of negotiations and arbitrations in Missouri Public Service Commission Case Nos. TO-97-40 and TO-97-67 (the Initial AT&T Arbitration) and Case No. TO-98-115 (the Second AT&T

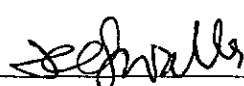
Arbitration). The Commission Orders in the initial and second AT&T arbitrations are the subject of appeals. Pursuant to the Missouri Public Service Commission's finding in its July 22, 1998 Report and Order in Case No. TO-98-200 (MCI mediation and arbitration), a party adopting an agreement pursuant to Section 252(i) of the Act cannot obtain greater rights than the parties to that agreement. Accordingly, even though this agreement is an MFN into the SWBT/MCI agreement, which is itself an AT&T MFN, in the event of any amendment of the underlying SWBT/AT&T agreement, or any administrative, regulatory, legislative or judicial order, rule, opinion or other legal action, (collectively, "legal actions") affecting the underlying SWBT/AT&T arguments or any subsequent agreement between SWBT and AT&T, required by or resulting from such legal actions, which revises or modifies SWBT's rights and/or obligations pertaining to any matter contained in the AT&T interconnection agreements (a subsequent development), the relevant provisions of the SWBT/KMC agreement should be deemed automatically modified, amended or conformed to be consistent with such subsequent development.

WHEREFORE, SWBT respectfully requests the Commission to approve the SWBT/KMC agreement subject to the position stated herein.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

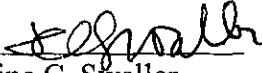
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were served to all parties on the attached Service List by first-class postage prepaid, U.S. Mail on ~~October~~ <sup>Nov 3</sup> \_\_\_, 1999.

  
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